

1. CHILDREN'S RIGHTS

1.1 INTERNATIONAL INSTRUMENTS (recommendations 107.1, 107.2 – implemented)

- (1) **107.1, 107.2** The Optional Protocol to the Convention on the Rights of the Child (OP3 CRC) was signed by BiH in July 2017, and ratified in February 2018. The advocating activities of the non-governmental sector contributed to that.¹ The continuous systematic awareness and education of children and adults who work with children on using the communication procedures OP3 CRC, as well as the mechanism of its application.

1.2. ECONOMIC AND SOCIAL RIGHTS AND RIGHT TO EDUCATION (recommendation 107.18 – partially implemented)

- (2) **107.18** The amount of child benefit is still not the same throughout BiH² and the amount is insufficient to insure the survival of the child, which means that BiH is not fulfilling obligations of the Convention on the Rights of the Child. In some cantons in FBiH the child benefit is sometimes a few months late, and in RS the amount depends on the birth order of the child³ and is conditioned by the regular school attendance. In July 2018, the FBiH Government adopted the draft of the first reform law concerning the rights of families with children.⁴ The education in BiH is still fragmented and is characterized by the strong political undertones, the lack of transparency, discrimination, segregation and assimilation. In FBiH *two schools under one roof* still exist, while the Bosniak children in RS are denied the right to mother tongue. The main factors for the poor school success of Roma children, especially girls, are linguistic obstacles, lack of preparedness for school and the lack of projects providing support.

1.3. PROTECTION OF CHILDREN FROM VIOLENCE AND SEXUAL ABUSE (recommendation 107.74 – partially implemented, 107.75, 107.78, 107.79 – not implemented)

- (3) **107.74, 107.75** The RS legislation prohibits corporal punishment of children, while there are no laws in Federation of BiH and District Brčko prohibiting corporal punishment of children within family.⁵ FBiH Family Law⁶ does not state the explicit prohibition neither of corporal punishment nor of other humiliating forms of treatment as a part of children's upbringing. RS made some improvements: Protocol on procedure in case of violence, abuse and neglecting of child was signed, programs on prevention of violence against children are implemented in school curricula, new Criminal Law was adopted, register of pedophiles was established etc.
- (4) **107.78** Unlike RS, FBiH and DB made no progress regarding the harmonization of the criminal legislation with the international standards for children's protection from sexual abuse which is the reason why the victims of such criminal acts do not receive the same protection throughout the entire state. The criminal legislature in Federation of BiH and DB needs to be harmonized with the international standards for protection of children from sexual violence.
- (5) **107.79** BiH government made no effort regarding raising the public awareness about the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. Recent research shows that knowledge of Convention is at very low levels; apart from the experts in the judiciary, the representatives of other institutions, parents and students are not familiar with it. The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse needs to be promoted among children and professionals working with children.

¹ Network of NGOs for children's rights "Stronger Voice for Children" in Bosnia and Herzegovina and organization Save the Children, North West Balkan office, lead a public campaign for signing the protocol OP3 CRC.

² The amount of child benefit in FBiH is between BAM 14.74 and 42, and in RS between BAM 35.55 and 90.85, while it is BAM 90 in DB BiH.

³ First-born child in RS has no right to child benefit regardless of the financial state of the family.

⁴ New legal solutions abolish discrimination of children based on the place they live in, and the children's right to child benefit are harmonized.⁴

⁵ UNICEF research shows that 50% of parents in BiH use corporal punishment.

⁶ FBiH Family Law ("Official Gazette of Federation of BiH", no. 35/05, 41/05 and 31/14).

2. MINORITIES

2.1. PROHIBITION OF DISCRIMINATION (recommendations 107.3, 107.39, 107.40, 107.41, 107.46 – not implemented, 107.38, 107.47 – partially implemented)

- (6) **107.3** No progress has been made towards the comprehensive changes to the Constitution which would contribute to the harmonization of the rights of national minorities with the rights of constituent peoples. Namely, the passive voting rights at all levels have not been ensured for the national minorities. Laws on the protection of members of national minorities⁷ ensure the position, equality and rights for 17 national minorities living in Bosnia and Herzegovina, but the range of equality is still limited due to the lack of harmonization at the constitutional levels.
- (7) **107.38, 107.39, 107.40, 107.41, 107.46, 107.47** A small number of citizens recognizes discrimination and mechanisms of protection against discrimination. In the period between 2009 and 2014, only 30 claims have been submitted to the courts in BiH; out of the 30 claims, there has been only one verdict in the civil proceedings. Regarding the protection of Roma people from discrimination, the efficiency of the legal protection is questionable due to the insufficient awareness of Roma people about the mechanisms of protection, as well as due to the lack of informative materials in Romani language. The programmes and systematic activities which would be aimed at the fight against prejudice and discrimination have not taken place in BiH.

2.2. PROTECTION OF CHILDREN FROM EXPLOITATION (recommendation 107.19 – not implemented)

- (8) **107.19** No advances in the protection of children exposed to labour exploitation and begging have been observed.⁸ The mechanisms set up with the aim of fighting trafficking have not proved to be efficient, and the greater part of the responsibility for solving the problems of exploitation of children has been left to the institutions at the local level who are heavily burdened with prejudice⁹ and/or have no capacities to deal with this issue. Without a harmonized and systematic solution for the entire BiH, children exposed to the exploitation and begging are in the state of legal uncertainty.

2.3. SOCIAL INVOLVEMENT AND ACCESS TO RIGHTS (recommendations 107.26, 107.161, 107.162, 107.163 – partially implemented, 107.160 – not implemented)

- (9) **107.26, 107.160, 107.161, 107.162, 107.163** The lack of action plans and strategies is lack of recognition and care for the specific needs of Roma women. It cannot be said that there have been strategic efforts regarding the fight against prejudice towards Roma people,¹⁰ nor that there has been a systematic approach towards the inclusion of Roma people¹¹ in all spheres of social life. Additionally, the improvement of the position of Roma people and the application of the existing action plans and the Strategy has been slowed down by the fact that no budget funds have been allocated for this cause at local levels. Hence it can be claimed that BiH has only partially implemented the aforementioned recommendations.¹²

⁷ Laws on protection of members of national minorities were adopted at state and entity levels.

⁸ Both documents recognize children as particularly vulnerable and the necessity of their protection, but there has been no systemic solution since the recommendations were made until today.

⁹ Approaching the problem of begging as *Roma tradition* and trivializing the issue of begging.

¹⁰ For example, incentive programs of the Employment Office are, very often, not realized fully due to the lack of interest and information of employers and the funds are often spent on other causes.

¹¹ Roma are the most numerous national minority in both Europe and in Bosnia and Herzegovina. We can rightfully say that they are simultaneously the most at risk group in BiH society. All relevant indicators show that Roma are in extremely hard social and economic position.

¹² Bosnia and Herzegovina is not active enough and it has not prohibited anti-Roma sentiment which has been recognized as a trend and a negative social phenomenon which influences the social inclusion of Roma and their access to rights in all areas.

2.4. RIGHT TO EDUCATION (recommendations 107.135, 107.146 – partially implemented, 107.136, 107.144 – not implemented)

- (10) **107.135, 107.136, 107.146** Framework action plan defines three goals and 15 measures aimed at introducing Romani language in BiH schools, as well as introducing Romani history and culture. In order for the interventions envisioned in this action plan to be fully applicable and efficient, it is necessary that the entity action plans on the educational needs of Roma people are adopted.
- (11) **107.144** The phenomenon *two schools under one roof* is still present without a concrete solution, although there are valid and executive court verdicts.¹³ Association Vaša Prava BiH has started judicial proceedings which were finalized with the determination of discrimination and segregation, but the possibility of filing a collective lawsuit was not used since parents (returnees) are afraid of repression.

2.5. POLITICAL ENGAGEMENT (107.119, 107.121, 107.123, 107.124, 107.125, 107.126, 107.127, 107.128, 107.129 – not implemented, 107.120 – partially implemented)

- (12) **107.119, 107.121, 107.123, 107.124, 107.125, 107.126, 107.127, 107.128, 107.129** The decisions of the European Court of Human Rights are not executed in BiH regardless of their binding nature. In the response of the Ministry of Justice which was delivered to the Initiative “Women Citizens for Constitutional Reform”, it is written that the Ministry had delivered, on November 30, 2016, the Draft Action plan for the execution of the verdicts of the European Court of Human Rights to the BiH Council of Ministers.¹⁴ The Council of Ministers has neither discussed nor adopted the Action plan.
- (13) **107.120** Members of the national minorities can be candidates without any restrictions, except for the position of a member of BiH Presidency. The guaranteed quotas for the national minorities are determined only for the local elections (elections for the municipal or city councils).¹⁵ This issue has not been further problematized and there have been no recent initiatives to amend the legal regulations.

3. CIVIL SOCIETY (recommendation 107.22 – partially implemented)

- (14) **107.22** Despite solid legal framework for consultations, the institutions are faced with weak public response and a small number of suggestions.¹⁶ Consultations are sporadically done at lower levels of government too. FBiH and RS have rules and regulations on the participation of the interested public in the procedure of drafting legal regulations and other acts, but they are mostly not applied. Cantons in FBiH do not use these procedures. The consultations need to be promoted, the interest should be raised and the capacities of the civil society organizations and of citizens for the participation in regulation making should be increased, the application eKonsultacije (eConsultations) needs to be technically advanced, the normative frameworks should be improved further and other forms of consultations should be used (apart from electronic consultations).

¹³ “Two Schools under One Roof: The Most Visible Example of Discrimination in Education in Bosnia and Herzegovina – publication issued by the OSCE Mission to BiH, November 2018.

¹⁴ Cases included in the Action Plan are: “Sejdić and Finci v. BiH”, “Zornić v. BiH” and “Pilav v. BiH”.

¹⁵ Election law of Bosnia and Herzegovina, Article 13.14: “(1) Members of national minorities are entitled to representation in the Municipal Council or Municipal Assembly and the City Council or City Assembly in proportion to the percentage of their share in the total population according to the last census in BiH.” Members of national minorities who constitute more than 3% of population are guaranteed at least one seat.

¹⁶ Sector for Legal Assistance and Civil Society Development of Ministry of Justice BiH, Report on Obeying Rules for Consultations on Creating Legal Regulations for 2017.

4. SEXUAL ORIENTATION AND GENDER IDENTITIES

4.1. LAW ON PROHIBITION OF DISCRIMINATION (recommendations 107.27, 107.37 – partially implemented)

- (15) **107.27, 107.37** Certain progress has been made in Federation of BiH. In 2018, the Government gave a positive opinion regarding the draft Action Plan for Equality of LGBTI Persons in BiH 2018-2020, which was suggested by the Ministry of Human Rights and Refugees BiH.¹⁷ There is neither initiative nor positive opinion from RS. Antidiscrimination plan has never been made at the state level, although it is regularly announced in the draft annual work plan of the MHRR and the reasons are lack of political will and consensus between the political actors at state levels, mainly due opposing to this by the RS.

4.2. INSTITUTIONAL CAPACITY BUILDING (recommendation 107.51 – partially implemented)

- (16) **107.51** Although significant progress has been made in the fields of cooperation with police, prosecutor's office and courts in the last four years regarding the institutional protection of LGBTI persons, plenty of work is still needed. The number of processed cases of hate crimes is very low, similarly to the number of cases reported to the institutions in general. Jurisprudence is practically non-existent so far concerning discrimination and hate crimes towards LGBTI persons. The attack on Merlinka in 2014 still has not been processed in court, and only one of the 14 attackers was charged.¹⁸ Following the number of successful trainings of police officers in all cantons in Federation of BiH, the cantonal Ministries of Interior announced that the police officers who had underwent this training will educate their colleagues on the correct processing of hate crimes committed during 2017 as a part of a permanent education.¹⁹ Progress has been made with Prosecutor's Office CS where, following the trainings organized by Sarajevo Open Center, the Prosecutor's Office named a special prosecutor for the criminal acts in which the victims are LGBTI persons.

5. WOMEN'S RIGHTS

5.1. LAW ON GENDER EQUALITY (recommendation 107.33 – not implemented, 107.36 – partially implemented)

- (17) **107.33** BiH Constitution was written using masculine gender and has no gender aspect. The Initiative "Women Citizens for Constitutional Reform" submitted, in 2014, Platform of women's priorities for constitutional changes with amendments to the Constitution of BiH from gender perspective to the Constitutional-Legal Committee of the House of Representatives and House of Peoples of the Parliamentary Assembly of BiH.²⁰ The platform has five priority

¹⁷ The draft follows the recommendations of the Committee of Ministers of the Council of Europe for the measures of combatting discrimination based on sexual orientation and gender identity.

¹⁸ On February 1, 2014, a group of 14 masked men violently entered Art Cinema Kriteron in Sarajevo with the intention of attacking the audience in a discussion on Merlinka Festival. The attack lasted less than a minute and resulted in minor injuries to three people and severe psychological consequences for all the members of the audience. The perpetrators got away intact. Although the assembly was reported to the police 20 days in advance, the police was not present in the Art Cinema Kriteron in time to prevent the attack. Sarajevo Open Center filed two criminal lawsuits soon after the attack directly to the Prosecutor's Office of Canton Sarajevo, and they submitted a report to the internal control of Ministry of Interior Canton Sarajevo. In November 2016, Sarajevo Open Center filed an appeal to the Constitutional Court of Bosnia and Herzegovina for the violation of right to the freedom of assembly of LGBTI citizens in case of the Merlinka Festival attack which was adopted in January 2019 and ruled as violation of freedom of assembly of LGBTI community by failing to protect the Merlinka Festival.

¹⁹ Pink Report 2017.

²⁰ Initiative "Women Citizens for Constitutional Reform", *Platform of women's priorities for the constitutional reforms with amendments to the Constitution of Bosnia and Herzegovina from gender perspective*, Sarajevo, 2013. Blog: <https://gradjankezaustavnepromjene.files.wordpress.com/2017/07/platforma-zenskih-prioriteta-za-ustavne-promjene-sa-amandmanima-na-ustav-bih-iz-rodne-perspektive-1.pdf>

questions.²¹ The competent institutions of Bosnia and Herzegovina²² should add the proposed amendments to the BiH Constitution to their daily agendas, particularly those regarding gender equality and start the parliamentary procedure of voting on the amendments to the current non-functional Constitution of BiH.

- (18) **107.36** The funds needed for the implementation of GAP BiH 2013-2017 were provided based on the Agreement on joint financing between the CoM BiH and a group of donors on the financial mechanism for the implementation of GAP BiH (FIGAP programme).²³ GAP BiH 2013-2017 has been implemented during the last five years,²⁴ and GAP BiH 2018-2022 was adopted in late 2018.²⁵ The funds for the implementation of all previous GAPs BiH were provided for by FIGAP, but in order for gender equality to be achieved, it is needed that the funds are provided from the public budgets, since the implementation of GAP BiH must not depend on donor funds.

5.2. PROTECTION AGAINST DOMESTIC VIOLENCE (recommendation 107.67 – not implemented, 107.69, 107.71 – partially implemented)

- (19) **107.67** BiH regulated the issue of domestic violence through law on protection against domestic violence in Federation²⁶ and RS²⁷, but also through criminal laws. These two laws contribute neither to the legal harmonization nor to the safety of survivors of violence. It is necessary that the legal solutions in the area of legal treatment of domestic violence and violence against women in the entity legislation are harmonized through passing of a unified law on protection against domestic violence at the state level.²⁸
- (20) **107.69** It is necessary that the work on the harmonization of the current legislation on domestic violence in BiH is continued. There is no rule book on the manner of allocating funds for the financing of the safe houses in FBiH. The Law on Protection against Domestic Violence in RS stipulates financing of safe houses in Article 18. The implementation and harmonization of legislation in this area need to be continued; FBiH and cantons must fulfil their legal obligation of financing safe houses; the rule book and standards for safe houses in FBiH must be passed, while respecting the Istanbul Convention, and funds must be allocated for financing safe houses in RS, without any delays.
- (21) **107.71** In July 2015, CoM BiH adopted the Framework Strategy for the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence for the period 2015-2018.²⁹ However, it is not applied in practice. RS did not consent to its adoption due to understanding that this issue is under entity jurisdiction. RS has the Law on Protection against Domestic Violence, as well as the RS Strategy for Combating Domestic Violence (2014-2019).

²¹ Priority issues: use of gender sensitive language in BiH Constitution, guarantee of unique health, social and family protection, greater judicial and legal protection of human rights and freedom, introducing a principle of direct democracy which would be applied to the process of constitutional reform. All five listed priorities are still waiting to be discussed by the Constitutional-Legal Committee. Priority concerning the use of gender sensitive language and introducing affirmative measures in BiH Constitution with the aim of achieving gender equality was supported by the Committee for Gender Equality HoRPA BiH in 2014.

²² Constitutional-Legal Committee, Council of Ministers and Parliamentary Assembly of BiH.

²³ Gender center of Federation of BiH, "FIGAP Programme", www.gcfbih.gov.ba/oblasti/figap-program/, accessed on 31 January, 2019.

²⁴ Council of Ministers of BiH adopted two reports on the realization of GAP BiH 2013-2017: Report on the realization of GAP BiH for 2014 and Report on implementing GAP BiH for 2015 and 2016. The final report on the realization of GAP BiH 2013-2017 should have been submitted to the Council of Ministers BiH for adoption in the first half of 2018, but that did not happen still.

²⁵ Council of Ministers BiH "156th session of the Council of Ministers of Bosnia and Herzegovina took place. www.vijeceministara.gov.ba/saopstenja/sjednice/saopstenja_sa_sjednica/default.aspx?id=29393&langTag=bs-BA, accessed on 31 January, 2019.

²⁶ Law on protection against domestic violence, 20/13 (13.03.2013.)

²⁷ Law on protection against domestic violence, 01-1481/12

²⁸ Two different laws treat aspects of founding, functioning and financing safe houses differently, thus making it more difficult to implement the protective measures and providing for the survivors of violence. The adopted Convention of Council of Europe on preventing and combating violence against women and domestic violence, so-called Istanbul (CHAVIO) Convention, will be an object of reporting of BiH to Greivio Committee in 2019.

²⁹ *Framework Strategy for the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, Official Gazette BiH, 75/15.

5.3. INCLUSION OF WOMEN IN PUBLIC AND POLITICAL LIFE (recommendations 107.130, 107.131, 107.133 – partially implemented)

- (22) **107.130** When forming governments in BiH, Article 20 of LoGE was never applied, the representatives always voted for illegal and non-representative governments, with less than 40% persons of the less represented gender.³⁰ It is necessary that the amendments to all laws on governments in BiH are passed with the double guarantee of the minimal representation of the less represented gender at 40%, as well as the amendments to the BiH Election Law which would introduce a gender quota of 50% for the election lists, with the obligation to list the male and female candidates in turn.³¹ Women are still at the periphery of political power, deprived of influence on the formulation and implementation of policies.³² The fact that the quota is not set at 50% can push women significantly down the lists, thus only formally respecting the quota, while the parties are still favouring male candidates and investing in their promotion, which leads to the fact that the gap between the representation of women and men on the list is further increased in the election results.
- (23) **107.131** Women are constantly underrepresented in BiH government bodies. It is necessary that the legal acts are directed by GIMs to give opinions on their harmonization with LoGE, that every legal act has a gender dimension and gender implications when it is passed, that the legal acts undergo gender analysis before they are passed, that the amendments to laws on all governments in BiH are passed in order to harmonize them with LoGE, that they include the mandatory quota of 40% of the less represented gender to the ministry positions.
- (24) **107.133** In 2018, RS Employment Agency ensured financing for the project of self-employment of women victims of domestic violence. This form of alternative measures in terms of self-employment of women members of marginalized groups exist only in Republika Srpska. Currently, there is no such alternative measure for women in Federation of BiH when they are starting their own business, not even for the women members of marginalized groups³³, but there is a measure for employment of women.

6. ACCESS TO JUSTICE

6.1. ACCESS TO JUSTICE FOR VICTIMES OF WAR SEXUAL VIOLENCE AND TORTURE (recommendations 107.60, 107.61, 107.62, 107.97 – partially implemented)

- (25) **107.60** BiH Prosecutor's Office and BiH Court did not manage to complete the set goal and to prosecute all of the most complex case by the end of 2015. In mid-2018, the amendments to the Strategy³⁴ were arranged and they stipulate that all cases dealing with war crimes are finished by 2023. The revised strategy was supposed to be discussed by the Council of Ministers BiH. In order to continue the process of criminal pursuit of war crimes, CoM BiH needs to do it without further delays.
- (26) **107.61** BiH Prosecutor's Office and BiH Court did not manage to complete the set goals from the Strategy from 2008.³⁵ The stigmatization of victims of war sexual violence is noticeable

³⁰ Miftari, Edita. *Political Participation of Women in Bosnia and Herzegovina: Analysis of the participation of women on party lists and the final results of the general elections 2014*. Foundation CURE, 2015.

³¹ Election law BiH is harmonized with Article 20 of LoGE and it stipulates the mandatory quota of 40% of less represented sex in election lists. Considering that the percentage of women in BiH, according to the Census 2013 results, is 50.94%, the only true representation of both sexes in the election lists would be 50%.

³² [Integrity plan of Federation of Bosnia and Herzegovina Gender Center](http://www.gcfbih.gov.ba/project/ucescce-zena-u-javnom-i-politickom-zivotu/#). Government of Federation of Bosnia and Herzegovina, 5.2.2019. <http://www.gcfbih.gov.ba/project/ucescce-zena-u-javnom-i-politickom-zivotu/#>, "Election law stipulates that every party list must have at least 40% of the candidates of the 'less represented sex', which practically always refer to women as the less represented sex in the party lists. The law stipulates relatively balanced position of the candidates on the lists (1 person of the less represented sex among the first two places in the list, 2 in first 5, 3 in 8, and so on)."

³³ This type of affirmative measures would allow women, especially members of the marginalized groups, to have economic independence and social protection in terms of exercising their socioeconomic rights.

³⁴ Rovčanin, Haris. "Revised Strategy for war crimes of importance for achieving justice". Detektor.ba, Sept. 2018, <https://bit.ly/2S8prn8>. Strategy foresees dealing with all cases concerning war crimes by 2023.

³⁵ I.e. processing all most complex cases by the end of 2015. Blocking the process of adopting the Revised strategy agreed upon in mid-2018 slows the process of reallocating the cases between the judiciary at state level and lower instances and the strategic approach to processing war crimes in BiH.

during the criminal proceedings.³⁶ Although it has recently³⁷ become a practice that the victims of war sexual violence receive indemnity within the criminal proceedings, they are still not in a position to claim it. BiH should set up a state fund or stipulate a budget item which would serve as a source for the victims to claim funds when it is not possible for them to claim indemnity from the perpetrators.³⁸ Continuous sensibilization and education need to be provided for the judicial professionals. The criminal policy for war crimes is not at an adequate level in BiH. Suitable and harmonized application of criminal laws regarding the determination of the length of sentence in the cases of war crime of rape needs to be insured, and the negative trends which allow the perpetrators to receive amnesty and reduced sentences need to be stopped.

- (27) **107.62** The amendments to the Law on Civil Procedure need to be finalized and their use in regular procedures at all government levels needs to be ensured. The problem is that the lawsuits of victims of war crimes against the responsible entity and state are denied in the civil procedures because of the application of limitation period. It is necessary that BiH abandons the use of limitation periods in these cases as soon as possible. Victims are, on top of that, forced to pay high amounts for the court costs to the entities they filed lawsuits against and who had harmed them immensely during the war. BiH needs to pass measures which will exempt the victims from paying the court costs to the entities in cases when their demand for the indemnity has been denied.
- (28) **107.97** NA RS passed the Law on protection of victims of war torture in 2018. The adopted version of the law still contains some solutions which could, during its implementation, prevent some victims from fully achieving their rights. Non-governmental organizations have, during the process of public consultations, expressed their concern regarding some of the provisions of the law.³⁹ Considering that the cases of some victims who are currently residing in RS had been documented exclusively by associations and bodies outside the entity, such evidence could be discarded and the victims would thus be prevented from achieving their rights.⁴⁰ RS Government should consider additional measures in order to enable victims of war sexual violence access to the rights guaranteed by this law, without needless restrictions which would result in their claims being rejected.

7. FIGHT AGAINST CORRUPTION (107.102, 107.103 – partially implemented)

- (29) **107.102** Most of the established anticorruption bodies lack secured administrative, financial and institutional recourses need for the implementation of anticorruption activities.⁴¹ Very poor results have been achieved regarding the improvements of the regulations concerning financing of political subjects.⁴² The lack of adequate cooperation of judicial institutions with other state bodies⁴³ in the area of unveiling and processing criminal acts of corruption presents another obstacle in the efficient opposition to corruption in BiH. The criminal policy for the perpetrators of criminal acts of corruption which is currently in force is too mild, and the political corruption at the highest levels of government is not processed at all.⁴⁴ Insufficient involvement of all

³⁶ Thus are the four myths on victims of sexual violence (mostly women) identified, as those who appear during the criminal proceedings: myth on promiscuity, myth on consent, myth on credibility and myth on shame. More at: <https://bit.ly/2NDnRaj>

³⁷ As a part of certain criminal procedures from 2015.

³⁸ With possible refund of indemnity by the state from perpetrators.

³⁹ Second Report on the implementation of monitoring of the Strategy for Fighting Corruption 2015-2019. Analysis of Strategic goal 1. Transparency International BiH.

⁴⁰ Law on financing political parties from May 2016 is still not harmonized with GRECO recommendations. The Second report on the implementation of monitoring of the Strategy for Fighting Corruption 2015-2019. Analysis of Strategic goal 2. Transparency International BiH.

⁴¹ Second Report on the implementation of monitoring of the Strategy for Fighting Corruption 2015-2019. Analysis of Strategic goal 3. Transparency International BiH.

⁴² Second Report on the implementation of monitoring of the Strategy for Fighting Corruption 2015-2019. Analysis of Strategic goal 4. Transparency International BiH.

⁴³ Research on the application of Law on Freedom of Information. Transparency International BiH.

⁴⁴ Law on Whistleblower Protection in the Institutions of BiH and Law on the protection of people who report corruption in Republika Srpska Entity.

relevant institutions at all government levels in the implementation of activities from the Strategy is an additional obstacle to its full implementation.⁴⁵

- (30) **107.103** Protection of those who report corruption in BiH is only partially set up by adoption of two laws.⁴⁶ In the area of public procurement the biggest weaknesses are not allowing reasonable deadlines for obtaining the proposals from the contracting authorities and not applying suitable procedures in regards to the estimated value of the procurement,⁴⁷ while the biggest weakness regarding the conflict of interest is not adopting the law on preventing conflict of interest in the BiH institutions. The number of the indictments for the criminal acts of corruption in relation to the number of all the indictments for criminal acts is very low (1.8%),⁴⁸ as is the number of the delivered verdicts in which the measure of removing the possessions gained through criminal acts.⁴⁹ In BiH there is still no adequate system of free legal aid which would allow the socially disadvantaged to have access to justice.

8. STATELESSNESS AND RIGHT TO CITIZENSHIP

8.1. REGISTRATION OF BIRTH (recommendations 107.108, 107.109 – not implemented)

- (31) **107.108** Due to the lack of harmonization of regulations, some citizens face obstacles with the procedures in the area of civil registration, and in order to resolve these obstacles all three laws need to be harmonized, particularly regarding the late entries in the registry of births. Additionally, Law on Permanent and Temporary Residence of Citizens of BiH makes it difficult for the socially vulnerable social groups to get identification documents.
- (32) **107.109** A unique legal approach in the entire territory of BiH is needed, as well as a simpler procedure of registration. Currently, there are no clearly determined referral mechanisms and networks (e.g. between centers for social work, institutes for free legal aid, civil society organizations and municipalities) which would enable Roma citizens to have information about their rights in due time and to enable Roma citizens do complete the identification with the competent municipal services in due time. The procedure of registering children born in hospitals is simpler and faster. However, laws regulating health insurance do not stipulate the same rights for all pregnant women/new mothers (depending on the place of their permanent residence).

9. RIGHTS OF ASYLUM SEEKERS – REFUGEES (107.164, 107.165, 107.166 – partially implemented)

- (33) **107.164** Return is still ongoing, especially returning flats to their owners. The cases regarding the return of the flats last unduly long, especially when the decisions of competent bodies of administration are abolished or overruled by the court decisions. The problem of the return of flats in buildings which are devastated, ruined and which still have not been repaired. The displaced persons, in some cases, have the decision that they are the holders of tenancy rights, but they are unable to return to their pre-war homes and they have not been provided with the right to another flat, or indemnity.
- (34) **107.165** Revised strategy of BiH for the implementation of Annex VII of Dayton Peace Agreement⁵⁰ still has not been realized in full. The ongoing issue has been sustainability of the return, since there is a series of obstacles preventing the returnees from being integrated into local communities.

⁴⁵ Second Report on the implementation of monitoring of the Strategy for Fighting Corruption 2015-2019. Analysis of Strategic goal 4. Transparency International BiH.

⁴⁶ Law on Whistleblower Protection in the Institutions of BiH and Law on the protection of people who report corruption in Republika Srpska Entity.

⁴⁷ Research – Making Public Procurements Public. Transparency International BiH.

⁴⁸ Report on monitoring processing of corruption before courts and prosecutor's offices in BiH. Transparency International BiH.

⁴⁹ Monitoring report on the seizure of illegally acquired property. Transparency International BiH.

⁵⁰ Official Gazette BiH, no. 78/10 from 21.09.2010

- (35) **107.166** Rights in the area of health and social protection are currently one of the leading obstacles to the return. Legal regulations are not harmonized, and they stipulate different types and scope of law,⁵¹ which leads to discrimination and different treatment of users.

10. FREEDOM OF THE MEDIA (107.111, 107.113, 107.114, 107.115 – not implemented, 107.116 – partially implemented)

- (36) **107.111** Due to the political influence, the state does not create a secure and beneficial environment for the media.⁵² The media is under the political pressure, which can especially be seen in the smaller local media, financially dependent on the local government. Defamation lawsuits are a powerful tool of pressure, especially for the media which is not financially ready for legal procedures.⁵³ The lack of transparency regarding media ownership and nonexistence of clear criteria for media financing is still an obstacle to freedom of expression, which was recognized by the international community too.
- (37) **107.113, 107.114, 107.115, 107.116** BiH keeps no particular record of the attacks on journalists, nor do these attacks receive any different treatment. The help line for journalists⁵⁴ recorded 57 cases of journalist right violations in 2018, including one case from August 2018, which was labelled as an attempted murder by the Prosecutor's Office. The masterminds still have not been identified. Online violence is becoming a more serious threat to the media freedoms. Online attacks on journalists are becoming more common in BiH, but they are not taken seriously enough.⁵⁵ Online threats are often not treated seriously enough – they are treated as misdemeanours, and not criminal acts. There has been only one verdict in BiH so far which sanctions the person who made an online threat to a female journalist. There are only a few public condemnations and they do not have the adequate influence.⁵⁶

11. FREEDOM OF ASSOCIATION AND PEACEFUL ASSEMBLY (recommendation 107.118 – partially implemented)

- (38) **107.118** Freedom of assembly in BiH is still marginally protected. A positive step is that the Constitutional court delivered a verdict that the government did not undertake the needed measures of protecting the right to freedom of public assembly of LGBT persons.⁵⁷ Despite that, LGBT persons were prevented from using their rights to public assembly due to undue and discriminatory decisions.⁵⁸ Freedom of assembly is still seen as a safety issue. During 2017 and 2018, multiple instances of using excessive force were registered,⁵⁹ which culminated with the peaceful protests “Justice for David” (Pravda za Davida) in Banja Luka, where the following was registered: the excessive use of force, prohibition of public assembly,⁶⁰ criminal lawsuit against the organizers, as well as 20 day prison sentence for shouting slogans.⁶¹ The internal procedures of police control need to be increased, and independent control should join the internal control in order to evaluate complaints and announcements of public assemblies. Also,

⁵¹ Depending on the economic power of certain administrative-political units in BiH.

⁵² Reporters without Borders. Accessed on February 17, 2019. <https://rsf.org/en/bosnia-herzegovina>

⁵³ <http://safejournalists.net/wp-content/uploads/2018/12/2018-BiH-Indicators-on-the-level-of-media-freedom-and-journalists-safety.pdf>; <http://safejournalists.net/wp-content/uploads/2018/12/2018-BiH-Indikator-nivoa-medijskih-sloboda-i-bezbjednosti-novinara.pdf>

⁵⁴ Service for providing free legal aid to journalists and monitoring cases of violations of journalists rights which functions within the Association BiH Journalists (BH novinari).

⁵⁵ Gačanica, Lejla, Arnautović, Marija. *Mechanisms of protection against online violence*. Mediacentar. Sarajevo, 2018. http://safejournalists.net/wp-content/uploads/2018/08/mc_mehanizmi-zastite_web.pdf

⁵⁶ The Institution of Human Rights Ombudsman in BiH publicly condemned the attack on journalists in its public statement from August 2018 (<https://www.ombudsmen.gov.ba/Novost.aspx?newsid=1035&lang=BS>) and published the Special report on the position and cases of threats to journalists in BiH (https://www.ombudsmen.gov.ba/documents/obudsmen_doc2017082415202346bos.pdf), whose recommendation were followed by the Ministry of Justice who organized a series of meetings.

⁵⁷ January 2019.

⁵⁸ In 2018, Ministry of Transport in Canton Sarajevo did not allow in due time for the protests against violence against LGBTI persons to take place. Additionally, Sarajevo Open Center was not allowed to use the public space for the performance for visibility of trans people.

⁵⁹ Such as protests of workers (Gračanica, Zenica), demobilized soldiers and local groups protesting for the environmental protection (female inhabitants of Kruščica village). In case of Kruščica protests, the Institution of Ombudsman reacted too at the excessive use of force.

⁶⁰ In places where assemblies are allowed by Act of City Banja Luka.

⁶¹ All these measures are in conflict with the recommendations of the Special Rapporteur of the UN on the rights to freedom of peaceful assembly and of association Maina Kiai from 2012.

it is necessary that the Ombudsman Institution is included in monitoring and reporting on the right to public assembly.

12. RIGHTS OF PEOPLE WITH DISABILITIES (recommendations 107.134, 107.142, 107.143, 107.148, 107.149, 107.150, 107.151, 107.152, 107.153, 107.154, 107.155, 107.156, 107.157, 107.158 – not implemented)

- (39) **107.148, 107.150, 107.151, 107.153, 107.156, 107.157, 107.158** Legislation in BiH is still not harmonized in the manner in which the rights of the people with disabilities would be respected as stipulated by the UN Convention on the Rights of People with Disabilities. There is still no state action plan on the implementation of Convention. The government representatives and the representatives of people with disabilities need to create a plan for the harmonization of laws and regulations with the principles and obligations from the Convention, with concrete deadlines and determined responsible persons and bodies. Additionally, discrimination exists in terms of excluding children with disabilities from the regular education from the earliest pre-school days. In the budgets at all government levels, and particularly in local communities, funds for accessibility measures need to be provided.
- (40) **107.149, 107.154** Entities adopted new multi-annual strategies for the improvement of positions of people with disabilities, but the implementation tempo is very slow. The strategies which should have been implemented by 2015 have been completed at remarkably low levels. It is needed that laws regulate the rights in the areas of social protection; the extent and manner of exercising their rights with the same set of criteria being applied to all people with disabilities, regardless of the cause or circumstances under which disability occurred or the place of residency.
- (41) **107.134, 107.142, 107.143, 107.152, 107.155** There is no inclusive education, in the true sense of the word, which would include students with disabilities in the majority of regular schools. Laws on education do not stipulate the obligation of securing reasonable modifications for students with disabilities. Decision makers on education and teachers are not familiar with the obligation of reasonable modification the withholding of which discriminates students on the basis of their disability. The budgets do not plan enough funds for the quality inclusive education of children and youth with disabilities. There is neither levelled nor arranged way of reporting on the state of inclusive education which would be relevant for following the success. State does nothing on promotion of the right of children with disabilities to education in regular school system in order to raise the public awareness.⁶² Multiple discriminations happen against women and girls with disabilities, who are usually not enabled education at all, as well as against women and girls with disabilities who are members of national groups.

⁶² Particularly of those in charge of education, but also of parents of children without disabilities.