

## **BOSNIA AND HERZEGOVINA**

### **Follow-Up: State Reporting i) Action by Treaty body**

**CERD, A/62/18 (2007)**

#### **CHAPTER IV. FOLLOW-UP TO THE CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION**

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497. On 12 April 2007, reminders were sent by the coordinator on follow-up to the following States parties which had not yet sent information following adoption of the concluding observations of the Committee at its sixty-seventh and sixty-eighth sessions, held respectively from 1 to 19 August 2005 and from 20 February to 10 March 2006: Barbados, Bosnia and Herzegovina, Botswana, El Salvador, Guatemala, Guyana, Lithuania, Mexico, Nigeria, Tanzania, Turkmenistan, Uzbekistan, Venezuela and Zambia.

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**CERD, A/63/18 (2008)**

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520. At the 1878th meeting (seventy-second session) and the 1897th meeting (seventy-third session), held on 5 March and 13 August 2008 respectively, the coordinator on follow-up presented a report on his activities to the Committee.

521. Between 17 August 2007 and 15 August 2008, follow-up reports on the implementation of recommendations regarding which the Committee had requested information were received from the following States parties: Bosnia and Herzegovina (CERD/C/BIH/CO/6/Add.1), Denmark (CERD/C/DEN/CO/17/Add.1), Guyana (CERD/C/GUY/CO/14/Add.1), Israel (CERD/C/ISR/CO/13/Add.1), Liechtenstein (CERD/C/LIE/CO/3/Add.1) and Turkmenistan (CERD/C/TKM/CO/5/Add.1).

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## **CERD, A/64/18 (2009)**

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### **Chapter IV. Follow-up to the consideration of reports submitted by States parties under article 9 of the Convention**

48. In 2009, Mr. Amir served as coordinator and Mr. Prosper as alternate coordinator for follow-up to the consideration of reports submitted by States parties.

49. Terms of reference for the work of the coordinator on follow-up<sup>1</sup> and guidelines on follow-up to be sent to each State party together with the concluding observations of the Committee<sup>2</sup> were adopted by the Committee at its sixty-sixth and sixty-eighth sessions, respectively.

50. At the 1923rd meeting (seventy-fourth session) and the 1897th meeting (seventy-fifth session), held on 2 March and 17 August 2009 respectively, the coordinator on follow-up presented a report on his activities to the Committee.

51. Since the closing of the seventy-third session, follow-up reports on the implementation of recommendations regarding which the Committee had requested information were received from the following States parties: Austria (CERD/C/AUT/CO/17/Add.1), Belgium (CERD/C/BEL/CO/15/Add.1), Bosnia and Herzegovina (CERD/C/BIH/CO/6/Add.2), Canada (CERD/C/CAN/CO/18/Add. 1), Italy (CERD/C/ITA/CO/15/Add.1), New Zealand (CERD/C/NZL/CO/17/Add.1), Republic of Korea (CERD/C/KOR/CO/14/Add.1), Republic of Moldova (CERD/C/MDA/CO/7/Add.1), Turkey (CERD/C/TUR/CO/3/Add.1) and United States of America (CERD/C/USA/CO/6/Add.1).

52. At its seventy-fourth and seventy-fifth sessions, the Committee considered the follow-up reports of Belgium, Bosnia and Herzegovina, Israel, Italy, New Zealand, the Republic of Korea and the United States of America and continued the constructive dialogue with these States parties by transmitting comments and requesting further information.

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<sup>1</sup> For the terms of reference of the work of the coordinator on follow-up, see *Official Records of the General Assembly, Sixtieth Session, Supplement No. 18 (A/60/18)*, annex IV.

<sup>2</sup> For the text of the guidelines, see *Official Records of the General Assembly, Sixty-first Session, Supplement No. 18 (A/61/18)*, annex VI.

**Follow-Up: State Reporting**  
**ii) Action by State Party**

**CERD, CERD/C/BIH/CO/6/Add.1 (2007)**

**Information provided by the Government of Bosnia and Herzegovina on the implementation of the concluding observations of the Committee on the Elimination of Racial Discrimination**

[12 November 2007]

**RESPONSES TO RECOMMENDATIONS OF THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION**

1. The Constitution of Bosnia-Herzegovina directly prohibits discrimination by its provision which reads: “The enjoyment of the rights and freedoms provided for in this Article or in the international agreements listed in annex I to this Constitution shall be secured to all persons in Bosnia and Herzegovina without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”.
2. Standards of the United Nations conventions ratified by Bosnia and Herzegovina, and of other conventions, particularly the European Convention for the Protection of Human Rights and Fundamental Freedoms, which guarantees maintenance and realization of human rights and fundamental freedoms (whose article 14 reads: “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”), have been incorporated into the Constitution of Bosnia and Herzegovina. Under article II, item 2, of the Constitution, this Convention applies directly in Bosnia-Herzegovina and has priority over all other law.
3. Entity and Cantonal constitutions have been harmonized with principles of respecting human rights guaranteed by the Constitution of Bosnia and Herzegovina.
4. The Constitution of Bosnia and Herzegovina has determined the position and situation of its constituent peoples (Bosniaks, Serbs and Croats) with a view to guaranteeing these constituencies and realizing all their rights throughout the entire territory of Bosnia and Herzegovina without any form of discrimination. A problem of ethnic exclusion and/or “minoritization” of certain ethnic groups or Bosniaks, Croats, Serbs or others in relation to numerical representation in legislative, executive and judicial authorities has long been present after a tragic conflict in Bosnia and Herzegovina. All the above has resulted in the decision of the Constitutional Court of Bosnia and Herzegovina concerning compulsory amending of the Entity and Cantonal Constitutions and their harmonization with the Constitution of Bosnia and Herzegovina.
5. The “partial decision” of the Constitutional Court of Bosnia and Herzegovina on the

“constituency of peoples” (*Official Gazette* No. 23/00) provides an interpretation of the Preamble of the Constitution of Bosnia and Herzegovina in which Bosniaks, Serbs and Croats have been specified as constituent peoples. Moreover, the decision states that article II/4 of the Constitution of Bosnia and Herzegovina prohibits discrimination on any grounds such as, inter alia, affiliation with national minority, presupposing thereby the existence of groups specified as national minorities. It also states that the text of the Constitution makes a clear distinction between constituent peoples and national minorities, aimed at recognition of continuity of Bosnia and Herzegovina as a democratic multiethnic State. Constitutional amendments have made significant step towards both consolidation of political-legal system in the State and formal legal guaranteeing of equality to members of all ethnic groups and to all citizens. This presents a basis for elimination of discrimination, and discriminatory attitude towards individuals and minority groups due to ethnic, religious and political identity.

6. The decision of the Constitutional Court of Bosnia and Herzegovina has abolished previous Entity symbols (flag, coat of arms and anthem) since they do not represent the constituency of peoples over the entire territory of Bosnia and Herzegovina.

#### **A. Constitutional changes**

7. After many months of discussions, at the end of March 2006 leaders of seven parliamentary parties, which together have majority in both Houses of the Parliamentary Assembly of Bosnia and Herzegovina signed the Agreement on Amending the Constitution of Bosnia and Herzegovina. This Agreement has put an end to many months of talks between local political actors, with the mediation of representatives, first of all of the American Democratic Institute, and subsequently of representatives of the European Union and the United States of America.

8. The agreed amendments to the Constitution proposed to the Parliamentary Assembly of Bosnia and Herzegovina should have increased efficiency in the decision-making of the authorities there. Also, they should have eliminated in the text on human rights to be written into the Constitution those provisions which, in some interpretations, could mean discrimination against those who do not belong to constituent peoples. It has been proposed that the previous solution in the Constitution - that the Presidency of Bosnia and Herzegovina (the nominal head of the State) be composed of one Bosniak, one Serb and one Croat, which means that persons belonging to “Others”, or minority peoples, are prevented from formal legal reasons from being nominated for membership in the Presidency of Bosnia and Herzegovina - be replaced with a new text. It has been proposed that a collective head of State be suppressed, while introducing the institution of the President and two Vice-Presidents, who may not be from the same constituent people. This proposal has eliminated the objection that posts of the President and Vice-President are not available to citizens of Bosnia and Herzegovina belonging to “Others”, i.e. members of national minorities.

9. Previous solutions of the Constitution of Bosnia and Herzegovina have not prevented in formal legal terms members of national minorities, i.e. “Others” to run for and to be elected deputies in the Parliamentary Assembly of Bosnia and Herzegovina, be it either as individuals or on lists of political parties. However, in previous sessions of Parliaments there have been no

deputies from members of national minorities. Proposed constitutional amendments propose recognition of the rights of persons belonging to national minorities in Bosnia and Herzegovina. In other words, the proposed solution reads: “b. Three seats are guaranteed in the House of Representatives for persons belonging to national minorities; c. The House of Representatives has 84 members, plus 3 guaranteed seats for persons belonging to national minorities”.

10. The proposed solution is a guarantee to minority communities that they will be represented in the Parliamentary Assembly of Bosnia and Herzegovina. Since deputies of the House of Representatives are elected through direct votes of citizens for candidate lists of political parties of individual candidates, the Electoral Law should have work out a mechanism to fill up three guaranteed seats for national minorities.

11. Further improvements of constitutional provisions regarding members of national minorities concern incumbents in the Parliamentary Assembly of Bosnia and Herzegovina. The previous solution, which determined that these functions belong to Bosniaks, Serbs and Croats, has been replaced by a provision which states that “the Speaker and two Vice-Speakers of both Houses of Parliament may not be from the same constituent people”. This means that these functions are available to member of national minorities, too.

12. The Agreement on accepting this and other amendments to the Constitution of Bosnia and Herzegovina has been signed by the seven parties which have a majority in the Parliamentary Assembly. However, since a two-thirds majority of 42 deputies in the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina is needed for amending the Constitution, the proposed amendments to the Constitution have not been adopted. A total of 26 deputies voted for the Constitution.

13. Since general parliamentary elections were held on 1 October 2006, political parties, proposers of amendments and representatives of the international community (the European Union and the Office of the High Representative (OHR)) have agreed that, immediately after the elections, they will resume work on the agreed constitutional solutions and reconstitute proposals to be decided by the Parliament.

14. As per the assessment of the Ministry for Human Rights and Refugees of Bosnia and Herzegovina, agreed solutions concerning members of national minorities will be contained in future proposal too.

## **B. Institution of the Ombudsman of Bosnia and Herzegovina**

15. With a view to the implementation of the Law on the Amendments to the Law on the Human Rights Ombudsman of Bosnia and Herzegovina, progress was achieved in the following activities in the period from 30 September 2006 to May 2007:

- Coordination meetings:
  - (a) A total of 17 coordination meetings were held in the interim period;
  - (b) Representatives of all three institutions of Ombudsman in Bosnia and

Herzegovina, the OHR and the OSCE participated in the meetings;

(c) The coordination meetings adopted the following conclusion:

- The seat of the institution should be in Banja Luka. Moreover, at the moment there are offices operating in Sarajevo, Mostar and District Brcko of Bosnia and Herzegovina. The establishment of a certain number of offices for the work of the Ombudsman is planned in the forthcoming period;
- A unique database of the unique Institution of the Human Rights Ombudsman of Bosnia and Herzegovina has been established, achieving thereby connection of the work of all offices in the territory of Bosnia and Herzegovina;
- Agreement has been reached concerning the initial framework of the working plan for future functioning of the institution of the Human Rights Ombudsman of Bosnia and Herzegovina;
- By-laws: a draft decision on internal organization and systematisation of posts of the institution of human rights ombudsman of Bosnia and Herzegovina has been drafted;
- The personnel: rationalization of the employees has been carried out; under the draft decision cited above, the optimal number of employees is 57 to 70;
- Resources: the plan of budgetary resources necessary for the work of the institution of Human Rights Ombudsman of B-H was determined from the budget of the institutions of Bosnia and Herzegovina;
- Activities are under way on the establishment of special departments within the Institution of the Ombudsman, namely:
  - (i) Its department for monitoring the realization of child rights;
  - (ii) Its department for monitoring the rights of persons with disabilities;
  - (iii) Its department for the rights of ethnic, religious and other minorities; and
  - (iv) Its department for the supervision of the situation in correctional institutions;
- The Parliamentary Assembly of Bosnia and Herzegovina, in accordance with the article 3 (4) has appointed an Ad Hoc Commission of the Parliamentary Assembly of Bosnia and Herzegovina for the Selection of the Human Rights Ombudsman. The Commission is composed of six members;
- In accordance with article 3, paragraph 4, and article 13 of the Law on the Human

Rights Ombudsman of Bosnia and Herzegovina (*Official Gazette*, Nos. 19/02 and 32/06), the Ad Hoc Commission has taken a decision on announcing vacancies for the appointment of the three Human Rights Ombudsmen. The vacancies were announced on 20 April and were closed on 3 May 2007. The vacancies were announced in the *Official Gazette* of Bosnia and Herzegovina, the *Official Gazette* of Brcko District, several dailies - *Dnevni avaz*, *Nezavisne novine* and *Vecernji list* - and on the website. The Ad Hoc Commission has submitted to the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina a list of candidates for the Ombudsman. Appointment of the Ombudsman from the list of candidates submitted by the Ad Hoc Commission was established under item 35 at the session of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina that was to be held on 5 September 2007. Mariofil Ljubic, the present Ombudsman, has received the necessary majority of votes from among the Croat people to be appointed Ombudsman;

- The report of the Commission of the Board on attempts to reach an agreement on the appointment of the Ombudsman of Bosnia and Herzegovina from among members of Serb and Bosniak peoples was considered under item 10 of the 15th session of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, held on 26 September 2007. In the second voting cycle neither candidate received the necessary majority votes, so they were not appointed as Ombudsmen. The House of Representatives has not given consent for the appointment of the Ombudsman of Bosnia and Herzegovina from among members of the Serb and Bosniak peoples. Under the conclusions adopted at the session of the House of Representatives, a new commission would be established at the next session. The Commission will conduct the vacancy procedure, in accordance with the law;
- The Parliament of the Federation of Bosnia and Herzegovina has adopted the Law on the Manner of the Cessation of Work of the Institution of Human Rights Ombudsman in the Federation of Bosnia and Herzegovina in the transitional period and transfer of its competences on the institution of the Human Rights Ombudsman. The law was published in the *Official Gazette* of the Federation of Bosnia and Herzegovina, No. 51/07 of 1 August 2007. The law enters into force the day after it has been published in the *Official Gazette*;
- The draft Law on the Cessation of Work of the Ombudsman of Republika Srpska was inserted into the agenda of the 14th session of the National Assembly of Republika Srpska, held on 11 September 2007. This law would enable an early commencement of work of the Human Rights Ombudsman of Bosnia and Herzegovina at full capacity, in accordance with the Law on the Human Rights Ombudsman. This draft law was not accepted by the Committee for Petitions, Proposals and Social Monitoring of the National Assembly of Republika Srpska. Hence the draft law has been withdrawn by the sponsor.

16. It is worth noting that a single approach to the defence of human rights over the entire



territory of Bosnia-Herzegovina has not been achieved yet. In April 2006 the Law on the Amendments to the Law on the Human Rights Ombudsman of Bosnia and Herzegovina was enacted, aimed at the merging of the institution of the Ombudsman at the State level. Unfortunately, there was no merger by the set deadline (31 December 2006) since the Entities had not enacted Laws on the Cessation of the Validity of the Law of the Human Rights Ombudsman of the Federation of Bosnia and Herzegovina and Republika Srpska, respectively, which they were bound to do.

17. On account of the above reason, the functioning of a single institution of the Human Rights Ombudsman of Bosnia and Herzegovina has not been secured, although it has been one of the fundamental tasks for the accession of Bosnia and Herzegovina to the Euro-Atlantic institutions, as determined in the Dayton Peace Agreement (article III, item 5, of the Constitution of Bosnia and Herzegovina).

### **C. Forms of organization of cultural activities**

18. Under the Dayton Peace Agreement, the field of culture in Bosnia and Herzegovina falls under the competence of the Entities. Under the Constitution of the Federation of Bosnia and Herzegovina, competence in the field of culture may be transferred from Cantons to municipalities in their structure. A Canton may transfer some of their competences to the Federation of Bosnia and Herzegovina if efficiency and rationality in performance of the mentioned rights can be secured in this way.

19. Several legal provisions concerning cultural activities have been enacted in the last 10 years in Republika Srpska. In numerous cases (library and publishing activities) they have been changed by means of new regulations and by-laws.

20. With a view to the realization of the right of each individual in Bosnia and Herzegovina to participate in cultural life, the country has become a member of the World Intellectual Property Organization (WIPO).

21. Under its Constitution, Bosnia and Herzegovina is a homeland for three constituent peoples (Bosniaks, Serbs and Croats) and 17 national minorities (under the Law on the Protection of Rights of Persons Belonging to National Minorities). This fact points to the wide variety of cultural heritage as a national treasure.

22. In Bosnia and Herzegovina there are four monotheistic religions. Besides Jerusalem, Sarajevo, the capital of Bosnia and Herzegovina, is the only example in the world in which in a range of 500 square metres there are a Catholic cathedral, an Orthodox church, the Gazi Husrev-Bey Mosque and a synagogue. Bosnia and Herzegovina sheltered Sephardic Jews following their exile from Spain in the fifteenth century, while Ashkenazi Jews settled in the territory of Bosnia and Herzegovina following the arrival of the Austro-Hungarian monarchy in this area in 1875-78, when the Old Jewish Temple and present-day synagogue were erected.

23. Unfortunately, in the course of the tragic conflict in the 1992-95 period, Bosnia and Herzegovina, besides its enormous number of human casualties (whose final number is still

unknown, hence the Institute for Missing Persons in Bosnia and Herzegovina has been established), was left without numerous cultural and religious buildings which were evidence of a thousand-year tradition of the Bosnian-Herzegovinian State as a multicultural society (e.g. Aladza Mosque in Foca, Ferhadija Mosque in Banja Luka, the Old Bridge in Mostar, Monastery Zitomislici near Mostar, Orthodox Church in Mostar, Monastery Plehan in Posavina area, Haji-Alija's Mosque in Pocitelj, Sultan-Esma's Mosque in Jajce, Bey's land and the mosque in Stolac, etc).

24. The signing of the Dayton Peace Agreement brought peace to Bosnia and Herzegovina, and it started its recovery, strengthening tolerance and respect for diversity through development of a modern democratic State that shows aspiration for an early inclusion into the European integration processes.

25. The Old Bridge in Mostar (under UNESCO protection) was re-opened. This event was followed by wide media coverage by domestic and foreign news agencies. The foundation stone was laid for reconstruction of the Ferhadija Mosque in Banja Luka. Zitomislic and Plehan monasteries were reconstructed. Bascarsija - the old part of Sarajevo -- was restored. The famous "bridge over the Drina", i.e. Visegrad Bridge described by the Nobel Prize winner Ivo Andric, erected by Mehmed-Pasha Sokolovic, has been nominated as a cultural heritage building of world-wide value.

26. Bosnia and Herzegovina has committed itself to the principle of respect of human rights and fundamental freedoms (the European Convention on Human Rights is an integral part of the Constitution, and is applied directly in its legal system) through strengthening of democracy, multicultural dialogue and respect for national, cultural and religious diversity, and suppression of all forms of discrimination and intolerance against members of any part of the society.

27. Article 183 of the Criminal Code of Bosnia and Herzegovina (Official Gazette, No. 3/03) deals with the destruction of cultural, historical and religious monuments, since preservation of cultural monuments is considered to be of international significance.

28. Article 322 of the Criminal Code of the Federation of Bosnia and Herzegovina (*Official Gazette* of the Federation of Bosnia and Herzegovina, No. 50/03) deals with sanctioning of illicit conduct of research and appropriation of cultural monuments. Article 253, Chapter Crimes against Property of the Republika Srpska Criminal Code (*Official Gazette* of RS, No. 49/03) deals with sanctioning of crimes of taking possessions of, destruction or damage of cultural monuments, protected natural objects or other articles of special cultural or historical value, while article 254 stipulates criminal sanctions for perpetrators of criminal acts of taking abroad of articles of special cultural or historical value or natural rarities. Articles 315 and 316 of the Criminal Code of Brcko District (see chapter "Crimes against environment, agriculture and natural resources") stipulate punishments for destruction, damage and unauthorized export of cultural monuments and protected natural objects, and for illicit research and appropriation of cultural monuments.

29. The Commission for the Preservation of National Monuments of Bosnia and Herzegovina (CPNM) was established under annex 8 of the General Framework Agreement for Peace in

Bosnia and Herzegovina. In the period from 1996 to 2001, CPNM worked under the patronage of UNESCO. It was transformed into a State institution by a December 2001 decision of the Presidency of Bosnia and Herzegovina. CPNM consists of five members (three local and two foreign experts) appointed on the basis of their professional references. The term of office of CPNM members is five years. Local members rotate the chairmanship among themselves each six months. All 300 decisions on proclamation of national monuments have been adopted unanimously.

30. The constitutive session of CPNM was held on 4 March 2002. It was also entrusted by the decision of the Presidency of Bosnia and Herzegovina with international cooperation in the field of cultural-historical heritage of the country.

31. Decisions on designation of national monuments are implemented in accordance with the Law on Implementation of CPNM's Decisions, while responsibility for their implementation rests with Entity Governments, i.e. the Ministries for Physical Planning.

32. It is important to mention that CPNM monitors cases of endangered conditions of national monuments, and undertakes measures for their protection by instituting proceedings before competent courts, in accordance with the Criminal Procedure Code (illegal construction, unprofessional reconstruction, lack of maintenance, and other forms of destruction).

33. The Government of Brcko District has undertaken the following concrete steps towards preservation, spreading and development of culture: the Parliament adopted in 2002 the Law on Associations and Foundations, including associations from the field of culture; it has financed reconstruction of devastated sites and built new village cultural homes (e.g. for Roma); and it participates in financial and organizational terms in the realization of large cultural projects such as the International Art Colony Sava, the Meetings of Theatres of Bosnia and Herzegovina, the Spiritual Music Days, the Festival of Rural and Urban Amateur Creativity.

34. Cultural activities in Bosnia and Herzegovina have been oriented towards strengthening the contribution of democratic society values to development. Through the establishment of cooperation of civil society and its institutions, they reflect public and cultural opinion, in relation to affirmation of true values of culture, art and their creators. Through the cooperation between various cultural, educational and media institutions, conditions are created for strengthening open democratic society, recognizable by intercultural dialogue respecting differences, setting new criteria for values and access to educational manifestations with international character.

35. A few festivals and manifestations of international importance dominate in Bosnia and Herzegovina, and these are accepted by participants, artists, audience and public.

36. MESS is an international theatre festival with a long tradition. The festival's programme concept includes diversity of the latest trends, programmes and theatre arts in the world and national production. Besides the theatre performances, it organizes accompanying programmes such as exhibitions, concerts, round tables, etc.

37. The “Sarajevo Winter” international festival is a traditional meeting point for national and international artists. In its 20-year long existence, this festival has brought together artists and visitors from all parts of the world. The programmes are organized in all major towns in Bosnia and Herzegovina. Some programmes are dedicated to youth through competitions for students and other activities. The youth programmes of this festival are selected by the association of the Biennale of the Youth of Europe. Moreover, in Sarajevo, the capital of Bosnia and Herzegovina, a rich cultural manifestation is organized during the summer (from concerts to exhibitions, theatre plays) called “Bascarsija’s Nights”.

38. The Sarajevo Film Festival is the most prestigious festival in Bosnia and Herzegovina. It involves commercial film works, the best feature and documentary films from international film festivals, regional programmes, video projects and children programmes with the latest blockbusters. In the framework of the festival accompanying programmes take place, such as workshops, and seminars for film critics (on digital technology, documentaries, etc).

39. The “ARS AEVI” Project is the most relevant international project in the field of contemporary art in Europe and in the world. During its 10-year existence, the project has grown into a unique international cooperation of artistic and cultural institutions, administration of towns and regions, artists and intellectuals from Europe and the world.

40. The aim of the project is to create in Sarajevo a complex of architectonic urban attractions, designed by well-known architects of our times, and where the most prestigious living artists will produce a collection for a Sarajevo-based contemporary arts museum ARS AEVI.

41. For the time being, the collection has more than 100 works of art, and is growing into a unique project prompting the enthusiasm of artists, directors of well-known European museums, mayors of cities and a broad range of intellectuals contributing to the idea and its realization.

42. Multicultural seminars, museum courses, exhibitions and presentations of architectonic projects, educational programmes, workshops, etc. are part of the activities within the project.

#### **D. Education**

43. The right to education is an integral part of the Constitution of Bosnia and Herzegovina, the relevant section of which reads: “Rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Bosnia and Herzegovina. These shall have priority over all other laws. All persons in the BiH territory enjoy human rights and freedoms, which includes the right to education”.

44. At the State level, an adequate Ministry covering the field of education does not exist. The Ministry of Civil Affairs of Bosnia and Herzegovina is responsible for the coordination of activities, the harmonization of plans of individual Entity authorities and defining a strategy in the international plan for the field of education in the country.

45. According to the Constitution, organization and managing the system of education are

decentralized in Bosnia and Herzegovina at the level of Entities and in Brcko District.

46. By signing the Provisional Agreement on the Realization of the Needs and Rights and of Children of Returnees (in March 2002) and adoption of the Framework Law (in 2003), the competent educational authorities made a significant step towards full realization of rights on education of pupils refugees and returnees by guarantees that:

- Equal access to education, without discrimination, is provided for these children, inter alia, through the obligation of the local authorities to provide freedom of movement respecting their right to selection of residence, through principle of equality of educational papers, regardless of the part of Bosnia and Herzegovina where they were acquired (art. 13), enabling them to continue education without conditions relating to certain programmes, ensuring the possibility for teaching and passing additional subjects for other educational programmes;
- Children who are returnees from abroad are enabled to continue education based on foreign educational papers, with prior ranking/validation according to the regulations in force;
- Legal decisions on the equality and use of languages and alphabets of constituent peoples in the educational process are also directed towards the elimination of discrimination of this category of pupils;
- Harmonization of the ethnic composition of school boards will be carried out, according to the structure of children/parents/staff/local community, in the way it reflects the moment, based on the 1991 census.

47. All principles determined by the Framework Law and worked out in detail at the lower levels are to realize and protect of the rights to education of all children, including children of refugees and returnees:

- This law explicitly prescribes that schools are obliged to provide all possible assistance pertaining to enrolment to school, attending classes and continuation of further education, to provide conditions for realisation of this right, particularly for children refugees, displaced children and returnees;
- The aim of the principle of equality of educational documents over the entire territory of Bosnia and Herzegovina is to protect children returnees and refugees;
- With a view to protecting the national and cultural identity of children of Bosnia and Herzegovina citizens living abroad, support is provided for organization of supplementary classes in the “national group” of subjects;
- The aim of activities undertaken within implementation of the Interim Agreement on Realization of Special Needs and Rights of Children Returnees is to protect children and to support their sustainable return. By this Agreement, educational authorities are obliged to implement certain activities which will fully realize the defined aims.

48. The aims set out are the following:

- Aim 1 - to enable children returnees to study the so-called “national group of subjects” based on the curriculum they choose;
- Aim 2 - to increase employment of teacher returnees;
- Aim 3 - to supervise and collect data on children returnees;
- Aim 4 - to harmonize national system of school boards;

- Aim 5 - to provide adequate textbooks, and to remove inappropriate names and school symbols etc.;
- Aim 6 - to provide instructions for implementation of the Agreement.

49. Displaced children and children living in the collective centres are given assistance by educational authorities depending on available possibilities (textbooks free of cost, free meals). Numerous NGOs are active in this area.

50. Positive outcomes and results of implementation of the Framework Law and of the Interim Agreement in practice have included:

- An increased number of pupils who are returnees to pre-war places of residence;
- An increased number of employed returnee teachers, as well as home teachers from the minority groups;
- In more than 25 schools in Bosnia and Herzegovina organized education from the so-called “national group” of subjects under the curriculum is chosen by pupils’ parents;
- Revision of textbooks carried out, inappropriate contents removed from the textbooks;
- Instructions for writing history and geography textbooks have been established;
- “Prototypes” have been drawn up of the Rulebook on the Establishment and Work of School Boards (in accordance with provisions of the Framework Law), and of the Rulebook on Criteria for Names of Schools, Symbols and the Organization of School Manifestations (based on which Republika Srpska, Brcko District and three to six Cantons in the Federation have already adopted their own bylaws).

51. The Council of Ministers Bosnia and Herzegovina has established a commission for the elaboration of a curriculum for supplementary classes for children living abroad. According to the latest information, the commission has completed its work on elaboration of the curriculum:

- A system is not yet established for continuous study of the national group of subjects, in areas where the number of students is below educational standards. There is still the practice (which is not yet eliminated) of pupils being transported to schools outside their area, while with the aim of a one-nation school system, the school boards’ practice is not yet fully implemented, the collective and transit centres still exist, and it is difficult to integrate their school population into a regular educational process. Finally, procedures for recognition of foreign school documents are still complex and lack uniformity;
- An example of the continuing discrimination facing pupils in practice (including children refugees and returnees) is the existence of the many so-called “two schools under one roof” (out of 52 schools in the Federation to date, administratively and legally united schools include two secondary schools in Zepce, Vares and the secondary school in Mostar. There are some explicit examples of non-implementation of the decision of the High Representative in Herzegovina-Neretva Canton, Central Bosnia Canton, Zenica-Doboj Canton; after the harmonization of laws, it is expected that the necessary preconditions will be created for the unification of all schools by the beginning of the school year).

## **E. Work and unemployment**

52. At the State level, there is neither a framework law covering work and employment issues nor a portfolio Ministry. The Ministry of Civil Affairs is responsible for coordination of activities, for harmonization of plans of the Entity authorities and for defining an international strategy for the field of work and employment.

53. According to the Constitution of Bosnia and Herzegovina, the organization and managing system of legal protection at work are decentralized in Bosnia and Herzegovina to the level of its Entities and Brcko District.

54. Specific categories face the same problems as all other unemployed persons in obtaining employment. These are, first of all, the devastated economy, lack of job vacancies, and the huge number of highly qualified persons registered as unemployed at employment offices.

55. Procedures for gaining employment rights are the same for all unemployed persons, regardless their pre-war place of residence. The law requires that an unemployed person gains his/her rights during a period of unemployment at an employment bureau, according to place of residence. While an unemployed person who left his/her place of residence due to the war gains his/her rights during unemployment at an employment bureau according to their temporary place of residence.

## **F. Equality and the fairness principle in employment**

56. According to the Law on Mediation in Employment and Social Security of Unemployed Persons, no person can be put into a less favourable position on the grounds of race, colour, sex, language, belief, political or other opinion, national or social origin, property conditions, birth or other circumstances, membership or not belonging to a political party or trade union, or of physical and mental impairments.

57. Financing of employment is done through insurance deductions for unemployment paid by employers and employees, and through employment programmes determined in accordance with job-market needs.

58. To carry out the above-mentioned programmes, announcements regarding employment are made in the media, and in this way funds are made available to all legal and natural persons meeting the announcements' requirements.

59. The responsible employment services are bound to achieve mutual cooperation, to coordinate their work and to exchange information contained in their official records. Employment services are bound to submit reports to the employment bureaux, which collect them and make summary records in the field of work and employment. They are responsible for proposing measures and the necessary means for the development and functioning of the unified information system.

60. Periodically, the employment bureaux evaluate the jobs market (according to Bureau

instructions) with the aim of getting and providing information on developments in job markets, and carrying out mediation in employment aimed towards connecting unemployed persons with potential employers, or connecting persons who are looking for another job with potential employers.

61. According to the Law on Mediation in Employment and Social Security of Unemployed Persons, unemployed persons are registered at the employment service with the aim of looking for a job and realizing their rights to receive compensation during unemployment, and their right to health care, pension and disability benefits in cases defined by law.

62. There is a good cooperation between Entity bureaux, Brcko District Bureau, the Cantonal Bureau, and the Bosnia and Herzegovina Work and Employment Agency.

63. It is necessary to clear up the records of unemployed persons in order to define the group of those persons who are looking actively for a job, and those who are on the records just to justify some other rights (insurance, child's allowance, etc).

64. Programmes of work are defined for each new calendar year with the aim of improving the situation in the field. Entity governments agree about the employment programmes offered by employment bureaux.

## **G. Social protection**

65. Displaced persons and refugees in Bosnia and Herzegovina are entitled to social protection under the same conditions as other citizens and in accordance with its Constitution, which prescribes that Entities, cantons and Brcko District are competent in the area of social protection.

66. The main obstacles to the application of the above-mentioned rights of displaced persons, regulated by law in the field of social protection, are as follows:

- The operations of the system of social protection in both Entities are not balanced and they continually give preference to the certain groups and special categories (for example, soldiers, disabled persons), providing them privileged status with regard to displaced persons;
- Lack of financing of social protection by the State is transferred to the Entities which, together with insufficient coordination, means there is no harmonization between Entities on the issue of categories of beneficiaries, as well as the scope and level of compensations for the persons that need social protection;
- Limited funds for social protection or weak financing by Entities cause transfer of competences to the cantons in the Federation of Bosnia and Herzegovina and municipalities in Republika Srpska, which additionally marginalizes households of displaced persons;
- Entities and cantonal ministries often do not achieve or are not able to achieve proclaimed goals of social policy and to fulfil obligations prescribed by laws in the field of social protection.



67. On the other hand, there are a relatively small number of displaced families which have sufficient earnings to meet even their minimum social needs; most of them live in poverty.

68. Current laws which regulate the issue of social protection in Bosnia and Herzegovina and those at Entity, cantonal and the level of municipalities are insufficient for returnees' access to the rights in the sphere of social protection, making these rights especially difficult.

69. For example, with the change of their residence i.e. the return to their former place of residence, the displaced person should cancel his/her registration at the current place of residence, which causes the loss of social protection at the place of return. In order to have access to social protection at the place of return, the person must be registered at the "new" address for a period of between 6 to 12 months, depending on the Entity or canton.

70. Displaced persons and returnees are exposed to specific circumstances, as follows: daily, weekly or monthly "seasonal working migrations", change of composition of household and the large number of so-called women's and old man's households, instability of earnings and weak accessibility to the mechanisms of the social protection in regards to the rest of population.

71. Because of the above and other factors, it is highly likely that displaced persons and refugees will be more in social need than the rest of the population.

72. According to the data of a panel study, "*Zivjeti u BiH*" ("Living in B-H")<sup>1</sup>, most households of displaced persons live at the edge of poverty, with little waves of "anxiety" at the bottom of the society. Even the minimum of the social assistance guaranteed by the domestic and international regulations is not ensured.

73. In the field of social protection, human rights are largely violated since certain forms of the social assistance are not available to all categories of citizens.

74. Displaced persons in Bosnia and Herzegovina, 10 years after the war, still survive on the margins of the society, exposed to social exclusion.

75. At the same time, almost all key recommendations and assumptions for optimal social protection in Bosnia and Herzegovina, like commitments to social cohesion, solidarity, equality and inclusion - are yet to be realized, which automatically leads to neglect and less concern for the protection of all vulnerable groups, including displaced persons and refugees.

76. The rights to social protection include an active, intervening role of the State. Those rights are based on a philosophy about what a "good society" is composed of and how the State can contribute to such a society in the best possible way.

77. In the context of the full sustainability of return and reintegration of returnees, special attention should be paid to: reconstruction of the social, health and cultural infrastructure as well as reconstruction of the mosques, churches and other religious sites, which is a permanent priority of the Ministry of Human Rights and Refugees.

78. The last census in Bosnia and Herzegovina was conducted in April 1991, in accordance with the Law on Census of Population, Households, Dwellings and Agricultural Holdings in 1991 (*Official Gazette* of the Socialist Federative Republic of Yugoslavia (SFRY), No. 3/90) and the Law on the Organization and Performance of the Census of Population, Households, Dwellings and Agricultural Holdings in 1991 and Resources for the Census Funding (*Ibid.*, No. 22/90).

79. Bosnia and Herzegovina has been familiarized with the principle, i.e. the United Nations recommendation that censuses of population be conducted each 10 years in a year ending with 0 or 1. However, the last census in Bosnia and Herzegovina was conducted in April 1991.

80. There has been no new census to date of population in Bosnia and Herzegovina since the 1991 census; hence, there are no new statistical data.

81. In February 1999 the Statistics Agency of Bosnia and Herzegovina and Entity Statistics Bureaus established a Working Group for preparation for 2001 census of population. The opinion on postponing the population census by the OHR and the Organization for Security and Cooperation in Europe (OSCE) prevailed. Namely, it was suggested that the planned census be postponed for many reasons: fragility of the political situation in the country, lack of adequate legislation, particularly at the State level, the existence of numerous minefields and the uncompleted process of return of refugees and displaced persons.

## **H. Roma in Bosnia and Herzegovina**

82. It is clear from a review of the 1991 census that there are minorities which may be called “traditional” and, so to speak, “new” minorities which are the result of the dissolution of the formerly common State (Montenegrins, Macedonians and Slovenians). Regardless of their origin or their number (from 133 to 10,048 categories), article 3 of the Law on the Protection on the Rights of Persons Belonging to National Minorities defines a national minority, in the sense of this law is “a part of the population of citizens of Bosnia and Herzegovina that does not belong to one of three constituent peoples of Bosnia and Herzegovina (Bosniaks, Croats, Serbs), and that consists of the people of the same or similar ethnic origin, same or similar tradition, customs, religion, culture, and spirituality, and close or related history and other features”.

83. The Law on the Protection of Rights of Persons Belonging to National Minorities was passed and entered into force in May 2003 (*Official Gazette* of Bosnia and Herzegovina, No. 12/2003). It was adopted after a two-year discussion, debate and the harmonization of several versions of the law, and after approval (in the form of an opinion) was received from the so-called Venice Commission of the Council of Europe. This states that the bill fulfils the minimum criteria to be enacted and entered into force. A long procedure of legislative adoption in Bosnia and Herzegovina is the first objective factor of legal-political situation in the country, which may not be ignored when considered are adoption and implementation of laws. After being adopted, the Law on the Protection of Rights of Persons Belonging to National Minorities was published in the three official languages in the *Official Gazette* of Bosnia and Herzegovina, and thus made available to all organs and institutions of authority, as well to other Entities using such publications. Then it was translated into the English and Romani languages. We consider

the first translation of a law in Bosnia and Herzegovina into the Romani language as extremely important for the emancipation of the Roma national minority in Bosnia and Herzegovina; we consider it a positive example of recognition of Roma. It has been published in a special booklet of 1,000 copies, also distributed at various addresses. Therefore, any authority in Bosnia and Herzegovina has no justification or alibi for ignorance of the contents of the law.

84. Information at the disposal of the Ministry for Human Rights and Refugees of Bosnia and Herzegovina, a portfolio Ministry within the Council of Ministers for national minority rights, suggests that Bosnia and Herzegovina Entities, namely Republika Srpska and the Federation of Bosnia and Herzegovina, started at the end of 2003 activities for the adoption of their respective Laws on the Protection of Rights of Persons Belonging to National Minorities. They were bound to do this in accordance with the State-level Law on the Protection of Rights of Persons Belonging to National Minorities. The National Assembly of Republika Srpska, as the highest executive organ at the end December 2004 enacted the Law on the Protection of Rights of Persons Belonging to National Minorities in RS (*Official Gazette* of Republika Srpska, No. 2/2005). This law established and worked out in detail certain provisions of the State-level Law. The Parliamentary Assembly of the Federation of Bosnia and Herzegovina still has not finalized this activity, although there have been intensive efforts towards this aim. Neither Canton has enacted its law on national minorities as a special law, which to a certain extent makes it difficult to solve problems faced by Roma in their territories and under their competence.

85. The Law on the Amendments to the Law on the Protection of Rights of Persons Belonging to National Minorities was adopted in October 2005 (*Official Gazette* of Bosnia and Herzegovina, No: 76/05) has foreseen establishment of this body more precisely and in exact deadline of 60 days from the date of adoption of this Law. Finally, the Decision on the Establishment of the Council of National Minorities of Bosnia and Herzegovina within the Parliamentary Assembly of Bosnia and Herzegovina was adopted and published in May 2006 (*Official Gazette*, No: 38/06). This stated that the advisory body is to be constituted as soon as possible. This is under way, and there is hope that the Council of National Minorities of Bosnia and Herzegovina within the Parliamentary Assembly will finally be established by the end of 2007.

86. We consider execution of this legal obligation to be very important from the perspective of awareness-rising about the significance of establishment of such a body for the promotion and protection of rights. It also addresses questions regarding all national minorities and especially the Roma, since they are the most numerous and most vulnerable national minority in the territory of Bosnia and Herzegovina.

87. In the last two to three years in Bosnia and Herzegovina there has been regular information to citizens on members of national minorities. Information on minority communities` problems, their culture, customs, particularities of individual minority communities, activities of NGOs gathering minorities have regularly been presented in public TV broadcasts. Radio-Television of Republika Srpska has regular weekly broadcast dedicated to minorities, while TV of Bosnia and Herzegovina and of the Federation occasionally prepare broadcasts on the topic.

88. Likewise, within the general policy, more intensive cooperation of NGOs and other minority associations with their ethnic-kin States is facilitated. Overseas communication is carried out without formalities or other legal barriers. In other words, all minority communities, except the Romani one, have established contacts and cooperation with their kin States without any conditions and barriers. Particularly intensive cooperation is that of NGOs of Slovenians, Czechs, Ukrainians, Italians, Hungarians, Macedonians and others in the field of culture, education, mother-tongue learning, informing, etc. Active non-governmental organizations have succeeded in identification of their needs and have developed various modalities of cooperation in fulfilling the needs in the mentioned fields, through cooperation with Embassies of their kin States.

89. Numerous associations are active in the territory of Bosnia and Herzegovina in the framework of the non-governmental sector. They contribute to the promotion and protection of human rights (Helsinki Committee, Centre for Human Rights, Link Diversity, etc.), as well as to the preservation of the ethnic and cultural heritage of the minority communities (for example, Czech Beseda, an association of Czechs in Republika Srpska; Taras Schevchenko, an association of Ukrainians in Republika Srpska; Lira, the Cultural Association of Jews, etc).

90. Within this general policy, it is important to emphasize that in the last two years several discussions on issues concerning the position of minorities have been held (analysed later in this report). These round tables, with participation of representatives of minority communities, NGOs dealing with the protection of minority rights, representatives of international organizations and competent State, Entity, Cantonal and municipal ministries, have been covered by the media at a high professional level, which has certainly contributed to improvement of the climate of tolerance and understanding of the position of minorities in Bosnia and Herzegovina.

91. The fact that proposals for the above-mentioned changes to the Constitution of Bosnia and Herzegovina relating to the position of minorities were accepted with the least difficulties, and accepted in public as a necessary minimum enabling political affirmation and adequate representation of interests of minority groups in Bosnia and Herzegovina has to be interpreted in the light of a general policy towards minorities.

92. Although it has been stated above that there has been improvement of position of national minorities as a whole, the position of the Roma community is still very difficult and unsatisfactory. The general policy of the authorities is support for all minority communities, particularly the Roma. However, the needs of the Roma in the field of housing, employment, health care and social welfare are huge and exceed capabilities of impoverished and conflict-broken Bosnia and Herzegovina. The problem in these areas is poverty, not discrimination by majority groups or the community as a whole.

93. Two months after adoption of the Law on the Protection of Rights of Persons Belonging to National Minorities, the Parliamentary Assembly of Bosnia and Herzegovina enacted the Framework Law on Primary and Secondary Education. In a section concerning education of members of national minorities, complementary to the Law on the Protection of Rights of Persons Belonging to National Minorities, certain provisions work out in detail the obligation of the authorities in this field and the manner of their realization. Entities and Cantons have enacted their Laws on Primary and Secondary Education. Unfortunately, a framework law on preschool

education has not been enacted yet, which would regulate the issue of treatment of members of national minorities, particularly Roma, in preschool education. The Entity and Cantonal laws also treat issue of fulfilling educational needs of members of national minorities. However, the Ministry of Education and Culture of Republika Srpska has prepared a concrete Instruction on Implementation of this Law, elaborating contents and manner of execution of obligations concerning national minorities.

94. Concerning education of members of national minorities in Bosnia and Herzegovina, it is important to emphasize that the Bosnian authorities adopted in February 2004, with mediation of the Mission of the OSCE in Bosnia and Herzegovina, the Action Plan for Fulfilling Educational Needs of Roma and Members of Other National Minorities. It has been certified by signatures of portfolio Ministers of Education. Its implementation is under way and is yielding results. Indicators for this are, among other things, the conclusions and recommendations of an expert conference organized by the Ministry for Human Rights and Refugees of Bosnia and Herzegovina in Vogosca in July 2005. It was solely dedicated to evaluation of implementation of this Action Plan. On 20 February 2006 the Conference, called “Two years of implementation of the Action Plan for Fulfilling Educational Needs of Roma and Members of Other National Minorities in Bosnia and Herzegovina: Experiences and Challenges” was held in the Joint Institutions Building. These conferences gathered almost all portfolio ministries of education and most representatives of NGOs bringing together national minorities, members of the Council of Roma, members of the Roma Committee with the Council of Ministers Bosnia and Herzegovina, other Roma leaders and representatives of international organisations. The conclusion of these conferences was that the Action Plan had still been current, that it should not be changed or amended in its textual part and in the sense of meaning, but only to be more firm in its implementation, particularly concerning obligations of educational and local authorities in Bosnia and Herzegovina. This Action Plan is not flawless, particularly because it has not defined precisely Entities for monitoring of its implementation. However, it has yielded positive results, particularly concerning Roma, which is evident in the number of Roma children who enrol, regularly attend, do not drop out and complete primary school. Likewise, every day there are more Roma children attending secondary school. At the moment there are almost 30 Roma students at one of the universities in Bosnia and Herzegovina. The responsibility of society, particularly competent education authorities, for providing textbooks, school supplies, transportation, warm meals for poor Roma pupils, the inclusion of Roma assistant lecturers in teaching processes, etc, has also increased. The above was confirmed at a conference organized jointly by the Ministry for Human Rights and Refugees of Bosnia and Herzegovina, the Roma Committee together with the Council of Ministers of Bosnia and Herzegovina and the Council of Europe (Office in Sarajevo), in December 2005. The Conference discussed the position of national minorities in Bosnia and Herzegovina in the light of implementation of recommendations of the Council of Europe’s Advisory Committee of the Framework Convention for the Protection of National Minorities.

95. We would also like to stress the existence of the problem of “two schools under one roof” in the Federation of Bosnia and Herzegovina since the end of the war. From today’s point of view, nothing important has been solved in the issue “two schools under one roof”.

96. The reason for this could be in the fact that all constitutional authority on educational

issues in the Federation of Bosnia and Herzegovina remains with the Cantons. At the level of the Federation and at the State level for several months, there have been coordinating bodies composed of ministers of education. This body should propose a solution for this problem.

97. It is worth recalling that the Education Department, together with the OSCE, two Entities and Brcko District have also been included in the educational system reform process in Bosnia and Herzegovina. So, changes during solution of the “two schools under one roof” problem are more of a “cosmetic”, and less of substantial, nature. They refer to, for example, the administration that has been united in a small number of schools, but where pupils are still divided, etc. Among a series of actions on educational system reform process in Bosnia and Herzegovina are removal of negative contents from textbooks, school names and some signs from school premises. We also need to mention inadequate implementation of common cores of curricula, which would solve some dilemmas. There are two curricula in schools of the Federation of Bosnia and Herzegovina: Bosnian and Croatian curricula.

98. A few more words about Roma and the Roma Strategy in Bosnia and Herzegovina. The crucial year for Roma in terms of a more organized and serious approach to resolving their problems, at least from the point of view of Bosnian authorities, is the year of 2001 and the conference of 22 Roma NGOs registered at that time in Bosnia and Herzegovina, which took place in Vogosca under the auspices of the OSCE. The first Council of Roma in B-H was established then as the supreme representative body of Roma in Bosnia and Herzegovina. After that, in mid-2001, the National Advisory Board on Roma was established under the Council of Ministers as a partner advisory body for the supreme executive authorities of Bosnia and Herzegovina. Both these bodies, which have an identical makeup in terms of representation of the Roma minority, have had a number of significant activities, actions, initiatives and presentations, both in the country and abroad, with the financial support of some international organizations, primarily the OSCE, but also of the Bosnia and Herzegovina institutions (e.g. the Roma members of the National Advisory Board on Roma within the Council of Ministers have on several occasions travelled abroad, to Strasbourg, Budapest, Brussels, Vienna, Bucharest, Seville, etc. to various conferences, round tables and workshops). Both the Council of Roma in Bosnia and Herzegovina and the National Advisory Board on Roma have contributed to the drafting of the Law on Protection of Members of National Minorities, as well as to the adoption of the National Education Action Plan for Roma and other minorities and the implementation thereof. This, of course, to the extent to which these are being implemented in practice, but a major contribution of these bodies in resolving the problems of Roma in Bosnia and Herzegovina is their significant involvement in raising the awareness among the public and all relevant social players, primarily the national authorities, on Roma and Roma problems and the necessity to deal with them according to the needs of this national minority and in compliance with European standards.

99. The awareness and commitment of relevant Bosnia and Herzegovina authorities, primarily of the Ministry of Human Rights and Refugees, to resolve the problems that have been identified among the Roma population, to make all efforts to emancipate this national minority, to ensure the full equality of its members and to make them equal in their rights and duties with other constitutional peoples, is the “core” of the Roma Strategy, which is designed to resolve the Roma problem. A driving force behind this Strategy is a strong motivation to define all the

problems and challenges that Roma in Bosnia and Herzegovina are facing at the beginning of the third millennium, to develop guidelines and determine the approaches as to how to address the problems, as well as to identify addresses, institutions, civil society bodies and authorities which are empowered and obliged to deal the Roma issues in order to resolve them. The Strategy identified 15 areas with the most numerous challenges for Roma population and which require concrete and operational activity plans. The implementation of these plans can bring about nothing less than improved social status for the Roma minority. There is almost no vital question that has not been addressed by the Strategy; all the problems that Roma are having here and now have been identified in this document and addressed through the commitment to overcome the hurdles that Roma are faced with as they progress towards the full social affirmation and equality. That is exactly why there have been as many as 15 areas identified, which is far more than in any other similar strategy or an action plan addressing the Roma issues in the countries of the region, and far more than required for accession to the Roma Decade.

100. Finally, the 17 vital areas in which Roma are facing problems include: education; employment; housing; health care; social security; civil registration and identification documents; the census; participation in and partnership with authorities; organization and networking of Roma and other NGOs dealing with Roma issues; information; maintenance and improving cultural identity and tradition, customs, religion, learning the Roma language, history, art and culture and establishing religious and cultural institutions and associations; cooperation and exchange of experience with Roma and other NGOs from neighbouring and other countries and international organizations; demographic and population policy; family relations; gender equality; children's rights; non-discrimination and raising awareness on the necessity of Roma inclusion in all social process in Bosnia and Herzegovina.

101. As mentioned above, the Bosnian authorities have already, at different organizational levels and even without the concrete action plans, carried out a number of activities aimed at improving the legal-political and the socio-economic and infrastructure position of the Roma minority. I would like once more to underline that the experience with the Education Action Plan can and should be edifying and applicable. Apart from that, successful activities which, of course, could not solve all the problems, have been carried out to date in the area of civil registration and identification documents -- which include identity cards, health booklets, driving licences and similar documents. Other activities included the mapping of the housing situation and accommodation needs of Roma population, examining the employment opportunities, small business opportunities, and loan prospects for Roma population. However, a lot of these activities were sporadic, spontaneous and a matter of understanding and goodwill of individuals, local and lower-ranking officials in the governance structures and public companies and services. In order to overcome these unstructured and ad-hoc activities and not to leave everything to the will of current governing structures and understanding of individual ministers or local politicians, it is necessary to adopt action plans which would serve as concrete operational reminders for steps and measures to be undertaken in particular spheres of life in order to improve the position of the Roma. In other words, it is necessary to establish a system, to set the rules and determine the obligations of authorities and deadlines for their completion, to name those in charge and monitor the implementation of the plans on a regular basis.

102. In order to successfully complete the drafting of the action plans and to secure the

support of relevant authorities, notably that of the Bosnia and Herzegovina Council of Ministers, it is necessary that these activities be coordinated by the Ministry of Human Rights and Refugees with the support provided by the Entity ministries, offices, funds and agencies dealing with the issues of employment, housing, health care and other. As these action plans are, inter alia, needed for accession to the Roma Decade, they needed to be drafted and adopted by the end of 2007. It should be kept in mind that, if Bosnia and Herzegovina wishes to accede to the Roma Decade, all the documents not only need to be in place in good time, but also published and made publicly available and that their implementation commence, and the will of all Bosnian authorities clearly demonstrated and expressed in terms of their commitment, ability and capacity to successfully resolve some specifically Roma-related problems.

103. In order to empower these action plans, and, once they are adopted, to facilitate their implementation, eliminating thus the difficulties that Roma are facing nowadays in the areas mentioned, it has been foreseen that the Council of Ministers adopt the plans, and their formal proponent should be the Ministry of Human Rights and Refugees. They should also be published in the *Official Gazette* of Bosnia and Herzegovina and in special brochures, as well as publicly presented to the authorities, public offices, companies, NGOs and all other addressees indicated in the action plans as responsible for the formulation and implementation of particular actions:

- The round table “Roma in Bosnia and Herzegovina society: translating policy into practice” was held on 11 April 2007. Support was expressed for the action plan’s working groups and the need to innovate in the Education Action Plan for Roma and other national minorities, which was adopted in February 2004, was stressed;
- In May 2007, the Agreement on Funding of the Action Plan on Housing of Roma was signed between the Ministry of Human Rights and Refugees and the Swedish International Development Agency (SIDA). The Agreement covers the period from 1 April 2007 to 1 October 2008, during which it is expected that the plan would be drafted and that its implementation and monitoring would begin;
- The signing of the agreement with NGO World Vision was expected by June 2007. Irrespective of the agreements with international organizations and their signing, the activities on the development of the action plans have commenced and are going ahead as planned;
- Meanwhile, the two meetings of the Health Care Working Group were held in February and May 2007. The first meeting of the Housing Working Group is expected to take place in June and the meeting of the Employment Working Group is also probable. A joint meeting with the majors of municipalities with significant Roma population has also been planned.

104. Moreover, we consider that positive results have also been achieved in terms of meeting the information needs of national minorities. Several electronic media, including the Republika Srpska Radio Television (RTRS) and some other regional and local radio and TV stations, have for two years been broadcasting programmes for national minorities and on the life and work of their members. Several local radio stations periodically broadcast programmes in the Roma



language, and upon the initiative and with the financial support of the National Advisory Board on Roma of the Council of Ministers, a special education course implemented by the Media Plan Sarajevo was completed at the end of 2005. The course was intended for young Roma and provided the training in the field of journalism and other media-related jobs. It can be expected that the 11 young Roma who completed the course can already now significantly contribute to information for the Roma and the rest of the public about the Roma and their life. The work on preparation of the action plans was presented to the public across the country at a press conference held in March 2007. In addition, one school in Bijeljina publishes a bilingual children's newspaper, in Serbian and in the Roma language, which is important from the point of studying the Roma language in regular schools. In Banja Luka, in which the Republika Srpska National Minority Council has been active for three years, a bulletin of this association is being regularly published. The bulletin addresses the problems of the Roma national minority and the work of their associations and NGOs. Similar results have been achieved in the areas of culture, art and strengthening the identity of national minorities, including Roma. But in this sphere, especially when it comes to studying of a mother tongue, there is still quite a lot to be done by all relevant players in terms of improving the social, cultural and religious position of national minorities in Bosnia and Herzegovina, especially the position of Roma, because without studying and speaking their own language, their existence would be in question, they would lose distinctiveness and thus become uninteresting to anyone.

105. Within the regulations adopted, national minorities have not been discriminated against in exercising their rights in the fields of labour, social policy, displaced persons and refugees.

106. Being aware of a number of unresolved issues, primarily those in the area of housing, education, employment, social security and health care, we have been making efforts to find the solution to these problems within the framework of existing legislation and available resources. We would like to emphasize that the work of the following Roma associations that are operational in Sarajevo Canton have been co-financed by a number of one-off co-financing arrangements for them: "Our Future", "Roma Prosperity", "Roma and Friends Association" from Ilijas, "Roma Brothers", which deal with Roma issues and commonly seek solutions to their problems. Further to that, upon the initiative of these associations, assistance is being provided through free books and school accessories and payment of extraordinary exams for those Roma children who are not covered by regular education, as well as through the funding of school excursions for Roma and giving recommendations for their employment. It is to be stressed that, under the Social Housing Construction Programme, six Roma families have been allocated flats in Otes.

107. It should also be mentioned that members of minorities and the Roma population exercise their rights in the areas of social security, the protection of civil victims of war and protection of families with children under the same conditions as all other citizens of Sarajevo Canton.

108. In cooperation with the Bosnia and Herzegovina Council of Roma, the Ministry of Human Rights and Refugees prepared a document entitled "The B-H Strategy for Solving Roma Issues". After months of discussion in Entity and Cantonal governments, as well as discussions with NGOs involved in minority issues, the Strategy was adopted by the Council of Ministers, whereupon it was published in the *Official Gazette*, No. 67/05 of 27 September 2005. The

adoption of this document implies the implementation of 15 separate programmes in various areas of life and is expected to substantially improve the overall condition of the Roma population in Bosnia and Herzegovina (in terms of education, employment, housing, social security and health care, creation of census data on Roma population, etc). The Strategy is the first serious and comprehensive document in the State of Bosnia and Herzegovina or any of its Entities in which Roma issues are addressed and strategies proposed for their articulation and solution. The scope and nature of activities defined therein cannot be found in the Draft Work Plan of the Board of Roma from 2002 or in the Platform for Roma drawn up by the Roma Council as an umbrella organization of nongovernmental Roma organizations in Bosnia and Herzegovina.

109. Notwithstanding the fact that the Strategy was officially published in the *Official Gazette* cited above, the Council of Roma within the Council of Ministers of Bosnia and Herzegovina decided to publish the strategy in the form of a booklet in English, Romani and the three official languages of Bosnia and Herzegovina.

110. The growing number of NGOs addressing minority, particularly Roma, issues and their networking on the country level has continued.

111. On 27-28 June 2006, the Bosnia and Herzegovina Council of Roma organized in Banja Luka the Assembly of Roma Non-Governmental Organizations and Associations. Participants in the Assembly were representatives of Romani NGOs and associations from throughout Bosnia and Herzegovina, and a new Roma Council was elected. Members of the Council are local non-governmental Roma organizations, which took part in the Inaugural Assembly and others who have signed the declaration/application and who respect and protect the interests of the Roma Council in Bosnia and Herzegovina. Decisions on the appointment of new members are made by the Council's bodies: the Assembly and the Management Board. The Management Board has nine members. The appointed members of the Council are required to protect the interests of the Romani population, and to represent and defend the interests of the Council organizations' members, unless they are contrary to the Constitution and applicable laws.

112. The implementation of the "Action Plan on educational needs of Roma and other national minorities in Bosnia and Herzegovina", which was adopted in February 2004, is being actively pursued. In the school year 2005/06, most Romani students as well as those from other national minorities have enrolled educational programmes at all levels of schools and universities (often under the principle of "positive discrimination"). Within the capacities of the relevant municipalities, Cantons, and Entities, the students were provided with textbooks, school gear and financial support for transportation and meals.

113. Below is a list of major conferences, meetings, and educational projects dealing with issues of national minorities, in particular Roma:

- Seminar on the implementation of the Framework Convention for the Protection of National Minorities, organized by the Ministry of Human Rights and Refugees and supported by the Council of Europe (Sarajevo, 5-6 December 2005);

- Conference on the implementation of the Action Plan on Educational Needs of Roma and Other National Minorities, organized by the Ministry of Human Rights of Bosnia and Herzegovina and the Advisory Board of Roma within the Council of Ministers, and financially supported by the OSCE Mission in Bosnia (Vogosca, 5 July 2005);
- Seminar on meeting the educational needs of Roma, organized by the Ministry of Education and Culture of Republika Srpska (Banja Luka, 22 November 2005);
- A three-week project “Educating Roma for work as media assistants or journalists “, which was completed on 16 November 2005;
- A conference on the preparation of Action Plans for the implementation of the “ Bosnia and Herzegovina Strategy for solving Roma problems”, organized by the Ministry for Human Rights and Refugees, UNHCR and the Council of Europe (Mostar, 19-20 June 2006);
- The Council of Roma inaugurated and organized the Assembly of Roma non-governmental organizations and associations (Banja Luka, 27-28 June 2006);
- Training in monitoring and evaluation techniques organized within the project Equal rights and treatment of Roma in Eastern Europe, in cooperation with the Council of Europe (Sarajevo, 4-6 December 2006);
- A meeting related to the Council of Europe’s “Enough!” campaign in autumn 2006;
- A round table “Roma in Bosnia and Herzegovina society: putting politics to practice” (Sarajevo, 11 April 2007);
- And many other similar events have taken place.

114. Based on the above, our opinion is that the situation of national minorities in Bosnia and Herzegovina is improving through political, administrative, and social changes that have been introduced over the past few years. This is also due to the fact that, as a result of new legislation and political circumstances, minorities have begun to assume a higher degree of responsibility for their own position. In this regard, and in addition to obligations undertaken by the State and by local authorities to improve on the existing legislation and ensure that the applicable laws on national minority rights are duly implemented, there is a need to define common grounds for social action of minority councils, representatives, and organizations in the aim of strengthening the minority position in the future.

115. These should primarily be the activities which strengthen the role of national minority councils, representatives, and non-governmental organizations, and increase their level of participation in the government bodies at the State, entity, cantonal, and municipal levels. Common activities and cooperation between national minority associations as well as non-governmental organizations is extremely important for the protection of minority rights and the promotion of a democratic and civil society. In Bosnia and Herzegovina, it is necessary to

undertake public-oriented activities in order to eliminate entrenched stereotypes about national minorities.

116. Activities are needed in order to develop the political culture and raise the tolerance level, so that sensitive issues regarding a multi-ethnic and multicultural society may be discussed without nationalistic passion and euphoria. In this context, it would be necessary to incorporate as a part of educational reform the principles of multi-ethnic and multicultural life into all aspects of the educational system.

117. The enactment of the Law on Protection of Members of National Minorities has provided a formal foundation for the expansion of minority rights, particularly following the enactment of the ensuing implementing legislation and ratification of basic international documents governing the protection of national minorities. Particularly important in this respect are the Framework Convention on Protection of National Minorities, the European Convention on Human Rights, and the European Charter for Regional or Minority languages.

118. Overall, the present political and social situation in Bosnia and Herzegovina, with the work of the current composition of the Council of Ministers, has been getting better in the area of minority rights. We are aware that, in Bosnia and Herzegovina and some other countries of the region, the position of national minorities, particularly Roma, is still inadequate. However, recent times have seen increased efforts being made to improve on that situation. In this context, great efforts are being made in addressing the problems regarding the return of refugees and displaced persons as well as the problems of securing their legal status and ensuring sustainable return. It is to be expected that, as Bosnia and Herzegovina moves closer to full European integration and the benefits that the integration process entails, the status of national minorities will be further improved.

119. Since there are neither records kept in Bosnia and Herzegovina on racial discrimination cases nor there is a methodology in place for their monitoring, we have presented data on the status and protection of Roma population in Bosnia and Herzegovina for the sake of illustration.

120. In May 2006 the Bosnia and Herzegovina Parliamentary Assembly adopted and announced its decision to establish the Council of National Minorities at the Parliamentary Assembly of Bosnia and Herzegovina (*Official Gazette* No.38/2006).

121. The establishment of the Council at the Parliamentary Assembly has now reached its final stage and is being jointly implemented by the Commission for Human Rights, Immigration, Refugees and Asylum of the House of Representatives and the Bosnia and Herzegovina Ministry of Human Rights and Refugees. The establishment of the Bosnia and Herzegovina National Minority Council will create better conditions for systematic realization of minority rights. The laws have been based on agreements and consensus among the political parties, which provides a guarantee that there is enough political will for the implementation.

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1/ The sample of the panel study “Living in B-H” is a sub-sample of the Life Standard Measurement Sample (LSMS) conducted by the World Bank in cooperation with statistical institutions in 2001. Almost half of households from LSMS study were selected and transferred to the panel study. The same households were interviewed in September 2003 and for the fourth time in November 2004. The study was conducted by the Statistical Institute of RS, Federal Statistical Institute and B-H Statistical Agency in cooperation with Birks Sinclair (BSAL), Independent Bureau for Humanitarian Issues (IBHI) and the Institute for Social and Economic Research in Essex (ISER).