

BOSNIA AND HERZEGOVINA

Follow-up - State Reporting

i) Action by Treaty Bodies

CAT, A/61/44 (2006)

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CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

38. In Chapter IV of its annual report for 2004-2005 (A/60/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2005. This chapter updates the Committee's experience to 19 May 2006, the end of its thirty-sixth session.

39. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2006 on the results of the procedure.

40. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment," as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

41. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. Such "follow-up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its "follow-up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' report under article 19.

42. Since the procedure was established at the thirtieth session in May 2003 through the end of the thirty-sixth session in May 2006, the Committee has reviewed 39 States for which it has identified follow-up recommendations. Of the 19 States parties that were due to have submitted their follow-up reports to the Committee by 1 May 2006, 12 had completed this requirement (Argentina, Azerbaijan, Czech Republic, Colombia, Germany, Greece, Latvia, Lithuania,

Morocco, New Zealand, United Kingdom, and Yemen). As of May, seven States had failed to supply follow-up information that had fallen due (Bulgaria, Cambodia, Cameroon, Chile, Croatia, Moldova, Monaco), and each was sent a reminder of the items still outstanding and requesting them to submit information to the Committee.

43. With this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

44. The Rapporteur has expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all of the items designated by the Committee for follow-up (normally between three to six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she writes to solicit the outstanding information.

45. Each letter responds specifically and in detail to the information presented by the State party, which is given a formal United Nations document symbol number.

46. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues not addressed but which are deemed essential in the Committee's ongoing work in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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48. The chart below details, as of 19 May 2006, the end of the Committee's thirty-sixth session, the state of the replies with respect to follow-up.

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B. Follow-up reply due May 2006 and November 2006

State party	Date due	Date reply received	Document symbol number	Further action taken/required
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Bosnia and Herzegovina	November 2006			
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CAT, A/62/44 (2007)

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IV. FOLLOW UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

46. In Chapter IV of its annual report for 2005 2006 (A/61/44), the Committee described the framework that it had developed to provide for follow up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2006. This chapter updates the Committee's experience to 18 May 2007, the end of its thirty eighth session.

47. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2007 on the results of the procedure.

48. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

49. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. Such "follow up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its "follow up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

50. Since the procedure was established at the thirtieth session in May 2003, through the end of the thirty eighth session in May 2007 the Committee has reviewed 53 States for which it has identified follow up recommendations. Of the 39 States parties that were due to have submitted their follow up reports to the Committee by 18 May 2007, 25 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Germany, Greece, Latvia, Lithuania, Monaco, Morocco, New Zealand, Qatar, Sri Lanka, Switzerland, United Kingdom and Yemen). As of 18 May, 14 States had not yet supplied follow up information that had fallen due (Bulgaria, Bosnia and Herzegovina, Cambodia, Cameroon, Democratic Republic of the Congo, Georgia, Guatemala,

Republic of Korea, Moldova, Nepal, Peru, Togo, Uganda and United States of America). In March 2007, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow up information was due in November 2006, but had not yet been submitted, and who had not previously been sent a reminder.

51. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report (A/61/44). However, only 4 (Austria, Ecuador, Qatar and Sri Lanka) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. While comparatively few States had replied precisely on time, 19 of the 25 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

52. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

53. The Rapporteur has expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she writes to solicit the outstanding information.

54. At its thirty eighth session in May, the Committee decided to make public the Rapporteur's letters to the States parties. These would be assigned a United Nations document symbol number and placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies (these symbol numbers are under consideration) to the follow up and also place them on its website.

55. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

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57. The chart below details, as of 18 May 2007, the end of the Committee's thirty eighth session, the state of the replies with respect to follow up.

Follow up procedure to conclusions and recommendations from May 2003 to May 2007

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Thirty fifth session (November 2005)

State party	Information due in	Information received	Action taken
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Bosnia and Herzegovina	November 2006	Not received*	Reminder

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* Information received after the thirty eighth session: CAT/C/BIH/CO/1/Add.2.

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CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

46. In this chapter, the Committee updates its findings and activities that follow-up on the conclusions and recommendations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on Follow-Up to Country conclusions. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated to through May 2008, following the Committee's fortieth session.

47. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2008.

48. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2008 on the results of the procedure.

49. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

50. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

51. Since the procedure was established at the thirtieth session in May 2003, through the end of the fortieth session in May 2008, the Committee has reviewed 67 States for which it has identified follow-up recommendations. Of the 53 States parties that were due to have submitted

their follow-up reports to the Committee by 16 May 2008, 33 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Bosnia and Herzegovina, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Republic of Korea, Latvia, Lithuania, Monaco, Morocco, Nepal, New Zealand, Qatar, Russian Federation, Sri Lanka, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America and Yemen). As of 16 May, 20 States had not yet supplied follow-up information that had fallen due (Bulgaria, Burundi, Cambodia, Cameroon, Democratic Republic of the Congo, Denmark, Guyana, Italy, Japan, Luxembourg, Mexico, Moldova, the Netherlands, Peru, Poland, South Africa, Tajikistan, Togo, Uganda and Ukraine). In March 2008, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow-up information was due in November 2007, but had not yet been submitted, and who had not previously been sent a reminder.

52. The Rapporteur noted that 14 follow-up reports had fallen due since the previous annual report.³ However, only 2 (Hungary and the Russian Federation) of these 14 States had submitted the follow-up information in a timely manner. Despite this, she expressed the view that the follow-up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow-up to the review of the periodic reports. While comparatively few States had replied precisely on time, 25 of the 33 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non-governmental organizations, many of whom had also encouraged States parties to submit follow-up information in a timely way.

53. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

54. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

55. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

56. Since the recommendations to each State party are crafted to reflect the specific situation

in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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58. The chart below details, as of 16 May 2008, the end of the Committee's fortieth session, the state of the replies with respect to follow-up.

3/ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 44 (A/62/44).*

**Follow-up procedure to conclusions and recommendations
from May 2003 to May 2008**

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Thirty-fifth session (November 2005)

State party	Information due in	Information received	Action taken
...			
Bosnia and Herzegovina	November 2006	1 February 2006 CAT/C/BIH/CO/1/Add.1 6 May 2007 CAT/C/BIH/CO/1/Add.2	Request for further clarification
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CAT, A/64/44 (2009)

IV. FOLLOW UP ON CONCLUDING OBSERVATIONS ON STATES PARTIES REPORTS

53. In this chapter, the Committee updates its findings and activities that follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on follow-up to concluding observations. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated through 15 May 2009, following the Committee's forty-second session.

54. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2009.

55. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2009 on the results of the procedure.

56. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and ill-treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

57. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

58. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-second session in May 2009, the Committee has reviewed 81 States for which it has identified follow up recommendations. Of the 67 States parties that were due to have submitted their follow up reports to the Committee by 15 May 2009, 44 had completed this requirement. As of 15 May 2009, 23 States had not yet supplied follow up information that had fallen due. The

Rapporteur sends reminders requesting the outstanding information to each of the States whose follow up information was due, but had not yet been submitted, and who had not previously been sent a reminder. The status of the follow-up to concluding observations may be found in the web pages of the Committee (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

59. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report. However, only 4 (Algeria, Estonia, Portugal and Uzbekistan) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. One State party (Montenegro) had already submitted information which was due only in November 2009. While comparatively few States had replied precisely on time, 34 of the 44 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

60. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

61. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she requests the outstanding information.

62. At its thirty eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow up and also place them on its website (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

63. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

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65. The chart below details, as of 15 May 2009, the end of the Committee's forty-second session, the state of the replies with respect to follow up.

Follow-up procedure to conclusions and recommendations from May 2003 to May 2009

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Thirty-fifth session (November 2005)

State party	Information due in	Information received	Action taken
...			
Bosnia and Herzegovina	November 2006	1 February 2006 CAT/C/BIH/CO/1/Add.1 6 May 2007 CAT/C/BIH/CO/1/Add.2	Request for further clarification
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Chapter IV. Follow-up to concluding observations on States parties' reports

65. In this chapter, the Committee updates its findings and activities that constitute follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the procedure established on follow-up to concluding observations. The follow-up responses by States parties, and the activities of the Rapporteur for follow-up to concluding observations under article 19 of the Convention, including the Rapporteur's views on the results of this procedure, are presented below. This information is updated through 14 May 2010, the end of the Committee's forty-fourth session.

66. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. In that report and each year thereafter, the Committee has presented information on its experience in receiving information on follow-up measures taken by States parties since the initiation of the procedure in May 2003.

67. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. In November 2009 and May 2010, the Rapporteur presented a progress report to the Committee on the results of the procedure.

68. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific measures to prevent acts of torture and ill-treatment. Thereby, the Committee assists States parties in identifying effective legislative, judicial, administrative and other measures to bring their laws and practice into full compliance with the obligations set forth in the Convention.

69. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information within one year. Such follow-up recommendations are identified because they are serious, protective and are considered able to be accomplished within one year. The States parties are asked to provide information within one year on the measures taken to give effect to the follow-up recommendations. In the concluding observations on each State party report, the recommendations requiring follow-up within one year are specifically identified in a paragraph at the end of the concluding observations.

70. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-fourth session in May 2010, the Committee has reviewed 95 reports from States parties for which it has identified follow-up recommendations. It must be noted that periodic reports of Chile, Latvia, Lithuania and New Zealand have been examined twice by the Committee since the establishment of the follow-up procedure. Of the 81 States parties that were due to have submitted their follow-up reports to the Committee by 14 May 2010, 57 had completed this

requirement. As of 14 May 2010, 24 States had not yet supplied follow-up information that had fallen due: Republic of Moldova, Cambodia, Cameroon, Bulgaria, Uganda, Democratic Republic of the Congo, Peru, Togo, Burundi, South Africa, Tajikistan, Luxembourg, Benin, Costa Rica, Indonesia, Zambia, Lithuania (to the 2009 concluding observations), Chad, Chile, Honduras, Israel, New Zealand, Nicaragua and the Philippines.

71. The Rapporteur sends reminders requesting the outstanding information to each of the States for which follow-up information is due, but not yet submitted. The status of the follow-up to concluding observations may be found in the web pages of the Committee at each of the respective sessions. As of 2010, the Committee has established a separate web page for follow-up (<http://www2.ohchr.org/english/bodies/cat/follow-procedure.htm>).

72. Of the 24 States parties that did not submit any information under the follow-up procedure as of 14 May 2010, non-respondents came from all world regions. While about one-third had reported for the first time, two-thirds were reporting for a second, third or even fourth time.

73. The Rapporteur expresses appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

74. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties which are posted on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website.

75. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

76. Among the Rapporteur's activities in the past year, have been the following: attending the inter-committee meetings in Geneva where follow-up procedures were discussed with members from other treaty bodies, and it was decided to establish a working group on follow-up; addressing the Committee on the Elimination of Discrimination against Women at its August 2009 meeting in New York concerning aspects of the follow-up procedure; assessing responses

from States parties and preparing follow-up letters to countries as warranted and updating the information collected from the follow-up procedure.

77. Additionally, the Rapporteur initiated a study of the Committee's follow-up procedure, beginning with an examination of the number and nature of topics identified by the Committee in its requests to States parties for follow-up information. She reported to the Committee on some preliminary findings, in November 2009 and later in May 2010, and specifically presented charts showing that the number of topics designated for follow-up has substantially increased since the thirty-fifth session. Of the 87 countries examined as of the forty-third session (November 2009), one to three paragraphs were designated for follow-up for 14 States parties, four or five such topics were designated for 38 States parties, and six or more paragraphs were designated for 35 States parties. The Rapporteur drew this trend to the attention of the members of the Committee and it was agreed in May 2010 that, whenever possible, efforts would henceforth be made to limit the number of follow-up items to a maximum of five paragraphs.

78. The Rapporteur also found that certain topics were more commonly raised as a part of the follow up procedure than others. Specifically, for all State parties reviewed since the follow-up procedure began, the following topics were most frequently designated:

Ensure prompt, impartial and effective investigation(s)	76 per cent
Prosecute and sanction persons responsible for abuses	61 per cent
Guarantee legal safeguards	57 per cent
Enable right to complain and have cases examined	43 per cent
Conduct training, awareness-raising	43 per cent
Ensure interrogation techniques in line with the Convention	39 per cent
Provide redress and rehabilitation	38 per cent
End gender-based violence, ensure protection of women	34 per cent
Ensure monitoring of detention facilities/visit by independent body	32 per cent
Carry out data collection on torture and ill-treatment	30 per cent
Improve condition of detention, including overcrowding	28 per cent

79. In the correspondence with States parties, the Rapporteur has noted recurring concerns which are not fully addressed in the follow-up replies and her concerns (illustrative, not comprehensive) have been included in prior annual reports. To summarize them, she finds there is considerable value in having more precise information being provided, e.g. lists of prisoners, details on deaths in detention and forensic investigations.

80. As a result of numerous exchanges with States parties, the Rapporteur has observed that there is need for more vigorous fact-finding and monitoring in many States parties. In addition, there is often inadequate gathering and analysing of police and criminal justice statistics. When the Committee requests such information, States parties frequently do not provide it. The Rapporteur further considers that conducting prompt, thorough and impartial investigations into allegations of abuse is of great protective value. This is often best undertaken through unannounced inspections by independent bodies. The Committee has received documents, information and complaints about the absence of such monitoring bodies, the failure of such bodies to exercise independence in carrying out their work or to implement recommendations for improvement.

81. The Rapporteur has also pointed to the importance of States parties providing clear-cut instructions on the absolute prohibition of torture as part of the training of law-enforcement and other relevant personnel. States parties need to provide information on the results of medical examinations and autopsies, and to document signs of torture, especially including sexual violence. States parties also need to instruct personnel on the need to secure and preserve evidence. The Rapporteur has found many lacunae in national statistics, including on penal and disciplinary action against law-enforcement personnel. Accurate record keeping, covering the registration of all procedural steps of detained persons, is essential and requires greater attention. All such measures contribute to safeguard the individual against torture or other forms of ill-treatment, as set forth in the Convention.

82. The chart below details, as of 14 May 2010, the end of the Committee's forty-fourth session, the replies with respect to follow-up. This chart also includes States parties' comments to concluding observations, if any.

Follow-up procedure to concluding observations from May 2003 to May 2010

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Thirty-fifth session (November 2005)

State party	Information due in	Information received	Action taken
...			
Bosnia and Herzegovina	November 2006	Comments 1 February 2006 CAT/C/BIH/CO/1/Add.1 6 May 2007 CAT/C/BIH/CO/1/Add.2	Reminder Request for further clarifications
...			

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ii)) Action by State Party

CAT/C/BIH/CO/1/Add.1 (2006)

Comments by the Government of Bosnia and Herzegovina to the conclusions and recommendations of the Committee against Torture (CAT/C/BIH/CO/1)

[1 February 2006]

Report on the visit paid by representatives of Bosnia and Herzegovina to the citizens of Bosnia and Herzegovina detained in the US Military Detention Camp “Delta” within the US Naval Military Base at Guantanamo Bay, Cuba

The Report prepared by Mr. Amir Pilav, LL.M. BiH Ministry of Justice

1. With a view of implementation of the Decisions of the Human Rights Chamber for Bosnia and Herzegovina in cases No: CH/02/8679, CH/02/8689, CH/02/8690 and CH/02/8691 from 11 October 2002, in case No. CH/02/8961 from 4 April 2003 and case No. CH/02/9499 from 4 April 2003; conclusions of the BiH Council of Ministers from the 31st session held on 18 November 2003; decision of the BiH Ministry of Justice No. 02-011-6620/03 from 8 December 2003; letter of the BiH Ministry of Justice No. 02-011-6620/03 from 8 December 2003; note of the BiH Ministry of Foreign Affairs No. 10621-01-26603/2003 from 26 December 2003; upon approval of the Government of the United States of America (given to the BiH Ministry of Foreign Affairs by the note of the Embassy of the United States of America in Sarajevo by the note of the BiH Ministry of Foreign Affairs No. 10621-01-26603/2003 from 26 December 2003) I was sent on a business trip on behalf of the BiH Ministry of Justice with a mission to visit in the period from 26 to 29 July 2004 the BH citizens detained in the US military detention camp “Delta” within the US naval military base at Guantanamo Bay, Cuba.

2. It is useful to mention that the BiH Ministry of Justice by letter No. 02-011-6620/03 from 18 December 2003 requested the BiH Ministry of Foreign Affairs to ask the US Embassy in Sarajevo, along with the approval for the mentioned visit, answers to the following questions:

(a) Have the responsible US authorities in accordance with their regulations indicted any “Algerian group” member who is a BH citizen?

(b) Have the responsible US authorities in accordance with their regulations indicted any “Algerian group” member who is not a BH citizen?

(c) Do the responsible authorities have available data on the basis of which in the foreseeable future one could expect release of any “Algerian group” member who is a BH citizen or any “Algerian group” member who is not a BH citizen?

3. The approval given by the note of the US embassy in Sarajevo No. 04-1176/S from 15 July 2004 to the BiH Ministry of Foreign Affairs does not provide the answers to the mentioned questions, so we should expect the answer of the US Embassy on the remaining open questions

until further notice.

4. Within the set mission as a representative of Bosnia and Herzegovina I was obliged to as the BH citizens detained in the mentioned location questions according to the “List of Questions a BH representative should ask during his visit to “Algerian group members who are BH citizens, detained in the US military detention camp at Guantanamo Bay”. The list had previously been precised by the representatives of the BiH Council of Ministers, the BiH Ministry of Justice and the BiH Ministry of Security and forwarded by diplomatic channels to the US Embassy by the note of the BiH Ministry of Foreign Affairs No. 10621-01-26603 from 26 December 2003.

5. I was sent to the set mission together with Mr. Morslav Starovlah, an interpreter of English language in the BiH Ministry of Justice.

6. We left on our business trip on 23 July 2004 by an airplane form the Sarajevo International Airport. We departed from Sarajevo and arrived to Washington via Vienna.

7. During our stay in Washington necessary assistance was provided to us by the Embassy of Bosnia and Herzegovina in Washington.

8. We took off for Guantanamo by the US military plan on 26 July 2004 in the morning on local time from the US military base near Washington accompanied by me, Jim Carlton, a representative of the US Department of Defense. It was necessary to land and have short stay in Miami, Florida to take fuel and perform necessary customs procedures. We arrived at Guantanamo Airport on 26 July 2004 in late afternoon in local time.

9. During 27 July 2004, according to the plan foreseen by the US Department of Defense, accompanied by Mr. Miroslav Starovlah (an interpreter of the English language in the BiH Ministry of Justice) and Mr. Jim Carlton I had a contact and talks with three BH citizens detained in “Delta” military detention camp in a special interview room. I had a contact and talks with: Mr. Nechle Mohamed, Mr. Mustafa Ait Idir and Mr. Boumediene Lakhdar. Minutes on realized contacts with each of them are enclosed to the present report (Annexes 1, 2 and 3).

10. On 28 July 2004, according to the plan foreseen by the US Department of Defense, accompanied by Mr. Miroslav Starovlah (and interpreter of English language in the BiH Ministry of Justice) and Mr. Jim Carlton I had a contact and talk with the fourth BH citizen detained in “Delta” military detention camp in a special interview room. I had a contact and talks with Mr. Boudella Hadj. Minutes on realized contact with this BH citizen are enclosed to the present Report (Annex 4).

11. Since according to the statements of the representative of the US Department of Defense, approval from Washington for contact-visit was given only for BH citizens, there was no possibility for me as a representative of Bosnia and Herzegovina to visit the other two applicants before the Human rights Chamber for Bosnia and Herzegovina who for now do not have a BH citizenship; namely:

(a) Saber Lahmar, referred to by the decision of the Human Rights Chamber for Bosnia and

Herzegovina in cases No: CH/02/8679, CH/02/8689, CH/02/8690 and CH/02/8691 from 11 October 2002; and

(b) Belkasem Bensayah, referred to by the Decision of the Human Rights Chamber for Bosnia and Herzegovina in case No: CH/02/9499 from 4 April 2003.

12. It was suggested by the US Department of Defense representative to have a contact and talks (as a BH representative) on 28 July 2004 with Tariq Mahmood Ahmed Al-Sawah, born on 2 November 1957 in Alexandria, Egypt, alleged BH citizen. However, I was not provided with valid evidence stipulated by the law of Bosnia and Herzegovina that the mentioned person was a BH citizen. I was informed that Tariq Mahmood Ahmed Al-Sawah worked in World Islamic Relief in Zagreb since 1992; that he stayed in the Republic of Croatia during 1992; that he was a member of the RBiH Army 3rd Corps; that he went to Afghanistan where he trained the use of explosive; that he took part in battles in Afghanistan against the US military forces; that he was taken captive by the US military forces within military operations, as well that he allegedly had a BH passport.

13. The three mentioned decisions of the Human Rights Chamber, Conclusion of the BiH Council of Ministers from the 31st session held on 18 November 2003, my authorities determined by the Decision of the BiH Minister of Justice No. 02-011-6620/03 from 8 December 2003, as well as the "List Questions a BH representative should ask during his visit to "Algerian group" members who are BH citizens, detained in the US military detention camp at Guantanamo Bay" (which had previously been precised by the representatives of the BiH Council of Ministers, the BiH Ministry of Justice and the BiH Ministry of Security) do not refer to Tariq Mahmood Ahemd Al-Sawah. For the mentioned reasons, and considering that I was not provided with valid evidence stipulated by the BH laws that the named person was BH citizen, I did not realize a contact with a named Tariq Mahmood Ahmed Al-Sawah.

14. After visits paid and contacts with the mentioned citizens of Bosnia and Herzegovina at the mentioned location, on 29 July 2004 we took off for Washington from the Guantanamo Airport by the US military plane. It was necessary to land and have short stay in Miami, Florida to take fuel and perform necessary customs procedures. We arrived in Washington in evening in local time, accompanied by Mr. Jim Carlton. Costs of flight for representatives of Bosnia and Herzegovina who flied by this US military plane Washington-Guantanamo-Washington in accordance with conditions of approval (given to the BiH Ministry of Foreign Affairs by the note of the US Embassy in Sarajevo No. 04-1176/S from 15 July 2004), will be furnished later to the BiH Embassy in Washington by the US Department of Defense, with obligation that these costs be paid by the BH Government.

15. During our stay in Washington till return to Sarajevo necessary assistance was provided to us by the Embassy of Bosnia and Herzegovina in Washington.

16. We took off for Vienna from Washington on 31 July 2004 by airplane. We arrived in Vienna on 1 August 2004 in the morning. By flight from Vienna we arrived on the Sarajevo International Airport in the afternoon 1 August 2004.

17. In accordance with item 5 of the Decision of the BiH Minister Justice No. 02-011-6620/03 from 8 December 2003, as a representative of BiH appointed for the subject visit, I was obliged not to inform public on identity of persons determined for the subject visit, as well not to reveal information on visit, until the end of the visit. Upon permission of the BiH Minister of Justice, i.e. Decision of the BiH Minister of Justice 01-02-657/04 from 2 August 2004, as a head of delegation to visit BH citizens at Guantanamo Bay. I made a statement for the BH media on the mentioned visit, since there was a great interest for this visit.

18. In preparation of the present Report I used information collected by the BiH Ministry of Justice prior to the visit, as well as information I received as a BiH representative during the visit to Guantanamo from 26 to 29 July 2004, contained in the present Report and annexes thereto. Also, I took into consideration certain obligations of BiH towards the Decisions of the Human Rights Chamber for Bosnia and Herzegovina in cases No: CH/02/8679, CH/02/8689, CH/02/8690 and CH/02/8691 from 11 October 2002, in case No CH/02/961 from 4 April 2003 and case No. CH/02/8691 from 11 October 2002, in case No CH/02/961 from 1 April 2003 (e.g. obligation to retain a counsel with recognized practice in a relevant legal field and before relevant courts, tribunals and other authorities with a view of taking all necessary operations to protect rights of applicants during their detainment in the USA, and to secure that each sued party (i.e. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina) bear half of lawyer's and attorneys fees, which has not been carried out by Bosnia and Herzegovina yet.

19. In the period from handing over of six applicants (before the Human Rights Chamber) by representatives of BiH to the US military forces in Sarajevo in January 2002 to preparation of the present Report, based on current information and documentation available to the BiH Ministry of Justice during preparation of the present Report, certain number of different previously commenced procedures against applicants (before the Human Rights Chamber for BiH) have not been completed, or applicants have not been properly submitted the decisions of competent institutions in BiH which decided on their rights. It is mainly the following proceedings:

(a) Investigative criminal proceedings before the F BiH Supreme Court in case No. Ki-101/01, under which applicants (before the Human Rights Chamber for BiH) as the accused had been commanded several month detention which was quashed in January 2002 immediately prior to handing over by representatives of BiH to the US military forces in Sarajevo. After the accused (applicants before the Human Rights Chamber for BiH) upon their taking form Bosnia and Herzegovina became beyond the F BiH Supreme Court reach upon proposal of the F BiH Prosecutors Office from 4 April 2002, the F BiH supreme Court by the Decision No. Ki_101/01 from 9 April 2002 stopped preliminary investigation against the accused (applicants before the Human Rights Chamber for BiH). The mentioned Decision has not been served to the accused so far, but only to their defenders. As their right to lodge appeal is sui generis right, the mentioned decision has not become legally binding (cited by the F BiH Supreme Court in a letter N. So-1590/03 from 30 December 2003 addressed to the BiH Ministry of Justice). Defendants of the accused Belkasem Bensayh and Boudella Hadj made representation against this Decision; however, it was rejected by the Decision of the F BiH Supreme Court No. Kv-8/02 from 8 May 2002. After entering into force of the new F BiH Law of Criminal Procedure on 1 August 2003, the F BiH Law of Criminal Procedure on 1 August 2003, the F BiH in accordance with the obligation from Article 452 paragraph 2 of the F BiH Law of Criminal Procedure,

submitted this document to further procedure to the F BiH Prosecutors Office in Sarajevo. However, the F BiH Supreme Court submitted the document to F BiH Prosecutors Office only on 30 December 2003, not in August 2003, as stipulated by Article 452 paragraph 2 of the F BiH Law of Criminal Procedure;

(b) The BiH Ministry of Justice had several times in the period from January 2004 to 19 July 2004, i.e. immediately prior to departure of BH representatives for Guantanamo Bay, requested the F BiH Prosecutors Office to make prosecutor's decision for this case in a sense of the F BiH Law of Criminal Procedure (kept in the F BiH Prosecutors Office under No. KT-115/01), i.e. to issue an order on failure to conduct investigation or an order on conducting investigation against applicants as the accused persons;

(c) Response of the F BiH Prosecutors Office from 21 July 2004 (addressed to the BiH Ministry of Justice) was furnished to the BH representative only on 9 August 2004, i.e. after return from Guantanamo Bay visit from 26 to 29 July 2004; so the BH representative had not been familiarized with the information contained in a letter of the F BiH Prosecutors Office prior to contacts with the BH citizens in Guantanamo;

(d) In the information the F BiH Prosecutors Office addressed to the BiH Ministry of Justice in a letter No. KT-115/01 from 21 July 2004, the F BiH Prosecutors Office stated that in the previous period it had carried out detailed analyses of all conducted investigative operations during investigation and established factors, after which in a sense of Article 239 paragraph 1 of the F BiH Law Criminal Procedure, it issued an order on 24 June 2005 to stop investigation against Belkacem Bensayah, Saber Lahmar, Ait Idir Mustafa, Khled El Arbed (the above-mentioned decisions of the Human Rights Chamber for BiH do not refer to him), Boudella Hadj, Boumediene Lakhdar and Nechle Mohamed for the crime of international terrorism from Article 168 paragraph 1 with regards to Article 20 paragraph 1 of the F BiH Criminal Code for the reasons stated in Article 239 paragraph 1 items, a) and b) of the F BiH Law of Criminal Procedure;

(e) In the same letter the F BiH Prosecutors Office states that there was justifiable doubt that accused Saber Lahmar had committed crime of certification of untrue matter from Article 353 paragraph 1 of the F BiH Criminal Code, and that extradition could be requested only for the accused Saber Lahmar, who was not a BH citizen, but Algerian citizen. By a letter from 9 August 2004 the BiH Ministry of Justice requested the F BiH Prosecutors Office to submit documentation necessary to lodge extradition appeal for Saber Lahmar from the USA to BiH;

(f) The case which is prosecuted upon an indictment of Municipal Prosecutor in Tuzia No. 642/01 from 26 October 2001 (which became binding) before Municipal Court in Zenica under No. K-529/01 against Belkacem Bansayah (applicants before the Human Rights Chamber for BiH) for criminal act of certification of untrue matter from Article 353 paragraph 2 related to paragraph 1 of the F BiH Criminal Code, in which Municipal Court in Zenica has not so far initiated to competent BiH Ministry of Justice to lodge extradition appeal for the accused Balkacem Bansazah from the USA to BiH. According to the letter of Municipal Court in Zenica No. K-529/01 from 8 March 2004 addressed to the BiH Ministry of Justice, the mentioned court cannot request the BiH Ministry of Justice to lodge extradition appeal for the

accused Belkacem Bansayah, since his identity had not been established during criminal proceedings. In other words, the mentioned court had requested the Algerian Interpol via the ex-BiH Ministry of Civil Affairs and Communications to submit original or a copy of papillar lines of the accused for the reason of establishing his identity. However, the court has not received these data so far;

(g) The BiH Ministry of Justice submitted the prayer of the Municipal Court in Zenica No. K 529/01 from 29 January 2004, by which the submission of original or copy of papillar lines of the accused Belkacem Bansazah was requested from the Algerian Interpol, to the BiH Ministry of Security by a letter from 24 March 2004. By the time of preparation of the present Report, the subject document of the BiH Ministry of Justice No. 02-011-6620/03 does not contain response of the Algerian Interpol, that is the BiH Ministry of Security on the subject prayer of the Municipal Court in Zenica No. 529/01 from 29 January 2004;

(h) Administrative procedures before the F BiH Ministry of Interior, that is administrative disputes before the F BiH Supreme Court which were determining of applicants before the Human Rights Chamber for BiH were BH citizens of they were deprived of BiH nationality;

(i) The competent institutions in Bosnia and Herzegovina have not so far served the applicants before the Human Rights Chamber for BiH, who have been under supervision of the US military forces since 18 January 2002, decisions on their rights in a manner stipulated by the BiH laws, i.e. through diplomatic channels. Therefore, the applicants have not been informed on the relevant decisions of the Human Rights Chamber of BiH referring to them, decisions of courts and governing bodied in the mentioned proceedings (criminal proceedings, administrative proceedings, and administrative dispute) before the contact with a representative of BiH in Guantanamo;

(j) By the above-mentioned operations, namely failure to take necessary operations, institutions of Bosnia and Herzegovina in this way again endangered exercising of human rights and freedoms of the applicants before the Human Rights Chamber for BiH;

(k) With a view of implementation of the remaining parts of decisions of the Human Rights Chamber for BiH in cases No: CH/02/8679, CH/02/8689, CH/02/8690 and CH/02/8691 from 11 October 2002, in case No. CH/02/8961 from 4 April 2003, which have not been fully implemented so far; with a view of preventing possible further violation of human rights and freedoms of applicants and more successful organs of the Federation of BiH in implementation of parts of decisions of the Human Rights Chamber of BiH referring to the mentioned cases which have not been implemented so far, it is proposed that the BiH Council of Ministers adopt the following measures:

(i) After considering the Report prepared by Amir Pilav, LLM a representative of BiH and Head of Delegation for visit to BiH citizens detained in the US military detention camp "Delta" within the US naval military base at Guantanamo Bay, Cuba, the BiH Council of Ministers adopted the mentioned Report;

(ii) Pursuant to Article 8 paragraph 2 of the Law on Civil Service in the institutions of

BiH with a view of carrying out special task on taking all necessary measures with a view of full realization of decisions of the Human Rights Chamber for BiH in cases No: CH/02/8679, CH/02/8689, CH/02/8690 and CH/02/8691 from 11 October 2002, in case No. CH/02/8961 from 4 April 2003 and case No. CH/02/9499 from 4 April 2003; preventing possible further violation of human rights and freedoms of applicants in BiH and coordination of operations of institutions of BiH with competent institutions and organs of the Federation of BiH in implementation of the mentioned decisions of the Human Rights Chamber for BiH, the BiH Council of Ministers entrusts the Secretary with Special Duty established within the BiH Ministry of Justice as of the day of passing this decision;

(iii) The BiH Ministry of Justice shall provide the Secretary with Special Duty from item 2 all necessary technical, administrative and financial support for his undisturbed work;

(iv) The Secretary with Special Duty from item 2 for his work and management shall be responsible to the BiH Council of Ministers and shall be obliged to submit quarterly reports to the BiH Council of Ministers on measures taken and results realized until final realization of all tasks from item 2;

(v) The Secretary with Special Duty from item 2 shall be entrusted to obtain all necessary evidence of Tariq Mahmood Ahmed Al-Sawah, born on 2 November 1957 in Alexandria, Egypt is a BH citizen, and if so to take all necessary measures with a view of visiting the named person who is detained in the US military detention camp "Delta" within the US naval military base at Guantanamo Bay, Cuba;

(vi) The BiH Council of Ministers by the time of appointment of the Secretary with Special Duty from item 2 in accordance with the Law on Civil Service in the institutions of BiH for the acting Secretary with Special Duty from item 2 shall appoint...

Alternative I

20. If the BiH Council of Ministers considers for any reason there no presumptions that the Secretary with Special Duty with the BiH Ministry of Justice is entrusted for carrying out of all activities proposed by the present Report, for the first alternative for carrying out of activities proposed by the present Report. I propose the Expert Group be entrusted, composed of representatives of the BiH Ministry of Justice (Expert Group Coordinator), the BiH Ministry of Foreign Affairs, the BiH Ministry of Security, the BiH Ministry of Human Rights and Refugees and the BiH Ministry of Finance and Treasury. In this case due to scope of the set obligations (primarily be on the Coordinator), it would be necessary to state that inability of the Coordinator to carry out other regular assignments in the BiH Ministry of Justice shall be justified.

Alternative II

21. If the BiH Council of Ministers considers for any reason there are no presumptions that the Secretary with Special Duty with the BiH Ministry of Justice is entrusted for carrying out of all

activities proposed by the present Report, for the second alternative for carrying out of activities proposed by the present Report, I propose that the BiH Ministry of Justice be entrusted to appoint a person tasked with this assignment. In this case due to scope of the set obligations (primarily be on the Coordinator), it would be necessary to state that inability of the Coordinator to carry out other regular assignments in the BiH Ministry of Justice.

22. After a year, revision procedure may be reviewed and decision may be reversed. The Administrative Review Board submits report/administrative recommendation to Mr. Gordon England, Deputy Secretary of Defense, who makes the final decision.

23. From the contacts I had as a representative of BiH with the mentioned four BH citizens detained in Guantanamo, it could be concluded that they have certain degree of knowledge on forthcoming above-mentioned review process.

Annexes

1. Minutes on realized contact with a BH citizen Nichie Mohamed (with Enclosures 1 and 2);
2. Minutes on realized contact with a BH citizen Mustafa Ait Idir (with Enclosures 1 and 2);
3. Minutes on realized contact with a BH citizen Boumedienne Lakhdar (with Enclosures 1 and 2);
4. Minutes on realized contact with a BH citizen Boudella Hadj (with Enclosures 1 and 2).

Proposal of Conclusions of the BiH Ministry of Justice regarding the Report on the visit paid by representatives of BiH to the BH citizens detained in the US Military detention camp "Delta" within the US naval military base at Guantanamo Bay, Cuba

I

24. Having considered the Report from 10 August 2004, supplemented by Annex I to the Report from 18 August 2004, prepared by Mr. Amir Pilav, LLM, a representative of the BiH Ministry of Justice and Head Delegation for visit to BH citizens detained in the US military detention camp "Delta" within the US naval base at Guantanamo Bay, Cuba, the BiH Council of Ministers has accepted the mentioned Report.

II

25. The BiH Ministry of Justice is entrusted to appoint a person to carry out the following tasks, namely:

- (a) To provide for translation into English and Arabic languages of relevant decision of the Human Rights Chamber for BiH referring to applicants before the Human Rights Chamber for BiH detained in the US military detention camp "Delta" within the US naval base at Guantanamo Bay, buy, and to post them though diplomatic channels to the USA to be served to

Nechle Mohamed, Mustafa Ait Idir, Boumediene Lakhdar, Boudella Hadj, Saber Lahmar and Beikacem Bansayah;

(b) To obtain all relevant decisions of the F BiH Ministry of Interior, the F BiH Supreme Court and other institutions of Bosnia and Herzegovina referring to proceedings against applicants before the Human Rights Chamber for BiH regarding deprivation of BH citizenship, that is quashing of such decisions, as well as decisions made as regards the refusal of entry to applicants;

(c) To provide for translation into English and Arabic languages of relevant decisions from item 2 of the present Annex, and to post them through diplomatic channels to the USA to be served to: Nechle Mohamed, Mustafa Ait Idir, Boumediene Lakhdar, Boudella Hadj, Saber Lahmar and Beikacem Bansayah;

(d) To obtain all relevant decisions of the F BiH Supreme Court and the F BiH Prosecutors Office referring to case(s) being prosecuted at the moment against any applicant before the Human Rights Chamber for BiH;

(e) To provide for translation into English and Arabic languages of relevant decisions from item 4 of the present Annex, and to post them through diplomatic channels to the USA to be served to: Nechle Mohamed, Mustafa Ait Idir, Boumediene Lakhdar, Boudella Hadj, Saber Lahmar and Beikacem Bansayah;

(f) To take all necessary measures to create preconditions for the BiH Ministry of Justice to lodge to the US competent institution extradition appeal for the accused Belkacem Bansayah from the USA to BiH regarding a case being prosecuted against him before the Municipal Court in Zenica, as well as the accused Saber Lahmar regarding a case being prosecuted against him before the F BiH Prosecutors Office in Sarajevo;

(g) To take all necessary activities in cooperation with the Government of the Federation of BiH, in order to allow the Federation of BiH to pay in the shortest possible time its part of obligations according to relevant decisions of the Human Rights Chamber for BiH by virtue of compensation of non-pecuniary damage to applicants;

(h) Through the BiH Ministry of Foreign Affairs request through diplomatic channels the following information:

(i) Have the responsible US authorities in accordance with their regulations indicated any applicant before the Human Rights Chamber for BiH who is not a BH citizen?

(ii) Have the responsible US authorities in accordance with their regulations indicted any applicant before the Human Rights Chamber for BiH who is not a BH citizen?

(iii) Do the responsible authorities have available data on the basis of which in the foreseeable future one could expect release of any applicant before the Human Rights Chamber for BiH who is a BH citizen or any applicant before the Human Rights

Chamber for BiH who is not a BH citizen?

(iv) In which phase there are proceedings against applicants before the Human Rights Chamber for BiH before the Administrative Review Board?

(i) Depending on the phase of phase of proceedings against applicants before the Human Rights Chamber for BiH before the Administrative Review Board, to take all necessary measures with a view of entering into negotiations on extradition of the mentioned detainees into Bosnia and Herzegovina, if there is possibility to reach such agreement with the US Government;

(j) To obtain all necessary evidence to prove if Tariq Mahmood Ahmed Al-Sawah, born on 2 November 1957 in Alexandria, Egypt is a BH citizen, and if so to take all necessary measures with a view of visiting the named person who is detained in the US military detention camp "Delta" within the US naval military base at Guantanamo Bay, Cuba;

(k) Depending on the fact if a case has been or will be instituted in the foreseeable future against any applicant, to take all necessary measures with a view of retaining of a counsel with recognized practice in a relevant legal field and before relevant courts, tribunals and other authorities with a view of taking all necessary operations to protect rights of applicants during their detainment in the USA, and to secure that each sued party (i.e. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina) bear half of lawyer's and attorneys fees, which has not been provided for by Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina so far;

(l) Depending on bringing possible verdicts in the USA against applicant before the Human Rights Chamber for BiH, to take other additional measures in accordance with relevant decisions of the Human Rights Chamber for BiH;

(m) To take all other necessary measures which are not explicit specified in the present conclusions, whose aim is to implement in full all relevant decisions towards applicants before the Human Rights Chamber for BiH;

(n) To contact wives of the applicants before the Human Rights Chamber for BiH, and to inform them on the visit of BH representatives paid to their husbands. To inform them also on the next steps the BiH Council of Ministers plans to take with a view of full implementation of all relevant decisions of the Human Rights Chamber for BiH, and to give all wives the photos of their husbands taken by competent US authorities, enclosed in Annexes to the Report prepared by the Mr. Amir Pilav, LLM on 10 August 2004.

III

26. During carrying out of the tasks specified in Part II of the proposed conclusions, inability of a person appointed to carry out other regular assignments in the BiH Ministry of Justice, shall be justified.

CAT, CAT/C/BIH/CO/1/Add.2 (2007)

Comments by the Government of BOSNIA AND HERZEGOVINA* to the conclusions and recommendations of the Committee against Torture (CAT/C/BIH/CO/1)

[6 May 2007]

Information and answers of the Authorities of Bosnia and Herzegovina on Conclusions and Recommendations of the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

1. Council of Ministers of Bosnia and Herzegovina, at its 105th session held on 26 January 2006, considered and adopted the Information on activities undertaken by the authorities of Bosnia and Herzegovina on presentation and defence of the Initial Report of Bosnia and Herzegovina on Torture, with submitted Recommendations and Conclusions of the UN Committee against Torture.
2. The Ministry for Human Rights and Refugees of BiH, in its capacity of a coordinator of activities, has been tasked to coordinate activities of the bodies and institutions of the authorities of Bosnia and Herzegovina on preparation and submission of the Information containing responses of the bodies and institutions of the authorities of BiH on implementation of Recommendations and Conclusions of the UN Committee Against Torture.
3. In accordance with Item 24 of the Recommendations and Conclusions, the authorities of BiH have been bound to submit to the competent UN Committee within one year the information on activities undertaken with a view to implement Recommendations and Conclusions of the UN Committee Against Torture.
4. With a view of realisation of the mentioned commitment of the authorities of Bosnia and Herzegovina, the Ministry for Human Rights and Refugees of BiH has timely submitted to the competent bodies and institutions of BiH and its Entities, and also to some nongovernmental organisations in BiH relevant for the concerned matter, an appropriate letter requesting answers to certain specific issues, measures and moves which the portfolio bodies, institutions and services should have undertaken in accordance with the imperatives contained in the Recommendations and Conclusions of the UN Committee Against Torture. Of course, the very text of the Recommendations and Conclusions of the UN Committee Against Torture has been submitted to all competent bodies and institutions of authorities and other relevant addresses in BiH, its Entities, the Brcko District of BiH, Cantons and nongovernmental sector from the field these Recommendations and Conclusions refer to.
5. The Ministry for Human Rights and Refugees of BiH has submitted an inquiry and received an answer of the following organs, institutions, bodies and nongovernmental organisations:
 - a) The Court of Bosnia and Herzegovina;

- b) The State Investigation and Protection Agency (SIPA);
- c) The Ministry of Justice of BiH;
- d) The Ministry of Interior of the Federation of BiH (FBiH);
- e) Ministries of Justice of FBiH and Republika Srpska (RS);
- f) Ombudsman for Human Rights of BiH;
- g) Centre for Education of Judges and Prosecutors of RS and FBiH;
- h) The State Coordinator for Combating Trafficking in Human Beings and Illegal Immigration
- i) NGO "Centre for the Victims of Torture", Sarajevo.

6. Considering the fact that answers of the competent organs, institutions and bodies of the authorities in BiH and its Entities, as well as the answer of the NGO "Centre for the Victims of Torture" have been prepared in an extremely competent, exhaustive and precise manner, the Ministry for Human Rights and Refugees of BiH considers unnecessary to make any intervention concerning the content of the texts of answers received by the above-mentioned. The MHRR will submit them in an identical content and form to the Council of Ministers on consideration and adoption. Following the adoption and translation into English, it will be submitted to the UN Committee against Torture.

7. Prior to individual presentation of the submitted enclosures of government and nongovernmental sector on implementation of the Recommendations and Conclusions of the UN Committee Against Torture, the Ministry for Human Rights and Refugees of BiH in the capacity of a coordinator of activities is bound to inform the UN Committee Against Torture that the authorities of BiH have not incorporated a definition of the crime of torture as defined in the Convention, into the Criminal Law of BiH. Also, the mentioned definition of torture has not been incorporated into criminal legislation of Republika Srpska and Brcko District through necessary amendments, which is a reason why harmonisation of a definition of a crime of torture has not been provided so far.

8. With a view of fulfilment of the obligations of the authorities of Bosnia and Herzegovina on recognition of the status of victims of torture, including primarily the rights of victims of war torture, the Ministry for Human Rights and Refugees of BiH has started activities on preparation of the text of the Law on the Rights of Victims of Torture and Civil Victims of War aimed at provision of as better protection of victims of torture, which has to be in accordance with international standards.

9. By giving particular importance to preparation of a draft Law on the Rights of Victims of Torture and Civil Victims of War in BiH, a Working Group of the Council of Ministers of BiH

has been nominated, composed of representatives of portfolio institutions of justice, health, and social protection of BiH, its Entities and Brcko District of BiH, as well as representatives of nongovernmental sector.

10. Starting from numerous general references in international human rights instruments concerning the rights of victims to compensation due to violation of their human rights, we should emphasise progress made on this issue, which has been made through adoption of new European and international instruments to be incorporated into judicial system of Bosnia and Herzegovina.

11. Basic principles of these international instruments bound the authorities of Bosnia and Herzegovina to:

a) harmonise their legislation and to provide compensation to victims for those acts or failure of the state representing violation of international human rights humanitarian law norms;

b) if such violation may not be imputed to the state, compensation to the victims should be provided by a party accountable for it;

c) if a party accountable for violation is not able or is not willing to compensate a victim, the state should try to provide compensation to a victim or his/her family;

d) establish a NATIONAL FUND FOR COMPENSATION OF VICTIMS and to explore other sources of funding when it is necessary to supplement the mentioned.

12. The Law on the Rights of Victims of Torture and Civil Victims of War in BiH should establish a comprehensive reparation programme for victims of harsh violation of human rights. Reparations, as one of the important segments of transitional justice, may include: restitution, compensation, satisfaction, rehabilitation, and guarantee that violation may not be repeated. The authorities of Bosnia and Herzegovina are bound to prepare a coherent reparation programme, defining the notion of a victim, categories of victims, types of benefits, as well as methods of their application.

13. By reference made to the International Conference on Reparations for the Victims of War, organised by the Association of Detainees of BiH and the Croatian Association of Detainees of War of Independence in BiH, with support of the International Commission for Missing Persons (ICMP) in September 2006, the Council of Ministers of BiH was requested to prepare as soon as possible the State Law on the Victims of Torture, to establish mechanisms for its implementation and the system monitoring its implementation, with participation of groups of victims/survivors, in accordance with Recommendations of the UN Committee Against Torture.

14. Based on scientific research presented at the Conference, it has been proved that psychological-social consequences of torture of ex-detainees do not reflect only on individuals who have survived torture, but also behaviour of those individuals have impact and implications on members of their families, and the wider society generally.

15. One of the conclusions of the International Conference on Reparations for the Victims of War is recognition of victims as persons who have suffered harsh violation of human rights and finding a way aimed at rebuilding of trust between civil society and the state. Victims need recognition for the damage they have suffered, respect and conditions for basic human dignity. Reparation is not a matter of charity; it is a right of each victim recognised by international conventions.

16. At the International Conference on Reparations for the Victims of War, nongovernmental sector in Bosnia and Herzegovina has requested the establishment of the fund for the purpose of victim compensation. Besides the funds allocated by the authorities of Bosnia and Herzegovina, attempts will be made to find funds from other donors willing to give their contributions.

17. The Association of Detainees of BiH and the Croatian Association of Detainees of War of Independence in BiH have appealed to relevant international organisations, particularly to the bodies of the UN, the Council of Europe and European Union, with recommendation to act in a way which will assist the victims in BiH to exercise their rights stemming from international instruments and international law.

18. By reference made to the existing legislation in Bosnia and Herzegovina, its Entities and Brcko District of BiH, under provisions of the Law on Obligatory Relations, victims are entitled to mental injury for suffered physical pain, mental sufferings due to a decrease of life activities, impairment, violated reputation, honour, freedom or personal right, death of a close person, as well as for fear. This right may be requested from a person accountable for the wrongdoing.

19. This is a general right which may be related to different situations. Concerning compensations for civil victims of war, this system of protection is very inefficient in exercising of right of victims of torture - right to mental injury. Requests for compensation of mental injury are solved in civil litigations; hence victims in such procedures are subject to new victimisation. It is necessary to notice here a difference between realisation of a right to mental injury and a right of a victim to compensation which is broader right by its nature, if compared with standards determined in international law.

20. Regarding realisation of this right, the legal practice of BiH has passed numerous sentences in favour of victims. We mention examples of realisation of a right to mental injury, mostly the right of military victims in Republika Srpska, which is a relatively positive practice. However, realisation of this right has immediately been restricted, since the decision on moratorium on such judgements has been passed very soon (discontinue payment).

21. Article 337 of the valid Law on Obligatory Relations determines that claim of compensation of mental injury caused by a criminal act lapses upon the expiry of a period determined for limitation of prosecution.

22. Discontinuance of limitation of prosecution implies also discontinuance of limitation of requests for damage compensation, which is also the case for delay in limitation.

23. However, the fact is that there is no limitation of prosecution for a war crime, which in

legal practice opens numerous additional questions concerning these cases. In accordance with the valid Law on Obligatory Relations in Bosnia and Herzegovina, claim for mental injury compensation may be substantiated against a person accountable for the damage, i.e. for a committed crime.

24. In majority of cases concerning war events all accountable persons in Bosnia and Herzegovina still have not been prosecuted. For the time being majority of claims have been substantiated against competent authorities due to determination of accountability for violation of human rights in accordance with the European Convention on Human Rights. Now a new possibility has been created for substantiation of a claim in accordance with the European Convention on Compensation of Victims of Crimes of Violence.

25. As an illustration of these actions, just to mention a case considered by the Human Rights Chamber of Bosnia and Herzegovina. The case No.CH/99/3196 Avdo and Esma Palic against Bosnia and Herzegovina and Republika Srpska - Chapter VIII Conclusions of Items 10 and 11 (Judgement passed on 9 December 2000 and serviced on 11 January 2001), determines the right to payment of compensation for mental sufferings and compensation for mental injury for a spouse and a family of a missing person.

26. The second example in the Case No. CH/01/8365, Selmanovic and others, Judgement from January-June 2003 in which the Human Rights Chamber has noticed it is not able to order a perfect remedy which could heal sufferings and pain coming out, so an individual compensation has not been awarded.

27. The Human Rights Chamber has ordered Republika Srpska to pay lump sum in the amount of BAM 4 million to the Foundation "Srebrenica-Potocari Memorial and Cemetery" for a collective benefit of all applicants and families of victims of events in Srebrenica. Only based on these examples, it can be noticed that problems concerning situation and status of victims of war and victims of torture in Bosnia and Herzegovina are complex and what is the extent of a need to establish sensible and fair relation towards this problem and to avoid political manipulations and abuses.

The Court of Bosnia and Herzegovina

28. The Court of Bosnia and Herzegovina supplies answers on Items 10 a), b), c), d) and e), as well as on Item 11 of the Conclusions and Recommendations of the UN Committee Against Torture.

Item 10 (a)

29. In accordance with the Amendments to the Law on the Court of Bosnia and Herzegovina and the Law on the Prosecutor's Office of Bosnia and Herzegovina, adopted by the Parliament of Bosnia and Herzegovina on 14 December 2004, Department I for War Crimes and Department II for Organised Crime, Commercial Crime and Corruption have been established within the Crime and Appellate Division of the Court of Bosnia and Herzegovina. Also, Special Division for War Crimes and Special Division for Organised Crime, Commercial Crime and Corruption have been

established within the Prosecutor's Office of Bosnia and Herzegovina.

30. By the Agreement between the High Representative for Bosnia and Herzegovina and Bosnia and Herzegovina from 1 December 2004, and with financial support of the international community, established was the Office of the Registrar of the Department I for War Crimes and Department II for Organised Crime, Commercial Crime and Corruption of the Crime and Appellate Division of the Court of Bosnia and Herzegovina, as well as of the Special Division for War Crimes and Special Division for Organised Crime, Commercial Crime and Corruption of the Prosecutor's Office of Bosnia and ('Office of the Registrar'). Its mandate, amongst other, includes rendering of services of professional, administrative, legal, technical and other types of support in the establishment and operation of these Divisions and Departments.

31. With the assistance of the Office of the Registrar, the Court and the Prosecutor's Office of Bosnia and Herzegovina have established all preconditions for effective, impartial and independent operation of these institutions concerning prosecution of the most serious cases of war crimes and organised crime Bosnia and Herzegovina. Concurrently the State Bosnia and Herzegovina has established other important components of a system for prosecution of these cases, including a special Division for Witness Protection within the State Investigation and Protection Agency (SIPA), with advisory support in its establishment rendered by the Office of the Registrar, the Court and the Prosecutor's Office. Apart from his, laws have been adopted establishing additional legal and technical preconditions for efficient prosecution of complex criminal cases at the State level. These laws include the Law on the Protection of Witnesses Under Threat and Vulnerable Witnesses, and the Law on the Witness Protection Programme.

32. Department I for War Crimes of the Court of Bosnia and Herzegovina has gradually started with operation in January 2005 and at the moment is composed of 5 fix judicial councils (within Crime Department) and one appellate council (within Appellate Department). Each department is composed of two international judges (appointed at the 2 year terms of office, in accordance with the Law on the Court of BiH) and one local judge as a Chairperson.

33. Within the Office of the Registrar professional teams have been established rendering direct support to judicial councils in their work (Department for Court Administration, Legal Department, Department for Support to Witnesses, Department for Public Information), while 6 new courtrooms with sophisticated technical systems have been built in the Court. Moreover, developed were information and communication systems, as well as databases for the monitoring of cases, providing the safety of information and managing various activities in the course of criminal proceedings.

34. Within the Office of the Registrar established was Department for Criminal Defence with a role to provide the highest standards of defence in trials for war crimes before domestic courts. A first Detainee Unit at the State level, under the competence of the Ministry of Justice of BiH was built with the support of the Office of the Registrar.

35. By signing of the new Agreement on the Office of the Registrar on 26 September 2006, established was a legal framework for gradual process of transition of capacities and competence of the Office of the Registrar at the State institutions. Within this process professional teams of

the Office of the Registrar are integrated into the Court, while similar process will take place in the Prosecutor's Office of Bosnia and Herzegovina. Moreover, participation of international judges and prosecutors will be gradually over by the end of 2009, which will mark the end of transitional period. The Office of the Registrar will be extinguished as a separate legal entity and all its competences will be fully transferred at the domestic institutions.

36. On 28 December 2006 Department I of the Court had 166 active cases, while its achievements in the course of 2005 and 2006 include:

a) Transfer of 5 cases from 9 indicted persons by the International Criminal Tribunal for ex-Yugoslavia (ICTY) on further prosecution to the Court and the Prosecutor's Office of Bosnia and Herzegovina (case of Radovan Stankovic, which was the first transferred to BiH, is first such transfer to any domestic court by the ICTY)

b) Taking over of more than 100 cases from lower courts;

c) 3 legally binding judgements and 6 first instance judgements in war crime cases, and;

d) 18 cases with upheld indictments in war crime cases, out of which 17 being in the full hearing or preparation for full hearing.

37. Concerning compensation for victims, besides important effect which judgements before domestic courts have on the whole society as to facing with the past, establishment of the truth on committed crimes and punishment of perpetrators, domestic judicial system enables fulfilling of property-legal requirements as a form of compensation for victims. Although it is possible to file such property-legal claim in the course of criminal proceedings, due to complexity and size of war crime cases, the injured are usually referred to civil proceedings, carried out in accordance with new civil proceedings legislation.

Item 10 (b)

38. The Court of Bosnia and Herzegovina has established full cooperation with the ICTY not only as to successful transfer of cases and further prosecution of cases from the ICTY, but also with fulfilling of orders and requests by the ICTY or the Office of the Prosecutor of the ICTY. This includes issuing of orders in preliminary investigation concerning identification of persons for whom the ICTY issued wanted person's notices, or prevent support to such persons.

39. Amongst others, upon the proposal of the Prosecutor's Office of BiH and in cooperation with the ICTY and the NATO forces, the Court has enabled expeditious transfer of the indicted Dragan Zelenovic in the Detainee Unit of the United Nations in the Hague on 9 June 2006, after being deported into Bosnia and Herzegovina by the authorities of the Russian Federation, and international wanted person's notices issued for him at the request of the ICTY.

40. Besides the abovementioned, at the request of the ICTY the Court provides information on concrete cases before this Court, and provides copies of documents, audio/video records from hearings and other materials as the need be. The ICTY has also been included into the electronic

distribution system of all material judgements in war crime and organised crime cases ruled before this Court.

Item 10 (c)

41. The Court works actively on informing the public on its work, and for this purpose a special Department for Public Information has been established. Activities on dissemination of information on the work of the Court include:

a) Interactive web page of the Court containing extracts of cases, copies of indictments and judgements, general information on the Court, as well as all information of the Court intended to the public

b) Issuing and distribution of information on important developments in cases (close to 200 in last 12 months)

c) Procedure for expeditious processing of all inquiries by the media

d) Outreach activities in cooperation with a network of nongovernmental organisations which provide information to civil society on work of the Court and the Prosecutor's Office

e) State-wide organisation of and participation in seminars on the work of Department for War Crimes

f) Participation of professional staff in informative media programmes on work of the Court

g) Providing of limited quantities of video and audio records from hearings for media.

42. All information on the work of the Court are distributed in 3 local languages and in English.

43. The Court has also established cooperation with other courts in the region which, amongst others, is reflected in providing of support to courts of other countries, in accordance with the European Convention on Mutual Assistance in Criminal Matters. There is also a high level of cooperation at other levels, which includes visits to this Court from various courts and judicial systems in the region and wider. Judges of the Court regularly participate as lecturers at various expert seminars in the country and wider.

Item 10 (d)

44. As mentioned in an answer to the Item 10 (a), the Law on the Protection of Witnesses Under Treat and Vulnerable Witnesses, as well as the Law on the Witness Protection Programme have been passed. The Department for Assistance to Witnesses operates within the Court of BiH.

Its role is to provide assistance to all witnesses before, in the course of and after their testimony before the Court. The Department has contacts with each witness before s/he is called to witness before the Court, assesses the needs for physical and other forms of assistance, receives witnesses and provides them with the assistance during their stay at the Court, as well as after the testimony. The Department's staff also takes care of technical issues as to arrival of witnesses, while the Court, i.e. the Office of the Registrar (in war crime cases) bears travel costs and costs of stay at the Court for those witnesses. Services of the Department for Assistance to Witnesses are rendered to witnesses of the defence and the witnesses of defendant on an equal basis.

45. The Department for the Protection of Witnesses operated within the Office of the Registrar, which provides support in planning and coordination of protection measures by the Department for the Witness Protection within the SIPA. The protection measures, in accordance with the Law on the Witness Protection Programme, include physical, temporary change of identity, etc.

46. The Law on the Protection of Witnesses Under Treat and Vulnerable Witnesses gives the Court certain authorities aimed at the protection of witnesses in the course of the very procedure. The protection measures, amongst others, include the protection of identity (which could be used when victims are involved), testimony by using technical means for transferring image and sound (using the system for distortion of image and sound), removal of the accused from the courtroom, separate hearing of a witness before the court panel in the absence of parties, etc.

47. The mentioned Law also obligates the Court to control the manner of examination of vulnerable witnesses, to protect them from harassment and confusion. The Criminal Procedure Code also contains provisions aimed at prevention of harassment of witnesses and victims (e.g. Special rules in testimony of persons victims of sexual misdemeanour; protection of witnesses from offence, threats and assaults).

Item 11

48. The Court of BiH is a completely independent State-level judicial institution. Its domestic judges have been appointed by the High Judicial and Prosecutorial Council of BiH (HJPC) through the process of cautious selection that ensures the selection of candidates who meet all professional and ethic standards to work as judges. A similar selection process is applied to international judges, who are also appointed by the HJPC, in accordance with the September 2006 Agreement on the Office of the Registrar.

49. In its previous work the Court has proved itself capable to administer justice in a fair, efficient and impartial way, not only when concerned are the most delicate war crime cases, but also when concerned are the highest national officials accused of organised crime, commercial crime or corruption.

50. The highest international legal standards have been provided before the Court, through trials which, amongst others, guarantee equality of parties through high quality defence, protection of witnesses where needed, as well as through economy of trials by using new systems for administration of cases. These systems include a system of automatic assignment of cases to

judges which is completely transparent and prevents any manipulation in distribution of cases by judges and panels.

51. The work of the Court is closely monitored and regularly reported by international organisations like the OSCE and Human Rights Watch. The Court cooperates closely with those organisations as to providing insight into public documents and rendering all information necessary for objective reporting on the work of this institution.

The State Investigation and Protection Agency (SIPA)

Item 10

52. Underway is the procedure of establishment of the State Investigation and Protection Agency (SIPA). At the moment this institution has 55% of the staff capacity, and as such with additional efforts realises tasks under its competence. Besides others, it collects information and data on war crime acts and criminal acts punishable under international war law and humanitarian law, provides assistance to the Court and Prosecutor's Office of BiH in protection of information and performs orders of the Court and the Chief Prosecutor of BiH, cooperates with foreign law enforcement agencies as to this issue, with the Hague Tribunal in investigation and prosecution of persons accused for committing of serious war criminal offences, including identification and location of persons, deposition of witnesses and presenting the case, delivering of documents, arrest and detention, delivering or transfer of the accused to the ICTY.

53. In accordance with the mentioned, and under the Conclusions and Recommendations of the UN Committee Against Torture and Other Inhuman or Degrading Treatment or Punishment, in 2006 the SIPA did the following:

a) In a segment of investigations and operative-investigative work on detection of criminal acts of war crime and identification of perpetrators, in 2006 the SIPA (30 November including) had in its work a total of 317 cases of various operative and security severity (382 cases in 2005), out of which 105

b) completed (105 in 2005). The other cases are ongoing, most of them being in the final realisation phase.

(i) Out of the mentioned number of cases, 259 cases (169 cases in 2005) related to investigations under orders of prosecutors (243 at the request of the Prosecutor's Office of BiH, 11 at the request of Cantonal, and 5 at the request of district prosecutor's offices). Out of this number, 81 orders have been realised, and due reports submitted to competent prosecutor's offices.

(ii) There have also been activities on 24 cases which are the result of one's own operative-investigative activities. A lot of intelligence information and valid court records on committed criminal acts of war crime, perpetrators and their aiders, mass graves, movement, residence and hideouts of the Hague defendants and other war crime perpetrators have been collected through this activity. Based

on these information and records, 24 reports on committed criminal acts have been submitted to competent prosecutor's offices.

(iii) The SIPA has also checked 34 information of other police organs and 144 reports of "crime hunters", which resulted in numerous information and knowledge on committed criminal acts of war crime.

(iv) Through the mentioned investigations and operative-investigative activities, the SIPA, amongst others, has deprived 13 persons of liberty, searched 14 premises, taken 765 statements and collected numerous valid testimonial evidence.

c) With a view of as efficient and productive cooperation between police authorities in BiH, and more informative cooperation of these bodies with the Office of the Hague Tribunal in Sarajevo, particularly in a part relating to collection of intelligence information and valid court records, in January 2005 the SIPA prepared the text of a Memorandum of Understanding on Exchange of Intelligence Data and Documentation concerning Criminal Acts against Humanity and Values protected by International Law, adopted and signed in February 2005 by all police agencies in BiH, including the OSA. Based on this Memorandum and conclusions of a meeting of heads of the mentioned institutions, which took place on 15 February 2005, a Working Group has been established into which one representative of each institution has been nominated, and a representative of the SIPA being its the coordinator.

The Working Group held 34 meetings so far, processing 317 information. The Working Group has analysed these information and assessed their credibility. Based on this, so far it has made 96 complete information, out of which 45 information concerning movements and residence of the Hague defendants, and submitted them to the Office of the Hague Tribunal in Sarajevo. Besides that, a representative of the Office of the Hague Tribunal in Sarajevo usually attended meetings of the Working Group. Based on the information of the Working Group, 2 persons from a wanted list have been arrested, and identified was one person who was abroad under false name, and for whom wanted circular was posted, Interpol was informed accordingly.

d) Besides engagement in issues of protection of witnesses in criminal proceedings prosecuted before the Court of BiH, the SIPA, at the requests for international legal assistance, rendered protection and support measures for 12 protected witnesses in trials prosecuted in Croatia and Serbia. Similarly, at the request of the Hague Tribunal, the SIPA has afforded protection to a

e) defense witness in a trial proceedings prosecuted before the ICTY in the Hague. First contacts have been realised (2 meetings) on the establishment of cooperation between the SIPA and competent police authorities in Serbia, with a view of exchange of intelligence data on movement and residence of persons accused of war crimes.

f) In July 2003 and May 2004 respectively the Law on the Protection of Witnesses

Under Treat and Vulnerable Witnesses, and the Law on the Witness Protection Programme in BiH entered into force. Tasks and assignments of the Department for Witness Protection as a basic organisational unit of the SIPA have been based on these Laws.

g) The Law on the Protection of Witnesses Under Treat and Vulnerable Witnesses regulates measures which provide protection of these witnesses in criminal proceedings. The Law on the Witness Protection Programme in BiH provides efficient protection of witnesses in the course of and after criminal proceedings with a view of enabling free and open testimony in criminal proceedings.

h) Since this is a new court and police practice which previously was not represented in BiH, the SIPA has initiated signing of the Memorandum of Cooperation with the Office of the Registrar - Division I and Division II of the Criminal and Appellate Departments.

i) The agreed parties have agreed more concretely by this Memorandum on the kinds of assistance and support on establishment of the witness protection function. The result of this agreement is the establishment of an organisational unit within the SIPA in its full personnel and material-technical capacity.

54. In 2006 the SIPA received 81 orders by the Prosecutor's Office of BiH (14 in 2005) for rendering the protection to witnesses used in criminal proceedings against persons accused for criminal acts of war crime, out of which physical and technical protection was realised for 73 witnesses (22 in 2005), which was evaluated by the competent courts as expert and professional one. One of these witnesses was relocated within BiH, while one was temporary relocated in another country. Measures of psychological support included 64 witnesses, measures of legal support included 45 witnesses, measures of social support included 67 witnesses, measures of economic support included 7 witnesses, and measures of health support included 1 witness. Interviews have been made with these witnesses, then additional information were collected for 66 witnesses. In 60 cases important information concerning witnesses were checked, while threats and risks were assessed for 68 witnesses.

55. Due to these measures, protected witnesses agreed to witness, and at main hearing remained with their statement made in preliminary investigation, while in more cases their statements were critical for passing of condemnatory judgement.

The Ministry of Justice of BiH

56. Concerning Recommendations of the UN Committee stated in Items 10 a), b), c), and d) we provide the following answer:

57. Since the establishment of the International Criminal Tribunal for ex-Yugoslavia (ICTY) authorities of Bosnia and Herzegovina have reached a high level of cooperation with the ICTY, through direct cooperation of Entity authorities (FBiH and RS), as well as through cooperation at the State level.

58. With a view to arresting of defendants in escape, the Prosecutor's Office of BiH

coordinates its work with the Prosecutor's Office of the ICTY, the EUFOR, the NATO and domestic law enforcement agencies. All kinds of information and knowledge available to the Prosecutor's Office of BiH, are transferred by the Prosecutor's Office of BiH to the Prosecutor's Office of the ICTY in Hague.

59. With a view of temporary prevention of use, alienation or other disposition of property of persons accused before the ICTY, which are not available to the ICTY and their aiders in avoiding availability to the ICTY, the Parliamentary Assembly of Bosnia and Herzegovina has adopted the Law on Application of Certain Temporary Measures for Efficient Pursuit of the Mandate of the ICTY and Other International Restrictive Measures ("Official Gazette of BiH", No 25/06).

60. The aim of this Law is to provide for manner of implementation in Bosnia and Herzegovina of Resolution 1503 (2003) of the UN Security Council by application of certain measures aimed at as efficient pursuit of mandate of the ICTY. This Law stipulates temporary measures of freezing of funds and economic recourses of the accused which are unavailable to the ICTY, as well as of persons assisting the accused in their hiding.

61. Conducting of investigations and prosecution of persons accused of providing support to main war crime defendants is under the competence of the Prosecutor's Office of Bosnia and Herzegovina. Underway are numbers of investigations which are conducted in close cooperation with the Prosecutor's Office of the ICTY, the EUFOR, the NATO and domestic law enforcement agencies.

62. Besides the mentioned, cooperation is realised through activities undertaken on tracing and deprivation of liberty of persons accused by the ICTY, through activities concerning collection of data on possible existence of a network enabling assistance to persons accused for war crimes by the ICTY and through prosecution of cases of war crime perpetrators before domestic courts.

63. By establishment of the Court of Bosnia and Herzegovina and the Prosecutor's Office of Bosnia and Herzegovina, cooperation with the ICTY is also taking place in a way that significant number of cases from the Hague has been transferred to the Prosecutor's Office of BiH and that they have already been prosecuted at the Court of BiH, in accordance with the Law on Transfer of Cases by the ICTY to the Prosecutor's Office of BiH and the use of Evidence Collected by ICTY in Proceedings Before the Courts in BiH ("Official Gazette of BiH", Nos 61/04, 46/06 and 53/06).

64. So far the Transfer Council of the ICTY has passed five legally binding decisions on transfer of cases from its competence under the procedure of the authorities of BiH, while the Court of BiH has passed the sentence in some cases. Decisions of the ICTY on transfer of two more cases to the Prosecutor's Office of BiH are being expected. So far the Court of BiH has passed several judgements in war crime cases, three of them being legally binding.

65. A Detention Unit has been established, built on international standards in which persons whose cases from the ICTY are transferred to the Court of BiH on prosecution are accommodated. Analysing the cooperation between the Hague Tribunal and the authorities of

Bosnia and Herzegovina, it is evident that very good results have been achieved with a tendency of even better cooperation.

66. Protection and support to witnesses is realised in accordance with the Protection of Witnesses Under Treat and Vulnerable Witnesses ("Official Gazette of BiH", Nos 21/03 and 61/04) and the Law on the Witness Protection Programme in BiH ("Official Gazette of BiH", No 29/04).

67. The existence of the Office of the Registrar, established in accordance with the Agreement between the High Representative for BiH and Bosnia and Herzegovina in 2004, is of importance for a more complete protection of witnesses. Amongst others, the Office of the Registrar is competent for rendering the support to Division I for War Crimes of Criminal and Appellate Departments of the Court of BiH and Special War Crime Division with the Prosecutor's Office of BiH. Since this Office has been established at the period of five years, activities have already been undertaken on its transition, so it continues its mandate until full integration of the Court of BiH and the Prosecutor's Office of BiH. New Agreement on the Office of the Registrar, signed in 2006, stipulates integration not only of the staff but also of the property from the Office of the Registrar to the institutions of BiH.

68. Department for the Witness Support, as one of the departments with the Office of the Registrar, realises cooperation with the Hague Tribunal in a way that rules and procedures of this Department are based on appropriate rules and procedures of the Hague Tribunal and accepted with a view of provision of appropriate psychological support and assistance to witnesses, before, in the course of and after trial, so as to ensure that witnessing experience does not cause additional damage, sufferings or trauma to any witness. As per estimate of the Office of the Registrar, established witness support system has been awarded positive comments, while judges consider it very important in its work.

69. The fact is that certain provisions of the Law on the Protection of Witnesses are not clear enough. The Prosecutor's Office and the Court of BiH make additional efforts with a view of elimination of inequality in application of this Law. In the forthcoming period it is planned to establish a working group which would re-examine in detail and make amendments of this Law towards greater clarity, efficiency and harmonisation with human rights protection standards. Witness protection in accordance with the Law on the Witness Protection Programme in BiH is carried through the Department for Witness Protection within the State Investigation and Protection Agency (SIPA), as administrative organisation belonging to the Ministry of Security of BiH.

**NGO Association for Rehabilitation of Victims of Torture
"Centre for the Victims of Torture", Sarajevo**

70. Main activities of the Association for Rehabilitation of Victims of Torture "Centre for the Victims of Torture", Sarajevo are:

a) Treatment and rehabilitation of persons who survived war and peaceful torture, and members of their families in Bosnia and Herzegovina.

- b) Documentation, monitoring, research and publication of the research results.
- c) Cooperation with official health sector in BiH, as well as with local and international governmental and nongovernmental organisations.
- d) Activities in the field of primary prevention of torture through rising public awareness on torture and its consequences.
- e) Secondary prevention of torture through organisation of trainings from the field of torture for all professional categories which potentially may become perpetrators of torture in pursuit of their work.
- f) Monitoring of treatment with presentation of results of research and clinical practice at local and international symposia and conferences.
- g) Representation of victims of torture.

Item 10 (d)

71. In the course of rendering medical and psychosocial assistance to the victims of torture, being at the same time witnesses at the Court of BiH, Centre for the Victims of Torture found out the following:

- a) In most cases witnessing of victims/witnesses is necessary to prove cases of war crimes. At the same time, such witnessing is very painful for victims/witnesses, since in the course of witnessing they pass once again painful scenes from their past. In a situation when victims give testimony before the Court of BiH very close to their houses, such situation is even more painful, since they still fear of the return of criminals or their collaborators who could hurt witnesses or members of their families.
- b) In contacts with victims and their associations, we have realised that there had been such cases in which judicial penalties for perpetrators had been so small that one could expect their soon return to places in which they have committed crimes. Some of them have announced their return to witnesses via their close collaborators and intimidated them in this way.
- c) There is the Law on Witness Protection in place in BiH. However, its implementation is limited with financial and certain administrative and legal obstacles. A complete system of giving testimony before the Court of BiH is very difficult for victims/witnesses, since mechanisms for their protection have not been developed enough. The process starts with reception of subpoena of witness obliging a witness to appear before the Court. The subpoena states that if a potential witness does not obey the subpoena and does not appear before the Court it may be punished with a fine of BAM 5,000 (app. EUR 2,500) or receive imprisonment sentence. Although such subpoena is grounded in law of BiH, unprepared and uneducated witnesses are very afraid when they receive subpoena. Witnesses claim that for

them it is much easier and less traumatic if someone from the Court could contact them before they receive subpoena. As per our estimation and research we conducted, this is the case in around 70% of cases. In 30% cases the first information for witnessing received by a witness is via reception of subpoena. Transport of a witness to the Court should be organised by the State Investigation and Protection Agency (SIPA). However, in practice the SIPA is often unable to accompany a witness to the Court, and witnesses themselves have to organise transport. The mentioned costs are reimbursed at the Court only for the public transportation costs. Witnesses who do not want to use public transportation means find themselves in a situation to bear travel costs from their places of residence to the Court, which are often not symbolic costs.

d) We hereby also mention that witnesses who are employed do not receive reimbursement for absence from work. We consider that these technical details could be changed in such a way to make witnessing process easier for witnesses.

e) According to our investigation, even in 64% cases witnesses have not been informed on their rights as witnesses before the Court of BiH. Also, 21% witnesses state that no one from the Court has informed them on exact activities in the courtroom. Our experience from previous work with witnesses is that confrontation with criminals was very hard for witnesses. They were morally obliged "to speak on behalf of the dead". It happens very often that they lost their beloved in the course of events they have to describe, so witnessing in these circumstances is even more difficult for them. The Department for Witness Assistance of the Court of BiH renders certain support to witnesses.

f) According to our experience, assistance rendered to witnesses through this Department is very limited and insufficient. Witnesses often feel they are left to themselves to face with consequences of retraumatisation caused by witnessing. The Department for Witness Assistance has recognised needs of witnesses, particularly in the field of medical and psychological rehabilitation and has supported vigorously our initiative in this field. According to results of psychological tests carried out in our Centre following inclusion into treatment of victims witnesses, we have concluded that level of their anxiety, interpersonal sensitivity and depression was increased due to their witnessing. Moreover, symptoms of the third cluster of PTSD symptoms were stressed, which speaks in favour of their strengthened rise caused by witnessing. They alone often complained they could not sleep nights before, in the course and after witnessing, and that they felt deeply in their minds events from the past they witnessed of.

g) Their physical health also got worse, difficulties with high blood pressure and heart-related problems appeared, while symptoms of other diseases they suffer became more expressed. Their health conditions was damaged during the war when they were exposed to various types of torture, while at the moment it got worse by psychological conditions caused by witnessing. Proposal of the team of the Centre for the Victims of Torture as to addressing of this problem is to strengthen capacities of nongovernmental sector and the Court of BiH in order to assist more efficiently victims/witnesses in these moments which are very painful for them. We hereby also call attention to technical problems with assistance rendered to victims/witnesses which should be addressed in a more adequate way and which ensure their fair treatment in all phases of proceedings.

Item 10 (e)

72. We mention as a positive step adoption of amendments to the Law on Civil Victims of War of the Federation of BiH, which enables recognition of civil victim of war status for victims of war torture in the Federation of BiH. We also mention as a positive step that these amendments have introduced women victims of sexual torture (rape) as a special category. However, we emphasise that the State-level law has not been passed, although it is necessary to pass such law, since only such law guarantees equal rights to all victims of torture regardless part of BiH they live in.

73. We also emphasise that neither official rehabilitation programmes have been introduced nor adequate financial support is provided to NGOs providing rehabilitation treatment to victims of torture. As an example just to mention that in the first 8 years of existence of the Centre for the Victims of Torture, only 2% of entire funds utilised on rehabilitation of victims of torture in the Centre has been provided from the State budget. Issue of compensation for victims of torture is also a problem in whose solving not enough efforts have been put. We express our gratitude to the Committee on recommendations to our Initial Report on the UN Convention Against Torture, since these recommendations have accelerated solving of numerous issues of victims of torture in BiH.

The Ministry of Interior of the Federation of BiH

Item 10

74. Internal affairs authorities in the Federation of BiH undertake measures and actions from its jurisdiction on all allegations of torture and other cruel, inhuman or degrading treatments. In cases of documentation of these criminal acts, reports on committed criminal act are submitted to competent prosecutor's office. Cooperation is realised with the International Criminal Tribunal for ex-Yugoslavia, through communication of information, documentation, and provision of necessary witnesses and so on, respecting international obligations and applying the Criminal Procedure Code and Criminal Code. Criminal acts committed by members of all constituent and other peoples in BiH are detected and documented. There are no data available that ethnic majority does not prosecute alleged criminals belonging to the same ethnic majority.

75. There is the Division for War Crimes within Department for Combating Organised and Inter-cantonal Crime in Crime Police Department of the Federation BiH Police Administration. It acts upon demands of the International Criminal Tribunal for ex-Yugoslavia, as well as upon demands of courts and prosecutor's offices of BiH, the State Investigation and Protection Agency, the Intelligence-Security Agency of BiH. Together with them it undertakes activities on collection of data and documentation on committed criminal acts against humanity and values protected by international law, collects operational data on whereabouts and movement of persons accused before the International Criminal Tribunal for ex-Yugoslavia, and of those accused before the Court of BiH, participates in their deprivation of liberty, collects information of possible locations of mass and individual graves with bodies of victims of war crime, and monitors exhumation and identification processes.

76. Within Cantonal Ministries of Interior there are no special organisational units dealing

with these activities. They are performed by judiciary police officers in the framework of performing activities on prevention and detection of criminality. Underway are activities aimed at establishment of Departments for War Crime within those Ministries, i.e. job systematisation for police officers who would deal only with the mentioned problems. In nine months of the current year the Federation BiH Police Administration has submitted two Official reports against four persons to the Prosecutor's Office of BiH for war crimes. Moreover, seven notices on committed war crimes against seven persons have been submitted, based on which the Prosecutor's Office of BiH launched investigation. Persons for whom reports on committed war crimes are of different ethnicity.

77. Since in accordance with the Law on the State Investigation and Protection Agency (SIPA) this body is competent for prevention, detection and investigation of criminal acts from the competence of the Court of BiH, particularly war crimes and other criminal acts against humanity and values protected by international law, and witness protection, we suggest to contact the SIPA for more detailed answer and information under this item.

Item 11

78. Efforts are put to maintain necessary multiethnic structure of police officers employed in internal affairs authorities in the Federation of BiH, which corresponds to ethnic composition of population in 1991. There have been no cases of ethnic prejudices in pursuance of police activities, namely there have been no cases in which all ethnic groups are not treated legally in activities on processing of concrete cases. It is necessary to mention that police officers may not be members of political parties. Particular attention is paid to security of returnees, and good cooperation has been achieved with them. Cases reflecting in violent attacks on members of ethnic and other minorities have been solved to a great extent. In most cases reasons are unsolved relations under property law. In cases of severe forms of endangerment of returnees great efforts are put to detect and trace perpetrators and to prosecute them, while the police in its everyday activities undertake necessary measures and actions as to secure personal and property security of returnees.

Item 15

79. Authorised officials of the Federation BiH Police Administration and Cantonal Ministries of Interior treat persons deprived of liberty in accordance with Article 5 of the Criminal Procedure Code of the Federation of BiH. This means that they are informed in a native language about reasons for apprehension, on right to defence attorney of their own choice, as well as on the fact that their family, consular officer of a foreign state whose citizens they are, or other person designated by them are informed about their deprivation of liberty. If the suspect is not instructed on the right to attorney, court decision may not be based on his statement.

80. The Instruction on Treatment of Persons Deprived of Liberty regulates manner of admission of persons deprived of liberty into detention facilities, manner of their placement, health-hygienic conditions and nutrition, files and accompanying documentation concerning official activity of deprivation of liberty, rights and behaviour of persons deprived of liberty, obligations of police officers and other issues concerning the treatment and behaviour of police

officers towards a person deprived of liberty.

81. According to provisions of the mentioned Instruction, a police officer is obliged to determine condition of that person during his admission, to determine if he has wounds over the body (bruises, scratches, cuts, etc) inflicted by physical manner, health problems, i.e. whether a person is alcoholised or drugged. Photos are taken of all injuries inflicted in the course of deprivation of liberty. A seriously injured or sick person shall not be kept in detention facilities, unless professional medical help has been rendered to him previously. Rendered medical help is entered into Records on Deprivation of Liberty. A person deprived of liberty who obviously needs medical help is taken to health facility even when he claims that he does not need help. If he continues to refuse help, he is asked to sign a statement on refusal of help.

82. A police officer submits report on any use of physical power by the end of shift, which is subject of internal control estimation within 24 hours. Such control is carried out by Professional Standards Units, which are organisational units in all Ministries of Interior of the Federation of BiH.

Item 19

83. Although this item concerns mainly the right to appeal of inmates of prisons, since internal affairs authorities may detain persons deprived of liberty in detention facilities 24 hours at the latest from the moment of apprehension, we mention that persons deprived of liberty may lodge appeal on treatment and behaviour of personnel of internal affairs authorities in the course of apprehension and detention. In these cases impartial and independent investigations are conducted by Professional Standards Units, which are organisational units in all Ministries of Interior of the Federation of BiH, and which monitor implementation of provisions of the Instruction on Treatment of Persons Deprived of Liberty.

Item 21 (a)

84. Internal affairs authorities in the Federation of BiH undertake measures and actions in investigation and prosecution of perpetrators of criminal acts of trafficking in human beings in accordance with the law, i.e. immediately after knowing about commitment of this criminal act, inform immediately a competent prosecutor, and undertake all necessary measures and actions from their competence aimed at documenting of a criminal act, tracing a perpetrator and rendering adequate assistance to a person injured by a criminal act. Since these criminal acts present one of the most serious and cruellest violation of basic human rights and freedoms, which is reflected in various forms of exploitation, like abuse through prostitution and sexual exploitation, and considering seriousness of phenomenon of these criminal acts, the Striking Force for Combating Trafficking has been established at the State level.

85. In nine months of the current year at the territory of the Federation of BiH recorded are four criminal acts of trafficking, four criminal acts of smuggling and one illegal denial of identification documents. All these acts are interrelated, having in mind problem of prostitution and trafficking.

86. The Federation BiH Police Administration has undertaken activities on closure of night bars for which it had knowledge of trafficking and sexual exploitation. During these actions, i.e. during search of three night bars located in two Cantons, found were 16 foreign nationals offering sexual services. Official reports on committed criminal act of trafficking have been submitted to competent prosecutor's offices against owners of these bars. These girls, as victims of trafficking, have been rendered various kinds of assistance by NGOs, competent authorities, after which they have been repatriated into their kin states or third countries, of their own choice. Significant progress in prevention and detection of crimes and perpetrators concerning trafficking has been achieved through application of the Criminal Procedure Code of BiH and Criminal Code of BiH, and through establishment of the Prosecutor's Office and the Court of BiH.

87. In recent time one can notice phenomenon of a "new" form of organised prostitution, which is prostitution in flats, escort, prostitution organised by means of newspaper advertisements, and via Internet. Concerning these new forms of organised prostitution there is a range of difficulties in collection of concrete material evidence; however, one could expect that in the forthcoming period the police and prosecution will find efficient responses to these new phenomena, which has already become a topic of joint meetings and education of officials of these two authorities.

The Ministry of Interior of Republika Srpska

Item 10

88. The Ministry of Interior of Republika Srpska over a longer period of time has been undertaking activities concerning documentation of criminal acts under Criminal Code - Chapter against humanity and international war law, i.e. criminal acts of war crime. In this sense established was Investigation Team of the Ministry of Interior of Republika Srpska with its main office in Public Security Centre in Sarajevo East. The Team has its sub teams in all Centres, and it coordinates, directs and analyses their activities. All these measures and actions are carried out in cooperation with competent prosecutor's offices, particularly with the Prosecutor's Office of BiH.

89. The Special Investigation Unit of the Ministry of Interior of Republika Srpska has within its structure a certain number of staff engaged in issues of cooperation with the Hague Tribunal, i.e. location, apprehension, and voluntarily surrender of remaining Hague defendants. Within the Action Plan of the Government on cooperation with the Hague Tribunal, the Ministry of Interior of Republika Srpska has prepared its Plan of work on these problems, and special plans of operations have been prepared for remaining Hague defendants.

90. Besides members of the Special Investigation Unit, incumbents in all Public Security Centres have been engaged for the mentioned activities, according to needs in the field. Just to mention that the Ministry of Interior of Republika Srpska does not undertake these activities independently, but in coordination with other police and intelligence services, at the territory of BiH (SIPA, OBA), the Republic of Serbia (BIA) and the Republic of Montenegro (ANB) alike. Besides them, members of the EUFOR, the NATO Headquarters BiH participate in this cooperation, with whom they often plan and realise joint police-military actions in the field. The

Prosecutor's Office of BiH, as an authority responsible for acting under these problems, is informed timely on all undertaken activities. However, due to specificities and secrecy of the mentioned activities, these information are intended for police-judicial use exclusively.

Item 11

91. Members of the Ministry of Interior of Republika Srpska in pursuance of activities under their competence are obliged to respect human rights and freedoms, regardless race, sex, language, national affiliation, religion, social origin, birth, education, property, political or other opinion, social status, and other circumstances. By solemn declaration during entering into employment they are bound to comply with Constitutions and legislation of Bosnia and Herzegovina and Republika Srpska and to protect human rights, freedom and security of persons.

92. Persons belonging to all three constituent peoples, as well as those belonging to Others are all employed in the Ministry. Maximal attention is paid to security of returnees, their personal security and protection of property. This is a continued obligation of members of the Ministry of Interior of Republika Srpska. There are efforts directed at solving sporadic incidents caused on various grounds, on mutual satisfaction of police and citizens.

93. Police officers, in accordance with provisions of the Law on Internal Affairs, may not be occupied with other activities or business, i.e. perform additional profession, nor they may demonstrate political determination, be governed by them, may not perform functions in legislative and executive authorities in Republika Srpska, nor be members of governing and other authorities in enterprises, other legal entities and political parties.

Item 15

94. In accordance with Article 5 of the Criminal Procedure Code of Republika Srpska, a person deprived of liberty must, in his mother tongue or any other language he understands, be immediately informed about reasons for his apprehension, and instructed on the fact that he is not bound to make a statement, on his right to a defence attorney of his own choice, as well as on the fact that his family, or other person designated by him are informed about his deprivation of liberty. A person deprived of liberty shall be appointed defence attorney if according to his financial status he cannot pay the expenses of a defence. The official languages of Republika Srpska - the Serbian language, the Bosnian language and the Croatian language, and both alphabets - Latin and Cyrillic are in equal official use in criminal proceedings. Parties, witnesses and other participants in the proceedings have the right to use their own language in the course of the proceedings. If such a participant does not understand one of the official languages of Republika Srpska, provisions shall be made for oral interpretation of the testimony of that person and other persons, and interpretation of official documents and identifications and other written pieces of evidence.

95. The Instruction on Treatment of Persons Deprived of Liberty regulates manner of admission of persons deprived of liberty into detention facilities, manner of their placement, health-hygienic conditions and nutrition, files and accompanying documentation concerning official activity of deprivation of liberty, obligations of authorised persons and other issues

concerning the treatment and behaviour of police officers towards a person deprived of liberty.

96. A police officer is obliged to visually determine condition of that person during his admission, to determine if he has wounds over the body (bruises, scratches, cuts, etc) inflicted by physical manner, health problems, whether a person is alcoholised or drugged, and to take photos of all injuries inflicted in the course of apprehension. A seriously injured or sick person shall not be kept in detention facilities, unless professional medical help has been rendered to him previously.

97. A person deprived of liberty injured or sick at the moment of apprehension will be taken to health facility or be examined by a doctor for estimation and rendering of medical help. If a person deprived of liberty obviously needs medical help he is taken to health facility even when he claims that he does not need help. If he continues to refuse help, he is asked to sign a statement on refusal of help.

98. According to provisions of the mentioned Instruction, upon admission of a person deprived of liberty a police officer is bound to inform a family of such person, unless a person concerned opposes it. Competent social care authority is also informed on apprehension. If necessary, measures will be undertaken on care of children and other dependant members of a family of a person deprived of liberty. If a person is questioned, entrance will be permitted to attorney of a person deprived of liberty. Upon appeal of a person deprived of liberty, investigation is conducted by the Internal Control Inspectorate, as organisational unit of the Ministry of Interior of Republika Srpska.

Item 19

99. In accordance with provisions of the Criminal Procedure Code of Republika Srpska, a police authority may deprive a person of liberty if there are grounds for suspicion that he may have committed a criminal act and if there is any reason as referred to in Article 189 of the mentioned Code, but must immediately, and not later than 24 hours bring that person to the prosecutor, whom the police shall notify of the reasons for and time of the deprivation of liberty. Use of force is allowed only in accordance with the law.

100. Persons deprived of liberty, like each citizen, may file a complaint, i.e. to complain on treatment and behaviour of police officers in the course of apprehension and detention. Complaint is filed to the Bureau for Appeals and Petitions of Citizens, an organisational unit of the Ministry of Interior of Republika Srpska. Internal Control Inspectorate and Unit for Professional Standards, organisational units of the Ministry of Interior of Republika Srpska, are bound to investigate the case, i.e. to conduct impartial investigation in accordance with their authorities.

101. In accordance with provisions of the Rulebook on Disciplinary and Material Liability of Police Officers and Other Personnel of the Ministry of Interior of Republika Srpska, if a death of a person in detention or under police protection occur, as well as serious injury of a person in detention or under police protection, at the request of the Bureau for Appeals and Petitions of Citizens, Internal Control Inspectorate and Unit for Professional Standards must launch full investigation, regardless the fact whether a person has filed a formal appeal. All appeals by

citizens against police officials may be received in any police station, public security station and public security centres, while the Ministry transmits them unopened within 24 hours to the Bureau for Appeals and Petitions of Citizens.

Item 21

102. The Ministry of Interior of Republika Srpska within the framework of its duties and tasks works on prevention of commitment of criminal acts, detection, tracking down and delivering of perpetrators of criminal acts to competent prosecutor's office. In relation with this, it investigates and prosecutes perpetrators of criminal acts of trafficking in a way that they undertake necessary actions for documentation of criminal act and inform the competent prosecutor accordingly, so that he could undertake measures from his competence.

103. Criminal act of trafficking in human beings for the purpose of prostitution is laid down in Article 198 of the Criminal Code of Republika Srpska. Heavy punishments for these acts are provided by the law, which is understandable since these criminal acts present the cruellest violation of rights and dignity of a person, and they must be sanctioned by the State. The Striking Force for Combating Trafficking has been established at the State level, with participation of representatives of the Ministry of Interior of Republika Srpska. The Prosecutor's Office and the Court of BiH work actively on prevention and detection of perpetrator of these criminal acts.

Ombudsman for Human Rights of Bosnia and Herzegovina

Items 19 a, b and c

104. The Amendments to the Law on Ombudsman of Bosnia and Herzegovina stipulate establishment of the Department for Monitoring of Work of Correctional Institutions and protection of human rights of inmates.

105. The Office of Ombudsman for Human Rights of Bosnia and Herzegovina is of opinion that activities of the Institution of Ombudsman of BiH in this field will be focused and expanded with the establishment of this Department. So far the Office of Ombudsman for Human Rights of Bosnia and Herzegovina had significant number of appeals of inmates, while the plan of activities of the Institution included visits to Correctional Institutions. These activities will be continued in 2007.

106. So far each detainee or prisoner could have addressed to the Institution of Ombudsman of BiH without obstacles, while application forms for the Ombudsman were available in all 14 correctional institutions. Ombudsman or personnel of the Institution may visit prison at any time and without restriction of premises and documentation they inspect. We have to mention that cooperation with prison administrations has mostly been satisfactory, and that in most cases findings and recommendations of Ombudsman have been observed.

107. Representatives of the Institution, Mr. Mariofil Ljubic and Ms. Almedina Karic have been members of the Working Group of the Prison Reform Project under the auspices of the Council of Europe. The main task of this Working Group (composed of representatives of all

three Ministries of Justice in BiH, Ombudsman of BiH, correctional institutions from the Federation of BiH and Republika Srpska) is to give concrete proposals as to development of new and more efficient system of acting under applications and complaints of inmates and to establish independent inspection in prisons in BiH, all this with the assistance of international experts of the Council of Europe.

108. Team of experts of the Council of Europe works on reform of legislation from the field of prison system, i.e. preparation of new Law which will regulate rules concerning undergoing sentence of imprisonment and detention measures.

109. We inform you that the Working Group in this sense has unanimously adopted a range of proposals and solutions which are in accordance with European practice. If these proposals are incorporated into domestic legislation, reasons for which the Committee has expressed its fear in Item 19 of its Conclusions and Recommendations will be removed to a great extent.

110. Institution of Ombudsman of BiH certainly supports work of the Committee against Torture, convinced that their recommendations may only assist Bosnia and Herzegovina to fully implement international agreements it has ratified, respecting interests and human rights of all its citizens.

Ministries of Justice of Republika Srpska and the Federation of BiH

Item 15

111. Convicted and detained persons are admitted into correctional institutions (prisons) based on committal letter of competent court, i.e. order of a court which prosecutes.

112. Detention measure is executed in special departments physically separated from departments for imprisonment. Women are separated from men, and as a rule, minors are separated from adults. Detention institute has been regulated to the greatest extent by the Law on Criminal Proceedings (a smaller part being regulated by the Law on Execution of Criminal Sanctions) and House Rules for execution of measure of detention, all prison administrations act upon. Execution of sentence of imprisonment is regulated by the Law on Execution of Criminal Sanctions, House Rules for undergoing a sentence of imprisonment and other bylaws passed on the basis of the Law. Upon admission to facility, all persons (convicted and detained alike) have been informed on their rights and duties, and medical check-up is carried out. Medical findings are entered into medical records of a detainee (convicted person).

113. It should be stressed that largest number of detainees are admitted to the facilities either from the court or from police detention, where according to our knowledge they are enabled to realise contacts with members of their families and attorneys. Upon admission into correctional institution, detainees are enabled to engage their own attorneys or attorney from an attorneys' list each institution has. Visits of family members to detainees go undisturbed, based on the approval of a judge who prosecutes a case.

114. Contacts of convicted persons with their families and social environment are undisturbed.

These contacts are realised by means of visits of family and friends, sending and receiving of mails, receiving of parcels, and phone calls. There are telephone booths in all correctional institutions at disposal to convicted persons. Usage of cellular phones is prohibited. Depending on a type of an institution, type of criminal act, imposed penalty, part of sentence already served, behaviour of the convicted person in the course of imprisonment, and attitude of social environment, convicted defendants may use different kinds of privileges outside institution in which they serve the sentence: going to town in which correctional institution is located, alone or with family members who visit them, weekends, leaves and vacations, which they spend as a rule in place of residence of a family. The House Rules of institutions determine criteria, so number of visits to convicted persons is defined by a type of institution a person serves the sentence and depends on success of treatment implementation.

115. A foreign national convicted person may be visited by a diplomatic representative of his state or a state which protects his interests, in accordance with provisions of international law and international agreements with reciprocal conditions. Each convicted person has a right to primary health care, while persons who are not satisfied with medical check-up by a prison doctor have a right to be examined by a doctor of their own choice and at their expense.

Item 19

116. Conditions in which convicted and detained persons are accommodated and accompanying prison facilities are neither at desirable level, nor at the level of legally proscribed norms. Accommodation conditions for detainees are worse than conditions for serving imprisonment sentence, walking area is very cramped, stay in fresh air is not enough, there is not enough space for physical, cultural and other activities. Lack of the mentioned is obstacle for application of proscribed standards.

117. Upon admission, convicted persons are placed in separate premises (so-called admission ward), designed for that purpose, and are kept there up to 15 to 30 days, depending on length of sentence. During that time convicted persons are informed on their rights and duties and assessment of personality is carried out. After that treatment is determined and these persons are assigned into educational groups. The Law on Execution of Criminal Sanctions, accompanying rulebooks and other bylaws, European Prison Rules, Convention on Human Rights and other regulations concerning human rights and freedoms are available to convicted persons.

118. Immediately upon admission, detainees are informed on their rights and duties and are placed in appropriate premises - detention cells which are separated from premises for convicted persons. Laws, rulebooks and other regulations are available to them.

119. Convicted and detained persons are enabled to file submissions to competent authorities for the protection of their rights and legally protected interests. Moreover, convicted and detained persons have a right to a discretionary complaint to prison officers or a prison manager due to violation of their rights or due to other irregularities done to them. Complaints are determined without any delay.

120. If a convicted or detained person is not satisfied with the decision, he has a right to appeal to the Ministry of Justice, Ombudsman of BiH, and other bodies and organisations dealing with

human rights protection. They often address them directly, without previous prosecution at lower levels. Complaints, petitions and applications may be filed in an open way or in a sealed envelope.

121. All complaints and appeals being addressed are recorded into a special book, while applicants are informed in a written form on time their applications have been referred to competent determination. Written records are kept of all received responses to the complaints by institutions to which complaint had been addressed.

a) Within the Project on Reform of Prison System in BiH, organised by the Council of Europe, several workshops were held as to the topic. Appellate procedure, system of determination of complaints and appeals lodged by persons deprived of liberty. Managers of all correctional institutions participated in these workshops, while Team for Prison Personnel Training, together with experts of the Council of Europe, has prepared Instructions for determination of complaints and appeals, so unique procedure for determination of complaints and appeals has been introduced in all institutions.

b) In BiH, as well as in its Entities, there is no institution called "Independent Prison Inspector". Supervision over work of prisons is carried out by inspections which exist in Entity Ministries of Justice and the State Ministry of Justice. Expert Team of the Council of Europe and Working Group composed of representatives of the State and Entity Ministries of Justice and Ombudsman of BiH has proposed to establish institution of Independent Prison System Inspector, which at the beginning would be placed in the Office of Ombudsman of BiH. Appointment of this inspector would be done under the same procedure as appointment of Ombudsman of BiH.

c) Supervision over work of detention units is done by a president of a competent court and State or Entity Ministry of Justice. Offices of Ombudsman have special experts tasked with monitoring of respect of human rights in prisons and act upon appeals of inmates. The Helsinki Committee for Human Rights, the OHR, the OSCE and other organisations regularly supervise work of correctional institutions. Within new legal solutions, stipulated is provision and undisturbed access to nongovernmental organisations dealing with protection of human rights and freedoms and conversation with persons deprived of liberty without presence of prison officials.

Centres for Education of Judges and Prosecutors of the Federation of Bosnia and Herzegovina and Republika Srpska

Item 11

122. Centres for Education of Judges and Prosecutors in the Federation of Bosnia and Herzegovina and Republika Srpska provide professional training of judges and prosecutors for three years now. During the previous period the Centres grew into recognisable professionally and socially positioned public institutions. A significant number of educational activities have been realised; organisational, technical and personnel structure has been established, together with a system of planning, monitoring and estimation of educational activities. Distance information and education system through web sites of the Centres has been created. A high

mutual cooperation of the Centres has been achieved, as well of other domestic and international partners.

123. Centres have been promoted and operate at international level within institutionalised network of related institutions in Europe, and a range of multilateral and bilateral projects and programmes. At the moment Centres create strategy for professional training and initial training of judges and prosecutors, which will advance quality and quantity of professional training, and provide system of initial training of future judges and prosecutors in Bosnia and Herzegovina, in accordance with the international standards.

124. The Law on the Centre for Education of Judges and Prosecutors in the Federation of BiH and Republika Srpska regulate that the Centre, under supervision of the High Judicial and Prosecutorial Council of BiH, will elaborate curricula and have classes for professional training, granting judges and prosecutors maintenance and development of their knowledge in the field of technique, culture and social relations necessary for performance of their duties. Obligatory education of judges and prosecutors includes classes from the following fields: interpretation and application of material procedural law, ethical standards for judges and prosecutors, the latest scientific and professional achievements in the field of law, judicial and prosecutorial practice of other countries, and special educational contents upon the decision of the Steering Committee.

125. The Law regulates obligation of the Centres to organise initial education for persons intending to work as judges and prosecutors. However, this form of education has not had its full-institutionalised form, but for the time being is carried out through education of newly appointed judges, expert associates and trainees through adapted programmes and educational activities.

126. At the beginning of each year Centres pass annual work programmes and framework calendars of activities for professional training of judges and prosecutors, made public on web sites. Educational contents of the Centres in accordance with the work programme regularly include topics concerning direct application of international standards laid down in international conventions signed and ratified by Bosnia and Herzegovina.

127. Provisions contained in the 1984 Convention Against Torture and Other Cruel, Inhuman or Humiliating Punishments and Treatments bounding the State on absolute prohibition of torture and ill-treatment of persons and from which one may not retreat, are an integral part of fields and topics treated within education.

128. Recognising an exceptional significance of this Convention, education of judges and prosecutors includes treatment of obligatory topics concerning due and fair treatment through respect of basic human rights in all judicial proceedings.

129. Since the beginning of operational work of the Centres in July 2003, when application started of new process laws, particularly the Criminal Procedure Code and the Law on the Protection of Witnesses in Bosnia and Herzegovina, the Centre started with continued education of judges and prosecutors in criminal field. New criminal legislation, established on essentially different principles, so-called adversary system, required certain period of adaptation of persons

competent for application of criminal regulations (judges, prosecutors, police), so in this direction the Centres, with the assistance of domestic and foreign experts have undertaken intensive activities on judicial personnel training.

130. In the course of 2006 the Centre for Education of Judges and Prosecutors in Republika Srpska independently or in cooperation with other institutions organised 31 educational activities in the field of criminal material and procedural law, which in an direct or indirect way included complete contents or individual topic areas concerning application of international standards in treatment of relevant entities in court procedures.

131. In the programmes of seminars, conferences and thematic workshops special focus was put on topics from the Criminal Procedure Code, like: measures of securing the presence of the accused/convicted (custody), investigation procedure, juvenile procedure, representation skills, application of procedural protection measures, home violence and intervention, judicial and prosecutorial ethics, different international conventions and instruments in these fields, etc. Through education and processing of the mentioned topics (mentioned just as an example) judges and prosecutors are permanently educated towards due and legal application of relevant legal provisions and international conventions, having in mind that fair treatment has to prevail in each judicial procedure, which as final consequence guarantees judicial independence and the rule of law.

The Council of Ministers of BiH

The State Coordinator for Combating Trafficking in Human Beings and Illegal immigration

Criminal prosecution and international cooperation

132. In the course of 2005, law enforcement agencies in Bosnia and Herzegovina submitted to competent prosecutor's offices 36 reports against 59 persons on committed criminal acts of trafficking in human beings and criminal acts concerning trafficking in human beings. Law enforcement agencies have found in these 36 cases existence of reasonable doubt of 54 persons being victims of trafficking.

133. The structure of submitted reports for committed criminal acts, structure of persons against whom reports have been submitted, and structure of persons for whom existence of reasonable doubt of being victims of trafficking has been determined are presented in the following table:

Criminal act	Number of submitted reports	Number of reported persons	Number of victims
Trafficking in human beings Article 186 of the Criminal Code of BiH	15	35	27

Article 188 of the Criminal Code of BiH	3	3	3
Pandering Article 210 of the Criminal Code of the Federation of BiH	10	10	14
Trafficking in human beings for the purpose of prostitution Article 198 of the Criminal Code of Republika Srpska	6	8	6
Pandering Article 207 of the Criminal Code of Brcko District	1	2	3
Exploitation of children for pornography Article 208 of the Criminal Code of Brcko District	1	1	1
TOTAL	36	59	54

134. In the course of 2005 Prosecutor's Offices in Bosnia and Herzegovina conducted 68 investigations for criminal acts of trafficking in human beings and other criminal acts concerning trafficking in human beings. Out of a total number, 37 investigations were launched in the course of 2005, while 31 investigations were continued from 2004. One additional investigation was conducted against an official of the State Border Service for a criminal act of misuse of an official position or authorities concerning trafficking in human beings, which was not closed by the end of 2005.

135. The Prosecutor's Offices preferred a total of 24 indictments against perpetrators of criminal acts of trafficking in human beings and other criminal acts concerning trafficking, while courts confirmed 26 indictments. A total of 39 investigations were not closed by the end of 2005, and they will be continued in the course of the following year.

136. In the course of 2005 courts in Bosnia and Herzegovina decided upon indictments preferred for 17 persons. Nine judgments were passed based on the agreement on guilt, out of which two persons were sentenced to suspended sentence; a fine was imposed for one person, while 6 persons received imprisonment sentence. 7 judgments were passed without agreement on guilt, out of which one person was sentenced to suspended sentence, and six persons received imprisonment sentence. One judgment was acquittal. A total of 6 appeals were lodged on first instance judgments, judgments for 6 persons became legally binding, all of them condemnatory, one suspended sentence and five sentences of imprisonment. All five persons sentenced to imprisonment were committed to prison. At the end, it is important to mention the fact that

underway is proceedings on 33 charges filed for criminal acts of trafficking and other trafficking-related activities.

137. Imposed imprisonment sentences are as a rule very low, often below legal minimum stipulated for such kind of criminal act, considering that recorded was one case of imposed imprisonment sentence of 4 years and 6 months, imposed for committed criminal act Mediation in prostitution under Article 210 of the Criminal Code of the Federation of BiH.

138. In the course of 2005, as compared with 2004, number of investigations conducted for the mentioned criminal acts is larger for 20 as compared with 48 investigations conducted in previous year, number of charges preferred is larger for 6 as compared with 18 charges preferred in that year; while number of imposed condemnatory judgments is identical in both years: 16. Proportion of the mentioned data is showed in the graph below.

General overview of the situation and statistical indicators on victims of trafficking in 2006

139. Regarding care of victims of trafficking, nongovernmental organisations assisted 83 persons in the course of 2006. Out of that number, 7 were children, accompanying their mothers, while 20 of them were victims who stayed there from previous years. So, a total number of victims being assisted by nongovernmental organisations identified only in 2006 was 56.

140. Analysis of indicators by police authorities has showed that there were 42 victims of trafficking in human beings, while 52 victims were prosecuted (10 prosecuted victims were identified in previous years). Out of 42 victims, 15 were not accommodated in safe houses, since they were mainly assisted by social work centres or returned into families. Remaining 27 victims stayed in safe houses.

141. It can be concluded from the abovementioned that in the course of 2006 71 victims of trafficking were identified, 32 from Bosnia and Herzegovina, 21 from Serbia and Montenegro, 6 from Moldova, 4 from Ukraine, 3 from Croatia, 2 from Bulgaria and one person from Switzerland, Russia and Romania. Only one victim is male, a minor from Serbia and Montenegro.

Estimate of a shelter for victims of trafficking in human beings in Bosnia and Herzegovina

142. As far as research is concerned, Mission of the USAID for Bosnia and Herzegovina has financed work of an independent consultant on estimation and analyses of present conditions of the existing shelters for victims of trafficking at the entire territory of Bosnia and Herzegovina, aimed at formulation of recommendations for advancement of framework assistance for future work.

143. Although the referring mechanism was estimated as efficient, it has been established that assistance parcel in Bosnia and Herzegovina, which includes safe accommodation, food, clothes, and medical care, available in all shelters, has primarily been designed for foreign nationals victims of trafficking. In most shelters assistance provided to citizens of BiH is in principle the same as the assistance to foreign nationals victims of trafficking. The only difference is in the fact that services necessary for successful reintegration are not rendered to BiH victims. However, although shelters provide adequate conditions, standards in them are not equal; they vary from those which are older, those used more frequently, those which need rehabilitation. Services rendered in shelters also vary. Some shelters put significant focus on psychosocial protection, some on education (for minor victims), but it is noticeable that shelters do not put significant focus on professional training and employment courses. All shelters provide health care services for victims of trafficking. At the moment most nongovernmental organisations receive funds from foreign donors for payment of medical treatments costs. If such manner of payment ceased, many organisations would have difficulties to continue with financing of such services. All shelters have some form of security - fences around buildings, closed door and agreement with the police to come upon call. Although some shelters hire personnel trained for rendering of legal aid, it is primarily provided by NGO Your Rights.

144. In accordance with the concluded agreement, the Ministry of Security and IOM are accountable for repatriation of foreign nationals victims of trafficking who are accommodated in shelters. However, it seems that nongovernmental organisations have limited knowledge of repatriation process or assistance rendered to victims upon their return.

145. Based on research and conclusions, this report contains twenty seven concrete measures concerning improvement of framework of assistance to victims of trafficking by governmental institutions and nongovernmental organisations in the field of health care services (also psycho-social support and rehabilitation of drug addicts), reintegration and alternative accommodations (including education, training and employment, income generation, leisure activities), issue of minors and mixed population in shelters, security issue - open versus closed shelters, repatriation, number of necessary shelters, financial sustainability, identification of victims of trafficking and monitoring.

146. Although it has been suggested that new shelters are not opened since capacities of the existing ones satisfy needs of victims of trafficking, there is a need for reintegration programmes in different parts of country. All shelters in Bosnia and Herzegovina are close-type shelters. However, there is recommendation that both open and closed shelters exist which would accommodate low security risk victims, to enable their more successful reintegration. Close-type shelters would provide larger level of protection to victims, if security reasons prescribe that. It is necessary to put more efforts towards creation of possibility for leisure activities, additional and regular education, employment and income generation projects. In order to estimate quality of services rendered to victims of trafficking victim referral system, it is necessary to establish mechanism for monitoring of network of assistance to victims of trafficking.

147. The Ministry of Security and International Organisation for Migrations (IOM) have signed the Agreement on Repatriation of Victims Foreign Nationals accommodated in shelters. The Agreement defines roles and accountabilities of signatories, including security of exchanged information. The Ministry of Security issues a repatriation order only in case certain preconditions have been fulfilled, like receipt by the Office of the State Prosecutor that a person concerned is not a party to criminal proceedings. The IOM prepares support for repatriation, transport, reception by IOM Mission in a state to which a victim travels, as well as certain amount of financial support to a victim.

148. Due to nature of repatriation process, safety and security measures, as well as the right to privacy of victims of trafficking, are monitored, respecting security of information exchange. It should be emphasised that, due to security measures, a few people are informed on detailed information on repatriation process.

International mechanism for the protection of victims of trafficking

149. As large number of cases of trafficking is of overseas nature, and requires international cooperation and joint actions of governmental and nongovernmental sector, apart from system referring victims within Bosnia and Herzegovina, it is necessary to establish interstate mechanism of assistance to victims of trafficking. Interstate cooperation relates first of all to security plans for victims of trafficking which include their families and persons close to them in countries of origin, estimation of risk before return, adequate and sustainable return, and reintegration or support in resettlement, as well as transfer of victims witnesses to courts beyond borders of a country they reside, or use of video record of witnessing instead of that. Bosnia and Herzegovina, as a country beneficiary, started in October 2006 with implementation of the

Programme of Support to Development of Translational Referral Mechanism (TRM)/interstate referral mechanism for victims of trafficking in South-eastern Europe.

150. So, direct goals of the TRM Programme, to be designed, tested and approved by the South-eastern Europe countries based on best practices and identified needs of victims are development of mechanisms necessary for overall transnational/interstate support to victims and institutionalised cooperation on addressing cases of interstate trafficking between actors and states included into the project. The TRM will be designed, tested and approved by the countries by means of taking the best practice and identified needs of victims of trafficking, with due respect paid to protection of data and privacy.

Criminal prosecution

151. In the course of 2006 law enforcement agencies reported to prosecutor's offices 34 committed crimes of trafficking and similar criminal acts against 77 persons. In two cases charge was preferred for criminal acts of trafficking relating to Article 250 of the Criminal Code of Bosnia and Herzegovina (organised crime).

152. In the course of 2006 prosecutor's offices conducted 90 investigations concerning criminal act of trafficking and similar criminal acts. Out of a total number, in the course of 2006 conduction of 42 investigations was ordered, while activities were continued on 48 investigations from previous year. A total of 14 orders on non-conducting of investigation, while 13 investigations were discontinued.

153. In the reporting period 31 indictments were preferred, while courts confirmed 33 indictments. Courts pronounced judgments against 30 persons. Based on agreement on guilt, 10 persons were sentenced: 1 suspended sentence, 1 fine and 7 imprisonment sentences. 13 persons were sentenced without agreement on guilt, out of which 2 suspended sentence and 11 imprisonment sentences, 3 were rejected and 4 were released. A total of 12 appeals were lodged on first instance judgments. In 2005 number of reported persons for these criminal acts was 59; in 2006 that number was 66. Number of identified victims of trafficking in 2005, according to police reports, was 54; while in 2006 that number was 42. At the same time it is noticeable that in 2006 more investigations were conducted - 90 (launched new 42, together with 48 unsolved investigations from the previous period, which is increase as compared to 2005 when there were activities on 68 investigations (37 launched investigations in 2005 and 31 investigations from 2004). Also, in 2006 31 indictments were preferred, while courts confirmed 32 indictments, while in 2005 a total of 24 indictments were preferred, while courts confirmed 26 indictments.

154. Considering ratio of imposed imprisonment sentences as compared to fines and suspended sentence, it could be concluded that criminal policy has been intensified. So, based on agreement on guilt imprisonment sentence was imposed for 7 decided persons, while without an agreement on guilt, imprisonment sentence was imposed on 11 persons. Fines were imposed on only 2 persons, upon reached agreement on guilt. As compared to a total number of decided persons, verdicts of abandonment were passed for 3 persons, while in 4 cases judgement was acquittal. 33 persons lodged appeals on the first instance judgments from 2006, out of which prosecutor lodged appeals for 12 persons, while 11 appeals were lodged by the accused. By deciding on these appeals, court of second instance passed 17 legally binding judgments, out of which imprisonment sentences were imposed on 10 persons, suspended sentence on 2 persons. A fine was imposed on 1 person; verdict of abandonment was passed for 3 persons, while in one case judgement was acquittal. Number of convicted persons who committed for imprisonment is 9, while 8 persons with legally binding judgments are waiting for commitment to imprisonment.

Criminal act	Number of reported criminal acts		Number of reported persons		Number of victims	
	2005	2006	2005	2006	2005	2006
Establishing of slavery relations Article 185 of the Criminal Code of BiH	-	2	-	2	-	1
Trafficking in human beings Article 186 of the Criminal Code of BiH	15	17	35	45	27	23
International recruitment for the purpose of prostitution	-	3	-	9	-	3

Article 187 of the Criminal Code of BiH						
Article 188 of the Criminal Code of BiH	3	2	3	6	3	5
Pandering Article 210 of the Criminal Code of the Federation of BiH	10	8	10	13	14	8
Trafficking in human beings for the purpose of prostitution Article 198 of the Criminal Code of Republika Srpska	6	1	8	1	6	2
Pandering Article 207 of the Criminal Code of Brcko District	1	1	2	1	3	1
Exploitation of children for pornography Article 208 of the Criminal Code of Brcko District	1	-	1	-	1	-
TOTAL	36	34	59	77	54	43
