



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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OF RACIAL DISCRIMINATION

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ARTICLE 9 OF THE CONVENTION**

Sixth periodic reports of States parties due in 2004

Addendum

BOSNIA AND HERZEGOVINA* **

[20 May 2005]

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** This report has not been edited before being submitted for translation.

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Introduction

1. The definition and notion of the racial discrimination, as defined in the Article 1 of the International Convention on Elimination of All Forms of Racial Discrimination (hereafter CERD),¹ is originally included in the legal system of Bosnia and Herzegovina. Bosnia and Herzegovina has included the problem of the racial discrimination within the framework of its legal and political system, as one of the crucial human rights and freedoms,² thereby giving preference to implementation of international acts over national laws.

2. In order to understand the overall system of implementation and follow-up of international conventions related to human rights and fundamental freedoms, thus including CERD, it is first necessary to have in mind that Bosnia and Herzegovina is organized as a complex state, with several levels (municipality, canton, entity, Brcko District - state level), reference to HRI/CORE/--The report refers to 1996 -2004 after-war period.

Policy of elimination of racial discrimination

3. Racial discrimination as well as other forms of discrimination are directly forbidden by the Constitution of Bosnia and Herzegovina and incriminated through several definitions of crime in the Criminal Code of Bosnia and Herzegovina (**Criminal Code of BIH, Article 171, Genocide; Article 172, Crimes against Humanity; Article 180, Organizing of a group of people and instigating of a criminal offence of genocide, crime against humanity and war crimes and Article 145, Infringement of the Equality of Individuals and Citizens.**

4. The Criminal Codes of the entities and the Brcko District refer to same criminal offence: The Criminal Code of the Federation BIH (**Ar.153, Genocide; Ar. 157, Organizing and instigating of a criminal offence of genocide and war crimes** and in The Criminal Code of Republika Srpska (**Article 437, Organizing and instigating of a criminal offence of genocide and war crimes.**

5. The provisions on the racial discrimination and other forms of discrimination are also included within other system laws regulating issue of implementing specific rights such as: right of a citizen of BIH to vote and to be elected, right to individual freedom and safety, just trial, equality against the law, right to social and health care, right to association, freedom of religion, freedom to language, education etc. Through the constitution and other laws the authorities of Bosnia and Herzegovina are clearly determined for tolerance and respect of human rights of all citizens living in BIH.

6. The democratic society of Bosnia and Herzegovina is going through economic and legal transition. It is namely in the past few years that new practice and standards of protection of human rights have been introduced and new institutional mechanisms built. That is why there have been problems in the implementation of the law and the level of protection of human rights has not always been satisfactory.

7. The consequences of the war (1992-1995) are still being surpassed and the economic and social recovery of Bosnia and Herzegovina is linked to mitigation of those consequences of the war that led to breakdown of the legislative, legal and administrative system. After the signing of a peace agreement, in December 1995 in Dayton, USA " The General Framework Agreement

for Peace in Bosnia and Herzegovina" a new Constitution of BIH was set and by it Bosnia and Herzegovina continued its continuity as a complex, decentralized state consisted of two entities; Federation of BIH with 10 cantons and Republika Srpska and a smaller territorial unit of "Brcko City" now Brcko District of BIH. This Agreement set up also a more complex system of protection of national interests of the three constituent peoples: Bosniaks, Croats and Serbs and other citizens of BIH.

8. In Bosnia and Herzegovina the problem of racial discrimination related to making difference and discrimination between certain racial groups is not so evident. The problem existing in the BIH society is related to ethnic-national groups both due to tragic war, displacement, exile of population and process of return of the citizens in their former places of residence in which they become "minority groups" after their return, and lately also due to economic status of vulnerable groups such as returnees-displaced persons or refugees, members of minority groups, self-supporting women returnees, foreigners-migrants, naturalized citizens.

9. The authorities in Bosnia and Herzegovina have recently made significant improvements especially when talking about return of displaced persons and refugees, so that in the period 1995-2004 there have been total of 1.002.668 person returned to their former places of residence, out of which number 440.486 refers to refugees and 562.182 to displaced persons.

10. There has been established a new mechanism for right of use of the freedom of religion and religious expression as a specifically susceptible issue related to ethnic and national structure of the population in BIH in such a way that the minor religious groups are guaranteed wider freedoms of expression of religion, right to organize and express religious feelings having at the same time all religious communities respect the principle of tolerance towards other religious groups operating in Bosnia and Herzegovina.

11. As for the rights of minorities, these have been given possibility to get involved in all fields of public life. The Election Law of BIH has granted them right to vote and be elected representatives of the national minority under condition the members of the minority make more than 3% of population on the territory of the electoral unit. Right to education in mother tongue has been enabled depending on the choice made by the minority groups. It has been made possible for all minority groups to use right to associate, information and cultural expression. The Council of Ministers of BIH has enabled the most numerous Roma minority to establish the advisory body "Roma Board" which makes promotion and improves implementation of the Roma rights.

12. After the war Bosnia and Herzegovina has encountered completely different problems such as legal and illegal immigrants, requests to award asylum, reception to Bosnia and Herzegovina citizenship. As already said Bosnia and Herzegovina has included in the majority of laws the standard of ban of any discrimination whatsoever as specified not only by the European Convention on Human Rights and Freedoms but also by the standards of CERD definitions. The Law on Citizenship of Bosnia and Herzegovina (Article ...) contains the provision on ban on discrimination as well as the Law on Movement and Residence of Foreign Citizens and Asylum of Bosnia and Herzegovina (Article 6, Ban of Discrimination) with obligation for the foreigners to obey the laws of BIH. Given the rights of foreigners are also referred to in different international conventions that BIH had ratified (reference to CORE) standards set up in these convention also apply.

13. The issue of illegal immigrants and legal stays meant for Bosnia and Herzegovina the building of new institutional mechanisms that would solely deal with issues of foreigners. The existing system in Bosnia and Herzegovina, now being under reform, has not always been able to respond to problems caused by the increased number of migrations in Bosnia and Herzegovina and particularly to increased number of transits through BIH.

14. Bosnia and Herzegovina still has not adequate reception points for foreigners-illegal immigrants (there are not enough financial resources) so the conditions the immigrants stay are not adequate. Majority of activities related to this issue have been addressed with support of UNCHR and so until 2004 UNCHR directly participated in the procedure of approving asylum for BIH. UNCHR also monitored the work of the responsible institutions in BIH and especially the authorized ministry.

15. We have already mentioned that Bosnia and Herzegovina has reformed its legal framework within activities undertaken to build up new institutional mechanisms and brought it into line with international conventions and started extensive reforms of institutions and services to implement these laws. It can be presented that the protection of rights of foreigners, especially illegal immigrants, now is satisfactory in Bosnia and Herzegovina regardless the limited financial resources at its disposal. Bosnia and Herzegovina still needs international support.

16. A substantial support in providing fundamental forms of protection has been received by NGO and international organizations operating in BIH such as UNHCR, UNICEF, OHCHR, IOM, OSCE.

17. To illustrate this problem we shall give an example of the increased number of illegal immigrants of Chinese nationality and award of citizenship to persons of African-Asian origin (Algeria, Egypt) and persons who had citizenship of a few of former Soviet Union republics (e.g. Ukraine). In order to clarify the circumstances under which the naturalization of the named groups had been done a Commission for revision was formed at the state level to revise decisions made to award BIH citizenship both by naturalization and by registration into registry books of birth with a statement of the fact of the BIH citizenship of acquired based on the residence on its territory on the day of 06 April 1992. In connection with the extradition of a group of naturalized citizens charged with terrorism the Human Rights Chamber made a decision on compensation to family members taking into consideration the fact the court procedure on revision of citizenship status of the extradited group has not been completed yet. The procedure of repatriation of the extradited group is now in progress because they still have no citizenship of Bosnia and Herzegovina.

General legal framework, promotion, recognition and right of use of equal position

18. For the sake of presentation of a general legal framework for elimination of all forms of racial discrimination in Bosnia and Herzegovina we should start from the highest legal act the **Constitution of Bosnia and Herzegovina**. In the Article II, paragraph 3, the Constitution of Bosnia and Herzegovina guarantees to all persons on the territory of Bosnia and Herzegovina right of use of all human rights and fundamental freedoms including:

The right to life;

The right not to be subjected to torture or to inhuman or degrading treatment or punishment;

The right not to be held in slavery or servitude or to perform forced or compulsory labor;

The rights to liberty and security of person;

The right to a fair hearing in civil and criminal matters, and other rights relating to criminal proceedings;

The right to private and family life, home, and correspondence;

Freedom of thought, conscience, and religion;

Freedom of expression;

Freedom of peaceful assembly and freedom of association with others;

The right to marry and to found a family;

The right to property;

The right to education;

The right to liberty of movement and residence.

19. The Constitution also directly forbids discrimination as the paragraph 4 of the same Article reads "The enjoyment of the rights and freedoms provided for in this Article or in the international agreements listed in the Annex I to this Constitution shall be secured to all persons in Bosnia and Herzegovina without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

20. The standards of UN Conventions that BIH ratified and especially European Convention for Protection of Human Rights and Fundamental Freedoms which guarantee preservation and implementation of human rights and fundamental freedoms, and where in the latter one the Article 14 reads: "The enjoyment of the rights and freedoms provided for by the Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status", have all been incorporated in the constitution of Bosnia and Herzegovina, and furthermore, by the Article 2 of the Constitution, this Convention is directly implemented in Bosnia and Herzegovina and enjoys priority over all other laws.

21. The Entity Constitutions, as well as the Constitutions of districts/cantons are harmonized in regard of protection of human rights and fundamental freedoms with the principles of respect of human rights guaranteed by the Constitution of Bosnia and Herzegovina.

22. The Constitution of Bosnia and Herzegovina has established the position and place of the constituent peoples (Bosniaks, Croats and Serbs) and other citizens of BIH by guaranteeing the

constituency and exercise of all rights on the entire territory of Bosnia and Herzegovina without discrimination on any ground. After the tragic war in BiH the practice has encountered for a quite long period the problem of national excluding/minorization of certain national groups whether they be the Bosniaks or the Croats or the Serbs or the others compared to their number percentage in the legislative, executive and court bodies. All above mentioned resulted in the Decision made by the Constitutional Court of BiH regarding the obligatory modification of the entity and cantonal Constitutions and their harmonization with the Constitution of BiH.

23. **The Partial Decision of the Constitutional Court of Bosnia and Herzegovina on Constituency of the Peoples** ("Official Gazette of BiH" number 23/00), gives the explication of the Preamble of the Constitution of BiH by which the Bosniaks, the Serbs and the Croats are defined as the constituent peoples. Furthermore, the Decision says that the Article II/4 of the Constitution of Bosnia and Herzegovina bans the discrimination on any ground such as, among others, the association with the national minority, by which it means the existence of groups defined as the national minorities. It also says that the text of the Constitution of BiH clearly makes difference between the constituent peoples and the national minorities, with intention to affirm the continuity of Bosnia and Herzegovina as a democratic multinational state. The constitutional modifications are an important step forward towards consolidation of the political-legal order in the country and the formal-legal guarantee of equality to members of all peoples and equality for all citizens. This makes base for elimination of discrimination, i.e. a discriminatory attitude to individuals and minority groups due to national, religious and political affiliation.

24. The Parliamentary Assembly of Bosnia and Herzegovina has adopted **The Law on Protection of National Minorities in Bosnia and Herzegovina** ("Official Gazette of BiH", number 12/03) which defines in the Article 1 of the Law the rights and duties of the members of the national minorities in Bosnia and Herzegovina as well as responsibilities of the national authorities of BiH to respect and protect, preserve and develop ethnical, cultural, linguistic and religious identity of each member of national minorities in BiH who is the citizen of BiH.

25. **The Law on Gender Equality of Bosnia and Herzegovina** was adopted in the Parliamentary Assembly of BiH on 21 May 2003 ("Official Gazette of BiH", number 16/03) and it regulates, promotes and protects the equality of gender and guarantees the equal possibility to all citizens, both in public and private sector of the society, and prevents direct and indirect discrimination based on sex, always having in mind the percentage of gender in the public life. Full gender equality is guaranteed in all fields of the society, and especially in the sphere of education, economy, employment, work, social and medical care, sport, culture, public life and media, regardless the marital and family status.

26. **The Law on the State Human Rights Ombudsmen in Bosnia and Herzegovina** ("Official Gazette of BiH, number 19/02) has established the Ombudsmen Office for Human Rights in Bosnia and Herzegovina as an independent institution with aim to promote good administration and rule of law, protection of rights and freedoms of natural and legal persons as guaranteed by the Constitution of Bosnia and Herzegovina and international agreements attached to it, which will all monitor the activities of the institutions in Bosnia and Herzegovina, its Entities and Brcko District. The Article 18 reads: "Any natural or legal person claiming a legitimate interest may apply to the State Ombudsman without any restriction. Nationality, citizenship, residence, gender, minority, ethnicity, religion, legal incapacity, imprisonment of

any kind, and, in general terms, a special relationship with, or dependence on, a government department or authority may not restrict the right to lodge a complaint with the State Ombudsman."

27. **The Criminal Code of Bosnia and Herzegovina** ("Official Gazette of BIH", number 3/03) in the separate part of the Law, Chapter XV, Infringement of the Equality of Individuals and Citizens, Article 145, Point 1. provides for:

"An official or responsible person in the institutions of Bosnia and Herzegovina, who on the ground of differences in race, skin colour, national or ethnic background, religion, political or other belief, sex, sexual orientation, language, education or social status or social origins, denies or restricts the civil rights as provided by the Constitution of Bosnia and Herzegovina, ratified international agreement, law of Bosnia and Herzegovina, some other regulation of Bosnia and Herzegovina or general act of Bosnia and Herzegovina or, whoever on the ground of these differences or background or other status grants unjustified privileges or does unjustified favours to individuals, shall be punished by imprisonment for a term between six months and five years."

In the Point 2 of the same Article it reads: "An official or responsible person in the institutions of Bosnia and Herzegovina, who in contravention of the regulations of Bosnia and Herzegovina on the equal use of languages and alphabets of the constituent peoples and others living on the territory of Bosnia and Herzegovina, restricts or denies to a citizen the use of his language or alphabet while addressing bodies or institutions of Bosnia and Herzegovina, business enterprises or other legal persons in order to exercise his rights, shall be punished by a fine or imprisonment for a term not exceeding one year." The Point 3 of the same Article reads: "An official or responsible person in the institutions of Bosnia and Herzegovina, who denies or limits the right of citizens to be freely employed within the entire territory of Bosnia and Herzegovina and under the same prescribed terms, shall be punished by imprisonment for a term between six months and five years."

28. Bosnia and Herzegovina is carrying out extensive economic and legal reforms. The reforms means, at first place, the harmonization of a high number of laws with European conventions concerning human rights, which has a positive influence on promotion, recognition, exercise and use of the equal position regarding human rights of any group of citizens in BIH and more appropriate ban of any kind discrimination. In this period the existing laws and regulations are being increasingly passed and reconciled with all conventions signed by Bosnia and Herzegovina, and recently there are efforts to fasten preparations and implementation of political measures and government and other public institutions practices aiming to better respect for human rights.

29. **The Election Law of Bosnia and Herzegovina** ("Official Gazette of BIH", number 23/01) provides for every citizen of Bosnia and Herzegovina who is of age 18 a voting right, i.e. to vote and to be elected in accordance with the provisions of this Law.

30. **The Law on Freedom of Religion and Legal Status of the Churches and Religious Communities in Bosnia and Herzegovina** ("Official Gazette of BIH", number 5/04) offers a legal framework at the level of Bosnia and Herzegovina by which all churches and religious communities in Bosnia and Herzegovina are made equal in rights and duties without

discrimination, and which condemns all forms of intolerance and discrimination based upon religious creeds and belief. The Law has been harmonized with international declarations and conventions ratified by Bosnia and Herzegovina and which are an integral part of the Constitution and the legal system of Bosnia and Herzegovina. This Law gives the definition of discrimination based on religion or belief and the definition of church and religious community.

31. **The Draft Law on Primary and Secondary Education in Bosnia and Herzegovina** ("Official Gazette of BIH", number 18/03) regulates general aims deriving from widely accepted, universal values of a democratic society, and own values of the system based on the unique features of national, historic, cultural and religious tradition of the peoples and national minorities living in Bosnia and Herzegovina. So the Article 3, e) of the Law says that the general aims of the education are "providing for the equal opportunities for education and possibility of choice at all levels of education, regardless sex, race, national affiliation, social and cultural origin and status, family status, religious creed, psycho-physical and other physical features."

32. **The Law on Associations and Foundations of BIH** ("Official Gazette of BIH", number 32/01) enables to all citizens exercise of rights to associate without any kind of discrimination and it guarantees to exercise one's right to associate and right to organize in order to meet different needs, political, cultural, educational, social etc., if the organization or foundation operates in accordance with the existing laws.

33. **The Law on Movement and Residence of Foreigners and Asylum in BIH** ("Official Gazette of BIH", number 29/03) regulates the requirements and procedure of entry and stay of foreigners on the territory of Bosnia and Herzegovina, reason for rejection of entry and expel of foreigners, as well as the procedure for application of requests for asylum, approval of asylum and cessation of asylum in Bosnia and Herzegovina.

34. This Law also regulates the ban of discrimination of foreigners in the way that the foreigners must not be treated with discrimination on any ground, including sex, race, colour of skin, language, religious creed, political and other views, national and social origin, affiliation to national minority, property status, age, psychic and physical disability, status gained by birth or any other status.

35. **The Law on Refugees and Displaced Persons in Bosnia and Herzegovina and the Law on Modifications and Amendments of the Law on Refugees and Displaced Persons in Bosnia and Herzegovina** ("Official Gazette of BIH", number 23/99) regulates the acquisition and cessation of the status of the refugee from Bosnia and Herzegovina and displaced persons in Bosnia and Herzegovina, returnees, rights of refugees from BIH, displaced persons, returnees; the manner of exercise of their rights and means for support in creation of conditions for return of refugees from BIH and displaced persons to BIH and other issues related to refugees from BIH, displaced persons and returnees. They explicitly forbid any kind of discrimination of returnees during their return to former places of residence, especially to places where the returnees are the so called "minority returnee group".

36. Bosnia and Herzegovina is not only going through a legal but also economic transition, which means implementation of a very large number of reforms. Since the process of reconstruction and return of the displaced persons have not been completed yet, the issue of employment, social and medical care of threatened categories of population presents a complex problem that influences the level of protection of human rights for the threatened groups. Besides the problem of the displaced there is also a separate groups of families of missing persons, women and children, minorities, foreigners, victims of human trafficking in human beings. It is necessary to provide for all mentioned categories the security and protection level, which is not always easy even for economically more stabile countries. The special problem is the lack of working positions-employment and some categories of domicile population is in the state of extreme poverty or at the edge of poverty. Estimates made by the Anti-Poverty Action Strategy indicate that it refers to more than 40% of the population in BIH.

37. When compared to economic problems the issue of the racial discrimination presents only one of problems as the majority of heterogeneous practices of making differences between certain groups is the result of the war and now it is due to economic situation. The reform of the legislation, judiciary system has enabled better protection of threatened groups. The past few years the BIH authorities have made special efforts in connection to better protection of women, children, families of missing persons, minorities, trafficking in human beings, violence, treatment of foreigners. Appropriate national plans and programmes have been made in order to better implement the adopted laws. They refer to improvement of the status of the mentioned groups and enhancement of cooperation with responsible institutions, especially with NGOs that have made a special contribution in implementation through their activities, lobbying, pointing out to existing problems.

Ethnic characteristics of Bosnia and Herzegovina

38. The last census of population in BIH was organised in April 1991, pursuant to the Law on Census of Population, Households, Apartments and Agricultural Farms in 1991 ("Official Gazette of SFRY", number 3/90) and the Law on Organization and Procedure for the Census of Population, Households, Apartments and Agricultural Farms in 1991 and Census Finances ("Official Gazette of SRBIH", number 22/90). The UN recommendation tenet is that the census of population be carried out each 10 years in the year ending in 0 or 1.

39. Bosnia and Herzegovina is known by its diversity of peoples and according to the last census from 1991 it had 4.377.033 inhabitants within 1.537 km long state border. According to the last 1991 census the structure of population in Bosnia and Herzegovina is such that the Bosniaks made (43.4%) of the total number of population, the Serbs (31.2%) and the Croats (17.3%).

40. National minorities in BIH by the Law on National Minorities adopted in April 2003 are: Albanian, Montenegro, Czech, Polish, Italian, Jews, Hungarian, Macedonian, German, Roma, Romanian, Russian, Ruthenian, Slovak, Slovene, Turkish and Ukrainian.

41. The last 1991 census carried out on the territory of Bosnia and Herzegovina the number of national minorities was as follows:

National minority	Number of affiliates
Albanian	4 922
Montenegro	10 048
Czech	590
Italian	732
Jews	426
Hungarian	893
Macedonian	1 596
German	470
Polish	526
Roma	8 864
Romanian	162
Russian	297
Ruthenian	133
Slovak	297
Slovene	2 190
Turkish	267
Ukranian	3 929

42. New statistical figures are unknown as there has been no new census in Bosnia and Herzegovina since the last 1991 census. As a result of the 1992-1995 war activities on the territory of BIH, Bosnia and Herzegovina has suffered a serious movement of population and there is a lack of updated demographic data and need to have a new census.

43. In February 1999 the Agency for Statistics of Bosnia and Herzegovina and Entities Institutes for statistics founded a working group for preparation of the 2001 census. The OHR and OSCE opinion prevailed to postpone the census, namely it was suggested to postpone the scheduled census for different reasons: delicacy of the political situation in the country, existence of political divisions, lack of adequate legislation, especially at the BIH level, existence of a great number of minefields and uncompleted process of returns of the displaced persons and refugees.

44. The Law on National Minorities offers the definition of the national minority in Bosnia and Herzegovina "the national minority, by this Law, is a part of population-citizens of Bosnia and Herzegovina who do not belong to any of the constituent peoples and who consist of people of the same or similar ethnicity, same or similar tradition, customs, creeds, language, culture and spirituality and close or related history and other traits. Bosnia and Herzegovina protects the position and equality of the national minorities: Albanian, Montenegro, Czech, Polish, Italian, Jews, Hungarian, Macedonian, German, Polish, Roma, Romanian, Russian, Ruthenian, Slovak, Slovene, Turkish, Ukrainian and others that meet the conditions from the paragraph 1 of this Article." The Article 1 of the Law on National Minorities specifies the rights and duties of the national minority members in Bosnia and Herzegovina and responsibilities of the authorities in BIH to respect and protect, preserve and develop ethnic, cultural, linguistic and religious identity of each member of the national minority in BIH who is a BIH citizen.

45. The estimate on the number of other national minorities in Bosnia and Herzegovina has been done through associations and clubs operating as non-governmental organizations on the territory of Bosnia and Herzegovina and it can be concluded that their number has decreased proportionally to the number of the refugee population who have not returned to Bosnia and Herzegovina after the end of the war.

46. Members of all minority communities in Bosnia and Herzegovina have had a legal possibility and right in the 1991 census to freely express themselves if and what minority they belong to. Use of this right was especially in focus during the tragic conflict in Bosnia and Herzegovina (1992-1995) because affiliation to a minority whose mother state was outside Bosnia and Herzegovina had offered a possibility to seek for help and protection from that state. At the same time and in many situations not belonging to Bosniak, Croat or Serb (constituent) people who were involved in the conflict was a circumstance that saved the minority communities from the ethnic cleansing. A major part of the members of the national minority communities in that (war) time had formed an association (NGO) for providing humanitarian support or evacuation of their members from the endangered areas, and getting under protection of their home countries or strong international associations for assistance to members of different minorities. The associations of Jews, Slovenes, Macedonians, Czechs, Italians, Hungarians, Germans, Ukrainians and etc. were especially active in that sense.

47. In certain minority communities this presented de facto the beginning of identification of the members of the national minorities, their assembling in organized groups that will continue working after the tragic conflicts with aim to preserve national attributes of their community, tradition, customs, creeds, language, culture and spiritual kinship. Associating with their home country via diplomatic and other agencies and appropriate technical assistance have created the base for long-term forms of preservation of above named distinctions.

48. The common characteristics of all minority groups is that they have formed appropriate associations of their members (associations of citizens, clubs, cultural societies or some other form of assembling) and registered them in accordance with the existing laws as NGOs. The exception is Roma who besides 32 associations (as NGOs) have made a political party. The Democratic Party of Roma was established at the beginning of 2003 (after general elections held in 2002 so that they could not participate in them). It should be noted that out of all 17 members of the minority groups, only the members of the Montenegro minority in BIH do not have a registered or founded any organizational form of assembling of Montenegroes, regardless of being formally and legally (census 1991) one of the other numerous minorities in Bosnia and Herzegovina. According to information from the Ministry for Human Rights and Refugees in BIH, there has recently been summoned an initial group to form the Association of Montenegroes (NGO).

49. Besides the named forms of assembling the members of the national minorities it should be also noted that there is in Republika Srpska in Banja Luka an association of organizations of the national minorities, the Union of the National Minorities in Republika Srpska in which the following associations have been involved so far: associations of Czechs, Italians, Jews, Hungarians, Macedonians, Roma, Slovenes and Ukrainians whose members live and work in this area.

50. Before we go on to analyze the normative dimensions of the issue of position of the national minorities in Bosnia and Herzegovina, it should be said (especially point out the fact) that Bosnia and Herzegovina still has not made any bilateral contract on protection of the members of the minorities living in it, although, conditionally speaking, except for Roma, all other minority communities have their "home" countries. Initiative to make an agreement (contract) on protection of members of some minority groups by other states towards Bosnia and Herzegovina has not existed so far. BIH had initiative to make such an agreement with the Republic of Slovenia on mutual obligations on protection of the Slovene minority in BIH, and Bosniaks, Croats and Serbs from BIH in Slovenia. This initiative is still in the stage of preliminary discussions, and has not met appropriate understanding in the Republic of Slovenia.

51. The Law on Association and Foundations, Articles 5, I 34 bans registration, activity of associations and organizations who has purpose contrary to the Constitution of BIH, and particularly if their activity is directed towards violent destruction of the order, inflaming national, racial and religious hatred or discrimination forbidden by law.

52. The Authorities of Bosnia and Herzegovina especially support the work of the associations promoting tolerance, such as the Inter-religious Council of BIH. The leaders of 4 traditional religious communities, Islamic, Orthodox, Catholic and Jew signed on 9 June 1997 the Agreement on mutual moral obligation thus establishing the Inter-religious Council. The Council works at the level of Bosnia and Herzegovina and in the moment of its foundation it was registered in accordance with the provisions of the Law on Associations and Foundations of Bosnia and Herzegovina. The task of the Inter-religious Council is to strengthen peace in Bosnia and Herzegovina, and effort to reach the reconciliation in the whole country. At the international level the Inter-religious Council has established connections with international institutions dealing with issues of freedom of creed and there they have actively participated in the work of the World conference "World Conference of Religion for Peace" (WCRP).

53. In Bosnia and Herzegovina, the Inter-religious Council has given full effort to making members of different religious creeds get to know and understand each other better. It has launched a **radio programme "Susret (Encounter)"** in which they put focus on similarities among different creeds instead of differences. The Inter-religious Council has also printed the first edition of the **"Glossary of Religious Notions"**, destined for the media, with aim to make the public aware of the work of the Inter-religious Council. The members of the Inter-religious Council have quite contributed to completion of the **Law on Freedom of Religion and Legal Position of Churches and religious Communities in Bosnia and Herzegovina.**

Women rights and position in Bosnia and Herzegovina

54. Agency for Statistics of Bosnia and Herzegovina and the institutes for statistics of both entities do not dispose of adequate data on gender dimension of the racial discrimination. The position of women in Bosnia and Herzegovina compared to position of men may be expressed by different figures showing in some segments good position of women and in the others indicate a certain level of discrimination...?

55. For better purpose of implementation of the Convention on Elimination of All Forms of Discrimination of Women (hereafter: CEDAW), Bosnia and Herzegovina had adopted in 2003 the Law on Gender Equality in Bosnia and Herzegovina. This Law puts a new and modern legal framework for prevention of discrimination of women, namely it bans the discrimination on the grounds of sex.

56. The Law on Gender equality in Bosnia and Herzegovina reads: "This Law governs, promotes and protects the equal treatment of the sexes and guarantees equality of opportunity for all in both the public and the private domain, and prohibits direct and indirect discrimination on the grounds of gender." This Law particularly intends to enhance the position of women.

57. This Law also contains provisions defining: "Full equality of treatment for both sexes is guaranteed in all sectors of society, particularly in the fields of education, the economy, employment and labour, social welfare, health care, sport, culture, public life and the media, regardless of marital or family status."

58. The definition of discrimination given by the Law is wide enough and in our opinion it is harmonized with CEDAW definition. It is important to note that this Law also promotes the practice intended to stamp out discrimination in all domains of life and solutions therein have been created based on the analysis of de facto cases in Bosnia and Herzegovina. The ban of discrimination refers to possible situations that result in discriminatory attitude on the grounds of sex in the private and public domain of life. There is no difference in regard of treatment by the private institutions or individuals. The Law allows special measures to promote gender equality and elimination of the existing inequality.

59. By adoption of this Law Bosnia and Herzegovina has defined a new approach that puts up better mechanisms of protection from any kind of discrimination of women and introduces more concrete provisions for prevention of discrimination on the grounds of sex. It is important to say that in comparison to existing state, the state of consciousness and social attitude have improved for the benefit of need to undertake action aiming to enhance the position of women in Bosnia and Herzegovina.

60. The Law on Gender Equality in BIH, governs the possibility of undertaking affirmative action that would not be treated as discriminatory, and where the discrimination on the grounds of gender is not considered a norm, criteria or practice that could be objectively justified by reaching a legal goal proportional to undertaken necessary and justifiable measures. The same Law founded the Gender Equality Agency of Bosnia and Herzegovina at the state agency responsible for gender policy and monitoring of modification of international and national laws related to implementation of all activities on prevention of discrimination of genders and for implementation of appropriate state plans and programmes.

61. The process of transition and economic reform mostly prevents women to reach their full development. There is great poverty in Bosnia and Herzegovina, and the unemployment rate is very frustrating and the social recovery of the economy destroyed by the war has progressed very slowly. All this influenced protection of any group of citizens in BIH and mostly the displaced persons, minority groups, foreigners and asylum seekers due to lack of resources in relevant funds and similar.

62. In the past period Bosnia and Herzegovina has leaned in its development on the international aid that was mainly directed to reconstruction and rehabilitation of the country, mostly its infrastructure, and much less to its economic recovery and recovery of social funds.

63. Bosnia and Herzegovina has made a significant progress in guaranteeing legal equality of women. Although *de iure*, there have been no obstacles to strengthen the position of women in the society and their affirmation. *De facto* state, given the statistics in certain fields of life, indicates that the position of woman in the Bosnia and Herzegovina society, regardless the group she belongs to, has stagnated, particularly after the war and that her participation in the public life has been brought down to a disturbingly low level. However, the economic recovery, though progressing very slow, and strengthening of the female non-governmental sector and civil social activities in some segments of society have increasingly corrected the state of the position of woman, especially in some domains of the public life related to improvement of the political position of woman, and her more equal involvement in all forms of organization of authorities in Bosnia and Herzegovina. The past and the actual employment legislative in BIH, have guaranteed the equal salary for the same amount of work and provision of protection of maternity, medical care and social welfare on the same principles, regardless ethnical or affiliation to any other group.

64. One of the major problems confronting the promotion and protection of women rights in Bosnia and Herzegovina is the increase of the violence against women. The reform of the law within the criminal legislative has soothed the implementation of the measures to prevent violence against women but the framework for better and more efficient protection has not been reached yet because the modification of the legal framework has not defined the possibility to pass temporary measures that would protect the victims more efficiently - separation of the bully from the family, so the practice of protection of women based on new principles has not yet been implemented in its full capacity.

65. One of the forms of violence and discrimination where certain groups of women are inadequately protected is the human trafficking, particularly women trafficking for the purpose of prostitution. This phenomenon presents a problem that has recently become extremely present on the territory of Bosnia and Herzegovina. Namely, the opening of the state borders, transition to market economy, increase of unemployment and poverty, dissolution of the national structure, decrease of the control over movement of the population in some parts of Europe, particularly in the central and east Europe, have also created favorable conditions in Bosnia and Herzegovina for development of illegal trade, especially human trafficking for purpose of sexual exploitation and raised illegal transit through the country and movement in it and the organized crime.

66. As mentioned above, there are endangered groups of women in Bosnia and Herzegovina who are displaced persons, returnees, women belonging to minority groups, asylum seekers and poor women. Besides the Law mentioned above adopted for protection of women, the State Action Plan for enhancing the position of women in BIH society is in the progress of passing. The projects and programmes carried out to implement the Law on Gender Equality are particularly interesting (Initial Report BIH CEDAW). The institutional mechanisms have also been established in BIH to support the implementation of the law and policies focused on strengthening the position of women and the activities dedicated to better protection of endangered categories of women.

Article 2

Legislative, legal, administrative and other measures

67. The Constitution of BIH and the constitutions of the entities guarantee to all citizens right to found and belong to political parties; participation in public activities; equality in access to public services; right to vote and be elected. The manner of exercise of freedom of political organizing and working, conditions of foundation, registration and cease of work of political organizations, is determined by the Law on Associations and Foundations in BIH.

68. In order to promote women rights and creating equal chances The Law on Election of BIH gives an obligatory rate of women on the lists of candidates for legislative bodies at all levels (from municipality to the Parliamentary Assembly of BIH), regulated by the (Article 4.19) which oblige all parties to candidate at least one third of candidates of the minority sex. Experience shows that the women in Bosnia and Herzegovina are always a minority sex in the candidacy process.

69. So, the obligation was introduced for the sake of the 1998 elections for all parties to complete the candidate lists and ensure to have among first 9 candidates at least three candidates of the minority sex (in 99% cases they are women). This ensured to have more women candidates at this election at all authority levels. The closed lists used for the 1998 general elections made it possible to choose a greater number of women in the legislative bodies at all authority levels. So the House of the Representatives of the Parliamentary Assembly of BIH has 42 elected representatives and 13 are women or 30.2%.

70. The established rate on obligatory 1/3 of candidates of the minority sex on all candidacy lists was used at 2000 elections, in the sense that at the second, fifth, eighth etc. position on the lists are women candidates. Nevertheless, at these elections the open lists were also used and joint candidate lists which practically means that the voters could vote for the party and for individual candidates from the list. Total of 1,616,313 voters voted at these elections, as per the figures supplied by the Election Committee of BIH, out of which 798,500 women voters or 49.4%. The results of the elections has shown that the voting body ghad given support to candidates - men (although there were almost 50% of women in the voting body), at all authority levels. The number of the woman-representatives at the state level has drastically increased in comparison to 1998. At these elections three women and 39 men were elected into the House of Representatives of the Parliamentary Assembly. In the course of the current mandate period one more woman was given a verified mandate later on (when a representative - man accepted executive position). According to the latest data the number of women representatives in the House of representatives of the Parliamentary Assembly of BIH is 8.

71. The selection of the members of all bodies of the legislative authorities is made on the base of the general and equal voting right by direct and secret voting. According to the same Law each citizen of BIH of 18 has right to vote and to be elected in the legislative bodies at all authority levels in BIH without discrimination on any grounds. The above mentioned provisions show that women and men, minority groups have the same rights to participate in the political and public life.

72. Ban of any kind of discrimination has been set, as already mentioned above, within the criminal legislative of Bosnia and Herzegovina, and the sort of criminal offences is shown in more details in information on implementation, Articles 3 and 4 of the Convention. The measure of ban, that is prevention, has also been specified within the laws concerning the registration of associations and foundations who forbid the registration of an association spreading intolerance and hatred towards certain racial, ethnic, minority and other groups. The monitoring of implementation of this law is under competence of the Ministry of Justice of BIH and the entities ministries of justice and the relevant department in Brcko District.

73. Funds for the work of the associations are provided each year within the budgets of the authority institutions of BIH as per the level of competence and territory of action of the association through the procedure of selection of projects proposed by the associations within the budgets of the BIH institutions. This process also includes analysis of proposed projects and programmes and associations who are obliged to submit annual reports on work to the competent ministry that monitors their activities and nominates them for funds allocation. The problem with this system is the lack of frame methodology of monitoring the work of the associations and of application of the same assistance award criteria. By the end of 2004 the Ministry of Justice of BIH began activities to establish a unique registry of associations, foundations and NGOs working on the territory of BIH.

74. The organisational structure of the authority has been adjusted to the principle of protection of the national interest so that national representation of the constituent peoples of BIH must be provided for the executive bodies in accordance with the law, as well as the representation of others where belong the representatives of the minority groups. The state and the entity governments are organized in that way, also canton and the government of the Brcko District. The system of the national representation is also included in the state service and public services.

75. The national representation system also governs the choice of judges and organization of courts as well as the gender representation. In the process of appointing the judges the care was taken to appoint also judges from the number of others, that is national minorities.

76. The analysis of the statutes of a number of parliamentary parties reveals that these statutes do not contain provisions banning the women to be members of the parties, and to members of the minorities, to participate in the party bodies. The solutions contained in the Law on Elections of BIH that oblige all political parties to have on their candidate lists at least one third of the minority sex candidates (our experience shows that the women in BIH have always been a minority sex in the candidacy process) made parties to increase the number of women in them and in the party bodies. The minority groups may also organize their political party.

77. In order to protect individual and group rights the citizens of BIH can with no exception refer to the Ombudsmen for human rights. It is an independent institution set up in order to promote good management and rule of law, to protect the rights and liberties of natural and legal persons, as enshrined in particular in the Constitution of Bosnia and Herzegovina and the international treaties appended thereto. The Ombudsman considers cases involving the poor functioning of, or violations of human rights and liberties committed by any government department. The Ombudsman acts either on receipt of a complaint or on its own initiative, may

undertake general investigations, recommend the appropriate individual or general measures and they have right of access to any institution or document related to specific investigation and initiate a court procedure but is not empowered to resolve the meritum proceeding.

78. Besides the Ombudsmen institution there is also the Commission for Human Rights working within the Constitutional Court of BIH. It is a court body responsible for considering similar cases with possibility to make binding court decisions that all relevant bodies in Bosnia and Herzegovina are to respect. The Criminal Code of BIH in the Article 239 also specifies the criminal offence of failure to enforce decisions of the Constitutional Court of Bosnia and Herzegovina or Human Rights Chamber whose competence was overtaken in 2004 by the Human Rights Commission working within the Constitutional Court of BIH.

79. After Bosnia and Herzegovina had been accepted to the Council of Europe in April 2002, the citizens of Bosnia and Herzegovina may also lodge complaints to European Court for Human Rights, and according to initial information by the end of 2004 there have been over 65 applications submitted. The problem confronting the citizens when lodging complaints and petitions to above named bodies is the legal assistance that they have mainly obtained so far by the non-governmental organizations.

80. During past few years the authorities of Bosnia and Herzegovina have had difficulties regarding economic recovery, transition going on almost in all sectors such as: reforms of justice, police, administration, economic domain, social welfare and medical care and education but still it has carried out many activities related to completion and adoption of the national strategies aiming to protect certain vulnerable categories such as children, displaced persons and refugees, women, minority groups-Roma, human trafficking victims, foreigners, asylum seekers. These plan are intended to enhance legislature framework, develop institutional mechanism, monitor implementation of exercise of rights of the mentioned groups and improve protection of human rights in general. The proposer of majority of the plans is the Ministry for Human Rights and Refugees also responsible for protection, monitoring and promotion of human rights.

Article 3

81. By adopting the new Criminal Code of Bosnia and Herzegovina in 2003, Bosnia and Herzegovina had built the postulates of the International Convention on Elimination of All Forms of Racial Discrimination in the new law, prescribing criminal sanctions for these acts and established the legislative mechanism of protection of human rights and fundamental freedoms for all, regardless the race, sex, language or religion etc.

82. The Criminal Code of Bosnia and Herzegovina defines the criminal offence as follows:

Article 172 (Crime against humanity)

"Whoever, as part of a widespread or systematic attack directed against any civilian population, with knowledge of such an attack perpetrates any of the following acts, we cite the definitions from the Paragraph 2:

"... (a) Attack directed against any civilian population means a course of conduct involving the multiple perpetrations of acts referred to in paragraph 1 of this Article against any civilian population, pursuant to or in furtherance of a State or organisational policy to commit such attack.

(b) *Extermination includes the intentional infliction of conditions of life, especially deprivation of access to food and medicines, calculated to bring about the destruction of part of a population.*

(c) *Enslavement means the exercise of any or all of the powers attaching to the right of ownership over a person, and includes the exercise of such power in the course of trafficking in persons, in particular women and children.*

(d) *Deportation or forcible transfer of population means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law.*

(e) *Torture means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under control of the accused; except that torture shall not include pain or suffering arising only from, or being inherent in or incidental to, lawful sanctions.*

(f) *Forced pregnancy means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.*

(g) *Persecution means the intentional and severe deprivation of fundamental rights, contrary to international law, by reason of the identity of a group or collectivity.*

(h) *Enforced disappearance of persons means the arrest, detention or abduction of persons by, or with the authorisation, support or acquiescence of, a State or a political organisation, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with an aim of removing them from the protection of the law for a prolonged period of time.*

(i) *The crime of apartheid means inhumane acts of a character similar to those referred to in paragraph 1 of this Article, perpetrated in the context of an institutionalised regime of systematic oppression and domination by one racial group over any other racial group or groups and perpetrated with an aim of maintaining that regime.*

Shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.

The Article 180 of the Criminal Code of Bosnia and Herzegovina reads:

"(1) *A person who planned, instigated, ordered, perpetrated or otherwise aided and abetted in the planning, preparation or execution of a criminal offence referred to in Article 171 (Genocide), 172 (Crimes against Humanity), 173 (War Crimes against*

Civilians), 174 (War Crimes against the Wounded and Sick), 175 (War Crimes against Prisoners of War), 177 (Unlawful Killing or Wounding of the Enemy), 178 (Marauding the Killed and Wounded at the Battlefield) and 179 (Violating the Laws and Practices of Warfare) of this Code, shall be personally responsible for the criminal offence. The official position of any accused person, whether as Head of State or Government or as a responsible Government official person, shall not relieve such person of criminal responsibility nor mitigate punishment. The fact that any of the criminal offences referred to in Article 171 through 175 and Article 177 through 179 of this Code was perpetrated by a subordinate does not relieve his superior of criminal responsibility if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof. The fact that a person acted pursuant to an order of a Government or of a superior shall not relieve him of criminal responsibility, but may be considered in mitigation of punishment if the court determines that justice so requires.

83. By the Law on Court of Bosnia and Herzegovina ... the Department for War crimes was established to deal with trials for criminal offences in connection with the war crimes, namely the criminal offences whose content partly concerns the definition of the racial discrimination defined by CERD.

84. To prosecute these *criminal offences* committed in the tragic war, that is in the period 1992-1995, the international community had formed the International Court for War Crimes committed in the former Yugoslavia "the Hague Tribunal" that processes thee cases. The courts in Bosnia and Herzegovina have also commenced processes connected to that period but the majority of the above mentioned cases are under monitoring of "the Hague Tribunal" that monitors their processing.

85. The mentioned cases are extremely complex for presentation of the situation in Bosnia and Herzegovina and we are not dealing with its analysis in this report.

86. Earlier above we mentioned the law banning the registration of association spreading hatred and intolerance and also the system of monitoring of work and delivering support to associations promoting tolerance and coexistence. The defect of the shown situation is the lack of explicit legal provision by which the associations promoting tolerance and respect of human rights of especially threatened groups are put into a more privileged position, except for the promotion of the Roma rights as the largest minority group in BIH and support for the Inter-religious Council of BIH.

87. In Bosnia and Herzegovina the Communications Regulatory Agency (CRA) was founded for monitoring the work of media, there will be more on the Agency in the part of this text related to the Article 7 of the Convention which is responsible for the control of work of the electronic media and approving of regulatory work licenses. The above named agency has possibility to ban the work of media that spread hatred and intolerance, which she in fact did in several cases (Independent radio Hayat-Tuzla, radio St John Pale...).

88. There are numerous associations in the non-governmental sector on the territory of BiH that contribute to improve and protect human rights (Helsinki Committee, Center for Human Rights, Link Diversity, etc.) and for preservation of ethnical and cultural heritage of the minority communities ("Czech Beseda" - association of Czechs in RS, "Taras Schevcenko" - association of Ukrainians in RS, Cultural Association of Jews "Lira" and so on).

Article 4

89. As already mentioned above Bosnia and Herzegovina has reformed the legal framework that encompasses ban, prevention of the racial discrimination what we more precisely through definitions of specific criminal offences:

The Criminal Code of Bosnia and Herzegovina envisages the **Article 171 (Genocide)** as a criminal offence reading:

"Whoever, with an aim to destroy, in whole or in part, a national, ethnical, racial or religious group, orders perpetration or perpetrates any of the following acts:

Killing members of the group;

Causing serious bodily or mental harm to members of the group;

Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

Imposing measures intended to prevent births within the group;

Forcibly transferring children of the group to another group,

shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.

Article 172, paragraph 1 (Crimes against Humanity) reads:

"Whoever, as part of a widespread or systematic attack directed against any civilian population, with knowledge of such an attack perpetrates any of the following acts:

(a) Depriving another person of his life (murder);

(b) Enslavement;

(c) Deportation or forcible transfer of population;

(d) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;

(e) Torture;

(f) Coercing another by force or by threat of immediate attack upon his life or limb, or the life or limb of a person close to him, to sexual intercourse or an equivalent sexual act (rape), sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of sexual violence of comparable gravity;

(g) Persecutions against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious or sexual gender or other grounds that are universally recognised as impermissible under international law, in connection with any offence listed in this paragraph of this Code, any offence listed in this Code or any offence falling under the competence of the Court of Bosnia and Herzegovina;

(h) Enforced disappearance of persons;

(i) The crime of apartheid;

(j) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to physical or mental health,

shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.

(NOTE: PARAGRAPH 2 OF THE SAID ARTICLE WAS QUOTED IN INFORMATION RELATED TO ARTICLE 3 OF THIS CONVENTION)

Article 176, Organising a Group of People and Instigating the Perpetration of Genocide, Crimes against Humanity and War Crimes

"Whoever organises a group of people for the purpose of perpetrating criminal offence referred to in Articles 171 (Genocide), 172 (Crimes against Humanity), 173 (War Crimes against Civilians), 174 (War Crimes against the Wounded and Sick) or 175 (War Crimes against Prisoners of War) of this Code, shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.

Whoever becomes a member of a group of people referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term between one and ten years.

A member of a group of people referred to in paragraph 1 of this Article who exposes the group before he has perpetrated a criminal offence in its ranks or on its account, shall be punished by a fine or imprisonment for a term not exceeding three years, but may also be released from punishment.

Whoever calls on or instigates the perpetration of criminal offence referred to in Articles 171 through 175 of this Code, shall be punished by imprisonment for a term between one and ten years.

90. The Criminal Code of Bosnia and Herzegovina also contains ban for the government authorities or public institutions, national and local, that is officials to promote and instigate the racial discrimination and this is anticipated as a criminal offence of discriminatory behaviour of an official or responsible person who instigates the racial discrimination.

Article 145, Infringement of the Equality of Individuals and Citizens reads:

"(1) An official or responsible person in the institutions of Bosnia and Herzegovina, who on the ground of differences in race, skin colour, national or ethnic background, religion, political or other belief, sex, sexual orientation, language, education or social status or social origins, denies or restricts the civil rights as provided by the Constitution of Bosnia and Herzegovina, ratified international agreement, law of Bosnia and Herzegovina, some other regulation of Bosnia and Herzegovina or general act of Bosnia and Herzegovina or, whoever on the ground of these differences or background or other status grants unjustified privileges or does unjustified favours to individuals, shall be punished by imprisonment for a term between six months and five years.

(2) "An official or responsible person in the institutions of Bosnia and Herzegovina, who in contravention of the regulations of Bosnia and Herzegovina on the equal use of languages and alphabets of the constituent peoples and others living on the territory of Bosnia and Herzegovina, restricts or denies to a citizen the use of his language or alphabet while addressing bodies or institutions of Bosnia and Herzegovina, business enterprises or other legal persons in order to exercise his rights, shall be punished by a fine or imprisonment for a term not exceeding one year.

(3) An official or responsible person in the institutions of Bosnia and Herzegovina, who denies or limits the right of citizens to be freely employed within the entire territory of Bosnia and Herzegovina and under the same prescribed terms, shall be punished by imprisonment for a term between six months and five years.

Article 183, Destruction of Cultural, Historical and Religious Monuments

"(1) Whoever, in violation of the rules of international law at the time of war or armed conflict, destroys cultural, historical or religious monuments, buildings or establishments devoted to science, art, education, humanitarian or religious purpose,

shall be punished by imprisonment for a term between one and ten years.

(2) If a clearly distinguishable object, which has been under special protection of the international law as people's cultural and spiritual heritage, has been destroyed by the criminal offence referred to in paragraph 1 of this Code, the perpetrator

shall be punished by imprisonment for a term not less than five years."

91. The Entity Criminal Codes also contain provisions that sanction the racial discrimination:

The Criminal Code of the Federation of Bosnia and Herzegovina, contains the **criminal offence of genocide**, in the Article 153 of the Law it reads:

"Whoever, with an aim to destroy, in whole or in part, a national, ethnical, racial or religious group, orders perpetration of killing members of the group or causing serious bodily or mental harm to members of the group or forcibly displacement of population or deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part or imposing measures intended to prevent births within the

group or forcibly transferring children of the group to another group or Whoever, with the same aim perpetrates any of the said offences shall be punished by imprisonment for a term not less than five years or long-term imprisonment.

Article 157, Organising a Group of People and Instigating the Perpetration of Genocide and War Crimes reads:

"Whoever organises a group of people for the purpose of perpetrating criminal offences referred to in Articles 153 (Genocide) through Article 156 (War Crimes against Prisoners of War) of this Code, shall be punished by imprisonment for a term not less than five years. Whoever becomes a member of a group of people referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term not less than one year. A member of a group of people referred to in paragraph 1 of this Article who exposes the group before he has perpetrated a criminal offence in its ranks or on its account, shall be punished by imprisonment for a term not exceeding three years, but may also be released from punishment. Whoever calls on or instigates the perpetration of criminal offence referred to in Articles 153 through 156 of this Code, shall be punished by imprisonment for a term between one and ten years."

92. **The Criminal Code of the Republika Srpska** also contains it as a **criminal offence**

Article 437, Organising a Group of People and Instigating the Perpetration of Genocide and War Crimes which reads:

"Whoever organises a group of people for the purpose of perpetrating criminal offences referred to in Articles 443 through to Article 447 of this Code, shall be punished by imprisonment for a term between two and twelve years.

Whoever becomes a member of a group of people referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term between one and eight years.

The perpetrator of the offences referred to in paragraphs 1 and 2 of this Article who prevents perpetration of the criminal offences referred to in the paragraph 1 of this Article or exposes it in due time, shall be punished by imprisonment for a term not exceeding three years, but may also be released from punishment.

Whoever calls on or instigates the perpetration of criminal offences referred to in Articles 443 through 447 of this Code, shall be punished by imprisonment for a term between one and eight years."

Article 5

93. The European Convention on Human Rights and Fundamental Freedoms is directly implemented in the legal system of Bosnia and Herzegovina through the Constitution of Bosnia and Herzegovina which lists the human rights and fundamental freedoms protected by the Convention and all Bosnia-Herzegovina and entities laws, being incorporated in the Constitution of BIH, must be harmonized with it, as well as other legal regulations. In this way they contribute to development of democratic institutions and civil society (on implementation of the convention in the legal system of BIH more details are supplied in the Article 6 of the Convention).

94. **Human Rights Chamber** (which was established as institution sui generis by the Dayton Peace Agreement, and whose work ceased by acceptance of BIH into the Council of Europe and by opening possibility for the citizens to apply to the European Human Rights Court after December 2003, it continued to work on outstanding files as the Commission for Human Rights within the Institutional Court of BIH) has used the European Convention on Human Rights and Fundamental Freedoms as the basic legal document when making decisions in its practice (of binding character) acting upon petitions of the natural and legal persons.

The following tables show ICSCR? data.

95. Given one of the fundamental legal principles in BIH is "assistance to unskilled client" the Departments/services for providing free legal assistance to citizens have been established with BIH courts and municipality authorities, in order to provide for adequate protection of their human rights, to avoid possibility of exceeding legally set terms (particularly so called preclusive terms), prevent possible misuse by manipulating the situation in which an unskilled person might find himself etc.

96. In order to improve judiciary system in Bosnia and Herzegovina the High Representative for BIH made a decision on foundation of **The Independent Judiciary Commission** whose mandate is to implement further activities on the judiciary reform and enhancement of the rule of the law, supervision of the work of the commissions/councils at entities and cantonal level, monitoring and assessment of work of courts and prosecutor's office. (the work objectives of the judiciary bodies is elaborated in more details in the Article 6 of the Convention).

Roma in Bosnia and Herzegovina

97. Given there are no records in Bosnia and Herzegovina on cases of racial discrimination and that there is no established methodology for monitoring them, we present here as an illustration the data on the status and protection of the Roma population in BIH. Roma are the most numerous minority among 17 minorities in Bosnia and Herzegovina. A Roma Council works by the Council of Ministers, and there are many Roma associations in the country. However, they are at the margin of the society. Majority of the Roma children do not attend school, due to attitude of their parents towards the education and for the fact that the society tolerates this in silence.

98. Figures on the number of Roma in Bosnia and Herzegovina are very contradictory. They range from around ten thousand (as per the 1999 census of population) to around a hundred thousand (as stated by some representatives of the Roma associations). There a few arguments supporting the conclusion that there were more Roma at the time of the 1991 census than official data show. It could be explained by a number of circumstances and one of them is a very evident characteristic of the Roma community to adapt itself to the actual state of surrounding they live in, including acceptance of the customs, religion and language, and national identification as well. This is where we should seek the reasons why many Roma, in those hard war circumstances and up to now, have declared themselves as belonging to the Bosniak people, and in some cases to Serb people (without mentioning their Roma origins). The number of 70 thousand of Roma in Bosnia and Herzegovina in the dawn of the war could be considered as the most approximate, but a huge percentage of this population are now living abroad as refugees.

99. More than 50 thousand of Roma now live in Bosnia and Herzegovina. This puts them into a most numerous of 17 national minorities in this country. At the 1991 census only eight thousand persons declared themselves as Roma. The OSCE report on Roma says that they thought and expected their life to be easier if they declared themselves as Serbs, Croats or Bosniaks.

100. The Roma Council works by the Council of Ministers of Bosnia and Herzegovina. The intention was to enable Roma and their associations to become partners to BIH authorities. There is silent boycott in Bosnia and Herzegovina towards Roma population.

Organization and association of Roma/NGO

101. Roma in Bosnia and Herzegovina are gathered in 28 non-governmental organizations, and the first Roma political party has recently been formed.

102. There are no records on the sufferings of Roma in the past war in BIH. A great number of their members were included in one of the three war confronted armies. There are cases of the killed and wounded Roma fighters. There is an opinion among Roma that the families of the killed and war invalids belonging to this people are in discriminatory position while exercising their rights to that sense. But, the suffering of Roma in the war is particularly evident through the number of refugees and displaced persons from their population. The estimate is that over half of (some estimates go to 2/3) the total number of Roma population was expelled during the war into other parts of BIH or went as refugees abroad.

103. One of the prime routes to improve the status of the Roma population in Bosnia and Herzegovina is to make them organize themselves in as good manner as possible. That consciousness is raised with Roma. Despite very modest results so far, in the places where there existed Roma associations, the entire social treatment of the members of this people was more favourable. There are around 40 associations in BIH now, and the majority is located on the territory of the Federation BIH.

104. The total extremely bad status of Roma in Bosnia and Herzegovina may be considered as follows:

- (a) Problems of attitude towards Roma in local communities;
- (b) Need to protect rights of Roma as national communities; and
- (c) Need to protect rights of Roma as equal citizens in the state where they live.

105. The elementary prerequisite for all mentioned aspects is that Roma should return their homes and to return their real property. It is also very important for them to better organize in order to raise and facilitate communication among them. In such a way they will be able to speak up more efficiently for themselves and their problems, the assistance shall more easily reach them and better conditions will be created to establish contacts with the authorities.

Culture

106. The illustrative example is the exposition of photographs on life of Roma - refugees from Bosnia and Herzegovina in Berlin, which was organized the beginning of the last year in the most prestigious exhibition hall in Sarajevo.. A great number of Roma visited the exposition, not only from Sarajevo, but also from other places from both entities in Bosnia and Herzegovina.

Roma refugees and displaced persons

107. The prime question concerning the actual state of human rights and fundamental freedoms of Roma in Bosnia and Herzegovina is the return of the refugee and displaced members of this population in their former pre-war residence places and return into their property of their houses and real estate. Their wish and persistency to return is very strong despite encountering extremely hard difficulties while doing it.

108. Only in the area of three municipalities - Bijeljina, Visoko and Kakanj, the number of Roma is higher than the total number of Roma who declared them as such in Bosnia and Herzegovina during the 1991 census. We have information that the Roma living now in the area of Gorazde and Livno reject to identify themselves as members of that people. Such behaviour is also present in other places in both entities.

Economic and social rights of Roma

109. In the situation of enormous (and frustrating) unemployment in Bosnia and Herzegovina, Roma are now an ethnic group who together with other citizens of BIH share this problem in the country. Explicitly, the situation is such that out of the symbolic total number of employed Roma there is one or two members of this people employed in some municipalities. The exception is the area of Tuzla Canton and the municipality Visoko where the situation is different than in other areas. Difficult situation with unemployment results in that a number of Roma deals with goods resale and begging.

110. All said above indicates that economic-social situation in Bosnia and Herzegovina is unsatisfactory, which naturally reflects negatively upon the position of Roma in Bosnia and Herzegovina. The privatization process will also result in a surplus of the working force.

Education of Roma

111. High illiteracy of Roma in Bosnia and Herzegovina is present as even now only a minor percentage of Roma children attend school. One of the reasons for illiteracy of Roma children is disadvantageous economic factor, certain stereotypes by parents in raise of Roma children. There are also positive examples of relatively higher school attendance by Roma children in Visoko. In this municipality there is a large and respectable primary school and the principal is a Roma. That fact certainly influenced relatively good involvement of Roma children in school education. Furthermore, Zavidovici, some outskirts parts of Brcko, a few places in the area of the Tuzla canton. The Tuzla canton is very characteristic by wish of young Roma to pursue university education. Poor material situation keeps the number of Roma students much below the actual wish of the secondary pupils to study.

112. It should be noted that the use of Roma language in Bosnia and Herzegovina, for all above mentioned including illiteracy of Roma population, influences in a way its existence, development and improvement and its permanent presence in all kinds of communication of Roma population. It is evident that Roma themselves have not shown interest for that. Under such circumstances, the Islamic religion of Roma population in Bosnia and Herzegovina not only influenced leaving and forgetting of Roma language, culture and tradition but also resulted in many Roma declare as Bosniaks. But, the fact is that Roma in Bosnia and Herzegovina have recently increased their feelings for the national affiliation. There are a few examples of efforts to preserve the language, culture and tradition, folklore etc of this ethnic group (Tuzla, Sarajevo, Bijeljina, Vitez, Visoko etc.) by forming folklore sections, by wish to organize courses of Roma language etc. A few Roma associations have shown interest to compile a dictionary of Roma language and they make connections with non-governmental organizations of Roma in Croatia and SR Yugoslavia.

113. A lot of Roma children do not attend school. Sometimes reasons are subjective, and the parents of Roma boys and girls are responsible for that. On the other hand, there are not enough qualified teachers in Bosnia and Herzegovina who, let's say, would be able to teach in Roma language, nor are there textbooks for the children to use. We still have insufficient consciousness on importance of education within the Roma population. They treat it in a "liberal" way - you can go to school, you cannot go to school, you do not have to go to school. And there is also something what is called a positive discrimination, that is the authorities including education responsables, the centres for social work deal with that situation, and the consequence is that a number of Roma children do not complete the primary school, and there is no reason why that situation should continue.

Housing of Roma

114. Pursuant to existing laws, the Roma families should have been dislodged from the apartments by the end of this month. After the meeting with the representatives of the OSCE Mission, the authorities of Brcko District decided to let Roma families continue living in the informal settlement in Prutace. The authorities promised that they would formally legalize this place where the Roma community has been living for a long period. This is a positive step undertaken by the local government in order to solve the housing problems of Roma.

115. Around 50 to 70 percent of Roma in BIH live currently in informal settlements. These communities have no clear ownership status and many inhabitants of these settlements are confronting a forcible ejecting by the municipality, and without prior assessment of their rights or ensuring alternative accommodation. The OSCE Mission thinks that, pursuant to the Constitution of BIH, authorities have legal obligation to solve such cases through legalization of informal settlements or by ensuring alternative accommodation. The housing problems should not be resolved to the detriment and discrimination of certain members of the society, as is often the case with the Roma community members.

116. The situation with Roma in BIH is extremely difficult. They are at the bottom of the social ladder, they are subject to discrimination and very rarely do they enjoy any fundamental social and economic rights. The positive steps made in Brcko should be an example and base for resolution of the problem of the legalization of the informal settlements and rights of endangered communities countrywide. The authorities in Brcko did not only promised the legalization of the

informal settlements but they also asked the representatives of Roma community to provide a list of the socially most jeopardized families and the list of destroyed Roma houses so they could be included in the reconstruction project. The Mayor of Brcko District agreed with the decision to ensure working premises for the Roma Association of Brcko and to pay for the association from the municipality budget. The Brcko District authorities have also awarded 15 apartments to families living in this informal settlement Prutace for many years now.

Right to equal treatment and political rights

117. Finally by adoption of the law on protection of Rights of the National Minorities in Bosnia and Herzegovina the legal framework has been set up enabling more efficient protection of rights of the national minorities, especially Roma as the most numerous national minority in Bosnia and Herzegovina. At the beginning of work of the Roma Council with the Council of Ministers of Bosnia and Herzegovina (from mid 2002), the representatives of Roma are included institutionally in order to cooperate actively with the representatives of the state and entity authorities. This Council has focused its activities towards implementation of activities aimed to strengthen the position and protection of the Roma minority in Bosnia and Herzegovina. There is also a Provisional plan and programme of work of the Roma Council with the Council of Ministers of Bosnia and Herzegovina for 2002-2006, and the following activities and tasks related to position of Roma in Bosnia and Herzegovina should be realized such as: record books, education, medical care, employment and social welfare, refugees and displaced persons, return of property, housing issues, foundation and work of electronic and printed media.

118. The obligation of the entities, cantons, municipalities and towns in Bosnia and Herzegovina deriving from the Law on Protection of Rights of the National Minorities is to specify more fully through their laws and other regulations the rights and duties imposed by this Law.

119. The Council of Ministers of Bosnia and Herzegovina made on 13 June 2002 a Conclusion on establishment of the Council of Roma with the Council of Ministers of BIH, using methodology and criteria for appointing that is harmonized by the Ministry of Human Rights and Refugees and also makes final decisions on appointing.

Right to return and real property claim of other citizens in BIH

120. In the first Preamble of the International Convention on Elimination of All Kinds of Racial Discrimination it says that, recalling the United Nations Charter, dignity and equality are innate to human beings.

121. This introductory part presents the base for making definition of the state of human rights regarding all kinds and forms of the racial discrimination in Bosnia and Herzegovina in the period after the signature of the Washington and Dayton Agreement. This period is recoded as a period of violation of human rights with expressing certain forms of the racial discrimination.

122. After war political tendencies, creation of ethnically clean societies within the borders of the state of Bosnia and Herzegovina in 1996, all have disabled respect of individual human rights, that is rights of individuals from other groups creating differences, excluding and limiting on national and other grounds. The trends of creation "groups" by emphasizing differences of

the groups with purpose of putting an individual into superior or inferior position is in full contradiction with the concept of racial discrimination and means violation of the International convention on elimination of all kinds of racial discrimination.

123. All said above may be illustrated by the example of the war and post war oppression and destroying of property of persons in places with majority population (racial discrimination on national and ethnical grounds), and other forms of making those person inferior, and depriving them in that way of the right to home and peaceful enjoyment of home, right to personal safety and protection from violence by the state and the right to access to all places and before any services dedicated to citizens in the place of their residence.

124. The Dayton Agreement, Annex 7 guarantees the right to refugees and displaced persons to freely and unconditionally may return to their former residence places. However, the discrimination in regard of the national affiliation is mostly expressed in the domain of return of refugees and displaced persons. In this period a certain displacement of population is being done from one area to another and there is a try to create a one-national milieu, manipulation with deserted and illegally occupied property when they take everything while leaving the house, and setting it on fire.

125. In connection with the above said it should be pointed out that the majority of citizens were expelled from the apartments by force and the reason for such acts would be ethnical affiliation of the expelled people. The protection of interests of citizens during efforts to return and compensate the suffered damage has been made more difficult because of inefficient work of courts and court procedures take too long and upon being in effect the sentence is not possible to execute, or its execution is hard to carry out.

126. The guarantee of equality to every person against the law, i.e. the right to equal procedure at the courts, right to personal safety and protection against the violence by the state, political rights, civil rights, economic, social rights and rights in the domain of culture, right of access to all places and before services dedicated for citizens foreseen by the International Convention on Elimination of All Kinds of Racial Discrimination are all under responsibility of the state which has obligation to guarantee above mentioned rights to all individuals under its governance.

127. In the period from 1996 the number of materialized returns to Bosnia and Herzegovina has been sorted out by the national structure of the returnees, by entities and categories and it would be as follows down.

Data on return per year since 1996

This speaks of normalisation and stabilisation of the security situation on the entire territory of Bosnia and Herzegovina.

128. The destiny of the holder of the occupancy right was totally uncertain and it was under question if and how you could realize the right to occupancy. Certain forms of discrimination existed in the procedure of return of apartments, and also there were individual cases that administration bodies proclaimed in irregular way the apartments as deserted and so directly threatened and discriminated the holders of the occupancy rights.

129. The report of the Ombudsman for Human Rights in Bosnia and Herzegovina says that there were temporary cases, that is cases recorded with the Ombudsman, which were opened after the contacts had been established between complaint applicant and the Ombudsman's Office, and the majority of them concerned the right to home which only confirmed the above conclusions.

130. Announcement of the international organizations and institutions that they would complete their mandates in Bosnia and Herzegovina next year, decrease of funds and other forms of international and other humanitarian assistance to Bosnia and Herzegovina speak of the final stage of solution and overcoming of the problem of refugees and displaced persons in Bosnia and Herzegovina, only up to recently being a hot issue. At the same time it witnesses of the will of the national institutions to overtake independently this duty and give guarantee to each citizen, regardless trace, skin colour, national or ethnical origin, to exercise his right and peacefully enjoy his home in accordance with the national laws and international regulations.

131. *In the Annex VII of the Dayton Peace Agreement, i.e. Agreement on Refugees and Displaced Persons, the Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and Republika Srpska have agreed on the following: the Article 1 of the Agreement reads: "All refugees and displaced persons have the right freely to return to their homes of origin. They shall have the right to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any property that cannot be restored to them. The early return of refugees and displaced persons is an important objective of the settlement of the conflict in Bosnia and Herzegovina. The Parties confirm that they will accept the return of such persons who have left their territory, including those who have been accorded temporary protection by third countries.*

2. *The Parties shall ensure that refugees and displaced persons are permitted to return in safety, without risk of harassment, intimidation, persecution, or discrimination, particularly on account of their ethnic origin, religious belief, or political opinion.*

3. *The Parties shall take all necessary steps to prevent activities within their territories which would hinder or impede the safe and voluntary return of refugees and displaced persons. To demonstrate their commitment to securing full respect for the human rights and fundamental freedoms of all persons within their jurisdiction and creating without delay conditions suitable for return of refugees and displaced persons, the Parties shall take immediately the following confidence building measures:*

the repeal of domestic legislation and administrative practices with discriminatory intent or effect;

the prevention and prompt suppression of any written or verbal incitement, through media or otherwise, of ethnic or religious hostility or hatred;

the dissemination, through the media, of warnings against, and the prompt suppression of, acts of retribution by military, paramilitary, and police services, and by other public officials or private individuals;

the protection of ethnic and/or minority populations wherever they are found and the provision of immediate access to these populations by international humanitarian organizations and monitors;

the prosecution, dismissal or transfer, as appropriate, of persons in military, paramilitary, and police forces, and other public servants, responsible for serious violations of the basic rights of persons belonging to ethnic or minority groups.

4. *Choice of destination shall be up to the individual or family, and the principle of the unity of the family shall be preserved. The Parties shall not interfere with the returnees' choice of destination, nor shall they compel them to remain in or move to situations of serious danger or insecurity, or to areas lacking in the basic infrastructure necessary to resume a normal life. The Parties shall facilitate the flow of information necessary for refugees and displaced persons to make informed judgments about local conditions for return.*

5. *The Parties call upon the United Nations High Commissioner for Refugees ("UNHCR") to develop in close consultation with asylum countries and the Parties a repatriation plan that will allow for an early, peaceful, orderly and phased return of refugees and displaced persons, which may include priorities for certain areas and certain categories of returnees. The Parties agree to implement such a plan and to conform their international agreements and internal laws to it. They accordingly call upon States that have accepted refugees to promote the early return of refugees consistent with international law.*

132. **The Criminal Code of Bosnia and Herzegovina** treats the prevention of return of refugees and displaced persons as a criminal offence. The Article 146 of the Law reads:

Whoever by use of force, serious threat or in some other illegal way, on a larger scale or with a larger impact, prevents refugees and displaced persons to return to their homes of origin, or to use their property of which they were deprived in the course of hostilities since 1991, shall be punished by imprisonment for a term not less than one year.

Whoever participates in a group of people, which perpetrates the criminal offence referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term not less than three years. Whoever organises or directs at any level the group of people, which perpetrates the criminal offence referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term not less than five years.

133. The Criminal Code of the Federation of Bosnia and Herzegovina and the Criminal Code of Republika Srpska are harmonized with the said Criminal Code of Bosnia and Herzegovina. So the entity laws also anticipate criminal offences and a fine for the same in case of prevention return of refugees and displaced persons.

134. **The Law on Refugees and Displaced persons in Bosnia and Herzegovina** is the Law that elaborates in detail the issue of return of displaced persons and refugees from Bosnia and Herzegovina.

135. Within the Dayton Peace Agreement the mandate was assigned to the international forces (IPTF) to monitor work of the police forces and implement the procedure of decertification of the police officials. The decertification procedure envisaged the decertification of the police forces who threatened human rights in any way whatsoever or participated in execution of criminal offences and offences in accordance with the national and international law or it was asserted that they had no adequate professional and expert education to carry out police tasks. The said procedure has not been executed without problems so there are still cases in procedure with the courts in Bosnia and Herzegovina that were initiated by the decertificated policemen who think that their human rights were violated during that procedure.

136. The law on agency in employment and social welfare of unemployed persons governs that no person, beside on this law, cannot be put in an unequal position on the grounds of race, colour of skin, sex, language, birth or any other circumstance, membership or non-membership in a political party, membership or non-membership in the union, or physical and psychic difficulties.

137. Furthermore, the Law prescribes that employers in need of workers and persons seeking employment may ask for support from the service for employment in finding job. Unemployed person exercises his rights during unemployment in the employment service as per place of residence, and unemployed person who due to war state had left his residence, exercises his rights in the employment service as per place of residence.

138. The holders of the pension and disability insurance in FBiH whose principal follower is the Federal Institution for Pension and Disability Insurance and the Public Pension and Disability Fund of RS made an agreement on 31 March 2000 on mutual rights and duties in implementation of pension and disability insurance that came into force on 18 May 2000, after the entity governments had given their consent to it. The legal base for making this Agreement is the Article 82, paragraph 4 of the Law on Pensions and Disability Insurance. Pursuant to the named agreement, the beneficiaries of pension and disability insurance realize their rights with the holder of the insurance that paid the pension on the day of coming into force of this Agreement. In this way it was possible to returnees/pension beneficiaries unhindered movement and return to their former pre-war residence places without having their social security menaced. However, there have been problems while realizing the rights based on this Agreement because the above named funds has not defined the same core amount for the lowest and highest pension.

139. The Laws on Employment of Foreigners govern the manner and conditions of employment of the foreign citizen and persons without citizenship, responsibilities of the Employment Institutes and public services for employment of the entities and cantons in the procedure of employment of foreigners, and other issues in connection with employment of foreigners. The Law states that a foreigner may make a contract on work or contract on temporary and periodical work based upon work permit license, if he fulfills requirements given by the law and the general employer's act.

140. The work permit is issued to a foreigner under condition he has an approval for permanent residence or temporary stay in BiH and if there are no unemployed persons registered with the employment services meeting the requirements set by the employer for making a work contract or contract on temporary and periodical work. The work permit is issued for a definite time, one year the longest. Exceptionally, a foreigner granted permanent residence in BiH, the

work permit can be issued for an indefinite time. According to all said above, it can be said that BIH cannot fully ensure non-discrimination of workers from EU who are legal residents of BIH, in comparison to local population, regarding the availability of all working positions under equal conditions.

141. The law on agency in employment and social welfare of unemployed persons governs that no person, beside on this law, cannot be put in an unequal position on the grounds of race, colour of skin, sex, language, birth or any other circumstance, membership or non-membership in a political party, membership or non-membership in the union, or physical and psychic difficulties.

142. Pursuant to the Law on Labour and the Law on Employment all kind of discrimination are excluded, including discrimination on grounds of ethnic, namely national, at finding a job - with any owner whatsoever, regardless the character of the ownership and the form of organization.

143. All citizens of Bosnia and Herzegovina have the right to form and associate in unions and they can associate in any kind of a allowed form of interest association according to their professions or as business association and similar.

Article 6

144. General Declaration on Human Rights points out the principle of equality against the law, presumption of innocence and right to a fair and public hearing by the independent and impartial tribunals established by law. These rights are also guaranteed by the Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms of a Man, which reads: "everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law" and by the Article 14 of the International Pact on Civil and Political Rights where it is said that "everyone is entitled to a fair and public hearing by the competent, independent and impartial tribunal established by law."

145. In past years a thorough reform of the judiciary system has been made in Bosnia and Herzegovina. At all authority levels from the municipality to the state there were new appointments of the judges and prosecutors in accordance with the new regulations. The monitoring of the work of the judges and prosecutors is done in a completely new manner, exclusively within a new body called "Independent Judicial and Prosecutorial Council of BIH" which has the mandate to monitor and assess the work of newly appointed judges and prosecutors.

146. The institution of Ombudsmen has also been established in BIH within the legal system as a mechanism that investigates all cases of poor operation of the administration, judicial system and monitors court procedures and intervenes in the course of the procedures, in accordance with the governing provisions of the law, and when it deems such action necessary for more efficient protection of the human rights against discrimination. The Ombudsmen has no authority to represent the citizens in a court procedure, nor powers to decide on the procedure meritum.

147. The named legal authorities clearly indicate that the Ombudsmen are empowered to execute control of the public administration and of judicial system and so ensure the public services and courts respect implementation of human rights, especially the Article 6 of the European Convention.

148. The results of the researches made by the ombudsmen confirm as justifiable the complaints lodged by the citizens and related to disregard of legal terms (based on the Article 6 of the European Convention which has to be directly applied pursuant to the Constitution of BIH and which is legally more powerful than any other law in Bosnia and Herzegovina). Court procedures take years, hearings are being postponed without due reason, usually several months, so the judge loses insight into facts and presented evidence, and the principal hearing is reopened after it had been once concluded. It leads to a conclusion that there is no thorough preparation for court appearances and hearings, which is contrary to the principles of efficiency and cost-effectiveness of the procedure. Next concern is the fact that provisions on terms, determined by the process and material regulations are not obeyed. For example, procedures take long time even in the subjects which law explicitly considers as urgent to decide (pretrial confinement, confinement, labour disputes and others). It takes several months to get a court order on the written decision, and in the decisions the judge does not cite the process or material regulations, particularly not the provisions of the European Convention on Human Rights, although this convention has priority over all national regulations.

149. The international community has paid great attention to punishments for war criminals from the territory of the former Yugoslavia, by founding in 1993 the International Tribunal in the Hague. Given a great number of the processed war crimes, it is required that the national courts of BIH actively participate.

150. In accordance with the Rome Agreement (Rules of Road), the courts in Bosnia and Herzegovina must submit the documents on the accused war crimes to the Prosecutor's Office of the Hague Tribunal for revision and approval of the court proceeding for the persons to be processed before the national courts. The revision process is a delicate issue because of still present tensions, and the high media publicity.

151. The authorities at all levels have the constitutional obligation to provide for each citizen exercise and protection of fundamental human rights and freedoms guaranteed by the international conventions.

152. Although the everyday political vocabulary contains advocacy of human rights, the right is often threatened. In some cases it is a consequence of lack of experience, actual will, when reference to human rights is declarative and not really effective to prevent likely discrimination. On the other hand, the authorities still have not enough knowledge on the human rights standards, nor mechanisms for their protection, so in some cases there is violation of the human rights. After acceptance of Bosnia and Herzegovina into the Council of Europe, the citizens have got possibility to protect their rights before the European Court for Human Rights. In accordance to the standards applied by this court, the compensation for violation of human rights is even higher.

Article 7

Education

153. The reform within education domain has begun by completion, adoption and implementation of the new laws on education based upon European standards and norms and which lean on international conventions ratified by Bosnia and Herzegovina. The legal regulations in education have set a new framework for the educational system, which prevents the discrimination on any grounds giving to everybody chance to access the education. The manner of the financing of the educational system in BIH is changing, in order to ensure that the funds now expended for education are used in more efficient way for achieving more effective education system and organization of better education that will be financially sustainable.

154. The quality and modernization are key words in this reform. The guiding idea is to start with base of education of better quality and available for everybody, with modern curriculum and modern, standardized evaluation system and confirmation of pupils' and teachers' achievements.

155. The plan of the reform has now been finally developed and its implementation is about to start, and the Ministries of education will lead the role by enabling the BIH citizens to acquire education they deserve - education that will not only offer chance for bigger economic prosperity but also promote understanding, tolerance.

156. **The Law on the Primary and Secondary Education of Bosnia and Herzegovina** governs the general objectives of education derived from widely accepted, universal values of a democratic society, and values of own system based on the specific features of the national, historical, cultural and religious tradition of the peoples and national minorities living in Bosnia and Herzegovina. So, the Article 3, e) of the Law says that the general goals of education are "to ensure equal possibilities for education and possibility of choice at all levels of education, regardless of gender, race, national affiliation, social and cultural origin and status, family status, religion, psychophysical and other physical features.

157. The Draft Law on Primary and Secondary Education was adopted 18 June 2003 by the House of Peoples of the Parliament of BIH after being previously adopted by the House of Representatives of the Parliament of BIH. Its implementation has already commenced. The implementation process has contributed to better education system compared to previous state, although there are still problems related to education and teaching from the so called group of national subjects, namely, history, mother tongue and literature, etc.).

158. This Draft Law establishes educational principles and principles for protection of human rights related to all pupils on the whole territory of BIH. This Law is of essential importance for laying a foundation that should support further reform and modernization of education.

159. The Draft State Law on Primary and Secondary Education provides better mobility of all pupils in BIH through all educational institutions and enables recognition of school certificates anywhere in BIH. The Law ensures higher school autonomy and larger participation and

partnership of parents and teachers in the work of the school. The Law also defines the common study core clearly specified as one of the priorities in the Strategy of Educational Reform in BiH, adopted by the Council for Peace Implementation in November 2002. The implementation of this part of the Strategy ensures full and free access to schools in entire BiH.

General information related to education system

160. The current situation with education in Bosnia and Herzegovina presents serious threat to stability, security situation, reconciliation, institution building, sustained return and economic recovery. Instead of being a driving force for common growth and development, education is often used as the ideological means to raise ethnic separation, intolerance, segregation and discrimination. In many areas, children from different constituent peoples attend the same school, but have separate classes. The minorities, especially Roma children, and the children with special needs, confront discrimination, and often have not any possibility for education.

161. The previous system of education was based upon the system established in times of the Socialist Federative Republic of Yugoslavia. It means that existing curriculum are obsolete, as well as teaching methods—education is based more on transfer of enormous amount of facts, and not upon urging research, analytical way of thinking and preparation of the young for the challenges of the ever changing world.

162. During past few years a great number of international and national organizations, together with the BiH authority bodies have dealt with the education issue from various aspects. They have realized a lot of programmes in cooperation with the ministries. There have been many initiatives launched regarding improvement of the efficacy of the schooling, and some results have been made.

163. Many schools already work at reaching these goals on the grounds of their own initiative, and with assistance of national and international non-governmental organizations and appropriate national educational institutions. It has become clear that a good school and a good educational system must be built by our common efforts. The reform is not a process in which the decisions are made only at the top. The successful introduction of innovations in the educational system made in a few past years has evidently shown, and many people are not able to recognize this, that it was based on participation and cooperation at all levels. Such achievements illustrate what can be done when everybody joins their efforts: teachers, parents, pupils and community, even creators of the education policy.

164. To illustrate the aforesaid we shall use the following example of a "partner relationship":

Active and participating environment favourable for learning and focused on pupils: Schools introduce new teaching methods directed to needs and capabilities of pupils which urge more interactive relations between teachers and pupils, and mutual relations among pupils in the class. It means that teachers and pupils work together, with aim to make studying more effective, to make pupils work together (in small groups, in twos or threes) on a specific unit or task so to be able to assist each other in studying, and if needed, parents might be involved too. UNICEF, UNESCO and non-governmental organization "Step by Step" were of crucial importance in formulating the teaching methodology focused on pupils, as well as of "active" and "interactive" teaching

methodologies and training of teachers in many schools throughout BIH. In six schools in RS there are pilot projects implemented under auspices of the Ministry of Education of RS.

165. School management: the school principals, pedagogues, teachers, pupils and parents work together to promote studying, mobilize limited resources, develop strategic plans and help create positive and active environment in schools.

166. Partner relations among parents, teachers and school: Many schools find way to involve parents more efficiently into happenings at school, for example, through school councils, or making parents involve more actively together with teachers and pupils, in providing support to their children while learning, possibly by assisting in the class.

167. Partnership between school and the local community: Many schools, particularly ones with limited resources, work in close cooperation with the local community, trying to ensure study facilities and mobilize resources for development of their school.

168. Schools and pedagogic institutions: School inspectors, teachers' advisors and officials of the Ministry work together with schools to promote effective work of school and to include school experience in the process of defining educational policy and reforms. And finally, experience and ideas resulting from the school initiative, may and must be used with purpose to inform and urge a wider reform process. This is an ultimate form of partnership of educational experts and creators of the educational policy.

169. The group for coordination of issues in the field of education (EISSG) was established at the beginning of 2002 in order to make progress in the reform process. The Coordination Group consists of chiefs of international organizations involved in education issue such as: UNICEF, UNESCO, UNHCR, Council of Europe, European Commission, World Bank, OSCE and OHR in cooperation with the ministries of education. BIH is not having reorganization in education, but its reform. The authority bodies structure competent for education (ministries at entity levels and ministries of ten cantons of the Federation of BIH) stays the same. The reform is being carried out in the following fields:

Legislation;

Financing and management of educational institutions;

Curriculum and teaching methods;

This reform applies to all levels of education, from preschool via primary to general secondary education, as well as to professional and higher education.

Culture

170. Pursuant to Dayton Peace Agreement the culture in Bosnia and Herzegovina is under competence of the entities. Prior to adoption of new regulations the laws applied were the Law of SFRY and SRBIH. Pursuant to the Constitution of the Federation of BIH the competence in the field of culture can be transferred to municipalities within their structure. The canton may transfer some responsibilities to federation if it provides in that way efficient and effective

exercise of the said rights. A few legal regulations have been passed in last ten years in Republika Srpska related to cultural domain and some of them (library and publishing segment) have undergone several modifications and amendments by passing new regulations and by-laws.

171. The consequence of such a state in Bosnia and Herzegovina is disharmony of regulations in the domain of culture that reflects upon unequal implementation of the rights of the cultural workers.

172. The example could be the independent artists who decided to live on their artistic creativity, and have no steady jobs that would guarantee them rights and duties from the Law on labour relations. In some cantons the independent artists have no social welfare or medical care, while the Sarajevo canton passed the Law on independent artists and from January 2002 it has fully resolved their status.

173. In order to exercise the right of any individual in Bosnia and Herzegovina to participate in the cultural life and to express his own culture, Bosnia and Herzegovina became a member for the World organization for intellectual property. The entity governments plan each year, within the budgets, the funds for financing culture and cultural activities that are allocated to cultural institutions and projects in this field as per agreed criteria.

Forms of cultural activity organization

174. The Government of the Brcko District has undertaken the following concrete steps in order to preserve, widen and develop the culture: The Assembly adopted the Law on associations and foundations (2002) that includes also associations from the domain of culture, it financed the rehabilitation of devastated village houses of culture and construction of new ones (e.g. for Roma), participated organizationally and financially in realization of large cultural projects: International Art Colony Sava, Theatre Meetings of Bosnia and Herzegovina, Days of Spiritual Music, Manifestation of Town and Village Amateur Creative Work, etc.

175. The cultural activities in Bosnia and Herzegovina are focused on strengthening contribution to development of values of a democratic society, through establishing various values of the civil society and its institutions, profiling public, and cultural opinion, all related to affirmation of true values of culture and arts and their creators. The interactivity among different cultural, educational and media institutions create conditions for enhancement of an open democratic society, recognizable by its intercultural dialogue that respects differences, new criteria of value and approach to educational manifestations with international character.

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

177. The MESS International theatre festival has a 43-year long tradition. The festival programme concept includes diversity of the latest trends programmes and develops theatrical art in the world and national production. Besides the theatre performances it organizes accompanying programmes like expositions, concerts, round tables etc. with aim to affirm the festival. In 2004 there were 14 performances from 12 countries at the festival, and 200 home and foreign journalists reported about it.

178. Sarajevo International festival "Sarajevo Winter" is a traditional meeting point for artists for national and international artists. In its 20-year existence this festival has been joining artists and visitors from all parts of the world. The programmes are organized in all major towns in Bosnia and Herzegovina. During 45 festival days the festival presents around 90 programmes, with over 1,400 participants from 30 countries of the world. Each year there are around 35.400 visitors and guests and over 120 accredited journalists from around 60 editorial staff. The programmes include visual and stage values, music, literature, film, video and TV programme, conferences on different topics such as: "MYTH OF EUROPE", "SPACE AS INFRASTRUCTURE OF OUR FUTURE" etc. Some programmes are dedicated to the young through a form of an invitation for creative works of pupils and students and other activities. The youth programmes of this festival are selected in the association of BIENNIAL OF EUROPE YOUTH.

179. Sarajevo Film Festival is the most prestige festival in Bosnia and Herzegovina encompassing the commercial film works, best movies and documentaries from the international film festivals, regional programmes with production from the region, video projects and children programmes with the latest movie hits. The festival is accompanied by the programmes such as workshops, seminars for film critics, digital technology, documentary films, the Festival's 9-year old history, each year it has over 7.500 visitors, around 130 movies and videos from Bosnia and Herzegovina are shown and about 36 from the world. The festival has around 230 guests and 200 media representatives.

180. The project "ARS AEVI" is the most relevant international project from the modern art in Europe and the world. In its 10-year existence in Sarajevo, 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 entire world.

181. The project's objective is to create a complex architectonic urban attraction in Sarajevo that would be designed by the most eminent architects of our times, where the most famous living artists will make a collection for the museum of modern art ARS AEVI in Sarajevo.

182. The collection now contains over 100 art pieces and is becoming a unique endeavour that joins enthusiasm of the artists, the directors of prominent European museums, mayors of towns and wide circle of intellectuals who contribute to affirm the idea and its materialization. A part of activities of the project are multicultural seminars, museum courses, exhibitions and presentations of architect projects, educational programmes, workshops etc.

1. Media

183. Within regular project of monitoring, registration and analyzing all important events and facts illustrating the state of media in Bosnia and Herzegovina, in the context of human rights, special attention is paid to process of establishment of the legislation in this field.

184. This field is regulated by laws and other legal acts such as:

- **Constitution of BIH** in which the European Convention on Protection of Human Rights and Fundamental Freedoms has been directly incorporated protecting right to

freedom of expression as one of the fundamental human rights in a democratic society that enables its development and its operation based on the principle of respect of human rights and rule of law.

185. The Article 25 of the **Constitution of RS** prescribes the freedom of thought, determination and public expression of opinion, and the Article 26 guarantees the freedom of press and other media, freedom of organizing newspaper and publishing enterprises to edit newspapers and public information by other means in accordance with the law, forbids censorship and guarantees the right to correct false information, which violates a man's right or legally based interest, and the right to compensation for damage caused hereby.

186. The similar provisions are a part of the **Constitution of FBiH**. It is important to say that the freedom of expression can be limited by sanctions anticipated by law but which are indispensable in democratic societies in order to protect reputation of other people, and in accordance with the Article 19, paragraph 3 of the International Pact and the Article 10, paragraph 2 of the European Convention or to prevent riots or crimes, protection of health, ethics, reputation (Article 10, paragraph 2 of the European Convention).

Law on Free Access to Information (BiH and both entities)

Owing first of all to international institutions, and after the adoption of the Law on Free Access to Information at the state level (June 2000) the same laws were adopted in 2001 in both entities (Republika Srpska and the Federation of BiH). Due to necessary preparation its application in the Federation was postponed for February 2002.

These documents go into the category of the imperative documents for democratization of BiH, particularly in fight for improvement of freedom of public speech.

187. By adoption of these laws the work of the authority bodies and all public institutions at all levels becomes more transparent, and their responsibility towards their voters and all citizens is raised and enables realization of one of the fundamental human rights- **right to information**.

188. **The Law on Defamation and Libel**, at the BiH level and entity level, decriminalizes libel on journalists and editors and functions as **lex specialis** within the field of civil law meaning that it exclusively regulates the legal domain of the libel, and all the rest that is not regulated by this law (procedure, legal remedy etc.) is regulated by existing laws within the civil law.

Law on Foundation of the Radio-Television System and the Law on Public Radio and Television Broadcasting Service in Bosnia and Herzegovina;

Law on Radio and Television of Federation of Bosnia and Herzegovina;

Law on Radio and Television of the Republika Srpska; Second decision of the High Representative on Reconstruction of the Public Broadcasting System in BiH;

Decision on Liquidation of the Public Enterprise RTVBiH and Division of Property.

189. In accordance with the decision made the High representative from May 2002, the agent for the RTV system John Schirer made on June 10, 2003 the Decision on Liquidation of the Public Enterprise RTV BIH. In order to ensure formation of economically and technically sustained radio and TV enterprises, the agent had allocated all assets, liabilities and a great part of technical resources of the RTV BIH to the Public Broadcasting Service of BIH (JS BIH). Out of the total liquidation volume asserted on 31 December 2001 in the amount of 44.901.971 KM, the Public Broadcasting Service (PBS) got 43.970.676 KM, federal radio and Television 911.295 KM. In accordance with the Second Decision, the third broadcaster within the Public Broadcasting System, the Radio and Television of Republika Srpska (RTRS) was not included in this process.

190. All mentioned laws present a potentially powerful tool in what we call free media, they create prerequisites necessary for free work of media in accordance with the legal regulations, ensures higher degree of publicity and responsibility of the authorities, but at the same time responsibilities of journalists to respect the highest standards of the journalist profession.

191. The passage of the law on public broadcasters followed the Second Decision of the High Representative on reconstruction of the public RTV system in BiH (from 2000) that was the foundation to design the new system of the public broadcasting with three broadcasters and unique corporation for broadcasting transmission at the state level. The implementation of the new legal framework is going on now. The agent of the High Representative made a Decision on liquidation of the former Radio-Television of Bosnia and Herzegovina and division of its property. The intention was to allocate the greatest part of the assets of the former RTVBiH to the BiH Public Broadcasting System.

192. Building of the new system of broadcasting in BiH has now entered the final stage. Pursuant to the legal rules, three public broadcasters will operate within a unique strategic framework. The formation of the entity RTV stations was followed by establishment of the Public RTV Service at the state level. The Radio-Television of the Federation of BiH and Radio-Television of Republika Srpska broadcast daily programmes at their radio and TV channels for the territory of the respective entity.

193. The public radio-television service of BiH was constituted as a separate legal and media person based on the second Decision and the Law. Although it has not been operation in its full capacity the **Public Service was accepted as an equal member in the European Broadcasting Union (EBU)**. On 7 May 2002 the BH Radio 1 was constituted and it has been broadcasting per the public service model and in short time it has become the most respectable radio station in the country. On the other hand, the build-up of the television system has been slowed down by certain technical and financial limitations. In the beginning the Public Television Service of BiH broadcast the limited amount and structure of programmes (news and international sport) through channels of the entity TV stations. Activities on establishment of the public service as a television station of full programme format have been ended. The issue of coverage the entire Bosnia and Herzegovina with the TV signal has been resolved by overtaking one channel out of the two used by the Federal Television. The coverage range of TV channels has been expanded onto the area of the whole country by provision of earth broadcasting equipment (including the satellite up-link) from the funds of the European Commission. The activities on designing the future public TV service and definition of its programme profile in compliance with the international standards are going on simultaneously with preparations for purchase and

installation of necessary transmitting equipment. The media experts from all three broadcasters have been included in the operation, and BBC Consultancy from London has given consulting services. It has been planned to start the Public TV Service of BiH daily broadcasting on its own channel for the area of the whole country in September 2003, which has been realized.

2. Communication Regulatory Agency (CRA)

194. The Communications Regulatory Agency (CRA or RAK) is an independent state institution responsible to regulate telecommunications and electronic media on the entire territory of Bosnia and Herzegovina.

195. It was established by the **Decision of the High Representative for BiH dated 2 March 2001** when the responsibilities of the independent Media Commission (IMC) and the Telecommunications Regulatory Agency (TRA) had been previously separately regulated. RAK duties and responsibilities are clearly stated in the BiH communication Law.

196. The agency is responsible to regulate three main sectors concerning communication; telecommunication, broadcasting and arrangement of the frequency spectrum.

197. It should be said that most of progress has been achieved in transition of the agency into fully local institution in BiH, namely, the Agency Council elected on 24 October 2003, the first national executive as the Agency General Manager, which was later on confirmed by the Council of Ministers. By this process CRA offered a unique example of adoption of rules of issuance of long-term broadcasting licenses based on competitive process. Out of 298 stations that already had temporary licenses 75 stations (29%) did not qualify for the long-term license. As figures show, there are 183 qualified stations in Bosnia and Herzegovina, with exception of the following three stations: **Public Broadcasting Service of BiH, i.e. PBS, RTV F/BiH and RTRS.**

198. The existing figures show that in Bosnia and Herzegovina the following is in operation:

1.	TV	42	(a)	PUBLIC	16	(b)	PRIVATE	26
2.	RADIO	141	(a)	PUBLIC	62	(b)	PRIVATE	79

199. It should also be noted that a great progress has been achieved in making the programme broadcast by the radio and TV station in BiH professional. Prior to establishment of IMC, and during the first years of its work, practice of using the language of hatred, invitation to riots and ethnical intolerance was widely spread. However, the statistics show that after the cases from previous years there has been an increasing decrease of violation cases. There are still cases where journalists abide by the unilateral presentation of certain facts, so following certain political forces. Nevertheless, the majority editorial management and journalists make great efforts to inform public in professional, objective and pluralistic way.

3. Association of journalists, Journalist Codex, Press Council

200. Six journalist associations used to work in Bosnia and Herzegovina and their activities were not in accordance with the media state. The best illustration of inadmissible attitude towards the membership, and of the membership towards their own problems was the December

effort of the Association of the Journalists of Bosnia and Herzegovina to keep their regular annual assembly in Sarajevo. Due to lack of quorum the meeting was cancelled for a month.

201. The Journalist Association APEL was founded in Mostar and it gathered around forty journalists from the Federation of BIH.

202. Six journalist associations used to work in Bosnia and Herzegovina and their activities were not in accordance with the media state. The best illustration of inadmissible attitude towards the membership, and of the membership towards their own problems was the December effort of the Association of the Journalists of Bosnia and Herzegovina to keep their regular annual assembly in Sarajevo. Due to lack of quorum the meeting was cancelled for a month. Establishment and beginning of work of the Press Council of Bosnia and Herzegovina was a great step forward in the self-regulation of media. Its formation was a result of need to check the respect for the Press Codex that was signed after two years of negotiations in 1999 among the Independent Union of Professional Journalists of BIH, Journalist Association of Republika Srpska, Journalist Union of Bosnia and Herzegovina, The Trade Union of Professional Journalists of the Federation of BIH, Independent Association of the Journalists of RS, The Association of Croatian Journalists of BIH.

203. The Council consists of 13 members, its seat is in Sarajevo, and the Council is chaired by Lord John Vicam with a two-year mandate. The role of the Council is to deal with written complaints in cases where previous denial or other kind of reaction was submitted to the media that the complaint refers to.

4. Civil society

International organizations

(a) NGO sector

204. In 2001 the process of issuance of the long-term licenses to electronic media in BIH has continued. Till the end of the year the Communications Regulatory Agency (CRA) awarded more than 150 licenses to radio stations and 50 to television stations. At the beginning of that action there were justified protests because of bureaucratic behaviour and inconsistent application of the agreed criteria. The Decisions of the Communications Regulatory Agency denying licenses to a great number of radio and television stations caused a lot of stormy reactions by the media and the journalists but also opened the issue of respect of the freedom of expression and the right to work as fundamental human rights.

205. Due to many disapprovals with the manner in which the first award of the permanent licenses to electronic media was conducted, the one in Tuzla, it was assessed that this process had started as non-transparent, inconsistent, guided by the rigid and bureaucratic legal logic and the CRA Councils was not resistant to it while considering the media complaints leading to a denial of the permanent license.

206. The first step in the reform of media in Bosnia and Herzegovina were not satisfactory, particularly when speaking about the transformation of the radio-television system. The complicated nature of the issue required a professional approach planned into detail.

207. OHR has had an active role in this business. The reconstruction process, as OHR pointed out, is a belief of some individuals that the electronic media should serve to promote individual interests and not to that of citizens of Bosnia and Herzegovina. Yet, Radio BIH was launched with a great delay. It became as a public service for the whole country by joining technical and human resources of the former Radio BIH and Radio FERN. One programme of the federation of BIH was also constituted.

208. In the third quarter of 2001 Federal Television started working, on technical and personnel resources of the TV BIH, on two channels. The editing of the concept of the Public RTV service (PBS) was going so fast that it was expected to have, in spring the same year, one-hour news programme that would cover the entire territory of BIH via PBS. PBS was to start working in March 2002.

209. When speaking of the language of hatred that could provoke undesirable connotations and put a specific group (of different ethnic origin) into a superior or inferior position, in the past year it was more a matter of incidents for the electronic media. It is possible that CRA regulations have contributed to it as they punished its usage and "threatened" to deny the permanent work licenses. The printed media, or at least a part of them, have not renounced to use it.

210. There were individual cases of calling certain groups bad names in the printed media and where the names of the prominent journalists from other media maliciously signed unauthorized under those texts.

211. Another examples of non-professional reporting are the cases where the unconfirmed information is placed regarding a murder or the result of a court proceeding is prejudiced before even a police investigation has been completed, indicating most often as the perpetrator the person belonging to the nationality different to that of the victim, while using the language of hatred and creating tension and feeling of insecurity among the citizens of Bosnia and Herzegovina.

212. During 2001 public authorities and political parties were trying to keep under control the journalists and media throughout Bosnia and Herzegovina, particularly those fostering free, analytical and investigative journalism, depriving them of timely and true information. In different ways.

213. In 2001, the Regional Centre of the Organization for Security and Cooperation in Europe (OSCE) sent the evaluation showing the trend of decrease of interference of governmental authorities and political parties into the work of media in BIH, but unacceptably high level of political pressure on the work of media.

214. The spokesman of the Office of the High Representative (OHR) of the international community in BIH Alexandra Stiglmaier declared that independence and quality of media in BIH had increased during past few years and at the same time he accused the continued pressures on the media and journalists that sometimes went even to physical attacks.

215. Party constitution of managing boards is a form of controlled pressure on the media. The help Line for Journalists (FREE MEDIA) testifies of cases where editorial offices and journalists kept on being exposed to pressures, threats and physical assaults. The OSCE says that the stations reported to the Help Line for Journalists on threats of being fired or replaced in case they did not fulfill the demands. Therefore, each station asked the complaints remained confidential in order to escape open threats and injuries to their personnel.

216. The Department of Defence in Travnik sent a letter to the radio TNT stating that in March 2001 "they would make a visit to assess the situation of defence preparations (updated plan of organization and activity in the state of war)" Although the Law on defence contains principal regulations that make such practice impossible, the Ombudsmen, intervening upon the said radio's request, deemed that there was not justification to apply obligations for "organization and preparation for defence" to media because it was direct contradiction to the guaranteed constitutional freedom of press and to the right of freedom of expression provided for in he Article 10 of the European Convention for Protection of Human Rights and Fundamental Freedoms. They found out that identical obligations were being imposed to other media in almost all cantons of FBIH, and therefore, recommended to the Parliament and the Government of the federation, as well as to the parliaments and cantonal governments, to analyze the application of the Law on defence and to withdraw already made decisions on regulating newspapers and commercial radios and television stations as " of special importance for defence". The Government of the Central Bosnia Canton accepted the recommendation of the federal Ombudsmen and annulled war obligations for the Independent radio TNT from Travnik.

217. The reactions of the Office of the High representative (OHR) of the International Community in BIH and the Mission for Security and Cooperation in Europe (OSCE) to BIH should also be registered. They expressed their concern for increasing number of complaints of the journalists about suffering pressures over their work should also be noted.

218. The year 2002 was very characteristic in regard of the state of media in Bosnia and Herzegovina as it was the first year of application of the federal Law on Free Access to Information and the year when the High Representative forced the Law on Defamation and Libel as well as the year of highly increased political tensions - in connection with elections held in October - that, naturally, had both political and media reflections. The Parliament of the Federation of BIH did not succeed to adopt the proposed Law on Defamation and Libel in two tries in 2002.

219. Yet, in November 2002, the High Representative for Bosnia and Herzegovina proclaimed the Law on defamation and Libel in FBIH in order to balance the legal position of citizens in both entities, as such Law has been in force in RS since summer 2001. The Committee for Culture, Science and Education of the Council of Europe emphasizes the fact that the Parliament of the Federation of BIH failed to adopt the Law on Defamation and Libel in its report for the year 2002 as the main feature of the state of media freedom in Bosnia and Herzegovina. The Law of the Federation of BIH on Free Access to Information (Official Gazette of the Federation, number 32 of 24 July 2001, application started 1 February 2002) is correctly considered as fundamental fulcrum of building of a democratic society in which the right of the public is defined as prime tenet of authority activities at all levels.

220. By determining that the publishing of information owned by the public authority is a rule - and non-publishing is an exception, prescribed exclusively by this law - it (this law) set high standards for establishment of responsible and transparent authorities, thus putting Bosnia and Herzegovina among the top modern European countries.

221. This law also assists discovery and prevention of corruption within public bodies, contributes to procedure economy and cost-effective expenditure of public income, and, finally, as shown through experience of more developed countries, promotes participation of the public in the process of decision-making within public bodies.

222. After eleven-month of the law application, only a few authority bodies could be awarded passing grade as they had completed necessary preparations on time and proclaimed the by-laws required by the Law (guide to application of the Law, information index-registry, name of the information officer).

223. If we know that this legal obligation concerns all public bodies (all bodies of legislative, executive and legal authorities), all administration bodies, legal persons with public authorities and legal persons owned or under control of the Federation, canton, town and municipality - whose total number is at least several hundred to likely several thousand (all schools, faculties, public institutions, public enterprises etc. - then the number of 126 public bodies who did it and made their bylaws in accordance with the legal obligation is not satisfactory.

224. Most of the public bodies are, therefore, not ready, and according to our knowledge, do not know that they have this legal obligation, nor do they know that this law exists.

225. Since this law defines very clearly the specific role and powers of Ombudsmen for information (Articles 20, 21 and 22 of the Law, the Ombudsmen of FBIH have participated directly and indirectly in the organization of the seminars and workshops for the representatives of the public bodies and proposed instructions on application of the Law within all competent bodies in the federation, on one hand, and resolved complaints of the citizens dissatisfied with the authorities behaviour, on the other hand.

226. The public bodies are obliged to submit to the institution of the Ombudsmen their three-month reports on the number of received requests for access to information under their property and on the number of their issue. So, based on these figures and a relatively small number of citizens' complaints (around thirty) submitted to the Ombudsmen, it could be concluded that the public bodies act pursuant to the Law and enable insight into the requested information. Such conclusion, however, is conditionally valid only for those public authorities that have completed adequate preparation (it has already been said that their number is small) and implemented the Law only in cases of persistent citizens claiming their rights. Experience shows that majority of citizens give up at this point and do not insist on their request, that is, do not lodge a complaint to the appellate authority body when they are not satisfied with the authorities acts, nor did they submit a protest to the Ombudsmen.

227. Although many organizations, mainly international, and partly home ones, have carried out campaigns to make the authority representatives and the public aware of the importance of the Law, it seems quite insufficient because majority of the citizens is not acquainted with possibilities given by the Law. It is also obvious that the greatest number of the public bodies

have not taken it seriously and acknowledged their duties accordingly. The public attention was particularly raised by the special reports on secret files, as the manipulation with the secret files had already started during election campaign, and there even was a public demand to "publish in newspapers the secret services files on all candidates" in order to allegedly provide the public "with all necessary information".

228. Since such proposals and requests are not in compliance with the FBiH Law on Free Access to Information nor in the line with the European Convention on Protection of Human Rights and Fundamental Freedoms and views of the European Court for Human Rights, a Special Report was published pointing out that the free access to secret files as specific personal documents, as regulated by the Law, basically meaning that they have to be accessible only to persons concerned, naturally in the manner this law provide for. The third persons can have access to this information only exceptionally (when justified by public interest) and possibly for scientific and investigative purposes under very specified conditions.

229. Based on experience it has been noted that most of the citizens' complaints have been motivated by cases of the so-called administration silence - when authorities ignore the requests of the citizens and organizations to let them have access to information.

230. In three cases the public bodies found out that the requested information did not exist (destroyed in the war or similar). Although there could be satisfaction with post intervention reaction, it is a fact, though, that the applicants of the requests were unjustly and illegally deprived to obtain the requested information on time, within the legal terms. What are the possible reasons for "administration silence" in the application of the Law on Free Access to Information? It could be concluded based on several characteristic cases that the first reason would be ignorance of the rules (ignorance of the Law!), mistaken notion of other laws (they advocate their illegal rejection by other rules), and finally the classical administration negligence.

231. It is also characteristic that some public bodies illegally referred to different rules while deciding to deny access to requested information.

232. This report should, however, also mention positive examples showing how some authority bodies have organized themselves well and fulfill legally their duties. This mostly refers to Sarajevo municipalities Centar and Stari Grad (they respond to requests within 24 hours), Information Bureau of the Government of the Federation, federal Ministry of Justice, Canton Court in Tuzla and Municipality Court in Banovici (the last one prepared a special study on the Law application).

233. There was a problem regarding the legal regulation of the libel in FBiH in that, after three years, it did not obey the Decision of the High representative and this area was not arranged in accordance with the European Convention on Protection of Human Rights and Fundamental Freedoms and with the practice of democratic countries.

234. Legal disharmony on the territory of Bosnia and Herzegovina - when the Law on Protection against Defamation and Libel exists only in one entity (RS), and not in the other one (Federation of BiH) - puts the citizens of Bosnia and Herzegovina into unequal position.

235. The citizens of the Federation of BiH have not had equal legal opportunities to realize protection of their rights in cases of defamation as the citizens of Republika Srpska had. This has been a major cause of legal insecurity in the country and the proof of inequality of its citizens in front of the law. At the same time this unsupportable situation significantly influenced the media freedom in the Federation.

236. This Law (that was finally imposed by the High Representative) is of utmost importance because it stimulates right to expression in compliance with the highest international standards, fully protects right to opinion and introduces unavoidable and acceptable media who are urged to meet professional standards, but also because it offers protection of the individual privacy where a common citizen may count on having much better level of protection of his/her privacy than government officials and public personalities.

237. By the day of the Law passing all numerous criminal proceedings with the courts were abolished and, by the writing in newspapers, after the Law had gone into effect, tens and tens of legal procedures were instituted against journalists and editors on account of the libel.

238. According to information by the Free Media Help Line, now operating within OHR, the percentage of interference of government and political officials into the work of media in BiH has yet decreased compared to recent years.

239. This service has been reported of 28 cases of disturbing journalists since the beginning of the year to the end of June, out of which 21 in the Federation of BiH (during 11 months of 2001 in the Federal part of BiH 56 cases were reported. All journalists reporting to this service asked for total anonymity, which testifies of actual fear that had made them ask for help.

240. According to investigative organization Internews and the Faculty of Political Sciences in Sarajevo concerning the pressures on electronic media in BiH, in first 30 days of the election campaign (from August 5 to September 5 2002) four TV stations out of seven (the number covered by the study) were exposed to one or more forms of pressures. Out of 20 radio stations, five reported that they were exposed to certain forms of pressure during those 30 days.

241. During the year, the Office of the High Representative (OHR) and the Mission of the Organization for Security and Cooperation in Europe (OSCE) expressed several times their concern regarding increasing number of journalists' complaints of job-related pressures. It was the international organizations and professional associations of journalists that reacted most often in cases of pressures because it was fully clear that attack on journalists - verbal or physical, direct or indirect/weakened the process of democratization and jeopardized freedom of each citizen.

242. Compared to previous year there was a fall recorded in the percentage of cases of specific influence on the media. From the point of view of protection of the human rights, the media practice in Bosnia and Herzegovina - with numerous positive trends - partially also shows a few negative trends resulting from non-professional work of the journalists and the media. Some of them were especially expressed during the election campaign (from summer to autumn 2002).

The shared opinion of most of independent analyses is that during the election campaign the electronic media were neutral respecting the "election rules" imposed by the Election Committee, while newspapers -more or less- had actively led their campaign often disregarding ethical and professional standards.

243. The language of provocation, sometimes assuming exclusively nationalistic colours and being well known to majority of media, this time was partially present only in print and mainly had political, and not rarely the ideological sign. Party and political choice of the newspapers is usual in principle, so it is with us, too. That is why newspapers cherish their own commentaries and analyses and have good reputation if readers find in them necessary and unselected information. The past election campaign has, however, shown that newspapers most often try to hide their political choice. This puts under suspicion their position, where some of them cover up the facts, which is more dangerous and devaluates their persuasiveness and role. Such approach cannot be evaluated but as rooting and non-professional.

244. The most frequent offence of human rights in media occur when journalists do not respect their own Codex and do not meet "high ethical standards at all times and under all circumstances" (Press Codex, Article 1). Such examples, unfortunately, are frequent in cases where journalists and media do not enable "all parties in the dispute" to present their opinion in reports and commentaries on controversial topics. It also concerns the cases of establishing early judgments (particularly in court cases) and cases of disregard of protection of identity of the minor (when being victims or witnesses in criminal acts) disrespect of copyrights etc.

245. All citizens' complaints regarding possible abuses in printed media (press) were directed to the Press Council formed two years earlier which has, besides courts and as expression of the self-regulation within the printed media, the highest opportunities to intervene in disputable cases. But, differently from the courts, the Press Council can react more quickly and its procedure does not demand additional financial costs for parties concerned.

246. It was also necessary that the Parliament of Federation of BIH, as the one who proclaimed the Law on Free Access to Information, make a detailed analysis of the implementation of the Law, concerning its importance and features resulting from a year application. The analysis should have contributed to solve other dilemmas present in practice. It particularly concerns two major dilemmas - the procedure of lodging complaints and procedure of investigation of public interest. The Law has not fully defined the higher instance to which the complaint should be lodged so in the practice, there is a dilemma whether it refers to the higher administrative body (canton or Federal Ministry of Justice) or the higher body of the same authority (in education, communal services etc.). No public body, on the other hand, has ever initiated the action of research of the public interest which is deemed "very complex", although it made decision on exclusion of publishing certain information, which is actually an illegal act.

247. The Parliament of the Federation has possibility to obligate all the public bodies, directly or indirectly through executive authorities, to satisfy legal liabilities and to fully implement this Law. The partial implementation of the Law is contrary to introduction of rules for mandatory publishing of information and to transparency proclaimed by authorities at all levels. The freedom of media makes the citizen's right to free information realistic and feasible. Any hindering of the journalist's right to seek, receive and announce information particularly presents violation of this right.

248. Bosnia and Herzegovina authorities, as members of the Council of Europe, have special responsibility in realization of the European Convention on Transfrontier Television (in force since May 1, 1993) that should guarantee by legal and other measures the independence of the editorial policy, independence of own budgets (stable financing) and independence of bodies managing the public radio and television. Since the Press Council is an irreplaceable instrument of defence of the journalistic profession and at the same time the most flexible means of protection of public (reputation, dignity and citizen's honour) and the public interest, it deserves full professional, political and financial support of the society.

249. In May 2002, the High representative imposed a set of laws on public broadcasting. It was the first time after the signature of the Dayton Peace Agreement that a consistent and coherent legal frame was created in Bosnia and Herzegovina that regulates the sector of public broadcasting. The Law on Public Radio and Television Service in BiH and the bylaws on the three broadcasters - one at the state level and two at the entity levels. The new configuration of the public broadcasting reflects a very complex constitutional situation of Bosnia and Herzegovina. The legislation is based on existing international standards and has encompassed all major areas of the public broadcasting, including finances. The BiH Parliament and the entity parliaments have later on adopted all laws in the original form proclaimed by the High Representative.

250. Building of the new system of broadcasting in BiH has now entered the final stage. Pursuant to the legal rules, three public broadcasters will operate within a unique strategic framework. The formation of the entity RTV stations was followed by establishment of the Public RTV Service at the state level. The Radio-Television of the Federation of BiH and Radio-Television of Republika Srpska broadcast daily programmes at their radio and TV channels for the territory of the respective entity. The public radio-television service of BiH was constituted as a separate legal and media person based on the second Decision and the Law. Although it has not been operation in its full capacity the Public Service was accepted as an equal member in the European Broadcasting Union (EBU). On 7 May 2002 the BH Radio 1 was constituted and it has been broadcasting per the public service model and in short time it has become the most respectable radio station in the country. On the other hand, the build-up of the television system has been slowed down by certain technical and financial limitations. In the beginning the Public Television Service of BiH broadcast the limited amount and structure of programmes (news and international sport) through channels of the entity TV stations. Activities on establishment of the public service as a television station of full programme format have been ended. The issue of coverage the entire Bosnia and Herzegovina with the TV signal has been resolved by overtaking one channel out of the two used by the Federal Television. The coverage range of TV channels has been expanded onto the area of the whole country by provision of earth broadcasting equipment (including the satellite up-link) from the funds of the European Commission. The activities on designing the future public TV service and definition of its programme profile in compliance with the international standards are going on simultaneously with preparations for purchase and installation of necessary transmitting equipment. The media experts from all three broadcasters have been included in the operation, and BBC Consultancy from London has given consulting services. It has been planned to start the Public TV Service of BiH daily broadcasting on its own channel for the area of the whole country in September 2003, which has been realized.

(b) NGO sector

251. The Association of the Independent Electronic Media (AEM) held its third assembly in Teslic in June 2001 without having its legal status previously resolved. The common interests of the members were obvious, but the individual interests prevailed at the meeting in Teslic. The time had been spent in asking for the guarantees from the CRA representatives and personal promotion.

252. At the very beginning of 2001 we record the foundation of the Association of Students of the School of Journalism of Media Plan, thanks to the initiative of the attendees of the above mentioned Institute. The program objectives of the Association are various aspects of cooperation among young students of the School of Journalism of Media Plan. In 2000 the School assumed the original character because it had attendees from the territories of the former Yugoslavia.

253. The analysis of the media in 2001 shows that there still were some media who put them in the function of one nation or one party and others that only changed the political party and the leader in whose function they worked. In the first three months of 2001 the Communications Regulatory Agency opened 43 cases of violation of the Codex on editing the RTV programme "conscious" that some RTV had pressures to broadcast the material of which the content is not in compliance with the Codex. Some cases warned of low professional level (not only) in local media, disregard of regulations on non-announcing names and surnames of the underage in delicate situations and of people being subject to police investigation as well as declaring people guilty prior to the court decision. In the past period the journalists and media were exposed to different forms of pressures, threats, blackmails and even physical assaults. Unfortunately, similarly to previous years, the largest number of assailants had not been discovered, let alone sanctioned. The editorial offices and journalists have continued to be exposed to pressures, threats and physical assaults. Since establishment of the Help Line for Journalists (FREE MEDIA) there were registered 245 complaints, while from 1 January 2001 to mid November there were 96 journalists complaining, of whom 56 in the Federation of BiH, 33 in Republika Srpska and 2 in the Brcko District. By the end of the year Internews BiH and the Faculty of Political Sciences in Sarajevo published the findings of the survey "Pressures on Electronic Media in Bosnia and Herzegovina for the period January-November 2001". The questionnaires were mailed out to 240 working radio and TV stations in private and public ownership (137 in the Federation, 98 in RS and 5 in the Brcko District) and a total of 222 or 92,50% sent a response. Out of the total number, 114 stations (51,35%) were exposed to one or more pressures, 78 of them received in total 1,278 threatening telephone calls; 19 of them got 171 threatening letters or messages; 30 of them had 54 special financial controls; 39 had 55 court cases related to the nature of their job; 27 had total of 39 forcible damages to their equipment; three stations suffered five cases of confiscation of their video/audio/printed material by the authorities; 36 had 213 cases of limited movement and prohibitions of access during their reporting; 23 had 174 cases of clients ceasing or rejecting to advertise with the station due to its broadcast concept; and 30 stations had 52 cases of job-related physical assaults to radio and TV stations personnel. Six stations sent objections on the CRA work and 13 on the work of the local authorities.

254. In 2001 the media in Bosnia and Herzegovina were in difficult situation due to the overall general social and economic situation in the country. It is mostly the consequence of the financial crisis and poor status of the employees, unresolved ownership relations, privatization process, non-existence of collective and consequently individual contracts, chaotic and disintegrated media market and a series of strikes recorded throughout the year. The situation with the private media was similar, as there were no contracts protecting the employees from the irresponsible owners.

255. Around hundred of the employees in the oldest BIH daily newspapers *Oslobodjenje* stopped work in May, only a few days after the celebration of the international day of Media Freedom, due to outstanding salaries and non-payment of contributions for pension and social insurance. The paper management had also reduced salaries by 20% without consulting the Trade Union. After negotiations with the management had failed the workers demanded full salaries and long-expected individual lists of post-war outstanding payments. After six-day strike the representatives of the Trade Union and the Supervisory Board of *Oslobodjenje* reached an agreement that full salaries for April be paid followed by the individual lists of outstanding payments, that the outstanding contributions be paid to the social and health fund, that the editor-in-chief be removed from duty, that a new Supervisory Board be established and new management of this share-holding company be appointed and that preparations for signing of the collective contract be started. The workers also demanded the revision of the privatization of the company and the Financial Police audit of 1992-year business operations. The newspapers started appearing on the market again.

256. Unfortunately, after a short pause the agony of *Oslobodjenje* was continued and the position of this daily newspaper is still very difficult. In November, a new man was appointed the director coming from the major owner "Kmecka druzba", major shareholder from Slovenia, and the newspaper has been printed in Alden Print instead in OKO, the printing company now owned by Avaz. The criminal charges were brought against the former director and his deputy based on suspicion of having abused official positions. Despite the state of media in Bosnia and Herzegovina described for the year 2003, taking into consideration the war and the overall situation in Bosnia and Herzegovina went through, it is deemed that valuable progress has been made in the legal regulation in respect to the access to information and libel penalty, as well as to development of self-regulation in printed media by establishment of the Press Council. Unfortunately, as for the access to information, there have been no appropriately active relations between the authorities at all levels and the journalists who inadequately used this possibility to better inform the public and develop analytical and investigative journalism.

5. Researches and evaluation

257. Right to freedom of expression and similar are considered fundamental rights and freedoms necessary for functioning of a democratic society. CRA, as an independent communications regulator at the national level, makes a lot of efforts to working towards development of protection of these fundamental rights.

258. In connection with the aforesaid, the **Human Rights Chamber** in Bosnia and Herzegovina made a decision in 2002 related to activities that CRA had undertaken against work of the station "ORDO RTV Sveti Jovan". The said broadcaster had been violating the Regulations many times and most of them referred to **use of language of hatred and provoking violence**.

259. The final decision of the Agency was to deprive the station of the temporary license for broadcasting, i.e. work in order to protect rights of "others", and in compliance with the **Article 10 of the European Convention**. The Human Rights Chamber decided that CRA had not breached the right to freedom of expression by making its decision but made it to protect the democratic society. The decision was based on law and fulfilled a legitimate goal. When speaking of the language of hatred that could provoke undesirable connotations and put a specific group (of different ethnic origin) into a superior or inferior position, in the past year it was more a matter of incidents for the electronic media. It is possible that CRA regulations have contributed to it as they punished its usage and "threatened" to deny the permanent work licenses. The printed media, or at least a part of them, have not renounced to use it.

260. There were individual cases of calling certain groups bad names in the printed media and where the names of the prominent journalists from other media were maliciously signed unauthorized under those texts.

261. Another examples of non-professional reporting are the cases where the unconfirmed information is placed regarding a murder or the result of a court proceeding is prejudiced before even a police investigation has been completed, indicating most often as the perpetrator the person belonging to the nationality different to that of the victim, while using the language of hatred and creating tension and feeling of insecurity among the citizens of Bosnia and Herzegovina.

262. Finally, in the post-war period there has been a positive progress in raising the standard of information by radio and TV stations with a few exceptions. Despite the existing legal regulations, there are still cases when journalists abide by limited, simple presentation of the facts guided by certain political options creating in that way undesirable trends of superiority and inferiority of certain groups. When speaking of the language of hatred that could provoke undesirable connotations and put a specific group (of different ethnicity) into a superior or inferior position, in the past year it was more a matter of incidents for the electronic media.

Notes

¹ Definition of discrimination ... "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

² Bosnia and Herzegovina ratified CERD by 1993 succession.