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National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*

Bosnia and Herzegovina

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I. Methodology and consultation process

1. The report of Bosnia and Herzegovina (BiH) for the second cycle of Universal Periodic Review (UPR) was prepared in accordance with the Guidelines 17/119 to the Resolution 16/21 of the UN Human Rights Council (HRC) adopted at the 35th meeting held on 17 June 2011 of the UN HRC by the Ministry for Human Rights and Refugees (MHRR). The draft report was published on the website of the MHRR. The development process of the report was supported by the system of the United Nations in BiH, under which a public debate was held with NGOs, as well as several professional consultative meetings with the representatives from the relevant institutions of the Federation of BiH and the Republic of Srpska (the entities) and Brčko District of Bosnia and Herzegovina (BDBiH).

II. Country progress in relation to the previous review and human rights promotion (Recommendations 19, 3, 125, 98, 99)

2. In accordance with the recommendations of the European Commission (EC), an activity has been initiated to further harmonise the Law on Prohibition of Discrimination¹ with the EU *acquis*. Changes and amendments to this Law are included in the Work Programme of the Council of Ministers BiH (CoM BiH) and in the Programme of the MHRR BiH for 2014. **(19)**

3. In accordance with Articles 31 and 32 of the International Convention for Protection of all Persons from Enforced Disappearance (ICCPED), BiH recognised the competence of the Committee on Enforced Disappearances in 2012 and prepared the initial report on the implementation of the above-mentioned Convention. The activities on the collection of the opinions from the competent institutions are ongoing. **(3)**

4. The Council for Children of BiH was established in 2013 as a professional, inter-sectoral, advisory and coordinating body of the CoM BiH, which is responsible for monitoring the Convention on the Rights of the Child and creating a new Action Plan for children.

5. Also, BiH acceded to the European Convention on prohibition of sexual abuse of children and prepared the initial report on the implementation of the above-mentioned Convention (submitted to the Lanzarote Committee), the Convention on Contact concerning Children and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

6. Aiming to improve the protection and promotion of the rights of a child in BiH, the MHRR developed Guidelines for handling cases of violence against children in BiH. A survey was conducted on the forms and prevalence of forced and harmful child labour on the streets in BiH, thus a Practicum was prepared for the training of judges, prosecutors, police, social workers and other professionals on the topic of prevention of forced labour of children on the streets in BiH. The Guidelines for improving the situation of Roma children – social inclusion² have also been prepared, and the CoM BiH, in October 2013, adopted a new Code of Ethics for conducting research with children and on children in BiH.

7. BiH is a member of the Optional Protocol to the International Covenant on Civil and Political Rights (1966).³

8. On the basis of a proposal from the MHRR and for the purpose of establishing an effective preparation method for the UPR BiH report, the CoM BiH adopted a Methodology for the development of the UPR in BiH. With this in mind, the process of the

data collection from the various sources and the preparation of the report are being enhanced. Furthermore, the MHRR, supported by the EC, began the implementation of the IPA project for the development of an IT solution that will improve the processing of data collection, electronically, for the purpose of reporting on the issues pertaining to human rights. **(125)**

9. Since the beginning of the implementation of the Action Plan for Roma in 2009, there has been progress achieved in BiH in improving the social inclusion of this national minority. Additionally, BiH will preside over the Decade of Roma Inclusion 2005-2015 during the period of 2014/2015.

10. BiH continued with harmonisation of its legislation with the international standards, although it has still not adopted the changes and amendments to the BiH Constitution, in accordance with the judgment of the European Court of Human Rights. **(98, 99)**

11. It should be emphasised that the harmonisation process of the criminal legislation in BiH with the international standards is ongoing. The continuous trend of the training of judges and prosecutors within the Entity Centres for Training of Judges and Prosecutors (CTJP) is being upheld.

12. During the past period, the Entity governments and the BDBiH government have enacted laws to improve the protection of human rights of the vulnerable groups.⁴

III. Implementation of the accepted recommendations from the first cycle and the progress achieved

A. Justice and prohibition of discrimination

1. Strengthening capacities to combat discrimination (Recommendations 110, 25, 26, 27, 28, 29, 9, 10, 11, 12, 13, 18, 17, 107, 124, 75, 8, 45, 32, 89, 90, 91, 92, 93, 94, 88)

13. The CoM BiH tasked the MHRR to issue the Guidelines for the implementation of the World Programme for Human Rights Education in BiH by September 2014, in accordance with the UN HRC Resolution 15/11 (MHRR). These activities are in progress. **(110)**

14. In order to implement the international agreements that have been signed and ratified by BiH, the CoM BiH sent a permanent letter of invitation to the special procedures mandate holders and the UN independent experts. **(25, 26, 27, 28, 29)**

15. The process of unifying the Institution of Ombudsman for Human Rights BiH has been completed. This institution, aiming to ensure the retention of their status "A", filed an initiative for changes and amendments to the Law on Ombudsman for Human Rights BiH in accordance with the Paris Principles and recommendations of the Venice Commission. Due to the budget cuts, this Institution is experiencing a lack of funds and thus it has difficulties in operating.⁵ **(9, 10, 11, 12, 13, 18, 17)**

16. In the past period, the MHRR, based on its capabilities, initiated a number of activities aimed at conducting research on the needs of vulnerable groups. In regards to this, the MHRR issued a number of guidelines and recommendations to the relevant institutions in BiH with the aim of improving the application of international commitments and intensifying the training courses for the law enforcement officers. The MHRR is experiencing a lack of budget resources assigned for this purpose, but it manages to raise additional funds through its good cooperation with the international organisations and NGOs. Until now, a number of projects have been implemented in relation to the protection

of the rights of the child, women, persons with disabilities, ethnic minorities, particularly the Roma, the elderly and other vulnerable groups. (107,124, 75)

17. The Law on prohibition of all fascist and neo-fascist organisations and use of their symbols was not adopted.

18. The operation of any fascist and neo-fascist organisations in RS is prohibited and is subject to sanctions in accordance with the Criminal Code. (8)

19. The current valid Law on Prohibition of Discrimination protects the rights of all persons in BiH from discrimination; however, it is necessary to explicitly indicate the protection of persons on the basis of age and disability. Therefore, the adoption of the Law on changes and amendments to the Law on Prohibition of Discrimination was initiated (the completion of this activity is expected in mid-2015), with the aim to improve the protection system and to have a better outreach of all the vulnerable groups. (45, 32)

20. In accordance with the applicable legislation, at the state level, entity level and BDBiH, the protection of all persons is ensured, including of human rights defenders. However, it is necessary to improve the efficiency and effectiveness in regards to the implementation of the laws in order to ensure a higher level of protection. (89, 90, 91, 92, 93, 94, 88)

2. Effectiveness of courts in human rights protection (Recommendations 33, 20, 52, 53, 54, 74, 76, 81, 83, 97, 82, 78)

21. In the course of the reform of the criminal legislation in BiH, and respecting the European Convention for the Protection of Human Rights and Fundamental Freedoms, as well as the Protocols thereto, an effective judiciary system has been established and the right to a fair trial has been ensured. The death penalty is not prescribed by the criminal legislation of the RS; hence it is not possible to execute the death penalty.⁶

22. In BiH, the Law on Protection of Witnesses under Threat and Vulnerable Witnesses and the Law on Witness Protection Program are in force. In RS, the Law on Protection of Witnesses in Criminal Proceedings is in force, and in 2013, the President of the RS Supreme Court issued a Rulebook on the application of protection measures for witnesses in the RS courts, which specifically prescribes and ensures the proper application of measures for protecting witnesses in criminal proceedings in relation to war crimes.

23. In August 2013, a Protocol on the treatment of victims and witnesses of war crimes, sexual assault and other criminal acts of gender-based violence was signed in Banja Luka, via capacity building and cooperation between institutions and NGOs.

24. Within the State Investigation and Protection Agency, the Witness Protection Department was established to ensure the effective protection, via the Strategic Plan of Action (2012–14), of witnesses who entered the protection programme before, during and after criminal proceedings. The CoM BiH adopted the BiH Strategy for combating organised crime for the period of 2009–2012, which aims to provide an efficient legal framework for the implementation of witness protection measures in BiH, as well as the financial prerequisites for implementation of the witness protection program. Within the project of OSCE/ODIHR, "Justice and War Crime", the BiH High Judicial and Prosecutorial Council (HJPC) managed the activities for the establishment of a department for supporting witnesses in war crimes cases in the entity courts and prosecutors' offices through the employment of psychologists and other professionals. The activities that are aimed at improving witness protection will continue in the future.

25. In order to ensure an independent and professional judiciary system, the BiH HJPC was established as an independent and autonomous body.

26. Each year, the CTJP in both entities, under the supervision of the HJPC, adopt professional training programmes for judges and prosecutors by organising professional trainings, including initial trainings for persons who intend to engage in the judicial or prosecutorial profession.⁷

27. The legal protection of all persons is ensured through the criminal legislation in BiH, entities and BDBiH. The Prosecutor's Offices in BiH, independently, prosecutes all of the criminal offenses prescribed by the positive laws. The criminal laws in BiH recognise the offense in inciting national, racial and religious hate, discord and intolerance aimed at preventing hate crimes. The valid judgments by the competent court are being published for the purpose of a preventive effect in terms of the eventual crime perpetrators. Through these activities, progress is being achieved in establishing a more efficient judiciary system. (33, 20, 52, 53, 54, 74, 76, 81, 83, 97, 82, 78)

B. Rights of vulnerable groups (Recommendations 104, 105, 123, 40)

1. Poverty reduction

28. At the state and entity level, the strategic documents foresee the measures for the reduction of unemployment, particularly targeted at the vulnerable groups of the population.

29. The RS has two strategic documents ensuring implementation of the above-mentioned recommendation i.e. the Strategy of Improvement of Social Position of Persons with Disabilities in RS 2010-2015 and the Employment Strategy of RS 2011-2015, as the first medium-term planning and strategic document that establishes the basis for coordinated and balanced development of employment in RS. In the FBiH, the Strategy for Equalisation of Opportunities for Persons with Disabilities 2011-2015 was passed, which also defines the area of employment.

30. The financial assistance is being provided from the contributions for the pension and disability insurance and the budget of the entities. At the level of BDBiH, the citizens exercise their rights pertaining to the pension and disability insurance under the legislation of one of the entities.

31. In the RS, the adoption of the new Law on Social Protection resulted in an improvement of the status of the most vulnerable groups of the population. The priority objectives of the above-mentioned documents are the establishment of universal basic rights and the minimum social standards, as well as the introduction of financing those rights at the entity level, which would ensure the elimination of inequalities in the scope of coverage and the level of assistance that is provided to the beneficiaries through a system of social assistance. In addition, the above-mentioned laws also define the provisions of minimum material security for individuals and families in meeting the basic living needs, ensure availability and equality of services and rights in social protection, create equal opportunities for individuals to live independently and to take an active part in the community.

32. In the FBiH, there is currently an ongoing reform of the legislation in the field of social protection, which shall ensure improvement of the social position of the most vulnerable groups of the population.

33. The legal, strategic and institutional framework has been established at all levels of the government in BiH, which ensures cooperation with the international institutions and organisations in order to strengthen the capacities. Previously, the partners that took part in its realisation were the EU, UNICEF and the Council of Europe (CoE)⁸.

(104, 105, 123, 40)

2. Rights of the child (Recommendations 14, 23, 39, 41, 38, 40, 58, 24, 6, 70, 22, 30, 46, 47, 109, 116)

34. The representatives from the relevant institutions, academic community and civil society take part in the newly established Council for Children BiH, which has significant responsibilities and scope of work. The work of the Council for Children for 2014 is also provided by UNICEF. **(14)**

35. The Council for Children was formed in the RS and its Work Programme for 2014 envisages development of an Action Plan for Children of RS. In 2012, the Council for Children developed a publication "The selection of international regulations on children's rights". The BiH Action Plan for Children (2011-2014), includes the general objectives raised at the World Summit for Children and it defines the priority objectives and measures to create the most favourable conditions for the lives of children and families in BiH. The Action Plan also includes the recommendations of the Committee on the Rights of the Child, which are related to the application of the UN Convention and its two Optional Protocols. **(23)**

36. The efforts have been intensified to implement the international obligations and the BiH Action Plan for Children; the Strategy for Combating Violence against Children (2012–2015); the Framework Policy for the Improvement of Early Growth and Development of Children in BiH (2012); the Strategy and Action Plan for Improvement of the Social Position of Persons with Disabilities (2010–2015); the National Action Plan for the Fight against Illicit Drugs in BiH (2009–2013); the Action plan for Child Protection and Prevention of Violence against Children through Information-Communications Technologies in BiH by 2015; THE Strategy to Counter Trafficking in Human Beings in BiH and Action Plan (2013–2015); and the Strategy in the Area of Migration and Asylum (2012–2015). **(39, 41)**

37. Efforts are also being invested in the implementation of strategic and other documents of the entities and BDBiH pertaining to the improvement of policies and practices towards children and their families, especially in the field of prevention of domestic violence and implementation of the Law on Protection and Treatment of Children and Juveniles in the criminal procedure of the RS, F BiH and BDBiH.

38. At the beginning of 2013, the F BiH Government adopted a Strategic Plan for Improving Early Childhood Development (2013–2017), and at the end of 2013 saw the adoption of the Rulebook on continuing professional education for early detection, diagnosis, intervention and monitoring of developmental and other disorders that affect the growth and development of children. **(38)**

39. In order to take the necessary measures to improve the protection of socially excluded children, additional rights are being provided, such as the right to transportation, meals, textbooks and scholarships. However, there are still not enough funds to cover all of these needs. **(40)**

40. The fight against child abuse in BiH has been significantly improved through the implementation of the strategic documents in this area, as well as through the improved legislation and practices in the field of social care of children. The Guidelines for handling cases of violence against children in BiH (2013) have clearly defined the instructions on how the institutions should act in all of the cases when they identify that a child was a victim of any type of violence. **(58)**

41. When it comes to the support for children on the streets, the MHRR Minister (2013) issued Guidelines for improvement of the situation of Roma children – social inclusion, which provide concrete strategic measures and activities to improve the systemic measures

aimed at the prevention and protection of street children who are exposed to begging and other forms of economic exploitation.⁹

42. In reference to the application of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography and involvement in the criminal justice system, the criminal legislation in BiH also covers the above-mentioned types of child abuse, however, the BiH Criminal Code only prescribes the crimes of human trafficking, including the trafficking of children, while the entity Criminal Codes and the BDBiH Criminal Code prescribe specific offenses that incriminate these types of abuse of children.

43. The changes to the provisions in the four Criminal Codes have been prepared, and they were proposed by the State Coordinator for Combating Trafficking in Human Beings and Illegal Migration.

44. With the proposed provisions, the reorganisation of the elements of a criminal offense has been executed, which will help in interpreting the elements of the essence of a criminal offense and retain all of the elements prescribed by the international standards, the Palermo Protocol and the CoE Convention on Action against Trafficking in Human Beings.

45. These amendments have dealt with the issue of a conflict of interest regarding jurisdiction, which used to occur in practice when prosecuting these types of crimes.

46. Since 2011, in accordance with the EU Directive on prevention and combating human trafficking, this amendment has provided for more severe punishments for these types of crimes and was made compliant with CoE Convention on Action against Trafficking in Human Beings.

47. During the past period, in BiH, there have been ongoing mini-campaigns for raising awareness about the dangers of landmines. Landmine warnings have been integrated into the preschool and school curriculum; manuals and teaching aids for students and teachers have been produced; and warning signs for landmine threats are continuously being positioned. In 2013, the revision of the Mine Action Strategy in BiH (2009–2019) was prepared.

48. In the period of 2010–2014, 337 km² have been cleared from mines.

49. The floods (May 2014) that occurred in BiH have significantly distorted the image of the demined areas.

(14, 23, 58, 40, 38, 39, 41, 24, 6, 70)

50. Education in BiH falls under the competencies of the RS, cantons in the FBiH and BDBiH, and it is governed by the laws in the field of education (preschool, primary, secondary, higher education and education of adults). At the BiH level, the framework laws have been adopted.

51. The Ministry of Civil Affairs BiH coordinates and monitors the domain of education at the BiH level. The Federal Ministry of Education and Science monitors and coordinates the field of education for FBiH, which falls under the exclusive constitutional jurisdiction of the cantons. In accordance with the constitution and statute, the RS and BDBiH have direct jurisdiction in the field of education.

52. Through the legal and strategic documents, which govern the field of education; the preconditions and obligations have been created for the development of a tolerant and multi-ethnic environment in the BiH schools.

53. The educational institutions at all levels contribute and implement the programmes aimed at promoting tolerance in public education through the annual and long-term development planning. However, the mechanisms aimed at the complete implementation of

the legal provisions are not yet fully in place and the multi-ethnic learning environment in the schools has still not completely seen the light of day.

54. The BiH Agency for Preschool, Primary and Secondary Education, in accordance with its legislative responsibilities, is working on the development of the Common Core Curriculum that has been defined on the basis of the learning outcomes and based on which the revision and improvement of the existing curricula in BiH has been planned.

55. The continuous improvement of the curricula and its implementation is aimed at stopping segregation in schools. In 2009, a research study, titled "Education Quality Assurance" was carried out, based on which it was established that 70% of the content in the curricula comes from the Common Core Curriculum, whereby the elements of segregation were eliminated that were possibly resulting from the curriculum, although this has still not fully been achieving in the current educational practices.

56. The children belonging to the national minorities are included in the regular educational process, and the curriculum has been, to the greatest extent possible, adjusted so as to meet the needs of minorities. A major step forward was made in the previous period, when it comes to the Roma minority, through the adoption and implementation of the revised Action Plan BiH on the Educational Needs of Roma (2010).

57. In RS, the problem of segregation in schools does not exist.

58. In 2012, the FBiH Government adopted the recommendations for elimination of segregating and dividing structures in the educational institutions in FBiH.

59. The Conference of Education Ministers from BiH and the Council for General Education in BiH, as the advisory and coordinating bodies in the field of education, contribute to the development of tolerance, mutual respect, understanding, trust and respect for diversity in schools in BiH, as part of their activities.

(22, 30, 46, 47, 109, 116)

3. Minority rights (Recommendations 31, 100, 101, 102, 112, 113, 115, 114, 111)

60. The entity laws on the registration in the registry of births have been harmonised, and the administrative procedure for the registration of births and deaths was largely simplified. The maintenance of these registers is done electronically in both entities, and as one very important aspect for some social categories and for the national minorities, these documents are issued free of charge. **(31, 115, 114)**

61. The judgment by the European Court in Strasbourg in the case of Sejdic-Finci has not been implemented; therefore a challenge remains in terms of how this question will be resolved in BiH and how the minorities will be enabled to exercise their passive voting right. **(100, 101, 102)**

62. The fight against social exclusion and discrimination of Roma, as the most vulnerable minority, has been a priority area of concern of the competent institutions in BiH, in the recent years. Therefore, BiH, since the adoption of the Action Plan (June 2008), has allocated and still allocates funds for implementation of the measures identified in the framework of the action plan in the area of employment, housing and health care. Annually, BiH allocates 1.5 million EUR for the purpose of implementation of various projects in the above-mentioned areas. In the FBiH budget for 2014, funds were ensured for employment of Roma in the amount of 90.000,00 KM.

63. During this period, significant results have been achieved in the implementation of the housing programme for Roma and in improving health care and employment of Roma throughout BiH. So far, a total of 600 housing units have been built-refurnished, and currently another 150 housing units are under construction from the IPA funds.¹⁰

(111)

64. So far in BiH, two Roma Boards have operated for a mandate of four years and the third composition of the Roma Board was appointed by the CoM in 2013. The CoM used this opportunity to renew the Decision on the Establishment of the Roma Board within the CoM BiH and the Decision on appointment of the members of the Board. The Board has the authority to discuss all of the significant matters contained in the BiH Strategy for Roma¹¹. It monitors the implementation of the Strategy and proposes activities for the purpose of more efficient implementation of the Decade of Roma Inclusion 2005-2015. The Roma Board consists of 22 members, 11 Roma representatives and 11 representatives of institutions. This body ensures cooperation with associations that bring together representatives of the Roma minority and improves the ability for cooperation of Roma representatives at all levels of government. Additionally, this body, in the coming period, with the support of MHR and UNDP, will develop a mechanism for monitoring the implementation of the action plans for Roma. (112)

65. By ratifying the CoE Framework Convention for the Protection of National Minorities (FCNM) (2000), BiH assumed significant commitments on the protection of rights of persons belonging to national minorities (representatives of different nationalities) who live in BiH. The FCNM was the basis for the adoption of the Law on Protection of National Minorities in BiH (2003). The RS and FBiH enacted their own laws on the protection of national minorities. Some of those laws can be found in the cantons in the FBiH.

66. Through the institutional and legal framework (by establishing the Council of National Minorities at the level of the BiH Parliament and at the entity level, as well as in some of the cantons in FBiH, as the advisory bodies), BiH ensures the possibility for national minorities, particularly the Roma, to solve their spiritual, especially basic needs more efficiently. In order to better concretise the above-mentioned provisions, the BiH Strategy for Roma of 2005 and the BiH Action Plan for Roma in the areas of employment, housing and health care of 2008 were created and adopted. The BiH Action Plan for Roma in the areas of employment, housing and health care was revised in December 2013. The process of creating a Strategic platform for addressing the issues of national minorities in BiH is underway.

(113)

4. Freedom of religion (Recommendations 85, 79, 21)

67. The Law on Freedom of Religion and Legal Status of Churches and Religious Communities of 2004 guarantees rights, religious freedom and equality of rights and duties for all members of the religious minorities, as well as for all churches and religious communities in BiH, without any discrimination. In accordance with the provisions of the Law, all of the registered churches and religious communities in BiH are free to regulate their own organisation, with full respect for the right to freedom of conscience and religion.

68. The criminal legislation in BiH (substantial and procedural) contains clearly defined provisions that define the right to use the language and script.

69. The competent administrative and judicial institutions instigate, undertake and implement all legislative and administrative measures to investigate cases of violations of religious freedom and find the potential perpetrators.

70. The competent institutions in BiH are also working intensively on finding a systematic solution for payment of the pension, health and disability insurance for the religious officials throughout BiH.

71. There has been significant progress achieved in BiH, on the ground, in cooperation with the Inter-Religious Council of BiH and the Committee for Interreligious Cooperation in 12 of the municipalities¹².

72. The main objective of establishing the Committee is to have better cooperation between the churches, religious communities and the worshipers from the local communities. The cases of attacks on religious objects, desecration of graves and cemeteries, attacks and insults of religious officials, attacks on religious symbols, contempt or ridicule of any religion have been significantly reduced. The competent institutions undertake measures to investigate cases of violations of religious freedom and in finding the perpetrators. It is also necessary to tighten the sanctions against the perpetrators of the attacks, and to encourage and stimulate public condemnation of attacks on the religious facilities. The tendency for setting up video surveillance of the religious facilities, which were repeatedly the subject of an attack, is a positive move.

73. It is very important to maintain regular and continuous cooperation with the Inter-religious Council BiH that aims to support the activity in creation of inter-religious dialogue, religious tolerance and coexistence in BiH.

(85, 79)

74. The necessary legislation in BiH, which completely ensures full rights and equality for all citizens, nations and ethnic groups in BiH, as well as for members of all religious communities that exist in BiH, was introduced, and harmonisation with the international standards is an ongoing and continuous process.

75. The State Law on the Protection of Rights of Members of National Minorities was adopted, as well as two entity laws and two cantonal laws on national minorities. All provisions of the FCNM CoE are being implemented.¹³

(21)

5. Gender equality (victims of violence, human trafficking and war)

(Recommendations 7, 80, 36, 37, 55, 56, 57, 59, 103, 61, 62, 63, 64, 65, 66, 60, 71, 67, 72, 68, 73, 77, 34, 48, 49, 50, 51)

76. The prepared changes and amendments to the BiH Criminal Code have been submitted for further procedure, in accordance with the recommendations of the UN Committee against Torture (CAT), which requires the elimination of the condition of "coercion or threat of immediate attack" from the definition of the criminal act "crime against humanity", Article 172 and from the criminal act of "war crimes against civilians", Article 173, which will make the definition of sexual violence consistent with the international standards.¹⁴

77. Through the above-mentioned amendments, significant progress has been made in harmonising the normative-legal framework in the field of domestic violence with the international standards for prevention and combating domestic violence, primarily with the CoE Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).

(7)

78. The National War Crimes Strategy was adopted and it clearly defines and assigns the responsibilities and accountabilities of the judicial institutions, as well as all other institutions competent for the implementation of the Strategy. In addition, a monitoring body was established to supervise the implementation of this Strategy. **(80)**

79. In accordance with the recommendation given by the Committee on the Elimination of Discrimination against Women (CEDAW), significant efforts have been made to make

the laws compliant with the Law on Gender Equality in BiH and to define the procedures needed for their successful implementation. Additionally, the backbone of all gender equality policies is the Convention on the Elimination of All Forms of Discrimination against Women and particularly the recommendations of the CEDAW Committee. **(36)**

80. With the aim of achieving speedier accomplishments regarding the equal gender representation in the policy creation and decision-making at all levels of government in BiH, the 40% quota in the Election Law was introduced with an established programme for the under-represented sex. Also, special measures were introduced in the Law on financing political parties determining that 10% of the total amount shall be allocated to the parliamentary groups in the BiH Parliamentary Assembly (PA BiH), proportional to the number of seats belonging to the under-represented gender. Before each election cycle, numerous campaigns are carried out aiming to increase the number of women in the pre-election campaigns and in the places of decision-making, thus the activities are being implemented on the education of women in politics and political parties. **(37)**

81. On 7 November 2013, BiH became the 6th member state of the CoE to ratify the CoE Istanbul Convention. Accordingly, BiH committed itself to undertake legislative and other measures to ensure the legal, institutional and organisational framework for the prevention of violence against women, protection of victims of violence and punishing perpetrators of violence. The Strategy for implementation of the CoE Istanbul Convention was developed and some entity strategies and action plans were also developed and implemented to combat domestic violence. **(55)**

82. The Strategy for the implementation of the CoE Istanbul Convention and the entity strategies for combating domestic violence contain the standards for monitoring the implementation. There are intensive activities being implemented in BiH to establish referral mechanisms in order to provide protection to victims of domestic violence. The referral mechanisms are still not applied only to the women victims of violence, but also to the victims of domestic violence, and as such serve as instruments for the proper implementation and monitoring of the application of the Law on protection against domestic violence in both entities, through close cooperation and coordination between all of the protection actors.

83. At the local level, a number of protocols have been signed on the treatment of victims and witnesses of war crimes, sexual abuse and other crimes of gender-based violence through capacity building and cooperation between institutions and NGOs.¹⁵

(56)

84. The Laws of the entities also provide the possibility to ensure the protection of the victims of violence in the form of temporary sheltering in safe houses. According to the FBiH Law, a victim may be sheltered in a safe house, placed with another family or another appropriate institution. On the other hand, in accordance with the RS Law, a safe house represents a special measure of support, which provides safe accommodation and assistance to victims of domestic violence that can be operated by a legal entity.¹⁶ **(57, 59)**

85. The activities of the BiH Agency for Gender Equality and entity gender centres, given the process of harmonisation of laws, lead to the systematic application and incorporation of gender equality principles in all of the programmes, policies and strategies of the competent institutions. The Agency for Gender Equality, in accordance with its competences, develops an annual “List of priority proposals of the material on the basis of the CoM BiH Work Programme” and accordingly gives its opinion on compliance. The competent entity institutions have the obligation to submit legal acts to the entity gender centres prior to their consideration by the governments. A manual was prepared for the harmonisation of legislation with the Law on Gender Equality in BiH and with the international standards for gender equality, which is promoted and distributed to the

competent institutions and it demonstrates the approach in aligning the legislation with the Law on Gender Equality in BiH. **(103)**

86. The BiH institutions have very good cooperation with CSOs. The NGOs are involved in the process of drafting legislation and the strategic documents, as well as in the implementation of commitments from the strategic documents.

87. The Ministry of Security BiH (MS BiH) ensures special protection and assistance to victims of human trafficking for the purpose of their rehabilitation and return to the country of habitual residence, in cooperation with the NGO sector. The institutions have signed agreements on cooperation with the NGOs for the purpose of providing services to victims of human trafficking.

(61)

88. The Directorate for Coordination of the Police Bodies of BiH achieves international operational police cooperation in accordance with the national legislation and on the basis of its membership in the International Criminal Police Organisation – INTERPOL, the obligations arising from the Strategic Cooperation Agreement with the European Police Office – Europol, which was signed on 26 January 2007, and on the basis of its membership in the Southeast Europe Cooperative Initiative – SECI Centre, which was renamed "Southeast European Law Enforcement Centre – SELEC". **(62)**

89. The strategic documents foresee the following activities: ensuring uniform standards for training of professionals through the institutionalisation of educational activities and cooperation with CSOs and academic institutions; improvement of the cooperation with the law enforcement agencies at the international level; raising awareness among the general population, children, youth and vulnerable groups; improving the legal and institutional framework; improving the system for collecting, processing, protecting and use of data on human trafficking by the means of maintenance of various databases and their networking and ongoing discovery of new information about the *modus operandi* of human trafficking.

(63)

90. The implementation of activities and measures in the field of combating trafficking in human beings, so far has resulted in the development of institutional capacities, improvement of the legal framework, strengthening of the prevention activities, creation of the standards for the protection of victims of human trafficking and developed channels and mechanisms for international cooperation. The legislative and operational measures have been undertaken to strengthen the capacities and establish the legislative framework in the field of combating human trafficking. **(64)**

91. The policies and actions against human trafficking are defined in three action plans and three strategies encompassing the period of 2001–2015. **(65)**

92. There has been a lot done regarding the plan to establish a database on human trafficking in BiH and the next steps should be targeted at the fusion of the existing databases and their updating. The National Action Plan envisages development of a national system for information management, through which the collection, processing, protection and use of data on human trafficking, in general, will be regulated and performed, including the data on the registered human traffickers and identified victims.

(66)

93. The crime of human trafficking is prescribed in the BiH Criminal Code and the definition of this crime is consistent with the CoE Convention on Action against Trafficking in Human Beings. The protection of foreign victims of human trafficking is regulated by the Law on Movement and Stay of Aliens and Asylum in 2008, which was renewed in 2012 and it is mainly compliant with the international and EU standards. The Rulebook on protection of foreign victims of trafficking and the Rules on protection of

trafficking victims and witnesses of human trafficking of citizens of BiH have been issued. **(60, 61, part of 62, 63, 64, 65, 66, part of 71)**

94. CoM BiH determined the Proposal of the Law on changes and amendments to the BiH Criminal Code, which foresees change of Art. 172 paragraph (1), item g) and Art. 173, paragraph (1) item e), by which the definition of war crimes of sexual violence is compliant with the international standards and part of the text is deleted so as to eliminate from the definition of this crime the condition of "coercion or threat of immediate attack" in accordance with the recommendation of the Committee, and it was submitted to the parliamentary procedure on 21 May 2014.

95. At its 94th session held on 9 May 2014, the CoM BiH determined the Proposal of the Law on changes and amendments to the BiH Criminal Code, which foresees change whereby the definition of war crimes of sexual violence is made compliant with the international standards, in accordance with the recommendation of the UN CAT and it is in the parliamentary procedure. Also, the National War Crimes Strategy was adopted and it clearly defines and assigns responsibilities for all judicial and other institutions in charge of its implementation.

(67, 72)

96. In accordance with its responsibilities, all of the levels of government in BiH take the necessary measures to protect and support all victims of sexual violence and their families. In this regard, in August 2013, a Protocol on the treatment of victims and witnesses of war crimes, sexual assault and other criminal acts of gender-based violence was signed in Banja Luka, via capacity building and cooperation between institutions and NGOs. **(68)**

97. BiH is currently implementing the project "Mental Health in BiH" and it is a result of the continuous commitment of the relevant entity ministries of health to continue the reform of mental health in BiH. The ultimate goal of the project is to improve the mental health of the overall population, as well as the capacities of the policy makers and responsible institutions in achieving the European standards in the mental health care in BiH. Currently, a total of 68 centres for mental health care are operative (39 in FBiH, RS in 28 and 1 in BD), which are capacitated to provide all types of psychosocial support.

98. The relevant entity ministries continuously implement reform of the mental health sector, for which they have strong support from the "Mental health projects in BiH". In the strategic documents in BiH, the courses of action are defined, which will ensure the establishment of a system for promoting mental health; preventing mental disorders; early detection and action; psychosocial rehabilitation and recovery; and reducing stigma and discrimination. One of the target groups of this strategy are the war crimes victims.

(73)

99. The implementation of the National War Crimes Strategy is an ongoing process and significant progress has been made on implementing the activities set forth therein, thus a monitoring body was established to supervise its implementation. The Expert Working Group (EWG), for the development of the BiH Strategy of Transitional Justice and the Action Plan for its implementation produced the second Annual Report on the work of the EWG and submitted it to the CoM BiH, in order to introduce the members of the CoM BiH with the activities performed. **(77)**

100. The protection from discrimination based on sexual orientation or gender identity through criminal legislation in BiH has been ensured. The definition of the term "hate" is included in the general part of the RS Criminal Code (Article 147, paragraph 25), in the BDBiH Criminal Code (Article 2, paragraph 37), and in the FBiH, the proposal for its inclusion in the Criminal Code is in the parliamentary procedure for adoption and the

qualified forms of certain crimes were introduced when such crimes are committed by the element of hatred, and the element of prejudice, expressed as hate, has been aligned with the definition in the general section of the law.¹⁷ **(34)**

101. Through the adoption of the Law on Prohibition of Discrimination and the Law on Gender Equality in BiH, the types of discrimination have been defined and discrimination based on gender expression or sexual orientation has been prohibited. Additionally, a system of protection against discrimination has been regulated. **(48)**

102. Although the constitutions in BiH and the international instruments to which BiH is signatory define the prohibition of discrimination, adoption of the Law on Prohibition of Discrimination and the Law on Gender Equality in BiH further define its forms; prohibition of discrimination is determined for all spheres of life; and the mechanisms for protection against discrimination have been determined. Discrimination in the context of this Law is considered to be any different treatment including any exclusion, restriction or preference based on real grounds or assumptions towards any person or group of persons on the grounds of sex, gender expression or sexual orientations, as well as any other circumstance which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise of human rights and freedoms in all spheres of society under equal terms. The Law sets out that any person who believes to be discriminated shall have the right to initiate criminal or civil proceedings before the courts of general jurisdiction. The Law on Gender Equality in BiH also forbids discrimination based on gender expression and sexual orientation. **(49)**

103. In accordance with the Law on Prohibition of Discrimination, the central institution for protection against discrimination is the Institution of Ombudsman for Human Rights BiH. The Law on Prohibition of Discrimination gives the Institution of Ombudsman for Human Rights BiH broad powers in terms of the protection of individuals and groups from actions which the Law defines as discriminatory, including discrimination based on gender expression or sexual orientation. Within the Institution of Ombudsman for Human Rights BiH, a special department for the elimination of all forms of discrimination was established. Through an electronic case management system and an established database for cases of discrimination, this institution keeps track of all the identified forms of discrimination. According to the records maintained in BiH, so far a small number of cases of discrimination based on gender expression or sexual orientation have been reported. **(50)**

104. The current legislation in BiH does not contain provisions that discriminate lesbians, gays, transsexuals and bi-sexuals. For this reason, the BiH authorities did not accept this recommendation. **(51)**

6. Protection of persons with disabilities (Recommendations 69, 1, 2, 4, 5, 43, 42, 44, 108)

105. The international assistance in demining is provided by: the European Commission from the IPA funds; the International Trust Fund; and the traditional donors such as Germany, Norway, Japan, UNDP and others. The possibility of obtaining international assistance for demining and requesting additional funds from the budget of BiH is considered by the BiH Commission for Demining. **(69)**

106. BiH ratified the CRPD and the Optional Protocol on 12 March 2010.¹⁸ For BiH, the Convention entered into force on 11.04.2010. BiH ratified the ICCPED in April 2012.¹⁹ The Convention entered into force on 29 April 2012. **(1, 2, 4, 5)**

107. At the BiH level, with the aim to improve the mechanism of protection of human rights of persons with disabilities and the system of coordination between relevant institutions in BiH, the CoM issued a decision to establish the Council for Persons with Disabilities BiH at its session of 19 October 2010. The Council has 20 members, one half consists of the representatives from all levels of government in BiH and the other half

consists of representatives of the entities and the BDBiH associations of persons with disabilities. **(43)**

108. Within the project “Support to policy development in the field of disability in BiH”, a document was created titled “BiH Disability Policy”, which was adopted by the CoM BiH in 2008. On the basis of this document, strategic documents were adopted in the entities. The main objective of this document is to overcome all forms of discrimination against persons with disabilities, in accordance with the contemporary practice and international standards. The organisations of persons with disabilities took part in the creation of these documents. In the recent years, on the territory of BiH, continuous activities and efforts are being invested in order to create the environment and practices of uniform access for the rights for persons with disabilities, regardless of the cause of disability and place of residence. The entity laws on professional rehabilitation, training and employment of persons with disabilities prohibit any form of discrimination. **(42)**

109. The improvement of the social status of persons with disabilities in BiH is defined by the BiH Disability Policy document and it is further articulated through the entities’ strategic and action documents in this area. Through positive regulations at the entity level, BDBiH, and cantons in F BiH, a legal framework was created by which the assumptions for equalisation of opportunities for persons with disabilities in different areas of life and work are being improved. Currently, in the F BiH, there is an ongoing reform of the pension and disability insurance and legislation in the area of social protection. In both entities, as a result of the application of the law in this area, there has been a slight increase in the employment trend of persons with disabilities in BiH. **(44)**

110. By implementing the strategies in the field of disabilities in BiH, as well as the entity’s legal and strategic documents; continuous activities were conducted in the integration of persons with special needs. The NGOs that operate in this field play a significant role in these activities.²⁰ **(108)**

7. Refugees and displaced persons (Recommendations 117, 118, 119, 120, 121, 122)

111. In order to fully achieve sustainable return, BiH is undertaking activities to improve the socio-economic integration of those who have returned, e.g. creating the possibility of obtaining different type of assistance in order to prevent further deterioration of the human rights situation and is generating the conditions for return to pre-war homes. In cooperation with the NGOs, there is promotion and protection of civil, political, economic, social and cultural rights of persons who returned to their place of origin, however, it is necessary to continue cooperation with the international organisations in capacity building in key areas, including the eradication of poverty, promotion of social justice and social inclusion and non-discrimination on grounds of sex, religion, race or any other affiliation. A continuation of the culture of civil, social and cultural dialogue will be carried out in continuity with the civil society. **(117)**

112. Each year the competent state, entity ministries and Department of BDBiH allocate certain funds from available budget resources to support and help the sustainable return of refugees, displaced persons and returnees who have returned to their previous place of residence. Funds are allocated for reconstruction, building of utilities and social infrastructure, electrification of returnee settlements, assistance for agricultural mechanisation, projects in crafts and agriculture, financial assistance, incentives for opening small and medium enterprises. Activities are being undertaken to improve the socio-economic integration of those who returned in order to prevent further deterioration of the human rights situation.²¹ **(118, 119, 120)**

113. The laws on health care, *inter alia*, cover the health care of returnees, displaced persons and refugees, in accordance with the regulations governing the status of returnees,

displaced persons and refugees. The funds required for financing this type of health care are generated from the revenues collected from the health insurance contributions and the funds from the FBiH budget. These amounts are allocated on an annual basis. (121, 122)

C. Right to work, social security and health care (Recommendations 106, 35)

114. In BiH in 2012, the Policy on Sexual and Reproductive Health and Rights in BiH was adopted at the state level after the strategic documents for the promotion of sexual and reproductive health and rights of youth were adopted in both entities. In accordance with the new legal solution, services are available for women at all three levels of health care in relation to the family planning, during pregnancy, during the delivery, maternity and after delivery, regardless of the status of their health insurance.

115. With the assistance from UNFPA, aiming to enhance and improve the reproductive and sexual health of young people, as well as to prevent HIV/AIDS and other sexually transmitted diseases, a range of activities have been undertaken to strengthen the awareness of young people on the importance of reproductive health, which are conducted through the Youth Friendly Centres.²² The infant mortality rate in BiH corresponds with the European countries (8/100.000 population). In BiH, at all levels, the measures defined in the positive legal solutions are being successfully implemented aiming to permanently reduce and monitor the rate of maternal mortality.

116. In accordance with the Law on Health Care, accessibility to appropriate health services at all three levels of care is ensured. At the primary level of health care, protection of the reproductive health of women is organised within the municipality of their residence. The health care services for women in relation to pregnancy, delivery, maternity, family planning, early detection of malignant diseases and treatment of sexually transmitted and other diseases is performed by a gynaecologist specialist with the assistance from the obstetric nurses.

117. The proposed Law on Biomedical Assisted Reproduction is in the parliamentary procedure in FBiH, which is one of the strategic goals in the area of reproductive health in FBiH.

(106, 35)

D. Freedom of media (Recommendations 15, 16, 86, 95, 87)

118. The Communications Regulatory Agency (CRA), despite their initiatives, has not been exempt from the Law on Ministries and Other Bodies of Administration in BiH, nor has it been reinforced in terms of the staff and the resources (Conclusion of the CoM on prohibition of employment, Law on Budget of BiH institutions). The Ministry of Communications and Transport BiH prepared the pre-draft Law on Electronic Communications, which, in the opinion of the Agency, threatens to overturn a significant portion of its regulatory authorities.

119. The agency received and processed a number of complaints pertaining to potential "hate speech" in the programmes of providers of audiovisual media services, and only in two of the cases a violation of the above-mentioned provision was determined, on the basis of which the TV station was fined (2.000 KM and 4.000 KM, respectively). In the other cases, there was no basis for the conduct of proceedings in relation to a possible breach of the provisions relating to hate speech, and these cases were completed within the regular procedure.

(15)

120. The changes and amendments to the Law on Communications²³ foresee that the members of the CRA Council will be selected directly by the PA BiH. After completion of the procedure, during the 56th session of the House of Representatives of the PA BiH held on 5 November and the 34th session of the House of Peoples of PA BiH, held on 16 December 2013, 7 members of the CRA Council were appointed. The first meeting of the new composition of the Council was held on 28 January 2014. The selection process of the Director General of the Agency is in progress. (16)

121. Currently, the applicable criminal legislation in BiH does not foresee an attack on journalists as a separate criminal offense. The legal protection of life and physical integrity of all citizens, including the journalists in BiH, is ensured by the entities' and BDBiH criminal codes, which prescribe penalties for various types of attacks on the specified principles.

122. The BiH HJPC collects the statistical data on the prosecution of criminal offenses, on the basis of their names and numbering foreseen by the law, and not on the basis of the characteristics demonstrated in connection with a criminal offense in the individual cases. Taking into consideration the above-mentioned, it is evident that there is no data on the prosecution of criminal offenses which precisely harms the persons engaged in the profession of journalism.

(86, 95, 87)

E. Corruption (Recommendations 84, 96, 62, 60)

123. BiH has established the legal framework pertaining to combatting corruption and organised crime. The BiH Criminal Procedure Code is harmonised with the international legal standards, and with the changes and amendments to this law and harmonisation of the Entity Criminal Procedure Codes and the Criminal Procedure Code of BDBiH, the possibilities for implementation of the special investigative measures have been expanded, as an important prerequisite for the efficient fight against organised crime. At the end of 2013, the Law on the Whistleblowers Protection was enacted pertaining to the persons that report on corruption in the institutions in BiH.

124. The Strategy for the fight against corruption 2009–2014 and the Action Plan for implementation of the Strategy for fight against corruption 2009–2014 were adopted. The coordination and monitoring of the implementation of this Strategy is performed by the Agency for Prevention of Corruption and Coordination of the Fight against Corruption, which in cooperation with the MS BiH is preparing a report on the implementation of the Action Plan for the implementation of this strategy.

125. In accordance with the measures that are referred in the Action Plan for the implementation of the Strategy for fight against corruption 2009–2014, the process of coordination of the adoption of individual plans to fight corruption in the institutions/agencies/offices BiH has been initiated. The Agency for Prevention of Corruption and Coordination of the Fight against Corruption is the holder of the main activities in the context of provision of opinions and recommendations in the stages of preparation and adoption of the above-mentioned plans, and it is also the main coordinator of activities aimed at issuing plans to fight corruption in BiH. In the period from October 2013 until March 2014, the Agency coordinated the process of issuing individual plans on the fight against corruption at the level of 37 institutions of BiH. The Methodology for drafting the integrity plan was also created, as well as the Model for the Integrity Plan, the Guidelines for self-assessment of the integrity of the institution, and the Integrity Self-Assessment Questionnaire within an institution. During the period of 2012–2013, the

Agency conducted three self-assessments on the extent of the implementation of the Strategy for fight against corruption 2009–2014. By undertaking activities in the context of the qualitative analysis and self-assessment of the available data, which was implemented in three cycles (the Report of the Agency for 2012 and for the first nine months of 2013 and report of the Agency for 2013), the progress in implementing the Action Plan is visible. Transparency International BiH also performed five monitorings in the context on the degree of implementation of the Action Plan for implementation of the Strategy for fight against corruption (2009–2014).

126. In the fight against organised crime, the Strategy for combating organised crime 2009–2012 was adopted in BiH, and activities are being undertaken continuously on the implementation of the Strategy for prevention of money laundering and financing of terrorist activities in BiH 2009-2014. Based on the developed estimate of threats of organised crime in BiH, measures to be taken were established in terms of certain forms of organised crime. Within that document, the CoM BiH determines the policy in the field of introducing an efficient system for combating organised crime and it contributes to the creation of additional conditions for the efficient inclusion of BiH in the regional, European and world concept of combating organised crime.

127. The RS National Assembly adopted a Strategy to fight corruption in RS 2013–2017 and the RS Government adopted an Action Plan for implementation of this Strategy with concrete measures and responsibilities for all state organs in the RS. A Commission to fight corruption was formed, which consists of representatives of the legislative, executive and judicial authorities in the RS and the Expert Team for the fight against corruption, which operates under the Ministry of Justice RS.

128. At the BiH level, agencies have been established for the prevention and coordination of the fight against corruption, combatting corruption and organised crime, such as the Agency for Prevention of Corruption and Coordination of the Fight against Corruption, Agency for Investigation and Protection, BiH Border Police, Directorate for Coordination of Police Bodies of BiH, BiH Intelligence Security Agency, and within the MS BiH, a Department for combating terrorism, organised crime, corruption, war crimes and narcotics abuse has been formed. Its responsibilities and scope of work is determined by a special law for an administrative organisation. In addition to these institutions, at the BiH level, the BiH Court and BiH Prosecutor's Office are operational. Within the BiH Prosecutor's Office, a Special Department for Organised Crime, Economic Crime and Corruption was established. In addition to the institutions at the state level, at the level of entities, there is the Federal Ministry of Interior, Ministry of Interior of RS, Special Prosecutor's Office of the RS, as well as the Police of BDBiH, the district and cantonal prosecutor's offices, while in BDBiH there is the Prosecutor's Office of BDBiH. Within the framework of cooperation with CSOs in 2011, the MS BiH and Transparency International BiH signed a Memorandum of Cooperation which includes monitoring of the implementation of the Strategy for fight against corruption (2009–2014), the organisation and participation in trainings, seminars and workshops. During 2013, the MS BiH, Agency for Prevention of Corruption and Coordination of the Fight against Corruption and the ACCOUNT network signed a Memorandum of Cooperation and Provision of Mutual Support. The Agency for Prevention of Corruption and Coordination of the Fight against Corruption signed a Memorandum of Cooperation with the Centre for Civil Society "Kyodo" in relation to the cooperation of the implementation of part of the project titled "Legal Anti-Corruption Network-LACON".

129. In 2012, the FBiH Government, with cooperation and support from the Embassy of Great Britain, developed and adopted a General Plan for the fight against Corruption, based on which all of the federal bodies and public companies adopted their own plans for fighting corruption. In FBiH, the Law on Confiscation of Proceeds from Crime and the Law

on combating corruption and organised crime were adopted, while the Law on Whistleblowers Protection is in the parliamentary procedure for adoption. The entry into force and application of the above-mentioned laws resulted in the creation of a modern legal and institutional mechanism for a strong and efficient fight against corruption and organised crime.

130. In cooperation with the EU Delegation in BiH and CSOs, the IPA 2010 conceptual project "Strengthening institutional capacity and engaging network of NGOs in the fight against corruption" was prepared. As part of the activities, the Agency for Prevention of Corruption and Coordination of the Fight against Corruption provided its professional support through its provision of guidelines, coordination of activities and support in implementation of the proposed project by the NGO sector in which an important prerequisite was the implementation of the so far unimplemented specific measures from the Action Plan for the implementation of the Strategy for fight against corruption 2009-2014.²⁴

131. The Law on Prevention of Money Laundering was enacted in BiH. The FBiH Government adopted a General Plan for the fight against corruption in 2012, which covers all of the ministries and public companies. In RS, a Strategy and an Action Plan for the fight against corruption were adopted and the foreseen sanctions are seizure of assets acquired through corruption.²⁵

(96, 84 and part of 62 and 60)

IV. Priorities, initiatives and commitments

A. Challenges and limitations

132. In addition to the current flood disaster that affected much of the area in BiH in terms of the economy and development, BiH is facing a number of political, economic, developmental issues that significantly affect the process of democratisation of the BiH society and human rights. Regardless of the problems faced by the authorities in BiH, in many of the segments, the progress made in the field of human rights was maintained; however, in some areas, the worsening of the human rights situation has been recorded. There is difficulty in the implementation of some of the policies and laws and there is an ongoing problem of a lack of resources for efficient implementation.

133. In order to overcome the challenges and constraints and improve the situation of human rights on the ground, the activities will be continued in the following period aimed at strengthening of institutional capacities (especially local ones), stronger promotion of human rights, development of freedom of the media, especially for the vulnerable groups. Certain priorities have been identified especially in the areas of education, social and health care, better employment rate (social inclusion), and increase in efficiency of the courts. The key priorities in BiH are created at the entity level, BDBiH and cantons in FBiH, thus the active policies will be focused on encouraging the competent institutions to make all of the current policies and laws that are aimed at the protection of human rights throughout BiH more efficient and effective.

B. Strengthening capacities

134. In order to strengthen the capacities in the fight against discrimination, the CoM BiH tasked MHRR to adopt the Guidelines for implementation of the World Programme for

Human Rights Education in BiH by October 2014, in accordance with the UN HRC Resolution 15/11.

135. The focus of the above-mentioned guidelines will be the implementation of the first and second phase of the World Programme, which were dedicated to education in the field of human rights in the primary and secondary education systems, as well as in higher education (training of teachers and professors), civil servants, law enforcement officers and military personnel. The Guidelines will also include the third phase of the World Programme (2015–2019) in accordance with Resolution 24/14 of the HRC.

136. BiH will require technical assistance and support in preparation of the Guidelines for the implementation of the World Programme for Human Rights Education in BiH, especially for its implementation at all levels of the government in the country. In the forthcoming period, the MHRR will continue to develop new guidelines and its monitoring, with the aim of improving the protection of human rights of the vulnerable groups of the BiH population.

Notes

¹ “Official Gazette BiH“, number 59/09.

² “Official Gazette BiH“ 101/13.

³ thus it recognises the competence of the UN HRC to receive and consider complaints from individuals, under its jurisdiction, who claim to be a victim of a violation by a Member State of any right specified in the Covenant. As of today, there are a total of 15 cases being solved.

⁴ Progress has been made in the domain of protection of persons with disabilities considering that the Law on Vocational Rehabilitation, Training and Employment of Disabled Persons of RS was adopted, and in the FBiH, changes to the Law on Protection of Persons with Mental Disorders were made; the Committee for monitoring the protection of the rights of persons with mental disorders was established, which focuses on the compliance of the provisions with the Convention on Rights of Persons with Disabilities (CRPD) and the Rulebook on the selection, organisation and operation of the Committee for monitoring the protection of the rights of persons with mental disorders in FBiH. In FBiH, the Law on Rights, Obligations and Responsibilities of Patients was adopted, which highlights better protection of patients.

In RS, progress has been achieved in improving the position and protection of vulnerable groups with the adoption of the new Law on Social Protection.

The BDBiH Government is working on improving the current applicable legal regulations, i.e. they are currently drafting the Law on changes and amendments to the Law on Supplementary Rights of Families of Fallen Soldiers and Invalids of War of BDBiH, the Law on Supplementary Rights of Demobilised Soldiers in BDBiH and the Law on Social and Child Protection of BDBiH.

⁵ Accordingly, a Working Group has been established and the activities for drafting the above-mentioned law are ongoing. The establishment of the National Preventive Mechanisms within the Institution of Ombudsman for Human Rights BiH was decided amid the conclusion given by the CoM, thus the MHRR was entrusted with this. In cooperation with the Ombudsman Institution, the relevant ministries and the NGO sector, the MHRR prepared the appropriate legal solution, which was sent for consideration to the BiH Parliament.

⁶ The commitment from all of the government institutions and political parties is clear when it comes to removing the death penalty from the Constitution of RS. In this regard, the Committee on Constitutional Affairs of the National Assembly of RS prepared a draft amendment to the RS Constitution and one of the amendments (Amendment CXXV) was precisely aimed at removing the death penalty from the RS Constitution. During the session of the National Council of RS on 26 April 2012, the proposed amendments to the RS Constitution were not adopted, but the reason for the failure to adopt them was not because of Amendment SHHVI, but due to the different views of the necessary scope of amendments to the RS Constitution.

⁷ The Law on Execution of Criminal Sanctions, Detention and Other Measures of BiH, *inter alia*, presides over the area of vocational training of the prison staff through the organisation of training courses, seminars, counselling and other forms of professional development that are continuously

carried out.

The role of the Agency for Education and Professional Training of Staff is to conduct research and education in the field of police training and security in BiH. At the entity level, the training and professional development is conducted by the Administration for police education RS and the training is conducted by the Police Academy in the FBiH. Also, the vocational training and professional development of officers is done by the Civil Service Agency of BiH and the training courses are carried out within the training programmes of each institution, with a special focus on the Strategy to Counter Trafficking in Human Beings in BiH 2013–2015 and the Strategy in the Area of Migration and Asylum 2012–2015, as well as the Action Plan for implementation of the Strategy to Combat Organised Crime 2009–2012. For the training needs, the existing national and international capacities (TAIEX IPA 2010, EC) are being deployed.

- ⁸ Nine-year long elementary education has been in force throughout BiH since 2009. The Agency for Preschool, Elementary and Secondary Education within the European Union (EU) Twinning Project titled “Institutional Capacity Building APOSO” realised cooperation with the Department of Education of Slovenia, the Examination Centre and the Centre for Vocational Education of Slovenia, in order to get acquainted with the European practices and functioning in BiH in order to provide quality assurance in preschool, elementary and secondary education, in terms of development of the Common Core Curriculum Development Unit standards in education and assessment of the learning outcomes.
- ⁹ Direct assistance and help for street children is provided through the work of the day-care centres in Tuzla, Sarajevo, Mostar, Banja Luka and Zenica. Through these centres, the children are provided with different types of support, such as hot meals and facilities for personal hygiene, inclusion into education, health and social care system, as well as the prevention of this phenomenon.
- ¹⁰ Over 400 Roma families have been beneficiaries of the infrastructural projects (improving infrastructure in Roma settlements—electricity, sewer, water and road network). Also, activities have been implemented as regards to the education of Roma and increasing the number of Roma children in the education system. The informative campaigns and programmes that were implemented with the aim to reduce prejudices and stereotypes about the Roma in BiH have been significant. Since the adoption of the Law on Prohibition of Discrimination in 2009, there has been significant progress in the field of protection against discrimination of all ethnic minorities, particularly the Roma in BiH.
- ¹¹ Official Gazette of BiH", No. 67/05.
- ¹² Goražde, Orašje, Brčko, Bijeljina, Zenica, Doboj, Banja Luka, Livno, Žepče, Tuzla, Trebinje and Bihać.
- ¹³ The right to freedom of religion is ensured by the BiH Constitution, as well as by the Law on Freedom of Religion and the Legal Status of Churches and Religious Communities. The MHRR has the competency to provide expert assistance. It acts preventively in all cases of violations of human rights and based on the applicable law on freedom of religion; written complaints may be submitted both by the citizens and by the religious communities with the aim of a balanced approach in terms of the implementation of the Law on Freedom of Religion and Legal Status of Churches and Religious Communities.
- ¹⁴ At its 94th session held on 9 May 2014, the CoM BiH determined the Proposal of the Law on changes and amendments to the BiH Criminal Code, which also foresees the change in which the definition of crimes of sexual violence is in compliance with the international standards, in accordance with the recommendation of the UN CAT. The above-mentioned law is in the parliamentary procedure. The amendments to the RS Criminal Code¹⁴ foresees tightening of the penalties for crimes pertaining to sexual violence, particularly a crime against sexual integrity and crime of domestic violence and violence in family. The definition of a family or family community, in the context of this crime, has been changed and adapted according to the international standards, as well as to the provisions of the Law on Protection against Domestic Violence. The new security measures that enable more efficient protection of victims of domestic violence have been established.
- ¹⁵ Eight cantonal protocols have been signed in the FBiH on mutual cooperation of cantonal institutions in providing certain forms of assistance to victims of domestic violence. The municipalities, 72%, in FBiH acceded to the protocols, while in a certain number of municipalities, there are also local protocols. In order to implement the new Law on Protection from Domestic Violence (2013), the FBiH adopted a Rulebook on the content and manner of record-keeping of the ordered precautionary measures, persons who are protected by the precautionary measures and the violent persons on which

the safeguards were imposed on. Based on this, a single system was promoted and established for record-keeping of the ordered protective measures, for which the obligation for maintenance falls under the guardianship authorities in the FBiH. The annual and periodic reporting system on domestic violence was introduced in FBiH.

In RS, the General Protocol for handling domestic violence cases was signed. In some parts of the RS, there are also individual protocols of local government units on handling the cases of domestic violence, such as Prijedor and Bijeljina. Also, a Rulebook on the content of the records and reports of domestic violence was issued; unique forms for documenting domestic violence for subjects of protection have been introduced; and a system of annual and periodic reporting on domestic violence has been established.

In the RS Criminal Code¹⁵, with the changes and amendments of the basic forms of criminal offenses of domestic violence or violence in family, a clear distinction was made between domestic violence as a criminal offense and domestic violence as a misdemeanour. This eliminated the dilemma in terms of application of the Law on Protection against Domestic Violence and the Criminal Code in the specific case. The definition of a family member or the family, in the context of this crime, has been changed and adapted to international standards, as well as to the provisions of the Law on Protection against Domestic Violence. The new security measures which enable more efficient protection of victims of domestic violence have been established, and sanctions for perpetrators of the crime were tightened. Through the above-mentioned amendments, significant progress has been made in harmonising normative-legal framework in the field of domestic violence with international standards for prevention and combating domestic violence, primarily with the CoE Istanbul Convention.

¹⁶ Additionally to the law, by-laws also stipulate implementation of this measure and also based on: the Rulebook on standards for the realisation of safe houses, the Rulebook on the content and manner of keeping the Register of safe houses, the Rulebook on the method of allocating funds for secure houses. During 2013, in the safe houses in the RS, 107 women and 113 children were sheltered based on the decisions of social work centres, i.e. social welfare services there were 46 women and 48 children. From 2007 until 2013, 812 women and 1.006 children were sheltered in the safe houses in the RS, while the number of calls to the SOS number '1264' for helping victims of domestic violence was 29,899 calls, from 2005 until the end of 2013 (3.982 only in 2013), of which 98% of the victims were female. In the FBiH, there are six safe houses with 126 available places for accommodation of victims of domestic violence. They operate within NGOs. In RS, there are three safe houses within the NGOs. Their total capacity is 52 places. The establishment and funding of the safe houses is prescribed in laws and by-laws. All of the victims can get free help and advice through the SOS phone-line for victims of domestic violence (in FBiH, the number is '1265' and in RS '1264').

¹⁷ The amendments also define that in the event that the crime was committed out of hatred; the court must take it as an aggravating circumstance and must impose a more severe sanction, unless there is already a provision in place for a qualified form of this specific crime.

The Law on Prohibition of Discrimination and the Law on Gender Equality in BiH define and prohibit discrimination based on gender expression or sexual orientation and govern the system of protection against discrimination. Law on Prohibition of Discrimination ensures that any person, who believes to be discriminated against, may seek protection of his/her rights through judicial and administrative proceedings. The burden of proof in the hearing is on the offender who is required to prove that there was no breach of the principle of equal treatment or prohibition of discrimination. According to the Law on Prohibition of Discrimination plaintiff in the suit for protection against discrimination may seek publication in the media of the judgment finding a violation of the right to equal treatment at the expense of the defendant in the case where the discrimination was committed through the media (print and electronic), or any type of media.

¹⁸ "Official Gazette of BiH" – International Treaties, no.11/09.

¹⁹ "Official Gazette of BiH" – International Treaties, no. 3/12 of 15 March 2012.

²⁰ In 2012, through the Fund for Rehabilitation, a total of 189 persons with disabilities were employed in the FBiH, of which 173 persons fall under the category of self-employment (physical person), and in the category of employment with an employer, 16 persons with disabilities were employed. In 2013, 323 persons with disabilities were employed, of which 231 persons in the category of self-employment, and in the category of employment with the employer, 92 persons with disabilities have been employed. When it comes to the realisation of the strategic recommendations, the competent authorities and institutions in BiH are in charge.

In RS in 2012 and 2013, through the Fund for Professional Rehabilitation and Employment of Disabled Persons, a total of 411 persons with disabilities were employed and self-employed, for which 1.135.131 KM has been spent and 19 companies for employment of disabled persons have been materially supported.

- ²¹ **Success indicators:** Results are measured in the number of the reconstructed and built infrastructural, cultural and religious facilities and the number of families, users that are covered by this type of assistance, all of which affects the improvement of the socio-economic status of this population. The new Law on Refugees from BiH and Displaced Persons and Returnees is in the process of adoption. In FBiH, the Law on the Rights of Returnees to their Pre-war Place of Permanent in RS and BDBiH was adopted, which regulates the conditions, manner and procedure for the exercise and enjoyment of the rights of returnees in RS, acquired on the basis of the laws in FBiH and BDBiH in the field of social protection and protection of families with children, veterans-disabled persons care and health care, as well as the rights on income taxes.
- ²² These centres operate within gynaecological services of the health centres. The services for young people in these centres are provided by various profiles of professionals: family doctors, gynaecologists, psychologists, and dermatovenerologists. The Multiple Indicator Cluster Survey, which was developed by UNICEF showed that almost all women aged 15–49 years know at least one method of contraception (which include both modern and traditional methods).
- ²³ "Official Gazette of BiH" no. 98/12.
- ²⁴ After completion of the selection procedure, the following projects were approved and their implementation will follow in the next two years: "Strengthening integrity and good governance for the effective implementation of the Strategy for fight against corruption in BiH from local to the national level" - Transparency International BiH; "Transparency of public procurement in BiH" – Centre for Investigative Reporting in BiH, Centre for Social Researches - Analitika and Centre for representing civic interests; "Mapping the risk of corruption in the security sector" - Centre for Security Studies; "Through education against corruption" - Interlogos University, Kiseljak; "Curriculum for transparency, curriculum for responsibility" - Centre for media development and analysis; "Introduction of transparent mechanism for funding of NGOs by the local authorities" - Youth Centre "Vermont", Brčko. These projects will be implemented in direct cooperation with the Agency for Prevention of Corruption and Coordination of the Fight against Corruption.
- ²⁵ The RS Criminal Code was amended which defined new offenses, namely abuses in the procurement process and the criminal offense of trading in influence. The penalties for the offenses in receiving and giving bribes have been tightened. In the Ministry of Interior RS, a special service for fighting organised crime and corruption was formed, which significantly strengthened the capacities of the police for the investigation of corruption in criminal offenses.
- In addition, the Law on Confiscation of Proceeds from a Crime foresees financial investigations and confiscation of illegally acquired proceeds. The organisational structure set out by this law already implemented a range of investigations which resulted in significant confiscation of criminal proceeds. For the purpose of harmonisation with the UN Convention against Transnational Organised Crime, there were amendments made to the RS Criminal Code in 2013, which now define new criminal offenses, namely the offense of human beings trafficking, trafficking in minors and organising a group or criminal association for criminal offenses of human beings trafficking and trafficking of minors. A New crime of abuse of the procurement procedure and the crime of trading in influence have been prescribed. The penalties for the offenses of receiving and giving bribes were toughened.