



**Convention on the  
Rights of the Child**

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**Committee on the Rights of the Child**

**Consideration of reports submitted by States  
parties under article 8 (1) of the Optional Protocol  
to the Convention on the Rights of the Child on  
the involvement of children in armed conflict**

**Initial periodic report of States parties**

**Bosnia and Herzegovina\***

[20 August 2008]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

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## Introduction

On May 25, 2000, the General Assembly of the United Nations adopted an Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which is a supplement to the Convention on the Rights of the Child in terms of involvement of children in armed conflicts.

The Presidency of Bosnia and Herzegovina, based on Decision of Parliamentary Assembly of Bosnia and Herzegovina no. 34/02 of April 7, 2002, at 130th session held on March 19, 2002 passed a decision on the ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict ("Official Gazette of Bosnia and Herzegovina", no. 5/02).

Since Bosnia and Herzegovina signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on September 7, 2000, and ratified it on October 10, 2003, the reporting period shall include the period from the day of the Protocol ratification to the day of report submission.

With the ratification of the Optional Protocol, Bosnia and Herzegovina assumed an obligation to take all appropriate measures and ensure that members of armed forces in Bosnia and Herzegovina, who have not reached the age of 18, do not take direct part in hostilities, are not subject to compulsory recruitment into armed forces and to adopt legislative measures to prohibit and criminalize such practice.

In accordance with Article 8 paragraph 1 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Bosnia and Herzegovina submits the first initial report to the Committee for the Rights of the Child on the measures that were taken to implement provisions of the Optional Protocol.

The submitted Initial Report gives an overview of legislative, administrative, judicial and other measures applied in Bosnia and Herzegovina, related to provisions of the Protocol.

The Report is prepared based on revised guidelines for the Preparation of Initial report from September of 2007, which the States parties submit under Article 8 paragraph 1 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

Based on the national legislation in Bosnia and Herzegovina there is a general prohibition on child recruitment.

## Part I General measures of protocol implementation

### Definition of a child in the national legislation

The definition of a child in the legislation of Bosnia and Herzegovina in some laws may be identified as directly taken from the definitions in the Convention on the Rights of the Child, or as a complex indirect definition that decides on a right of the child.

In terms of the criminal responsibility, the protection of the child as witness, the civil status of the child, the right of the child to work and health care of the child, there are certain age limits within 18 years of age, which establish certain rights or obligations of a

child, however, a child in Bosnia and Herzegovina is considered to be any person younger than 18, when he/she becomes an adult and receives legal responsibility.

### **1. Description of the report preparation process**

- Information on political structure, basic elements of legal system and other statistical information on Bosnia and Herzegovina, are presented in the core document. The core document of Bosnia and Herzegovina was submitted to the Office of the High Commissioner for Human Rights under no. HRI /CORE / 1 /Add 89 / rev. 1.
- In the first stage of report preparation, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina, as the implementer of activities, appointed a three-member working group tasking them with taking all actions and measures necessary to ensure involvement of relevant governmental and non-governmental institutions and international organizations in Bosnia and Herzegovina in the development of this report.
- After the members of the working group, appointed by the relevant institutions at all levels of government in Bosnia and Herzegovina, drafted the first working text of the report, on April 7, 2008, a public debate was organized and attended by the members of governmental and non-governmental sector and international community. The public debate was organized with an aim of informing a broader social community with the obligations which Bosnia and Herzegovina assumed by ratifying the Protocol, giving final proposals and comments to the draft text of the report, to finalize it and send to the Council of Ministers of Bosnia and Herzegovina for deliberation and decision. The remarks and suggestions presented in the public debate are an integral part of this text. The public debate was attended by the representatives from the following institutions/organizations:

#### **Representatives of government institutions**

1. Ministry of Human Rights of Bosnia and Herzegovina (as coordinators of activities)
2. Ministry of Defence of Bosnia and Herzegovina
3. Ministry of Justice of Bosnia and Herzegovina
4. Ministry of Foreign Affairs of Bosnia and Herzegovina
5. Ministry of Security of Bosnia and Herzegovina
6. Agency for Gender Equality of Bosnia and Herzegovina
7. Office of the National Coordinator on Fighting Human Trafficking and illegal immigration of Bosnia and Herzegovina
8. Ombudsmen for Human Rights of Bosnia and Herzegovina
9. Joint Commission for Human Rights, Rights of the Child, Young People, Immigration, Refugees, Asylum and Ethics of the Parliamentary Assembly of Bosnia and Herzegovina
10. Ombudsmen of Republika Srpska
11. Ombudsmen of the Federation of Bosnia and Herzegovina
12. Government of Brčko District of Bosnia and Herzegovina
13. Department for Education of Brčko District of Bosnia and Herzegovina
14. Department for Health of Brčko District of Bosnia and Herzegovina

15. Public Prosecutor Office Brčko District of Bosnia and Herzegovina
16. Ministry of Health and Social Protection of Republika Srpska
17. Ministry of Interior Affairs of Republika Srpska
18. Ministry of Education and Culture of Republika Srpska
19. Ministry of Justice of Republika Srpska
20. Republic Prosecutor Office of Republika Srpska
21. Federation Ministry of Health
22. Federation Ministry of Education and Science
23. Federation Ministry of Labour and Social Policy
24. Federation Ministry of Interior Affairs
25. Federation Prosecutor Office
26. The University Department of Political Science Sarajevo
27. The University Department of Criminal Sciences Sarajevo

**Representatives of non-governmental associations**

1. Vesta Tuzla
2. Research and Documentation Centre
3. Žena BiH Mostar
4. Naša djeca Sarajevo
5. BiH journalists
6. Zemlja djece Tuzla
7. Interreligious Council of Bosnia and Herzegovina
8. Helsinki Committee of human Rights of Bosnia and Herzegovina
9. Children Pillars of the World Sarajevo
10. Budućnost Modriča
11. La Strada Mostar
12. Lara Bijeljina
13. Medica Zanica
14. Association of Women BiH Mostar
15. Zdravo da ste Banja Luka
16. Press Council

**Representatives of international community**

1. Save the Children UK
2. International Committee of the Red Cross
3. Save the Children Norway
4. UNICEF

- The role of international organizations (UNICEF, Save the Children UK, Save the Children Norway, UNICEF, ICRC and others) in the promotion of the rights of the child in Bosnia and Herzegovina and development of this report will be discussed in the part describing international cooperation
- The following governmental institutions participated in the development of the report:
  - Ministry of Human Rights and Refugees of Bosnia and Herzegovina
  - Ministry of Defence of Bosnia and Herzegovina
  - Ministry of Justice of Bosnia and Herzegovina
  - Ombudsmen for Human Rights of Bosnia and Herzegovina
  - Ombudsmen of Republika Srpska
  - Ombudsmen of the Federation of Bosnia and Herzegovina
  - Government of Brčko District of Bosnia and Herzegovina

### **1.1 Description of the competence of government institutions**

- Ministry of Human Rights and Refugees of Bosnia and Herzegovina has the competence to implement activities prescribed under the law related to the promotion and protection of individual and collective human rights, as well as other activities prescribed in the law, which also include coordination and preparation of reports to relevant local bodies and institutions and international institutions and organizations on the implementation of commitments from international conventions and international instruments in the sphere of human rights.
- Ministry of Defence of Bosnia and Herzegovina has the competence to create and maintain defence capacities in order to ensure protection of the sovereignty, territorial integrity, political independence and international subjectivity of Bosnia and Herzegovina. Also, Ministry of Defence of Bosnia and Herzegovina has the competence to represent Bosnia and Herzegovina in international relations related to the issue of defence, oversight of all the subjects of Defence Forces of Bosnia and Herzegovina, developing, reviewing and updating defence policy of Bosnia and Herzegovina approved by the Presidency of Bosnia and Herzegovina and adopted by the Parliamentary Assembly of Bosnia and Herzegovina, development and approval of policies and regulations in terms of the organization, administration, training, equipping and the use of Defence Forces of Bosnia and Herzegovina, ensuring that Bosnia and Herzegovina complies with international obligations related to the issues of defence, activation of the reserve units for all operations, except the planned training, deployment or the use of any part of Defence Forces outside Bosnia and Herzegovina for all training operations or activities, establishment of the procedure for the approval of military support to civil authorities in case of natural disasters, upon the approval of the Presidency of Bosnia and Herzegovina, establishing the procedures that ensure transparent functions of the Ministry of Defence of Bosnia and Herzegovina, and other competencies defined under the law.
- Ministry of Justice Bosnia and Herzegovina has the competence over administrative functions related to judicial bodies at the state level, international and inter-entity judicial cooperation, ensuring that the legislation of Bosnia and Herzegovina and its implementation at all levels be congruent with the commitments of Bosnia and Herzegovina stemming from international agreements and to act as the central coordination body to ensure harmonization of legislation and standards of judicial system between the entities.

- Ombudsman for Human Rights of Bosnia and Herzegovina is an independent institution established with an aim of promoting good administration and the rule of law, protection of rights and freedoms of physical and legal entities, as enshrined particularly in the Constitution of Bosnia and Herzegovina and international agreements that are in the supplement to this Constitution which will in that respect supervise the activities of the institutions of Bosnia and Herzegovina, its entities and the Brčko District. Ombudsman for Human Rights of Bosnia and Herzegovina is competent to: deliberate cases related to poor functioning or violations of human rights and freedoms committed by any organs of the government, including when an appeal is received or ex officio. The competence of the institution contains the power to conduct investigations in all appeals related to poor functioning of the court system or improper processing of individual cases and to recommend appropriate individual or general measures. Ombudsman may refer the cases of alleged violations of human rights to the highest court bodies in Bosnia and Herzegovina which are competent for the issues of human rights, congruent to the rules that regulate filing of appeal to these bodies, whenever it finds that it is necessary for an effective implementation of its duties. Decisions of ombudsman or the Institution cannot be appealed.
- Ombudsman of Republika Srpska – protector of human rights has the competence to resolve specific problems that an individual or a child may have toward the organs of authority. Ombudsmen in their reports and recommendations bind the governments and the parliaments to remove discriminatory regulations or administrative practices that result in broad violations of rights and by making their reports public in the media, generally raise awareness of human rights and influence the conduct and responsibility of the authorities. The Ombudsman of Republika Srpska has a special Department for the Rights of the Child. Through the special project on the protection of the rights of the child, the ombudsmen are permanently fighting for the protection of human of fundamental and all other rights and freedoms of the child, and especially the rights of children refugees, displaced people and socially vulnerable categories, by promoting the rights of the child to life, personal safety and freedom of movement, analysis and singling out of key causes behind dysfunctional structures of authority when passing decisions that affect children.
- Institution of Ombudsman of the Federation of Bosnia and Herzegovina was established under the Constitution of Federation of Bosnia and Herzegovina and in chapter II B. of the Constitution the appointment of three ombudsmen is planned. Ombudsmen are obliged to protect human dignity, rights and freedoms guaranteed under the Constitution of the Federation of Bosnia and Herzegovina, instruments for the protection of human rights listed in the Annex to the Constitution and constitutions of cantons. The Constitution of the Federation of Bosnia and Herzegovina prescribes that ombudsmen are independent in performance of their functions and no person or body of authority can interfere in these functions. Ombudsmen can examine the activities of any institution of the Federation, canton or municipality, as well as the actions of any other institution or an individual that denied human dignity, rights and freedoms, including the perpetration of ethnic persecution or maintaining of its consequences.

*Note:* Right now there is a procedure to transfer the competences from the institution of entity ombudsman to the institution of the Ombudsman of Bosnia and Herzegovina. With respect to the transfer of competence, it must be noted that the Parliamentary Assembly of the Federation of Bosnia and Herzegovina adopted the Law on Cessation of the Institution of Ombudsman of the Federation of Bosnia and Herzegovina and the transfer of its competence onto the Institution of the Ombudsman of Bosnia and Herzegovina (“Official

Gazette of the Federation of Bosnia and Herzegovina” no. 51/07). The draft of this same law in Republika Srpska was put on the agenda of the National Assembly of Republika Srpska, and after being accepted by the Board for Representatives, Proposals and Social Oversight of the National Assembly of Republika Srpska, it was withdrawn by the institution that proposed the law. In the meantime the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina appointed an ad hoc Commission, tasked with publishing a public vacancy for the appointment of ombudsman of Bosnia and Herzegovina. In February 2008, the Commission passed a decision and the feasibility study for the establishment of a special department for the monitoring of the fulfilment of the rights of the child at the Institution of ombudsman of Bosnia and Herzegovina, which will soon be established. At the moment when this report was written, the procedure for the appointment of ombudsmen of Bosnia and Herzegovina was not finalized.

- Brčko District of Bosnia and Herzegovina (see CORE document) is a unique administrative unit of local self-management, under the sovereignty of Bosnia and Herzegovina. The competence of the District when it comes to the issues of local self-management are the result of delegating the entire the competence of both entities to the government of the District in all administrative issues on the territory of the pre-war municipality, as defined in the Statute, i.e. the delegating of the competence that the entities and three municipal governments previously performed.

The entities within the District exercise only those functions and the competence entrusted to them under the provisions of this statute at the moment when it took force. The District authorities shall not give or entrust none of the entities with any function of management or authority which was not separately awarded or entrusted in the provisions of this statute at the moment when it took force. The Constitution of Bosnia and Herzegovina, as well as the applicable laws and decisions of the institutions of Bosnia and Herzegovina, are directly applicable on the entire territory of the District. The laws and decisions of all authorities in the District must be in accordance with the applicable laws and decisions of the institutions of Bosnia and Herzegovina.

The previous Statute of the Brčko District of Bosnia and Herzegovina regulated the military and alternative service in the manner that the residents of the District were not subject to the compulsory military service or another entity service and they could not voluntarily participate in military services of the entities. The residents of the District could not belong to a reserve force in the militaries of the entities. An alternative service in the entity military services may be legally prescribed for the residents of the District.

The amendments to the Statute of the Brčko District of Bosnia and Herzegovina (Article 7 of the Statute) which took force on February 2, 2007, prescribed that the only military forces whose presence is allowed on the territory of the District are the armed forces of Bosnia and Herzegovina and international and other armed forces present in accordance with an agreement with Bosnia and Herzegovina on deployment of forces or under an authorizing document of the North Atlantic Treaty Organization, the European Community or the United Nations Security Council. No other forces of any kind, including, but not limited to the entity or paramilitary forces will be allowed presence in the District (Amendments to the Statute of Brčko District are enclosed with the report).

## **2. Legal status of the Optional Protocol in the national legislation**

- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in the legal system of Bosnia and



Herzegovina has the same position as the local laws, and can be directly applied if at odds with internal legislation.

- Namely, Bosnia and Herzegovina belongs among the ranks of monistic states, which would consider the signed (and ratified) international agreements as a part of unified legal order of the state, equally along with the local legislation. Provision from Article III.3.b) of the Constitution of Bosnia and Herzegovina which prescribes that “the general principles of international law shall be an integral part of the law of Bosnia and Herzegovina and the Entities”, one can infer that the general principles of international law are a part of the legislative system of Bosnia and Herzegovina not when it is about a concrete international agreement, but they exist per se and constitute the key part of the legal system in Bosnia and Herzegovina.
- Bosnia and Herzegovina is a signatory to all international agreements in the scope of human rights, including the international instruments that exclusively promote and protect the rights of the child, and the country is obliged to implement them.
- International standards on human rights and freedoms and the Convention on the Rights of the Child with additional protocols bind the authorities in Bosnia and Herzegovina to create and adopt specific instruments and ensure mechanisms for their implementation with an aim of promoting and protecting the rights of the child.
- The Convention on the Rights of the Child (CRC) (1989) Bosnia and Herzegovina acceded on March 6, 1992, and the Convention in Bosnia and Herzegovina became applicable based on the Law on ratification of the United Nations Convention on the Rights of the Child (“Official Gazette of the Republic of Bosnia and Herzegovina”, no. 2/92 and 13/94).
- The standards of protection of the rights of the child enshrined in the Convention on the Rights of the Child and its protocols represent the foundation to harmonize legislation and practices in Bosnia and Herzegovina with these standards and principles.
- With the ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (Decision on ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (“Official Gazette of Bosnia and Herzegovina – International agreements, no.5/02), Bosnia and Herzegovina has assumed an obligation to take measures necessary to implement the rights prescribed in the protocol.
- Within the legal and political structure, Bosnia and Herzegovina placed a particular importance to the protection of the rights of the child, since in its legal system it has given preference to the application of international documents that concern the protection of the rights of the child (Convention on the Rights of the Child and its protocols), compared to the local laws.
- However, the practice shows that the courts and administrative bodies in Bosnia and Herzegovina, which resolve cases involving the rights of the child, do not give the preference to international documents or do not take them into consideration.
- We observe positive examples of direct application of international documents by the Chamber of Human Rights of Bosnia and Herzegovina, however in all the proceedings and judgments conducted so far by the Chamber of Human Rights, or the Commission for Human Rights at the Constitutional Court of Bosnia and

Herzegovina, or the Constitutional Court of Bosnia and Herzegovina,<sup>1</sup> there is no single judgment that the Court/Commission based on the Optional Protocol, or the violations of the rights of the child – the rights guaranteed under the protocol.

### **3. Implementation of the Optional Protocol with regard to all territories and persons under the jurisdiction of the State party**

- By signing the international documents in the sphere of human rights, Bosnia and Herzegovina demonstrated its readiness to embrace the standards of human rights which will be based on modern democratic principles and the precepts of the rule of law on its entire territory, including the provisions of international law that concern protection of children in general, as well as the prohibition of child recruitment.
- When it comes to the place the Protocol has within the National legislation, the Constitution of Bosnia and Herzegovina, Constitution of the Federation of Bosnia and Herzegovina, Constitution of Republika Srpska and constitutions of entities/cantons, prescribe that the governments of Bosnia and Herzegovina, the entities and cantons would take all measures necessary to protect human rights and fundamental freedoms prescribed in the constitutions in force in Bosnia and Herzegovina. International agreements made, confirmed and published in accordance with the constitutions in Bosnia and Herzegovina, make a part of internal legal order, and by their legal power they are above the laws and if the provisions of international agreements and covenants are not in accordance with the internal applicable legislation, they can be directly applied.
- The domestic constitutional and legal framework, through which the Protocol is being implemented include the constitutions, laws, bylaws and other general documents, and the rights of the child are also promoted through various action plans, strategies, etc.
- Provisions of the Protocol that speak of the prohibition of child recruitment, in Bosnia and Herzegovina are contained in the Defence Law of Republika Srpska (“Official Gazette of Republika Srpska”, no. 21/96, 46/01, 33/04) and the Law on the Military of Republika Srpska (“Official Gazette of Republika Srpska”, no. 31/96), the Defence Law of the Federation of Bosnia and Herzegovina (“Official Gazette of the Federation of Bosnia and Herzegovina,” no. 34/04) and the Statute of the Brčko District, which prohibit child recruitment on the entire territory of Bosnia and Herzegovina.

### **4. Reservations the State party made at certain provisions of the Protocol**

- When signing and ratifying the Protocol, the authorities in Bosnia and Herzegovina did not make any reservations to the Protocol

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<sup>1</sup> The Chamber of Human Rights is a judicial body which was established under the Annex 6 of the General framework Peace Agreement in Bosnia and Herzegovina and its task was the protection of human rights enshrined in the European Convention on Human Rights and Fundamental Freedoms. The procedures for the work of the Chamber were made after the European Court of Human Rights in Strasbourg. The Chamber ceased operations in late 2003, while its mandate and unresolved cases were taken over by the Commission for Human Rights at the Constitutional Court of Bosnia and Herzegovina. In late 2006, the Commission ceased operations and the protection of human rights guaranteed in the European Convention on Human Rights and Fundamental Freedoms and instruments for protection of human rights foreseen in the Annex and the Constitution of Bosnia and Herzegovina is in the jurisdiction of the Constitutional Court of Bosnia and Herzegovina, as the supreme institutional guarantor for protection of human rights in Bosnia and Herzegovina.

## 5. Setting the age at the ratification or accession to the Protocol

- The Presidency of Bosnia and Herzegovina when passing the Decision on ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (“Official Gazette of Bosnia and Herzegovina – international agreements”, no. 5/02) adopted provisions of the Protocol in its original text and without placing any reservations to certain provisions, thus confirming the commitment of authorities in Bosnia and Herzegovina to ensure that the people/children younger than 18 do not fall under compulsory recruitment to armed forces, and this same provision is the integral part of the applicable national legislation

## 6. Governmental departments or bodies having primary responsibility for the implementation of the Protocol and coordination mechanisms established between them, as well as the civil society, including the media and the academia

- The constitutional and legal order of Bosnia and Herzegovina established the competence of government institutions in Bosnia and Herzegovina in specific spheres of social life and they are divided to state, entity, cantonal and municipal levels of government, including the Brčko District of Bosnia and Herzegovina, as a separate administrative unit.
- The issues of protection of the rights of the child fall under the competence of the entities, cantons and Brčko District of Bosnia and Herzegovina, while at the state level there are the organs that are mostly dealing with the promotion of the rights of the child.
- At the level of Bosnia and Herzegovina, by a decision on the Council of Ministers of Bosnia and Herzegovina in 2003, the Council for Children of Bosnia and Herzegovina was established. The Ministry of Human Rights and Refugees of Bosnia and Herzegovina is in charge of administrative and technical support for the operations of the Council for Children. The activities of the Council for Children of Bosnia and Herzegovina are aimed at monitoring the implementation of the Action Plan for Children of Bosnia and Herzegovina 2002–2010. The starting framework for the development of the Action Plan for Children of Bosnia and Herzegovina was the World Children Summit which established general goals, which include the protection of children from war, i.e. the protection of children from the horrors of armed hostilities.

*Ministries and bodies at the level of Bosnia and Herzegovina<sup>2</sup> which are, within the prescribed legal competences, responsible for the implementation of the Protocol, include:*

1. Ministry of Human Rights and Refugees of Bosnia and Herzegovina.
2. Ministry of Defence of Bosnia and Herzegovina.
3. Ministry of Justice Bosnia and Herzegovina.
4. Ombudsman for Human Rights of Bosnia and Herzegovina.
5. Constitutional Court of Bosnia and Herzegovina.
6. The Constitutional Court of Bosnia and Herzegovina is established based on Article VI of the Constitution of Bosnia and Herzegovina and it is defined as

<sup>2</sup> Competence of the ministries responsible for the implementation of the Protocol at the state level are described in part 1 (a) of the report – description of competence of state institutions.

the independent guardian of the Constitution and the institutional guarantee of human rights and freedoms enshrined in the Constitution (Article II item 2 of the Constitution of Bosnia and Herzegovina prescribes that the rights and freedoms laid out in the European Convention on Human Rights and Fundamental Freedoms and its protocols are directly applied in Bosnia and Herzegovina and that these documents have the priority over all other laws) and international documents that are listed in the Annex I of the Constitution of Bosnia and Herzegovina.

7. Council for Children of Bosnia and Herzegovina.
8. The Council for Children is established at the level of Bosnia and Herzegovina, as an independent body and has the consultative and coordination character. The competences of the Council for Children of Bosnia and Herzegovina include the monitoring of the implementation of the Action Plan for Children of Bosnia and Herzegovina 2002–2010.

*Ministries and bodies at the level of Republika Srpska responsible for the implementation of the Protocol:*

1. Ministry of Family, Young People and Sports of Republika Srpska – has the competence to perform professional affairs related to promotion of family values, analyzes demographic trends, monitors and evaluates programs and projects of associations aimed at the betterment of children and families, and participates in the training of experts working with children, young people and their families.
2. Ministry of Health and Social Protection of Republika Srpska, and within the Ministry – the Sector for Family, Child and Social Protection, has the competence to perform administrative and other professional affairs in the fulfilment the rights from the sphere of social, family and child protection, participates in the development, preparation and implementation of strategic documents and programs from the sphere of social, family and child protection, monitors and encourages development programs of social, family and child protection, harmonizes legislative provisions with the standards of social protection applied in the European Union.
3. Ministry of Education and Culture of Republika Srpska has the competence for the pre-school, primary and secondary education and upbringing, prepares the programs of educational cooperation with other countries and international organizations and implements international agreements in the sphere of education in accordance with the Constitution of Republika Srpska and the Constitution of Bosnia and Herzegovina. Within the school curricula there is a subject titled The Basics of Democracy and Human Rights.
4. Ministry of Justice of Republika Srpska has the competence to process requests of local and foreign courts and other state bodies in providing of international legal aid, gives professional opinion in terms of international agreements that concern providing international legal aid in civil and criminal matters, prepares opinions to draft documents of international agreements and proposals of laws that regulate issues with a foreign element, engages in communication with the International Criminal Tribunal in the Hague in accordance with the law, actively participates in the process of application, development and adoption of legal projects that fall under its purview, gives professional opinion in terms of legal projects at the request of other ministries and other competent organs.

5. Ministry of Interior Affairs of Republika Srpska – has the competence for operative and professional, administrative and legal and affairs that ensure the protection of life, individual security, human rights and civil liberties, protection of constitutional order from violent threats and changes and security of the Republic in accordance with the law, protects all types of ownership, prevents perpetration of criminal offences, detects criminal acts, finds, apprehends and surrenders perpetrators of crimes to relevant organs, etc.
6. Ombudsmen of Republika Srpska – protector of human rights.<sup>3</sup>
7. Council for Children of Republika Srpska – as a permanent, counselling body of the government in charge of promoting and protecting the rights of the child in Republika Srpska in accordance with the United Nations Convention on the Rights of the Child.
8. Public Funds for Child Protection of Republika Srpska – is a part of consistent system of child protection in Republika Srpska. The system of child protection rests on the rights and duties of parents to take care of the upbringing and raising of their children, the rights of the child to living conditions that would allow a proper psychophysical development.

*Ministries and bodies at the level of the Federation of Bosnia and Herzegovina responsible for the implementation of the Protocol:*

1. Ministry of Interior Affairs of the Federation of Bosnia and Herzegovina – has the competence and works on the prevention and detection of criminal offences including the international crime and terrorism, illicit trade in narcotics and organized crime and other criminal offences that fall under the purview of the Federation of Bosnia and Herzegovina, opens and publishes INTERPOL international and Federation of Bosnia and Herzegovina search warrants, cooperates with the relevant prosecutor offices in terms of processing of criminal offences, protection of human rights and civil liberties in the sphere of interior affairs, performs other affairs that fall under its purview as established by the Law on Interior Affairs and other regulations.
2. Ministry of Labour and Social Policy of the Federation of Bosnia and Herzegovina – has the competence over the labour and employment policy, international conventions in accordance with the Constitution of Bosnia and Herzegovina, agreements and bilateral agreements in the sphere of employment, social security and solidarity, protecting of civilian war victims, protection of families, adoption and guardianship, social welfare and other affairs prescribed in laws regulating this sphere.
3. Ministry of Displaced People and Refugees of the Federation of Bosnia and Herzegovina has the competence to gather and process the data on refugees and displaced people, coordinates reconstruction activities together with registration and supervision of non-governmental organizations, creates conditions for the return of displaced people to their places of residence, including the construction, reconstruction, repair and refurbishment of homes and other housing facilities for the accommodation of refugees and displaced

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<sup>3</sup> Competences of Ombudsman of Republika Srpska — protector of human rights — Department for the Rights of the Child is described in part 1 (a) of the report – the competence of state institutions.

people, runs the maintenance of regional centres that provides assistance in performing of these activities and other affairs regulated under the law.

4. Ministry for the Issues of Veterans and Disable Veterans of the Defensive-Liberation War of the Federation of Bosnia and Herzegovina has the competence to establish a unified policy and prepare rules that regulate fundamental social and status issues of military disabled people, families of fallen soldiers and veterans and unemployed veterans as well as the veterans of other homeland wars and participants of liberation fronts and protection of war and peace time military disabled people; protection of the members of the families of the killed, missing or dead, as well as the war and peace time military disabled people who died, conducts administrative and financial supervision of enforcement of laws and other regulations in the sphere of defence soldiers and disability protection in accordance with the Constitution and the law.
5. Ministry of Health of the Federation of Bosnia and Herzegovina has the competence to perform administrative, professional and other affairs as established under the law that relate to the jurisdiction of the Federation of Bosnia and Herzegovina in the sphere of health.
6. Ministry of Justice of the Federation of Bosnia and Herzegovina has the competence in the sphere of judicial institutions and administration, administrative supervision over the work of judicial administration and the Federation of Bosnia and Herzegovina administration bodies, association in political organizations and associations of citizens, supervision over the enforcement of criminal sanctions. Also, The Bureau for Public Administration, which is active as an organ within the ministry has the competence, inter alia, over the development of the system of local self-management, election system, political and territorial organization of the Federation of Bosnia and Herzegovina and development of appropriate regulations on these issues as well as development of cooperation with relevant international organizations in accordance with the Constitution of Bosnia and Herzegovina, including the local government bodies and their associations on issues from their competence.
7. Ombudsman for Human Rights of the Federation of Bosnia and Herzegovina.<sup>4</sup>

*Ministries and bodies at the level of canton responsible for the implementation of the Protocol:*

8. All cantonal authorities in the Federation of Bosnia and Herzegovina in the implementation of obligations which guarantee and enforce implementation of human rights, shall take all measures necessary and act in accordance with the competences and principles set forth in the Constitution.

*Responsibility in terms of the obligation to implement provisions of the Protocol of the organs and services in the Government of Brčko District of Bosnia and Herzegovina:*

9. The Statute of Brčko District of Bosnia and Herzegovina and its amendments established that each individual is entitled to all the rights and freedoms

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<sup>4</sup> Description of competence of Ombudsman for Human Rights of the Federation of Bosnia and Herzegovina is described in part 1 (a) of the report – the competence of state institutions.

guaranteed in the Constitution and laws of Bosnia and Herzegovina and the Laws of the District without any type of discrimination. The Statute prescribes that the residents of the District do not fall under the obligation to serve military or another entity service and they cannot voluntarily participate in the military services of the entities. The residents of the District cannot belong to a reserve force in the militaries of the entities.

*Responsibility of municipalities in terms of implementation of Protocol provisions:*

10. Municipal authorities take all necessary steps with an aim of ensuring the protection of rights and freedoms to all people within the territory of the Federation of Bosnia and Herzegovina listed in Articles II. A. 1 through 7 and the instruments in the supplement to the Constitution of the Federation of Bosnia and Herzegovina, which concern the fulfilment of the following rights: to life, to liberty, while the arrest and detention are allowed under the law, to equality before the law, to be free from discrimination based on the race, skin colour, gender, language, religion or belief, political and other affiliation, ethnic or social origin, to a fair criminal proceedings, to prohibition of torture, and cruel or inhumane treatment or punishment, to privacy, to the freedom of movement, to asylum, to protection of family and children, to property, to freedom of speech, press, opinion, conscience and belief, to free belief, freedom of gathering, associating, freedom not to associate and other rights.

*The actions of governmental and non-governmental sector in terms of cooperation and joint action in the field of complying with the obligations from international agreements (Protocols) and respect of human rights:*

- The network of international organizations in Bosnia and Herzegovina, which act in the field of protection of the rights of the child, is rather developed and the contribution of non-governmental organizations in Bosnia and Herzegovina to informing and educating the public in Bosnia and Herzegovina on the rights of the child is not negligible.
- Also, non-governmental organizations are permanently warning the authorities of some difficulties and obstacles that exist in the society of Bosnia and Herzegovina, which concerns the rights of the child.
- Activities of non-governmental sector in this sphere are related to the training, counselling work, prevention activities, psychological counselling, social integration, encouraging and empowering children to participate, joint action with the centres for social welfare to train mentally sound parents and reinforce the parent-child relationship, etc.
- Non-governmental organizations most often identify problems in the field, after which they present them to responsible institutions and the local community, so that through the joint-partner action a solution to the current problems would be found.
- Thus, for example, a non-governmental organization “Naša djeca” (Our Children) seated in Sarajevo, implements projects that can be divided into several segments, including: the training of child case providers, training of children and participation of children in promotion and protection of the rights of the child, issuing and printing of the manuals to promote the rights enshrined in the Convention on the Rights of the Child, monitoring and analysis of compliance with human rights in Bosnia and Herzegovina, etc.

- There is also a whole array of non-governmental organizations which in the same or similar manner train the staff and inform the boarder public on the rights of the child guaranteed under the Convention and its protocols. A non-governmental organization “Budimo aktivni” (Let’s Be Active) was one of the representatives of Bosnia and Herzegovina and partner of UNICEF in Bosnia and Herzegovina to participate at the preparatory conference of the United Nations General Assembly dedicated to children held in 2000, and also the World Summit for Children in 2002.
- In the sphere of cooperation of governmental and non-governmental sector, it is important to note that the Council of Ministers of Bosnia and Herzegovina at 8th session, held on April 26, 2007 adopted the Agreement on Cooperation between the Council of Ministers of Bosnia and Herzegovina and the non-governmental sector in Bosnia and Herzegovina.
- The Agreement between the Council of Ministers of Bosnia and Herzegovina and the non-governmental sector provides the framework that will help the streamlining of joint action of the government and non-governmental sector at all levels of government in Bosnia and Herzegovina, from local communities (municipalities) to the level of the state (Bosnia and Herzegovina). This Agreement affirms determination of the Council of Ministers of Bosnia and Herzegovina and non-governmental sector to strengthen their commitments and responsibilities in fulfilling the roles they assumed in development and providing of public policy and that the Council of Ministers of Bosnia and Herzegovina takes the obligation to strengthen its role in the promotion of voluntary and other social actives in all areas of social life in Bosnia and Herzegovina.
- The Agreement represents a memorandum on relations between the Council of Ministers of Bosnia and Herzegovina and non-governmental sector in Bosnia and Herzegovina. It is not a legally binding document. Its power rests on the acceptance/consent of the Council of Ministers of Bosnia and Herzegovina and non-governmental sector, through their mutual consultations. In the beginning, the Agreement will be applied to the Council of Ministers of Bosnia and Herzegovina and its ministries and centralized departments. In practice this Agreement will be valid where the governments of entities, cantons and municipalities establish a relationship with the non-governmental sector. The Agreement will be applicable to the whole array of organizations from the non-governmental sector.

**7. Training on human rights, i.e. the provisions of the Protocol that are provided to all relevant professional groups**

*In terms of acquiring the basic knowledge about the rights of the child through the education in military schools, the following text provides a description of the training in military schools at the level of Bosnia and Herzegovina and the entities:*

(a) On the territory of Republika Srpska, in the period from 1992 to 2006, there were no military schools that would be under the management of the Military of Republika Srpska. The education of the staff to fill the units of the Military of Republika Srpska (hereinafter: the MRS) was conducted in the Federal Republic of Yugoslavia (hereinafter: the FRY) under the following: The needs for non-commissioned officers were secured through the one-year specialist education in secondary military schools of the FRY. To these schools, the individuals who graduated from secondary civil schools were sent (III or IV level), following the medical examination of their health. Upon the completion of the one-year specialist education, these individuals were deployed to the units of the MRS. The needs for commissioned officers were secured through the education at the military Academy in the Federal Republic of Yugoslavia. To this school, the individuals who



graduated from secondary civil schools were sent (III or IV level), following the medical examination of their health. After they completed four-year or five-year schooling, these individuals were deployed in the units of the Military of Republika Srpska. The education curricula of non-commissioned officers and commissioned officers also had the subjects on International Humanitarian and War Rights, including the areas relevant for the fulfilment of the rights of the child from the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

(b) On the territory of the Federation of Bosnia and Herzegovina in the reporting period there were no secondary military schools, and no Military Academies that were managed by the ministry of Defence of the Federation of Bosnia and Herzegovina, and this also includes the Military of the Federation of Bosnia and Herzegovina. To secondary military schools and military academies outside Bosnia and Herzegovina (Turkey) with the ministry of Defence of the Federation of Bosnia and Herzegovina acting as an intermediary, a smaller number of students were sent who completed primary or secondary school, and upon the completion of secondary military school (that lasts at least four years), these individuals were engaged in the military of the Federation of Bosnia and Herzegovina, as non-commissioned officers, but at any rate they were older than 18.

(c) The Defence Law of Bosnia and Herzegovina (applied as of January 1, 2006) prescribed that the Minister of Defence passes regulations on schooling and education in the Armed Forces. Article 14 of the Law on Service in the Armed Forces of Bosnia and Herzegovina prescribes that a non-commissioned officer enters the armed forces in the initial rank of a non-commissioned officer upon the completion of education in a military of civil school, while a commissioned officer in the initial rank of an officer enters upon the completion of military academy or after acquiring a high professional vocation and completion of the basic training for commissioned officers. Article 159 of the Law on Service in the Armed Forces of Bosnia and Herzegovina prescribes that provisions on discipline responsibility also apply to cadets in a military school. A discipline proceedings has two instances and allows filing of appeals and there is also a pardon for military discipline sanctions. On the territory of Bosnia and Herzegovina there is still no secondary military school or a military academy for the education of non-commissioned and commissioned officers.

*Training of judges on the provisions of international agreements from the sphere of human rights, including the training on the rights prescribed under the Protocol:*

- On May 22, 2002, the High Representative in Bosnia and Herzegovina passed the Law on the Judicial and Prosecutorial Training Centre of the Federation of Bosnia and Herzegovina and Law on the Judicial and Prosecutorial Training Centre in Republika Srpska. These laws establish the centres and prescribe the status and the activities of both centres, management organs, funds for operations, and the manner and method under which the centres will perform the training of judges and prosecutors and people intending to enter the profession of a judge or prosecutor. The purpose of the centre is to, under the supervision of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, ensure that the training programs for judges and prosecutors be established and implemented along the lines of openness, professionalism and impartiality, which make the integral part of performing the judicial and prosecutorial duty. The seat of the Judicial and Prosecutorial Training Centre in the Federation of Bosnia and Herzegovina is in Sarajevo, while the seat for the Judicial and Prosecutorial Training Centre in Republika Srpska is in Banja Luka. Each year the Centres organize professional development of judges and prosecutors. For judges and prosecutors, the training is organized in the area of interpretation and application of the national subject-matter

and procedural codes and international documents, code of ethics for judges and prosecutors, the latest professional achievements in the area of law, court and prosecutorial practice in other countries, and other relevant fields. The centres create the training program based on surveys in courts and prosecutor offices, reports of local and international organizations, monitoring the changes in legislation, and implementation of current laws and in accordance with the expressed needs and recommendations in the country, region and the world. The centres issue annual certification to judges and prosecutors, who have met minimal requirements of professional development.

*Training of staff working in the implementation of the laws on the rights prescribed in the Protocol and training of media experts:*

- Civil servants working on the implementation of laws employed at all levels of government in Bosnia and Herzegovina, especially servants working with children or for children, are obliged to undergo various sorts of training, among which there are specialized training sessions in the sphere of the rights of the child, organized by the civil servant agencies (the state and the entity agencies) and international organizations present in Bosnia and Herzegovina, as well as the non-governmental organizations. Media experts also undergo specialized training in accordance with their role in the national promotion of rights established under the Convention on the Rights of the Child and the Optional Protocol to the Convention.

**8. Disaggregated data on the number of children under the age of 18 voluntarily recruited into the state armed forces, children recruited and used in hostilities by armed forces in the country, number of children charged for war crimes and the number of children victims of practices prohibited by the Optional Protocol among refugee and asylum seeking children**

- In Bosnia and Herzegovina there is a general prohibition of recruitment of children under the age of 18 and that is why we do not have the required data. Taking into account the fact that Bosnia and Herzegovina in the 1992–1995 period, passed through tragic conflict and that so far there have been proceedings against the accused of war crimes by the International Criminal Court and local courts, in no case that was processed the accused were children and the people accused of war crimes were not charged with having involved children in armed conflict.

**9. Independent national human rights institutions and the role they play in the implementation of the Protocol**

- National institution for human rights and their role in the implementation of provisions of Protocol are described in item 6 (Governmental departments or bodies having primary responsibility for the implementation of the Protocol of this part of the report

**10. Analysis of the factors and difficulties affecting the degree of fulfilment of obligations of Bosnia and Herzegovina government under the Optional Protocol**

- Bosnia and Herzegovina government does not encounter difficulties to fulfil the obligations assumed under the Protocol, as all the obligations the Protocol instructs are regulated in national legislation

## Part II Prevention

### Articles 1, 2, 4, paragraph 2, Article 6, paragraph 2

11. **Measures taken, including of a legislative, administrative and other nature to ensure that persons who have not reached the age of 18 years are not compulsorily recruited into the armed forces and do not take a direct part in hostilities**
- On the territory of Bosnia and Herzegovina since 1992 to date, in order to ensure that members of armed forces who have not attained the age of 18 years do not take a direct part in hostilities, the following measures have been taken:
    1. The Constitution of Bosnia and Herzegovina and the constitutions of Federation of Bosnia and Herzegovina and Republika Srpska, guarantees to all citizens, and children in particular, all the rights and freedoms, as well as the equality of all the citizens, thus ensuring the application of the Convention on the Rights of the Child.
    2. The laws on defence and the laws on the military of the Federation of Bosnia and Herzegovina and Republika Srpska that were applicable until the enactment of the Defence Law and the Law on Service in Armed Forces of Bosnia and Herzegovina ensured the compliance with Article 38 of the Convention on the Rights of the Child.
    3. Bylaws (Books of Rules, Ordinances, Decisions and Guidelines) which were applied in the recruitment process were passed in accordance with the laws in force, and this has ensured the compliance with the Convention on the Rights of the Child.

#### **The meaning of “direct participation”**

“Direct participation” – definition in the legislation: a person who takes a direct part is the one that permanently or occasionally performs duties in accordance with the Defence Law and the Law on Service in Armed Forces of Bosnia and Herzegovina, with an aim of taking the fight against the enemy.

“Direct participation” – definition in practice: activity of members of regular armed forces in the fight against the enemy, through the execution of orders from the Command which is responsible for their actions, openly carrying weapons and permanent insignia while adhering to the laws on warfare.

Based on the constitutional, legal and bylaw regulations that were in force during the military conflict, there was no possibility that members of militaries be younger than 18, and accordingly the deployment or keeping them in the area of hostilities was not possible.

Also, it was not possible, given the legislation, to have a capture of members of the armed forces who have not attained 18 years.

12. **Process of compulsory recruitment (from registration up to the physical integration into the armed forces)**
- Compulsory military service in Republika Srpska was regulated under the Defence Law (“Official Gazette of Republika Srpska”, no. 21/96) which was changed and amended in 2001 (“Official Gazette of Republika Srpska”, no. 46/01), which defined compulsory military service as a general obligation for all military-able citizens, from the time they attain 18 years to 45 years of age for women and 55 years of age

of men, while the time spent in the regular armed service is reduced from 12 months to 6 months.

Amendments to the Laws on Defence (“Official Gazette of Republika Srpska”, no. 33/04) defined compulsory military service as an obligation to serve in reserve forces, general obligation for all able-bodied citizens, from the time they attain 19 years of age to 40 years of age for men. For women it is up to 35 years of age on a voluntary basis, while the regular time in military service is defined as a compulsory training that takes place in the period of 4 months and applies to all able-bodied men of the age between 19 to 27 years of life. The Law on Military (“Official Gazette of Republika Srpska”, no. 31/96) prescribes compulsory military service in more detail as an obligation that consists of a recruitment obligation, an obligation to serve time in the military and an obligation to serve in reserve forces. The recruitment obligation starts with the beginning of the calendar year during which a citizen of Republika Srpska attains 17 years of age and lasts until the person entered the military time service, or transfer into the reserve forces, if the obligation to serve military time is regulated differently, while the recruitment is carried out in a calendar year during which a compulsory military servant attains 18 years of life. The obligation to serve time in the military is prescribed in the period of 9 months with bearing arms, while the civilian time of the military time is prescribed in the period of 12 months. The recruits who have been evaluated as able or partly able for military service are sent to serve the time in the military when they attain 19 years of life (recruits enrolled at universities when they pass the end of 11th month of the calendar year in which they turned 27 years of age). The Laws on Amendments to the Law on Military (“Official Gazette of Republika Srpska”, no. 46/01) prescribed the duration of military time service to 6 months. The same amendments prescribe that a recruit who attained 18 years of life may be sent to serve the time in the military at his request.

In the Law on Amendments to the Law on Military (“Official Gazette of Republika Srpska”, no. 33/04) the word recruit shall be replaced with the words “reserve force draftee”, and military draftee with the words “reserve force draftee to train and serve”, while the words soldier serving time in military shall be replaced with “compulsory training draftee in the military of Republika Srpska or in another centres”. The amendments prescribed that the recruitment are conducted by the commissions established by the Ministry of Defence in accordance with the Defence Law of Bosnia and Herzegovina, guidelines, regulations and orders of the Ministry of Defence of Bosnia and Herzegovina and joint security and defence policy of Bosnia and Herzegovina, while the compulsory training in the Military of Republika Srpska or other centres takes 4 months in one uninterrupted period or in appropriate time breaks, in accordance with the training plan and program.

- Compulsory military service in the Federation of Bosnia and Herzegovina The Defence Law of the Federation of Bosnia and Herzegovina (“Official Gazette of the Federation of Bosnia and Herzegovina”, no. 34/04) in Article 12 prescribes the following: “The right and the duty to be trained for defence includes citizens who attained 18 years of age to the age of 60, for men, and 55 years of life for women, if they are able to attend the training.”

Article 61 prescribes that the compulsory military service consists of recruitment obligation, an obligation to serve time in the military and an obligation to serve in reserve forces of the Military of the Federation of Bosnia and Herzegovina. The recruitment obligation includes all citizens, while the obligation to serve time in military and the obligation to serve in reserve forces includes the citizens who are able for military service. People who are conscientious objectors and are not ready

to take part in military duty serve civil military time (6 months). The recruitment obligation started with the beginning of the calendar year during which the citizen attains 17 years of life and lasts until the person enters the military time service. The recruitment is carried out in the calendar year in which the recruit attains 18 years of life, while the recruit may at his personal request be recruited in the calendar year in which he attains 17 years of life. Military time service takes 4 months and the recruits who are evaluated as able or partly able are sent to military service, as a rule, in the calendar year during which they attain 19 years of life. Recruits who request to be sent to serve or finish serving the military time shall be sent within three months from the day of filing the request, if they are attaining 18 years of life in that year.

**13. Documents considered reliable which are required to verify age prior to acceptance into compulsory military service**

The documents establishing the age of a certain person in Bosnia and Herzegovina include the personal identification card, passport of Bosnia and Herzegovina and certificate from record of births. The personal identification card, passport and certificate from the record of birth or certificates on specific data or facts entered into the main record books, represent a public document in part that is related to the identity of a person, citizenship and the age. Also, for the people who are not the adults and who under the law are not obliged to possess personal identification card, the identity and the age can be established through the main book of birth records, while the citizenship is established through the certificate on citizenship of Bosnia and Herzegovina. Citizens of Bosnia and Herzegovina need not have a passport, exception being their intent to travel abroad.

- Public document (personal identification card, passport, main record books) represent a document which was issued in the prescribed form by the organ within the bounds of its competence, and which may be adjusted to electronic data processing, as well as the document which was issued in such a form by an institution with public authorities (public document), which proves facts that are established or determined on it (Article 155 paragraph 1 of the Administrative Procedure Law of Bosnia and Herzegovina).<sup>5</sup> The regulations determining the identity (the age, citizenship, etc.) in Bosnia and Herzegovina are as follows: the Law on Personal Identification Card of Citizens of Bosnia and Herzegovina, the laws on main record books applied at the level of entities and Brčko District of Bosnia and Herzegovina, the Law on Unique Personal Identification Number in Bosnia and Herzegovina, laws on citizenship (Bosnia and Herzegovina, Republika Srpska, Federation of Bosnia and Herzegovina), Law on the Place of Residence and Stay of Citizens of Bosnia and Herzegovina, Law on Passport of Bosnia and Herzegovina and the laws on personal name (the Federation of Bosnia and Herzegovina and Republika Srpska). Competences in Bosnia and Herzegovina in the sphere of civil rights are regulated in a divided or exclusive competence between the institutions of Bosnia and Herzegovina, entities and the Brčko District of Bosnia and Herzegovina. Institutions of Bosnia and Herzegovina have the exclusive jurisdiction over the personal identification card, place of residence and stay, unique personal identification number and the movement and stay of foreigners, the institutions of Bosnia and Herzegovina and the entities have divided/shared competence over the issues or regulations in the area of citizenship, while the exclusive competence of

<sup>5</sup> Administrative Procedure Law of Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina”, no. 29/02).

entities and the Brčko District of Bosnia and Herzegovina include the regulations on the main record books and personal name.

- The Law on Personal Identification Card of Citizens of Bosnia and Herzegovina, adopted at the level of Bosnia and Herzegovina, regulated the personal identification card of citizens of Bosnia and Herzegovina as an identification document and it is uniform for all citizens of Bosnia and Herzegovina and it is valid over the entire territory of Bosnia and Herzegovina. Under this law, the personal identification card is a public document that proves the identity, the facts regarding the place and the date of birth, place of residence of stay if it concerns a displaced person and the citizenship of Bosnia and Herzegovina. A citizen of Bosnia and Herzegovina older than 18 years with the place of residence in Bosnia and Herzegovina is obliged to have the personal identification card issued in the place of residence. A personal identification card may be issued to a citizen who is older than 15 years of life and younger than 18 years, who has the place of residence in Bosnia and Herzegovina, at the personal request or the request of his parents or another representative authorized under the law. If a citizen of Bosnia and Herzegovina was not previously issued with a personal identification card, he/she shall be obliged to file a request for the issuance of personal identification card within 60 days after he/she attains 18 years of life or 60 after being permanently settled in Bosnia and Herzegovina, if he/she attained 18 years of life. A responsible person in the relevant organs shall be fined, if they immediately or no later than 15 days from the day when the request was filed, fail to issue the personal identification card to the person who submitted the request, if it was established that the request submitter is entitled to personal identification card.<sup>6</sup>
- Main record books of Bosnia and Herzegovina also belong to the group of public documents into which the legally prescribed facts about birth, marriage and death are entered, as well as the notes regarding these facts. The laws of the entities and the law of the Brčko District of Bosnia and Herzegovina and bylaws regulated the running of the main record books of births, the main record books of marriages and the main record books of deaths. It is important to mention that the previously applicable laws of the Republic of Bosnia and Herzegovina, that regulated this sphere, were taken over by the Federation of Bosnia and Herzegovina, while Republika Srpska and the Brčko District of Bosnia and Herzegovina passed their laws.<sup>7</sup> The main record books of births and deaths are maintained for each inhabited place under the offices for the main record books, while the municipality ensures the running of the main record books. The birth of a child is verbally or in writing reported to main book registry officer to be entered into the main record book of births in the place where the child was born. The birth of the child is reported within 15 days from the day of birth, and if a child was born outside a health institution, such a birth is reported 24 hours after the birth of the child. The guidelines on the running of main registry books that are passed by the relevant organs of the entities and the Brčko District of Bosnia and Herzegovina, prescribe in detail the method of running and maintaining the books and records, as well as the method of issuing the certificates and excerpts based on the main record books and the procedure to renew

<sup>6</sup> Law on Personal Identification Card of Citizens of Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina”, no. 32/01).

<sup>7</sup> The Law on Main Record Books of Republika Srpska (“Official Gazette of Republika Srpska”, no. 18/99), Ordinances with the legal power on main record books (“Official Gazette of the Republic of Bosnia and Herzegovina”, no. 20/92), Law on Main Record Books of the Brčko District of Bosnia and Herzegovina (“Official Gazette of the Brčko District of Bosnia and Herzegovina”, no. 8/02).

destroyed or missing main record books. The main record books are settled and verified at the end of each year. The excerpts or certificates from the main record books on specific data are considered public documents. An excerpt from the main birth registry or a certificate on specific data or facts entered in the main record books are issued at the request of interested party. Bosnia and Herzegovina is the member of the Vienna Convention on the Issue of Multilingual Extracts from Civil Status Records from 1976, based on which the extracts from main record books are issues in several languages, in particular when they need to be used abroad. The excerpt from the main birth register contains the following data: unique personal identification number (JMBG), last and first name, sex, date, month, year and the hour of birth, place and municipality of birth, citizenship, data on parents (father and mother), including: last and first name of father and mother (for mother also her maiden name), name of father and mother, place of residence of father and mother, subsequent entries and notes, number of the issued excerpt, date and place of issuing, signature of the authorized person (registry officer) and the seal of municipality in which the excerpt from the main birth record was issued.

- Unique personal identification number (JMBG) denotes personal identification data, and it is issued by the relevant organs according to the place of residence of the citizen of Bosnia and Herzegovina, or the place of residence of displaced person in Bosnia and Herzegovina, while foreign citizens to whom the permanent stay in Bosnia and Herzegovina is approved are issued with a unique personal identification number for a foreign citizen. The establishment, allotment, registration, entering into the records and the use of the unique personal identification number of a citizen of Bosnia and Herzegovina and foreign citizens in Bosnia and Herzegovina are regulated under the Law on the Unique Personal Identification Number of Bosnia and Herzegovina<sup>8</sup>. The Unique Personal Identification Number contains of 13 numbers and contains six groups of data, including: date of birth, month of birth, year of birth, number of the registry of the unique personal identification number (registration areas), combination of gender and the ordinal number for the people born on the same day (men 000–499, women 500–599), and the control number. The relevant organ shall ex officio allocate the unique personal identification number to citizens born in Bosnia and Herzegovina, when they are registered in the main birth record books in Bosnia and Herzegovina. One person can be allotted with only one unique personal identification number, and when there is a change of the place of residence or place of stay, the person shall keep the unique personal identification number. Citizens of Bosnia and Herzegovina and foreign citizens in Bosnia and Herzegovina who were issued with the unique personal identification number, have the unique personal identification number on all the documents they possess (personal identification card, passport, employment record booklet, health booklet, bank account/card, other cards, etc).

Article 9 of the Law on the Service in the Armed Forces of Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina”, no. 88/05), established that a person fulfilling the following requirements may be admitted into the professional military service:

- (a) To be a citizen of Bosnia and Herzegovina (confirmed by the citizenship certificate);
- (b) To be of good health (proved by the health certificate);

<sup>8</sup> The Law on Unique Personal Identification Number of Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina”, broj 32/01).

(c) Was not convicted to a prison sentence longer than 6 months (provide by the certificate that a person was not convicted);

(d) Was not dismissed from duty due to violation of official duty in the last three years (certificate of the relevant organ or statement);

(e) That the person, by a final judgment, was not prohibited from performing particular activities or duties for the time duration of that prohibition (excerpt from the registry of sanctions);

(f) That criminal proceedings are not conducted against that person;

(g) To have appropriate education (soldiers – Secondary Education grade III; non-commissioned officer – Secondary Education IV grade, or Higher Education grade VI; and commissioned officers – University Education grade VII);

(h) Not to be younger than 18 years, or older than 27 at the time of admission, unless the upper age limit is neglected in accordance with the regulations passed by the Minister of Defence (which is proved in the aforementioned manner and it is regulated under the Law on Main Record Books of Republika Srpska (“Official Gazette of Republika Srpska”, no. 18/99), Order that has a legal power on Main Record Books (“Official Gazette of Republic of Bosnia and Herzegovina”, no. 20/92), the Law on Main Record Books of the Brčko District of Bosnia and Herzegovina (“Official Gazette of the Brčko District of Bosnia and Herzegovina”, no. 8/02);

(i) That the person served the time in military service or was made capable for the duty in some other manner.

**14. Legal provisions enabling the age of conscription to be lowered in exceptional circumstances (state of emergency)**

- In Bosnia and Herzegovina there are no legal provisions that would give authority to lower the age for recruitment, not even in the state of emergency

**15. Minimum age for recruitment to compulsory military service**

- The authorities of Bosnia and Herzegovina gave the following binding declaration deposited with the United Nations General Secretary, which reads “The state of Bosnia and Herzegovina shall not allow recruitment in its armed forces of any person that is younger than 18 years of age.”
- This declaration is incorporated into the Defence Law of the Federation of Bosnia and Herzegovina (“Official Gazette of the Federation of Bosnia and Herzegovina”, no. 15/96, 23/02, 18/03), the Law on Military of Republika Srpska (“Official Gazette of Republika Srpska”, no. 31/96, 96/01) and it is in accordance with the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict which Bosnia and Herzegovina ratified
- The issue of minimum age for recruitment into the compulsory military service was explained in item 12 of this Report – procedure of compulsory recruitment from the entry into the registry to the entry into the armed forces.



- 16. Voluntary recruitment – guarantees ensuring that recruitment is voluntary, medical examinations of volunteers before recruitment, documents required to verify the age of the volunteers, information made available to volunteers and to their parents or legal guardians allowing them to formulate their own opinion**
- The national legislation in Bosnia and Herzegovina, the laws in force at the level of the Federation of Bosnia and Herzegovina, Republika Srpska, as well as at the level of Bosnia and Herzegovina that regulate the issue of recruitment do not know of the institute of “voluntary recruitment”
- 17. Application of military laws or discipline to recruits under 18 and disaggregated data on the number of such recruits being tried or in detention**
- Based on the national legislation in Bosnia and Herzegovina, there is a general prohibition of child recruitment

### **Article 3, paragraph 5, of the Protocol**

- 18. Minimum age for enrolment in schools operated by or under the control of the armed forces**
- With respect to the issue of education in military schools, the answer is provided in item 7) a,b,c) – Training on human rights i.e. the provisions of the Protocol provided to all relevant professional groups. As it was stated in that part of the Report, on the territory of Bosnia and Herzegovina there were no military schools, and the people who were sent from Republika Srpska to be educated outside Bosnia and Herzegovina in military schools had to have completed a civilian secondary school (III or IV professional grade) which in principle would mean that they would have to attain 17 or 18 years of life, while from the territory of the Federation of Bosnia and Herzegovina, with the Federation of Bosnia and Herzegovina Ministry of Defence as an intermediary, a smaller number of students were sent – those who completed primary or secondary school. In principle, primary school is completed in the 14th year of life, and the secondary school in the 18th year of life.
- 19. Data on schools operated by or under the control of the armed forces of the state, data on the students attending military schools, compliant mechanism available to children attending military schools**
- With respect to the data on schools that are operated by or under the control of the armed forces of the state, the answer is provided in item 7) a,b,c) – training on human rights i.e. the provisions of the Protocol provided to all relevant professional groups. In that part of the Report it was stated that on the territory of Republika Srpska, in the period from 1992 to 2006, there were no military schools managed by the Military of Republika Srpska, also, on the territory of the Federation of Bosnia and Herzegovina in the reporting period there were no secondary military schools, or military academies managed by the Federation of Bosnia and Herzegovina Ministry of Defence, or the Military of the Federation of Bosnia and Herzegovina. Also, that part of the Report stated that still on the territory of Bosnia and Herzegovina there is no secondary military school or military academy, to educate non-commissioned and commissioned officers.

- 20. State efforts to ensure a full application of Articles 28 and 29 of the Convention on the Rights of the Child in terms of ensuring the right to education**
- The Constitution of Bosnia and Herzegovina and the national legislation in Bosnia and Herzegovina prescribes the right to mandatory and free-of-charge primary education. Taking to account that the Convention on the Rights of the Child is the integral part of the constitutional and legal order of Bosnia and Herzegovina, and that the principles of non-discrimination, the best interests of the child, the right to life, survival and development, respect of the child opinion, make the constitutional principles binding upon all those who are enforcing the laws, especially those who are working with or about children.
- 21. Particulars on the measures taken by the State Party to prevent recruitment of children by armed forces distinct from the State**
- Based on the national legislation in Bosnia and Herzegovina, there is a general prohibition of child recruitment.
  - The Defence Law of Bosnia and Herzegovina defines the armed forces as the only military force organized and controlled by Bosnia and Herzegovina, which has the active and reserve component, and as an institution of Bosnia and Herzegovina it consists of members from the ranks of all three constituent ethnic groups and from the ranks of others, in accordance with the Constitution and laws of Bosnia and Herzegovina. From the aforementioned, it can be seen that on the territory of Bosnia and Herzegovina, there are no armed groups, nor are there any groups that have found a refuge on its territory. In Article 7 and 8 of the same law, it is prescribed that Bosnia and Herzegovina ensures a transparent, democratic, civil control over the armed forces. On the basis of these provisions, it can be concluded that in Bosnia and Herzegovina there are no negotiations between the state and the armed forces.
- 22. Identification of children who are, due to their economic and social status, vulnerable to practices that contravene the Protocol**
- The principle of non-discrimination is a constitutional principle protected in Article II item 4 of the Constitution of Bosnia and Herzegovina which reads: “The enjoyment of the rights and freedoms provided the Constitutions or in the international agreements listed in Annex I to the Constitution (the Convention on the rights of the Child also makes the Annex I of the Constitution) shall be secured to all persons in Bosnia and Herzegovina without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Also, in all other constitutions in Bosnia and Herzegovina there is the same provision prohibiting discrimination and mandating equal rights regardless of whether the person is a minor or has come of age.
- 23. Information on the measures taken to prevent attacks on civilian objects protected under international humanitarian law and other international instruments, including the places that generally have a significant presence of children**
- In Bosnia and Herzegovina, in order to organize the system of protection and rescue, the entity administration of civil protection have been established and they are operatively functioning. They include the Federation of Bosnia and Herzegovina Administration of Civil Protection, Republic Administration of Civil Protection of Republika Srpska, Department for Public Safety of the Brčko District of Bosnia and Herzegovina (Civil Protection Service), and also at the level of Bosnia and Herzegovina the Sector for Civil Protection within the Ministry of Security of

Bosnia and Herzegovina. The Sector for Civil Protection within the Ministry of Security of Bosnia and Herzegovina has the competence to implement international obligations and to cooperate in the implementation of civil protection, coordinate efforts of entity civil protection services in Bosnia and Herzegovina and harmonize their plans in case of a natural or other disaster that would affect the territory of Bosnia and Herzegovina and to pass programs and plan for protection and rescue. In the area of civil protection Bosnia and Herzegovina joint the membership of international organizations and institutions in the area of protection and rescue, including:

International Civil Defence Organization – ICDO, Organization for the Prohibition of Chemical Weapons – OPCW, Stability Pact for South-Eastern Europe – DPPI, Civil Military Emergency Preparedness Council for South-Eastern Europe – CMEPC SEE, presided over by Bosnia and Herzegovina during 2007, Partnership for Peace – Euro-Atlantic Partnership Council and the Committee for Civil Protection and relevant institutions. Bilateral agreements in the area of protection and rescue were signed and the standard operative procedures on border crossings in case of a natural and other disaster with the Republic of Croatia and Montenegro, while the agreements with the Republic of Macedonia and the Republic of Serbia are in the conclusion procedure. Memorandum of Understanding and Cooperation in the area of protection and rescue was signed with the Danish Emergency Management Agency – DEMA (the Memorandum ensures a package of assistance and support for the development of the protection and rescue system in Bosnia and Herzegovina) and Italian National Agency “FORMEZ”. The Strategy of Bosnia and Herzegovina to fight terrorism 2006–2009 was also developed as well as coordination to develop the national Program of protection from chemical weapons and response to incidents and accidents involving chemicals. Also, interstate cooperating was improved with neighbouring countries and coordination of all structures in the system of protection and rescue in Bosnia and Herzegovina.

**24. Campaigns and other measures taken to promote public awareness of the principles and provisions of the Protocol**

- In the school curricula in Bosnia and Herzegovina, in both the primary and secondary schools, there is a subject titled “The basics of democracy and human rights”, providing the children of primary and secondary schools with the basic knowledge of the provisions of the Convention of the Rights of the Child and its protocols. Also, the subject Democracy and Human Rights is taught in the curricula the law and others departments in the universities in Bosnia and Herzegovina.
- The Council for Children of Bosnia and Herzegovina, active within the Ministry for Human Rights and Refugees of Bosnia and Herzegovina, has also taken a series of activities to raise public awareness on the rights of the child, such as development of publications and brochures, organization of public campaigns for public education on the rights of the child, such as for example the Action Plan for Children 2002 – 2010, Strategy to combat violence against children, Strategy to fight HIV/AIDS, Strategy against the abuse of drugs, analysis of child protection in social sector, analysis of the fulfilment of the right to education among children, campaign against child abuse in political purposes, etc.
- The network of non-governmental organizations in Bosnia and Herzegovina, who are active in the field of protection of the rights of the child, is rather developed and its contribution in the informing and educating of the public in Bosnia and Herzegovina on the rights of the child is not negligible. Also, non-governmental organizations permanently warn the authorities about certain difficulties and

obstacles that are present in the Bosnian-Herzegovinian society, and affect the rights of the child. Activities of the non-governmental sector in this sphere concern the training, counselling work, preventive work, psychological counselling, social integration, encouragement and empowerment of child participation, joint action with the centres for social work aimed at educating mentally healthy parents to strengthen the parent-child relationship, etc. In projects implemented by government and non-government sector children mostly do participate, especially in those project that concern the training in the area of the rights of the child and international humanitarian law. Non-governmental organizations most often identify problems on the ground and present them to relevant institutions of the government and local community, so that an appropriate solution is found through a joint partnership action.

- Also, in terms of the access to education and professional training of children, it is important to mention that Bosnia and Herzegovina is implementing the Human Rights Research, conducted by the International Committee of the Red Cross, together with local authorities. Development of the Human Rights Research project commenced in 1999, through the establishment of a network of 20 sites from all parts of the world to identify the interests and gather an informal international group of experts, including the representatives of the ministries of education, national societies of the Red Cross and red Crescent and specialized organizations, as well as the independent experts in the field of education. In the process of research and creation of curricula the network provided information from the angle of local education environments, through the organization of 35 focus group discussions with more than 600 young people. Qualitative data gathered in the process of consultations helped to shape certain teaching modules. Members who joined the network also reviewed or tried test materials with the groups of young people, and they provided information which are extremely valuable for the process of curricula development. The consultations to a large degree substantiated working hypothesis that rests in the foundation of the Human Rights Research module development, which is that the ethical research in humanitarian law and war experiences are perceived as relevant and purposeful learning regardless of the experience of armed conflict being of local character. Therefore, as far as the inclusion of human rights and humanitarian principles into the curricula is concerned, as well as the inclusion in other areas of relevance for the fulfilment of the rights of the child in Bosnia and Herzegovina, the International Committee of the Red Cross supports educational authorities in Bosnia and Herzegovina in the process of integrations of thematic subjects from area of international humanitarian right into curricula of secondary schools. Humanitarian Law Research is an international educational program for young people (children) between 13 and 18 years of age. The purpose of the program is to convey the basic provisions and principles of the international humanitarian law to adolescents (children), i.e. the compendium of provisions aimed at protection of life and human dignity in time of armed conflict, and reduction and prevention of suffering and destruction caused by the war. Humanitarian Law Research was devised by the International Committed of the Red Cross, in close cooperation with the Educational Development Centre and with the active participation of 20 countries from the whole world. The program offers 30 teaching hours of educational activities. As it builds upon experiences of many countries, this program has a transnational scope and cuts across different political, social, religious and cultural contexts, and thus can be simply fine-tuned to different educational environments. The materials consist of five main modules and teaching means for the lecturers and students. The modules are made so that they enhance the research in the following areas:

1. Module: nature of humanitarian work and the role of passive observers.
  2. Module: the need to regulate armed conflicts and the basic principles of humanitarian law.
  3. Module: implementation and application of international humanitarian law, the issue of responsibility.
  4. Module: the need to judge and punish those who violate provisions.
  5. Module: the need for humanitarian action and its requirements in the time of armed conflict.
- The program includes 30 hours of activities in total and it is envisaged to provide the lecturers with the teaching material that can be incorporated into curricula as a separate subject, or can be a part of several existing teaching subjects. The can be implemented as an optional activity after the regular classes, or outside school itself, for example through development programs for young people or summer camps. A broad array of historic and contemporary examples of armed conflicts from the whole world, as well as the fundamental questions of ethics that arise, are clearly related with the subjects such as the state order and civil duty, sociology, philosophy, law and literature. Interactive teaching methods and critical pedagogy of Humanitarian Law Research can contribute to strengthening of many academic and life skills such as communication, expressing disagreement with due respect, making conclusions, research, problem resolution and critical thinking.

The primary teaching goal of the Humanitarian Law Research is to help young people adopt the principles of humanity in everyday life, and the method in which the young people should assess events in their country and abroad. This can in particular raise the following:

- (a) Awareness of restrictions and different forms of protection that are applied in situations of armed conflict;
  - (b) Understanding of multiple aspects of international humanitarian law, complexity of its application, as well as humanitarian issues;
  - (c) Interest for the current international developments and humanitarian action;
  - (d) Ability to view conflict situations in country and abroad from humanitarian perspective;
  - (e) Active participation in the work in the community or other forms of engagement for the benefit of the most vulnerable members of society.
- Humanitarian Law Research is envisaged to be implemented by the ministries of education (implementing agencies) — wherever possible — in cooperation with the National Societies of the Red Cross and Red Crescent (local partners). Specialized organizations also can use the program in informal situations. Experience shows that implementation is most efficient and the best results are shown in situations where the organs of authority are in charge of education, where the authorities have assumed ownership of the program, and where the role of the International Committee of the Red Cross is limited to providing technical and academic support. Still, in all the countries the International Committee of the Red Cross acts in full cooperation with national societies and organs of the government in charge of education. The strategic goal is to have a complete acceptance of the education in humanitarian law and incorporated in compulsory education in official secondary

school curricula all over the world. Trying to achieve that goal and to facilitate this process, the International Committee of the Red Cross acts as a catalyst by providing technical and academic support to implementing agencies, with the help in training and professional education of lecturers. The basic training in Humanitarian Law Research implemented in Bosnia and Herzegovina consists of a minimum of 9 hours. Contents: (9 hours which are the minimum for the area of Humanitarian Law Research).

- I. First hour. What observers can do?
- II. Second hour. Observer's dilemma
- III. Third hour. Influence of the observer
- IV. Fourth hour. Restrictions to destruction and basic rules of international humanitarian law
- V. Fifth hour. Human rights and international humanitarian law
- VI. Sixth hour. Detection in the violations of international humanitarian law
- VII. Seventh hour. Principles of justice
- VIII. Eighth hour. Sanctioning the violations of international humanitarian law
- IX. Ninth hour. Humanitarian action – response to war consequences

- As can be seen from the above: the concept of human dignity cuts across all the topics, basic rules of international humanitarian law are taught under which the children are one of protected groups, complementarities between international humanitarian law and human rights are researched, a class dedicated to the subject child soldiers is not in the basic program, i.e. it is optional and depending on the decision of educational authorities, it may be included in the basic program.
- This Project currently implemented in Bosnia and Herzegovina and it is in the phase of integration in Republika Srpska, Zenica-Doboj Canton and Brčko District.

### **Part III**

## **Prohibition and related issues**

### **Articles 1, 2, 4, paragraphs 1 and 2**

#### **25. Information on provisions of criminal and other laws that are considered important for the implementation of the Protocol with an aim of prohibiting children taking part in armed conflicts and statute of limitations of criminal prosecution for such acts**

- The Criminal Code in Bosnia and Herzegovina (the basic law and the amended-law of Bosnia and Herzegovina) did not prescribe involvement of children in armed conflicts as a separate criminal act, however, this criminal act is indirectly sanctioned in the following manner:
  - Article 162.a of the Criminal Code of Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina”, no. 37/03) prescribed that whoever, in violation of the Defence Law of Bosnia and Herzegovina or the Law on Service in the Armed Forces of Bosnia and Herzegovina, organizes, trains, equips or mobilizes a military force in the territory of Bosnia and

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

- The Law on Service in Armed Forces of Bosnia and Herzegovina in Article 9 paragraph (1) item h) among the general terms for the admission to professional military service prescribes that a person being admitted must have at least 18 years of life. Also, Article 79 of the Defence Law of Bosnia and Herzegovina prescribes termination of military obligation on the entire territory of Bosnia and Herzegovina, starting from January 1, 2006.
- Therefore, whoever organizes, trains, equips or mobilizes people who have not attained 18 years of life, would commit a criminal offences of “illegal creation of military forces” for which the prescribed prison sentence is between 5 and 20 years.
- The statute of limitations for criminal prosecution prescribed under the Criminal Code of Bosnia and Herzegovina for a criminal offence carrying a prescribed prison sentence of more than 3 years is 10 years, and for a criminal offence carrying a prescribed prison sentence of more than 5 years, the statute of limitations is 15 years, while a criminal offence carrying a prescribed prison sentence of more than 10 years, the statute of limitations for criminal prosecution is 20 years. Criminal prosecution and enforcement of the sentence does not fall under the statute of limitations for criminal offences of genocide, crimes against humanity and war crimes, and also the other criminal offences that do not have statute of limitations under the international law.
- In the case law of Bosnia and Herzegovina there were no registered examples of reported or convicted cases for organizing, training, equipping or mobilizing people who have not attained 18 years, and we consider important to once again mention that the Defence Law of Bosnia and Herzegovina as of January 1, 2006 the military obligation is terminated on the whole territory of Bosnia and Herzegovina.

**26. Applicable legal provisions that contravene Protocol provisions and considered an obstacle to its implementation**

- The response to the question was provided in part of the report under number 10) – analysis of the factors and difficulties affecting the degree of fulfilment of obligations of Bosnia and Herzegovina government under the Optional Protocol

**27. Is Bosnia and Herzegovina a signatory to Additional Protocols I-II to Conventions from 1977, International Labour Organization Convention No. 182, concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and the Rome Statute of the International Criminal Court (1998)**

- In Annex I of the Constitution of Bosnia and Herzegovina, as agreements on human rights that are directly applied in Bosnia and Herzegovina, there is the Convention on the Prevention and Punishment of the Crime of Genocide from 1948 and Geneva Conventions I-IV on protection of war victims and Additional Protocols I-II to the Conventions from 1977. Also, among the most important international documents related to the implementation of the rights of the child that Bosnia and Herzegovina so far ratified were the following: United Nations Convention on the Rights of the Child, Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed

conflict, Convention on the Elimination of all Forms of Discrimination, Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, The Hague Convention on the Civil Aspects of International Child Abduction, Convention of the International Labour Organization No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, Convention of the International Labour Organization No. 138 on the Minimum Age for Admission to Employment, Protocol for the Prevention, Repression and Punishment of Human Trafficking, especially Women and Children, which is a supplement to the United Nations Convention Against Transnational Organized Crime, the Hague Convention on the International Recovery of Child Support. Also, Bosnia and Herzegovina signed the Rome Statute of the International Criminal Court (1998), ratified it and accepted the competence of the International Criminal Court.

**28. Information on criminal liability of legal persons, such as private military or security companies, for the acts and activities enumerated in the Protocol**

- The response to this question is presented in the part of report under item 29) – Information on provisions of criminal and other laws that are considered important for the implementation of the Protocol with an aim of prohibiting children taking part in armed conflicts and statute of limitations for criminal prosecution for such acts.

**29. Information on what national legal provisions provide for the establishment of extraterritorial jurisdiction over serious violations of international humanitarian law and whether to date the State party has exercised its jurisdiction over child recruitment as a war crime**

- Here we need to stress the significance of the Rome Statute establishing the International Criminal Court in The Hague (1988), which was on March 5, 2002, in a decision on ratification accepted by Bosnia and Herzegovina, and which took force on July 1, 2002, by acceding to international documents in the area of human rights and international humanitarian law, the authorities in Bosnia and Herzegovina accepted the obligation to take all legislative measures necessary to prescribe appropriate criminal sanctions against the people who have committed or who have issued orders to commit serious violations listed in these documents. Due to extreme importance in the application of these documents in the local legal system, the principle of legality was raised to the level of constitutional category (not the criminal code), in the manner that there is a possibility for a direct application of the rights from the Annex I of the Constitution of Bosnia and Herzegovina and Annex to the Constitution of the Federation of Bosnia and Herzegovina (Instruments for the protection of human rights that have the legal power of constitutional provisions), and in Republika Srpska and the Brčko District of Bosnia and Herzegovina and in a special prescribing of the principle of legality.
- Taking into account the fact that Bosnia and Herzegovina in the 1992–1995 period, passed through tragic conflict and that so far there have been proceedings against the accused of war crimes by the International Criminal Court and local courts, in no case that was processed the accused were children and the people accused of war crimes were not charged with having involved children in armed conflict.



**30. State laws, policies and practices that concern the extradition of persons accused of committing offences referred to in the Protocol, including the international agreements for cooperation with neighbouring States parties in terms of investigation**

- With the establishment of the International Criminal Court for Former Yugoslavia, Resolution 808 of the United Nations Security Council, the Court has been entrusted with the mandate to criminally prosecute people responsible for serious violations of international humanitarian law that have been perpetrated on the territory of former Yugoslavia from 1991. The mandate of the Court is given to relevant institutions in Bosnia and Herzegovina when the people suspected to have violated international humanitarian law are of lower and medium rank. With an aim of better conduct of investigations and processing of people suspected of such acts, the Prosecutor Office of Bosnia and Herzegovina — the Special Department for War Crimes and the International Criminal Tribunal for Former Yugoslavia in September 2005, concluded the “Memorandum of Understanding between the International Criminal Tribunal for Former Yugoslavia and the Prosecutor Office of Bosnia and Herzegovina — Special Department for War Crimes”, in which the signatories define mutual cooperation in terms of requests for assistance, access to documents, access to witness statements, contacts with witnesses and witnesses for whom there are protective measures, access to reports, court experts, etc. For the benefit for a broader regional cooperate and better conduct of investigations and processing of people suspected of having committed severe violations of international humanitarian law on the territory of former Yugoslavia since 1991, we have positive examples of international legal cooperation between the countries of former Yugoslavia. Also, in 2005, there was a trilateral agreement on sharing of information on an informal basis, circumventing a long legal procedure necessitated by the protocols of interstate cooperation. With the signing of this agreement, a functional cooperation commenced between the judiciary and the police in Croatia, Serbia and Bosnia and Herzegovina, in the area of protection and bringing of witnesses to the courts in other countries.
- We again mention that so far there have been proceedings against the accused of war crimes by the International Criminal Court and local courts and that verdicts were imposed for the severe violations of humanitarian law, while in no case that was processed the accused were children and the people accused of war crimes were not charged with having involved children in armed conflict.

## **Part IV Protection, recovery and reintegration**

### **Article 6, paragraph 3**

**31. Information on measures taken to ensure that the rights and the best interests of the child – victims are respected and provided with assistance in social integration, paying special attention to family reunification , physical and psychological recovery of children**

- When deliberating the Initial report of Bosnia and Herzegovina on the implementation of the Convention on the Rights of the Child (CRC/C/11/Add. 28) at 1030 and 1031 session (CRC/C/SR. 1030 and 1031) held on May 19, 2005, and conclusive deliberations adopted at 1052 session held on June 3, 2005, the Committee on the Rights of the Child in the part of the report related to children in armed conflict expressed concern at the information that between 1992 and August

2000 a total of 4,371 persons had been victims of landmines, including about 300 children.. Also, the Committee expressed concern at the information that there are still 1 million mines in approximately 30,000 minefields throughout the country, including around schools and in areas where children play and that, according to Red Cross sources, every month 50 children suffer from the consequences of this situation. The Committee further expressed concern at the situation of children who were victims of the armed conflict, in particular with regard to the consequences of the conflict on their physical and psychological status, the Committee recommended the authorities in Bosnia and Herzegovina to continue carrying out mine-awareness campaigns, undertake as a matter of priority demining programmes and extend the psychological and social assistance to children who have been affected by the explosion of mines and other consequences of the armed conflict.

- In Bosnia and Herzegovina from 1996 to 2006, a total of 1,576 people were victims of mine explosions. A monthly average of victims over the past 2 years was in a constant decrease and in 2004 there were 4–5 mine victims per month. In 2005, there were 19 victims in total. Over the last couple of years the most frequent victims are the adults, while the number of child victims is significantly decreasing. Most of the areas where the accidents happened were marked, and the main reason for entering the suspicious areas were of existential nature: cutting woods, livestock grazing, hunting, collecting of metals, and collection of medical herbs. The statistical information of the Mine Action Centre in Bosnia and Herzegovina (BHMACH) on mine and unexploded ordnance victims in Bosnia and Herzegovina were disaggregated by the age and other categories for the 1996–2005, and represented in tabular overview.<sup>9</sup> The data in the tables were classified, inter alia, by the number of victims by their age, including the number of children who have fallen victim to mines and unexploded ordnances in Bosnia and Herzegovina. The data at the disposal of the Mine Action Centre in Bosnia and Herzegovina (BHMACH) on the mine victims in the period 2006–2007, were not classified by the age groups, and there are a general data that in the January-December period in 2006, there were 19 mine accidents in total, in which 35 were hurt, and in the period of 2007, there were 7 mine accidents in which 7 people were hurt, of which two people died.
- The Council of Ministers of Bosnia and Herzegovina at its session on October 12, 2004, adopted a document – the Mine Action Strategy for Bosnia and Herzegovina. The Strategy represents the basic document to perform operations of humanitarian demining and other mine actions. The need to develop a comprehensive strategy for mine action in Bosnia and Herzegovina stemmed from numerous factors that affect the demining process, and the most important are as follows: the awareness among citizens of the long-term danger of mines and entrenched broad public opinion of the problem of mines, inability to recover economic and natural resources due to mine pollution, the knowledge that the training of local staff and knowledge of the situation concerning mines represents the precondition for a long-term defining of goals and recognition of the most important projects, defining of the policy that will be implemented by the state organs of Bosnia and Herzegovina, because the donor countries and donor organizations expect clear mine action policy. This strategy raised the problem of financing of activities planned under the Strategy; in such a

<sup>9</sup> Tables and statistics on the victims of mines and UXO in Bosnia and Herzegovina are segregated by seasonal variations, variations by cantons and regions. Data in the tables were collected and compiled in cooperation with the International Committee of the Red Cross and the staff and the network of volunteers of the Red Cross Society of Bosnia and Herzegovina in both entities.

manner that the economic situation and the level of future economic development of the country are such that there will be a long-term need of the international community and donor countries for the period while this Strategy is implemented. Over the past period, the state organs of Bosnia and Herzegovina assumed responsibility for mine action and they are participating more significantly in ensuring their own funds for humanitarian demining and mother mine actions. They are participating in the development of an infrastructure to manage the process of humanitarian demining, in accordance with international regulations and creation of positive legislation. The current professional, human and technical resources that exist in Bosnia and Herzegovina allow a successful implementation of the goals and plans that have been set.

- Assistance to mine victims in Bosnia and Herzegovina, among which there are children, represents a comprehensive process that includes medical, psychological, social and economic component aimed at full socio-economic reintegration of mine victims in society.
- Local and international organizations and institutions that are in Bosnia and Herzegovina involved in the process of assisting the mine victims are as follows: Ministry of Health of the Federation of Bosnia and Herzegovina, Ministry of Health and Social Protection of Republika Srpska, Ministry of Labour and Veteran Disability Protection of Republika Srpska, International Rehabilitation Centre, Ministry of Labour and Social Policy of the Federation of Bosnia and Herzegovina, UNICEF, The Red Cross Society, Red Cross of Republika Srpska, Red Cross of the Federation of Bosnia and Herzegovina, HOPE 87, Stop Mines, LSN Tuzla, MercyCorps, Scotland, ECO sports group, UDAS, ITF, ICRC, Response International, BHMACH, the Union of Civil War Victims-Canton Sarajevo, Alliance for Sports and Recreation of Disabled People of Republika Srpska Banja Luka, Multidisciplinary society to improve mental and social health Sarajevo, Association of Orthopaedic Technique in Bosnia and Herzegovina.
- These institutions and organizations are the main implementing agents of support activities to mine victims in Bosnia and Herzegovina. The institutions are directly or indirectly involved in the activities of support to mine victims and through education, medical and psychosocial rehabilitation, economic reintegration, advocacy, legislative and operative regulations, coordination and financing of activities of support to mine victims, contributions to a successful exercising of strategic and operative goals.
- Current activities, or the projects that are implemented in the field of support to mine victims and the implementing agents of these activities are as follows:
  - Organization: LSN Name of the project: providing a broad support to of LSN BH network in linking the mine victims with the existing services from the area of health, economic potentials and rights and provision of appropriate funds for their reintegration to life. Activity: Development of services on the ground through the training and encouragement of people with disabilities, linking the amputees with the services they need for the integration into society to become productive members of their families and local communities. Location: Tuzla, Dobož Istok, Dobož, Banja Luka, Bugojno, Mostar, Trebinje, Bihać, Velika Kladuša, Sarajevo, Goražde and Bijeljina.
  - Organization: UDAS Name of the project: Shooting club "UDAS" Activity: Sports development for mine victims Goal of the project: Social integration.
  - Organization: UDAS Name of the project: Arts and crafts workshop Activity: Development of various items, from aerated concrete, wood, clay, art

paintings, preparing exhibitions Goal of the project: Drawing public attention to the needs and potentials of mine victims, as well as the social integration of participants.

- Organization: UDAS Name of the project: Creative group of women with amputation Activity: Making of jewelry, glass ornaments Goal of the project: Self-support, involvement in social events.
- Organization: UDAS Name of the project: Psychological counselling for mine victims Activity: Group and individual work of a professional person with mine victims Goal of the project: Psychological support to mine victims in overcoming the trauma of stress and accepting the loss of extremities.
- Organization: ECO SPORTSKA GRUPA Name of the project: Continuation and building upon in previous project of rehabilitation and recreation of mine victims in Bosnia and Herzegovina through diving activities Activity: Training to work with the people with disability, i.e. the training of the management of ECO SPORTSKA GRUPA and standardization of training at the international and the level of Bosnia and Herzegovina. Periodic minicamps on the Rivers (Una, Vrbas, Neretva). Workshop to learn working with epoxy resin, advanced training for senior diver categories Goal of the project: To continue activities which are going to increase physical and psychological condition among mine victims with an aim of implementing future projects. With the help of activities, make mine victims feel better and improve their general condition. Mine victims to obtain new information, knowledge and skills related to possible employment or earning money for themselves or their family. To keep the attention of state authorities with an aim of continuing campaign for the protection of population in Bosnia and Herzegovina against mines, in accordance with the adopted Strategy for support to mine victims. Experiences and the knowledge gained in this project to be an encouragement to implement similar activities in the region and beyond. Mine victims who have been singled out in motivation and knowledge to be active as the people who will assist the basic training in pools and shallow waters in future projects and activities. To continue with the process of innovation of the activities in future projects in the work with disabled people – mine victims and expand it to other countries and regions. To incorporate this project into the part of the Strategy for support to mine victims.
- Organization: STOP MINES Name of the project: Sustainable professional rehabilitation for mine victims Location: Republika Srpska Activity: Giving on interest-free loans to support different economic programs.
- Organization: Mercy Corps Scotland Name of the project: Economic support to mine victim survivors (90 people) Activity: Economic support to 90 mine victim survivors in 13 municipalities in north-eastern Bosnia and Herzegovina and the Brčko District of Bosnia and Herzegovina. The Project is implemented in partnership with the Red Cross of the Federation of Bosnia and Herzegovina, Red Cross of Republika Srpska and the Red Cross of the Brčko District of Bosnia and Herzegovina. Economic assistance consists in the support to small businesses by providing necessary funds to start and implement them. Location: The Brčko District of Bosnia and Herzegovina, Municipalities: Sapna, Teočak, Čelić, Lopare, Posavina with municipalities of Šamac, Domaljevac, Orašje, Gradačac and Modriča, Doboje, Derventa Donor: Memorial Fund of Princess Diana.

## **Part V**

### **International support and cooperation**

#### **Article 7, paragraph 1**

- 32. Information on the measures to strengthen international cooperation regarding the implementation of the Protocol, including the technical cooperation and financial assistance**
- Activities of the authorities in Bosnia and Herzegovina aimed at creating commitments under this Protocol and general improvement of the situation among children in Bosnia and Herzegovina, listed in the prior parts of this report, are supported by international organizations present in Bosnia and Herzegovina such as UNICEF, Save the Children Norway, Save the Children UK, Amici dei Bambini, International Committee of the Red Cross (ICRC), United Nations High Commissioner for Refugees (UNHCR), which have been providing support and strengthening local capacities through technical cooperation and financial assistance.

## **Part VI**

### **Other legal provisions**

#### **Article 5**

- 33. Domestic laws and other legislation in force as well as provisions of international law binding on the state considered conducive of the rights of the child**
- 1. In Bosnia and Herzegovina, at all levels of the authority, there are many laws and other regulations that guarantee special protection for children, including:*
- Family Law
  - Criminal Code
  - Criminal Procedure Code
  - Law on Social Protection
  - Law on Child Protection
  - Law on Domestic Violence Protection
  - Law on Education
  - Law on Ombudsman
  - Law on Health Protection
  - Law on Public Services
  - Law on Primary School
  - Law on Protection of People with Mental Disabilities
  - Law on Youth Organization
  - Law on Gender Equality in Bosnia and Herzegovina
  - Decision on Establishment of the Council for Children of Bosnia and Herzegovina

- Framework Law on the Primary and Secondary Education in Bosnia and Herzegovina
  - Book of Rules on Education Curricula for Students with Mild Mental Disability
  - Book of Rules on Education of Children with Special Needs in Primary and Secondary Schools
  - Book of Rules and Education and Education of Children belonging to National Minorities
  - Law on Sports
  - Decision on establishing the Public Fund for Child Protection
  - Book of Rules on the Method and Procedure for the Exercising of the Rights of Employed Parent to Work Half the Time, and Increase Care of the Child with Psychophysical Problems in Development
  - Amendments to the Statute of the Brčko District of Bosnia and Herzegovina (Article 7 of the Statute) which took force on February 2, 2007
2. *International documents ratified by Bosnia and Herzegovina:*
- The Dayton Peace Agreement and Annex I of the Constitution of Bosnia and Herzegovina state the following agreements on human rights that are directly applied in Bosnia and Herzegovina, including:
    - Convention on the Prevention and Punishment of the Crime of Genocide from 1948
    - Geneva Conventions I–IV on the protection of War Victims and Additional Protocols I–II to the Conventions from 1977
    - European Convention for the Protection of Human Rights and Fundamental Freedoms and Protocols to the Convention from 1950
    - Convention Relating to the Status of Refugees from 1951 and the Protocol to the Convention from 1966,
    - Convention on the Nationality of Married Women from 1957
    - Convention on the Reduction of Statelessness from 1961
    - International Convention on the Elimination of All Forms of Racial Discrimination from 1965
    - International Covenant on Civil and Political Rights from 1966 and the Optional Protocols to the Covenant from 1966 and 1989
    - The Covenant on Economic, Social and Cultural Rights from 1966
    - Convention on the Elimination of All Forms of Discrimination Against Women 1979
    - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment from 1984
    - European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 1987
    - Convention on the Rights of the Child from 1989

- Convention on the Protection of the Rights of All Migrant Workers and Members of their Families from 1960
  - European Charter for Regional or Minority Languages from 1992 and
  - Framework Convention for the Protection of National Minorities from 1994
3. *The most significant international documents related to the implementation of the rights of the child that Bosnia and Herzegovina so far has ratified:*
- United Nations Convention on the Rights of the Child
  - Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
  - Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
  - Convention on the Elimination of All Forms of Discrimination Against Women
  - Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women
  - The Hague Convention on the Civil Aspects of International Child Abduction
  - Conventions of the International Labour Organization 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour
  - Convention of the International Labour Organization 138 on the Minimum Age for Admission to Employment
  - Protocol for the Prevention, Repression and Punishment of Human Trafficking, especially Women and Children, which is a supplement to the United Nations Convention Against Transnational Organized Crime
  - The Hague Convention on the International Recovery of Child Support

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