

# **The Twelfth and Thirteenth Periodic Report of Bosnia and Herzegovina on the International Convention on the Elimination of All Forms of Racial Discrimination**

## **INTRODUCTION**

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

Bearing in mind the above, Bosnia and Herzegovina appointed an inter-ministerial working group consisting of representatives of the authorities at all levels of administration in Bosnia and Herzegovina and put together The Twelfth and Thirteenth Periodic Report of Bosnia and Herzegovina on the International Convention on the Elimination of All Forms of Racial Discrimination and transmitted it, through the Permanent Mission of BiH to UN Office in Geneva, to the Committee on the Elimination of Racial Discrimination for consideration, as scheduled (July 2017).

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

### Discrimination of citizens not declaring affiliation with one of the three “Constituent Peoples”

**5. The Committee urges the State party to make all efforts necessary to reach an agreement on constitutional changes as well as changes to the Electoral Law to abolish every discriminatory treatment on the basis of ethnicity and to amend the constitutions of the entities as well as local laws and regulations accordingly. In undertaking these measures, the Committee recommends that the State party ensure that representatives from all minority groups are integrated at all stages of the consultation processes at all stages of the consultation processes.**

ANSWER: Amendments to the Constitution and the Election Law of BiH are being drafted by working groups appointed by the Council of Ministers and the Parliamentary Assembly of BiH.

In accordance with Article 13.14. of the BiH Election Law, members of national minorities have the right to be represented in the municipal assembly/council and the city assembly/council in proportion to the percentage of their share in the population according to the last census conducted in BiH (paragraph 1) and the number of members of ethnic minorities who are directly elected in the municipal assembly/council and city assembly/council should be defined under a city or municipal statute, whereby members of all national minorities are guaranteed at least one seat provided that they account for more than 3% in the total population of that constituency according to the last census (paragraph 2).

We note that the Republika Srpska applies data from the Census published by the Statistics Institute of the Republika Srpska on the basis of the Law on Processing and Publication of Results of the 2013 Census of Population, Households and Dwellings in the Republika Srpska (RS Official Gazette, no. 82/16). The Statistics Institute of the Republika Srpska is responsible statistical authority for the territory of the Republika Srpska, in accordance with article 4, paragraph 1 of the Law on Statistics of the Republika Srpska (RS Official Gazette, no. 85/03).

Article 42v, paragraph 2 of the Election Law of the Republika Srpska provides that the number of national minority members who are directly elected in the municipal council or city council is determined by the statute of the municipality or city in accordance with the BiH Election Law.

The Central Election Commission of Bosnia and Herzegovina (hereinafter: BiH CEC) issued the Decision on Calling the 2016 Local Elections, which determined the number of guaranteed seats for members of national minorities.

In its 2012 Report on the Implementation of Laws within Competence of BiH CEC, within its competence, the Central Electoral Commission proposed to the BiH Parliamentary Assembly

to adopt recommendations on amendments to the electoral legislation with a view to enforcing the judgment of the Court of Human Rights in Strasbourg.

In the period from 12 May to 30 November 2016, BiH CEC implemented the Council of Europe-funded "Pre-election Assistance to 2016 Local Elections in Bosnia and Herzegovina Programme". The programme included the preparation and conducting information campaigns intended for women, the elderly and ethnic minorities. In September 2016, the programme helped BiH CEC to conduct an information campaign aimed at increasing awareness of voters about the participation of women in public and political life, the participation in the elections in Bosnia and Herzegovina and the promotion of participation of Roma, as the largest minority in Bosnia and Herzegovina in the upcoming local elections.

There is an outstanding issue of the enforcement of judgments of the European Court of Human Rights in Strasbourg (*Sejdić-Finci v BiH*, *Pilav v BiH* and *Zornic v BiH*), which would mean amending the BiH Constitution and the constitutions of both entities as well as the Election Law in order to abolish all forms of discrimination on the basis of ethnicity and full exercise of active and passive suffrage rights.

The Office of the Agent of the Council of Ministers of Bosnia and Herzegovina before the European Court of Human Rights in Strasbourg takes all necessary measures to put together an overview of unenforced judgments of the European Court of Human Rights with concrete proposals for legislative or other measures to fulfil this obligation.

#### Situation of returnees

**6. The Committee, recalling its general recommendation No. 22 (1996) on article 5 of the Convention on refugees and displaced persons, recommends that the State party intensify its efforts to ensure the sustainable reintegration of returnees and to combat direct and indirect discrimination against minority returnees, inter alia, by accelerating the implementation of the Revised Strategy for the Implementation of Annex 7 of the Dayton Agreement, through a more coordinated approach at all levels.**

**The Committee recommends that the State party:**

**(a) Improve access to adequate infrastructure by returnees, remove all legal and practical barriers hampering their full access to social services, and ensure non-discriminatory allocation of return assistance;**

**(b) Consider offering extrajudicial settlements to temporary users of occupied properties for investments made to such properties and ensure that settlements reached are in line with principle 17 of the *United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons*;**

**(c) Adopt the draft revised law on displaced people and returnees and the draft law on anti-mine action.**

ANSWER:

Republika Srpska:

a) There are no legal barriers for returnees, refugees and displaced persons because the laws regulating this area are of anti-discriminatory nature in their essence. The return of property to refugees and displaced persons was carried out following an administrative procedure in accordance with the Law on Displaced Persons, Returnees and Refugees of the Republika Srpska (RS Official Gazette, Nos. 42/05, 52/12) and the Law on Cessation of the Law on Occupation of Abandoned Property, revised text (RS Official Gazette, No. 16/10). Also Article 2, paragraph 1 of the Law on Social Protection (RS Official Gazette, No. 37/12) provides that: "Social protection is an activity of general interest for the Republika Srpska, which provides assistance to persons who find themselves in need and takes necessary measures to prevent the occurrence and remove consequences of such a state." Thus, all persons who find themselves in need are entitled to social benefits and this also applies to refugees and displaced persons and returnees.

b) After the return of property and repossession of property by owners in accordance with the law, any claim, including costs of renovation works on the property occupied in the absence of the owner, is filed at court, in accordance with the Law on Obligations of the Republika Srpska. Back in 2007 the Council of Ministers of Bosnia and Herzegovina (Restitution Commission) sent a draft Law on Denationalization to the BiH Parliamentary Assembly for deliberation, but the law has not been passed yet.

Using donor and loan funding, the Ministry of Human Rights and Refugees of BiH implements a host of important projects (Country Housing Project (CHP) within Regional Housing Programme (RHP), "Closure of Collective Centres and Alternative Accommodation through the Provision of Public Housing Solutions" Project (CEB II), Housing Reconstruction Project - OPEC, "Sustainable Return of Refugees and Displaced Persons: Reconstruction of Housing Units" Project (SRF) aimed at renovation and reconstruction of housing units and other measures of support in the implementation of Annex VII of GFAP).

The BAM 208 million worth "Closing of Collective Centres and Alternative Accommodation by Providing Public Housing Solutions - CEB2" Project is aimed at closing at least 121 collective centres / alternative accommodation or 76% of all collective centres in BiH, by enabling internally displaced persons and other vulnerable persons, who are living in collective centres/ alternative accommodation and hired housing units in BiH, to finally enjoy their right to adequate housing.

The project will include at least 7,247 people, who will get adequate housing. Given the cost of the project may include the proposed reserve funds (EUR 2.5 million) for any possible additional work planned in the future, the final number of beneficiaries could be higher.

The planned works will include repairs, reconstruction, construction or purchase of at least 2,611 housing units in 82 (31 repaired and 51 built) buildings. It is estimated that the total average cost per housing unit will amount to EUR 18,500.

The project is implemented by respective entity ministries and the Department for Displaced Persons, Refugees and Housing of BD Government, which have responsibility for the project within their competence in terms of the selection of targeted collective centres and alternative accommodation, verification of users who meet the criteria set for selection, organization of procurement, design services, control of services and works on rehabilitation, reconstruction and construction of facilities, organization and supervision over works on rehabilitation, reconstruction and construction of facilities, organization of handover of contracted works and reporting in accordance with the format and schedule that will be determined by the Project Implementation Team.

According to the Ministry of Human Rights and Refugees, in December 2016, there were **98,574 internally displaced persons** in Bosnia and Herzegovina and **18,748 refugees** from Bosnia and Herzegovina. At the local level, on the initiative of this Ministry, certain activities have been undertaken to address the issue of sustainable return, with regard to employment, education, social and health care in particular. A revised strategy for the implementation of Annex VII of the Dayton-Paris Peace Agreement still lacks coordinated implementation and adequate resources. The issue of a lack of infrastructure needs to be solved, especially for electricity. Returnees continue to face obstacles in access to health care and their sustainable return is still hampered by a lack of employment opportunities. More than 7.500 people are still living in 45 collective centres throughout the country.

With the aim of enacting the Law on Amendments to the Law on Refugees from Bosnia and Herzegovina and Displaced Persons in Bosnia and Herzegovina, a Working Group was appointed for the drafting of the Law on Amendments to the Law on Refugees from BiH and Displaced Persons in BiH. A draft Law on Amendments to the Law on Refugees from BiH and Displaced Persons in BiH was prepared and a consultative meeting was held in international and non-governmental organizations with the aim of submitting a proposal for amendments to the Law.

According to the Law on Demining in Bosnia and Herzegovina (BiH Official Gazette, No. 5/02), the Central Authority for Demining in Bosnia and Herzegovina is the Commission for Demining in BiH, which was established within the Ministry of Civil Affairs of BiH by the Decision of the Council of Ministers of Bosnia and Herzegovina. On behalf of the Commission, certain tasks in the field of mine action are carried out by its expert service - the Mine Action Centre in BiH (BHMACH), established by the Decision of the Council of Ministers of Bosnia and Herzegovina. BHMACH has organizational units throughout BiH. The mine action is defined by the aforementioned Law and the Mine Action Strategy of Bosnia and Herzegovina (2009-2019). The goal of the Strategy is that Bosnia and Herzegovina is free from the impact of mines as of 2019. (Appendix No. 1)

The major issues for the implementation of the Strategy are related to the provision of financial resources. In the period 2009-2019, only 50% of the necessary funds was provided and the same percentage of the Strategy was implemented. In accordance with an assessment of available financial resources for the period 2016-2018, a plan is made to solve 1/3 of the

total mine issue (85% by non-technical methods), which requires BAM 57.7 million annually. In 2017, the exit strategy for Bosnia and Herzegovina is planned to be developed.

In 2016, activities were initiated on the drafting of the Law on Amendments to the Law on Demining in BiH by the Working Group consisting of representatives of the BiH Ministry of Civil Affairs, the Commission for Demining of BiH, the Mine Action Centre in BiH (BHMIC), the BiH Ministry of Defence and Entity Civil Defence Authorities, which was appointed by the BiH Council of Ministers. The Working Group drafted the Draft Law on Amendments to the Law on Demining in BiH, for which the Ministry of Civil Affairs of BiH opened public consultation in accordance with the Rules for Consultations in Drafting of Legal Regulations in the Institutions of BiH. After the public consultation, the Working Group drafted a draft Law, with explanation and report on the conducted consultations and submitted it to the Ministry of Civil Affairs for further action, in order to obtain opinions and refer it to the Council of Ministers of BiH for adoption and referral to Parliament.

#### Ombudsmen

**7. In the light of its general recommendation No. 17 on the establishment of national institutions to facilitate the implementation of the Convention, the Committee recommends that the State party allocate to the Institution of Human Rights Ombudsman of Bosnia and Herzegovina all the human, technical and financial resources necessary to efficiently carry out its mandate and eliminate references to the ethnicity of the Ombudsmen in the law on the Ombudsman for Human Rights, taking into account the principle of neutrality of such institutions and their mission to protect human rights for all.**

**ANSWER:** A single institution of the Ombudsman for Human Rights of Bosnia and Herzegovina was set up and is now running in its full capacity. Amendments were made to the Law on Human Rights Ombudsman in order to improve functioning of the institution in accordance with the Paris Principles, recommendations of the Venice Commission and recommendations of the Council of Europe.

The obligation to bring the Law on the Ombudsman for Human Rights of Bosnia in line with the Paris Principles also follows from recommendations of the Universal Periodic Review of the Human Rights Situation in BiH, recommendation of a larger number of UN Committees, as well as from the European Commission Progress Report and the 2015-2018 Council of Europe Action Plan for BiH.

In all these documents, in chapter "Strengthening Institutions for the Protection of Human Rights and Rule of Law", BiH is required to act more strongly in restructuring and strengthening the Institution of Ombudsmen for Human Rights of BiH.

Currently, the Ombudsperson Institution for Human Rights has the status "A" assigned to it by the International Coordinating Council of National Human Rights Institutions (ICC), with the re-accreditation of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina expected in the second half of 2017.

The new proposal of the Law on Ombudsman for Human Rights of BiH brings about improvements that enable further development and improvement of the performance and autonomy of the Ombudsman Institution for Human Rights of BiH as one of the most important institutions for combating discrimination and promoting human rights and freedoms.

The new Law improves the organizational structure of the Ombudsman Institution for Human Rights in BiH, improves and specifies the way of reporting to the Parliament of BiH and the public on the observed phenomena of systemic failure to respect human rights. It also provides for the Ombudsman's Work Strategy to be developed, introduces an obligation to cooperate with civil society organizations in BiH, provides for the establishment of the Permanent Advisory Body for Cooperation with Civil Society, strengthens the role of the Institution in investigating individual cases of discrimination in practice and introduces an obligation to analyze and report on the observed cases of discrimination and to propose recommendations, as well as to launch initiatives for amending laws in BiH.

The Law on the Ombudsman Institution for Human Rights of BiH also establishes a National Preventive Mechanism, an obligation arising for Bosnia and Herzegovina by ratification of the Optional Protocol to the UN Convention against Torture and Inhuman or Degrading Treatment or Punishment.

A proposal for the Law on the Institution of Human Rights Ombudsman of BiH was agreed on by the BiH Council of Ministers on 23 December 2015, but the proposal for the Law was not approved by the Constitutional and Legal Commission of the Parliamentary Assembly of BiH before referral to the session of the House of Peoples of the Parliamentary Assembly of BiH in August 2015."

#### Socioeconomic situation of Roma

**8. Recalling its general recommendation No. 27 on discrimination against Roma, the Committee recommends that the State party continue to endeavour to improve the situation of Roma, inter alia, by strengthening the implementation of its national strategy and other action plans for Roma and removing all barriers that may hamper their enjoyment of human rights. The Committee further recommends that the State party:**

**(a) Facilitate access to mainstream education for Roma children, inter alia, by providing such support as school meals, books, clothing and transportation;**

**(b) Refrain from forcibly evicting individuals and, in cases where eviction or relocation is considered to be justified, ensure that it is carried out in strict compliance with the relevant provisions of international human rights law;**

**(c) Increase access of Roma to health care by, inter alia, removing registration barriers in accessing health insurance and ensuring that laws and regulations providing for access to free health care are always and fully implemented;**

**(d) Increase the number of shelters for women, establish programmes on ending violence against women and girls and place a particular focus on adopting gender-responsive budgets and policies.**

**ANSWER:** The position of national minorities in BiH has been continuously and measurably improving. The 2003 BiH Law on the Protection of National Minorities is implemented in its entirety. A progress has been made in national minorities' having greater responsibility for their position. The adoption of the "Strategic Platform for Addressing National Minority Issues in BiH" is expected.

It is important to point out that most of the obligations arising from the regulations in the field of national minorities are already being implemented in BiH, and that there has been a measurable and visible progress, especially in improving the position of the most numerous and most vulnerable Roma minority. A progress is especially noticeable in the area of housing, where almost 800 housing units were built and reconstructed by the end of 2016 and 635 people were included in programs of employment and self-employment of Roma from 2009 to 2016. Given the 2016 Revised Action Plan has expired, the new, 2017-2020 BiH Action Plan for Roma for employment, housing and health care is in the process of adoption.

Significant results have also been achieved in the area of registration of Roma in vital and other records. In BiH, any subsequent entry into vital registers is free of charge. Local administrations do not charge fees and provide legal assistance and *ex officio* assistance by the employees. Legal aid services have been set up to provide services to members of the Roma population, especially when it comes to registering in the register of births. According to the Our Rights NGO (Nasa prava), compared to previous indicators, the number of children who are in the process of recording is significantly reduced and it is now less than 60.

In the territory of the Federation of BiH, there are five safe houses operated by non-governmental organizations to house women victims of domestic violence and their children. Safe houses are legally defined in Article 35 of the Law on the Protection from Domestic Violence in FBiH (FBiH Official Gazette no. 20/13). Due to vagueness of valid provisions of Article 35 of the Law, the Rulebook on Criteria and Standards for the Establishment, Operation and Funding of Safe Houses in the Federation of BiH has not been adopted yet. In this regard, this matter is not fully defined by law. However, the FBiH Ministry of Labour and



Social Policy allocates around BAM 160,000 annually as a temporary form of funding accommodation in safe houses to organizations that have safe houses. Further, Article 32 of the Law defines the matter of legal aid, Article 36 defines development of a strategy for prevention and combating violence and Article 37 defines the obligation to adopt programmes of measures to prevent, protect from and combat violence, as well as to establish coordination bodies. In this way, sustainability and continuous support for prevention and combating domestic violence is ensured.

#### Health care provided to Roma

Health insurance and health care are regulated by the FBiH Law on Health Insurance of (FBiH Official Gazette, No. 30/97, 7/02, 70/08, 48/11), the Law on Health Care (FBiH Official Gazette, No. 46/10, 75/13), the RS Law on Health Insurance (RS Official Gazette, No. 18/99, 51/01, 70/01, 51/03, 57/03, 17/08, 01/09, 106/09), the Law on Health Care ("Official Gazette of Republika Srpska", No. 106/09 and 44/15), the Law on Health Insurance in the Brčko District of Bosnia and Herzegovina (BD Official Gazette, No. 1/02, 7/02, 19/07) and the Law on Health Care in Brčko District of Bosnia and Herzegovina (BD Official Gazette, No. 38/11).

In the period 2010-2016, UN Development Program implemented in BiH a project entitled *Strengthening of DOTS Strategy and Improving National Tuberculosis Programme, Including Multidrug-resistant Tuberculosis and Infection Control in Bosnia and Herzegovina*. The project was funded with grants of the Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM), implemented by the competent institutions from the health sector of the Federation of BiH, the Republika Srpska and the Brčko District of BiH and coordinated by the Ministry of Civil Affairs of BiH.

Within this project, activities were implemented with a focus on improving the control of tuberculosis among Roma and other vulnerable groups of the population. Four regional centres for control of tuberculosis among Roma were established, in which Roma coordinators were involved in providing access to and implementation of project activities in Roma communities. The activities of these centres included 10,665 Roma in 59 municipalities in BiH and were coordinated by Roma community coordinators and 16 field officers. Quarterly visits to Roma households and 154 public events (workshops, meetings, roundtables) were organized in order to inform communities about all aspects of tuberculosis (prevention, recognition of symptoms, treatment, contacts and information necessary for access to treatment).

The regional centres for tuberculosis in Roma communities were the source of information and help for other issues that Roma people face in their everyday lives such as giving advice and providing assistance in connection with health insurance, contacts in health facilities, hospitalization and drugs, birth registration, employment and housing.

The above-cited activities have contributed to increasing TB awareness and identification of cases where there is a suspicion of TB, but also to strengthening the capacities of Roma associations, and they were implemented with the support and in cooperation with the World Vision Non-Governmental Organization.

Every year, the Ministry of Human Rights and Refugees of BiH allocates certain financial resources as an incentive to implement the planned activities through the competent health institutions, which will improve the access to health care services for the Roma minority community in BiH. Since 2009, BAM 1,292,000.00 have been allocated, of which BAM 430,000.00 were allocated for this purpose in 2016. These funds are being used.

Most of the specific activities for 2013, 2014, 2015 and 2016 were implemented on the ground in local Roma communities, focusing on concrete advancement and improvement of health care of Roma in Bosnia and Herzegovina.

A significant progress has been made in particular in the registration of Roma families in the health care system in the Federation of Bosnia and Herzegovina. In the period 2013-2016, through the funding of the Ministry for Human Rights and Refugees of BiH, social welfare centres and cantonal ministries of education, a total of 934 individuals were registered. In the Republika Srpska, the health care situation in terms of health insurance is much better. So, all Roma have a basic health insurance package, except for people over 65 who did not exercise this right on some other grounds and children who drop out of school. In FBiH, these rights are not accorded to Roma by the Law on Health Insurance of FBiH. So, the basic activity from the Revised Action Plan for Roma concerning Roma health care is directed towards the activity of voluntary health insurance for one year, which is just one temporary measure because this issue should be resolved by law in a durable manner.

A significant progress has been made in training of the Roma population in the exercise of the right to health care, in raising awareness of the importance of healthcare among the Roma minority, immunisation of Roma children and reproductive health and maternity care, training of Roma NGOs in the local communities in this area as well as in the implementation of preventive programmes - screening of specific diseases (cervical cancer, breast cancer, colon cancer) in Roma communities.

Regarding the issue of legislation amendment in the FBiH, needed primarily because of often Roma's missing short deadlines for registering at employment offices, which would accord to all Roma, other vulnerable groups and groups in need the right to have access to the basic health care package, significant progress has not been achieved yet although there were several initiatives.

### Roma education

(b) At 128th meeting held on 14 July 2010, the Council of Ministers adopted the Revised Action Plan of Bosnia and Herzegovina on the Educational Needs of Roma. This document defines four goals and 47 measures so that this marginalized group of children could have

equal access to high-quality education and acquire necessary skills to later better integrate into society. High-quality education for Roma is the only way out of the circle of marginalization and social exclusion.

An Expert Team for Monitoring the Implementation of the Revised Action Plan of Bosnia and Herzegovina on the Educational Needs of Roma was appointed at the level of BiH, which prepared five monitoring reports on the implementation for the following school years: 2011/2012, 2012/2013, 2013/2014, 2014/2015 and 2015/16.

In accordance with the constitutional framework of Bosnia and Herzegovina, education is under full and undivided jurisdiction of the Republika Srpska, ten cantons in the Federation of BiH and the Brcko District BiH. That is why state level authorities do not appropriate funds to support the implementation of the measures of the Revised Action Plan of BiH on the Educational Needs of Roma, but the competent Ministries of Education appropriate budgetary funds for the implementation of this plan in accordance with their capabilities.

Further, the education authorities introduce various incentives that would advance the regular attendance of Roma children, in school year 2015/2016 in particular.

In the Republika Srpska, a lot has been done to improve education of national minorities. Among other things: promoting the importance of compulsory primary education in Roma communities, inform the parents of Roma children about the need of inclusion of children in preschool education, additional training of staff to work with children from socially and economically disadvantaged communities and Roma assistants (employees - Roma who completed secondary school and assist teachers).

In the Republika Srpska, various measures are taken to encourage the attendance of Roma students: supportive meetings for students and parents, continuous cooperation with institutions outside school, individual work with Roma students, visiting families, provision of school supplies, clothing, shoes, textbooks and student kitchens etc. In some communities (Banja Luka), a seminar on 'The Application of the Revised Action Plan of BiH on the Educational Needs of Roma' was held. In Bijeljina, mobile teams occasionally visit Roma settlements and appeal to parents to send children to attend classes regularly. In Modrica, individual meetings were held with parents of students prone to absenteeism, where they were informed about the importance of regular attendance and consequences of non-attendance. The Centre for Social work was involved in order to jointly work with the parents and visit families in Roma settlements.

Anyway, the school drop-out rate of Roma students or other students in the Republika Srpska is not high and is not a major problem, as is the case in some EU countries.

Since 2008 the Ministry of Education and Culture of the Republika Srpska has been providing free textbooks for all students of the first and second grades. Free textbooks are provided to Roma children of primary school age by local communities.

The Ministry of Education and Culture of Republika Srpska provides free fares to all students of primary schools in the Republika Srpska whose schools are four or more kilometres far away from their residence. Mostly, children do not need to travel to school.

Although there are no accurate data on the number of Roma children, the fact is that their number in school has been increasing.

Incentive measures are the following: counselling with parents about the importance of regular attendance, inclusion of students in curricular and extracurricular activities, developing an atmosphere of accepting diversity in classes, holding joint meetings of parents with representatives of the Ministry and non-governmental organizations on education and regular attendance, increased cooperation with the centres for social work and helping the families in need, provision of free textbooks, school bags and school supplies, school snacks, scholarships for specially vulnerable students and one-time scholarships for honours students.

However, these funds are still insufficient to support the enrolment, attendance and completion of school by all Roma children. So, the last report on the implementation of RAP in the school year 2015/2016 recommended to the competent entity/cantonal ministries of education and Brčko District Education Department to prepare and adopt action plans on the educational needs of Roma in cooperation with local communities and Roma associations existing in their area, in 2017. The action plans would include precise measures meeting needs and the situation in the field that would result in the full inclusion of all Roma children in compulsory primary education and further schooling (secondary and university).

Finally, we specially emphasise that, in order to improve the status of the Roma minority, awareness among Roma about the importance of education and training that awareness should be raised of importance of establishing associations, making a legal framework for improvement of the situation of this group, encouraging members of this group to be initiators in solving economic, social and subsistence issues in a way that they would actively participate in the implementation of various projects, express their needs, make proposals and suggestions, participate in strategic documents development, as well as increased activity in the preservation of the Romani language and tradition.

In the Brčko District of BiH, the local community actively helps education and training of Roma. The Roma students are provided with transport, textbooks and food and clothing through humanitarian aid. As part of affirmative action policies, the Education Department of the Brčko District of Bosnia and Herzegovina has been employed a Roma Affairs Officer who is Roma himself.

#### Awareness of the prohibition of racial discrimination

**9. The Committee recommends that the State party provide for adequate initial and regular in-service training for judges, prosecutors, lawyers and law enforcement officials on the provisions of the law on prohibition of discrimination, and provide an evaluation of such training in the next periodic report. The Committee also recommends**

**that the State party conduct awareness-raising campaigns at all levels on the law on prohibition of discrimination, how to report cases of racial discrimination to the Ombudsmen and other relevant authorities and how to bring such cases before the courts.**

**ANSWER:** The 2015 plan and program foresaw amending of the Law on Prohibition of Discrimination as a legislative activity, according to the suggestions given by the Council of European Union (such as the directive prohibiting discrimination in employment based on religion, belief, disability, age or sexual orientation) and the European Commission. The amendment to the Law were drafted and sent to the Parliament for passage. Based on the above, disability, age and sexual orientation are introduced as grounds of discrimination. The amendments to the Law on the Prohibition of Discrimination were adopted in the Parliamentary Assembly of Bosnia and Herzegovina and published in BiH Official Gazette, No. 66/16, and the unofficial consolidated text of the Law on Amendments to the Law on Prohibition of Discrimination is posted on the official website of the Parliamentary Assembly of Bosnia and Herzegovina. This obligation has been successfully implemented and for this reason, Bosnia and Herzegovina received praise from the European Commission during the November 2016 monitoring mission.

In accordance with Article 8 of the Law on Prohibition of Discrimination (BiH Official Gazette, No. 59/09) and the Law on Gender Equality of Bosnia and Herzegovina (BiH Official Gazette, No. 32/10), the Law on Amendments to the Law on Sports of Bosnia and Herzegovina (BiH Official Gazette, No. 66/16) was passed to prohibit discrimination in sports. So, Article 6 provides for equal access to sports regardless of race, ethnicity, social status, religious, political or other opinion, disability, health status, age, sex, gender, sexual characteristics, sexual orientation, gender identity or any other personal characteristics (subparagraph c)), gender equality and equal access to sports (subparagraph d)), the prohibition of incitement to hatred and intolerance on the basis of national or ethnic origin, colour, religious, political or other beliefs, gender, sexual orientation, gender identity, language or other personal characteristics (subparagraph e)).

The Ministry of Human Rights and Refugees of BiH is preparing an annual report on discrimination cases and submits it for information to the both Houses of the BiH Parliamentary Assembly after adoption by the BiH Council of Ministers. The phenomenon of segregation of children in the educational system in FBiH is still an integral part of the mentioned report, which is being addressed intensively. The report on the occurrence of discrimination in Bosnia and Herzegovina with the Action Plan for the implementation of proposed measures for its prevention and suppression was adopted at the 34th session of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina held on 2 August 2016.

In cooperation with competent authorities from all levels of governance in BiH, the Ministry of Human Rights regularly prepares answers to UN and Council of Europe's questionnaires and resolutions arising from international treaties that Bosnia and Herzegovina is a party to. Based on the UN Human Rights Council resolutions 15/11 and 24/15, the Human Rights Education Guidelines were developed, which will significantly contribute to raising awareness of the importance of human rights of targeted groups such as: holders of public offices, journalists, vulnerable groups, children and youth.

The Centres for Judicial and Prosecutorial Training have held courses on the application of the Law on the Prevention of All Forms of Discrimination in both entities. However, lawyers have not undergone any training in this Law except for an information meeting. In November 2014, about 30% of the target group attended this training, and in early 2016, the number increased to 50%. In 2016, nine training courses were held for 275 judges and prosecutors in the Federation, and three such training courses were held for 90 participants in RS. Further, we note that the Law on the Prohibition of Discrimination is included in the Program for Passing the Bar Exam for Lawyers in Bosnia and Herzegovina. The European Convention on Human Rights and Fundamental Freedoms has been incorporated in the Constitution of BiH And has a priority over all national laws (supremacy principle) and makes up a portion of the Bar Examination Program including Article 14 and Protocol 12 thereto concerning the prohibition of discrimination.

By inspecting the 2016 work programs of the entity Centres for Judicial and Prosecutorial Training, a number of training courses in the Law on the Prohibition of All Forms of Discrimination and the proper application of provisions of the Criminal Code related to racism and racial discrimination (hate crimes) were planned and held.

The training courses were held as centralized or regional training organized by entity Centres for Judicial and Prosecutorial Training, independently or in cooperation with domestic and international organizations. About 500 judges, prosecutors and professional associates attended the training. The above-mentioned matters were especially addressed in other training courses in property rights, domestic violence, discrimination in the workplace, etc. Training courses in the above-mentioned matters were held in previous years, too.

The Judicial and Prosecutorial Training Centre of FBiH has been organizing coherent and committed training on the Law on Gender Equality in BiH and the Anti-Discrimination Law and the UN Convention on the Elimination of Racial and All Forms of Discrimination against Women and its Optional Protocol, General Recommendations and Views of UN CEDAW Committee. Each (school) year, within the modular system of induction training, "Module 1 - European Convention and Gender Equality" is taught. The target group is judicial and prosecutorial expert associates.

In 2016, in cooperation with the OSCE Mission in Bosnia and Herzegovina, the RS Judicial and Prosecutorial Training Centre held the following training courses:

- on 6 April 2016, a training course for judges on "The Law on the Prohibition of Discrimination and International Standards on Discrimination", attended by 14 participants.
- on 1 June 2016, a training course for judges on "The Law on the Prohibition of Discrimination", attended by 23 participants.
- On 5 October 2016, a training course for judges on "The Law on the Prohibition of Discrimination", attended by 14 participants.

The presenters discussed substantive and procedural provisions of the Law on the Prohibition of Discrimination at the training courses. Special attention was paid to international standards in the fight against discrimination, and the manner in which these standards are applied in national proceedings. Further, the presenters introduced amendments to the Law on the Prohibition of Discrimination, which should solve some of the issues that the judges encounter when applying this law. Particular attention was paid to mobbing, as a very widespread form of discrimination, both in our country and worldwide.

Further, the RS Judicial and Prosecutorial Training Centre held a training course on "Hate Crimes" on 21 June 2016.

A training course on "Contemporary Public Relations", which discussed the role of public relations in courts and prosecutor's offices, developing communication with the media and journalists, preparing information for the public and using information and responses in crisis, was held on 16 November 2016.

In 2015, 153 police officers attended 7 workshops in the human rights field in accordance with the curriculum of the Police Academy of Republika Srpska.

In order to strengthen the awareness of importance of human rights, the Council of Ministers of BiH annually adopts a Programme of Marking Significant Human Rights Dates. Bearing in mind the above, a conference on "Where Hate Speech Begins, Speech Freedom Ends" was hosted by the Ministry of Human Rights, with the support of the SOCEM project, marking 10 December - International Human Rights Day. Further, the International Day of People with Disabilities and Children's Week were duly marked by the Council for Persons with Disabilities and the Council for Children, respectively, which are independent expert bodies of the Council of Ministers of BiH. Events with similar content are held jointly by the Ministry of Human Rights, the Council of National Minorities and the Roma Board in order to connect across differences and combat discrimination.

### Citizenship law

**10. The Committee recommends that the State party fully harmonize the legislation of its entities on citizenship with the latest amendments to the Law on Citizenship of Bosnia and Herzegovina. Furthermore, the Committee recommends that the State party enact safeguards to prevent statelessness and the discriminatory application of article 9 of the Law on Citizenship.**

**ANSWER:** Pursuant to the Laws on Citizenship of BiH and both entities, a foreigner who has submitted an application for citizenship of BiH may acquire it by naturalization if he/she fulfils the following conditions: he/she has reached 18 years of age; his or her permanent

place of residence was registered in the territory of BiH for at least three years before submitting the application; he/she has knowledge of an adequate knowledge of an alphabet/script and language of one of the BiH constituent peoples; he/she has not received a security measure of expulsion of a foreigner from the country or a protective measure of removing a foreigner from the territory of BiH from an authority established in accordance with the Constitution, and this measure is still in force; he/she has not been sentenced to a term of imprisonment for more than three years within 8 years of the submission of application for a premeditated criminal offence; he/she renounces or otherwise loses his or her former citizenship before acquisition of the citizenship of BiH, unless a bilateral agreement under Article 14 provides otherwise. The renunciation or loss of the former citizenship is not required if this is not permitted or cannot be reasonably required; that criminal proceedings have not been instituted against him or her, unless a proof of fulfilment of this requirement cannot be reasonably required; that he/she does not pose a threat to the security of BiH; that he/she has a permanent source of income in an amount that allows his/her existence or that he/she is able to provide a reliable proof of funds available for his/her support; that he/she has settled all statutory contributions, tax or other legal liabilities; that he/she has signed a statement on accepting the legal system and constitutional order of BiH; and that he/she has effective assurances of acquisition of BiH citizenship.

Naturalization shall not be granted, even when the applicant fulfils the general naturalization requirements, if there are reasonable grounds to believe that the State security and public order and peace will be jeopardized by such act, or if naturalization is not consistent with the State interests for any other reason as determined on the grounds of the overall assessment of the applicant.

Facilitated naturalization is provided for a foreign spouse of a BiH citizen under the following Conditions: that the marriage lasted for at least five years before submitting an application and that it still lasts when the application is submitted; that he/she has been granted permanent residence in the territory of BiH, that he/she does not pose a threat to the security of BiH and that he/she renounces or otherwise loses his/her former citizenship upon acquisition of the BiH citizenship unless a bilateral agreement provides otherwise.

In accordance with recent amendments to the Law on Citizenship of Bosnia and Herzegovina, a person who has the refugee status may acquire the citizenship of BiH, if the refugee has stayed in the territory of BiH for a continuous period of five years preceding the application (facilitated naturalization). In this regard, requirements for acquiring citizenship for a person with refugee status are: the age of 18; no valid security measure of expulsion of foreigners from the country or the protective measure of removing a foreigner from the territory of Bosnia and Herzegovina by the authority whose legitimacy is established by the Constitution; no conviction record in the period of eight years before the date of application for premeditated crimes carrying sentences of more than three years imprisonment; no pending criminal proceedings, unless the evidence of meeting this requirement cannot be reasonably required; and no security risk to BiH.

In 2014, the Republika Srpska passed the Law on Citizenship of Republika Srpska (RS Official Gazette, No. 59/14) providing for the acquisition of citizenship of Republika Srpska



by regular naturalization and facilitated naturalization. It also provides that refugees and stateless persons are allowed to acquire citizenship by regular naturalization and facilitated naturalization. The conditions for acquiring citizenship by regular naturalization are determined in Article 11 of the Law, by facilitated naturalization in Article 12 and Article 15 (children) and for refugee and stateless persons in Article 16. Since the effective date of the Law, 19 Roma living in Republika Srpska with recognized refugee status have acquired the citizenship of BiH - Republika Srpska. We note that the Law on Citizenship of Republika Srpska is brought in line with the Law on Citizenship of Bosnia and Herzegovina (BiH Official Gazette –Official consolidated version, No. 22/16).

In terms of full integration into Bosnian society of persons with recognized refugee status in BiH, we emphasize that this year 19 persons who had refugee status in BiH were granted BiH citizenship on the basis of applications filed in accordance with the above-cited conditions.

Entity laws on citizenship should be brought in line with the Law on Citizenship of BiH in the part relating to naturalization and facilitated naturalization of foreigners, Art. 9 and 10 of the Citizenship Law of BiH in particular.

The Ministry of Civil Affairs has initiated amending of the Federation Law on Citizenship of BiH with regard to the provisions regulated the procedure of naturalization and facilitated naturalization of foreigners in BiH.

#### Segregation in education

**11. The Committee recommends that the State party take all measures necessary to ensure that the system of “two schools under one roof” is not leading to segregation in education, and to increase the number of administratively and physically unified schools, where pupils are taught together on the basis of the same basic curriculum, while respecting their own language and cultural specificities. The Committee furthermore recommends that the State party fully ensure freedom of religion and conscience, including at school, and that no child is disadvantaged in any way for not attending religious education.**

#### **ANSWER:**

All education laws in BiH guarantee every child equal access to and equal opportunity to participate in appropriate education and enjoyment of equal treatment without discrimination on any grounds and none of the laws contains discriminatory provisions..

The phenomenon known as "two schools under one roof" in the Federation of BiH was established immediately after the war in 1997, and it was conceived as a response to strategic issues of that time, as a transitional solution towards integrated education, getting closer and familiarization of all students and teachers and the equal use of the existing school space and equipment. Comparing to the post-war situation, the number of these schools has been halved, or currently there are about 30 schools in the Central Bosnia and Herzegovina-Neretva

Cantons. It is important to note that since 2002 there have been no new cases of "two schools under one roof".

The Conference of Ministers of Education in BiH was established with a mandate to provide advice, discuss and coordinate educational policy, with an obligation to issue all conclusions and recommendations, not decisions, by consensus.

The Conference of Ministers of Education in BiH, on which, along with the minister of civil affairs of BiH, all ministers of education from the entities, cantons and the Department for Education of BiHBD sit, continually examines the issue of ethnic segregation in some communities / schools in BiH. On the one hand, this phenomenon is solved in a systematic and continuous way, though differently, such as by e.g. the introduction of the so-called national group of subjects in schools with returnee children or children of different ethnicity, unification of school administrations etc.

In 2012 the Federation Government adopted a document entitled "Recommendations for the elimination of segregated and divided structure of educational institutions in the Federation", which, among other things, recommends to the cantonal educational authorities in the Federation where the "two schools under one roof" concept exists to eliminate the segregated and divided structures in schools in three steps:

1. the administrative and legal unification of the divided educational institutions,
2. establishing a unified approach to education and uniform conditions for all students and
3. full integration of divided schools - the establishment of multi-ethnic classes.

Through its "Improving the working conditions of educational institutions" programme, the Federation Ministry of Education and Science encouraged the integration of schools which operate on the principle of "two schools under one roof" through the following criterion: "Encouragement to the expanding of school facilities in order to achieve administrative and legal unification of "two schools under one roof" and adaptation of school facilities to achieve the unification". In 2012, 2013 and 2014 this Ministry organized a literary work competition for primary and secondary schools and in 2013 it organized a fine art competition on the occasion of 25 November, the National Day of Bosnia and Herzegovina, on topics that promote a sense of belonging to the state of Bosnia and Herzegovina, as well as the values of peace, coexistence, tolerance and fostering pluralism and multiculturalism. This activity is aimed at, among other things, encouraging the integration of divided school facilities and structures.

Further, in 2014 a thematic session of the Coordinating Committee of Ministers of Education and Science was held in the Federation on the topic of eliminating all forms of discrimination and segregation in education, especially when it comes to areas with the "two schools under one roof" concept.

The legislation of the Republika Srpska determines that didactic or other materials of offensive content may not be used or taught in classes and other activities at school.

Over the past years, offensive contents have been removed from textbooks and names of schools that were deemed to offend members of other constituent peoples have been changed.

In addition to the Cyrillic editions of textbooks for primary schools, the "Institute for Textbooks and Teaching Resources" Public Company also publishes Latin versions of textbooks. These textbooks are also issued for schools and students in Brčko District.

All students returnees are included in the compulsory elementary education system.

Schools in the Republika Srpska are multicultural, multilingual, open and inclusive institutions for all children.

On 15 October 2013, complying with the conclusion issued by the Council of Ministers of BiH at 63rd meeting held on 11 September 2013, the MHRR sent to the governments of the entities and cantons the Concluding observations and recommendations of the Committee on the Rights of the Child for action and making an implementation plan for the recommendations. One of the recommendations of the Committee was: "Immediately terminate segregation of children in schools on ethnic grounds by stopping the policy of "two schools under one roof" and mono-ethnic schools and thereby ensure appropriate support measures and properly trained personnel to facilitate ethnic diversity and integration in schools".

Chapter "Non-discrimination", Measure 3 of the 2015-2018 Action Plan for Children<sup>1</sup>, which was adopted by the Council of Ministers of BiH in 2015 and which is applied only in the Federation of Bosnia and Herzegovina, provides: "Take an initiative to ensure appropriate support measures and properly trained personnel to promote ethnic diversity and facilitated integration in schools in order to end segregation of children in schools, based on nationality ("two schools under one roof" and mono-ethnic schools). The responsible authority for the above-mentioned measure is BiHMCA, while the competent ministries of education and the Conference of Ministers of Education of BiH are implementing institutions. "

The Agency for Pre-school, Primary and Secondary Education, in cooperation with the competent educational authorities, developed the Common Core Curriculum based on learning outcomes for five out of eight educational areas in primary and secondary education and they are: language and communication area (CCC for the Bosnian, Croatian and Serbian languages and CCC for foreign language defined on learning outcomes), mathematics area, social sciences and humanities areas (CCC for history, CCC for civic education defined on learning outcomes), technical education and IT, cross-curricular and cross-subject areas.

The development of the Common Core Curricula defined on learning outcomes will enable the revision and improvement of existing curricula in Bosnia and Herzegovina. Curricula and programmes implemented in the Republika Srpska include common core curricula. The rule of implementation of common core curricula is also respected when adopting new curricula.

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<sup>1</sup> The Government of the Republika Srpska issued Conclusion No. 04 / 1-012-233 / 14 of 4 February 2016, not accepting the adoption procedure or the adoption of documents in the area of protection of children's rights in BiH.

Pursuant to Article 9 of the Framework Law on Primary and Secondary Education in Bosnia and Herzegovina (BiH Official Gazette, No. 18/03), schools are obliged to „promote and protect religious freedoms, tolerance and the culture of dialogue. Having in mind the diversity of convictions/faiths in Bosnia and Herzegovina, the pupils shall attend religious classes only if they are in line with their conviction or convictions of their parents. Schools may not undertake any measures or actions to restrict the freedom of expression of proper and learning about other and different religious convictions. The pupils who do not wish to attend religious lessons shall not be in any way brought into a less favourable position in relation to other pupils.“

According to the competent educational authorities, the aforementioned provisions of the Framework Law on Primary and Secondary Education are respected in practice. In most cantons in the Federation of Bosnia and Herzegovina, religious education is a compulsory elective subject, with alternative subjects in the Zenica-Doboj, Tuzla and Canton Sarajevo and the Brčko District of BiH, such as: healthy lifestyles, culture of religions or the like. In the Republika Srpska, religious freedom, tolerance and a culture of dialogue are protected in primary education. Students attend classes of religious education according to their religious affiliation, if it is in accordance with their beliefs and beliefs of their parents, guardian or adopter. For students who choose religious education in primary education and upbringing, religious education is a compulsory subject. Teaching of religious education is organized for all three constituent peoples as well as for national minorities, as required. religious education is a subject taught from the second to ninth grade one hour a week. Students who declare, at the request of their parents at the beginning when they are to start studying the religion in accordance with the curriculum, that they do not want to study the religion, cannot be placed at disadvantage compared to other students. The syllabus for the subject of religious education is determined by the Minister at the proposal of the competent authority of the appropriate church or religious community. The conditions that must be fulfilled by those who teach the Orthodox, Catholic, Islamic and Jewish religion are prescribed by the Rulebook on Professional Profiles and Titles of Teachers, Professional Associates and Educators (RS Official Gazette, No. 77/09, 86/10, 25/14, 76/15). An advisor for Orthodox religion works in the RS Pedagogical Institute, who conducts training, in cooperation with the Catechists' Committee of the Serbian Orthodox Church, for religious teachers with a view to improving the educational work in religious teaching.

In secondary schools in Republika Srpska, religious education is not studied as a compulsory subject.

In schools attended by Bosniak and Croat children, the study of Islamic and Catholic religion is organized for all children whose parents declare that their children will have the subject of religious education and attend classes of religious education.

In the Brčko District of Bosnia and Herzegovina, apart from the study of Catholic, Orthodox and Islamic religion, the subject of religious education also includes life skills and attitudes for children whose parents have chosen not to attend classes of religious education.

#### Hate speech and hate crimes

**12. The Committee recommends that the State party ensure that existing criminal provisions on hate speech and hate crimes are implemented appropriately in accordance with the Committee's general recommendation No. 35 on combatting racist hate speech, and continue to carry out awareness-raising campaigns at all levels to promote national unity, understanding and tolerance and the peaceful coexistence of members of various nationalities and religious groups.**

**ANSWER:** When they were passed, the Law on Gender Equality of BiH and the Law on Prohibition of Discrimination of Bosnia and Herzegovina defined forms and prohibition of discrimination in all areas of life and mechanisms for protection against discrimination. The Law provides that any person or group of persons who consider to be discriminated is able to seek protection of his/ her rights in existing judicial and administrative proceedings. Amendments to the Law on Prohibition of Discrimination BiH aiming at improving the position of LGBT persons in BiH were adopted in 2016. These amendments use correct terminology to define sexual orientation and gender identity as grounds on which discrimination is prohibited. In addition, "sexual characteristics" are listed as prohibited grounds for discrimination, which makes BiH the first country in Southeast Europe to have enacted a comprehensive anti-discrimination law and provide for the protection of intersexual persons from discrimination in all spheres of life. The law expressly and properly regulates the protection of lesbian, gay, bisexual, transgender and intersexual (LGBTI) people from discrimination.

Only Decision AP 1020/11 dated 25 September 2014 found a violation of the right to freedom of assembly under Article 11 of the European Convention of the Association Q for promotion and protection of culture, identity and human rights of queer people in Sarajevo. Allegations of discrimination in the decision were not examined taking into account conclusions of the Court respecting Article 11 of ECHR.

A festival called "Merlinka", which is a very important event for members of LGBT community, was held in Sarajevo in early 2017 and was attended by more than 5,000 spectators without incidents.

The 2016 Amendments to the Criminal Code of FBiH define the hate crime as a criminal offense committed for someone's affiliation, colour, religious belief, national or ethnic origin, language, gender, disability, sexual orientation or gender identity. They provide that such treatment will be taken as an aggravating circumstance, unless this law explicitly provides for a more severe punishment for a criminal offense when committed out of hatred. Thus, Article 166, paragraph (2) (c) of BiH CC provides for the criminal offense of murder committed out of hatred, which carries a prison sentence of one to ten years. The crime of rape under Article 203, paragraph (4) of FBiH CC carries a prison sentence of three to fifteen years if committed out of hatred. Further, the criminal offense of damaging somebody else's property under Article 293, paragraph (3) of FBiH CC committed out of hatred carries a prison sentence of up to one year.

The Law on Amendments to the RS CC has a paragraph concerning criminal offenses motivated by hatred (hate crimes) that includes gender, sexual orientation and gender identity of a person as qualifying circumstances for certain crimes.

The Republika Srpska is currently in the process of drafting and passing the new Criminal Code of Republika Srpska, which partly transposes Directive 2008/913, criminalizing racism and xenophobia in the criminal act "Public instigating and incitement to violence or hatred", which determines that a prison sentence of up to three years will be imposed on a person who, through a press, radio, television, computer system or social network, at a public meeting or public place or otherwise publicly, invites, causes or instigates violence or hatred or makes available to the public leaflets, images or other materials instigating violence or hatred directed towards a particular person or groups because of their national, racial, religious or ethnic affiliation, colour, gender, sexual orientation, disability, gender identity, origin or other characteristics.

Further, this Criminal Code particularly criminalizes acts of sexual abuse and exploitation of the child. These are criminal offenses of sexual abuse of a child under 15 years of age, sexual abuse of a child over 15 years of age, instigating a child to participate in sexual activities, exploitation of a child for pornography, exploitation of a child for pornographic performances, familiarizing a child with pornography, exploitation of a computer network or communication with other technical means for committing crimes of sexual abuse or exploitation of a child. Comparing to the valid Criminal Code, a new criminal offense is fulfilling the lust in front of a child ("Whoever, in front of a child or a minor, engages into acts intended to satisfy his or someone else's lust, or who incites a child to engage in such acts in front of him or another, shall be punished by a fine or imprisonment for a term not exceeding three years.") and the criminal offense of inciting a child into prostitution. This Code also provides for the keeping of records of persons who have been convicted for criminal offenses committed in violation of child's integrity, while the content and scope of the data, their preservation and conditions for their release will be prescribed in a special regulation.

The Republika Srpska Criminal Code<sup>2</sup> provides for the criminal offenses of "Prevention of Return of Refugees and Displaced Persons" (Article 167), which determines that any person who, by use of force, serious threat or in some other illegal way, prevents or restricts refugees and displaced persons from returning to their homes of origin or some other place in Republika Srpska or from using their property, will be punished by imprisonment for a term between six months and five years. The criminal offense of "Abuse, torture and other inhuman and degrading treatment" (Article 168) prescribes that a person will be punished by imprisonment for a term not exceeding two years, if he abuses another or treats him in a manner that violates his human dignity.

In December 2015, the Government of Republika Srpska adopted the Gender Action Plan.

Police agencies (RSMoI, FBiHMoI and cantonal MoIs) carry out continuous training of police personnel in connection with this matter through regular schooling at police academies and other forms of education and training of police personnel and cooperate with many non-

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<sup>2</sup>RS Official Gazette, No. 49/03, 108/04, 37/06, 70/06, 68/07, 73/10, 1/12 i 67/13

governmental associations and organizations, such as Sarajevo Open Centre (SOC), the "CURE" Foundation etc., through joint meetings, putting up posters in all police administrations and stations with a view to raising trust of LGBT people in law enforcement officers and encouraging them to report all forms of violence and discrimination without fear etc.

BiH GEA received a request for examination of violations of the Law on Gender Equality in BiH, which was lodged by the Director of SOC. Acting in accordance with provisions of the Uniform Rules for receiving and processing requests for examining a violation of the Law on Gender Equality in BiH, BiH GEA requested from competent institutions clarifications and made recommendations for the elimination of discrimination based on sexual orientation

In the period from 14 November 2012 to 26 June 2016, the Police of ten cantons of the Federation of Bosnia and Herzegovina or the Police of BD did not record any cases of attacks on people based on their sexual orientation either by citizens or by police officers.

Since 2013, the Republika Srpska Ministry of the Interior has been keeping records of incidents (criminal offenses and misdemeanours) motivated by hatred, that is, committed with a directly or indirectly expressed religious, national, ethnic or other hatred, conflicts or intolerance. Regarding the legal description of the incidents, there are criminal offenses of "Inciting national, racial and religious hatred, discord or intolerance", "Damage to another's property" and "Jeopardizing of Security" and others) and misdemeanours committed mostly by insulting, printing graphites and others. In this regard, the Ministry has statistics on criminal offenses or misdemeanours segregated by perpetrators, targets (religious objects or physical persons), places, times and manners of commission, any consequences.

In 2016, steps were taken which were designed to establish a dialogue that would bring together decision-makers and civil society, donors and other relevant stakeholders in the fight to reduce inequality and rejection faced by LGBTI people.

The annual operational plans for gender equality at the state and entity levels include also measures to improve the situation of LGBT persons and fight against homophobia (gender AP, December 2015).

#### Freedom of thought and freedom of expression

The Constitution of Bosnia and Herzegovina enshrines *freedom of thought and freedom of expression*. Freedom of expression as one of human rights encompasses freedom to seek, obtain and disseminate information and thoughts of any kind, whether they are oral, written, printed or in artistic form or by any other means of one's own choice, provided that the exercise of the right entails special duties and responsibilities and may be subject to certain restrictions which must be established by law or must be necessary (due to respect for the rights and reputations of other persons, or for the protection of state security or public order or public health or morals).

This right in BiH is regulated by the United Nations and the Council of Europe international documents, which BiH has become a party to,<sup>3</sup> and BiH laws at all levels of government: the Law on Defamation, the Law on Freedom of Access to Information and the Law on Public Broadcasting Service of BiH. Assessing the quality and scope of applicable laws in most reports and recommendations, it is stated that the legislative framework in BiH is fragmented, which is why there is a need for further improvement of laws. At the same time, assessments have been made of the need to improve the institutional and political environment in order to create better conditions for full freedom of expression, and to create a monitoring system in the exercise of this right. A particular emphasis was placed on the need to ensure lasting financial stability of the public service broadcasting system and to harmonize and adopt new durable legal solutions that will regulate this issue.

Significant activities have been undertaken in Bosnia and Herzegovina in the past years in order to ensure a better exercise of the right to freedom of expression.

The Law on Communications of BiH (hereinafter: the Law) establishes the basic regulatory principles that apply in the field of broadcasting, which include, among other things, the protection of freedom of expression and diversity of opinion in accordance with generally accepted standards of decency, non-discrimination, fairness, accuracy and impartiality, and whose implementation is the responsibility of the Communications Regulatory Agency of BiH (hereinafter: CRA).

CRA is a functionally independent and non-profit institution with the status of legal person according to the laws of Bosnia and Herzegovina, which, applying the broadcasting rules, in accordance with the relevant European legal instruments, establishes program standards in order to exercise the right to freedom of expression and ensures the application of the provisions regarding the prohibition of discrimination and hate speech in electronic media.

In the reporting period, CRA received and processed a higher number of complaints relating to a potential "hate speech" in the programs of providers of audio-visual media services. A violation of the above provision was found only in two cases and fines in the amount of BAM 2,000.00 and BAM 4,000.00 were imposed on the television stations, while a television station received a written warning due to violation of provisions regarding discrimination.

In the remaining cases there were no grounds for prosecution over a possible breach of the provisions relating to hate speech and they were closed in regular proceedings.

In addition to CRA, a Press Council was established in Bosnia and Herzegovina. It is a self-regulatory body for print and online media that enables citizens to submit complaints against unprofessional print and online press, following professional standards covered by the Press Code and online media of BiH. The Press Council of BiH operates on the territory of the

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<sup>3</sup> The Universal Declaration of Human Rights (Article 19), the International Covenant on Civil and Political Rights (Article 19), the Declaration on Freedom of Expression and Information of the Council of Europe, the Convention on the Protection of Human Rights and Fundamental Freedoms of the Council of Europe (Article 10). At the regional level, the right to freedom of speech is ensured by the Framework Convention for the Protection of Minorities and by the European Charter of Regional or Minority Languages, the Council of Europe Recommendations; Aarhus Convention and the like.



entire state, in the territories of both entities - the Federation of Bosnia and Herzegovina and Republika Srpska. The mandate of the Press Council of Bosnia and Herzegovina was extended to online media in early 2011.

Based on the UN Human Rights Council resolutions 15/11 and 24/15, the Ministry of Human Rights and Refugees of BiH adopted the Guidelines for the Implementation of the World Program for Human Rights Education in Bosnia and Herzegovina, based on which the Plan of Action for human rights education for journalists and media professionals in Bosnia and Herzegovina was developed and adopted by the Council of Ministers on 21 February 2017.

The Council of Ministers of Bosnia and Herzegovina tasked the Ministry of Human Rights and Refugees of Bosnia and Herzegovina, in cooperation with the Ministry of Security and the Ministry of Justice of Bosnia and Herzegovina, to submit a new Report on freedom of speech and the media freedom situation in BiH, which was put together after consultative meetings and now it is at the stage of gathering opinions.

The 2015-2017 Council of Europe's Action Plan for Bosnia and Herzegovina envisages measures aimed at improving ethical standards, impartial and objective reporting, freedom of and access to information and protection of the right to privacy.

Although a special emphasis is given to freedom of expression and information in the media, citizens' associations and, especially, journalists note that freedom of expression in the public is often abused and that hatred is on rise generally.

In the Republika Srpska, the Law on Defamation provides that the compensation for damage will be awarded proportionally to the damage caused, i.e. compensation for damage caused to the reputation of the injured party. The Republika Srpska Defamation Law provides for the circumstances that the court takes into account when determining the amount of damages and injunctions concerning slander and libel. According to the 1 January 2014 - 11 April 2016 statistics, the Basic Court of Banja Luka had 50 defamation lawsuits pending at different stages.

The Constitution of Republika Srpska determines that all individuals have the right to defence and, accordingly, journalists do. Special laws provide that individuals have the right to a lawyer in all proceedings and defence counsel in criminal proceedings, where defence is mandatory and the counsel will be appointed ex officio, and that, if they fulfil conditions, they also have the right to legal aid.

In Republika Srpska, the Constitution of Republika Srpska (Article 25) guarantees the freedom of thought and conviction, conscience and belief, religion and public expression of opinion.

According to the conclusion of the Council of Ministers, the information about pressure exerted on and intimidation of the media in BiH, with proposed measures, which will enhance the profession of journalists in BiH. The proposed measures are: organising joint training for journalists, lawyers, judges and civil servants related to the implementation of the World Program for Human Rights Education, taking an initiative to amend the Criminal Code regarding the protection of journalists from assaults while performing their duties, revising the CMS database, which is maintained by the High Judicial and Prosecutorial Council of BiH in

accordance with the amendments to the Criminal Code of BiH and considering the possibility of establishing a Media Department in the Institution of Ombudsman for Human Rights.

Given the complex structure of BiH, comparative information about spending of funds on advertisements and announcements in programmes and shows in the media is not available because each of the levels of government in BiH, i.e. entities, BDBiH and cantons in the Federation, has their own budgets.

At the level of Bosnia and Herzegovina, an initiative for amendments to the Criminal Code (Article 145 a) has been launched in order to expand the notion of entity protected from racial, national, religious and other forms of hatred and intolerance.

For a long time Bosnia and Herzegovina has been working hard to build a multi-ethnic and democratic state, respecting human rights and freedom of conscience and religion.

In addition to becoming a party to international conventions, Bosnia and Herzegovina passed the Law on Freedom of Religion and Legal Position of Churches and Religious Communities of Bosnia and Herzegovina<sup>4</sup> and concluded bilateral agreements with the Holy See (2007) and Serbian Orthodox Church of Bosnia and Herzegovina (2008), and signing of the Agreement between Bosnia and Herzegovina and the Islamic Community of Bosnia and Herzegovina is underway. Mixed commissions for the implementation of the above-mentioned agreements were established.

The Law on Freedom of Religion and Legal Position of Churches and Religious Communities of Bosnia and Herzegovina has created a legal framework in Bosnia and Herzegovina where all churches and religious communities in Bosnia and Herzegovina are equal in rights and duties without discrimination and all forms of intolerance and discrimination based on religious beliefs and convictions are prohibited. The Law is in conformity with the international declarations and conventions Bosnia and Herzegovina is a party to.

The Inter-religious Council was established in 1997 with a view to promoting an open and constructive dialogue, i.e. interreligious and intercultural dialogue.

Activities of the Inter-religious Council contribute to establishing a dialogue and linking diversities and especially emphasized religious dimensions of intercultural dialogue and understanding in Bosnia and Herzegovina. The Council of Ministers and the Interreligious Council of Bosnia and Herzegovina signed the 2008 Agreement on Mutual Cooperation, which aims to support efforts to build an inter-religious dialogue, religious tolerance and

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<sup>4</sup> European Convention on Human Rights and Fundamental Freedoms;

- The Constitution of Bosnia and Herzegovina;

- the Law on Freedom of Religion and Legal Position of Churches and Religious Communities in Bosnia and Herzegovina (2004);

-Implementation Guidelines for the Law on Freedom of Religion and Legal Position of Churches and Religious Communities in Bosnia and Herzegovina (2006);

- The Law on the Prohibition of Discrimination (2009) and

-Agreements concluded between the state of Bosnia and Herzegovina and churches and religious communities;

-Decision on Ratification of the Basic Agreement between the Holy See and BiH and Bosnia and Herzegovina and Additional Protocol to the Basic Agreement (2007);

- Basic Agreement between Serbian Orthodox Church and Bosnia and Herzegovina (2008);

- Basic Agreement between Bosnia and Herzegovina and the Islamic Community in Bosnia and Herzegovina was adopted by the Council of Ministers of Bosnia and Herzegovina on 20 October 2015 and sent to the Presidency of Basic Agreement between Bosnia and Herzegovina and the Islamic Community in Bosnia and Herzegovina adopted at the Council of Ministers of Bosnia and Herzegovina.

coexistence in BiH. The agreement also stipulates the State's obligation to provide financial support to the Inter-Religious Council, which has been already achieved in practice year by year.

In spite of the above-mentioned and other significant activities, which are taken by the State in the insurance and protection of religious freedom, abuses and discrimination based on religious affiliation still prevail, to a lesser extent, though. In Bosnia and Herzegovina, "Monitoring of attacks on places of worship and other places of religious significance to religious communities" Project has been implemented since 2010 by the Inter-Religious Council of Bosnia and Herzegovina (hereinafter: IRC) and it has become a regular activity. Based on this project, monitoring is carried out with a view to improving the protection of religious facilities and other facilities of importance to churches and religious communities (sacred places) of all confessions in Bosnia and Herzegovina. IRC has established regular recording of attacks on religious objects and compiles a report / review of collected data in terms of methods of attack, motives of attack, identification of perpetrators as well as areas in which attacks occur.

According to IRC's reports<sup>5</sup>, compared to the period 2010-2015, the number of attacks has been significantly reduced although attacks on religious facilities are still present, which is the reason why activities to counter them should continue.

We note that motives of the above-mentioned attacks in most cases are not based on national and religious intolerance, but on personal gain, as well as the fact that the cooperation between the police forces and the local community is at an enviable level.

#### Treatment of asylum seekers, refugees and persons granted subsidiary protection

**13. The Committee, in the light of its general recommendation No. 30 on discrimination against non-citizens, recommends that the State party find an alternative to detention of asylum seekers and ensure that, if detention is applied, it is always used as a measure of last resort and is limited by statute to the shortest time reasonably necessary. The Committee furthermore recommends that the State party end the practice of issuing orders to expel asylum seekers before assessing their asylum application, and to:**

**(a) Allow unhindered access to detention facilities by international organizations, including UNHCR, as well as its domestic legal partners;**

**(b) Carry out a full and impartial assessment of the risk of refoulement of persons currently detained for representing an alleged threat to national security, and provide them with all the information necessary with which to challenge the order of expulsion or detention;**

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<sup>5</sup> In the period between 1 November 2010 and 31 October 2015 there were 186 attacks on religious property, clerics and believers directly affiliated to religious buildings, of which 88 attacks were against the Islamic Community, 57 attacks were on the property of the Serbian Orthodox Church, 36 attacks were against Catholic Church, 4 attacks were against the Jewish Community and 1 attack was on the property of the Advent Christian Church. From the beginning of the project implementation (1 November 2010) until the end of this reporting period (31 October 2015), out of 186 reported attacks, the BiH authorities managed to identify perpetrators in 67 reported attacks, which in percentages amounts to 36% of the total number of attacks. To date, 31 judgments have been passed in these cases.

**(c) Take all measures necessary to ensure asylum seekers' access by law and in practice to education, employment, social welfare, adequate food and health care;**

**(d) Increase financial assistance provided to refugees and persons granted subsidiary protection to an adequate level, and provide integration opportunities, such as language classes, vocational training or employment schemes;**

**(e) Finalize and adopt without delay the new law on asylum.**

ANSWER:

When it comes to the situation of persons under international protection, the procedure for dealing with international protection seekers in BiH is determined in the Law on Asylum, which was adopted in February 2016. An intention to seek international protection can be expressed at the border or within the country, regardless of whether the person is placed in the immigration centre or has an expulsion or is in custody or serving a prison sentence. An alien seeking international protection cannot be expelled from Bosnia and Herzegovina until the procedure has ended at the Court of BiH as a second instance body that renders a final judgment. In making its decision on the request for international protection, the MoS as a body of first instance takes into account all relevant information about the country of origin of the international protection seeker, all the facts presented in the interview by the applicant and offered evidence.

The Ministry of Security provides all persons who have the status of international protection seekers with the following: accommodation, food, health care, legal aid, psycho-social support, primary education and access to the labour market if the application is not decided within the statutory deadline.

The BiH MHRR has responsibility for the exercise of rights by persons with granted status (refugee status or subsidiary protection).

In the reporting period, BiH MHRR enacted a series of bylaws governing the manner of exercise of rights by persons granted international protection (accommodation, health care, social protection, education, employment, civil registration and integration facilitation) which are carried out in accordance with the Law on Movement and Stay of Aliens and Asylum. Refugees and persons under subsidiary protection in BiH exercise their rights on the basis of international protection in BiH in accordance with these regulations. A new Law on Asylum governing the rights of persons under international protection came into force in 2016.

Article 16, paragraphs 2 and 3 of the Law on Social Protection (RS Official Gazette, No. 37/12, 90/16) provides that foreign nationals and members of their families and persons under international legal protection who are holders of permanent residence permit in RS can exercise the rights in accordance with the Law and the persons who find himself in the territory of RS can exercise the rights to social protection under the conditions prescribed by the Law on Social Protection, if required because of especially difficult circumstances of the person.

## **D. Other recommendations**

### **Follow-up to the Durban Declaration and Programme of Action**

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

### **International Decade for People of African Descent**

15. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed the International Decade for People of African Descent, 2015–2024, and its resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in this framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

### **Consultations with civil society**

16. The Committee recommends that the State party expand its dialogue with civil society working in the area of human rights protection, in particular in combating racial discrimination, not only in the preparation of its next periodic report but also outside that context. The Committee also recommends that the State party put in place measures to stimulate the development and strengthen the capacity of a civil society that truly reflects the different groups present in its territory.

It is an indisputable fact that NGOs have a very important role to play in the development of the civil society, the rule of law and democracy in Bosnia and Herzegovina. Of course, they are primarily characterized by freedom of association, the lack of burden of authority and institutionalization, easily recognized by widespread and voluntary membership, as well as their organized involvement in those issues that are issues of their interest as well as the interest of the society as a whole. In this way, the civil society nowadays has become a vision and desire of all democratic systems, as the concept of the establishment and exercise of liberty by an individual, his/her full participation in conducting of public affairs and the principles of equality and the rule of law in whose creation and implementation the citizens and their associations have been increasingly taking part. On these bases, non-governmental

organizations in Bosnia and Herzegovina have been becoming increasingly institutional forms of the society. They have been assuming the exercise of public affairs and services, in a democratic way achieving the protection of public interests important to a citizen, because he/she directly participates in making the important decisions, in accordance with his/her wishes and the extent of his/her needs. Thus, the definition of civil society as “democracy in action” has been confirmed, because the authorities in Bosnia and Herzegovina have more interest in the inclusion of the NGO sector in the overall development of democratic relations and establishing a strong rule of law and democratic state. In this regard, we emphasize that in BiH a Link for Consultations was established regarding public hearings when making laws, action plans and other strategic documents in order to enable participation of as many citizens as possible. The legal status of NGOs in Bosnia and Herzegovina should be considered in light of the provisions of the Constitution, under which Bosnia and Herzegovina and both entities have a constitutional obligation to provide "the highest level of internationally recognized human rights and fundamental freedoms".

There is also good cooperation with the Helsinki Committee for Human Rights of BiH and the Helsinki Committee for Human Rights of RS, Transparency International (TI) BiH, on human rights issues where human rights violations are pointed out in the field. Their comments about drafts of and amendments to valid legislation are taken into account and their reports are taken into account and used for faster and more efficient remedy of violations. Further, there is good and positive cooperation with UNICEF, UNHCR, Save the Children Norway, UNDP, OSCE, etc., which is reflected in professional and financial assistance, especially when it comes to projects related to children's rights and the issues of exercising the rights of national minorities, especially by the Roma population.

The legal status of associations and foundations in the Republika Srpska is governed by the Law on Associations and Foundations of Republika Srpska (RS Official Gazette, No. 52/01, 42/05). In addition, the Guidelines for Procedures of RS Administration Bodies in Public Participation and Consultations When Drafting Laws (RS Official Gazette of Republika Srpska, No. 123/08, 73/12) provide for participation of the public, including civil society organization in the legislative process.

### **Amendments to article 8, paragraph 6, of the Convention**

17. The Committee reiterates its recommendation contained in the previous concluding observations that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111 of 16 December 1992.

It is a well-known fact that members (18 of them) of the European Commission against Racism and Intolerance are appointed from the List of Candidates renowned for their moral authority, professionalism and impartiality provided by States for a term of four years. Expenses incurred by members of the Committee are borne by the State Party which elected the particular member. BiH has not completed the process of selection of representatives of

BiH into UN and the Council of Europe human rights treaty bodies (including the Committee on the Elimination of All Forms of Racial Discrimination) yet. Intensive efforts are being made to complete the process of compiling a list of experts from BiH, thus facilitating the participation of BiH in the work of these committees and its contribution to the harmonization of national legislation with international agreements, raising awareness about their importance and development of democratic society.

### **Declaration under article 14 of the Convention**

18. The Committee encourages the State party to consider making the optional declaration provided for in article 14 of the Convention, recognizing the competence of the Committee to receive and consider individual complaints.

As we have already discussed above, Bosnia and Herzegovina is a complex state (consisting of two entities and one district, which is obliged to follow the procedure of concluding international agreements, which requires consultations during signing, ratification, making or withdrawal of reservations and giving unilateral declaration of acceptance and an approval by the competent authorities at all levels of governance in Bosnia and Herzegovina of feasibility and purposefulness of some of the above listed activities. Bearing in mind that one of the recommendations of the UN Committee on the Elimination of All Forms of Racial Discrimination deals with the recognition of the competence of the Committee to consider individual complaints of discrimination cases, i.e. making the (optional) declaration provided for in Article 14 of the Convention, we note that it was taken into consideration and that the answer to the recommendation (upon completion of the above-mentioned consultations) will be an integral part of the 9th and 10 Periodic report that will be prepared coordinated by the Ministry of Human Rights and Refugees of Bosnia and Herzegovina and the working group of government representatives from all levels of governance in Bosnia and Herzegovina with active participation of NGOs (including associations of national minorities) or the next follow-up report.

### **Dissemination**

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

The system of treaty reporting has become an integral part of daily activities of member states of UN, the Council of Europe and other international organizations and institutions, BiH being one of them. Having signed and ratified particular instruments, all member states are obliged to regularly report to the relevant committees and other working bodies on the situation and respect for human rights in the particular areas. The entire procedure of the UN, its committees and European bodies is based on the practice and the assumption that the reporting is aimed also at assisting governments in making a progress in respecting human rights and not only at controlling their performance. So, as member of the human rights treaty

bodies, BiH does not take reporting as something that it is imposed involuntarily, but as something that is based on the assumption that every state is an actual and potential violator of human rights. Reports of BiH (both initial and periodic ones) are available to the public at the time of their submission because they are posted on the website of the Ministry for Human Rights and Refugees. The reports are written in three official languages in BiH, as follows: Bosnian, Serbian and Croatian, and the two official scripts: Latin and Cyrillic alphabets as well as English as one of the working languages of UN. While preparing a report, an inter-ministerial working group is appointed to compose of representatives of the competent authorities in Bosnia and Herzegovina relevant to the recommendations given by the UN Committee, minorities' non-governmental organizations that receive, after the presentation, the report with concluding observations and recommendations of the UN Committee (translated into official languages of BiH) to implement them timely at all levels in BiH society in order to harmonize legislation, policies and practices with treaties. During the preparation and after the completion of drafting any treaty report Bosnia and Herzegovina carries out consultations with a number of actors from non-governmental organizations, international experts and distinguished members of the academic community.

Thus, as regards the measures which Bosnia and Herzegovina has been taking continuously while applying the basic principles set forth in multilateral international documents and expressed in concluding observations and recommendations of relevant UN committees and Council of Europe commissions, a priority should be given to bringing the legislation in Bosnia and Herzegovina in line with the standards contained in the aforementioned recommendations on the path to European integration. The treaty reporting of a Member State involves the presentation of information on the fulfilment of international human rights standards in various sectors of human rights protection, primarily through the presentation of the content of applicable laws and methods of their application. The above process ends with the issuance of recommendations and / or conclusions inviting the Member State, when required, to bring laws and practices in line with international standards.

In this regard, cooperating with the competent authorities at all levels of government, Bosnia and Herzegovina has been taking continuously measures with a view to applying the basic principles set forth in multilateral international documents and expressed in concluding observations and recommendations of relevant UN committees and Council of Europe commissions. Further, committees of the Council of Europe, including CAT (European Committee for the Prevention of Torture and Other Inhumane Punishment) and ECRI (Council of Europe Commission against Racism and Intolerance) make reports on the situation in monitored areas and give recommendations to the authorities of Bosnia and Herzegovina therein on the basis of monitoring missions.

Bosnia and Herzegovina needs to implement the recommendations of international human rights bodies through the established methodology while strengthening the structures for the human rights protection and promotion while providing the necessary financial and human resources to ensure a network for the full operation of data collection mechanisms and the implementation of recommendations given by international human rights bodies. This obligation is continuously fulfilled, which is manifested through timely reporting to the



relevant UN and Council of Europe committees on the implementation of international conventions, covenants, charters whether it has signed, ratified or taken them over by succession. In order to improve the system of coordination of authorities in Bosnia and Herzegovina on the implementation of the recommendations of international human rights bodies as well as the increased level of protection of human rights of citizens of Bosnia and Herzegovina from human rights violation, the Ministry has planned to adopt guidelines for the implementation of the above-mentioned recommendations.

### **Follow-up to concluding observations**

20. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 7, 9 and 12 above.

### **Paragraphs of particular importance**

21. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 5, 8 and 11 above and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement those recommendations.

ECRI (Commission of the Council of Europe) visited Bosnia and Herzegovina in March 2016, after which it compiled the Report adopted by the Committee of Ministers of the Council of Europe. The Report was transmitted to the Joint Commission on Human Rights of the Parliamentary Assembly of BiH, the Council of Ministers of BiH, the Government of the Federation of Bosnia and Herzegovina and the Government of Republika Srpska.

**The report, which was drawn up by ECRI after the March 2016 monitoring mission to BiH, covers the situation up to 30 June 2016 and states *inter alia* the following:**

Progress has been made concerning access to identity documents for Roma and the implementation of the 2010 revised Action Plan on the educational needs of Roma. Pupils now often receive textbooks, school supplies, and financial assistance for transport and meals. As a result, school enrolment rates among Roma children have increased, while drop-out rates have declined.

ECRI welcomes these positive developments in Bosnia and Herzegovina but warned about the situation in the field of education, the enforcement of judgments of the European Court of Human Rights and insufficient human resources in the Ombudsman institution.

As already elaborated in the answers to CERD Recommendations 5, 7 and 11 above, Bosnia and Herzegovina strives to improve the situation in these areas.

### **SUMMARY:**

Bosnia and Herzegovina has recognized the importance of implementation of international conventions, covenants, charters whether it has signed, ratified or taken them over by succession with a view to bringing the national legislation in line with the multilateral international documents in order to improve the level of human rights protection with the aim of creating a democratic, tolerant and non-discriminatory society. Discrimination itself is a phenomenon that is difficult to eradicate even in democratic societies of centuries-old traditions, and BiH, a multinational, multi-cultural and multicultural country, has made, makes and will make efforts to eradicate all forms of discrimination and intolerance, including xenophobia in order to preserve the own rich specificities that have always adorned it.

E the European Convention on Human Rights and Fundamental (1950) Freedoms is an international legal source of human rights directly applicable in the legal system of Bosnia and Herzegovina, as an integral part of the Constitution, and has supremacy over all domestic valid legislation, including Article 14 of the Convention, which prohibits any form of discrimination, that is directly applicable in the BiH legal system as well as Protocol 12 thereto, containing a general ban on discrimination.

The Law on Prohibition of Discrimination based on and designed in accordance with European standards was passed in 2009. Provisions of the law protect citizens of Bosnia and Herzegovina against discrimination in all spheres of life and work, including: employment, health and social protection, judiciary and administration, housing, public information, education, sports, culture, science, economy, etc., then, from all forms of harassment, sexual harassment, mobbing, incitement to segregation or discrimination. Under this law, all public bodies and authorities have an obligation and duty to fight against discrimination and to refrain from it, removing obstacles that may directly or indirectly result in discrimination. These institutions also have a duty to actively design and create conditions for equal treatment by means of amendments to the existing laws and adoption of new laws, policies and practices in accordance with the Law on Prohibition of Discrimination. The Rulebook to implement the Anti-Discrimination Law, was enacted and there is a plan to establish a central database on the monitoring of discrimination cases in the Ministry of Human Rights and Refugees, which will include and collect the data of minorities. According to the suggestions given by the Council of European Union (such as the directive prohibiting discrimination in employment based on religion, belief, disability, age or sexual orientation) and the European Commission, amendments to the Law were drafted and sent to the Parliament for passage. Based on the above, disability, age and sexual orientation are introduced as grounds of discrimination.

The Constitution of Republika Srpska determines that the constitutional organisation of the Republika Srpska is based upon *inter alia* protection of the rights of ethnic groups and other minorities (Article 5, line 10) and that, in regions populated by communities speaking other languages, their languages and scripts are also in official use as provided by law (Article 7, para. 2).

In accordance with rights and freedoms enshrined in the Constitution of Republika Srpska, the legislation and regulations governing employment, training, taking examinations for jobs in the administration and promotion in the RS administration authorities prohibit discrimination against employees and persons seeking employment with regard to gender, sexual orientation, marital status, family responsibilities, age, disability, pregnancy, language, religion, political or other opinion, nationality, social origin, property, birth, race, colour, membership or non-membership in political parties and trade unions, health status or any other personal characteristic.

Article 5 of the Constitution of Republika Srpska determines that the constitutional organisation of the Republika Srpska is based upon *inter alia* guarantee and protection of human freedoms and rights in accordance with international standards and protection of the rights of ethnic groups and other minorities. Article 31 of the Constitution of Republika Srpska enshrines freedom of political organisation and activities in conformity with law and any political organisation or activity threatening the democracy, jeopardising the integrity of the Republika Srpska, violating the freedoms and rights guaranteed by the Constitution and any incitement to ethnic, racial or religious hatred and intolerance are prohibited.

The Ministry of Human Rights and Refugees of BiH is preparing an annual report on discrimination cases and submits it for information to the both Houses of the BiH Parliamentary Assembly after adoption by the BiH Council of Ministers. The phenomenon of segregation of children in the educational system in FBiH is still an integral part of the mentioned report, which is being addressed intensively. Further, a report on the implementation of concluding observations and recommendations given by human rights treaty bodies.

A single institution of the Human Rights Ombudsman of Bosnia and Herzegovina was set up and is now running in its full capacity. Amendments were made to the Law on Human Rights Ombudsman in order to improve the functioning of the institution in accordance with the Paris Principles and the establishment of National Preventive Mechanisms, as suggested in the concluding observations and recommendations of the UN Committee on the prohibition of torture and other inhuman and degrading treatment of punishment.

Efforts have been made in accordance with Articles IV and V of the Constitution of Bosnia and Herzegovina to address the issue of the right of national minorities which are treated as "Others" in accordance with the Constitution, which in *Sejdić and Finci* the European Court of Human Rights (ECtHR) found to be discriminatory against other ethnic groups - 17 of them exist in Bosnia and Herzegovina, which is established by the Law on the Protection of National Minorities (2003), because it favours and grants special privileges and benefits to constituent peoples (Bosniaks, Serbs and Croats). The problem in Bosnia and Herzegovina is expected to be resolved soon in accordance with the judgment of the ECtHR, since the Council of Ministers established a working group and adopted the Action Plan for enforcement of the judgment. Suda za ljudska prava iz Strazbura.

For years now, the Agency for Gender Equality of BiH, in cooperation with the entity Gender Centres, has been striving to ensure elimination of all forms of discrimination against women

in BiH, in particular with regard to employment, overall equality in labour and their participation in political and public life and activities and spheres of important decision-making.

With a view to implementing international instruments, Bosnia and Herzegovina pays special attention to the Roma, as this ethnic group is the largest national minority in Bosnia and Herzegovina and the most vulnerable by all parameters. Joining the Decade of Roma Inclusion, Bosnia and Herzegovina committed to remedy the Roma situation in BiH in all social segments. Along these lines a methodology and an implementation plan for the funds that the State earmarks in the budget and allocates for the implementation of the Action Plan of Bosnia and Herzegovina to address the issue of Roma in the following areas: housing, employment and health care were designed. An action plan for education was adopted previously. In order to successfully and effectively carry out activities at the state level, needs of the Roma in BiH were registered and a database of Roma people in BiH is being developed.

Further, the Strategic Platform to Address the Issues of National Minorities (17 altogether) in Bosnia and Herzegovina is at the final and an initiative for amendments to the Law on the Rights of National Minorities was launched.

A special topic related to elimination of any form of intolerance is the attitude towards refugees and asylum seekers. Although BiH has been addressing rights of refugees and displaced persons in a good way for many years now, especially in terms of property law rights, where the property has been recovered almost one hundred per cent, there are a lot of difficulties in the field of sustainable return. This means that, in addition to refugees returning to their original home, they should be provided with basic conditions to resume a normal life style. In addition to repairing and building houses that have been devastated or destroyed, the returnees need jobs, school buildings, clinics, roads, electricity and other conditions for normal work and living. Unfortunately, BiH has not managed yet to solve the issues of refugees and displaced persons according to the Action Plan at the state level within the Revised Strategy for the Implementation of Annex VII of the Dayton Peace Agreement. It is planned to close collective centers by the end of 2020.

International obligations arising from international treaties, signed, ratified or accepted by succession by Bosnia and Herzegovina are regularly fulfilled. The process of ratifying Protocols 15 and 16 to the European Convention on Human Rights and Fundamental Freedoms is under way with. In accordance with the recommendation of the Committee for Social Rights of the Council of Europe, Bosnia and Herzegovina has taken an initiative to denounce the ILO Convention for the purpose of equal treatment of both sexes in labour and employment (including underwater and underground work).

In cooperation with competent authorities from all levels of governance in BiH, the Ministry of Human Rights regularly prepares answers to UN and Council of Europe's questionnaires and resolutions arising from international treaties that Bosnia and Herzegovina is a party to.

Based on the UN Human Rights Council resolutions 15/11 and 24/15, the Human Rights Education Guidelines were developed, which will significantly contribute to raising awareness of the importance of human rights of targeted groups such as: holders of public offices, journalists, vulnerable groups, children and youth.

First of all, it is necessary to note that Bosnia and Herzegovina commits to maintain a multicultural society through the strengthening of dialogue as the primary means of connecting diversities and developing of tolerance in society and makes continuous efforts and, together with the Communications Regulatory Agency, which operates at the state level, takes necessary steps in the fight against incitement to violence motivated by hate-mongering through abuse of the press, audio-visual, electronic media and new communication technologies. In this way, in accordance with international standards, BiH makes efforts to ensure the freedom of press, speech and expression and that any incitement to hatred or violence is legally sanctioned.

In this regard, an initiative for the adoption of the Law on Prohibition of Incitement of Racial, National, Religious and Other Forms of Hatred and Intolerance was launched.

Further, Minority Councils at the State and entity levels, as well as the Roma Board of the BiH Council of Ministers are active.

The role of the Council for Children of Bosnia and Herzegovina, whose new members were appointed in June 2015, as well as the adoption of the Action Plan for Children of Bosnia and Herzegovina (2015-2018) are important for the full respect of the principles of protection of the best interest of the child.

The establishment of international bodies for the protection of human rights, including bodies of the Council of Europe (ECRI) and the UN (CERD) to combat racism, intolerance and prevent all forms of discrimination and the adoption of the Durban Declaration and Programme of Action efficiently contributes to strengthening the mechanisms for the protection of human rights through raising awareness of target groups in order to strengthen tolerance, link diversities, guarantee equality before the law, the right to equal access to courts, the right to freedom of conscience and religion, right to education etc.

In order to fully implement the multilateral international treaties signed, ratified or taken over by succession by Bosnia and Herzegovina, an initiative has been launched for the adoption of the Law on the Execution of Treaty Obligations, which will govern the cooperation of all competent authorities at all levels of this complex state to ensure full implementation of concluding observations and recommendations of both the Council of Europe and the UN bodies.

The activity is a result of the Action Plan to Implement Conclusions of the Joint Commission for Human Rights of the Parliamentary Assembly of Bosnia and Herzegovina adopted by the Council of Ministers of BiH in November 2015.

As is well known, Bosnia and Herzegovina chaired the Council of Europe in the period May - November 2015 and coordinated activities related to the organization of conferences and symposia on the following topics: Inter-religious Dialogue, Implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Employment of Young People and Women in Western Balkans and Implementation of the Framework Convention on the Rights of National Minorities.

In the end, it is important to point out that Bosnia and Herzegovina is open to all forms of cooperation with the Council of Europe bodies including ECRI and other international human rights bodies in order to improve the level of protection in the Bosnian-Herzegovinian society and to become involved in Euro-Atlantic integration as soon as possible.

### **Preparation of the next periodic report**

22. The Committee recommends that the State party submit its 12th and 13th periodic reports, in a single document, by June 2017, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the word limit of 21,200 for periodic reports and 42,400 for the common core document.

## Appendix 1

### BiH Mine Action Centre (BHMACH)

Bosnia and Herzegovina is the country with the biggest issue of mines and explosive remnants of war (ERW)/unexploded ordnances (UXO) in Europe. In the territory of BiH, there are more than 79.000 estimated mines and ERW. The current size of “suspicious” dangerous field in BiH is 1.118 km<sup>2</sup> or 2,2% of total land in Bosnia and Herzegovina. 3% of “suspicious” dangerous field is in the areas intended for sustainable return. The BiH general assessment of mine and ERW threat in 129 towns and municipalities in Bosnia and Herzegovina has identified 1.398 endangered communities by mines and ERW. Contamination sites directly affect safety where around 545.603 citizens or approximately 15% of total population of Bosnia and Herzegovina live. Since 1992, there have been 8.379 casualties of mines and ERW. During the war (1992-1995) there were 6.354 casualties and after the war there were 1.751 casualties (612 deaths). The exact year when 274 people became casualties is unknown. Out of the total number of casualties in the post-war period, 184 or 10%, were women and 249 or 14% casualties were children. There were 127 casualties among deminers in humanitarian demining operations with 51 deaths. Since the beginning of anti-

mine action in BiH in 1996, the suspicious hazardous area has been reduced by 3,081 km<sup>2</sup>. Of this, 2,889 km<sup>2</sup> (94%) have been cleared by non-technical methods (systematic and general / non-technical clearing) by the BiH Mine Action Center, and 193 km<sup>2</sup> (6%) have been cleared by technical methods (technical survey and mine clearance) by accredited organizations. 64,497 anti-personnel mines, 8,445 anti-personnel mines and 56,307 pieces of ERW have been found and destroyed in humanitarian demining operations.