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Written statement* submitted by the Association for Democratic Initiatives, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[19 May 2010]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Recommendations of Justice Network in Bosnia and Herzegovina to the government of BiH in the framework of UPR

1. Justice Network includes 47 organizations of the civil society (non-governmental organizations and professional associations) from Bosnia and Herzegovina, and it focuses on the area of judiciary and justice, and monitoring of implementation of the United Nations standards in these areas.

2. The Justice Network welcomes the activities of the Human Rights Council member countries, other countries actively involved in the Universal Periodic Review, as well as the valuable contribution of non-governmental organizations in the process of reviewing the situation in Bosnia and Herzegovina.

3. We relish the readiness of the BiH Government to uphold the conventions of the United Nations in the field of human rights and invite authorities of Bosnia and Herzegovina to accept all well-intended recommendations voiced in the course of the interactive dialogue.

4. Existence of four legal systems: Brčko District, Republika Srpska, Federation of BiH, and Bosnia and Herzegovina – implies simultaneous existence of four criminal codes, and as many codes of criminal procedure. Neither sanctions nor criminal policies have been harmonized. The primary impact of the foregoing is that the citizens are not treated equally, and their position before judicial bodies is determined by their place of residence.

For that reason, the non-governmental organizations, gathered around the Justice Network, recommend to the authorities of Bosnia and Herzegovina to harmonize criminal legislation on all levels. Such reform includes establishment of the Supreme Court of BiH, whose operations would contribute to harmonization of the court practice and meritorious interpretation of the laws.

5. Fourteen different sources (ten cantons, two entities, the state and Brčko District) from which courts in BiH are financed jeopardizes the independence of the judiciary from the executive and legislative branches of government. For that reason, we recommend to the BiH authorities to devise methods of financing that will guarantee independence of the judicial bodies, which can be accomplished, among other things, by establishing single source budget for the judiciary for the entire country. We are of the opinion that the practice of executive branch influencing salary amounts for judges represents clear departure from the principles of power separation and judicial independence.

6. Given that it has yet to be made possible for minority members to use their languages before courts, we deem it necessary to take measures required for full realization of this right.

7. Since pronounced role is assigned to lawyers by the codes of criminal procedure, it is evident that justice has practically become inaccessible to financially deprived categories. We recommend enactment of the law on free legal aid at the level of Bosnia and Herzegovina, and establishment of mechanisms that ensure equal access to justice for all, regardless of their financial situation.

8. In the Republic of Srpska, the Law on Protection and Treatment of Juveniles in the Criminal Proceedings has been enacted, whereas the same law is due for enactment in the Federation of BiH, and preparations should be made for its implementation in both Entities, especially in the part that relates to execution of correctional recommendations, in order to guarantee and improve the rights of children in criminal proceedings.

9. We advocate for organization of trainings for judges, prosecutors, and lawyers in implementation of the Law on Gender Equality, given the difficulties in the implementation of this Law. At the same time, it is necessary to facilitate the exchange of experiences and practices in implementation of international standards.

10. Consistent implementation of the laws against domestic violence imposes the need for additional sensitizing and education on the part of employees in judicial institutions.

In the context of measures for prevention of domestic violence, it is necessary to establish such statistics on crime in BiH recognizing domestic violence and the extent thereof.

11. We welcome the enactment of the Law against Discrimination and we consider it important in the process of eliminating discrimination as one of the major generators of human rights violations. We invite the authorities to implement this law consistently, and create all prerequisites to ensure that the institution of Ombudsmen for BiH is properly staffed, financed, and in every other way equipped for the implementation of this Law.

12. We deem it important for the legislative bodies to initiate the harmonization of the existing laws with the provisions of the Law against Discrimination as soon as possible.

13. It is our opinion that the Law against Discrimination should incorporate provisions prohibiting discrimination on the basis of marital or family status, pregnancy and maternity, age, health, genetic heritage.

Also, we suggest that the potential for discrimination on the basis of citizenship is legally eliminated.

14. We assign great importance to the promotion of the Law against Discrimination, and we invite the authorities of Bosnia and Herzegovina to provide necessary support to the non-governmental organizations in order to bring this Law to the citizens of Bosnia and Herzegovina and facilitate its utilization by the citizens.

15. We are concerned with the fact that a significant number of Roma children has yet to be registered in the birth registries. Therefore, mechanisms should be established urgently to facilitate the registration of Roma children to the greatest possible extent, in order to enable this population to exercise their human rights and freedoms.

16. Lack of effective implementation of legal provisions prohibiting racial discrimination calls for encouragement of the judicial agencies to sanction these crimes and maintain up-to-date statistics on administered sanctions, and on restitution and compensation provided to the victims of racial discrimination.

17. We strongly advocate for upholding of the freedom of expression, but we stress the need for consistent implementation of the criminal provisions that prohibit hate speech, propagating of xenophobia, anti-Semitism, and other forms of bigotry.

18. The Justice Network endorses establishment of mechanisms to ensure continuous and independent supervision of actions taken by the police and prison personnel. At the same time, we deem it important that the tools for internal control of police and prison personnel are functioning properly, on the basis of independence and efficiency.

19. In recent years, many reform processes were undertaken for faster and more efficient access to justice, but the number of cases in courts is still high, and the proceedings take several years. Systemic support for development of non-judicial alternative resolution of disputes and mediation is necessary for faster, more efficient, and cheaper access to justice, in accordance with the recommendations of the Council of Europe and Directives of the European Union.

20. Most of the cases encumbering the court operations relate to utilities and other public services, and many concern the domain of consumer rights. The Laws and strategies for resolution of utility and consumer disputes need to be harmonized with the Law on Consumer Protection; institutions should be established in accordance with the law to provide support for consumers in resolution of disputes, and implement alternative resolution of disputes in order to reduce the intake of utility cases and other consumer cases that encumber the entire court system.

Non-governmental organization gathered around the Justice Network in Bosnia and Herzegovina state their readiness to collaborate with the BiH authorities in implementation of recommendations and suggestions resulting from the Universal Periodic Review of Bosnia and Herzegovina.
