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Report of the Working Group on the Universal periodic Review*

Bosnia and Herzegovina

Addendum

**Views on conclusions and/or recommendations, voluntary
commitments and replies presented by the State under
review**

* The present document was not edited before being sent to the United Nations translation services.

Bosnia and Herzegovina responses to recommendations made under 19 February 2010 report of the Working Group on the Universal Periodic Review (A/HRC/14/16)

Recommendations

A. Persons with disabilities

1. 1, 2, 4 and 5 **are not accepted**
 - Convention on the Rights of Persons with Disabilities and the Optional Protocol was signed by Bosnia and Herzegovina on 29 July 2009.
2. 42 **Partially accepted**
 - BiH seeks to design activities with a view to more efficiently fulfilling commitments under the Convention and Optional Protocol.
3. 43 and 44 **Partially accepted**
 - BiH tries to establish a Council for Persons with Disabilities in BiH. Position of RS Government is that the protection of persons with disabilities is regulated in entity laws on labour, veterans, persons with disabilities and social security.¹
4. 108 **Accepted**
 - This activity is planned as the mandate of a BiH Council for Persons with Disabilities, for whose organization we are trying to work out adequate solutions in the coming period, given the different positions of entity governments.
5. 1 (Second part of recommendation 1) **Not accepted**
 - The ratification of the Optional Protocol to International Covenant on Economic, Social and Cultural Rights is under way.
6. 1 and 3 (missing persons) **Partially accepted**
 - At the initiative of family members of missing persons activities related to the initiation of procedure of accession to this Convention have been initiated.

B. Children's rights

7. 14, 22, 46, 69, 70, 109 **Accepted**
 - After expiry of four-year term, new members of the National Council of Children have not been appointed due to different attitudes of the stakeholders involved. Position of the RS Government is that the protection of children's rights is fully institutionally regulated. For several years the Council for Children have been operating in RS.

¹ BiH seeks to harmonize a legal framework to reduce discrimination in the exercise of rights by persons with disabilities. RS and FBiH adopted the Law on Vocational Rehabilitation, Training and Employment of Disabled Persons in 2004 and 2009 respectively.

- BiH educational authorities continuously carry out activities aimed at improving the environment for the development of learning in multiethnic schools.²
8. 6, 23, 38, 39, 41, 58 **Not accepted**
- BiH continuously carries out activities to curb trafficking in children, child prostitution and child pornography.
 - The criminal legislation includes penal provisions respecting these forms of abuse of children. Legal regulations that apply in Bosnia are continuously harmonized.
 - BiH has made efforts to gradually implement recommendations of the Committee for the Rights of the Child. Activities on the harmonization of laws in BiH and fundraising for better implementation of other RC international instruments and projects for improvement of the position of children have continued.³
9. 24, 40, 47 **Partially accepted**

² For two years now the Conference of Ministers of Education in BiH has been monitoring and taking steps to remove any form of discrimination and segregation in the education process in BiH. The conference is a permanent and the highest advisory body for the coordination of education sector in BiH.

Efforts to reduce discrimination and segregation in the education process are made and necessary measures are taken to eliminate identified shortcomings in order to meet CoE post-accession requirements and achieve priorities defined in the document "European Partnership for BiH". The problem of ethnic segregation in schools "two schools under one roof" is not present in the territory of RS.

Due to a lack of funds for mine clearance BiH extended the deadline to 2019 and BiH is a beneficiary of the International Trust Fund from Ljubljana (ITF), UNDP and NPA.

Since 2007 BiH has had anti-mine mini-campaigns in elementary and secondary schools in collaboration with the Centre for Mine Action in BiH, UNICEF and Red Cross, as well as other governmental and nongovernmental organizations that are accredited for the implementation of these activities. For further development of these campaigns, additional funding is needed.

Fragmentation of the education system is a direct consequence of the constitutional structure of BiH. The Department of Education of the Ministry of Civil Affairs is responsible for coordination and harmonization of educational systems at the level of BiH, including all elements listed in the recommendation in which BiH tries to find constructive solutions to ensure effective measures to prevent segregation and enhance the level of tolerance and respect for diversity.

³ In order to improve the status of women in BiH, appropriate legislation has been adopted within the activities planned in strategies and action plans, such as the BiH Gender Action Plan and strategies to prevent and combat domestic violence, and a report on Action Plan for Children for the period 2002—2010 is being prepared, while the Action Plan for the children of Bosnia and Herzegovina for the period 2011—2014; the Strategy to Combat Violence Against Children for the period 2011 to 2014 and Strategy Against Juvenile Delinquency for the period 2011—2014 are being developed. BiH continuously implements the valid strategies that are related to the protection of children: the Strategy to Combat Violence against Children, 2007—2010, the Action Plan for Children of BiH for the period 2002—2010 and the Strategy Against Juvenile Delinquency 2006—2010.

In recent years the efforts of BiH have focused on strengthening the capacity of BiH governments, communities and activists to address issues of social exclusion and its effects on children, the youth and women.

BiH authorities at all levels implement programs of institutional capacity building to establish minimum national standards regarding the rights and welfare of children, as well as mechanisms for quality assurance, monitoring and reporting according to these standards.

In BiH, there is a system of reporting of violence against children, which is regulated by relevant laws and continuously improved in practice.

- In recent years BiH has been constantly facing the issues of children begging. Strategy projects which provide shelter and food and meet health and educational needs of these children are implemented.
- The Entities operate day care centres and shelters for children, which are an integral part of the social welfare system and the Entities and Brčko District implement a joint project to prevent social exclusion of children in BiH.⁴

C. Discrimination, racial discrimination and human rights institutions

10. 8, 17, 45, 107 **Accepted**

- The Law on A Ban of All Fascist and Neo-fascist Organizations and the Use of Their Symbols has been adopted by the Council of Ministers. There are different views about the substance of this law, and additional agreeing on its final text is ahead of the BiH Parliament.⁵

11. 18, 21, 30, 31, 32 **Partially accepted**

- Apart from the Ombudsman institution BiH has established a number of bodies to combat discrimination.
- Inter-religious dialogue is continuously maintained by the Inter-religious Council in cooperation with the Ministry of Human Rights and Refugees.
- The BiH legislation in the field of education is based on the major international human rights declarations and conventions. BiH is trying to ensure the development and consistent application of the common core curriculum for all subjects in primary and general secondary schools, and the introduction of other joint teaching and curricular content and activities, as well as the removal of all potentially offensive content from the curricula and textbooks, schools and classrooms, and these are the measures that are implemented in the education system to develop confidence and tolerance among different ethnic groups.⁶

12. 110 **Not accepted**

⁴ BiH fights against poverty and it is currently working on a state-level strategic document entitled "Strategy for Social Inclusion of BiH for the period 2010—2014" which includes a large part of its objectives and measures related to social protection of children, i.e. families with children. BiH has developed a common core curriculum for all subjects in primary and general secondary education. Signing the Agreement on a Common Core all the ministers of education in BiH committed that in all schools in BiH classes will be taught on the basis of the common core. By using the common core all students will surely study at least 80 percent of the same content in each course.

⁵ The Ministry for Human Rights coordinates the process of establishing national preventive mechanisms against torture and is working on collecting data about the needs to serve as the basis for identifying the required resources. Preliminary results are expected in late May 2010. Since BiH adopted the Law on the Prohibition of Discrimination, activities for its implementation have continued on a permanent basis, such as the creation of a unified methodology for monitoring cases of discrimination. BiH is committed to continue the reforms initiated in the field of human rights.

⁶ Constitutional amending is in progress and a comprehensive law on the prohibition of discrimination was passed in 2009. Measures to reduce the number of persons without citizenship and to subsequently register members of the Roma minority in birth registers are constantly taken by authorities of BiH. BiH has passed the legislation that prohibits discrimination based on race, sex, disability or social status.

- Human rights education is present in the curricula and educational standards in all primary and secondary schools and higher education institutions in BiH.

13. 9, 10, 11, 12 and 13 **Partially accepted**

- The institution of Ombudsman has secured an independent budget sufficient for its normal operation and execution of mandate. The Ombudsman institutions have merged.

D. Special procedures

14. 25, 26, 27, 28, 29 **Not accepted**

- BiH is glad to accept any proposed visits of special procedures mandate holders, expecting the timely announcement.

E. Gender equality and sexual orientation

15. 7, 34, 48, 49, 50, 37, 55, 56, 57, 59, 103, 106 **Partially accepted**

- The definition of sexual harassment is included in the BiH Law on Gender Equality as a *lex specialis* provision. Proposals to improve provisions in the valid criminal codes of BiH, Entity and Brcko District are considered.
- In the valid laws BiH has ensured the protection against discrimination on the grounds of sexual discrimination and sexual identity.
- Within the campaign for 2010 General Election the Gender Equality Agency of BiH, in cooperation with the parliamentary committees, is planning to implement a comprehensive campaign aimed at strengthening and affirmation of women as equal holders of highest offices in the legislature and the executive.
- BiH has adopted the Strategy for Prevention and Fight against Domestic Violence in 2009—2011 and activities of the entity Gender Centres, i.e. the establishment of a unique statistical database, processes, support to victims of domestic violence and extensive media promotion, are coordinated at the level of BiH.⁷

⁷ The Laws on the Protection against Domestic Violence have been passed at the level of Entities and entity Gender Centres regularly monitor and report on the implementation of the Laws. The methodologies of collecting data on the basis of police reports and reports of centres for social work are different, so defining a methodology for uniform monitoring of domestic violence at the level of BiH is in progress.

In the territory of BiH there are nine safe houses established, which are owned by non-governmental organizations. The State has given the necessary support for opening shelters and a portion of the funds. Funds are lacking for more efficient operation of safe houses.

The Agency for Gender Equality of BiH, in cooperation with the entity Gender Centres, has started the process of implementing the Gender Action Plan of BH, having designed the five-year program for its implementation (FIGAP Program). Agreement on joint funding with SIDA, DFID, ADA was signed last year.

In recent years the Agency for Gender Equality of BiH and entity Gender Centres have made great efforts to harmonize the legislation with the Law on Gender Equality in BiH in the field of financing of political parties, civil service, media and communications. The harmonization of laws at the entity level is also significant, where there has been a harmonization of labour laws, education, social welfare, and also entity laws on the protection against domestic violence have been amended.

The development of the Strategy on Sexual and Reproductive Health is in progress. With the help of

16. 35, 36, 51 **Not accepted**

- Gynaecological services at the primary, secondary and tertiary levels of health care during pregnancy, childbirth and after childbirth and other health services are available to meet needs of women.
- BiH adopted a Gender Action Plan for BiH for the period 2006—2011 and a program for its implementation, under which donor funding has been provided by SIDA, Austria, Switzerland, Great Britain and from the budgets of BiH and Entities.
- BiH has passed the appropriate legislation prohibiting discrimination against any person on the basis of her/his sexual orientation or gender.

F. Abolition of death penalty

17. 52, 53 and 54 **Accepted**

- In March 2009 the RS National Assembly passed the Amendments to the Constitution of the Republika Srpska, which, *inter alia*, provide for the removal of death penalty. The Amendments have been sent to the RS House of Peoples for adoption.

G. Human Trafficking

18. 60, 61, 62, 63, 64, 65 and 66 **Not accepted**

- BiH is efficiently implementing the third National Action Plan to combat human trafficking and illegal migrations for the period 2009—2012. The BiH program is a long-term program that developed from the 2002 initial one into a sustainable program.

19. 71 **Partially accepted**

- BiH is committed to revise and harmonize its laws so that it has recently amended the Criminal Code of BiH, i.e. articles that govern human trafficking, so that they are made consistent with the international definition of trafficking. BiH continuously organizes training of the police to act in cases of domestic violence.

H. Judiciary and corruption

20. 19, 74, 76, 81, 79 **Not accepted**

- The Entity Judicial and Prosecutorial Training Centres and the Judicial Commission of Brcko District have the capacity and regularly organize training / seminars on the implementation of international standards.
- An expanded internal structure has been approved - the number of judicial positions has been increased and the number of prosecutorial positions is expected to be increased with a view to building capacity of the judicial system for more effective

UNFPA, activities have been initiated to raise awareness of the youth about the importance of reproductive health, which are conducted through the Youth Friendly Centre.

proceeding, while activities to reduce the backlog of cases and improvement of court administrations and prosecutor's offices have been carried on.⁸

21. 20, 77, 82, 83, 84 **Partially accepted**

- So far, the situation and needs in this area have been assessed. In 2010, in cooperation with UNDP "Support for War Crimes Prosecution in BiH" project, the implementation of two pilot projects of support to witnesses / victims in 2 courts have been planned. Within the IPA, the HJPC plans to provide the appropriate physical conditions and audio and video equipment for the protection of witnesses in war crimes cases in a minimum of 10 courts in BiH.
- Witness protection is regulated by the Law on Protection of Witnesses under Threat and Vulnerable Witnesses and the Law on Witness Protection Program, and the protection of witnesses in criminal proceedings before the Court of BiH is provided for, but currently it is working only at the state level.
- The implementation of War Crimes Prosecution Strategy is monitored by a Supervisory Body set up in 2009 that meets on a regular basis. A system of regular reporting by the bodies that carry out the strategic measures has been established. The number of cases and persons who have committed war crimes and structure of these cases have been identified.
- The development of Transitional Justice Strategy is under way.⁹

I. The victims of war rapes, humanitarian law

22. 75, 78 **Accepted**

⁸ BiH Constitution and laws ensure the principle of the use of language and alphabet, guarantee to parties to and other participants in the proceedings who do not know the language of the proceedings to follow the proceedings through an interpreter (translator) and this rule is rarely violated in practice. Judges and prosecutors in BiH are appointed by and subject to disciplinary proceedings before an independent authority (BiH HJPC).

However, the funding system of justice is still problematic, given the courts / prosecution are financed from the budget at different levels of government, which generally affects efficiency of the judiciary. All citizens including religious minorities enjoy the same form of protection by the administrative and judicial systems.

⁹ BiH has noted the problem of lack of support to and protection of witnesses, especially victim witnesses in war crimes cases in the courts and prosecutors' offices across the country. BiH has designed a network of support to witnesses throughout BiH and the Ministry of Justice is involved in implementing these activities.

The 2008 – 2012 Justice Reform Strategy for BiH and Action Plan for the implementation of the Strategy include a plan to adopt medium-term plans for training for judges and prosecutors, but also that it is necessary to upgrade and improve them. To ensure high standards in law enforcement, the Entity Judicial and Prosecutorial Training Centres, in cooperation with the High Judicial and Prosecutorial Council of BiH, develop curricula for on-going training of judges and prosecutors. Coordination (December 2009) and the Anti-Corruption Strategy (2009—2014) and the Agency, which reports to the Parliamentary Assembly of BiH, is being established.

Since April 2007 the RS has been implementing its own anti-corruption project and, within the Anti-Corruption Strategy, which was adopted by the RS Government, the Action Plan for implementation of the Strategy and the "Methodology for the construction of the integrity of the RS institutions in combating corruption" project, which opened a special telephone number to report cases of corruption and lodge complaints against the police and employees of the RS Ministry of the Interior, are being implemented.

- For several years now the BiH Ministry of Human Rights of has been conducting targeted courses of training, while comprehensive courses of training have been conducted by the Civil Service Agency and the Judicial and Prosecutorial Training Centres in cooperation with universities and economic communities. This activity will be further elaborated in the Human Rights Strategy for BiH.
- There is no standardized capacity at the BiH level for training of prison officers. The courses of training are organized by the Entity Ministries of Justice that do not have adequate capacities yet
- BiH has passed the Law on Agency for the Anti-Corruption Prevention and. There is a lack of funds for the modernization of prisons.

23. 67, 68, 72 **Accepted**

- The issue of assistance to women civilian victims of war has been included in the process of developing an Action Plan for implementation of UNSCR 1325 in BiH. Programs are made in cooperation with governmental, NGOs and international institutions and organizations in order to achieve objective no. 6 "**Enhanced Support and Help Network to Women and Girls Who Were Victims during the War**", providing for the implementation of activities that will help better and more effective support to women civilian victims of war.
- Only the Court of BiH has established a Unit for Support to Victims and Witnesses Before, During and After the Testimony, which includes support to women victims of sexual abuse during the war in BiH, but it is envisaged to establish a network of support in the proceedings before the district/cantonal courts and prosecutor's offices, too.

24. 73 **Partially accepted**

- For a number of years the Entities and Brcko District has been making a mental health reform, just with a view to providing adequate psychological assistance to all citizens by the public health system. In this regard, they established centres for mental health in the community and physical rehabilitation centres in the community. Where these services are not available, the services are provided by health centres and hospitals.

J. Freedom of speech

25. 15, 16 **Accepted**

- The valid legislation governing responsibilities of the CRA are in accordance with best European practice. In recent years the Agency has contributed to a significant reduction of the number of cases of hate speech and dissemination of religious and ethnic intolerance in the electronic media.
- The director of the CRA has not been appointed yet.

26. 33, 85 **Not accepted**

- The Agency complies with the competencies defined by the Law on Communications, as well as rules and regulations of the Agency with regard to determination of potential violations of the rules and regulations related to broadcast content, including provisions on hate speech that are explicitly contained in the Code of RTV program broadcasting that is mandatory for all broadcasters.

- The Agency, in accordance with its mandate, applying the valid regulations and rules, ensures all kinds of freedom of expression in electronic media. Equal access to all media is ensured to religious communities.

27. 86, 87 **Partially accepted**

- Freedom of expression as the most important feature of the development of democracy in BiH is promoted through the work of journalists' associations and other organizations of civil society. These activities will continue in the future.
- Authorities in BiH and the competent agency advocate for the right to freedom of expression, which implies that the media and journalists can carry out researches and publish information and inform the public. The Agency has regular practice to publicly condemn any attempt to exert pressure and threats on journalists in performing their professional activities.

K. Attacks on human rights defenders and the media

28. 8 **Not accepted**

- In the reporting period the RS police have not recorded any cases of violence against human rights defenders. We think that the recommendation addressed to the RS Government is a mistake. In the cases so far recorded involving offences against journalists all the steps foreseen by the RS have been taken.

29. 89, 90, 91, 92, 93, 94, 95, 96, 97 **Partially accepted**

- The public and institutions denounce attacks against human rights defenders and generally support insurance of freedom of speech and expression. The fact that these data is transparently and publicly collected by journalists' associations and that all cases and in particular the reaction of the competent police and judicial authorities regarding the investigations when they identify cases of violence, threats and intimidation are continuously monitored, speaks volumes.

L. The Constitution and Election Law

30. 98, 99 and 100, 101, 102 **Accepted**

- Harmonization of BiH Constitution with the European Convention on Human Rights is an undeniable obligation of BiH, whose fulfilment depends largely on the political agreement that will continue after the general election later this year.

M. The rights of national minorities

31. 111 and 115 **Not accepted**

- After the inclusion in the Decade of Roma and adoption of the Action Plan to address the issue of Roma in the areas of housing, employment, health care and education, and appropriation of funds within the State budget, BiH initiated the necessary actions to prevent discrimination against the Roma by involving local communities.¹⁰

¹⁰ BiH has not conducted the census of Roma requiring any violation of their rights, including enforcement of national identification, but the program has been conducted as a social program.

32. 112 **Accepted**

- There is a plan to strengthen the capacity of the Roma Council within the Council of Ministers of BiH and have more active involvement in the implementation of the Action Plan for Roma in BiH.

33. 113, 114, 116 **Partially accepted**

- Through an institutional and legal framework BiH allows national minorities, especially Roma, to initiate and implement their own initiatives within the legal framework and in accordance with the capabilities of individual communities, so in practice there have not been major problems in the implementation of laws relating to the protection of minority rights.¹¹

N. Displaced Persons and Refugees34. 117, 118, 119, 120, 121 and 122 **Partially accepted**

- BH continuously works on the return of displaced persons and refugees. The adoption of the revised strategy for the implementation of Annex 7 of the Dayton Agreement is under way.

O. Employment-poverty of vulnerable groups35. 104, 105, 123, 124 **Accepted**

- In order to successfully fight against the crisis and poverty the 2010—2014 Social Inclusion Strategy of BiH is being designed to reduce vulnerability of BiH groups that are most in need with a view to ensuring a strategic approach to planning and funding of programs aimed at adequate allocation of human and financial resources for the vulnerable categories of society.¹²

36. 125 **Partially accepted**

- In the last few years BiH has improved the process of collecting data from different sources. The cooperation between the competent institutions has been made formal, training of officials who participate in this process has started and cooperation with civil society and academic institutions that implement various projects and researches in the field of human rights has been improved.

¹¹ In recent years BiH, in cooperation with UNHCR and UNICEF and the Centres for Social Work, has continued eradication of the phenomenon of avoidance of registration of Roma children at birth. BiH has prepared an Action Plan on Educational Needs of Roma and other ethnic minorities with a view to voluntarily including Roma children into the regular education system in the Entities, while there is a notable increase in the number of Roma children in primary schools.

¹² BiH is committed to strengthen cooperation with the international community and organizations to further build capacities in key areas of the fight against poverty, rule of law, promotion of primary education and gender equality and it achieves continuous successful cooperation with international institutions and organizations such as the EU, CoE, UNICEF, World Bank, OSCE, and the like. BiH has committed to continue the process of further democratization of BiH particularly in terms of continuing the process of accession to European Union.