



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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**Committee on the Elimination of Racial Discrimination**

**Consideration of reports submitted by States  
parties under article 9 of the Convention**

**Ninth to eleventh periodic reports of States parties due  
in 2014**

**Bosnia and Herzegovina\* \*\***

[7 June 2013]

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\* This document contains the ninth to eleventh periodic reports of Bosnia and Herzegovina due on 16 July 2014, submitted in one document. For the seventh and eighth periodic reports and the summary records of the meetings at which the Committee considered this report, see documents CERD/C/BIH/7-8 and CERD/C/SR.2036 and 2037.

\*\* The present document is being issued without formal editing.

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**List of abbreviations**

BiH	Bosnia and Herzegovina
FBiH	Federation of Bosnia and Herzegovina
RS	Republika Srpska
BD BiH	Brcko District of Bosnia and Herzegovina
NGO	Non-governmental organization

## I. Introduction

1. 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.

2. On 22 and 23 February 2005, before the Committee on the Elimination of Racial Discrimination, 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 Convention (which was treated as the first six reports), while the seventh and eighth periodic reports on the implementation of the Convention were adopted and successfully presented before the Committee in 2010.

3. Based on the recommendations of the Committee contained in its concluding observations on the combined seventh and eighth periodic reports (CERD/C/BIH/7-8) and in accordance with the Committee's drafting guidelines, BiH has put together the ninth to eleventh periodic reports (a combined report) on the Convention, to be submitted by 16 July 2014, as scheduled.

4. 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.

5. 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.

6. 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).

7. 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 17 national minorities explicitly listed in the law) in Bosnia and Herzegovina.

## II. Replies to the recommendations contained in the Committee's concluding observations

### Reply to the recommendation contained in paragraph 6 of the Committee's concluding observations (CERD/C/BIH/CO/7-8)

*The Committee recommends that appropriate measures be undertaken and adequate mechanisms established that can ensure efficient methods of collection of data that give complete and reliable disaggregated statistics on the ethnic composition of its population. It recalls its general recommendation 8 (1990) concerning the self-identification of members of racial and ethnic groups, which should be done without fear of repercussions. The State party is encouraged to seek technical cooperation from the United Nations Population Fund in this regard.*

8. The population census is the largest statistical research of a State, which collects processes and publishes data on population, households and dwellings. The aim of each census is to establish the size of population, its total number for the whole country and all territorial levels: villages, towns, municipalities, cities and counties. In addition to the number and distribution, the census provides data on demographic, ethnic, educational, economic, migration and other characteristics of the population and the number of households, families and their characteristics and details of the housing stock and its characteristics.

9. The Bosnia and Herzegovina census will be carried out on the basis of the Law on Population Census in BiH in 2013 ("Official Gazette of BiH" 10/12) passed on 7 February 2012. This law determines the content, preparation, organization and procedures of the census of population, households and dwellings in Bosnia and Herzegovina in 2013 and the responsibilities of governmental and other agencies and organizations included in the census, obligations and duties of respondents and the census enumerators, the publication of the census results and the census funding.

10. The census will be carried out in the period from 1 to 15 October 2013 for the state of affairs as of 30 September 2013 at 24.00 hours (midnight), which is considered to be the census reference date.

11. A census is the most comprehensive source of data on population, households, families and dwellings. The data is necessary for the implementation of various economic and social development policies and scientific researches.

12. The census is organized and conducted by the statistical institutions in BiH: Agency, Federation Institute of Statistics and the Republika Srpska (RS) Institute of Statistics, in collaboration with administrative bodies and organizations of BiH, competent administrative authorities and organizations of Entities, competent authorities of BD as defined in the Law on the Census of Population, Households and Dwellings in Bosnia and Herzegovina in 2013 and local self-government units. Obligations that the State, Entity and other agencies and organizations have in the preparation, organization and implementation of the census are provided for in Articles 19-27 of the Law on the Census of Population, Households and Dwellings in Bosnia and Herzegovina in 2013.

13. The Federation Administration for Geodetic Survey and the RS Administration for Geodetic and Property Affairs, the Department of Public Records of BD Government, in cooperation with local self-government authorities, should complete technical documentation necessary for the census by 1 March 2013. The data contained in the technical documentation facilitates the organization of the census and include specific maps

and descriptions that enable each enumerator to orientate in the field and inspect facilities to visit.

14. Special purpose funds for census activities and tasks are to be earmarked from the budgets of BiH, Entities, BD, international donors and other sources, while a funding plan will be governed in a special agreement by the Ministers of Finance of BiH and Entities and the Director of Finance of BD or the Fiscal Council of BiH. Article 39 of the Law on the Census of Population, Households and Dwellings in Bosnia and Herzegovina in 2013 provides for a minimum budget for the census, which is BAM 42,625,603, of which:

- (a) In 2012, BAM 10.494.461;
- (b) In 2013, BAM 31.364.836;
- (c) In 2014, BAM 473.804;
- (d) In 2015, BAM 292.502.

15. The overall planned budget might be re-appropriated by individual budget items and years after completing a pilot census. Funds appropriated by years are adjusted every year for the next year, based on data on the movement of consumer prices. A population census is a multi-year project and unspent funds budgeted for the census in one year are transferred to the next year. Funds from the national budgets will be reduced, on an annual basis, in the event that donors provide funds.

16. Citizen participation in the 2013 Census is mandatory, as specified in the Law on the Census of Population, Households and Dwellings in Bosnia and Herzegovina in 2013 (Art. 43).

17. One of the fundamental principles of official statistics involves the protection and confidentiality of individual data. Enumerators and all other persons performing duties in connection with the census are obliged to keep all information collected from individuals regarding their personal, family and financial circumstances confidential for good. Privacy will be ensured in accordance with the Law on Personal Data Protection and the Law on Statistics.

18. The census will cover:

- (a) Citizens of BiH with permanent or temporary residence in BiH, regardless of their whereabouts at the time of the census;
- (b) Foreign citizens with permanent and temporary resident permits in BiH, regardless of their whereabouts at the time of the census;
- (c) Stateless persons;
- (d) Households of persons under items a), b) and c);
- (e) Apartments and other housing units.

19. The census will not cover:

- (a) Diplomatic-consular staff of foreign diplomatic and consular offices or staff of international organizations and bodies or their family members residing with them in Bosnia and Herzegovina;
- (b) Foreign military or police staff or members of their families residing with them in Bosnia and Herzegovina;
- (c) Dwellings owned by foreign countries.

20. Enumeration of diplomatic personnel and their families, enumeration of persons in prisons and enumeration of military personnel are governed by Articles 32, 33 and 34 of the

Law on Population Census in BiH in 2013, while the Agency, in cooperation with ministries under Article 27 of this Law, shall issue instructions on how to enumerate persons referred to in Articles 32, 33 and 34 of this Law, as well as the way of delivering those documents to the Census commissions.

21. Enumeration of persons residing abroad is governed by Articles 40, 41 and 42 of the Law on Population Census in BiH in 2013.

22. Any person covered by the Census is obliged to give accurate and full answers to all questions in the Census forms. Data on absent members of the household who are older than 15 can be given only by an adult, present member of the household, who knows these data best, while the data on children of up to 15 years old are given by one of the parents, foster parent or a guardian. If an enumerator, at the time of enumeration, does not find persons covered by the Census, and data cannot be collected in a way stipulated in paragraph 2 of this Article, he/she shall leave a written notice to the person about his/her duty to submit the data to the competent Census Commission by 15 April 2013 at the latest. The notice defined in the paragraph 3 of this Article shall include the working hours and the address of the competent enumeration centre.

23. Enumerators and all other persons who carry out and take part in the Census-related activities are obliged to perform them in a timely and proper manner.

24. Persons referred to in paragraph 1 of this Article, while performing their work, are obliged to show their Letter of Authority for the Census to persons they enumerate.

25. Pursuant to the Law, with regard to national or religious affiliation, any citizen is entitled to withhold data on ethnic/national and religious affiliation. The enumerator must not for one moment suggest or prompt the respondents into any response and must enter any answer given.

26. The Census forms and methodological instructions shall be printed in Bosnian/Croatian/Serbian language, using Latin and Cyrillic scripts. Answers in the Census forms shall be written in Bosnian/Croatian/Serbian language, using Latin or Cyrillic scripts.

### **Protection of minorities**

27. Before the interview, an enumerator is obliged to inform respondents belonging to national minorities of their right to consider trial specimens of the basic Census forms in the language and script of their national minority.

28. According to the current evaluation and action plan, in addition to employees of statistical institutions in BiH, the census will be carried out by about 25,000 enumerators, 3,200 instructors in the field, 850 members of municipal census commissions and 250-300 external experts, who will be hired for the preparation and processing of materials.

29. The primary commitment is to hire unemployed people and students for the census through student, youth and workers' cooperatives. Enumerators and all other persons conducting of and participating in activities related to the census will receive a fee for the tasks.

30. A call for staff (enumerators and instructors) will be public with selection criteria defined by the statistical institutions and staffing will be conducted by representatives of local government.

31. The Agency and entity statistical institutions will define the enumeration tables and publish the Census results:

(a) Preliminary Census results within the period of 90 (ninety) days after completion of the Census; and

(b) Census results defined by unified data processing programme in the period between 1 July 2014 and 1 July 2016.

32. The Census material generated from the Census-related activities of responsible bodies and organisations in Bosnia and Herzegovina will be destroyed by the Agency, in accordance with the Law on Archive Files and the Archive of Bosnia and Herzegovina and regulations issued on the base of this Law.

33. The Census differs from the 1991 Census due to changes in the methodology of counting the total number of permanent resident population, as in the 1991 Census the total population included also persons who had been absent from BiH for more than 12 months.

34. Pursuant to the Law on Population Census in BiH, all managerial bodies have been established at the levels of the State, Entities and Brcko. Working groups have been established in different areas (methodology and organization, IT, Dissemination, Cartography, Budget and Funding, Legislation, etc.) consisting of staff of statistical institutions of BiH.

35. The basic census forms and methodological documents have been finalized. In accordance with the Law on Population Census in BiH, the census forms will be provided in three language versions and two alphabets used officially in Bosnia and Herzegovina. Trial census forms and methodology documents will be printed in the languages of national minorities living in BiH.

36. All procurements related to the pilot census(es), including printing the forms and documents, will follow public procedures prescribed by the Law on Public Procurement of BiH.

37. The Law on Population Census in BiH in 2013 does not delimit the responsibilities of the Agency and Entity statistical institutes because most activities are carried out as coordinated activities.

38. Representatives of the Entity Statistics Institutes, together with representatives of the Agency for Statistics of Bosnia and Herzegovina, make up working groups that work together to discharge tasks in the preparation for the pilot census.

39. The Agency for Statistics of Bosnia and Herzegovina, together with Entity Statistics Institutes, made a great effort to discharge all planned tasks so that the pilot census could be carried out as scheduled.

40. An inter-institutional working group consisting of representatives of the Ministry of Civil Affairs, including the BH MAC, Entity Geodetic Administrations, the Public Registry of BD, the Agency for Statistics of BiH and Entity statistical institutes has been established and has begun its work. The working group has analyzed the current situation and reports of Entity Geodetic Administrations on cartography activities. One of the priorities is to address the issue of enumeration areas on the entity demarcation line and finding appropriate solutions to enumeration in enumeration areas.

41. The pilot census was carried out between 15 and 29 October 2012. Objectives of the Pilot Census were: testing of the content of basic and auxiliary census forms, methodological guidelines, the work of enumerators and other participants in the census, enumeration duration, verification of sketches of statistical and enumeration areas, technical documentation, testing of data processing phases (preparation of materials to enter, coding, scanning of census forms, data verification and tabulation of census results), analyzing of pilot census results and costs of certain phases of the census. A pilot census is a practice in countries using the traditional method of enumeration. Some countries carry out two or more pilot censuses.



42. The pilot census could not test the complete organization of the census because at the time Census Commissions were not established in municipalities and they are to be direct organizers of the census in the territory of each municipality and responsible for taking necessary steps for the preparation for the census in a timely fashion.

43. Further, a pilot census is organized not to enumerate some population groups, which a census does. The groups include primarily persons who have their habitual residence in BiH and at the time of census they will be absent from the place of residence (military personnel, persons serving a sentence, members of the diplomatic-consular staff and diplomatic staff of international organizations and institutions).

44. After a review of the pilot census some corrections might be made in the design of the questionnaire, explanations given in the methodological instructions and costs estimates.

45. We note that the pilot census took into account that the sample should include municipalities where persons belonging to national minorities lived.

### **Reply to the recommendation contained in paragraph 7 of the Committee's concluding observations**

*The Committee reiterates its recommendation that the State party proceed with amending the relevant provisions of the State, and Entities Constitutions and the Election Laws, with a view to remove all discriminatory provisions and, in particular, to ensure the equal enjoyment of the right to vote and to stand for elections by all citizens irrespective of their ethnic background.*

46. The Constitution of Bosnia and Herzegovina ensures the highest level of protection of internationally recognized human rights and fundamental freedoms. Article II of the Constitution of Bosnia and Herzegovina provides that the rights and freedoms enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) and the Protocols thereto are directly applied in the legal system of Bosnia and Herzegovina, and they have supremacy over other valid laws and regulations (the so-called principle of supremacy in the application). Further, the Constitution of the Federation of Bosnia and Herzegovina (FBiH), the Constitution of Republika Srpska and the Statute of the Brcko District of BiH protect human rights and fundamental freedoms throughout Bosnia and Herzegovina.

47. A partial decision on constitutionality issued by the Constitutional Court of Bosnia and Herzegovina gave an interpretation of the Preamble to the Constitution, in which Bosniaks, Serbs and Croats are defined as "constituent peoples". Furthermore, the decision notes that Article II/4 of the Bosnia and Herzegovina Constitution prohibits discrimination on any grounds, which meant the elimination of discrimination of individuals and minority groups on the grounds of affiliation with a national minority, religious or political affiliation. A decision issued by the Constitutional Court of Bosnia and Herzegovina abolished previous entity symbols (flag, coat of arms and anthem), because they do not represent constituent peoples in the whole territory of Bosnia and Herzegovina.

48. The Brcko District of BiH, whose seat is the town of Brcko, is an administrative unit of Bosnia and Herzegovina under international administration officially established on 8 March 2000, one year after an international arbitration for the District. The territory of BD is joint ownership (condominium) of Entities and local governments with their own institutions, laws and regulations, powers and the status that were determined in the final decision of the Arbitration Tribunal resolving a dispute regarding the Inter-Entity Boundary Line in the Brcko area. An amendment to the Constitution respecting the status of Brcko District of Bosnia and Herzegovina (BD BiH) gives jurisdiction to the BiH Constitutional

Court over any disputes that may arise over protection of the status and powers of BD between one or more entities and BD or between BH and BD.

49. A dispute can be instituted by a majority of members of the Assembly of Brcko District, which includes at least one-fifth of the elected delegates from each of the constituent peoples.

50. The Constitution of Bosnia and Herzegovina determines the status of constituent peoples (Bosniaks, Croats and Serbs) and other citizens in Bosnia and Herzegovina in terms of guaranteeing the constitutionality and all rights in the entire territory of Bosnia and Herzegovina without any type of discrimination. After the tragic war in Bosnia and Herzegovina, in practice, for a quite long time, a problem of national exclusion and memorization of certain ethnic groups, Bosniaks or Croats or Serbs or Others, in terms of representation in the legislative, executive and judicial bodies, has been present. All the above has resulted in a decision of the Constitutional Court of Bosnia and Herzegovina ordering amendments to the constitutions of Entities and cantons and alignment with the Constitution of Bosnia and Herzegovina.

51. Owing to the violation of the right to be elected and discrimination against "Others", who are not members of any of the three constituent peoples of Bosnia and Herzegovina according to the Constitution, an application was filed with the European Court of Human Rights in Strasbourg by representatives of Roma and Jews. It is the case of Dervo Sejdic and Jakob Finci against Bosnia and Herzegovina. On 22 December 2009 the Grand Chamber of the Court of Human Rights in Strasbourg rendered judgment No. 27996/06 in favour of the applicants, ordering BiH to bear the legal costs of applicants and to proceed with the constitutional changes that will be compatible with the European Convention on Human Rights.

52. With the aim of introducing the relevant constitutional and legislative amendments, the Council of Ministers adopted an action plan on 4 March 2010 and appointed a Working Group to draft them. The Central Election Commission adopted the Action Plan on 18 February 2010, stating in detail the provisions which should be adopted and possible steps to be taken if the amendments are not adopted before the scheduled general election by the end of May the same year.

53. The Council of Ministers appointed a Working Group, which did not meet the deadline set to reach an agreement on proposed constitutional amendments because the leading politicians had a disagreement on substantive issues. After that, on 22 April 2010, the Council of Ministers considered the report of the Working Group responsible for the preparation of constitutional and legislative amendments and gave it a new deadline for discharging the task. This means that also the October election in Bosnia and Herzegovina passed without Bosnia and Herzegovina having complied with the judgment of the European Court of Human Rights.

54. On 20 October 2011 a joint committee of the Parliamentary Assembly was appointed to prepare amendments to the Constitution of BiH by 30 October and amendments to the Election Law in order to fully implement the judgment of the European Court of Human Rights of Strasbourg.

55. An instance of good practice is that Sarajevo Canton began with the implementation of the judgment by adopting amendments to the Constitution of Sarajevo Canton and facilitating the formation of the caucus of national minorities and others.

## Reply to the recommendation contained in paragraph 8 of the Committee's concluding observations

*The Committee encourages the State party to continue implementing measures to accelerate the sustainable return of refugees and internally displaced persons to their places of origin, inter alia by improving their reception conditions. The Committee recommends that further activities be devised to improve the socio-economic integration of those who have returned, and by ensuring equal enjoyment of their social, economic and cultural rights, especially in the field of social protection and pension, health care, equal employment and equal education. Returnees should receive appropriate assistance or compensation, as the case may be, in order to prevent a further worsening of their human rights situation.*

56. Article II, point 2, of the Constitution of Bosnia and Herzegovina guarantees rights and freedoms enshrined in the European Convention on Human Rights and the Protocols thereto to all persons throughout BiH.

57. Rights of displaced persons are defined by the State-level Law on Refugees from BiH and Displaced Persons in BiH ("Official Gazette of BiH" 23/99, 21/03, 33/03), which guarantees the right of displaced persons to return, the right to choose another place of residence and the right to restitution of property or apartment.

58. In addition, Article 17 of this Law affords to displaced persons, while holding their status, other rights exercised in pursuance of regulations of Entities, Cantons or municipal bodies, particularly those relating to economic and social security, health care, as well as freedom of religious expression and of political activity.

59. While holding their status, returnees are entitled to assistance in the necessary reconstruction of their private houses or apartments, credits to start businesses in order to earn living by themselves and their families, adequate financial assistance, essential food, necessary clothing, primary health care, primary education and social welfare provided that they are unemployed. The method of exercising those rights is regulated by BiH and Entity regulations.

60. Along these lines, the FBiH Law on Displaced Persons and Returnees in the FBiH and Refugees from BiH defines the following rights of persons whose status of displaced person and returnee has been recognized: assistance in basic repair of his/her own apartments and houses; loans or donations for initiating businesses for generating income for themselves and their families; temporary accommodation; necessary food; social reintegration and psychological support; health care; education of children and youth; other basic needs of life.

61. In RS, rights of displaced persons and returnees are defined in Article 14 of the Law on Displaced Persons, Returnees and Refugees in the Republika Srpska as follows:

"All displaced persons and returnees shall have the right to an adequate standard of living, the right to basic temporary accommodation, health care, social security, education and vocational training, and the freedom of religious expression and political activity."

62. In addition to the rights referred to in the previous paragraph,

"displaced persons and returnees shall, for the duration of their status, be entitled to: assistance for basic repair of their own houses and apartments, loans for initiating businesses for generating income for themselves and their families, appropriate assistance in cash, basic health care, elementary education, social welfare, provided that they are unemployed".

63. These rights under the State and Entity laws are not questioned while a person has the status of displaced person and there are no significant complaints from displaced persons in the exercise of rights while they have the status.

64. Difficulties arise in the process of return and while a person has returnee status from the point of possibilities to make the return of refugees and displaced persons sustainable.

65. Therefore, a number of proclaimed rights may be placed under one general heading, expressed in one word, and that is the sustainability of return. Creating conditions for sustainable return and reintegration of returnees is one of the strategic goals proclaimed by the "Strategy of Bosnia and Herzegovina for the Implementation of Annex 7 to the General Framework Peace Agreement". Unfortunately, results in this area are very limited. Undefined policies and regulations in the areas of health care, education, social welfare, employment and other issues of sustainability of return at the State level are a major obstacle to the return and reintegration in BiH. This is an area in BiH which is largely the responsibility of the relevant Entity institutions.

66. It is encouraging that the Law on Ministries and Administrative Bodies ("Official Gazette of BiH" 5/03, 42/03, 26/04, 45/04, 88/06, 88/07, 35/09, 59/09, 103/09) has significantly changed and expanded responsibilities of individual ministries, primarily those of the Ministry of Civil Affairs.

67. The Law has vested the Ministry of Civil Affairs with a coordinating role for certain matters that were not addressed at the State level, which matters are health care, education, social security, pensions, etc.

68. In this way, the Ministry of Human Rights and Refugees, as a co-ordinator of the implementation of Annex 7 to the General Framework Peace Agreement, and the Ministry of Civil Affairs, which is responsible for coordinating activities in the field of health care, education, social security, pensions, labour and employment, science, etc., have assumed responsibility for the regulation of these matters important for the return and reintegration of returnees in BiH.

69. Pursuant to the Law on Ministries and Administrative Bodies of BiH, the Ministry of Human Rights and Refugees of BiH shall be responsible for, inter alia:

- Implementing Annex VII to the GFAP and in particular overseeing and monitoring the implementation of this Annex.
- Within the State Commission for Refugees and Displaced Persons, co-ordinating, directing and assessing activities of the Entities and other institutions in BiH responsible for issues related to the implementation of the policy in this field.

70. The Ministry shall also be responsible for tasks that are the responsibility of BiH and relate to the determination of the basic principles of coordination of activities, harmonization of policies and plans of the authorities of Bosnia and Herzegovina and the international community in the fields of: housing, reconstruction and development and sustainable return projects and their recording.

71. The Ministry of Civil Affairs shall be responsible for, inter alia: carrying out tasks and discharging duties which are within the competence of BiH and relate to defining basic principles of coordination of activities, harmonising plans of the Entity authorities and defining a strategy at the international level in the fields of health and social care, pensions, science and education, labour and employment, culture and sport, geodetic, geological and meteorological affairs.

### Situation analysis

72. During the period from 1992 to 1995, more than half of the pre-war population domiciled in the country, 2.2 million persons fled from their homes in Bosnia and Herzegovina. Among them over a million left the country to seek refugee protection abroad in more than 100 countries world-wide whilst approximately million persons were displaced within the country. Aside from the devastating human impact of the war nearly 500,000 homes, or almost half of all housing units in the country, were either partially or completely destroyed.

73. The war ended in December 1995 with the signing of the Dayton Peace Agreement leaving a long road ahead in resolving the urgent, yet complex, displacement issue across the country. Since then great strides have been made: more than one million refugees and internally displaced persons have returned to date, including almost half a million so called “minority” returns; 220,000 properties have been repossessed by their pre-war owners and tenancy rights holders, which makes the implementation rate of property law 99 per cent; over 330,000 housing units have been re-built along with rehabilitation of communal and social infrastructure; representation of minorities in the public sector has increased; freedom of movement is today enjoyed by everybody and the safety of returnees has been significantly improved.

74. Approximately half a billion euros had been invested between 2003 and 2011 towards these goals, amounting to €200 million invested in housing reconstruction and more than €250 million invested in complimentary sustainability measures.

75. There can be no doubt that great and tangible progress has been achieved in implementing Annex VII of the Dayton Peace Agreement (DPA). Nevertheless, despite substantial achievements significant challenges do remain.

76. More than half of the refugees and displaced persons have not returned to their homes. There are urgent needs of more than 100,000 of internally displaced persons, refugees and other conflict-affected persons of concern, each one deprived of a solution. Many of them are extremely vulnerable and traumatized, living in inhumane conditions in displacement and require special attention due to their difficult situation. Unfortunately, around 2,700 families continue to live in collective centres in BiH.

77. Many persons are unable to return because their pre-war property is destroyed and is on the list of 45,000 housing units of returnees awaiting reconstruction, or because landmines have not been cleared from their pre-war villages. There are many persons who never owned property before the war and have not had the opportunity to benefit from any project to lead towards a durable solution for them. At the same time many people who have already returned to face conditions that threaten their ability to remain in the place of return. Economic opportunities are scarce, often there is no infrastructure, including electricity, and their access to rights and services, such as health care, education, social protection and pensions, is limited. In other cases the primary obstacle to return is a changed social environment where many persons, particularly younger ones, seek higher education and employment opportunities in larger towns instead of rural communities.

78. As guaranteed by the BiH Constitution as well as by international standards, displaced persons and returnees are entitled to the same rights as all other BiH residents. However, today, more than 17 years since signing the DPA, many challenges remain to be overcome in order to ensure access to human rights for many displaced persons and returnees, particularly the most vulnerable persons, who need additional financial and social support.

79. To respond to these challenges, the Ministry for Human Rights and Refugees of Bosnia and Herzegovina (MHRR), together with the Office of the United Nations High Commissioner for Refugees (UNHCR), initiated a consultative process which involved

nearly 150 representatives of more than fifty institutions and organizations of domestic authorities at all administration levels, including public companies, the non-governmental organization (NGO) sector and civil society, as well as relevant representatives of the international community in BiH.

80. Following an in-depth situation analysis within the scope of 10 working groups, problems have been identified and recommendations to remove the primary obstacles to a closure of the protracted displacement have been set out, with measures to improve the situation of refugees and internally displaced persons (IDPs) provided, with full respect of their individual rights freely to return to their homes of origin and to be compensated for any property that cannot be restored to them. The equal right to choose another place of residence is to be respected too.

81. In 2010, the BH Parliamentary Assembly adopted a Revised Strategy of Bosnia and Herzegovina for the Implementation of Annex VII DPA.

82. It is evident that the huge efforts undertaken by the Government of Bosnia and Herzegovina, at all levels, along with the valuable contribution of the international community, have brought real and meaningful results.

83. However, the requirements are greatly in excess of the available assistance and the major problem that remains is a huge discrepancy between financing capacities and urgent needs of refugees, IDPs and returnees.

#### **Concrete steps undertaken**

84. Along with adopted strategic directions for the legal reform aiming equal access to all Annex VII DPA ensured rights, the Framework Programme for the Return of Refugees and Displaced Persons has been developed and adopted as an Appendix to the Revised Strategy Paper. The Concept Note for Addressing the Issue of Damage Compensation for Property Which Cannot be Restored to Refugees and Displaced Persons in Terms of the Rights Ensured in Annex VII of the Dayton Peace Agreement, has been adopted as an additional Appendix.

85. Costs for the implementation of the Framework Return Programme alone are estimated at €650 million, with both obligation and commitment of BiH authorities at all levels to secure missing funds for a substantial completion of return process by 2014.

86. Regarding the Strategic recommendation to ensure funds for durable and sustainable solutions for refugees and IDPs, with priority given to the most vulnerable persons, budgets of all-level authorities have been increased; international and domestic donor community have been actively approached and activities on purposeful credits withdrawal have been performed.

87. Over the years domestic budgetary allocations are prevailing international funding and are in constant growth with participation of domestic institutions amounting to approximately 75 per cent and financing by international donors shared by 25 per cent.

88. As part of ongoing efforts to find durable and sustainable solutions for refugees and internally displaced persons nationally and regionally, Bosnia and Herzegovina has established close cooperation with the governments of Croatia, Montenegro and Serbia. In fact Bosnia and Herzegovina has undertaken the coordinating role between the four governments; and with the guidance and support of UNHCR, our cooperation is starting to yield results.

89. At a Donors Conference held in April 2012 a Joint Regional Multi-Year Programme on Durable Solutions for Refugees and Internally Displaced Persons, which encompasses a Regional Housing Programme that provides the housing solutions to an estimated 27,000 households, or 74,000 individuals, had been presented. The Programme would be

implemented in parallel in the four Partner Countries (Bosnia and Herzegovina, Montenegro, Republic of Croatia and Republic of Serbia), over a five-year period beginning in autumn 2012.

90. According to initial estimates, the total investment cost of the Regional Housing Programme should amount to €584 million, of which the Partner Countries have committed to providing €83 million.

91. Representatives of almost 50 countries met to pledge their support to the Joint Programme. More than €260 million had been registered at the Donors Conference in firm pledges towards the Regional Housing Programme to be released over the estimated five-year implementation period. All donors expressed their strong intention to continue with their contributions beyond the current budget cycle of their respective governments, until the end of the implementation of the Regional Housing Programme.

92. With the aim of resolving the issue of displacement across the region and a few of the most vulnerable IDPs, the Joint Regional Program, which should ensure €101 million for the respective Project implementation in Bosnia and Herzegovina, will contribute considerably to Annex VII DPA implementation. However, issues pertaining to return of the BiH refugees from other countries and, of increasing concern to authorities, the considerably larger population of internally displaced persons which could not be included in the Regional Programme, need to be addressed through other initiatives.

93. With this regard, in parallel to the regional initiative and pursuant to a conclusion of the BiH Parliament passed to ensure necessary credits amounting to €200 million for the Annex VII DPA implementation, the Ministry for Human Rights and Refugees has designed specific projects and undertakes further procedural steps with several international financial institutions for granting loans.

94. Finding durable solutions for 2,700 families, altogether 8,500 IDPs in collective centres is one of the top priorities for Bosnia and Herzegovina. To this end, a respective project to support the vulnerable IDPs will soon be submitted to the Council of Europe Development Bank (CEB) for a loan that should amount to approximately €80 million trusting to be approved for financing.

95. Further, the OPEC Fund for International Development (OFID) provided a loan for reconstruction of 700 housing units (approx. €6 million) and the Saudi Fund for Development (SFD) provided a loan for reconstruction of 1,000 housing units aiming at the sustainable return of refugees and IDPs in BiH (approx. €11 million).

### **Next steps**

96. Coordination and cooperation among all relevant stakeholders is a mandatory precondition in both determining proper solutions and implementation of unanimously agreed and accepted goals to be achieved. To this end, the implementation of the Annex VII Strategy requires an inclusive, consultative approach.

97. With this view, the Ministry for Human Rights and Refugees of Bosnia and Herzegovina will lead the implementation Task Force soon to be constituted with authority backing of the highest levels of government.

98. The Implementation Task Force will consist of all stakeholders, in particular relevant Entity line Ministries, representatives of civil society to provide for participation of IDPs and Returnees, as well as international agencies and periodic donor participation.

**Refugees in BiH**

99. Apart from being among countries with the most difficult situation of refugees and displaced persons in Europe, BiH accepted large numbers of refugees, mainly from neighbouring countries in the region.

100. Currently, the refugee status in BiH is enjoyed by about 187, while 10 persons have the subsidiary protection status. (According to the Ministry of Security of BiH, about 250 refugee IDs were issued. The number of refugees resettled in third countries through UNHCR programs, whose refugee status have never been terminated in BiH, makes the difference in the number of issued refugee IDs and the number of people under international protection who are currently residing in BiH.) The largest number of refugees in Bosnia and Herzegovina comes from Serbia and Montenegro, but there is a number of refugees from other countries (Palestine, Syria, Tunisia, Macedonia, Algeria, Albania, Croatia, Moldova, Saudi Arabia, etc.).

101. In accordance with the Law on Movement and Stay of Aliens and Asylum, the Ministry of Security is responsible for determining the status while the Ministry of Human Rights and Refugees is responsible for providing the persons with refugee status and subsidiary protection status with access to the right to housing, work, education, health care and social welfare under the same conditions as nationals in BiH.

102. In this regard, the Ministry of Human Rights and Refugees has passed six laws which ensure access to those guaranteed rights to persons with refugee status.

103. In accordance with these regulations the Ministry of Human Rights and Refugees, pays directly for health insurance of 50 recognized refugees and persons having the subsidiary protection status in BiH, covering 131 persons granted international protection in BiH. Through the centres for social work the Ministry of Human Rights and Refugees pays for the exercise of the right to social security, child allowance and limited allowances to about 26 families, covering about 100 persons.

104. Further, persons above 15 years of age and adults with recognized refugee status can register in Employment Offices with the possibility of employment under the same conditions as BiH nationals.

105. The Salakovac-Mostar Refugee and Reception Centre, which currently houses 45 individuals under international protection, is under the Ministry for Human Rights and Refugees. The remaining number of refugees in BiH with recognized refugee status and subsidiary protection status are in private housing. Operation and functioning of the Salakovac-Mostar Refugee and Reception Centre are funded by the MHRR and UNHCR in accordance with the signed sub-project.

**Reply to the recommendation contained in paragraph 9 of the Committee's concluding observations**

*The Committee recommends the State party to take the relevant political, professional, financial, technical and other measures that ensure effective independence and autonomy to the Office of the Human Rights Ombudsman in accordance with the Paris Principles of 1993 (GA Res. A/48/134 of 20 December 1993), and to enable the effective and efficient work of local national minorities' councils.*

106. The Institution of Ombudsman of Bosnia and Herzegovina is an independent institution set up to promote good governance and rule of law, protection and freedoms of natural and legal persons in BiH as provided by the Constitution of Bosnia and Herzegovina and international instruments which BiH is a party to. In addition to



responsibilities defined by the Law on Ombudsman for Human Rights, the Institution has special powers and responsibilities defined in the following laws: the Law on Prohibition of Discrimination (Anti-discrimination Law), the Law on Free Access to Information and the Law on Ministerial, Council of Ministers' and other Appointments.

107. In February 2010 Entity Ombudsman institutions in Bosnia and Herzegovina were unified by transferring their responsibilities to the State-level Institution of Ombudsman and a single institution for human rights protection has been operating in Bosnia and Herzegovina ever since. Seven specialized departments were established. The Department for the Elimination of All Form of Discrimination is very important because, pursuant to the Law on Prohibition of Discrimination, this institution is the central institution competent for protection from all forms of discrimination.

108. In 2011 the Ombudsman institution of Bosnia and Herzegovina issued 221 recommendations in cases where human rights violations were found. The recommendations involved the following areas where human rights were violated: labour relations (33); proceedings before administrative bodies (32), suppression and prevention of discrimination (26), governmental, ministerial and other appointments (25), judicial proceeding (20), and freedom of information (17) (Source: Annual report on the results of operation of the BiH Human Rights Institution in 2011).

### **Discrimination statistics**

109. As the database on cases of discrimination has not become operational yet we are presenting indicators collected by the Ombudsman Institution for Human Rights and the Ministry of Human Rights and Refugees:

#### *(a) BiH Ombudsman's indicators*

110. When it comes to cases involving discrimination that were found in the institution and received afterwards, according to the Annual Report on the results of operation of the Institution of Ombudsman for Human Rights in 2009 compared to previous years, there were only 26 cases pending from earlier years involving discrimination on grounds of nationality of returnees, while a total of 47 was received in 2009 alone.

111. Further, apart from ethnic discrimination cases, in 2009 the Ombudsman received 5 complaints involving mobbing, 6 complaints involving gender-based discrimination in recruitment and 3 involving other kinds of discrimination.

112. There were 156 complaints altogether pending in the Department for the Elimination of all Forms of Discrimination in 2009.

113. In 2010 the Ombudsman received 135 complaints, 14 involving ethnic discrimination, 6 involving gender-based discrimination, 32 involving mobbing and 83 ones involving other kinds of discrimination. In 2010 the number of complaints involving ethnic discrimination (14) decreased while the number of complaints involving mobbing (32) increased.

114. In 2011 the Ombudsman received a total of 191 new discrimination cases, while 81 cases opened in 2010 and one case opened in 2009 were still pending in 2011. There were 273 cases altogether pending in 2011.

115. Up to now over 88 cases from 2011 and 40 cases from 2010 have been closed either with a decision to close the case (102), a recommendation (26) or the exercise of rights by the party during investigation. A certain number of cases have been resolved in the course of investigation, either by intervention, encouraging amicable settlement, in full mediation proceedings or in the way that the responsible authority adjusts its behaviour after the first address by the Institution.

116. In 2009, the largest number of complaints involved discrimination on the grounds of ethnicity (53), while in 2010 the number of complaints involving mobbing increased (32), while in 2011 complaints involving mobbing (41) continued the upward trend.

117. Among the complaints, the largest number of complaints involved employees' rights violations, more specifically, mobbing. Thus, in comparison to 2011, the number of mobbing cases increased by 99 per cent, or 40 cases.

118. Then, with regard to the number of complaints registered with the Department, we can note complaints involving discrimination on the grounds of national or social origin – 30, on the grounds of ethnicity – 26, the grounds of education – 19, harassment cases – 9, the grounds of social status and sex – 13, the grounds of political or other beliefs – 14, the grounds of trade union membership or other associations and the grounds of affiliation with a national minority – 3 complaints each.

119. Out of 257 complaints received, 126 ones were closed, so it means that 131 cases opened in 2012 are still pending. 147 complaints received in 2010 and 2011 were pending in 2012. These cases were processed in 2012 and 69 were closed. So 78 cases are still pending before the Ombudsman Institution Department for Elimination of All Forms of Discrimination.

120. Thus, in 2012 the Department processed 404 cases. It completed 195 cases altogether, while a total of 209 cases are still pending.

121. Out of the total of 35 recommendations given by the Department, 9 recommendations involve mobbing, 4 involve discrimination on the grounds of social status and sex, 3 involve each of the following grounds: harassment, discrimination on the grounds of ethnicity and discrimination on the grounds of national or social origin, 2 involve discrimination on the grounds of political or other beliefs, one recommendation involves each of the following grounds: discrimination on the grounds of affiliation with a national minority and discrimination on the grounds of education.

122. It was emphasized particularly that most cases were very difficult to prove and even estimate that they involved discrimination and sometimes the term "discrimination" was misused or used arbitrarily.

123. The key role is played by courts which sanction cases of violation of the Anti-discrimination Law, issue judgments finding particular practices discriminatory, issue injunction orders, determine the amount of damages and impose other penalties prescribed by law.

124. According to available information, a total of 20 court proceedings for protection from discrimination have been instituted in BiH and non-governmental organizations have been those who have been providing legal aid.

125. The Ombudsmen have drawn attention to the necessity to apply Article 24(2) of the Law on Prohibition of Discrimination providing that all laws and general regulations shall be harmonized with provisions of this Law.

126. In order to promote the Law and familiarize representatives of relevant institutions and the public with the content of the Law it is necessary to continue holding round tables, workshops and the like.

127. The Ombudsmen have noted certain weaknesses that are reflected to a large extent on the efficiency of their work. In order to ensure independence/financial autonomy the provision of sufficient financial resources for comprehensive implementation of the Anti-discrimination Law is primarily required. It is necessary to ensure a sufficient number of employees in the Institution, especially in the Department of Prevention of All Forms of

Discrimination, build capacities and improve the effectiveness of the Institution by ensuring compliance with the Paris Principles.

128. According to the Helsinki Committee for Human Rights, a slight increase in the number of complaints involving the form of discrimination that the Anti-discrimination Law names “mobbing” has been recorded. This kind of violation of employees’ rights occurs in State and public institutions and private companies and affects a higher percentage of women than men.<sup>1</sup>

129. A Justice Network NGO’s report states that it is necessary to network police, courts, prosecutor’s offices and Institutions of Ombudsmen into an information system to achieve an insight into the number of cases.

(b) *Indicators given by the Ministry of Human Rights and Refugees of BiH*

130. In the period 2005-2010, MHRR took in and processed a total of 1,634 petitions, which means that 272 petitions on average were taken in and processed every year. Besides this, in the most recent period MHRR has monitored information about ethnically motivated crimes in BiH.

131. The number of petitions taken in and processed is as follows by years:

- 2005: 351 petitions, about 45% of them involved the right to property, about 20% of them involved the right to reconstruction of destroyed property, about 10% of them involved the right to an effective legal remedy.
- 2006: 285 petitions, about 40% of them involved the right to property, about 25% of them involved the right to an effective legal remedy, about 15% of them involved employees’ rights.
- 2007: 309 petitions, about 30% of them involved the right to an effective legal remedy, about 25% of them involved the right to property, 15% of them involved the right to health care and social security.
- 2008: 266 petitions, about 30% of them involved the right to property, about 25% of them involved the right to an effective legal remedy, about 20% of them involved employees’ rights.
- 2009: 201 petitions, about 25% of them involved the right to an effective legal remedy, about 20% of them involved the right to property, about 10% of them the right to health care and social security.
- 2010: 222 petitions, about 30% of them involved the right to social security, about 20% of them involved the right to an effective legal remedy, and about 10% of them involved the right to property.
- 2011: 490 petitions (including renewed petitions), the right to liberty and security of persons – 2%, the right to private and family life, home and correspondence – 13%, the right to property – 17%, the right to an effective legal remedy – 8%, the right to health care and social security and the right to meet a minimum of basic needs of life – 7%, employees’ rights – 5%, rights under the pension and disability insurance – 3%, the right to reconstruction of destroyed property – 4%. The difference includes all other forms of human rights violations.
- 2012: 299 petitions (not including renewed petitions) involving the following human rights violations: the right to private and family life, home and correspondence –

<sup>1</sup> Report of the Legal Service of the Helsinki Committee for Human Rights 1 January-31 December 2010.

11%, the right to property – 14%, the right to an effective remedy – 3%, the right not to be subjected to torture or to inhuman or degrading treatment or punishment – 2%, the right to health care and social security and the right to meet a minimum of basic needs of life – 5%. The difference includes all other forms of human rights violations.

132. When it comes to human rights violations, the largest number of petitions involved the protection of: the right to property, the right to an effective remedy, employees' rights, rights under the pension and disability insurance, the right to health care and social security, the right to reconstruction of destroyed property, the right not to be subjected to torture or inhuman or degrading treatment or punishment, the rights of the child.

133. From the above it can be concluded that BiH has seen a declining tendency of discrimination based on national, ethnic or religious affiliation, a downward trend in complaints involving any form of discrimination and a rise in petitions involving mobbing.

134. Article 8 of the Law on Prohibition of Discrimination provides that the Ministry for Human Rights and Refugees of BiH is responsible for regularly keeping records of all reported cases of discrimination, for the establishment of the central database of committed acts of discrimination and for reporting to the Council of Ministers and the BiH Parliamentary Assembly on manifestations of discrimination and, with regard to this, for proposing concrete legislative or other measures.

135. Article 9 provides that the Ministry for Human Rights and Refugees shall monitor the implementation of the Law. The Ministry is in charge of designing and implementing human rights and fundamental freedoms policies. The Human Rights Sector also has a duty to receive individual petitions and provide technical assistance to citizens, and take all necessary action to reach and protect human rights in accordance with human rights law and international conventions on human rights and freedoms.

136. In terms of capacity building of the Ministry of Human Rights and Refugees, it is necessary to provide additional funds to install the database, as well as sufficient staff to ensure full implementation of the Law and monitoring of the implementation. Therefore, it is necessary to ensure that the Department has adequate human, technical and financial resources for effective coordination of competences vested in it in order to strengthen the infrastructure of human rights in accordance with the Constitution and international standards.

### **Reply to the recommendation contained in paragraph 10 of the Committee's concluding observations**

*The Committee recommends that the State party continue to endeavour to combat inter-ethnic prejudices, by inter alia, applying existing criminal provisions on hate speech and hate crimes, continuing to strengthen, and to promote, through awareness-raising campaigns, and other concrete steps, national unity, tolerance and the peaceful coexistence of members of various nationalities and religious groups, and by strengthening the monitoring powers of the Communications Regulatory Agency with regard to acts of public incitement to ethnic and religious hatred.*

137. The protection of the right to freedom of opinion and expression in all democratic societies is crucial. The right is set forth in the Universal Declaration of Human Rights (Art. 19), the International Covenant on Civil and Political Rights (Art. 19) and the European Convention on Human Rights (Art. 10).

138. Freedom of opinion and expression is guaranteed by the Constitution of Bosnia and Herzegovina (Art. II, paras. 2 and 3) providing that all persons within the territory of Bosnia and Herzegovina shall enjoy human rights and fundamental freedoms, including the right to freedom of opinion and expression, by the FBiH Constitution (Art. 2(1)), by the RS Constitution (Art. 25, 26 and 27), by many laws, the Law on Free Access to Information of BiH in particular, the Law on Protection Against Defamation and the Law on Communications of BiH and by-laws.

139. Freedom of speech and public appearance is enshrined in the Constitution and the Constitutions of the Entities that afford to every citizen the right to criticize the work of public and other officials and civil servants, to submit complaints, petitions and to receive answers, if he/she asks for them. A citizen cannot be held accountable for or suffer from adverse consequences of attitudes presented in public criticism or a filed complaint, appeal, petition or motion, unless he/she has committed a criminal offence.

140. BiH has experienced the worst effects of hate speech, which is not a freedom of speech, but the speech that incited ethnic hatred, killings and ethnic cleansing.

141. The complexity of issue of freedom of expression, including the issue of media freedom, reflects the complexity of BiH society and is related to the general social, political and economic situation.

142. With regard to control of the press and other media in BiH by competent authorities there is a downward trend of discussions about editorial policy of media outlets, even those who have the status of public service serving all citizens. This is confirmed by the Department for Assistance to the Media, which operates within the OHR. However, journalists and the media have been often subjected to various forms of pressure, blackmail and even physical attacks by individuals.

143. Although contrary to the Ethics Code, some press outlets have sent open threats to individuals or groups. Unverified or even fabricated information are often used as weapons. Not only do some editors-in-chief and journalists often knowingly violate the Ethics Code which they themselves have adopted, but a lot of them ignore decisions issued by the Press Council as a body for monitoring of and mediation in self-regulation. Such a situation results in the fact that journalists are fragmented into six associations. All attempts and initiatives to unite in one association have failed so far.

144. Although the Law on Defamation came into force in 2002 and has been implemented in the entire country ever since, some important tendencies have been already observed. The first is a huge increase in lawsuits against journalists and the media, much higher than in recent years, which were characterized by a great number of lawsuits. The second is unreasonably long proceedings on claims for damages in defamation cases although the Law prescribes a summary procedure. The third is a relatively small number of judgments. The fourth is a relatively large number of temporary injunctions to ban journalists from writing that were ordered in the first year of implementation of the Law. The amount of claims for compensation in most libel cases ranges between BAM 2,000 and 20,000 and comes up to BAM 200.000. There were several cases where the punishment exceeded half a million and even one million BAM.

145. In cases of pressure exerted, mainly international organizations and professional associations of journalists were the ones that responded to them, as it is quite clear to everybody that attacks on journalists – verbal or physical, direct or indirect – weaken the process of democracy and endanger the freedom of every citizen.

146. Most violations of human rights in the media happen when journalists do not abide by their own Ethics Code and do not hold themselves to the “high ethical standards at all times and under all circumstances” (Press Ethics Code, Art. 1). Unfortunately, such examples are common in cases where journalists and the media do not allow “all the

parties” to voice their opinions in the reports and commentaries on controversial issues, in cases of making premature judgments (especially in court cases) and in cases of non-compliance with reporting principles of child identity protection (as victims or witnesses of crimes), breach of copyright and the like. However, a large number of lawsuits against the media and journalists for defamation and damages claims can become a limiting factor to freedom of the media, as, on the other hand, it can be an indicator of massive encroachment and even violations of human rights in the media.

147. The right to access to information held by public authorities has been enshrined in appropriate laws at the State level since 2000 and in both entities since 2001. Although all governmental bodies – executive, legislative, administrative and judicial – and all legal persons under the control of public authorities – were required to do adequate preparation for the implementation of the Law on Free Access to Information and inform the Ombudsmen Institution about this, the obligation has been fulfilled only by some of the bodies. True, the two entities enacted relevant by-laws (guidelines, index registers, application forms and instructions on fees), but the obligation of regular quarterly reporting to the Ombudsmen on the number of requests for information received and whether they were granted has not been fulfilled.

### **The institutional framework**

148. The Communications Regulatory Agency (CRA) was established by the Law on Communications of Bosnia and Herzegovina as a single regulatory body responsible for regulating telecommunications and broadcasting and the radio frequency spectrum for Bosnia and Herzegovina. With regard to its actions, results achieved in the regulation of electronic media in Bosnia and Herzegovina and the development of the Internet as global means of communication, the CRA is at the very top of the list of world and European regulatory authorities. Especially high-quality results have been achieved in the protection of freedom of expression and sanctioning of unethical behaviour of journalists and the media. The CRA imposes various sanctions for violation of professional and ethical rules for the electronic media, including cautions, fines, licence suspension and licence revocation.

149. The amount of a fine cannot exceed BAM 150,000 in case of intentional or negligent violation of certain provisions of laws and terms and conditions specified in the license or CRA codes or rules. The amount of a fine imposed is commensurate with the seriousness of the offence and, where applicable, the gross income earned from the offence. In case of repeated violations, the fine does not exceed BAM 300,000.

150. In 2011 the CRA completed the process of harmonization of all rules and regulations pertaining to the broadcasting sector with the European Union Directive on Audio-visual Media Services. The process resulted in adoption of a set of bylaws regulating this field in detail, based on provisions of human rights instruments, which respects the right to freedom of expression, including: the Code on audio-visual media service and radio media services; Code on commercial communications; Rule 55/2011 on provision of audio-visual media services; Rule 56/2011 on license for distribution of audio-visual media services and radio media services; Rule 57/2011 on public radio and television broadcasters; and Rule 58/2011 on provision of radio media services.

151. Pursuant to Articles 37 and 39 of the Law on Communications, the Ethics Code of Audio-visual and Radio Media Services sets basic principles of programme content of audio-visual media services and radio media services. The Code covers, inter alia, issues such as encouraging, representation and profiling of ethnic, national or religious intolerance, hatred and violence, as the prevention of such activities is of vital interest for the people of Bosnia and Herzegovina.

152. Constant pressure brought to bear on the political, financial and institutional independence of the CRA has been preventing the CRA from carrying out its work freely or with full capacities for several years now. For more than five years, the appointment of the Managing Director has not been confirmed by the Council of Ministers and the term of office of the CRA Council expired in April 2009.

153. In December 2012 the Law on Communications was amended insofar as it relates to the appointment to the CRA Council and appointments of new members of the CRA Council are expected in the near future in line with these amendments. At the time of this report the appointment process had not been completed yet. In addition, the independence of the CRA is compromised by the fact that the Law on Ministries and Administrative Bodies is still applied to the CRA, although the Constitutional Commission of the House of Representatives and the House of Peoples of the Parliamentary Assembly submitted the conclusion to the Council of Ministers that it should draft and send to the Houses the Draft Amendments to the Law which would exclude the CRA, the Audit Office of BiH Institutions and the Complaints Review Office from this Law. At the time of this report the Draft Amendments have not been submitted to the Parliament.

154. The Press Council of Bosnia and Herzegovina was established in 2000 as a self-regulatory body (pursuant to the Council of Europe Resolution 1636) and mandated to raise awareness of citizens about their right to individual demanding, accurate reporting by the press, but also to raise awareness about the obligation to respect professional standards without sanctions and criminal prosecution. This is a multi-ethnic institution for the whole country; it was founded by 10 major publishing houses, with the task of supervising professional media reporting standards. It is a mediation body which raises awareness of citizens about their right to true and appropriate information, which mediates between a dissatisfied audience and the media in order for them to publish responses, corrections or retractions, thereby deterring lawsuits against the media that have made mistakes, quickly making amends and giving satisfaction to the citizens harmed. The main task of this body is to protect the public from unprofessional conduct of journalists and editors in the print media, but also to protect freedom of expression. The Press Council issues decisions that the media concerned should accept and publish.

155. There are two powerful media institutions in Bosnia and Herzegovina: the Media Centre in Sarajevo, and the Media Plan Institute and Centre for Investigative Journalism, which train journalists, research of press materials and environment for the media and research of corruption, crimes, etc. Bosnia and Herzegovina has six associations of journalists. The fragmentation of the journalistic community and several journalists' associations operating affect the efficiency of their work.

156. At the State level, there is only one association: the Association of Journalists of Bosnia and Herzegovina, which has 600 registered members and the Free Media Help Line as a special service for protection of freedom of expression and free legal assistance to journalists and the media whose rights are threatened or who are under political, economic, religious and other groups' pressure. From 1999 to 2008, the Service registered and processed almost 2,000 cases of restriction of freedom of expression, attacks on journalists, pressure on the media and human rights violations.

## **Statistics**

### *CRA*

157. Currently, there are 42 TV stations, 143 radio stations and 6 broadcasters within the Public PBS System, 5 licensees broadcasting on shortwave, and 3 licensees of special license intended for certain social groups (community radio) in BiH. Additionally, there are 50 licensees registered for distribution of RTV program.

158. The responsibility and duty of the CRA is to investigate any complaint about possibly detrimental programmes and cases of possible breach of rules and regulations adopted by the CRA. Since the inception of the CRA, there has been a mechanism in place that enables all citizens, institutions and organizations to file complaints with the CRA about shows broadcast.

159. During the reporting period, the CRA received and processed 10 complaints regarding possible “hate speech” broadcast by the audio-visual media service providers. Only in one case the CRA found a breach of the provision, where the content of viewers’ SMS messages broadcast in the program was found not in accordance with the Code and the TV station was fined BAM 2,000. Remaining 9 cases were unfounded regarding a possible breach of provisions pertaining to hate speech, and were subsequently closed.

160. In 2011 a total of 123 cases involving non-compliance with the rules and regulations of the CRA were processed. Of these, 83 cases involved programme standards and principles of advertising and sponsorship in programmes of radio and television stations, of which 60 were initiated by citizens’ complaints and 23 were processed ex officio. Except for the cases involving programme standards, a total of 42 cases involving technical difficulties – interference and cable distribution of radio and television programmes were processed. In addition, three cases involving possible violations of applicable rules and regulations during an extraordinary election were processed ex officio.

#### *Association of Journalists of Bosnia and Herzegovina*

161. In 2008, 54 cases of violation of journalists’ rights and media freedom and 25 cases of brutal attacks on journalists including physical assaults, threats and death threats were recorded (data from Free Media Help Line – the Association of Journalists of Bosnia and Herzegovina). Political pressure was exerted on the CRA (Communications Regulatory Agency), although an independent body, which threatens freedom of expression.

162. In 2010, 43 cases (data of the Journalists’ Association of Bosnia and Herzegovina) of violation of media freedom and journalists’ rights in Bosnia and Herzegovina were registered. They were: 9 threats and pressures, 5 physical attacks on journalists, 3 cases of withholding information, 9 cases of labour dispute/mobbing, 3 cases of complaints about unprofessional behaviour of journalists, 3 cases of libel, 1 case of death threat, etc.

#### **Freedom of religion and legal status of churches and religious communities**

163. The Constitution of Bosnia and Herzegovina guarantees freedom of religion, while the 2004 Law on Freedom of Religion and Legal Position of Churches and Religious Communities in Bosnia and Herzegovina guarantees religious freedoms and equality of churches and religious communities in Bosnia and Herzegovina in their rights and duties without any discrimination.

164. Pursuant to Article 8 of the Law on Freedom of Religion, BiH confirms the continuity of legal personality of the following churches and religious communities in Bosnia and Herzegovina: the Islamic Community in Bosnia and Herzegovina, the Serbian Orthodox Church, the Catholic Church and the Jewish Community of Bosnia and Herzegovina, together with all other churches and religious communities in Bosnia and Herzegovina of which the legal personality has been recognized and guarantees them the right to freely regulate their own organization, with full respect for the right to freedom of conscience and religion.

165. All important issues of freedom of religion and of interest to the four traditional churches and religious communities are addressed in consultations with the Inter-Religious Council of Bosnia and Herzegovina, which was established in 1997. In 2008 the Council of Ministers and the Inter-Religious Council signed an Agreement on cooperation which aims



to support its efforts to build inter-religious dialogue, religious tolerance and coexistence in BiH. The agreement also establishes the State's obligation to provide financial support to the Inter-Religious Council, which in practice has been fulfilled.

166. In order to address issues of common concern to BiH and the Catholic Church, in August 2007 the BiH Presidency ratified the Basic Agreement of Bosnia and Herzegovina with the Holy See and Additional Protocol to the Basic Agreement.

167. In addition to recognition of public and legal personality, the Agreement gives to the Catholic Church more rights to be regulated by separate laws and agreements: the Agreement on the Spiritual Guidance of Catholic Members of the Armed Forces, the Law on Religious Holidays, the Law on Security (inviolability of places of worship and security measures in them), the Criminal Code (investigation against religious officials, the inviolability of the secret confession), the Law on Spatial Planning (the construction of religious buildings), the Law on the Media (religious media and access to public media).

168. The above mentioned and other issues are contained in the activity programme of the Joint Commission for monitoring the implementation of the Basic Agreement between BiH and the Holy See and Additional Protocol to the Basic Agreement, which was appointed by the Council of Ministers of BiH in December 2008. The Commission held seven meetings (as of the end of November 2009), adopted the rules of procedure and set deadlines and responsible authorities for specific issues under the aforementioned 2009 activity programme. An expert team to support the work of the Commission was formed within the Ministry of Human Rights and Refugees of Bosnia and Herzegovina.

169. The Commission has already agreed on recommendations for some issues and gave them to competent authorities for further action (the Agreement on the Spiritual Guidance of Catholic Members of the Armed Forces, the Law on Religious Holidays, amendments to the Law on Penal Policy, etc.).

170. In accordance with the Law on Freedom of Religion, in May 2008, the Presidency ratified the Basic Agreement between BiH and the Serbian Orthodox Church. The Ministry of Human Rights and Refugees, as the competent ministry for relations with churches and religious communities, initiated the procedure of appointment of the Joint Commission for monitoring the implementation of the Agreement. The Commission is expected to be constituted soon. The Commission will discuss all issues of common interest to BiH and Serbian Orthodox Church and send its recommendations to competent authorities for decision-making.

171. The Agreement between Bosnia and Herzegovina and the Islamic Community of Bosnia and Herzegovina is being prepared on the same grounds.

172. All the four major churches and religious communities in BiH have been demanding, for a long time, restitution of their property that was nationalized after World War II. The Law on Freedom of Religion and the signed and ratified Treaties above give them the right to restitution of confiscated property or fair compensation in the whole country. The Interreligious Council of Bosnia and Herzegovina particularly insists on the adoption of the Law on Restitution. The Law on Restitution has been prepared for a long time by a committee appointed by the Council of Ministers.

173. In spite of these and other significant activities undertaken by the State in the exercise and protection of religious freedom, abuse and discrimination based on religious affiliation still occur, albeit reduced, in particular in parts of the country where one religious group is in a minority.

174. Cases of attacks on places of worship, desecration of graves and cemeteries, attacks on and insults to religious officials, attacks on religious symbols, contempt or defamation of religions still occur, but they were significantly reduced. Relevant institutions take

measures to investigate violations of religious freedom and detect perpetrators, and they were detected in a majority of cases.

### **Statistics on ethnic-bias-motivated crimes in BiH**

#### *Situation analysis*

175. Statistics on ethnic-bias-motivated crimes are based on the criminal legislation that is enforced at the State and Entity levels of government in BiH (Criminal Code of BiH, Criminal Procedure Code of BiH, Criminal Code of FBiH, Criminal Procedure Code of FBiH, Criminal Code of RS, Criminal Procedure Code of RS, Law on the Execution of Criminal Sanctions of FBiH, Law on the Execution of Criminal Sanctions of RS, Law on Misdemeanours of BiH, Law on Misdemeanours of FBiH, Law on Misdemeanours of RS-a, Law on Mutual Legal Assistance of BiH, Law on the Protection of Vulnerable Witnesses and Witnesses under Threat).

176. Although the criminal laws are not harmonized in terms of prescribing the same criminal penalties to the offenders for the same offence, with regard to the provisions of criminal offences related to the so-called ethnic-bias-motivated crimes, they are essentially the same and protect the same object of protection.

177. Ethnic-bias-motivated crimes involve the essence of the following criminal offences:

- Violation of the equality of man and citizen
- Preventing the return of refugees and displaced persons
- Genocide
- Organizing a group of people for incitement to commit genocide, crimes against humanity and war crimes
- Destruction of cultural, historical and religious monuments
- Service in the enemy army
- Espionage
- Unauthorised research and appropriation of cultural monuments.

178. Generally it can be concluded that individuals or groups have been abusing their own tradition by encouraging the incitement of national or religious hatred and intolerance through different forms and intensity of intolerant, racist, provoking and aggressive attitudes and behaviour (violation of public peace and order), and under the guise of nurturing, strengthening, protecting and glorifying their national, religious, cultural and even political point of view.

179. In the period 2005-10, acts of violence against religious buildings, monuments/memorials, symbols, property of religious communities and religious officials of all confessions were registered throughout Bosnia and Herzegovina.

180. The foregoing violence was manifested through desecration and destruction of religious buildings, tombstones, religious property, physical attacks against and intimidation of religious officials, vandalising of national, religious and cultural symbols, planting and activating of explosive devices, provocative shooting on various occasions, writing of offensive and threatening graffiti, posting of offensive stickers and posters, sending of threatening messages and extreme and radical positions through the Internet and mobile telecommunications.

181. During this period there were a large number of property crimes against returnees (damage and destruction of residential buildings, vehicles, food and beverage

establishments and service establishments), theft of returnees' property, destruction or damage of basic infrastructure (roads, electricity, water, telephone and similar installations), placing obstacles on local roads.

182. These activities largely had characteristics of individual incidents without major security consequences. However, a small number of perpetrators were detected; in general, neither a perpetrator or a motive of the crime was detected, but we should bear in mind that the method, venue and consequences of execution bring us to a conclusion that some of them were aimed at destabilizing the security situation and creating insecurity among the returnees.

183. These manifestations that are inevitably reflected in the level of protection of human rights in Bosnia and Herzegovina come as a result of broader social trends and reflect the economic, social and political conditions in the country, warning of the importance of overall public understanding and a need for better attention so that the country as a whole can adequately respond to the manifestations of ethnically motivated extremism.

#### **Achievements and progress made**

184. An analysis of ethnically motivated crimes involving attacks at places of worship and religious officials generally reveals that in this reporting period, a decrease in ethnically motivated criminal acts against returnees is evident.

185. Please note that events marking the construction or renovation of religious buildings and commemorative meetings were held in a safe environment primarily due to the responsible and professional performance of police forces in Bosnia and Herzegovina. A noticeable decline in ethnically motivated crimes against returnees can be seen in the number and type of crimes and petty offences committed against returnees.

186. The police take measures to prevent incidents and perform regular patrols in returnee areas.

187. Please note that the sustainable return of refugees and displaced persons from the aspect of security is given a special priority.

188. The "Community Policing" and "Strengthening the Local Police Capacities for the Citizens" "Safety" projects facilitate everyday contacts (24 hours) of the police and returnees (police patrols through the returnee settlements) and the police forces and representatives of associations of returnees and continuous cooperation with representatives of religious communities and forums for security of the municipalities in which they were established.

189. The activities above have resulted in a positive shift in security of returnees and contribute to the maintenance of Bosnia and Herzegovina as a multi-national and multi-religious community as it has always been.

#### **Reply to the recommendation contained in paragraph 11 of the Committee's concluding observations**

*The Committee reiterates its recommendation to the State party to end the segregated system of mono-ethnic schools and to ensure that the same basic curriculum be taught to all children promoting tolerance among the different ethnic groups in the country and appreciating their specificities.*

190. A child's right to education is regulated in articles 28, 29 and 30 of the Convention on the Rights of the Child, which has been signed by BiH.

191. According to the Constitution, education in BiH is governed by Entity laws, cantonal laws in the Federation and the law of BD.

192. When it comes to the State level, the Ministry of Civil Affairs, specifically its Department of Education, coordinates this field.

193. For the purpose of efficient coordination in the field of education, a memorandum of understanding on the establishment of the Conference of Education Ministers of Bosnia and Herzegovina was signed (“Official Gazette of BiH” 19/08).

194. The Ministry of Civil Affairs coordinates the work of the Conference of Ministers of Education, which brings together the entity and cantonal education ministers and the head of the Education Department BD. The main tasks of the Conference of Ministers of Education in BiH, as an advisory body, are to take positions, give advice and recommendations for harmonization of: education policies and strategic plans for the development of education, educational legislation, activities of defining, implementing, monitoring and development of educational standards and their harmonization with European and international standards and others.

195. With action taken on the adoption of relevant development documents and activities carried out in harmonization of legislation, education authorities in Bosnia and Herzegovina (BiH Ministry of Civil Affairs, Ministries of Education of the Entities and Cantons) should ensure the underlying assumptions for achieving a satisfactory level of educational policy coherence, consistency of education legislation and uniformity of quality of educational services in general.

196. This means ensuring equal access to and participation in appropriate education for all, without discrimination on any grounds.

197. However, the education practice shows that it still has not achieved a satisfactory level of implementation of defined objectives and valid legislation and that many issues and problems are still waiting to be resolved in a satisfactory manner, including the use of both languages in teaching and the issue of mono-ethnic schools.

198. The system of segregation in mono-ethnic schools in Bosnia and Herzegovina is associated with the phenomenon called “two schools under one roof”. The issue of eliminating the “two schools under one roof” is a very complex issue. Addressing this issue involves, on the one hand, the full implementation of the principle of non-discrimination of students on any grounds and, on the other hand, the full implementation of the right to education in their native language.

199. In this regard two different judgments were issued by the municipal courts of Travnik and Mostar. The judgment of the Municipal Court in Mostar issued on 27 April 2012 found the practice of “two schools under one roof” to be discriminatory. It ordered the Ministry of Education, Science, Culture and Sports of Herzegovina and Neretva Canton to take necessary statutory steps and actions aligned with the legitimate and specific educational objectives in accordance with domestic valid legislation in order to end discrimination against children in schools in the Herzegovina and Neretva Canton on the basis of their ethnicity.

200. The Travnik Municipal Court issued a judgment in the same year and dismissed the complaint of the “Vasa prava” Association. This association brought an action against the Ministry of Education of Middle Bosnia Canton for the practice of “two schools under one roof” in the Canton, which segregates and discriminates children, in the opinion of the plaintiff, on the grounds of ethnicity, before the Travnik Municipal Court. The judgment of the Municipal Court of Travnik reasoned that “two schools under one roof” was a result of implementation of Annex 7 to the Framework Peace Agreement respecting the return of displaced persons to their homes, which meant that these schools were set up to ensure the

right of returnees to schooling in their native language and according to the curriculum that parents chose for their children. The reasoning of the judgment is based on the Interim Agreement on the Implementation of the Special Needs and Rights of Returnees (signed in March 2002).

201. Based on a query of the Ministry for Human Rights and Refugees about the phenomenon of “two schools under one roof”, the Ministry of Civil Affairs gives the following answer:

“In carrying out its mandate, in the period between 2008 and 2010, the Ministry of Civil Affairs of Bosnia and Herzegovina put the phenomenon of ‘two schools under one roof’ on the agenda of five out of twelve meetings of the Conference of Ministers of Education in Bosnia and Herzegovina. In 2008 a working group was appointed and tasked with preparing a report, a detailed analysis and recommendations for overcoming the phenomenon of two schools under one roof.”

202. The Conference of Education Ministers of BiH did not adopt the report of the Working Group, finding it to be unsatisfactory and another working group was established, this time led by the Organization for Security and Co-operation in Europe (OSCE). The new Working Group was tasked specifically to primarily define the term “two schools under one roof” and explain how it connects with the concept of discrimination and segregation in the education system of BiH, because there are many possibilities for the organization of two schools under one roof without segregation and discrimination. For example, there are cases of a primary and a secondary school located in the same building in small towns across the country.

203. However, the Conference of Ministers of Education in Bosnia and Herzegovina did not adopt the report on “two schools under one roof” produced by the new working group led by OSCE either because the proposed definition did not connect this phenomenon with segregation in schools, nor did it propose appropriate solutions for overcoming the situation.

204. Further, ministers of education from the cantons with this phenomenon strongly denied any form of segregation in “two schools under one roof”. As a matter of fact, they believe that this is one method that protects the fundamental right of children to education in mother tongue. In their opinion; two schools under one roof” is not a problem and they sought that treating this phenomenon as a political problem should be stopped.

205. Therefore, the conclusion of the 11th meeting of the Conference of Ministers of Education of BiH, held on 30 March 2010, when the phenomenon of “two schools under one roof” was last discussed, was as follows:

“The Federation Ministry of Education and Science, with the relevant ministries of the Herzegovina-Neretva Canton, Middle Bosnia Canton and Zenica-Doboj Canton, with the participation of the Ministry of Civil Affairs, should follow up on this issue, starting with redefinition of the term ‘two schools under one roof’. In addition, the competent education authorities undertake to consider all possible forms of discrimination and segregation in education and take strong measures for their removal, in order to meet Council of Europe post-accession requirements and priorities defined in the ‘European Partnership for BiH’. All relevant ministries of education in BiH are obliged to periodically inform the Conference of Education Ministers of BiH on the measures and activities taken in relation to this issue.”

206. Bearing in mind the foregoing, we can conclude that the phenomenon of “two schools under one roof” is still present in BiH and that it is perceived differently in the legal system of Bosnia and Herzegovina, which is evident from the above mentioned judgment of competent courts in Mostar and Travnik.

207. Bosnia and Herzegovina will continue making efforts to find solutions to overcome this phenomenon that will be consistent with the constitutionally guaranteed right to language and script (note: in Bosnia and Herzegovina there are the three officially recognized languages: Bosnian, Croatian and Serbian, and two alphabets: Latin and Cyrillic).

### **Reply to the recommendation contained in paragraph 12 of the Committee's concluding observations**

*The Committee reiterates its recommendations to the State party, with reference to its general recommendation 27 (2000), to continue to endeavour to combat prejudices against Roma, and to ensure that all Roma have access to personal documents that are necessary for them to enjoy their civil and political rights, as well as their economic social and cultural rights. The Committee recommends also that the State party fully implements its various Roma strategies and action plans in line with the declaration and program of work of the Decade of Roma Inclusion 2005-2015, with action mainly devoted to ensure adequate housing, health care, employment, social security and education for Roma people.*

208. In order to prepare a response to Recommendation 12, available information on major activities carried out in the territory of Bosnia and Herzegovina were considered. The information includes results of the application of the standards under international instruments adopted by BiH, which relate to the protection of human rights of minorities. The information on activities of non-governmental organizations (national and international) and Roma associations in particular were taken into account.

209. The Information Paper started from international standards according to which the treatment of minorities and other vulnerable groups is recognized as an indicator of the extent of democracy in a society, as a condition for the progress of BiH towards European integration.

210. In order to give a substantial response to the recommendation, we highlight chronologically a number of important activities that BiH have carried out in recent years:

#### **2002**

Ratifying the Framework Convention for the Protection of National Minorities of the Council of Europe in 2002, BiH undertook to implement active policies, laws and other regulations in order to achieve the principles set out in this Convention.

#### **Appointment of the Roma Council within the Council of Ministers of BiH**

211. Initial activities in terms of improving the position of the most vulnerable group – Roma – began by appointing an advisory and coordinating body by the Council of Ministers in 2002.

- Members of Roma Board in the first term of Roma Board were appointed by the Council of Ministers in the Conclusion of the Council of Ministers at the 70th meeting held on 13 June 2002.
- Members of Roma Board in the second term of Roma Board were appointed by the Council of Ministers in the Decision on the Appointment of the Roma Board within the Council of Ministers of Bosnia and Herzegovina at the 27th meeting of the Council of Ministers held in November 2007 (“Official Gazette” 99/07) for a term of four years.

- Members of Roma Board in the third term of Roma Board were appointed by the Council of Ministers at the 20th meeting held on 18 September 2012 in the Decision on the Establishment of the Roma Board within the Council of Ministers and the Decision Appointing Members of the Roma Board (“Official Gazette” 85/12, 25 November 2012). The Decisions defined inter alia powers and competences of this body, which is important to emphasize at this point.

212. The Roma Board has a mandate to address all relevant matters contained in the Roma Strategy of Bosnia and Herzegovina (“Official Gazette of BiH” 67/05) (hereinafter: the Strategy) and monitor its implementation and suggest activities with a view to efficiently implementing the Decade of Roma Inclusion 2005-2015. Specifically, the Roma Board is in charge of:

(a) Systemic monitoring of the implementation of the Action Plan for Bosnia and Herzegovina Roma in employment, housing and health care (herein after: Action Plan) and Revised Action Plan on the Educational Needs of Roma u BiH;

(b) Designing the operational documents and proposing measures for the improvement of the Action Plan implementation;

(c) Initiating, through its representatives, activities to ensure appropriation of funds in BiH and Entity institutions budgets for the implementation of the Action Plan;

(d) Monitoring of spending of budgetary funds earmarked in the institutions of Bosnia and Herzegovina and Entities for the implementation of the Action Plan;

(e) Making contacts with potential donors and stakeholders to raise funds for the implementation of the Action Plan;

(f) In order to make valid opinions, conclusions and recommendations, the Roma Board can establish, in accordance with its budget, permanent or temporary committees and thematic expert groups, particularly in the implementation of the Action Plan;

(g) In a by-law, shall define a monitoring system for the implementation of planned activities for the Roma in Bosnia and Herzegovina and monitor the methodology of spending of donors’ and budgetary funds appropriated for the implementation of the Action Plan.

### 2003

213. It is important to emphasize that, in cooperation with representatives of minorities and the Roma Board, the Ministry of Human Rights and Refugees drafted and the Parliamentary Assembly passed the Law on the Protection of National Minorities (“Official Gazette” No. 12/03) which recognized 17 minorities (Albanians, Montenegrins, Czechs, Italians, Jews, Hungarians, Macedonians, Germans, Poles, Gypsies, Romanians, Russians, Ruthenians, Slovaks, Slovenians, Turks and Ukrainians). The Law ensures that, besides enjoying the rights that all other citizens of Bosnia and Herzegovina enjoy, the minorities enjoy extra protection and rights in the fields of history, culture, customs, tradition, languages, script, education and religious freedom.

### 2004

214. Following these international and domestic legal standards, one of the activities was taken to meet educational needs of minorities, so in 2004, on the proposal of the Ministry of Human Rights and Refugees, the Council of Ministers adopted the Action Plan for educational needs of Roma in BiH, which was adopted as a revised Action Plan for educational needs of Roma in BiH at the 128th meeting held on 14 July 2010, about whose

implementation the Council of Ministers was informed or, more specifically, the Report was considered and adopted at the 17th meeting held on 30 August 2012.

### **2005**

215. Continuously monitoring the position of the Roma minority, primarily through the fulfilment of reporting obligations of Bosnia and Herzegovina on the implementation of international conventions and protocols primarily towards the CoE Committee for National Minorities, BiH obtained indicators that, out of the 17 national minorities, the Roma minority is in the most difficult social situation in BiH.

216. Therefore, with regard to accountability of the State and the need for more specific intervention, it was necessary to design the BiH Strategy for Solving Problems of Roma (hereinafter: Roma Strategy), which was adopted by the Council of Ministers on 21 July 2005 and published in "Official Gazette of BiH" 67/05. It is important to note that this Strategy does not determine the time frame of its implementation or indicators for monitoring and implementation, so it applies in the long run as it contains basic principles for the advancement of the minorities' position.

### **2006-2007**

217. In the period 2006-2007 the Roma Board of Bosnia and Herzegovina and the MHRR collaborated to carry out activities which can be described as strengthening regional cooperation, cooperation with international organizations with a focus on the collection of relevant indicators of the number and needs of the Roma in terms of their social status, civil status (a survey of registration in birth registers) and housing rights. It is important to mention a 2007 survey by Roma NGOs gathered around the BiH Roma Council, which provided the public with a compilation of information about life in the Roma community, especially when it comes to housing conditions, infrastructure in the settlements, employment, access to health care and other basic needs. According to the 2007 research the Roma population is about 76,000.

### **2008**

218. European and regional initiatives finally resulted in a joint document titled "Decade of Roma Inclusion, 2005-2015" signed by several member States of the European Union and countries with pre-accession status in 2005, which BiH signed in 2008.

219. Joining the Decade, BiH committed to provide funds necessary for the implementation of the Action Plan to solve the Roma basic needs such as housing, employment, health care and education on a yearly basis throughout the Decade. BiH accepted the Decade as a practical model for developing appropriate standards, methodologies and co-operation of States and international organizations and institutions in the fight against poverty of the Roma population, their exclusion and discrimination regionally.

### **Action Plan of Bosnia and Herzegovina for Roma housing, employment, health care**

220. Starting from the above mentioned Strategy and objectives of the Roma Decade and the fact that, according to all socio-economic parameters, the Roma in BiH are the poorest and most vulnerable minority, in 2008 BiH CoM adopted the Action Plan for Roma in the areas of employment, housing and health care (hereinafter: the Action Plan for Roma/Roma Action Plan).

221. The Action Plan for Roma is primarily an operational document, the designing of which was a joint effort of all relevant ministries in Bosnia and Herzegovina and



representatives of Roma so that a full participatory approach by all relevant stakeholders in the implementation of this Action Plan could be ensured. The Action Plan seeks to ensure:

- A realistic approach in planning and envisaged coverage by measures designed for Roma in three key areas: housing, employment and health care.
- Better involvement of local authorities, on the one hand, and the non-government sector, on the other hand, in the achievement of goals and objectives identified in the Action Plan.

222. In an analysis of the overall results of the implementation of the Action Plan for Roma of BiH achieved so far in relation to objectives of the Decade, Bosnia and Herzegovina was evaluated by member States of the Decade as a very successful country in achieving good results, especially in the area of Roma housing and the process of Roma needs recording. Good practices and achieved results are accepted by other members of the Decade of Roma Inclusion and some countries have shown interest in the exchange of best practices in the field of Roma housing and the process of Roma needs recording. This activity is going to be carried out in the coming period and Bosnia and Herzegovina will hold the Presidency in the last year of the Decade (2015).

### **Implementation of the Action Plan for Roma in housing, employment, health care**

223. The Action Plan for Roma in housing, employment and health care (hereinafter: the Roma Action Plan) sets forth several objectives and measures by time frames, indicating the institutions and organizations responsible for their implementation, specific monitoring indicators and budget resources needed for the implementation.

224. Detailed information concerning the placement and use of available resources and achieved results is contained in the document titled “Mapping and Analysis of Spending on Roma Action Plans”, enclosed herewith.

225. The document analyses the most important activities carried out to improve the socio-economic status of the Roma minority in BiH. The analysis was based on all available information provided by the institutions and organizations involved in the implementation of the Action Plan for Roma.

### **Roma housing**

226. So far, in the implementation of the Action Plan for Roma a majority of funds have been appropriated for housing. Specifically, in three years (2009, 2010 and 2011) the budgets at the State and Entity levels, donors and co-implementers of Roma housing spent BAM 9,935,405.00 with the following effects:

- The projects were implemented in 30 BiH municipalities
- 156 housing units were constructed
- 191 housing units for Roma were reconstructed or rehabilitated
- 210 Roma families use repaired or reconstructed infrastructure (water, sewage, electricity)
- Currently, funds from the 2012 budget in the amount of BAM 2,150,000.00 are being spent on the construction and reconstruction of approximately 70 new housing units and the construction of infrastructure facilities.

227. In order to define particular activities and tasks in the provision of Roma housing, the Department of Human Rights of this Ministry has created a methodology and guidelines for spending of these funds and a number of required supporting documents governing duties and responsibilities of the participants in the implementation.

**Roma employment**

228. Roma employment in the previous two year (2009, 2010) implementation of the Action Plan consumed BAM 1.500.000,00 from the budget with the following effects:

- A total of 212 Roma, who had been registered in the employment offices, got jobs.
- A plan is to spend funds approved in the budget of the institutions of Bosnia and Herzegovina in 2012 (BAM 710,000.00 KM) to employ 90 more Roma, as part of these measures.

229. Given the complexity of the political and economic situation and that in the current situation of market economy, no significant progress in employment of Roma in the upcoming period can be expected.

230. Two measures were implemented under the Action Plan: co-funding of employers and funding of self-employment of Roma. The Roma Employment Programme was implemented by the Entity Employment Institute and the Brcko District Employment Institute, based on the Memorandum of Implementation signed with the Ministry of Human Rights and Refugees.

**Roma health care**

231. In accordance with the Action Plan for Roma, an amount of budgetary funds of at least BAM 545,000.00 (2009-2012) was appropriated for Roma health care. The amount was used primarily for health insurance and preventive measures for improvement of the health status of Roma, specifically for Roma children's immunization, and prevention of communicable and mass non-communicable diseases and oral diseases by 2011.

232. Specific-purpose funds (BAM 210,000.00) were earmarked in 2012:

- FBiH, the funds were intended to raise awareness in the area of health, specifically for the implementation of information campaigns on the right to health care and raising of awareness of the importance of health care in the Roma community and implementation of health education activities about the importance of prevention in health care by local trainers.
- RS, the funds were intended to raise awareness in the area of health, specifically for the implementation of information campaigns on the right to health care and raising of awareness of the importance of health care in the Roma community and the implementation of preventive measures in order to improve the health status of the Roma community, specifically under the priority programs of preventive health care.
- BD, the funds were intended for similar purposes as in the F BiH and RS.

233. Given direct jurisdiction of Entity institutions over health care, the expenditure of funds is governed by the Memorandum of Understanding for the implementation of the Action Plan for Roma of Bosnia and Herzegovina in health care between the Ministry of Human Rights and the Institutes of Public Health of Entities and Brcko District.

**Roma needs registration**

234. The process of recording the Roma in Bosnia and Herzegovina began on 23 November 2009. The process was carried out simultaneously by 10 operational teams of which 6 teams worked in the Federation, 3 teams worked in the Republika Srpska and one team worked in the Brcko District of Bosnia and Herzegovina. All teams were appointed in the territories of the municipalities in which a majority of Roma live. The collected data after the process of recording indicated that in Bosnia and Herzegovina 4,308 Roma households and 16,771 Roma people were recorded. In relation to the number of recorded areas there are estimates that in some parts of the country, such as Tuzla, as many as 30 per

cent of households did not want to be recorded or were absent during the recording process. The data shows that in BiH there are about 25,000-30,000 Roma people and that 19,500 Roma people or 4,500 Roma households will require some or other form of assistance envisaged in the Strategy and Action Plan.

235. In late 2010, the Ministry of Human Rights signed the Memorandum of Understanding with 34 centres for social work on managing and updating data in a database on the needs of Roma households in BiH. Total funds budgeted for this purpose amounted to BAM 100,000.00 and were spent on procurement of equipment for the centres for social work and development of databases intended for the Ministry and the centres for social work/social welfare services in BiH. In 2012 the Ministry of Human Rights signed the Memorandum of Understanding with an additional 23 centres for social work having Roma on their records. Funds in the amount of BAM 30,000 that the Decision on the Allocation of Budget Funds earmarked for updating of information on the needs of Roma will be awarded to the centres for social work to buy computer equipment.

236. Based on results in certain areas of the Action Plan we can briefly highlight problems identified:

- Not all institutions participating in the Action Plan acted in a responsible manner or equally.
- The allocated budgets were not based on actual data and the needs of Roma.
- The Roma Action Plan enumerated institutions responsible for the implementation of the objectives and measures defined which resulted in a lack of clarity regarding individual responsibility of the designated institutions.
- Additional coordinating bodies were set up; more specifically, the Coordinating Committee for the Action Plan Implementation Monitoring made implementation and overall coordination of activities even more complex and only the appointment of members of the Roma Board in the third term of the Roma Board brought about streamlined coordination.
- Considering the activities carried out and in particular the process of collecting data on the real needs of Roma in Bosnia and Herzegovina and following the recommendation of the Steering Committee of the Decade, a review of the Roma Action Plan started in 2012.

#### **Revised Action Plan for Roma Education**

237. The revised Action Plan for Bosnia and Herzegovina on Educational Needs of Roma was adopted by the Council of Ministers of Bosnia and Herzegovina at the 128th meeting held on 14 July 2010. This document defines four goals and 47 measures so that Roma children could have equal access to high-quality education as a pre-condition for their later better integration into society.

238. In accordance with a conclusion of the Council of Ministers, the Minister of Human Rights and Refugees of BiH issued a decision on the establishment of an expert team to monitor the implementation of the Revised Action Plan of BiH on Educational Needs of Roma ("Official Gazette of BiH", No. 5/11).

239. The Expert Team consists of representatives from relevant State and Entity Ministries of Education and Education Department of Brcko District and two representatives of the Roma Board. In the most recent past, representatives of the Roma Board did not participate in the Expert Team because it was not established until 19 October 2012 when the constituent meeting was held. At the meeting, the Roma Board nominated two representatives and it has been preparing amendments to the Decision on the

Establishment of an Expert Team to Monitor the Application (Implementation) of the Revised Action Plan of BiH to Meet Educational Needs of Roma.

240. In order to establish a system of information provision to the Expert Team, the Ministry of Human Rights and Refugees has established a broad network of support from representatives of the ministries of education in the areas where Roma reside.

241. The Expert Team designed a methodology for the Revised Action Plan implementation. In preparing the preliminary report (August 2011) the Expert Team faced a lack of comprehensive indicators for the entire territory of BiH.

242. Persistent insistence on the provision of data, which accompany the application of indicators, the first, 2011 Report on the Implementation of the Revised Action Plan of BiH needs of Roma was drafted and adopted by the Council of Ministers at the 18th meeting held on 30 August 2012.

243. Following the adoption, the report was presented at five round tables held in Sarajevo, Mostar, Tuzla, Zenica and Banja Luka. Members of the Expert Team supported by OSCE presented the report. Participants of the round tables were representatives of relevant educational authorities, principals and teachers of schools in which Roma children were in large numbers, and representatives of social work. The round tables made a request that in future reports on the implementation of the revised Action Plan of BiH for Educational Needs of Roma should be prepared on a school year basis, not on a calendar year basis, which was accepted by the Expert Team.

#### **Roma registration in birth registers**

244. In July 2011, based on data and information provided by members of an inter-ministerial group, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina (MHRR) prepared an initiative for the harmonization of regulations governing the issue of registration of births and establishment of an electronic database so that the data could be considered by the relevant Ministries of Justice in BiH, the FBiH Ministry of the Interior and the Department of Public Records of BD, in order to discuss the possibilities of harmonization and alignment of legislation in the field of civil registration of births. Registration of Roma children in birth registers was particularly emphasized.

245. Based on the above mentioned initiative the legislation in both entities and Brcko District were harmonized. In the Federation, the new Law on Civil Registers of FBiH ("Official Gazette", No. 37/12) was passed.

#### **Institutional capacities**

246. The Ministry of Human Rights and Refugees provides technical support for the implementation of these activities (Human Rights Sector).

247. MHRR faces a particular challenge in terms of establishing good practice and cooperation with citizens' associations representing disadvantaged minority groups. Extensive activities that are intended to regulate relations with citizens' associations and NGOs are in progress, since it is necessary to comply with a standard that implies the inclusion of Roma in the overall process of achieving goals of the Decade.

248. Owing to a lack of financial resources, existing forms of cooperation between MHRR and other participating institutions and organizations must be streamlined, keeping the trend of holding consultation meetings to ensure participation of the Roma in the whole process.

249. In order to ensure good coordination and monitor the implementation of the Action Plan for Roma, MHRR has established inter-ministerial expert groups with representatives of Roma sitting on them.

250. Given the decision on the establishment of the Roma Board mandated to monitor the implementation of the Roma Action Plan, this body will see to the development of reporting methodology and monitoring of the Revised Roma Action Plan. Appointments to the small monitoring team of the Revised Roma Action Plan are planned in cooperation with the Roma Board.

#### **Projects in support of the implementation of Roma Action Plan in BiH**

251. In the past significant support to the implementation of Roma Action Plan was given by the Swedish International Development Co-operation Agency (SIDA), the European Union, UNHCR, the United Nations Childrens Fund (UNICEF), the United Nations Development Programme (UNDP), OSCE, World Vision, and BOSPO.

252. In accordance with a memorandum of understanding signed between the Ministry of Human Rights and Refugees and CARE International on 16 June 2011, a Roma coordinator was employed to perform duties on the premises of the Ministry of Human Rights and Refugees for the purpose of implementing the European Union funded “Support to the Roma National Action Plan” Project.

253. The role of the Roma coordinator is particularly important in the dissemination and exchange of information about the implementation of the Action Plan between Roma organizations and authorities in order to build institutional capacities, especially at the local level.

254. A project implemented by CARE International in cooperation with partner organizations Euro Rom of Tuzla has hired four (4) Roma regional coordinators to cover the areas where most Roma people reside in Bosnia and Herzegovina. Regional coordinators are mostly responsible for the cooperation of local authorities and Roma associations in the implementation of specific objectives and tasks set by the Action Plan.

255. Appreciating the efforts of Roma coordinators to improve the position of the Roma minority, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina, in cooperation with OSCE and UNHCR, will try to ensure the position of Roma coordinator is sustainable in the future with IPA funds and international NGO projects aimed at Roma inclusion. It is necessary to hire one Roma in the MHRR.

#### **Reply to the recommendation contained in paragraph 13 of the Committee’s concluding observations**

*The Committee reiterates its recommendation to the State party to continue fostering inter-cultural dialogue, tolerance and understanding, paying due attention to the culture and history of different ethnic groups within Bosnia and Herzegovina.*

256. BiH is a multinational, multi-religious and thus a multicultural community and as such it is committed to keep its multicultural character, respecting the principle of parliamentary democracy and strengthening multicultural dialogue as the fundamental tool for linking diversities and tolerance in the society.

257. BiH is home (according to the Constitution of Bosnia and Herzegovina) to the three constituent peoples (Bosniacs, Serbs and Croats) and (according to the Law on Protection of National Minorities’ Rights) 17 national minorities, the fact that itself indicates the diversity of cultural heritage as a national treasure of the State of Bosnia and Herzegovina.

258. The Commission to Preserve National Monuments of Bosnia and Herzegovina was established under Annex 8 of the General Framework Agreement for Peace in Bosnia and Herzegovina. In order to monitor cases of threatened national monuments and to take measures to protect them, it institutes criminal proceedings in the competent courts in

accordance with the Criminal Procedure Code (illegal construction, inexpert reconstruction, lack of maintenance and other forms of destruction). Decisions to designate national monuments are enforced in accordance with the Law on the Enforcement of Decisions of the Commission for the Protection of National Monuments and the responsibility for their enforcement lies with the Entity governments and ministries responsible for spatial planning.

259. In accordance with provisions of the Framework Peace Agreement for Bosnia and Herzegovina, the field of culture is the responsibility of the Entities. Bosnia and Herzegovina is a full member of the World Intellectual Property Organization.

260. Thanks to funds provided by the MDG-F funded Culture for Development Programme that is jointly implemented in BiH by three United Nations agencies: the United Nations Educational, Scientific and Cultural Organization (UNESCO), UNDP and UNICEF, together with the Ministry of Civil Affairs, the Federation Ministry of Culture and Sports and the RS Ministry of Education and Culture, it was possible to print a compilation of translations of all conventions relating to the protection of cultural heritage.

261. Bearing in mind the importance of cultural and historical heritage, Bosnia and Herzegovina, including both Entities, has criminalized acts of destruction or damage of the cultural heritage of Bosnia and Herzegovina (the Criminal Code of Bosnia and the Criminal Code of the Federation of Bosnia and Herzegovina, the Criminal Code of Republika Srpska, and the Criminal Code of Brcko District).

262. Achievements and progress BiH TV and radio stations regularly broadcast thematic shows about minority communities, their culture, customs and characteristics and about activities carried out by NGOs that bring together national minorities for the preservation of ethnic and cultural heritage (“Czech Beseda” – Association of Czechs in the Republika Srpska, “Taras Shevchenko” – Association of Ukrainians in the Republika Srpska, the “Lira” Cultural Society of Jews; etc).

263. In Sarajevo, in July last year, a film festival which was sponsored by “La Benevolencija”, a Jewish cultural and humanitarian association, was held to screen films depicting the Jewish life in this region.

264. The Interreligious Council of Bosnia and Herzegovina operates in Bosnia and Herzegovina and it has printed the Glossary of Religious Terms in order to improve the understanding of cohabitation and linking of cultural diversities in Bosnia and Herzegovina.

265. Bosnia and Herzegovina is a country of four great monotheistic religions (Sarajevo, the capital of Bosnia and Herzegovina, is a city where the Cathedral, the Orthodox Church, the Bey Mosque and the Synagogue are located only 500 meters apart).

266. Unfortunately, during the tragic conflict in the period from 1992 to 1995 BiH lost a number of cultural and religious buildings that testified to the millennium-long tradition of Bosnian-Herzegovinian State as a multicultural community of its peoples.

267. With signing the Dayton Peace Agreement in Bosnia and Herzegovina, peace was restored and the country hit the road to rapid recovery by strengthening tolerance and respect for and appreciation of diversities through the development of a modern democratic State, which shows the tendency towards inclusion into European integration processes in the near future.

268. Old Bridge in Mostar has been reconstructed, the cornerstone for the reconstruction of Ferhadija Mosque in Banja Luka has been laid, Žitomislići Monastery and Plehan Convent have been reconstructed and Bašćaršija – the old town of Sarajevo – has been renovated, while the famous “Bridge on the Drina”, the bridge about which Nobel Prize winner Ivo Andrić wrote and which was an endowment by Mehmed-Pasha Sokolović, has been nominated for the World Heritage listing. The renovation of the Serbian Orthodox

church in Mostar has been planned. In Sarajevo, numerous museums ranging from the National Museum (which was founded by Hermann Costa with the help of Ciro Truhelka) to the Museum of Sarajevo, whose collections of exhibits include both the pre-historic era and the rule of the Ottoman Empire in these parts, the arrival of the Austro-Hungarian troops, the memory of the “Sarajevo assassination” which triggered World War I (characteristic tombstones of Bogomils, so-called stećci, are exhibited in the museum’s front garden, while the largest necropolis is at Radimlja near Stolac), the Historical Museum, the Jews’ Museum, the Museum of Literature and Theatre, the Olympic Museum, which was opened after the 14th Winter Olympic Games, Svrzina kuća (the Svrzos’s house) (which depicts the life of Bosnian Muslims at that time) and the recently renovated Despića kuća (the Despics’ house) (which shows how the Serbian town family lived in the late 19th century – it is interesting to note that mini-plays used to be performed in the Despićs’ house), and the house in Travnik where Ivo Andrić was born are open to the public.

269. It is important to emphasize that the National Museum in Sarajevo carefully keeps the Holy Book of Jews – Haggadah which the citizens of Bosnia and Herzegovina saved from destruction or alienation, not only during the last war but also during the German occupation in World War II when, notoriously, Nazis alienated national treasure of temporarily occupied countries.

270. In Bosnia and Herzegovina there are a few festivals and events of international importance and they are: MESS International Theatre Festival, International Festival Sarajevo “Sarajevo Winter”, a series of cultural events called “Bašćaršija Nights”, Sarajevo Film Festival.

271. The Art Gallery of Bosnia and Herzegovina is among seven cultural institutions of national significance and the remaining six are the National Museum, the Film Library of Bosnia and Herzegovina, the Museum of Literature and Theatre of Bosnia and Herzegovina, the Historical Museum, the National and University Library and the Library for the Blind and Visually Impaired Persons. These institutions have an unresolved legal status and a lawsuit to address this issue is pending. Owing to a lack of funds and support, the Art Gallery of Bosnia and Herzegovina closed its doors on 11 September 2011 after 65 years of extensive and continuous operation. At the end of last year, the National Museum in Sarajevo closed its doors because of the unresolved legal status and a lack of funds. The survival of the “ARS Aevi”, the most relevant international project in the field of contemporary art in Europe and the world, is questionable.

272. Every year in Bosnia and Herzegovina the following literary meetings are held: The Letter of Bitterness in Stolac, to commemorate a great poet from Bosnia and Herzegovina, Mak Dizdar, Days of Poetry in Sarajevo and the European Literary Encounters in Sarajevo, Cum Grano Salis and Begic Literary Days in Tuzla, Literary Meetings in Gradačac, Days of Šop Poetry in Jajce, Skender Days in Bosanski Petrovac, Šimić Meeting in Grude, Hum Poetry Evenings and Santic Poetry Readings and Poetry Readings in Mostar, Ducic Evenings in Trebinje and Literary Meetings in Kozara Mt.

273. In Jajce the International Art Colony “Through History to the World Heritage of UNESCO” was organized, while the International Art Colony named “Herzegovina-Počitelj” started on 15 June and lasted until 22 June last year, bringing together a number of internationally recognized artists.

274. During the Sarajevo Winter Festival, the DUPLEX/Gallery 10m<sup>2</sup> of the André Malraux French Cultural Centre was opened on 10 February 2009.

275. In February 2009, the Festival, at the Art Gallery of Bosnia and Herzegovina, with the help of the Embassy of Spain and the Prado Museum in Madrid an exhibition was organized of paintings of Pablo Picasso titled “Sketches of Guernica”.

276. The BD Government has funded the reconstruction of devastated rural community centres, the construction of new ones (e.g. for Roma) and cultural projects: “Sava” International Arts Colony, Theatre Festival of BiH, Days of Spiritual Music, Festival of Urban and Rural Amateur Creativity, etc.

277. In Sarajevo on 6 April, the 20th anniversary of the beginning of the war and the siege (1992/95) was marked with an exhibition designed by Haris Pašović entitled “Sarajevo Red Line” when 11,541 chairs were set out in memory of victims of the siege of Sarajevo.

278. In the House of Culture, the Commission to Preserve National Monuments gave a video presentation of the results of the reconstruction of Orthodox and Catholic churches destroyed in wartime. On this occasion, in order to increase awareness of the common cultural heritage, an exhibition of large images of national monuments included in the projects funded from the United States Ambassador’s Fund for Cultural Preservation and artworks of elementary school students who participated in the educational component of the project “My Bosnia and Herzegovina – My Heritage” was held. We note that there were 15 projects in BiH funded from the U.S. Ambassador’s Special Fund of Heritage in the past few years, and they were: reconstruction of bridges, monuments and sacred sites in Banja Luka, Blagaj, Foca, Livno, Rogatica, Jajce, Sarajevo, Stolac, Trnovo, the amount spent being nearly USD 600,000. Besides mosques and Tekija in Blagaj, the reconstruction of the Catholic and Orthodox Churches was a concrete sign of multiculturalism.

279. In September 2012 the Council of Ministers of BiH, the Inter-religious Council and the Community of Saint Egidio of Roma organized an event titled “Living Together is the Future – Religions and Cultures in Dialogue” in Sarajevo.

280. Through the connection of the cultural diversity of the community of Bosnia and Herzegovina (which as such has been existing for a thousand years), conditions for the strengthening of an open democratic society are created, distinguishable by its intercultural dialogue which respects the diversity in a unity, gaining its international character.

### **Reply to the recommendation contained in paragraph 14 of the Committee’s concluding observations**

*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.*

281. 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.

282. 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.

283. 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 to 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.



284. General principles of the International Convention on the Elimination of All Forms of Racial Discrimination are incorporated in the Law on Movement and Stay of Foreigners and the Law on Immigration and Asylum.

285. Bosnia and Herzegovina implements a policy of eliminating racial discrimination both in the general legal framework and through promotion and recognition of equal status for all in legislative, judicial, administrative and other measures; the right to return and repossession of property of citizens; and organization of cultural activities and the situation of Roma, as the largest and most vulnerable minority (among 17 national minorities exhaustively enumerated in the Law) in Bosnia and Herzegovina.

286. 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. They must work to amend and adopt laws, policies and procedures in accordance with the Law on Prohibition of Discrimination.

287. The Rulebook on Discrimination Cases Monitoring, which provides for the establishment of a Central Database on Discrimination Cases to be set up in the BiH Ministry of Human Rights and Refugees, is being drafted.

288. As we have already discussed above, the BiH Constitution, as the highest law in the country, directly prohibits discrimination in a provision that reads:

“The enjoyment of the rights and freedoms provided for in this Article or in the international agreements listed in Annex I to this Constitution shall be secured to all persons in Bosnia and Herzegovina without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

289. The European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) guarantees protection and enjoyment of human rights and fundamental freedoms, so Article 14 provides the following: “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”, is incorporated into the Constitution of Bosnia and Herzegovina and makes the Convention directly applicable in Bosnia and Herzegovina so that it has priority over all other laws (so-called supremacy of the application).

290. With regard to human rights and fundamental freedoms, entity constitutions and constitutions of the cantons are consistent with the human rights principles enshrined in the Constitution of Bosnia and Herzegovina.

291. In order to fully and effectively implement concluding observations and recommendations of relevant committees of both United Nations and the Council of Europe, the Council of Ministers adopted the Framework Action Plan for Recommendation Implementation, which provides for an obligation of all authorities at all levels of governance to comply with the recommendations.

## **Reply to the recommendation contained in paragraph 15 of the Committee's concluding observations**

*The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.*

292. 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.

293. Although in Bosnia and Herzegovina there are several thousand registered NGOs, only a hundred of them are active and contributing to the development of the society in different areas. This means that a large number of NGOs have not demonstrated the ability to formulate a clear strategy for civic democratic development by requiring changes in certain segments of society. In this regard it is visible that the impact and importance of NGO development depends primarily on a clearly established legal framework within which they operate, the existence of institutional mechanisms for the involvement of NGOs in the political and social processes, creating conditions for opening the political institutions to communicate and cooperate with them, visibility of the NGO sector in the public and ensuring public confidence in it, etc.

294. 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". Thus, the freedom of citizens of Bosnia and Herzegovina to associate with others is their constitutional right and the State and both Entities must ensure it, without discrimination. It is particularly important to emphasize that the rights and freedoms referred to in Article II of the Constitution of Bosnia and Herzegovina, including freedom of association with others, cannot be eliminated or diminished by any amendments to the Constitution itself, which means that this cannot happen by amending the Constitution of Entities or their laws, either.

295. The constitutional grounds for the legal regulation of associations and foundations are ordained by the highest legislative body of Bosnia and Herzegovina, which is the Parliamentary Assembly of Bosnia and Herzegovina. This is about the freedom of association with others and it is not constituted but simply stated in the Entity Constitutions, and it is constituted by the Constitution of Bosnia and Herzegovina, along

with the international responsibility of Bosnia and Herzegovina for its ensuring and protecting.

296. Starting from these constitutional grounds at the State level, in 2001 the Law on Associations and Foundations was passed and its value is indisputable as it puts every person on the whole territory of Bosnia and Herzegovina in the same position and provides them with the same conditions while exercising and protecting their human and internationally recognized right to associate with each other. Pursuant to the Law on Associations and Foundations, the non-governmental organizations can generate income from providing goods and services. NGOs can also engage directly in joint economic activities. However, the law limits the revenue derived from the separate entities (companies/enterprises owned by the NGOs) established by the NGOs to the amount of BAM 10,000. As this matter is not regulated by law at the State level, this applies only to the non-governmental organizations that are registered under the laws of the Entities. NGOs can compete for government contracts, but it is still a rare practice. We still need to work on the elaboration of the Law on Associations and Foundations, especially in the part that relates to tax policy.

297. The Agreement aims to create a new approach to partnership between the Council of Ministers and the NGO sector in Bosnia and Herzegovina. The Council of Ministers and the NGO sector can share many interests – the tendency toward openness, commitment to the public life and support for building sound communities. Although not a legally binding document, its strength rests on the consent of partners to mutual consultations, discussions and agreements especially when it comes to important issues and topics. The Agreement particularly emphasizes the cooperation of the NGO sector with the lower levels of government, because the governments at lower levels and the NGO sector have a range of complementary functions and shared values that will be enhanced with this Agreement in the future. It is a partnership for the betterment of society, encouraging and supporting voluntary social activities.

### **Achievements**

298. Besides the above mentioned Agreement on cooperation between the governmental and non-governmental sectors, in practice, significant progress has been made to reflect in the cooperation with the ministries and other State agencies with NGOs. An example of good practice is the cooperation of the Ministry for Human Rights and Refugees with the non-governmental organizations that monitor human trafficking, when an Agreement on cooperation was signed with six NGOs. There is good cooperation with NGOs in preparation of draft laws, by-laws and preparation of the initial and periodic reports, which Bosnia and Herzegovina, as a member of the United Nations and the Council of Europe, has to submit to the competent international committees and other institutions in a timely fashion.

299. Governmental and non-governmental organizations of civil war victims, refugees and displaced persons, representatives of missing persons, the Roma communities, minority organizations, religious groups, etc. have especially good and constructive cooperation.

300. As an example of good cooperation with the NGO sector, we can emphasize their cooperation with the Ministry of Justice or the Department for Strategic Planning and Integration, which, together with the USAID Justice Sector Development Project, was in charge of making rules for the consultation.

301. A positive initiative, as an example of good relations and constructive cooperation, is also the initiative of 10 NGOs when they, in mid June 2009, presented to the Council of Ministers the conclusions of debates that were organized in nine cities in Bosnia and Herzegovina. The topics of the conclusions are their views on the participation of citizens, civic groups and NGOs in the processes of policy making and legislation enacting, building

the institutional and legal framework for the operation and development of the NGO sector, measures to support the development of non-governmental organizations, etc.

302. As a positive example of good practice we note the adopted Strategy for the Sustainable Development of the NGO sector, prepared by the Committee of the “Work and Succeed Together” Coalition, which brought together more than 300 non-governmental organizations from all over Bosnia and Herzegovina. The main objective of the mentioned program is to define and establish a more favourable overall social framework and build the necessary infrastructure for sustainable development of the NGO sector in Bosnia and Herzegovina.

303. We should cite here the good cooperation with the Helsinki Committee for Human Rights of Bosnia and Herzegovina and the Helsinki Committee for Human Rights of Republika Srpska, Transparency International (TI) of Bosnia and Herzegovina, in the issues of human rights where human rights violations are pointed to in the field, proposals for new legislation and amendments to valid legislation are taken under consideration and their reports are taken into account and used for faster and more efficient troubleshooting.

304. Especially good cooperation was established with the Office of the Ombudsman for Human Rights of Bosnia and Herzegovina, whose reports indicate to and alert authorities of violations of human rights in various areas of society.

305. Good and extensive cooperation was maintained with UNICEF, UNHCR, Save the Children Norway, UNDP and others, which is reflected in the professional and financial support, especially when it comes to the projects related to children’s rights and the exercise of national minorities’ rights, particularly Roma.

306. In Bosnia and Herzegovina in the last 15 years the NGO sector has been intensively developing. NGOs were the first form of thinking different from the opinion of the government sector. However, still most of the NGOs are not adequately trained to fulfil their mission because they face different problems. Their major internal problems can be mainly defined as a lack of financial and other material resources, and an inadequate level of expertise and competence of their leaders and activists, particularly in rural parts of the country.

307. Most non-governmental organizations that are active today are oriented in two main directions: firstly, they are oriented to the various international institutions and organizations with the aim of obtaining the necessary financial resources and equipment (for example, human rights, democracy, return of refugees and displaced persons, European integration, environment, etc.), secondly, they are oriented to the State and its sources of funding (the association of veterans, refugees, national associations and professional associations such as beekeepers, technicians, etc.).

308. In the practice of NGOs in Bosnia and Herzegovina, as a rule, most of them happen to get the support from international institutions in various ways at the time of establishment and at early stages of its operation, but they are abandoned soon, just when they begin the process of affirmation in the community as successful non-governmental organizations. In such circumstances, most of them remain only on paper, because without donor support they cease to exist, not managing to ensure sustainability and ability to resist the various pressures that they are exposed to.

309. So, when it comes to the non-government sector, Bosnia and Herzegovina as a whole still does not have a developed internal structure and establishment of a wider social structure.

### **Reply to the recommendation contained in paragraph 16 of the Committee's concluding observations**

*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.*

310. 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 approval by the competent authorities at all levels of governance in Bosnia and Herzegovina of the feasibility and purposefulness of some of the above listed activities.

311. Bearing in mind that one of the recommendations of the United Nations 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.

### **Reply to the recommendation contained in paragraph 17 of the Committee's concluding observations**

*The Committee recommends 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. The Committee cites General Assembly resolution 61/148 and 63/243, in which the Assembly General strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General.*

312. 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.

313. BiH has not completed the process of selection of representatives of BiH for the United Nations 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.

## **Reply to the recommendation contained in paragraph 18 of the Committee's concluding observations**

*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 these reports be similarly publicized in the official and other commonly used languages, as appropriate.*

314. The system of treaty reporting has become an integral part of the daily activities of member States of the United Nations, 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 United Nations, 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 a 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.

315. What can be achieved by reporting? Surely, the confirmation of the country's commitment to respect the human rights of its citizens and living up to it. Regular reporting on specific topics serves to relevant committees as a tool to get a better picture of the type of problems faced by the country, and for the country to demonstrate the political will to prepare a good and comprehensive report.

316. Therefore, the Ministry of Human Rights and Refugees provides full technical, organizational and financial support to realistic and comprehensive reports because serious reporting requires a significant degree of care and attention to detail. Good information is the key to every good report. So, professional teams provide a great number of inputs from different sources, including State and local authorities, agencies, non-governmental and other sources.

317. Including a number of experts and professionals from around the country in the relevant fields in the preparation and writing of a report has become the usual practice. The obligation of the participants in the preparation of reports is to follow guidelines and recommendation adopted by the appropriate committee and communicated to the member State.

318. Special attention is paid to cooperation with international and local non-governmental organizations, which have become the key force for the protection and promotion of human rights in Bosnia and Herzegovina.

319. In the most recent period BiH has been regularly meeting its human rights treaty reporting obligations. All initial and periodic reports on ratified instruments have been submitted. We are currently working on the implementation of conclusions and recommendations of international committees, which is an ongoing obligation of each State Party to international organizations and agencies.

320. 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 the United Nations.

321. While preparing a report, an inter-ministerial working group is appointed composed of representatives of the competent authorities in Bosnia and Herzegovina relevant to the

recommendations given by the United Nations Committee, minorities' non-governmental organizations that receive, after the presentation, the report with concluding observations and recommendations of the United Nations Committee (translated into official languages of BiH) to implement them in a timely manner at all levels in BiH society in order to harmonize legislation, policies and practices with treaties.

322. 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.

### **III. Conclusion**

323. BiH is fully aware of the importance of the implementation of international conventions, covenants, charters whether it has signed, ratified or taken them over by succession with a view to bringing national legislation in line with them in order to improve the human rights protection situation to develop a democratic, tolerant and non-discriminatory society.

324. Bearing in mind the above mentioned facts, the Law on Prohibition of Discrimination in BiH was passed and the Rulebook on the Collection of Data on Discrimination Cases, as a piece of subordinate legislation, was enacted for its implementation and the establishment of a database on discrimination cases is in progress. There is a plan to hold training in the importance of the Law in order to achieve effective equality of all citizens.

325. Discrimination itself is a phenomenon that is difficult to eliminate even in democratic societies with centuries-old tradition and Bosnia and Herzegovina, a multi-national, multi-religious and multi-cultural community, makes and will make efforts for the elimination of all forms of discrimination and intolerance, including the manifestation of xenophobia, in order to preserve the richness of its own specificity that has always characterized it.

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