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## **REVISED EUROPEAN SOCIAL CHARTER**

1<sup>st</sup> National Report on the implementation of  
the Revised European Social Charter

submitted by

**THE GOVERNMENT OF BOSNIA AND  
HERZEGOVINA**

(Articles 7, 8, 16 and 17  
for the period 01/01/2008 – 31/12/2009)

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**CYCLE 2011**



**BOSNIA AND HERZEGOVINA**  
**MINISTRY OF HUMAN RIGHTS AND REFUGEES**

**THE FIRST REPORT OF BOSNIA AND HERZEGOVINA ON  
IMPLEMENTATION OF THE EUROPEAN SOCIAL CHARTER  
/REVISED/**

**ARTICLES 7, 8, 16 AND 17.  
(GROUP IV: CHILDREN, FAMILIES, MIGRANTS)**

**REFERENCE PERIOD:  
1. JANUARY 2005. - 31. DECEMBER 2009.**

**S A R A J E V O, October 2010.**

## CONTENTS

<b>Introduction .....</b>	<b>3</b>
<b>Article 7 – The right of children and young persons to protection</b>	<b>5</b>
Article 7§1 .....	7
Article 7§2 .....	9
Article 7§3 .....	10
Article 7§4 .....	19
Article 7§5 .....	20
Article 7§6 .....	23
Article 7§7 .....	24
Article 7§8 .....	25
Article 7§9 .....	26
Article 7§10.....	27
<b>Article 8 – The right of employed women to protect of maternity..</b>	<b>43</b>
Article 8§1 .....	43
Article 8§2 .....	52
Article 8§3 .....	55
Article 8§4 .....	56
Article 8§5 .....	
<b>Article 16 – The right of the family to social, legal and economic protection .....</b>	<b>59</b>
<b>Article 17 – The right of children and young persons to social, legal and economic protection .....</b>	<b>109</b>
Article 17§1 .....	110
Article 17§2 .....	146
<b>General legislative framework .....</b>	<b>161</b>

## **INTRODUCTION**

Bosnia and Herzegovina ratified the European Social Charter /revised/ on 7 October 2008, and delivers its first Report on implementation of agreed provisions of the European Social Charter /revised/ in accordance with the Article 21.

This Report includes provisions of the European Social Charter /revised/ belonging to the fourth thematic group /children, families, migrants/, specifically related to the Articles 7, 8, 16 and 17, Bosnia and Herzegovina accepted by ratifying the Charter, for the reference period 2005 – 2009.

The Report was prepared within the new reporting system, accepted by the Council of Europe's Council of Ministers, entering into force on 31. October 2007, in the Report Form submitted on implementation of agreed provisions of the European Social Charter (revised),<sup>1</sup> for all relevant information on adopted measures for the purpose of its implementation, even more so for:

- 1) the legal framework – any laws or regulations, collective agreements or other provisions that contribute to such application;
- 2) measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework;
- 3) pertinent figures, statistics or any other relevant information enabling an evaluation of the extent to which these provisions are applied.

All instructions derived from the interpretation of the articles from the Charter of the European Committee for Social Right summed up as the Summary of the judicial practice (Case Law) to have subject of the provision throughout clear.

The Report is accompanied with the annex consisting of the main laws and regulations forming a foundation for implementation of the agreed provisions of the Charter, in the electronic version and in the language of the original.

In its responses, Bosnia and Herzegovina, whenever appropriate, was explicit in:

- a.) whether they are only concerned with the situation of nationals or whether they apply equally to the nationals of the other Parties;
- b.) whether are valid for the national territory in its entirety;
- c.) whether they are apply to all categories of persons included in the scope of the provision.

The required information, statistical data, is presented for the reporting period (2005 – 2009).

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<sup>1</sup> Adopted at the meeting of the Commeetee of the Ministers of the Council of Europe on 26 March 2008.

The first report of the Party country since its coming into force contains detailed information on all relevant aspects of the provision, while for the each following report, the information on the legislation framework will be updated.

Each report will contain appropriate explanations and/or information relating to developments of the situation in practice during the reference period. In addition, it is recalled that each report, except the first report, will contain replies to any questions raised by the European Committee of Social Rights in its conclusions, whether questions of a general nature addressed to all States (such questions appear in the "general introduction") or specific questions contained in the conclusions proper in respect of each State for each provision.

In accordance with Article 23 of the European Social Charter /revised/, copies of this Report have been communicated to relevant employers' organizations and trade unions:

- The Confederation of Independent Trade Unions of Bosnia and Herzegovina,
- The Confederation of Trade Unions of the Republika Srpska,
- The Trade Union of Brčko District of Bosnia and Herzegovina,
  
- The Association of Employers of Bosnia and Herzegovina,
- The Association of Employers of Federation of Bosnia and Herzegovina,
- The Association of Employers of the Republika Srpska,
- The Association of Employers of Brčko District of Bosnia and Herzegovina.

## **Article 7: The right of children and young persons to protection**

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

- 1 To provide that the minimum age of admission to employment shall be 15 years, subject to exception for children employed in prescribed light work without harm to their health, morals or education;
- 2 To provide that a minimum age of admission to employment shall be 18 years with respect to prescribed occupations regarded as dangerous or unhealthy;
- 3 To provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;
- 4 To provide that the working hours of persons under 18 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;
- 5 To recognize the right of young workers and apprentices to a fair wage or other appropriate allowances;
- 6 To provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming the part of the working day
- 7 To provide that the employed persons of under 18 years of age shall be entitled to a minimum of four weeks annual holiday with pay;
- 8 To provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;
- 9 To provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;
- 10 To ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

## **GENERAL LEGISLATIVE FRAMEWORK:**

### **1. Constitutions:**

- **The Constitution of Bosnia and Herzegovina** is set forth by Annex IV of the General Framework Peace Agreement for Bosnia and Herzegovina, signed in Dayton, in 1995 (hereinafter referred to as: the Dayton Agreement) .

Pursuant to the Article I, paragraph 2 and 3 of the Constitution of Bosnia and Herzegovina, (hereinafter referred to as: BiH), BiH is complex democratic country consisting of two entities: the Federation of Bosnia and Herzegovina (hereinafter referred to as: the FBiH) and the Republika Srpska (hereinafter referred to as: the

RS) and Brčko District of Bosnia and Herzegovina (hereinafter referred to as: the BD) as autonomous administrative unit founded by the International Arbitral Tribunal in 2000.

The whole country consists of 14 administrative and governing units, with five levels of administration.

The FBiH consists of 10 Cantons. Cantons consist of municipalities. There are 79 municipalities in the FBiH.

The RS consists of 62 municipalities.

The Article II of the BiH Constitution titled Human Rights and Fundamental Freedoms, in paragraph 2. titled "International standards" stipulates that rights and freedoms guaranteed by the European Conventions on Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in BiH. These documents have a priority over all other law.

Pursuant to the Article III, paragraph 3 of the BiH Constitution, entities /FBiH and RS/ and BD are responsible to further regulate areas of work and employment as fundamental part of social policies.

- **The Constitution of the FBiH** in the title II – Human Rights and Fundamental Freedoms, in the Article 1. Prescribes that principles, rights and freedoms as stated in the Article II of the BiH Constitution are to be applied throughout the territory of BiH and that FBiH will ensure the application of the highest level of internationally recognized rights and freedoms for all persons living within the territory of FBiH. Right to work is among the listed rights (Article II, paragraph 2. I).

The Constitution of the FBiH foresees that „international treaties and agreements in force in BiH and FBiH, as well as general provisions of international law, shall form a part of the law of the FBiH, and in case of any incompatibility, international treaty, or agreement shall prevail.

Pursuant to the provisions of the Article III., paragraph 2. e) Federation and Cantons are responsible for social policies, i.e. Federation authorities shall have right to create policies and make laws.

- **The Constitution of the RS** in the Title II, titled same as in the Constitution of the FBiH Human Rights and Fundamental Freedoms, in its articles 10 – 49 regulates the human rights and fundamental freedoms. Articles 30 – 40 regulate right to work, freedom to work, right to limited working hours, holidays and leave in accordance with the law and collective agreement, protection at work, while children, women and persons with disabilities enjoy special protection.

- The BD BiH Statute in the Title I, Article 13 stipulates that the rights and freedoms shall be guaranteed by the Constitution of BiH, laws in BiH, the European Convention on Human Rights, the Statute and laws in BD, for all without discrimination.

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

“With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake to provide that the minimum age of admission to employment shall be 15 years, subject to exception for children employed in prescribed light work without harm to their health, morals or education;”

**Question 1. Describe general legislative framework. Give a precise nature, reasons and scope of reforms , if any.**

**Answer:**

Pursuant to the provisions of the Article III, paragraph 3 of the BiH Constitution, entities /FBiH and RS/ and BD are responsible for autonomous regulation of the work and employment as the integral part of the social policies.

Labor laws in BiH /FBiH, RS and BD/, as well as general regulations on labor, regulate the issues of labor and employment of children. The above-mentioned labor laws regulate the right of children to work and set the conditions that employment contracts cannot be signed with the person that is younger than 15 years of age.

The Article 15, of the Labor Law in FBiH (“The FBiH Official Gazette”, No. 43/99, 32/00 and 29/03), Article 14 of the RS Labor Law (Consolidated text)(“The RS Official Gazette” 55/07) and Article 17 of the Labor Law in BD (“The BD Official Gazette” No. 7/00,8/03, 33/04 and 29/05), prescribe that the contract can be signed by person of 15 years of age and is healthy as determined by relevant medical institution.

Above-mentioned laws do not stipulate on exceptions and do not allow the possibility to have an employment contract signed by person younger than 15 years of age. It is also prescribed that minor cannot sign employment contract that would harm their health, morals or development.

Persons between 15 and 18 years of age can work under the condition that licensed doctor or competent medical institution certifies the capability to work considering health of the minor.

Above-mentioned labor laws prohibit the harmful work of children and prescribe that underage person cannot work in the occupations that are regarded as dangerous and difficult.

In cases when labor inspection, during its inspection supervisions, determines that the employer breached above-mentioned articles regarding employment of underage persons, it shall render the measure of closing the business until the procedure on offence is completed.



Labor laws of the entities and BD, as well as lower level legislation, do not define "light work" or easy occupations, as stipulated in the paragraph 1 of the Article 7, of the European Social Charter /revised/

**Question 2 State the measures taken (administrative) arrangements, programs, action plans, project, etc) for the implementation of the legislative framework**

**Answer:**

Labor laws in BiH /FBiH, RS and BD/ regulate the labor issues and employment of children. These laws determine the right of children to work, and set the conditions for employment contracts that cannot be signed with the person less than 15 years of age. For the purpose of the implementation of above mentioned laws and actions contrary to the stated regulations the penalties have been prescribed.

To ensure respect of this and other legal provisions relating to prohibition of overtime work of minors, prohibition of night work, right to annual holidays, and similar, the penalties are prescribed by the Article 140 of the FBiH Labor Law, Article 180 of the RS Labor Law and Article 111 of the BD Labor Law.

All three labor laws prescribe if the offence includes the minor the penalties are doubled.

From the above mentioned provisions of the labor laws in the both entities and in BD, it can be concluded that the employment contract signed with the child younger than 15 years of age is void and no legal obligations can derive from it. Two general conditions have to be fulfilled to sign an employment contract, which include age (15), and general health condition, in accordance with ILO Convention No. 138 on minimum age requirements to initiate employment, ratified by BiH.

Supervision over implementation and application of the entity labor laws is done by the Federation and Cantonal Labor Inspection, the RS Directorate for Inspection Affairs – Labor Inspection in the RS, and BD Labor Inspector.

Employee, trade union and employer can request the inspection supervision from the Labor Inspector.

When it comes to employment of the foreigners special conditions apply, moreover those that relate to the assessment of the needs for certain qualifications. In the Laws on Employment of Foreign Citizens in FBiH, RS and BD the employment of children is not mentioned with a conclusion that international sources are applied and that same provisions that apply for children, citizens of BiH, apply to foreign citizens' children as well.

**3) Provide relevant figures, statistical data and other relevant information.**

**Answer:**

There are no statistical data when it comes to the employment of the underage persons. Each year, the Agency for Statistics in BiH conducts the survey on work force with the goal to collect information on the workforce market and it has been conducted annually since 2006.

The data on minimal age of entry into employment, right of young workers and apprentices, right to annual holiday for persons under age of 18, as well as night work and special protection from physical and moral danger children and young persons may be exposed, cannot be collected by the Workforce Survey.

**Article 7, paragraph 2**

“With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake to provide that a minimum age of admission to employment shall be 18 years with respect to prescribed occupations regarded as dangerous or unhealthy;”

**Question 1. Describe general legislative framework. Give a precise nature, reasons and scope of reforms , if any.**

**Answer:**

In terms of Labor Law in BiH, underage person is person between 15 and 18 years of age and can sign the employment contract, under conditioned that licensed doctor or competent health institution issue the certificate stating that the person is in the condition to work as required by the position.

Articles 51 and 75 of the FBiH Labor Law, Article 14, paragraph 3 and Article 75 of the RS Labor Law and Article 41, paragraph 1 of the BD Labor Law determine that the minor cannot work on the extremely difficult physical works, underground or under water, nor at the position that might pose risk to his/her life and health, development and morals, taking into account his/her psycho-physical capacities.

These labor laws authorize the inspector to ban the minors to work at positions that are determined as extremely difficult and which might be detrimental or with increased risk for life and health, development and morals of the minor. Additionally, the ban refers to positions with an increased risk of injuries or detrimental effect on health.

Supervision over implementation of the minors’ work provisions falls under competencies of the cantonal and Federation Labor Inspection and Occupational

Safety, as well as the implementation of the provisions regulating relations between employers and employees.

**Question 2. State the measures taken (administrative) arrangements, programs, action plans, project, etc) for the implementation of the legislative framework**

Regulation determining the types of occupations underage persons cannot work in, has not been adopted in FBiH; however, some provisions regarding special work conditions of the Occupational Safety Law apply.

**Question 3. Provide relevant figures, statistical data and other relevant information**

**Article 7, paragraph 3**

“With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;”

**Question 1. Describe general legislative framework. Give a precise nature, reasons and scope of reforms , if any.**

**Answer:**

According to the Article II, paragraph 3 point L of the BiH Constitution, all persons within the territory of BiH, enjoy all human rights and freedoms including the right to education.

According to the provisions of the Article III, paragraph 3 of the BiH Constitution, entities /FBiH and RS/ and BD have competencies to regulate, among other, the area of education, as an integral part of the social policies.

Pursuant to the Article 16 of the Framework Law on Primary and Secondary Education in BiH (“The BiH Official Gazette” 18/03) primary education is mandatory, free of charge and provided to all children. Mandatory education starts in the calendar year when a child is 6 years of age on 1 April and it lasts over the period, which cannot last less than eight years.

Relevant education authorities and schools in BiH were mandated to create all conditions to initiate 9-year primary education latest until the June 2004. Child, as defined by this law, is every person until the 18 years of age.

Article 2 defines the purpose of education as to optimal intellectual, physical, moral and social development of the individual in accordance with his/her capacities and

possibilities to contribute to the creation of the society based on rule of law and respect of the human rights, and contribute to the economic development of the society ensuring the best standard for all citizens.

Article 17 of the above mentioned law prescribes that secondary education is accessible to all, in accordance to the success in the primary education, personal interests and capacities. Secondary education in public institutions is free in accordance with the law.

Article 18 prescribes that during mandatory education relevant authorities should do all in their powers to create conditions for free access and participation in education, especially having in mind ensuring students have access to free textbooks, workbooks and other didactical materials.

Pursuant to the Article 22 of the Framework Law, parents, guardians and adopting parents are the primary guardians of their children, while the Article 23 prescribes that parents have the right and obligation to take care of their children's education, and that they have a right to choose between private or public school for their children (Article 26).

The Framework Law on Secondary Vocational Education and Training in BiH, prescribes that secondary vocational education and training is the integral part of the education system in BiH, and that secondary schools are organized as secondary technical and vocational schools, art schools and other schools that fulfill conditions to deliver education (paragraph 1, a; paragraph 2, b)

Classification of vocations for Secondary Vocational Education and Training, duration of education, form of education and type of the school is harmonized with European practice and European Qualification Framework by the Agency for Pre-Primary, Primary and Secondary Education (hereinafter referred to as: the Education Agency).

Article 4, paragraph 2 of the above mentioned law regulates training and work done in the school workshops for the practical training, as well as in the working areas of legal entities based on an agreement or a memorandum on co-operation.

Article 6 defines the length of education and prescribes that secondary technical vocational school, art school and special purpose schools generally implement 4-year educational plan and program, which enables a qualification to continue education at the higher education institutions. The 3-year secondary vocational schools implement the educational plan program and in line with the market demands competent education authorities may decide on education to last less than three years permitting that the tasks are less complicated and simpler.

Pursuant to the Article 10 of the above mentioned law, the standards and the quality of education are monitored by the Education Agency and the competent education authority.

The competent education authorities in the entities and cantons in the FBiH are the Ministries of Education, while in the BD the education is responsibility of the Department of Education. In this capacity they are responsible for enactment of all education laws, bylaws and curricula.

According to the education laws, primary education is the only mandatory level of education for all children, and as a rule it is finished at the age 15, which is at the same time minimal age requirement to sign an employment contract.

Secondary education is accessible to all and it is not mandatory. Secondary education includes different types and forms of education by which upon completion of the primary education individuals acquire knowledge and skills necessary for employment and further education.

Mandatory forms of education, among others, include practical – classes and training, practice and practical work determined by curricula.

The FBiH Constitution (Article 111.4.b) determines that all powers in education are exclusively vested to 10 cantons.

The Framework Law on Primary and Secondary Education ("The BiH Official Gazette" No. 18/03) is applied at the territory of all 10 cantons.

The beginning and the end of the school year is not regulated by the Framework Law on Primary and Secondary Education. This is a matter regulated by the cantonal laws in the following manner:

A school year shall start on 01 September and end on 31 August the following year, and is organized in two semesters. It is usual that the school year starts on the first Monday in September.

During the school year students have a right to winter and summer holiday.

The beginning and the end of semester, as well as holiday for every school year is determined by the minister, at least 30 days prior to the beginning of the school year.

Winter holiday for students shall be used for the period of three weeks after the first semester, and summer holiday shall last from the end of the second semester until the beginning of the next school year. Classes are organized in semesters and last for 37 working weeks, having in mind that teaching is organized within the 35 working weeks. Secondary school organizes classes in 5-day working week. The class lasts for 45 minutes. The practical work class lasts for 60 minutes, if conducted outside of school. The maximum number of classes per week cannot exceed 35.

Curricula for technical and vocational schools can determine the obligation of the vacation practical training of students, program and duration of that training. Detailed conditions of apprenticeship and vacation practical training of student are regulated by the contract between this school and the provider of the training.

The ratios of general and vocational content of the practical work are determined by curricula prescribed by the cantonal ministries of education. In the secondary vocational school, besides the general content, vocation specific content amounts to the 60 to 70% depending on the vocation in question.

Curricula are in place in secondary vocational schools awarding the qualifications of skilled worker (SW) for which education lasts for three years, and in exceptional circumstances for four years.

Curricula in secondary vocational schools, for skilled worker (3-year) attempts to balance between general content of the basic technical and vocational knowledge and specialization for a specific vocation.

In the curricular structure, joint general subjects are conducted by the common curricula for all vocational schools and make up 30% of curricular content. They are based on general education program (gymnasia) from the same grade level, but are partially adapted to the goal and specifics of the secondary vocational school. Each vocational school offers electives belonging to the science or groups of sciences, which form the foundation of the work in the vocation and occupation. The content of the electives is in the functional relationship with programmatic content of the vocational subject. In the structure of curricula this makes from 9 to 10% of the content.

Vocational (technical) subjects are comprised of theoretical and practical content. The ratio of theory and practice in each grade is adapted to the educational needs of specific vocation. Theoretical content in the total number of classes is between 17 and 39%, while practice ranges from 22 to 40% depending on the needs of a particular vocation. In the curricular structure the vocational content portion is 61%

A larger significance is given to the practical training of students, which is evident in the increased number of hours, and more so by demanding a new approach in programming the content of practice, as well as its application.

Curricula for vocational education that last for three years is intended for education of skilled workers in an occupation:

- Areas of work „B“ referring to 3-year programs in a industry
- Areas of work „C“ referring the 3-year programs in crafts.

In the curricular structure, for each area of work under „B“ and „C“, the structure of general and vocation specific subjects is purposely defined and divided to general part consisting of general education and vocation specific subjects and special vocational part specific to a single vocation.

Technical and alike schools present a special type of secondary schools. Their similarities do not come from the programs but from the intention to prepare and educate students for work and continuation of education at higher education institutions. The education lasts equally long for four years, the enrolment criteria are

harmonized, as well as graduation. Technical and alike schools ensure substantial level of general and vocational education for successful employment, and additionally, continuation of higher education at the technical, technological, business, medical and other faculties.

Technical and alike schools make up the larger portion of the secondary schools with different vocations and wide range of vocational subjects. Having in mind the education goal in technical and alike schools, the general subjects make up to 50% of the classes per week as well as 50% of the classes during the entire education. The subjects that present the content to be tested for the admission at the universities, and subjects that are evaluated under special criteria, are represented in the same quantity and volume as in general secondary education (gymnasia), but reduced in a case when relevant content is a part of the curricula in vocational education subjects.

Vocational education consists of subjects and contents needed for certain vocational profile, i.e. qualification.

The practical work, work in workshop or lab is 10 to 20% of hours intended for vocational education.

The number of regular classes is limited to 30 per week, while other forms such as elective and other forms of classes can increase it to 35 per week.

Common part of general education is mandatory for all technical and alike schools. 70% of classes belong to the group intended to general education. Special part of the general education is 30% and it serves to fill in the needs of common part of the general education and introduction of new subjects important for connecting it to the vocational programs of a specific school. This model of syllabus determines the total number of classes for subject in the special part of the general education. The distribution of the classes from these subjects to specific grades is harmonized with the numbers of classes from the program of the vocational training, having in mind conditionality of these two areas (horizontal synchronization and vertical continuity of content, etc.)

In the RS mandatory education lasts for nine years and lasts until 15<sup>th</sup> age of life. Persons younger than 15, cannot sign employment contract.

Article 35 of the RS Law on Secondary Education ("The RS Official Gazette", No. 74/08) prescribes that a school year starts on 01 September and lasts until 31 of August of the next calendar year. During a school year students have a 3-week winter holiday, one-week spring holiday and a summer holiday that lasts from end of classes in the second semester until the beginning of the next school year.

Rulebook on School Calendar for School Year 2009/2010 in the RS ("The RS Official Gazette", No. 74/09) the school year 2009/2010 started on 1 September 2009 and will be finished on 31 August 2010. The classes in the first semester started on Monday, 7 September 2009 and will be finished on Wednesday 30 December.

Second semester starts on Monday 25 January 2009. The classes in the second semester finished:

- a) For students of the fourth grade in gymnasias and religious schools on Friday 21 May 2009,
- b) For students of the first, second and third grade of gymnasias and religious schools on Friday 18 June 2010,
- c) For students of the third grade of the 3-year, and for students of the fourth grade of 4-year vocational education on Friday 4 June 2010,
- d) For students of the first and second grade of 3-year vocational education and for students of the first, second and third grade of the vocational education on Friday 25 June 2010,
- e) For students of the fourth grade of the arts secondary schools on Friday 28 May 2010, and
- f) For students of the first, second and third grade of the arts secondary schools on Friday 11 June 2010.

The last week in the second semester for students of the first, second, third and fourth grade in vocational and technical schools is planned as week of the student achievements (project week) which constitutes also a working week.

During the school year students are entitled to winter, spring and summer holidays. Winter holiday starts on 31 September 2009 and ends on 22 January 2010. Spring holiday lasts for one week; starts on 5 April 2010 and ends on 9 April 2010. Summer holiday lasts until 03 September 2010.

In secondary vocational schools curricula assume application of the modular methodology enabling swift reaction to changes in society and technology.

Part of the curricula for vocational education, up to 30%, is determined by teachers' council upon the proposition of the vocational teachers' clusters having in mind the needs of workforce market in the local self-governance unit.

The curricula for secondary vocational and technical schools determine vocations for the 4-year education to 13 vocations and 37 occupations:

a) Agriculture and Food Processing

/food technician, agricultural technician, veterinary technician/

Practical training lasts from 136 classes in the first grade up to 384 in the fourth grade annually.

b) Forestry and Wood Processing

/woodwork technician/

Practical training lasts from 136 classes in the first grade up to 384 in the second grade, 204 and 128 for the fourth grade annual

c) Geology, Minery and Metallurgy

/mining technician, metallurgy technician, geological technician/



Practical training lasts from 170 classes in the third grade to 160 classes in the fourth grade annually.

d) Mechanical and Metal Processing

/mechanical technician/

Practical training lasts from 102 classes in the first and fourth grade annually.

e) Electrotechnics

/powerengenerating technician, electronics technician, electronics technician/

Practical training lasts from 68 classes in the first grade up to 128 classes in the fourth grade annually.

f) Chemistry, Non-metals and Graphics:

/chemical technician, non-metal industry technician, pyrotechnics, graphical technician/

Practical training lasts from 170 classes in second grade and 160 hours in the fourth grade annually.

g) Textile and Leather Processing:

/textile technician, leather processing technician/

Practical training lasts from 170 hours in the second grade up to 192 hours in the fourth grade annually.

h) Geodesy and Construction:

/construction technician, geodesy technician/

Practical training lasts from 102 classes in the second grade up to 160 in the fourth grade annually.

i) Traffic:

/road traffic technician, postal and telecommunication technician, water transport technician, aviation traffic technician/

Practical training lasts from 136 classes in the second grade up to 192 in the fourth grade annually.

j) Tourism and catering:

/culinary and catering technician, touristic technician/

Practical training lasts from 204 classes in the second grade up to 192 in the fourth grade annually.

k) Economy, Law and Trade:

/business and legal technician, economic technician, trade technician/

Practical training lasts from 136 classes in the first grade up to 192 in the fourth grade annually.

l) Health:

/nurse, obstetrics-gynecology technician, physiotherapy technician, pharmaceutical technician, dental technician, pharmaceutical technician, laboratory and sanitation technician, beauty technician/

Practical training lasts from 204 classes in the second grade up to 192 classes in the fourth grade annually.

Curricula for secondary vocational (technical – 4-year) schools in the RS determine mandatory general subjects, vocation specific subjects, practical training and electives. General and vocation specific subjects are presented through weekly and annual number of classes in accordance with the modular curricula for each subject.

In the Law on Education in Primary and Secondary Schools in BD (“The BD Official Gazette”, No. 10/08) the classes in the first semester start on the first Monday in September. In the all the grades, except finishing, the classes are taught in two semesters and last for 37 working weeks. The curricular content is planned with the frame of 35 weeks. In the last grade of the primary education, the classes last for 36 weeks, while the curricular content is planned within the frame of 34 weeks. The classes of the final grade of the secondary education last for 32 weeks, while the curricular content is organized within the frame of 30 weeks. The difference in number of working weeks and teaching weeks is used to deliver special programmatic content, holidays, cultural and sport events and other activities as set in the annual work plan of school, as well as potential make-up to the required number of classes, if necessary. Secondary vocational school organizing the education in modules; plans and conducts its classes in the accordance with demands of the module.

Curricula for secondary education and training consist of the common core developed in the accordance with the Framework Law and a part of the curricula created by a school.

Curricula for a particular secondary school, depending on type of the secondary school, is decided based on type of education and the profile the students are educated for. Depending on the profile of education, curricula for each type of the secondary school determines the ratio among general, vocation specific and practical parts.

Curriculum for students with disabilities is adopted individually for each type and the degree of the disability. Curriculum for gifted students is adopted separately as well.

Part of the subjects and content taught, as determined by the curricula, besides the languages of the constituent peoples in BiH, can be conducted in some of the world languages with permission of the Department.

Students are entitled to holidays – winter, spring and summer.

Winter holiday lasts for three weeks and starts upon completion of the first semester; spring holiday lasts for one week, and in general it is at the beginning of the April, while summer holiday begins upon completion of the second semester and lasts until the beginning of the next school year (usually from mid-June up to the first Monday in September, some 10-11 weeks). Winter holiday may be extended and last for four weeks, if the conditions require so.

Education is based on the curricula and annual working plan.

The education process is conducted within the five working days in a week. If the education is conducted in more than two shifts, or make-up classes are required the education process can be conducted for six days a week. The class lasts for 45 minutes, while the class for the students with special needs it lasts for 35 minutes. The class of practical training conducted at the companies or other institutions lasts for 60 minutes based upon an agreement on practical training. The number of classes per working week is determined by curricula and for secondary schools teaching is done for seven classes of regular classes per week.

Secondary schools according to the curricula taught are:

1) Gymnasia

General education school with electives that lasts for four years, educates students for further higher education – enrolment into 2-year colleges and 4-year faculties.

2) Secondary vocational schools

In secondary vocational schools students acquire general and vocational education that equips them for work, but gives them a possibility to continue their education at the higher education institutions. Education lasts for three or four years, depending on the complexities of the occupation. Simpler jobs require shorter education, while more complex jobs require longer education.

3-year education – provides education for work on mid-complex jobs that require operating different machineries and jobs that require delivering services.

4-year education – provides education for work on jobs that go under wide education profiles and educate for complex jobs. At the same time they provide students with an opportunity to continue education at higher education institutions and faculties.

Secondary vocational schools, looking at curricula largely differ from gymnasia in their characteristics even though there are certain similarities between them.

Some of the general education subjects are present in the vocational schools, but the emphasis is put on vocational subjects, and based on the area of work, to certain general education content.

While gymnasia prepare students to continue education, vocational schools prepare them to work in certain occupation, as well as continuation of education (when it comes to 4-year secondary education). Important characteristic of secondary vocational schools is a practical work as a part of many vocational subjects and two classes in a block concept. Both of these serve the better practical training of students. It is important to mention a practical training in the school workshops, companies or private entrepreneurs.

The network of the secondary schools in Brčko District of BiH is as follows:

- Public institution – Gymnasia (General),

- Public institution – Economic School (economic technician, trade technician, touristic technician, business and legal technician, trader, waiter, cook)
- Public institution – Technical School ( IT technician, power engineering technician, mechanical technician, car mechanic, locksmith, plumber, mason)
- Public institution – Agriculture School (agriculture technician, veterinary technician, pharmaceutical technician, food processing technician, nurse, ecological technician, hairdresser, florist-gardener, laboratory technician, food processing technician)

Ratio of the theory and practical work in BD is determined by curricula for each degree, having in mind that upon the completion of the first grade number of hours in the practical work is increased.

Labor and education laws in BiH do not define the possibility of having children employed during the holidays, nor do they define the types of the works.

**Question 2. State the measures taken (administrative) arrangements, programs, action plans, project, etc) for the implementation of the legislative framework**

**Question 3. Provide relevant figures, statistical data and other relevant information**

<p><b>Article 7, paragraph 4</b></p> <p>„With a view to ensuring the effective exercise of the right of children and young persons to protection the Parties undertake to provide that the working hours of persons under 18 years of age shall be limited in accordance with needs of their development, and particularly with their need for vocational training; ”</p>
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**Question 1. Describe general legislative framework. Give a precise nature, reasons and scope of reforms , if any.**

**Answer:**

Article 29 of the Labor Law in FBiH, Article 40, paragraph 1 of the Labor Law in the RS, and Article 22 of the Labor Law in BD prescribe that the working week lasts for 40 hours. This provision is in force for all employees and according to the valid legislation the shorter working hours for underage workers do not exist. Above mentioned Labor Laws /FBiH, RS, and BD/ prescribe that underage employees have a right to a 12-hour break between two working days, and overtime work is prohibited for workers younger than 18.

**Question 2 State the measures taken (administrative) Arrangements, programs, action plans, project, etc) for the implementation of the legislative framework**

**Question 3 Provide relevant figures, statistical data and other relevant Information**

**Article 7, paragraph 5**

„With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake to recognize the right of young workers and apprentices to a fair wage or other appropriate allowances.”

**Question 1. Describe general legislative framework. Give a precise nature, Reasons and scope of reforms , if any.**

**Answer:**

In FBiH the salary of all employees in accordance with the Labor Law Article 68, is determined by the collective agreement, rulebook on labor and employment contract. According to the General Collective Agreement the employer has a duty to pay for the same job employees do same amount in salary regardless of their sex and ethnic, religious, regional, political or union background. ,

Labor Law in FBiH recognizes and regulates the institution of trainees, i.e. persons with completed secondary and higher education, for the first time employed within the occupation, for which, by the Law, have to pass state license exam or are required to have previous working experience in the occupation.

According to the Article 26 of the Labor Law, the trainees during the training contract have a right to allowance at least in the amount of the 80% of the lowest salary paid by employer.

Article 28, paragraph 1 of the Labor Law in the FBiH states that if the training or working experience, required by the law or a rulebook on labor, presents a condition to work in certain occupation, employer may employ a person that completed an education to a training without signing an employment contract /volunteering/.

Paragraph 3 of the same article states that voluntary work can last maximum one year, and is counted as a part of the training and working condition as condition to work in certain occupations.

Paragraph 4 states that a contract on volunteering is delivered in written form.

Having in mind that a volunteer has no status of the employee, he or she do not enjoy the rights and obligations form the employment, as trainee enjoys (for example salary, annual holiday/. However, he or she enjoys the right to lunch break,

break between two consecutive working days and weekly break under same conditions as employees; as well as rights to insurance in case of work related injuries or work related diseases.

FBiH prepares the Law on Volunteering to regulate volunteering practices.

In the RS, Article 90, paragraph 2 of the Labor Law, it is prescribed that employees are guaranteed the equal pay for the same work or the work of the equal value.

The Article 29, paragraph 2, of the RS Labor Law prescribes that during the training the trainee has right to an 80% of the minimum salary before state required exam paid by employer.

All collective agreements for employees in the economy and the laws that regulate the salary of the public servants and other employees that receive their salaries from the RS Budget, the trainee has right to 80% of the salary that he/she would have permitting he/she has passed the state required exam.

Law on Volunteering was adopted in 2008 in the RS ("The RS Official Gazette" No. 63/06). This allowed an imitative to be accepted, because youth work, in the same way, as volunteering is voluntary, and many organizations, institutions, local communities, citizens, volunteers as well benefit from this kind of work.

According to the RS Law on Volunteering (Article 12) prescribes that a volunteer can be a person between 15 and 18 years of age, to which special principles of protection are applied.

Underage person, 15 years of age, and older underage person can sign a volunteering contract and volunteer only with a written consent of the legal guardian. Underage volunteers can volunteer exclusively in the activities that are in the accordance with his/her age, physical, psychological and moral degree of development and skills which do not pose a risk to his/her health, development and education success. Underage volunteer cannot work in the extremely difficult occupations, occupations which have as a working place underwater or underground, as well as other places of work that pose an increased risk for his/her life, health, psychological and physical development, gender integrity and school related obligations. Underage volunteering is done under supervision of the organizer and his/her legal guardian. It is prohibited for persons less than 18 years of age to volunteer between 8 pm and 7 am of the next day. Volunteering organizer has to pay a special attention to wellbeing and health of the underage volunteers. Underage volunteer cannot do this for a longer period. Underage volunteer enjoys all rights as guaranteed by this law (Article 12).

The role and significance of volunteering is conveyed to children and young persons by formal and informal education. Underage person, younger than 15, can be included into education volunteering activities with an educational goals that contribute to common good that adds to his/her socialization, meeting the condition that the provider of the volunteering is an educational institution, social protection

institution or other institution that can organize volunteering with educational purpose providing it has permission of competent educational authorities or social protection institutions. To participate in the volunteering activities, a volunteer has to have a written consent from its legal guardian. An underage person can stop with volunteering activity at any time without consent from his/her legal guardian (Article 13).

An organizer of volunteering activity is mandated to organize protection during voluntary work as prescribed by the Labor Law and other by-laws regulating the area of occupational protection. It has an obligation to respect the rights of the volunteer, its contractual commitments to volunteers, issue a written certificate of volunteering with required information as mandated by Article 29 of the Law on Volunteering. Additionally, it has an obligation to provide resources for volunteering activities, protection of volunteer personal information and privacy, and other conditions as required by the Law on Volunteering. The organizer of the volunteering, every three months, is obliged to deliver a report to the Ministry, on the activities that engage underage persons (Article 26).

Pursuant to the Law on Volunteering in the RS, the Rulebook on Republika Srpska Award for Volunteering was adopted ("The RS Official Gazette" No. 09/09.)

Article 57 of the BD Labor Law stipulates that the employee salaries are determined by the collective agreement, rulebook or employment contract.

The BD Labor Law regulates the rights of trainees and volunteers. Article 19 paragraph 1 of the BD Labor Law states that an employer can sign an employment contract with a trainee for the duration of the training as prescribed for the occupation in question. The contract is in the written form with one signed copy delivered to the competent Employment Bureau within 5 days of signing for the purpose of evidence and control.

Article 20 of the BD BiH Labor Law, more specifically paragraph 1 of the Article prescribes that the upon completion of the training, the trainee has to take state license exam for the occupation, in accordance with the law, other regulations or Rulebook on Labor.

Paragraph 2 of the same Article states that during the training, the trainee has right to 80% of the salary for the position where employed.

Article 21 of the BD Labor Law regulates that if the state license exam or work experience is pre-condition for some occupations, the employer can hire a person that has completed required education for that specific occupation without employing him/her (volunteering).

Paragraph 2 of the same Article regulates that volunteer is a person, upon completion of the secondary education or higher education, for the first time hired to work in an occupation. Additionally, paragraph 3 regulates that volunteering contract is signed in written form at the day of the employment commencement, and

competent employment bureau and pension and disability insurance institute within 5 days of signing for record and control purpose.

Paragraph 4 of the same Article prescribes that volunteering is added to the training and work experience as a condition for employment in certain occupations.

However, even though a volunteer does not enjoy all the rights as an employee, paragraph 6 of the same Article prescribes that employer ensures the disability insurance in case of work related injury or work induced illness in accordance with special regulations. Paragraph 7 of the same article regulates the right of the volunteer to health insurance as mandated by regulations on health insurance for unemployment, while paragraph 8 states that a volunteer has a right to break during a work day, break in between two working days and weekly rest period.

**Question 2. State the measures taken (administrative) Arrangements, programs, action plans, project, etc) for the implementation of the legislative framework**

**Question 3. Provide relevant figures, statistical data and other relevant information**

**Article 7, paragraph 6**

„With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day “

**Question 1. Describe general legislative framework. Give a precise nature, reasons and scope of reforms , if any.**

**Answer:**

Pursuant to the Article 2 of the Law on Vocational Education and Training in BiH (“The BiH Official Gazette” No.18/03) secondary vocational education and training constitute fundamental part of the education system in BiH with a purpose to ensure acquiring knowledge and skills in certain vocation and continuous training with a goal to integrate into labor processes or continuation of education. It assumes different types and forms of education, training and development through initial, continuous, regular or part-time education and practical training, including vocational training of children and adults.

Article 3 of the above mentioned law stipulates goals of the vocational education and training such as:

- a) Under equal conditions, to ensure right to secondary vocational education and training in accordance with interest and capabilities of a student



- b) To provide support to a student in selection of adequate vocation and integration into social life
- c) To develop awareness among students on needs of further education and training
- d) To ensure conditions for development and promotion of traditional crafts
- e) To harmonize needs with demands and changes in the workforce market
- f) To harmonize vocational education and training with education in the member countries of European Union.

Laws on education in primary and secondary schools in the FBiH, RS and BD do not regulate that the time spent at the training, with the consent of employer, is counted as a part of the working day.

Article 4 of the Labor Law in BD, Article 5 of the FBiH Labor Law and Article 5 of the RS Labor Law stipulate that a person seeking an employment, as well as already employed person, cannot be discriminated based on their race, skin color, gender, language, religious, political, national, social, economic background, sexual orientation, birth, membership or not to the political party, membership or not to the union, physical or psychological disabilities, in all matters that derive from the employment.

Labor regulations in the RS, FBiH and BD do not ensure the right of young workers to have time spent at the training, with the consent of employer, count as part of the working day, unless the training is fulfilling the needs of the workplace and employer.

**Article 7, paragraph 7**

„With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake to provide that employed persons under 18 years of age shall be entitled to a minimum of four weeks’ annual holiday with pay.”

**Question 1 Describe general legislative framework. Give a precise nature, Reasons and scope of reforms , if any.**

**Answer:**

Article 41 of the FBiH Labor Law, the Article 57, paragraph 1 of the RS Labor Law and Article 5, paragraph 1 of the BD Labor Law, prescribe the right of the underage employees to annual holiday in the duration of at least 24 days for each calendar year.

This right of the underage employees is exercised under same conditions as for other employees in their first employment or there was no break between employments longer than 8 days. By fulfilling these conditions employees acquire the right to

annual holiday upon completion of 6-month continuous employment. The annual holiday can be used in two parts, providing that the first part lasts minimum 12 days.

Nevertheless, the duration of annual holiday for an underage person can be longer than legislation prescribes by applying the criteria for annual holiday of employ as determined by the collective agreements and employers' rulebooks on labor.

Respecting the implementation of the legal provisions regarding the duration of annual holiday for an underage persons is protected by the penalty provisions of the labor laws and inspection of the labor inspectors when it comes to implementation of labor regulations.

The Article 140, paragraph 1 of the Labor Law in FBiH prescribes a fine in the amount from 1,000 BAM to 10,000 BAM to employer – a legal entity, for an offence if it fails or denies an employee to use annual holiday. The fine is doubled if the offence is done to the minor.

The Article 180, paragraph 1, point 18 of the RS Labor Law prescribes a fine in the amount from 1,000 to 10,000 BAM if an employer does not allow annual holiday to the employee.

The Article 111, paragraph 1 of the BD Labor Law prescribes a fine in the amount from 1,000 BAM to 7,000 BAM any offence foreseen by this law. In the paragraph 2 of the same Article prescribes that if the offence is done to minor, the lowest and the highest amounts of the fine are doubled.

**Question 2 State the measures taken (administrative) Arrangements, programs, action plans, project, etc) for the implementation of the legislative framework**

**Question 3 Provide relevant figures, statistical data and other relevant Information**

**Article 7, paragraph 8**

„With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations.”

**Question 1 Describe general legislative framework. Give a precise nature, Reasons and scope of reforms , if any.**

**Answer:**

Article 36 of the FBiH Labor Law, Article 51, paragraph 1 of the RS Labor Law and Article 32 of the BD Labor Law restrict the night work of the minor employees. For underage employees in industry, work in the period between 19 hours in the evening and 7 hours in the morning of the next day, is considered as night work. While for underage employees not employed in industry, work in the period between 20 hours in the evening and 6 hours in the morning of the following day shall be considered night work.

Exceptionally, minor employees may temporarily be exempted from the restriction of night work in case of major breakdowns, force major and protection of interests of the BiH, based on the approval of the competent authority of the canton.

Article 140, paragraph 1, point 19 of the FBiH Labor Law prescribes a fine in the amount from 1,000 to 10,000 BAM to a legal entity, for an offence and the fine is doubled if the offence is done to the minor.

Article 180, paragraph 2, point 1 of the RS Labor Law prescribes a fine in the amount from 2,000 BAM to 15,000 BAM if employer orders a minor to night work.

Article 111, paragraph 1, point 11 of the BD Labor Law prescribes a fine in the amount from 1,000 to 7,000 BAM if employer orders a minor to night work.

**Article 7, paragraph 9**

„With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control.”

**Question 1. Describe general legislative framework. Give a precise nature, reasons and scope of reforms , if any.**

**Answer:**

According to the Article 15 of the BiH Labor Law, a medical exam of the minor is mandatory. An employment contract may be concluded by a person completing 15 years of age having general health ability established by the competent health institution.

According to the Article 15, paragraph 2 of the Labor Law a minor may not conclude employment agreement for performance of jobs, which may endanger his health, moral or development. This is in accordance with ILO Convention No. 138 and its provision of the lowest age limit for employment.

Occasional medical check-ups, according to the provisions of the Occupational Safety Law, are mandatory only for the employees working under special working conditions, at which minors are not allowed to be employed.

Article 14, paragraph 2 of the RS Labor Law prescribes that a person between 15 and 18 years of age can conclude an employment contract under provided he/she obtains a certificate by the competent medical doctors of having general health ability as well as consent of the legal guardian.

Article 8 of the BD Labor Law prescribes that a minor cannot be employed in case if competent medical doctor or health institution did not issue a certificate that a minor underwent a medical exam and was capable, physically and psychologically, to fulfill conditions demanded by the workplace.

The FBiH Labor Law prescribes that a medical exam for minors is mandatory before initial employment, while the Law does not require occasional medical exams for this category.

The RS Labor Law does not prescribe time span for medical exams for minors, as they cannot work at workplaces with an increased risk where annual medical exams are required to protect health of the employees.

**Question 2. State the measures taken (administrative) arrangements, programs, action plans, project, etc) for the implementation of the legislative framework**

**Answer:**

Laws on inspections in the FBiH, the RS and the BD stipulate that inspection supervision is regulated by the Laws on Inspection in the FBiH, the RS and the BD. These laws regulate inspection supervision in the entities and the BD to ensure implementation of the laws and other regulations and decisions, its organization and management, rights, obligations and responsibilities of the inspectors, and relations between different inspections.

Inspection supervision is conducted for the purpose of:

1. Carrying out inspection to determine the level of implementation of the regulations by legal and other entities and citizens that during their activities and work have a duty to respect above mentioned regulations;
2. Prescribing administrative measures to prevent and eliminate irregularities in the implementation of the above mentioned regulations;
3. Carrying out other administrative measures and other activities as required by law and other regulations.

Inspection supervision ensures legality and protection of the public and private interest in accordance with the law. The role of inspection supervision is to act preventively in securing the social discipline in the implementation of certain commitments mandated by regulations.

Labor inspections are organized within different areas: labor, health, sanitary, pharmaceutical, market and tourism inspection.

**Question 3 Provide relevant figures, statistical data and other relevant Information**

**Article 7, paragraph 10**

„With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.“

**Question 1. Describe general legislative framework. Give a precise nature, reasons and scope of reforms , if any.**

**Answer:**

The BiH Constitution (Article II, paragraph 3), the FBiH Constitution (Article II, paragraph 2), the RS Constitution (Title II, Articles 13, 14 and 36) guarantee the right to life, human dignity, body and spiritual integrity, protection of the family and children, private and family life, prohibition of torture, cruel and unusual punishment and treatment.

Protection of children in BiH, besides above mentioned labor laws and occupational safety laws in the entities and the BD is additionally regulated by the family protection laws, criminal codes, law on implementation of the sanctions, laws on protection against violence in the entities and the BD.

Previously mentioned labor laws in the FBiH, RS and BD provide that a minor cannot conclude employment for jobs that can endanger his/her health, moral or development, as well as liabilities of the employer to offer and provide special protection from physical and moral dangers minors under age of 18 may be exposed.

**Criminal and legal protection of a child**

Protection of all children from all forms of the exploitation and misuse of the information technologies is secured within the framework of four Criminal Codes in BiH, which determine criminal acts against freedoms and rights of citizens, sexual criminal acts, and criminal acts against marriage and family:

1. Criminal Code of BiH („The BiH Official Gazette“, No. 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06 and 32/07); /hereinafter referred to as the CC BiH/;
2. Criminal Code of the FBiH („The FBiH Official Gazette“, No. 35/03); /hereinafter referred to as the CC FBiH/;
3. Criminal Code of the RS („The RS Official Gazette“, No. 49/03); /hereinafter referred to as the CC RS/;

4. Criminal Code of the BD („The BD Official Gazette”, No. 10/03);  
/hereinafter referred to as the CC BD/.

The existing criminal codes generally make distinction among:

1. Physical violence (inflicting minor and major physical injuries),
2. Sexual violence – violence against sexual integrity (rape, sexual intercourse with a child, sexual violence on child, sexual intercourse by abuse of position, incest)
3. Psychological/emotional violence (different types of psychological harassment, sexual harassment, abuse, carelessness, and negligence).

Criminal Procedure Codes (hereinafter referred to as CPC)

- BiH („The BiH Official Gazette”, No. 3/03);
- FBiH („The FBiH Official Gazette”, No. 35/03);
- RS („The RS Official Gazette”, No. 49/03);
- BD („The BD Official Gazette”, No. 10/03).

In accordance with the CPC BiH, entities and BD, prosecutors may undertake “special investigative actions” for acts of human trafficking involving children and foreseen punishment is three (3) years or severe punishment, which presents a novelty in these laws. Police and prosecutors’ office may use undercover investigators, surveillance or recording, as well as other investigative measures to prove committal of these criminal acts more easily.

According to the Article 116 of the CPC BiH investigative measures include following:

a) surveillance and technical recording of telecommunications; b) access to the computer systems and computerized data processing; c) surveillance and technical recording of premises; d) covert following and technical recording of individuals and objects; e) use of undercover investigators and informants; f) simulated purchase of certain objects and simulated bribery; g) supervised transport and delivery of objects of criminal offense.

In case when the perpetrator of the criminal act is underage person, criminal procedure cannot be conducted against minor younger than 14 years of age. For this purpose in the CPC provisions the term “underage person”, i.e. person that is underage, but older than 14, is used and not referred to as a child. Adequate treatment of minor, as perpetrators of the criminal acts is prescribed by provisions of the CPC /presence of the guardian during the procedure, impossibility of the trial in absence, mandatory defense, free legal aid, expert evaluation of mental development of the minor, speedy procedure, exclusion of public and other/.

Having in mind different approach in the criminal policy towards children and adults it is important to consider existing definition of a child as foreseen by the Article 1, paragraph 8 of the BiH Criminal Code (CC BiH) which states that – “A *child*, as referred to in this Code, is a person who has not reached fourteen years of age”.

Article 8 of the BiH CC - Exclusion of Applying Criminal Legislation of Bosnia and Herzegovina to Children – “Criminal legislation of Bosnia and Herzegovina shall not be applied to a child who, at the time of perpetrating a criminal offence, had not reached fourteen years of age.”

Article 9 of the BiH CC - Applicability of Criminal Legislation of BiH to Juveniles – The criminal legislation of Bosnia and Herzegovina shall be applied to juveniles pursuant to Chapter X (Rules Relating to Educational Recommendations, Educational Measures and Punishing Juveniles) of this Code and other laws of BiH.”

Criminal policies in nature are different for adults and minors.

The BIH CC stipulates crimes against humanity and values protected by the international law, which include crimes related to trafficking in persons and apply to child protection and in which special investigative actions may be used:

- Establishment of Slavery and Transport of Slaves (Article 185)

“ (1) Whoever, in violation of the rules of international law, places another in slavery or in a similar status or keeps him in such a status, buys, sells, hands over to another person or mediates the purchase, sale or handing over of such a person or induces someone else to sell his freedom or the freedom of the person he provides for or takes care of, shall be punished by imprisonment for a term between one and ten years.

(2)Whoever, in violation of the rules of international law, buys, sells, hands over to another person or mediates in the purchase, sale or handing over a child or a juvenile for the purpose of adoption, transplantation of organs, exploitation by labor or for other illicit purposes, shall be punished by imprisonment for a term not less than five years.

(3) Whoever, in violation of the rules of international law, transports persons who are in a position of slavery or in similar status, shall be punished by imprisonment for a term between six months and five years.”

- Trafficking in Persons (Article 186)

“(1) Whoever takes part in the recruitment, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to obtain the consent of a person having control over another person, for the purpose of exploitation, shall be punished by imprisonment for a term between one and ten years.

(2) Whoever perpetrates the criminal offence referred to in paragraph 1 of this Article against a juvenile shall be punished by imprisonment for a term not less than five years.

- International Procuring in Prostitution (Article 187, paragraph 3)

“If the criminal offence referred to in paragraphs 1 and 2 of this Article is perpetrated against a child or a juvenile, the perpetrator shall be punished by imprisonment for a term between one and ten years.”

There are differences in policies on crimes and responsibilities for crimes in the FBiH, RS and BD.

The CC of the entities and BD differentiate three criminal acts related to trafficking in persons:

The RS CC stipulates following criminal acts:

- Trafficking in Persons for Procuring in Prostitution (Article 198, paragraph 4) „If the criminal offence referred to in the previous paragraphs of this article is perpetrated against a child or juvenile, the perpetrator shall be punished by imprisonment for a term between one to 12 years.”

- Abuse of a Child or Juvenile for Pornography (Article 199, paragraphs 1 and 2) “Whoever abuses a child or juvenile with an aim of developing photographs, audio-visual materials or other pornographic materials, or abuses a child or juvenile for a pornographic play shall be punished by imprisonment for a term between six months to 5 years. The items and materials from the paragraph 1 of this Article shall be fortified.”

-Production and display of child pornography (Article 200, paragraphs 2, 4 and 5) „If the criminal offence referred to in the paragraph 1 of this Article is perpetrated against a person younger than 16 years of age, the perpetrator shall be punished by imprisonment up to three years.

The term child pornography in the sense of this provision implies pornographic material visually depicting a child or juvenile as a participant in the evident sexual behavior, and realistic photographs depicting a child or juvenile participating in evident sexual behavior.

The items and materials from paragraphs 1 and 2 of this Article shall be fortified”.

The FBiH CC also stipulates criminal acts:

- Pandering (Article 210, paragraph 4)

Whoever perpetrates the criminal offence referred to in paragraphs 1 to 3 of this Article against a child or juvenile shall be punished by imprisonment for a term between three and fifteen years.

- Abuse of a Child or Juvenile for Pornography (Article 210, paragraphs 1 and 2)

“Whoever photographs or films a child or juvenile with an aim of developing photographs, audio-visual tapes or other pornographic materials, or possesses or imports or sells or deals in or projects such material, or induces such persons to play



in pornographic shows, shall be punished by imprisonment for a term between one and five years.

Items meant or used for the perpetration of criminal offence referred to in paragraph 1 of this Article shall be forfeited and the items produced by the perpetration of criminal offence referred to in paragraph 1 shall be forfeited and destroyed.

- Introducing Pornography to a Child (Article 120, paragraphs 1 and 2) "Whoever sells, shows or renders available through a public display or in any other way writings, pictures, audio-visual and other objects containing pornography to a child, or whoever shows him a pornographic show, shall be punished by a fine or imprisonment for a term not exceeding one year.

The items referred to paragraph 1 of this Article shall be forfeited."

The BD CC stipulates criminal acts with the same content as entity laws.

- Pandering (Article 207, paragraph 4)

Whoever perpetrates the criminal offence referred to in paragraphs 1 to 3 of this Article against a child or juvenile shall be punished by imprisonment for a term between three and fifteen years.

- Abuse of a Child or Juvenile for Pornography (Article 208, paragraphs 1 and 2)

"Whoever photographs or films a child or juvenile with an aim of developing photographs, audio-visual tapes or other pornographic materials, or possesses or imports or sells or deals in or projects such material, or induces such persons to play in pornographic shows, shall be punished by imprisonment for a term between one and five years.

Items meant or used for the perpetration of criminal offence referred to in paragraph 1 of this Article shall be forfeited and the items produced by the perpetration of criminal offence referred to in paragraph 1 shall be forfeited and destroyed.

- Introducing Pornography to a Child (Article 120, paragraphs 1 and 2) "Whoever sells, shows or renders available through a public display or in any other way writings, pictures, audio-visual and other objects containing pornography to a child, or whoever shows him a pornographic show, shall be punished by a fine or imprisonment for a term not exceeding one year.

The items referred to paragraph 1 of this Article shall be forfeited."

Existing criminal codes in the FBiH, RS and BD do not present an obstacle in applying the Optional Protocol and in accordance with valid legislation successful activities may be implemented to center trafficking of children, child prostitution and pornography. The major problem in practice can be found in attempts to secure enough resources and training.

In the other words, each person under 18 years of age found in the described circumstances shall be considered as victim of trafficking in human beings regardless how he/she became the subject of the trafficking.

In 2006, BiH became Party in the Council of Europe Convention on Action against Trafficking in Human Beings.

The definitions given in the above mentioned Convention form a foundation for adoption of the most important laws in BiH regulating the content of criminal acts perpetrated on children.

It is important to point out that BiH ratified the Optional Protocol to the Convention on the Rights of the Child on sale of children, child prostitution and child pornography in September 2002 ("The BiH Official Gazette – International Agreements", No. 5/02).

Due to a complex structure of government in BiH, it is unfortunate to find existence of the difference in the criminal policy for the same criminal actions perpetrated against children. To harmonize punishment policies it is necessary to harmonize criminal codes applied in BiH when it comes to the parts dealing with trafficking in persons and child pornography.

Unlike earlier definitions, when these criminal acts were perpetrated against a child or a minor, the Criminal Code in BiH does not differentiate the age of child (child or minor) if the criminal act refers to trafficking in persons. Having in mind that the punishment for international solicitation is from one to 10 years, the problem in these investigations can pose prescribed minimum punishment and this can have a great effect on uneven standards when it comes to protection of children victims.

The same problem exists in similar criminal acts such as "Trafficking in persons for prostitution" with punishment range from one to twelve years in the RS CC, while somewhat better situation is found in the FBiH and BD CC, with punishment range from three to fifteen years. This problem is evident in other similar criminal acts involving trafficking in persons.

Abusing children for pornographic purposes is also connected with trafficking in persons, as in these criminal actions children are used and abused for gaining financial profits. This type of children abuse is more present and larger numbers of children become victims by using internet and other electronic networks.

The Council of Europe Convention on Cybercrime together with the Accompanying Protocol was signed by Bosnia and Herzegovina in 2005, and ratified on 19 June 2006, when they came into force.

The Convention on Cybercrime pointed a necessity of including (Article 9) of these criminal acts in the special category of criminal acts, which were done in the criminal legislation in BiH.

The role of police and prosecution in any form of the violence perpetrated against children, and especially sexual abuse and exploitation is finding and identification of crime and perpetrator.

It is important to emphasize that in BiH, in accordance with the existing legislation, all citizens, institutions, services and professionals have an opportunity to report

their discoveries to police services and prosecution. To uncover the criminal acts and perpetrators the police apply different actions and techniques, which are of operational and technical nature.

The basic important standard when it comes to protecting children in situations when identified as victims is obligation of the police to notify social welfare services on the existence of the child-victim to have these two key service in the agreement on the future steps during the investigation and interrogation.

Social Welfare Center /Social Worker/ shall evaluate all available information and reports in which suspicion that a child is victim of trafficking is expressed. This evaluation is conducted in co-operation with competent police officer, to whom he/she has an obligation to deliver the received information.

The obligation of the social worker is to evaluate environment in which a child-victim of the trafficking lives. This evaluation is official and has a purpose of collecting information on a child victim (is it educated, community where he/she lives, neighborhood) with a goal of drawing little as possible attention to protect the safety of a child-victim and prevent alerting persons involved in trafficking in persons.

When suspicion that a child is victim of trafficking in persons is confirmed, the official guardian undertakes all necessary measures to protect the rights and interest of a child. These measures include safe housing of a child (safe house, foster family or any other available accommodation) and measures of supervision over parents' rights, all in need of instigating extra-contentious procedure of revoking parents' rights.

Social Welfare Center has a duty to inform a child-victim of trafficking and its legal guardian of its legal rights, and more importantly of the rights of a child to protection.

Social Welfare Center has an obligation to ensure safety to a child-victim. Besides housing (foster family, social welfare institution, shelter or safe house) center had an obligation to assist and mediate during exercising the right to free legal aid and right to indemnification, to mediate during exercising the right to medical help, refer a child-victim to adequate counseling and ensure continuation of education.

Social worker in charge of the case has a duty to ensure psychological help to a child victim so child would be prepared to testify at court. Social worker has to be present when child-victim is making a statement all to ensure the best interest of a child and preventing a child to get into a contact with a person or persons involved in trafficking.

Social welfare center at the request of judge, prosecutor or police has a duty to deliver all documentation that is of significance to resolution and proving, while it can request postponement of the interview with a child-victim providing an expert opinion that a child-victim is not capable of going through an interview.

With a purpose of prevention of the further victimization of a child competent authorities have to ensure that the statement of a child is recorded and taken only once.

In the exceptional situations, with appearance of the new circumstances during an investigation, which were not covered by the statement of a child, a prosecutor can request additional interview with a child-victim.

This situation assumes readiness of the police to share information and confidential data with representatives of the social welfare centers.

With a goal of enhancing, revealing and reporting the cases of trafficking in persons in BiH, in 2007, the "Rulebook on protection of victims and witnesses of human trafficking in BiH" ("The BiH Official Gazette", No. 66/07) and its Article 5, paragraph 3 provides that: "All institutions in BiH, organizations, legal entities and citizens who come into touch in any way with a child that is exposed to some of the forms of the exploitation and violence, have a duty, without a delay, deliver an information on violation of the rights of a child to its guardian."

Article 15, paragraph 4 of the Rulebook stipulates that: "A child victim and a witness victim will be considered as a child without parental care, or neglected or derelict regardless of its family status."

Opinions of a child are very important and in practice of the social welfare centers in BiH it is considered that a child from 10 years of age and more can state their opinion. This opinion, with the opinions of experts is taken into account during all procedures, together with an assistance of the child psychologist who interviews a child. In these cases, the statements of a child and the statement of an expert are taken as equal sources of information in a case. In the practice, a statement of a child younger than 10 years of age can be taken in the consideration in a case if an expert opinion confirms that a child understands and can understand the situation where he/she is found in.

In the court practice during interviews with a child, judges, prosecutors, police investigators are obliged to ensure presence of the social worker and psychologist. BiH has adopted a by-law dealing with the protection of domestic and foreign victims of the trafficking in persons – instructions on interviewing children. Similar instructions exist in the social welfare centers as well.

The police shall immediately, in accordance with its competencies, evaluate physical safety of a child and together with the social welfare center decide on urgent placement of a child.

Article 3, paragraph 2 of the Law on protection of witnesses under threat and Witnesses in jeopardy („The BiH Official Gazette", No. 3/03, 21/03, 61/04 and 55/05) a child or minor will always be considered in jeopardy and can receive a status of protected or witness in jeopardy as well as his/her family in case needed.

Legal status of children is not different in terms of age. When it comes to age in deciding whether to testify or participate in the proceedings, the decision of parent or guardian if the decision is in the best interest of the child is very important. In cases when child does not have adequate parental care the temporary guardian is appointed (ensuring the best interest of a child in cases of absence of parents or guardians, or in cases with present conflict of interests between a child victim and parents or guardians).

Children living or working on a street

When it comes to children begging on the street, this problem is not always related to sexual abuse, but rather economical abuse – hard labor – begging and neglect, which is closely correlated with poverty and social exclusion. The most affected by this form of abuse are children and women of Roma minority in BiH.

The child pornography cases in BiH, when it comes to registration, are treated as pandering and trafficking in person, considering that the persons in question are younger than 18. In these cases BiH applies the standards determined within the framework of European Convention on Action against Trafficking in Human Beings.

There is no presence of sex-tourism in BiH, nor the tourist agencies promoted sex-tourism involving child prostitution in the other countries.

Available information in BiH, from indictments and investigations, indicate that show, distribution and spreading of the child pornography is present at the internet networks and mobile phone networks, but the scope of these activities until now are not worrying. It is a fact that just recently special departments of police and prosecution are being trained to counter spreading of child pornography.

With all this, these criminal activities usually extend across the border, so they receive characteristics of transnational organized crime. In the process of criminal activity detection this requires establishment of the cross border co-operation, which should be based in accordance with conventions, protocols, memoranda on co-operation, signed and ratified by BiH.

General measures of implementation in accordance with the standards set forth within the framework of international conventions and protocols are connected with the continuous process of harmonization of the existing legislation that are used to protect children from any form of abuse, and especially from any form of sexual abuse.

In other words, any person younger than 18 years of age found in circumstances as described in this provision shall be considered as a victim of trafficking regardless of the circumstances that led to becoming a subject of trafficking.

Special protection of children victims of trafficking in persons

A child that is not a citizen of BiH enjoys same rights to care and protection as children citizens.

„Special treatment of a child“ assumes securing: safe home, respecting opinions of a child, right to confidentiality and discretion, right to information, efficient treatment of the case, evaluation of the individual case and finding and implementation of the permanent solution.

Without a delay children, and especially children not citizens, are housed in a shelter in case if: is without company of a parent or a guardian, does not possess valid documents on stay in BiH, is without a parent or a guardian possessing valid documentation, and there is reasonable doubt that is victim of trafficking.

Special departments are used for placement if it is possible and is not contrary to the best interest of a child. A child enjoys same rights as victims of trafficking, as well as special rights granted to him/her as a child, in accordance with the BiH laws, and the UN Convention on Rights of a Child. A child stays in a shelter until permanent solution is found.

A temporary guardian – a competent official for the social protection where shelter is situated - is assigned at the request of the competent official of the organizational unit within the ministry.

A temporary guardian advocates interests of a child during proceedings and until permanent solution is found. Competent authorities have a duty to inform temporary guardian on all matters of interest for a child – victim of trafficking.

All activities of the competent authorities must be conducted with the best interest of a child, having in mind rights and obligations of its parents, guardians, as well as opinion of a child evaluated according to the age of a child.

All actions are taken with the highest possible degree of urgency, efficiency and maximum protection of the privacy and identity of a child – victim of trafficking. If the age of the victim cannot be determined with certainty, and there are reasons indicating that a victim of trafficking is a child, it is acted with an assumption that a victim is a child.

**Question 2 State the measures taken (administrative) Arrangements, programs, action plans, project, etc) for the implementation of the legislative framework**

**Answer:**

The Decision on procedure and coordination of the activities countering trafficking in persons and illegal immigration in BiH and establishment of the function of State Co-coordinator for BiH („The BiH Official Gazette, No. 24/03), establishes the function of the State Co-coordinator to counter trafficking in persons and illegal immigration and the new system of co-ordination among the competent ministries and institutions at the level of BiH. The basic functions of the State Co-coordinator include co-ordination of the total activities, collection of information on trafficking in persons and illegal immigration in BiH, informing the BiH Council of Ministers on these issues, preparing

adequate recommendations, international and regional co-operation with competent institutions and non-governmental organizations included in these activities, preparing and revision of the State Action Plan, education and promotion of the activities of the competent ministries and institutions related to undertaken activities to counter trafficking in persons and illegal immigration.

State co-ordination includes appointed co-coordinators from: Ministry of Security (2), Ministry of Human Rights and Refugees (1), Ministry of Justice (1), Ministry of Foreign Affairs (1) and the BiH Prosecutors Office (1). This makes 7 members in total including the State Co-coordinator to counter trafficking in persons and illegal immigration appointed by the BIH Council of Ministers.

The decision on establishment of the Task-force to counter trafficking in persons and organized illegal immigration („The BiH Official Gazette”, No. 3/04) the task-force to counter trafficking in persons and organized illegal immigration was established. It acts at the territory of BiH in accordance with the existing laws of BiH, entities and BD. The goal of the task-force is to establish and enhance co-ordination at the operational level among state and entity authorities, as well as the authorities of BD. The membership of the task-force includes representatives of the Prosecutors, Border Police of BiH, the State Information and Protection Agency, Ministries of Interior, BD Police, Interpol, Financial Police, taxation administration, as well as other state and entity authorities. Task-force operates under direct authority of the State Prosecutor who is direct executive of the Task-force.

The Optional Protocol to the Convention on the Rights of the Child on sale of children, child prostitution and child pornography signed by the BiH presents an international instrument included in education organized in BiH. The greatest number of educations was realized by the Centre for Judicial and Prosecutorial Training that each year in its training includes topics related to trafficking in persons and protection of children from other forms of abuse.

Special, focused training were organized by the Office of the State Coordinator to counter trafficking in persons and illegal migration with an aim to educate social workers, professional staff in schools, Ministry of Human Rights and Refugees and the BiH Council for Children. For that purpose, in BiH, special handbooks were prepared for multidiscipline training of different professions to protect children (employees in prosecution, police, and social and health institutions).

With a goal of adequate training of the professionals materials-instructions were prepared for different professions in protection and treatment of children-victims and victims-witnesses of the trafficking in persons in BiH.

Specific data related to the trafficking in persons, and in that matter to child prostitution and pornography are collected regularly within the activities of the State Coordinator to counter trafficking in persons and illegal immigration in BiH.

The first state Action Plan to counter trafficking in persons was adopted by the Council of Ministers in 2001. It was based on estimates of then available data on status of trafficking in persons and by then collected knowledge and experiences in

countering trafficking in persons. The basic goals were defined as establishment of the adequate legislative framework and institutional capacities to counter trafficking in persons, as well as implementation of the preventive activities and development of the adequate mechanisms to protect victims of the trafficking. The second Action Plan, for period 2005 – 2007, was adopted by the Council of Ministers in 2005 and developed based on the detailed analysis of the implementation of the previous plan, estimates of the development and trends in the phenomenon of trafficking in persons. The third state Action Plan, for period 2008 – 2012, continues with the same approach and is based on detailed assessment of the situation and trends in trafficking in persons in BiH, but will encompass a set of goals directed towards efficient co-operation of all actors in the South-Eastern Europe.

The implementation of the state Action Plans to counter trafficking in persons gave good results and placed BiH among the countries that record positive trends in countering trafficking in persons. The development of the institutional capacities is evident, as well as legislative framework. Numerous preventive activities were implemented, including good results in the area of prosecution and development of the standards of protection of victims in trafficking, and last but not the least the channels and mechanisms of the international cooperation were developed.

The constituent part of the state Action Plan is also Operational Plan of Activates for 2008-2012, that further develops goals of the Action Plan and sets forth concrete measures for accomplishments of the goals, determines responsible institutions, partners from governmental and non-governmental organizations, as well as partner international organizations, time-frames, recognized sources of funding, need for additional funding and indicators of achievement of implemented measures.

Achievements until now:

- (1) Research on children trafficking in BiH conducted,
- (2) Adopted and published state Inception report on violence against children in BiH,
- (3) Ethical codex of research on children in BiH adopted and published
- (4) State Strategy to counter violence against children 2007-2010 adopted,
- (5) State Strategy to counter juvenile delinquency adopted,
- (6) Strategy on improvement of status of Roma in BiH
- (7) State Action Plan to counter trafficking in persons and illegal immigration in BiH 2008-2010,
- (8) Conducted research on risk factors that lead to trafficking in children – „Children speak – what affects the trafficking in children in South-Eastern Europe – Report from BiH”,
- (9) Conducted overview and analysis of the national mechanism to counter trafficking in persons – trafficking in children for the purpose of exploitation,
- (10) Conducted overview of the activities of the competent authorities for protection of children victims of trafficking – referral mechanism
- (11) Developed and promoted the „Handbook for Officials in the Police, Prosecution, Social and Health Institutions – protection of children from trafficking in persons.



- (12) Developed and promoted Standardized procedures of different professions in protection and treatment of children-victims and victims-witnesses of the trafficking in persons in BiH – protection of children in the places of their residence
- (13) Eight trainings held for treatment of children victims of trafficking and application of the standardized procedure for over 200 professionals in BiH.

Large number of children is strengthened to adequately face and protect themselves from violence, sexual abuse and trafficking in persons. Awareness of children, parents, experts and public on problems of violence against children, sexual abuse as well as trafficking in persons is increases. There is a successful co-operation with large number of non-governmental organizations that significantly contribute to building capacities and providing direct assistance to children-victims and their families.

Trafficking in children in BiH, and in the region of former Yugoslavia and South-Eastern Europe presents one of the growing problems. Until recently the countries in the region were known as transit countries and destination, but more often they become the countries of origin of trafficking and trafficking in children is present within the borders of the countries.

The Council for Children BiH

The Action Plan for Children was adopted by the Council of Ministers in 2002, while the decision of formation of the Council was brought in 2003.

The Council for Children BiH (hereinafter referred to as: the Council) was formed as an independent body of the advisory and co-coordinating nature. Representation of the Council includes appointments from:

- Ministry of Human Rights and Refugees (2),
- Ministry of Foreign Affairs (1),
- Ministry of Justice (1),
- Ministry of Civil Affairs (1),
- Ministry of Security (1),
- Federal Ministry of Labor and Social Policies (1),
- Federal Ministry of Interior (1),
- RS Ministry of Health (1),
- RS Child Protection Fund (1),
- BD Social Protection Service (1).

Ajoint members of the Council include non-governmental organizations "Nasa Djeca" from Sarajevo and "Zdravo da ste" from Banja Luka, as well as representatives of the international organizations – UNICEF and Save the Children Norway that are partners of the Council for Children in BIH.

After the expiry of the mandate for the Council for Children in BiH in 2007, the Council should have been established with new membership. With the purpose of strengthening its mandate, a new Decision on Council for Children was adopted by

the Council of Ministers in 2007. However, due to different interpretations of the mandate of the Council by the competent entities, from strengthening the Council to turning it into a political body, the Council has not been established in its new composition yet.

During 2009, the possibility of establishment of the Council for Children was actualized again, with basic goal to remove obstacles in its work. At the joint meeting of the representatives held in June 2009, the new concept for the composition of the BiH Council for Children was agreed.

In the final phase of development of this report the stances of competent entities ministries came closer in solving this very important question and it is hoped that in the near future the Council for Children will be established again.

In 2006, the RS Government brought the Decision on establishment of the RS Council for Children, as permanent advisory body to the Government, in charge of the matters in the area of the rights of a child, in accordance with the UN Convention on Rights of Child and other international documents related to human rights ("The RS Official Gazette", No. 66/06). The Council is comprised of 11 members from different ministries, institutions, governmental and non-governmental organizations in the RS.

In 2008 the Council for Children developed following:

- "Activities program on prevention of peer-violence among children and youth in the education system,

- "Protocol on procedures in cases of peer-violence among children and youth in the education system",

- "Conditions and needs of children in multimember families in the RS",

"Analysis of the situation of children and young persons with special needs in the education system of the Republika Srpska,,

In 2009, a research project "Situation and needs of children in the collective/alternative centers in the RS" has been initiated.

There were no initiatives to found the Council for Children in the FBiH.

### **Question 3. Provide relevant figures, statistical data and other relevant information**

#### **Answer:**

A progress is evident in BiH when it comes to the elimination of the trafficking in children, child prostitution and child pornography, as well as in ensuring the protection and enjoying the rights as envisioned by the Optional Protocol for children in BiH.

It is an aggravating fact that in the total number of the identified potential victims of the trafficking in person 30% of those are children, i.e. persons under 18 years of age.

According to "The Report on status of trafficking in persons and illegal immigration in BiH and the Report on the implementation of the Action Plan to counter trafficking in persons and illegal immigration in BiH in 2007, 17 underage persons-children (of female sex) was identified as victims in abuse:

- one of them was 7 years of age, one was 12 years of age, three were 13 years of age and one was 14 years of age.

Victims of pedophilia and prostitution

- four girls were 15 years of age, three were 16 years of age and five girls were 17 years of age.

All of them were identified as victims of trafficking in persons – child prostitution.

In BD a judgment was issued for abuse of children for the purpose of pornography (Article 208 of the BD CC) and pedagogue-pedophile was sentenced to two years in prison and was mandated to pay for the expenses of the criminal procedure.

In the RS, during 2006, two persons were investigated for abuse of children and underage persons for the purpose of pornography (Article 199 of the RS CC). Investigation in this case was dismissed in January 2007, as it was revealed that perpetrator in this very case was a child of 13 years of age.

During 2007, two investigations were instigated in the criminal cases of production and display of child pornography in the RS and one in the FBiH.

There were no cases of resale in child organs in BiH.

When it comes to the activities intended to protect children that reside on street in FBiH it is necessary to point out that in Canton Sarajevo a project titled „Daycare centre for children that work on streets in Canton Sarajevo“ is implemented as a partner project between Public Institution „Cantonal Social Welfare Center“ as implementing partner and „Save the Children Norway“ that secured the funding for the implementation of the project.

The aim of this project that started in May, 2009 is to provide shelter and expert assistance to the children that reside or work on the streets in the Sarajevo Canton, and are exposed to the risk of trafficking in persons, as well as other different forms of the exploitation.

The users of the Daycare centre are children from 5 to 18 years of age from the socially deprived families with habits of mendacity, wondering, behavioral problems, under risk of abuse, trafficking in persons, prostitution, as well as other negative effects of the street.

Daycare centers offer the services in physical care (bathing, food and clothes), psychosocial treatment, counseling of children and families, education, development of the creative capacities and talents, fulfillment of rights (mediating with the social welfare services and other institutions).

Since June 2009, when the Daycare center was opened until the April 2010, its services were used by more than 150 children. 20-25 children daily stay at the center and there are visible positive changes that include preparation and inclusion of children into regular education system, advancement in hygiene, culture and social communication.

The "Protocol on Protection of Children Boarding on a Street" was signed in November 2009, by Sarajevo Canton Ministry of Labor, Social Policy, Displaced Persons and Refugees, Ministry of Interior, Ministry of Education and Science, Ministry of Health and Public Institution "Cantonal Social Welfare Centre" Sarajevo. By signing of this Protocol the project "Daycare Center" received expert support to deliver assistance to this population of children that mostly live in conditions of the extreme poverty and social exclusion.

In Zenica-Doboj Canton, more specifically in Zenica, besides regular activities in the protection of children who board and work on the streets, the activities are undertaken to improve living conditions for families where children come from and in co-operation with NGOs, mostly those working with Roma minority. Moreover, the activities are undertaken to increase public awareness on mendicity. Children that are found on street without safe shelter, are accepted and taken care in shelter within the public institution of the Social Welfare Center in Zenica. This center takes care of 20 Roma children that are made by their parents to work on the street. Additionally, the Centre takes care of the children in transit, which is among 15 and 20 annually.

In Visoko, (Zenica-Doboj Canton), the Municipality of Visoko, Social Welfare Center, Police Station Visoko, Municipal Court Visoko and Roma Association "Budi moj prijatelj" signed the Protocol on Co-operation, in accordance which they are engaged in removal of children of off street, coordination with parents and other institution to counter negative social phenomena. By the implementation of the Protocol the number of children boarding and working on the street is reduced.

In Tuzla Canton social welfare centers provide support to children that board and work on the street by allocating single financial aid assistance and a social service work. Due to inadequate working conditions, and even more specifically insufficiently trained staff, centers usually are in impossibility to undertake other measures of assistance to the children who board and work on the street, but are doing so in co-operation with non-governmental organizations. Support in this way is provided by non-governmental organizations such as Tuzla Teenage Center "Telex" that since 1999 has implemented the project "Children of Street" Project was developed and today includes activities such as preparation of the food on a daily basis for all children in need, counseling for children, preparation of children to be included into regular education system (26 children), support for the children included into regular

education system – learning (38 children) preparation for in-formal education and taking exams to complete primary education (10 children) and integration of children into regular activities of the Center. This project has been recognized as important to support children that board and work on the street and has received financial support from the Tuzla Canton Ministry of Labor and Social Policies.

When it comes to the activities in this problem in other Municipalities in these Cantons and other Cantons, the social welfare centers in co-operation with police stations work on prevention of cases of children boarding and working on the street, by returning children to their families, introducing parents to their responsibilities towards children, psychosocial treatment of children and members of their family, as well as other forms of assistance. However, except the above mentioned “Daycare Centers” and “Shelter” in Zenica there are no other forms of the temporary shelters for children that board and work on the street.

The example of Sarajevo Canton is significant. At the local level an Agreement on ways to counter mendicity on the streets of Sarajevo was signed by the Cantonal Social Welfare Center, Ministry of Interior, Ministry of Health and Ministry of Social Protection. The Agreement foresees intensified measures in patrolling streets, identification of children on the street, notification of social worker and putting children into custody if not accompanied by parents or legal guardians.

#### **Article 8, paragraph 1**

With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake to provide either by paid leave, by adequate social security benefits or by benefits from public funds for employed women to take leave before and after childbirth up to a total of at least fourteen weeks.

**Question 1 Describe general legislative framework. Give a precise nature, Reasons and scope of reforms , if any.**

**Answer:**

Maternity leave

The BiH Constitution (Article II, paragraph 3, point j), the FBiH Constitution (Title II, Article 2, paragraph j) and the RS Constitution (Article 36) stipulate full protection of family, mother and children.

Laws on Civil Service and Salaries in BiH Institutions, labor laws in the entities and BD, regulate the protection of woman and maternity by prescribing that during pregnancy, delivery and after child-birth, a woman has a right to a maternity leave

for consecutive twelve (12) months, which is also applied to the employees in the joint institutions in BiH.

The Law on Labor in BiH Institutions ("The BiH Official Gazette", No. 26/04, 07/05 and 48/05) in the Chapter III – Rights, Obligations and Responsibilities of the Employees in part 4 – Protection of Employees in the point a) regulates the protection of women and maternity.

By the provisions of the Article 35 of the Law on Salaries in the BiH Institutions ("The BiH Official Gazette", No. 50/08) it is stipulated that employees in the BiH Institutions have a right to salary in accordance with the regulations that govern this matter according to the place where contributions are paid for each employee.

Having in mind that employees in BiH Institutions have different residences in accordance with this different legislations regulate differently the area of maternity leave. This means that mothers working in the same BiH Institution, with the same working status have different rights when it comes to the amount of remuneration during maternity leave, all in accordance with the entity regulation, and in FBiH cantonal regulations.

During the preparation of this Report the BIH Constitutional Court brought a judgment ("The BiH Official Gazette" No. 80/10, published 28 September, 2010) reversing the contentious Article 35 of the Law on Salaries in the BiH Institutions, as well as the Decision of the Council of Ministers on ways and procedures to receive a right to benefits during maternity leave in BiH Institutions. By above mentioned judgment the Constitutional Court stated that the contentious Article 35. discriminated the women employees in the state institutions as the benefits for the maternity leave come from the work in the institutions and not the place of residence, and the state institutions have duty to, in accordance with their capacities, directly pay for benefits to the employees to avoid discriminatory practice.

Acquiring the right to benefits during maternity leave in BiH is completely different, so there is no possibility to discuss the equal position of women when it comes to fulfill the right to maternity leave.

In FBiH, by the FBiH Constitution, more specifically, by the provisions of the Article II, paragraph 2, point J it is determined that all persons at the territory of FBiH enjoy the right to protection of family and children. Pursuant to the Article III, paragraph 2, point e and Article III, paragraph 3, point (3) of the FBiH Constitution it is provided that federal government has a right to regulate policies and adopt laws dealing with social policy.

Pursuant to the Article III, paragraph 2, point e and Article III, paragraph 3, points (1) and (2) of the FBiH Constitution, federal Government and Cantons are jointly responsible for social policy, including protection of families with children

These competencies are fulfilled jointly or separately, or by cantons coordinated by federal government. To fulfill these competencies canton and federal government cooperate on the permanent basis.

In this area, Cantons have right to determine policies and implement the laws (Article III, paragraph 3, point (4)), as well as conduct social policies and found social welfare services (Article III, paragraph 4, point (j)).

Article 55, paragraph 1 of the FBiH Labor Law stipulates that during pregnancy, confinement and care of the baby, the woman shall be entitled to maternity leave in the duration of one year without interruption.

Based on the finding of the certified medical doctor, the woman may start maternity leave mandatory 28 days before confinement. Exceptionally, the woman, upon her written request, may use shorter maternity leave, but no shorter than 42 days after confinement (Article 55, paragraph 3).

Right of the female employee is not mandated by the length of previous working experience, nor the time spent with the employer. Maternity leave is calculated in calendar, and not working days. It is used without interruption. Nor employee or employer cannot interrupt the maternity leave to use annual holiday or paid leave.

Upon expiry of maternity leave, a woman with the baby of up to one year of age shall be entitled to work half work hours, and for twins, third or each following child she shall be entitled to work half work hours up to the completion of two years of age of her baby, unless the rule of the canton stipulates for extended duration of this right. This right may also be used by the employed father of the baby, if the woman works full work hours in that period (Article 57).

One of the parents may absent from work up until the completed three years of age of the baby, if this is stipulated in the collective agreement or the rulebook. During absence from work the rights and obligations deriving from employment shall be at rest (Article 61).

In the preparations of the new Labor Law that should be adopted, with the participation of trade union representatives and employers associations, it is determined that upon expiry of the legal minimum of 42 days, a father of a child can use a leave provided that parents agree to it.

Article 140, paragraph 1, points 27 and 28 of the FBiH Labor Law stipulates the fine in the amount from 1,000 BAM to 7,000 BAM for failure to allow a woman to use maternity leave, or the father or the adoptive parent of the child to exercise the rights from this law.

During the maternity leave the employee has a right to receive salary in accordance with the legislation. This right is exercised based on the federal and cantonal regulations on basic social protection, protection of the civil victims of the war and protection of family with children. All this brings very different practices.

The RS Labor Law (Cleared text) („The RS Official Gazette, No. 55/07), regulates the right to maternity leave, the duration of the maternity leave, return to work, at her own request before expiry of the maternity leave and the amount of the salary during maternity leave, while the Law on child protection („The RS Official Gazette“ No. 42/02 – Cleared text 17/08 and 01/09) regulate refunds of the net salary to the employers for women on maternity leave and timeframe during which the benefits are paid by the employer, i.e. Public Fund for Child Protection.

Article 79, paragraph 1 of the Labor Law stipulates that during pregnancy, birth giving and child-care, a woman shall be entitled to maternity leave in the duration of one year without interruption, and if she has given birth to twins, a third or every next child, she shall be entitled to maternity leave in the duration of 18 months without interruption. In the paragraph 3 of the same Article it is stipulated that parents of a child can agree that a leave is used by father of a child, but only after 60 days of child-birth.

Article 80, paragraph 1 of the Labor Law stipulates that at her own request, a woman may start work before the expiration of the maternity leave specified under Article 79, paragraph 1, but not before 60 days have expired after the childbirth.

Article 84, paragraph 1 of the Labor Law stipulates that during the maternity leave, a woman shall be entitled to salary compensation at the level of average salary she was earning during the last three months before the starting date of the maternity leave.

Article 180, paragraph 2, point 4 of the Labor Law stipulates a fine in range from 2,000 to 15,000 BAM in case employer does not allow to a woman to use the prescribed rights.

Salary compensations are provided by the Public Fund for Child Protection in the RS.

Supervision over implementation of provisions of this Law shall be done by the Republika Srpska Administration for Inspection – Labor Inspection.

The BD Labor Law – Cleared Text („The BD Official Gazette BiH“, No. 7/00 and 8/03) Article 45 stipulates that a woman during pregnancy, child-birth and child-care has a right to maternity leave in duration of 12 months without interruption at the expense of BD Budget. Upon the examination of the certified medical doctor, a woman can start its maternity leave 28 days before expected due date, and 7 days at latest. Paragraph 3 of the same Article provides that a woman can have a shorter maternity leave, but cannot return to work before expiry of 42 days after child birth.

Article 46 of the BD Labor Law provides that a father of a child or adoptive father can use right to leave in case of death of mother, if mother abandons a child or is otherwise prevented to use that right.



After maternity leave, a woman with a child up to 12 months has a right to work half-time. This right can be used by father, if the woman during that time is employed fulltime (Article 47).

If a child, according to the findings of the medical institution or a doctor is in need of an increased care after expiry of 12 months, one of the parents have right to work half-time until a child is 18 months old (Article 48).

Article 111, paragraph 1, point 15 of the BD Labor Law prescribes the fine in the range from 1,000 to 7,000 BAM to be paid by employer in case it does not enable a maternity leave with a salary compensation to a woman.

Supervision over the implementation of the BD Labor Law is done by District's Labor Inspector.

Article 8 of the BD Law on Child Protection („Official Gazette of the BD BiH”, No. 1/03) provides that salary compensation during maternity leave or extended maternity leave, or absence from work of an employed parent or adopting parent to care for a child one of the rights in child protection.

Article 9 of the BD Law on Child Protection stipulates that salary compensation to an employed woman-mother, or father, adopting parent or a guardian during absence for pregnancy, child-birth, and care of a child is paid in accordance with regulations on labor legislation valid in the District.

The salary compensations are paid from the Budget of the BD BiH Government, as regulated by the BD BiH Labor Law under condition that contributions (health and retirement insurance) to the salary were paid.

According to the Articles 2, 3, 4 and 5 of the Decision on conditions and ways to payment of the salary contributions during maternity leave, adopted pursuant to the Article 45 of the Labor Law („The BD Official Gazette BiH”, No. 7/00, 8/03 and 33/04) and the Article 9 of the Law on Child Protection („The BD Official Gazette BiH”, No. 1/03 and 4/04) the right to salary compensation shall be paid during the maternity leave to employee (mother or adopting parent, or other person that competent authority entrusted a child to care or guardianship) in duration as provided by the Labor Law.

During exercise of this right, the employer issues a Decision determining the right to maternity leave, its duration and the amount of salary compensation to be paid to the employee.

During maternity leave the employee has a right to salary compensation in the amount of the average salary employee received in the three months prior to the maternity leave.

Salary calculations, payment of the benefits and payment of the salary compensation is done by employer.

The right to duration of the maternity leave as determined by the Law on Changes and Amendments to the Labor Law („The BD Official Gazette BiH”, No. 33/04) and compensations from salaries from this decision is also granted to employees whose maternity leave was transferred from the previous year or has started on 1 January 2005, in accordance with legal provisions on duration of maternity leave.

#### Benefits during maternity leave

In FBiH, the funds for protection of families from children, in accordance with the Law on Distribution of Revenues in F BiH, are provided by the Cantonal and municipal budgets (Article 11, paragraph 5).

The Law on Basis of Social Protection, Protection of the Civil Victims of the War and Protection of the Families with Children („The FBiH Official Gazette”, No. 36/99, 54/04, 36/06, and 14/09) stipulates the basic rights of protection of the families with children, among which salary compensation to an employed woman-mother during absence from work for pregnancy, child-birth and care for a child (Article 89, paragraph 2).

Cantonal legislation regulates closer conditions, ways, procedure, bodies and funding of these rights.

Even though the Law on Basis of Social Protection, Protection of the Civil Victims of the War and Protection of the Families with Children was adopted in 1999, it stipulates that Cantons to implement this law had a duty during three months since this law came into force, to adopt general acts in their competencies (Article 103), until now some Cantons have not adopted legislation that regulates the protection of families with children.

In this regard, Posavina Canton and Herzegovina Canton do not have legislation regulating the right of employed woman-mother to absence from work during pregnancy, child-birth and child-care with salary compensation, which is not paid in these Cantons.

Una-Sana, Tuzla, Zenica-Doboj, Bosnia-Podrinje, Central Bosnia, West Herzegovina, and Sarajevo Cantons have laws regulating this right, while in Canton 10 this right is regulated by the Decision.

Besides existence of the regulations in above mentioned cantons there are still inconsistencies in exercising of these rights.

The Law on Basis of Social Protection, Protection of the Civil Victims of the War and Protection of the Families with Children stipulates that salary compensation instead of salary to an employed woman-mother while absent from work during pregnancy, child-birth and care for a child is calculated as a percentage of the received salary in the period of six months prior to the child-birth, evaluated based on the growth in

salaries in the canton at that period. The percentage of the received salary is determined by cantonal decision (Article 93).

However, in some cantons the basis for calculation is taken the average salary of the woman-mother in the period of six months, while in other cantons it is the average salary in the canton or municipality. Moreover, the percentages calculated are different and range from 50% to 90%.

In the area of labor and labor matters in the RS, the RS Constitution guarantees that everyone has a right to protection at work, while young persons, women and persons with disabilities enjoy special protection (Articles 39 and 40). The Constitution does not explicitly define protection of pregnant women at work and right to salary compensation during the maternity leave as a type of material insurance.

Article 84, paragraph 1 of the Labor Law in the RS stipulates that during maternity leave a woman has a right to a salary compensation in the amount of the monthly salary earned during last three months prior to the beginning of the maternity leave and the salary compensation is harmonized with the monthly growth of the average salary in the RS. The paragraph 2 of the same Article stipulates that if a woman has not earned salary for all six months, salary compensation amounts to the salary belonging to her in the amount of the salary of the month preceding the first month of the maternity leave, all in accordance with the collective agreement. The same Article regulates that the salary compensation is paid by the Public Fund for Child Protection of the RS and is harmonized with the monthly growth of the salaries in the RS.

Article 94, paragraph 2 of the Labor Law stipulates that the amount of the salary compensation cannot be lower than 50% of the average salary employee earned in the previous period or than salary that the employee would earned whether she/he was working. This Article prescribes minimum salary compensation that can be paid to the employee based on the rights derived from employment, including the salary compensation during the maternity leave.

In the RS legislation salary compensation during maternity leave is 100% of the calculated amount.

The Law on Child Protection provides a deadline for refund of salary compensation that employer paid to the employee on maternity leave and is submitted within 12 months since beginning of the maternity leave for which refund is sought, as well as the period for which compensation is paid to the employer from the funds of the Public Fund for Child Protection.

In the respect to the Articles 79 and 84 of the Labor Law, Law on Changes and Amendments to the Law on Child Protection („The RS Official Gazette”, No. 17/08) the Article 13 of the Law on Child Protection – Cleared text („The RS Official Gazette”, No. 04/02) was changed and now regulates that „salary compensation for the first 30 days of maternity leave is paid by the employer from own funds, while

the salary compensation for the next 11 months for the first and second child, and for the next 17 months for twins, third and any further child, is secured by the Fund for Child Protection”.

Salary compensation during maternity leave, from the Fund for Child Protection, is not paid to a mother that on her own request, in accordance with the Labor Law, starts working after 60 days since child birth and before expiry of the maternity leave.

Upon beginning of the work of a mother, and before expiry of the maternity leave at her own request, the employer has a duty to bring a decision on cessation of the maternity leave and deliver the decision to a first stance institution to stop using funds provided by the Fund for Child Protection.

Consistent with the Labor Law and Law on Child Protection, employer pays the salary compensation to the mother on maternity leave in the amount as prescribed by the law, and upon payment of the salary compensation requests from the Social Welfare Center, or to the Social and Child Protection Service in the municipalities without social welfare center, a refund of the paid salary compensation to a mother.

Consistent with the previously mentioned provisions of the Law on Child Protection in the RS for 30 days of the maternity leave, the salary compensation is paid from funds of the employer, and for the remaining 11 months for the first and second child, and 17 for twins, third and each following child, the employer requests refund of the salary compensation paid to a woman on maternity leave from the funds of the Public Fund for Child Protection in the RS /hereinafter referred to as: PFCP/.

The RS Labor Law – Cleared text („The RS Official Gazette”, No. 55/07) regulates the right of a woman to maternity leave, duration of the maternity leave, return to work upon her own request prior to the expiry of maternity leave, the amount of the salary compensation to be paid to a woman during maternity leave, while the Law on Child Protection („The RS Official Gazette, No. 42/02 – Cleared text, 17/08 and 01/09) regulates the refund of the paid salary compensation and the timeframe for which the salary compensation is paid from funds of employer and from funds of the Public Fund for Child Protection.

The Law on Child Protection provides a deadline for refund of salary compensation that employer paid to the employee on maternity leave and is submitted within 12 months since beginning of the maternity leave for which refund is sought, as well as the period for which compensation is paid to the employer from the funds of the Public Fund for Child Protection

In the respect to the Articles 79 and 84 of the Labor Law, Law on Changes and Amendments to the Law on Child Protection („The RS Official Gazette”, No. 17/08) the Article 13 of the Law on Child Protection – Cleared text („The RS Official Gazette”, No. 04/02) was changed and now regulates that „salary compensation for the first 30 days of maternity leave is paid by the employer from own funds, while the salary compensation for the next 11 months for the first and second child, and

for the next 17 months for twins, third and any further child, is secured by the Fund for Child Protection”.

**Question 2 State the measures taken (administrative) Arrangements, programs, action plans, project, etc) for the implementation of the legislative framework**

**Question 3 Provide relevant figures, statistical data and other relevant Information**

**Answer:**

Federation BiH

Salary compensation to an employed woman-mother 2005-2008 /Table/

Canton	Year			
	2005	2006	2007	2008
UNA-SANA	50% of a woman-mother salary	Data not available	50% of a woman-mother salary amounts to 251,00-977,00 BAM	50% of a woman-mother salary amounts to 150,00-1355,00 BAM
POSAVINA	Not regulated	Not regulated	Not regulated	Not regulated
TUZLA	60% of a woman-mother salary 55% of a salary in canton	Data not available	55% of a woman-mother salary 90% of a salary in canton, amounts to 280,00-1369,00 BAM	55% of a woman-mother salary 90% of a salary in canton, amounts to 280,00-1340,00 BAM
ZENICA-DOBOJ	80% of a woman-mother salary	Data not available	80% of a woman-mother salary amounts to 150,00-588,00 BAM	80% of a woman-mother salary amounts to 200,00-639,00 BAM
BOSNIA -PODRINJE	80% of a woman-mother salary	Data not available	80% of a woman-mother salary amounts to 261,00-888,00 BAM	80% of a woman-mother salary amounts to 359,00 BAM
CENTRAL BOSNIA	50% of a woman-mother salary	Data not available	50% of a woman-mother salary amounts to 230,00 BAM	50% of a woman-mother salary amounts to 250,00-300,00 BAM
HERZEGOVINA-NERETVA	Not regulated	Not regulated	Not regulated	Not regulated
WEST HERZEGOVINA	70% of a woman-mother salary	Data not available	70% of a woman-mother salary amounts to 119,00-1757,00 BAM	70% of a woman-mother salary amounts to 119,00-1757,00 BAM
SARAJEVO	60% of average salary earned in Canton – amounts to 342,00 BAM	Data not available	60% of average salary earned in Canton – amounts to 342,00 BAM	60% of average salary earned in Canton – amounts to 360,00 BAM
CANTON 10	80% of a woman-mother salary	Data not available	80% of a woman-mother salary amounts to 249,00-1671,00 BAM	80% of a woman-mother salary amounts to 216,00-781,00 BAM

Data source: Federal Ministry of Labor and Social Policies

Salary compensation to an employed woman-mother - Number of users by cantons in FBiH 2005-2008

Canton	Year			
	2005	2006	2007	2008
UNA-SANA	445	Data not available	576	566
POSAVINA	Not regulated	Not regulated	Not regulated	Not regulated
TUZLA	397	Data not available	605	1.582
ZENICA-DOBOJ	674	Data not available	1.002	978
BOSNIA -PODRINJE	48	Data not available	47	66

CENTRAL BOSNIA	359	Data not available	367	417
HERZEGOVINA- NERETVA	Not regulated	Not regulated	Not regulated	Not regulated
WEST HERZEGOVINA	270	Data not available	265	357
SARAJEVO	1.136	Data not available	1.412	1.751
CANTON 10	-	Data not available	271	626
TOTAL FBiH	3.329	-	4.545	6.343

Data source: Federal Ministry of Labor and Social Policies

## Republika Srpska

### Number of women using maternity leave in the RS and paid salary compensations 2005 – 2009 /Table/

Rights from Law on Child Protection	2005.		2006.		2007.		2008.		2009.	
	Average number of users	Amount in BAM	Average number of users.	Amount in BAM	Average number of users.	Amount in BAM	Average number of users.	Amount in BAM	Average number of users.	Amount i BAM
Salary Contribution paid during maternity	1.985	4,015.569	2.355	4,924.122	2.662	6,615.187	3.678	13,724.747	3.736	26,070.6€
Salary Contribution Number Average payment	12031:12 = 1002		14053:12 = 1171		16219:12 = 1351		21415:12 = 1784		22469:12 = 1.872	
Half-time Work	28	55.518	32	74.913	44	116.023	55	255.673	60	232.885

Data Source: The RS Public Fund for Child Protection

## Brčko Distrikt

### Number of women on maternity leave in BD and refund of the salary compensation 2005-2009/Table/

Year	2005.	2006.	2007.	2008.	2009.
TOTAL NUMBER OF COMPANIES	60	131	123	196	234
NUMBER OF EMPLOYEES ON MATERNITY LEAVE	63	158	151	241	331
AMOUNT OF THE PAID SALARY COMPENSATIONS (BAM)	103.584,44	385.599,19	338.621,91	760.699,26	650.000,

Data Source: The BD BiH Government

**Article 8, paragraph 2**

With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake to consider it as unlawful for an employer to give a woman notice of dismissal during the period from the time she notifies her employer that she is pregnant until the end of her maternity leave, or to give her notice of dismissal at such a time that the notice would expire during such a period;

**Question 1 Describe general legislative framework. Give a precise nature, Reasons and scope of reforms, if any.**

**Answer:**

In the Labor Laws of BiH /FBIH, RS and BD/ an employer shall not refuse to employ a woman because of her pregnancy or terminate her employment contract during her pregnancy.

Labor Laws in BiH ensure equal opportunity of employment for women and men, however it is often present /especially in private sector/ that employers refuse to employ women due to a possible pregnancy and maternity leave, or using leave in case of sickness of a child.

Questions on marital status, family status and planning of a family are in violation of the Labor Laws in BiH and Law on Gender Equality in BiH ("The BiH Official Gazette", No. 16/03 and 102/09).

The Law on Gender Equality in BiH governs, promotes and protects the equality of the sexes, and guarantees equality of opportunities and equal treatment for all persons regardless of sex, in both the public and the private domain, and prohibits discrimination on the grounds of gender. All types of discrimination based on gender in the employment, hiring procedures, labor and termination of the employment contract is contrary to this Law. This Law also defines what is considered to be discrimination based on gender in labor and labor relations, which among other include different treatment for pregnancy, child-births and maternity leave, including impossibility to return to a same or equally paid job in the same rank upon finishing maternity leave, as well as different treatment of a men and women when deciding on using the leave after childbirth.

Salary compensation during maternity leave, in practice are rarely used by fathers, except in cases when mother dies during a childbirth, abandons a child or for some other justified reasons is not capable of childcare.

According to the Article 53 of the BiH Labor Law, employer cannot refuse to employ a woman due to her pregnancy, terminate the employment contract or deploy to other posts. Therefore, pregnancy may not be a reason to terminate an employment contract.

However, it should be mentioned, that a new FBiH Labor Law that is being prepared, stipulates the prohibition of the employment contract termination during maternity leave, but this prohibition does not refer to fixed-term contracts expiring on the fixed-term as agreed, apropos appearance of the circumstances for which an employment contract is concluded.

*De lege ferenda* provisions stipulate prohibition of the employment contract termination to the women during pregnancy, exercising the right to half-day work until a child is one year old, or two years when twins, third and any next child is in question, exercising the right to breast-feeding time, as well as right of parent of a child with more difficult disabilities to work half-time.

Article 140, paragraph 1, point 27 of the FBiH Labor Law provides a fine for an employer in the amount from 1,000 BAM up to 7,000 BAM in case it refuses to employ a woman due to her pregnancy, terminates an employment contract for the reason of pregnancy or deploys her to other posts.

Article 77 of the RS Labor Law stipulates that an employer shall not refuse to employ a woman because of her pregnancy or terminate her employment contract during her pregnancy or maternity leave.

Article 132 of the RS Labor Law provides that an employer may not terminate an employment contract to an employee because of economic, organizational or technological reasons, maternity leave or reduced working hours for the purpose of child care.

Supervision over implementation of the Labor Law is conducted by the RS Administration for Inspection – Labor Inspection. Article 180 of the Labor Law prescribes a fine in the amount from 2,000 to 15,000 BAM in case employer does not ensure exercising the woman’s right as foreseen by legislation.

Pursuant to the Article 43 of the BD Labor Law cannot refuse to employ a woman for the reason of her pregnancy, nor may terminate employment contract for reason of pregnancy or maternity leave.

Article 111, paragraph 1, point 14 of the BD Labor Law stipulates that the employer will be fined in the amount from 1,000 up to 7,000 BAM in case it refuses to employ a pregnant woman or terminates her employment contract.

Supervision over implementation of the BD Labor Law is conducted by the Labor Inspector in the District.

**Question 2 State the measures taken (administrative) arrangements, programs, action plans, project, etc) for the implementation of the legislative framework**

**Answer:**



Gender Action Plan in BiH ("The BiH Official Gazette", No. 41/09) is a basic strategy to introduce the principle of gender equality into policies and programs in BiH. Gender Action Plan is developed in co-operation with the Agency for Gender Equality and entity gender centers. The Action Plan was adopted by the BiH Council of Ministers in 2006. The main goal of the BiH Gender Action Plan is definition of the strategies and implementation of the programmatic objectives to accomplish equality of women and men in BiH in relation to employment and workforce market with the activities to eliminate discrimination based on gender in work, employment and workforce market, as well as ensuring the equal opportunities for women and men in these areas.

### **Question 3 Provide relevant figures, statistical data and other relevant Information**

#### **Answer:**

Labor inspections of the entities and BD, as well as the competent authorities, besides complete work in the protection of labor rights and employment, did not specifically reported on the violations of rights of pregnant and women on maternity leave. It can be concluded that actions of the labor inspection in the scope of their work is not enough gender sensitive, and all this despite trainings in implementation of the legislation and standards promoting gender equality. It is evident, even though Inspections state that pregnant and women on maternity leave are under special care as sensitive groups of employees, violation of their rights, even though very frequently publicized, do not manage to be reported in the official inspection reports.

In 2008, Ministry of Labor, Veteran's and Persons with Disabilities Protection in the RS, as an appellate institution acted in two cases regarding violation of rights of pregnant women in regards to termination of the employment contract. In one case, the first decision was confirmed as it dealt with the illegal termination of employment contract for a pregnant woman and violation of the Article 132 of the RS Labor Law. In the second case the expiry of the fixed-term employment contract did not violate the rights of a pregnant woman as stipulated in the Article 132 of the RS Labor Law. In 2009, the Ministry, as an appellate institution decided on 13 cases. In seven cases it was determined illegal contract termination for the female employees during pregnancy or related to pregnancy. In two cases there was no illegality and violation of rights. In four cases there was violation of the female employees' rights to salary compensation during the maternity leave and harmonizing salary compensation with increase in average salary in the RS.

Based on the data provided by the RS Confederation of Trade Unions in the publication "Through women's labor rights" in 2005 a service was established within the RS Confederation of Trade Unions to provide a free legal aid. This service works on the territory of the whole RS.

It is often case that employers request the female employees to cut short the maternity leave and thus get the free labor as during the maternity leave the salary

compensation is paid by the Fund of Child Protection. Female employees report to work from fear as they are in fear of losing their job after the expiry of maternity leave, if they do not act in accordance with the request of the employer.

In relation to labor and employment, the parties usually complained to unfair treatment due to pregnancy or termination of employment contract during pregnancy or non-payment of the salary contribution during the maternity leave (12 cases).

**Article 8, paragraph 3**

With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;

**Question 1 Describe general legislative framework. Give a precise nature, Reasons and scope of reforms, if any.**

**Answer:**

Article 59, paragraph 1 of the FBiH Labor Law, and Article 49 of the BD Labor Law stipulates the right of a woman, upon expiry of the maternity leave, to two one-hour absences from work for nursing. This right is limited until a child is one-year old, and can be used only based on the opinion of the competent medical doctor. Time spent on nursing is considered as a part of the full time working day.

Article 80, paragraph 2 of the RS Labor Law stipulates that if a woman returns to work prior to the expiry of the maternity leave (12 months, or 18 months) has a right to, in addition to a 30-minute lunch break, 60-minute absence from work for purpose of nursing.

The FBiH Labor Law stipulates a fine in the amount of 1,000 up to 7,000 BAM to the employer if refuses to a woman an absence from work for nursing. The RS Labor Law stipulates a fine in the amount of 1,000 up to 10,000 BAM, while the BD Labor Law stipulates the fine in the amount of 1,000 up to 7,000 BAM for the same offence.

**Question 2 State the measures taken (administrative) Arrangements, programs, action plans, project, etc) for the implementation of the legislative framework**

**Question 3 Provide relevant figures, statistical data and other relevant information**

#### **Article 8, paragraph 4**

With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants

**Question 1 Describe general legislative framework. Give a precise nature, Reasons and scope of reforms , if any.**

**Answer:**

There is no direct prohibition of the night work for women, except in the Article 63 of the FBiH Labor Law regulating the rights of a parent with child with severe disabilities. Paragraph 3 of the above mentioned Article prescribes that parents of a child with disabilities using the right to work half time may not be requested to work at night and overtime without her/his consent.

Article 35 of the Labor Law adopted in 1999, prohibited night work in industry for women and determined exceptions to which this prohibition did not apply. This was based on the ILO Convention on Night Work of Women (No.89)

By the Law on Changes and Amendments to the Labor Law adopted in August, 2000, which was done in co-operation with representatives of International Community in BiH, this Article was deleted with explanation that it was discriminatory for women, as there was a Decision of the European Human Rights Court in that sense.

However, even though there is no strict prohibition of the night work for women, certain protection for women is ensured during pregnancy, and breastfeeding by the Article 54 of the FBiH Labor Law. This Article provides that woman can be reassigned to other posts if that is in the interest of her health as determined by competent medical doctor. The same Article in paragraph 2 stipulates the right to leave with salary compensation in case employer does not have capacity to ensure reassignment as provided with the paragraph 1.

Article 52 of the RS Labor Law prohibits the night work to pregnant women starting at the sixth month of pregnancy and to mothers with a child until he/she is one year old.

Article 180, paragraph 2, point 14 of the RS Labor Law provides a fine in the amount of 1,000 up to 10,000 BAM in case employer assigns a pregnant woman or a mother with a child until he/she is one year old to a night work.

In the BD Labor Law there is no explicit prohibition of the night work for women, except in case as stipulated in Article 52, which relates to single parents, when both parents are employed, or child is placed to social welfare or health institution.

Paragraph 3 of the same Article provides that a parent cannot be ordered to work at night or overtime if he/she has not given his/her written consent.

**Question 2 State the measures taken (administrative) Arrangements, programs, action plans, project, etc) for the implementation of the legislative framework**

**Question 3 Provide relevant figures, statistical data and other relevant Information**

**Article 8, paragraph 5**

With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining and all other work which is unsuitable by reason of its dangerous, unhealthy or arduous nature and to take appropriate measures to protect the employment rights of these women.

**Question 1 Describe general legislative framework. Give a precise nature, Reasons and scope of reforms , if any.**

**Answer:**

Article 52 of the FBiH Labor Law prohibits employment of women underground /in mines/ with exceptions to which this prohibition does not apply. Provisions that were deleted by the Law on Changes and Amendments to the Labor Law as adopted in August 2000, provided that woman cannot be assigned or ordered to the posts that are extremely arduous, posts underground or under water, or other jobs that according to her psycho-physical characteristics endanger her health or life. These prohibitions did not apply to women in managing, health and social protection positions, students, interns and volunteers that during their education had to spend some time in underground spaces of a mine, or women that during course of their work had to occasionally enter mines to complete their job, which was not of physical nature.

The Article 76 of the RS Labor Law prescribes that a woman (regardless, pregnant or not ) cannot be assigned to work in the underground part of mines, except she is employed at managing position that does not require physical work or is employed in health or social services. Paragraph 1 of the same Article provides that a woman during pregnancy or breast-feeding can be assigned, based on the opinion and findings of a competent medical doctor, to other posts in the interest of her health or health of a child.

Paragraph 2 of the Article 78 of the RS Labor Law provides that if employer is not in the capacity to reassign a woman to another post, as defined by paragraph 1 of the Article 78, a woman has a right to absence from work with a salary contribution

which may not be lower than salary she would earn while working on her original post.

Article 1, paragraph 3 of the Occupational Safety Law („The RS Official Gazette”, No. 1/08) provides that special protection is prescribed to protect undisturbed psycho-physical development of minors, protection of women from risk to endanger maternity, protection of persons with disabilities and persons with occupationally related illnesses and diminished working capacity, as well as preservation of the working capacity of the elderly employees within limits appropriate to their age.

Article 30, paragraph 3 of the RS Occupational Safety Law the employer has a duty to ensure that an employed woman during pregnancy, employee younger than 18 years of age, and employee with reduced working capacity, besides professional development for safe and healthy work, are notified in written on the results of risk assessment at their working place, as well as of measure taken to reduce risks to increase protection and health at work. This provision provides special protection for employees younger than 18 years of age.

Article 180, paragraph 2, point 4 of the RS Labor Law provides a fine in the amount from 2,000 to 15,000 BAM in case employer does not ensure exercise of rights to a woman.

Article 76 of the BD Labor Law stipulates that a woman may not be assigned to work underground mines, except when she is employed in managing position that does not require physical work, or is employed in health and social protection services, as well as she has to spend required amount of time in training underground or occasionally has to enter into underground mines for assignments that do not require physical work.

Article 111, paragraph 1, point 13 of the BD Labor Law provide that an employer shall be fined in the amount of 1,000 up to 7,000 BAM in case it employs a woman in mine.

**Question 2. State the measures taken (administrative) arrangements, programs, action plans, project, etc) for the implementation of the legislative framework**

**Question 3. Provide relevant figures, statistical data and other relevant information**

**Article 16 – The right of the family to social, legal and economic protection**

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the

economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means

**Question 1. Describe general legislative framework. Give a precise nature, reasons and scope of reforms , if any.**

**Answer:**

Social Protection

Pursuant to the Article III, paragraph 3 of the BiH Constitution social protection is constituent part of the social policies and within competencies of the entities and BD.

Existing legislative framework in BiH is determined by the entities' and BD Laws on Social Protection. This legislative framework in different ways regulates the matters from economic and social rights. However, this does not ensure the uniform exercise of these rights without discrimination at the territory of BiH, and it does not provide for uniform social security. There is no mechanism (legislative framework) at the level of the state that would define minimum social rights at the territory of BiH and the volume of financial assistance is not equal for all.

Entity and BD Social Protection Laws:

- The FBiH Law on Basic Social Protection, Protection of Civil War Victims and Families with Children („The FBiH Official Gazette”, No. 36/99,.54/04, 39/06 and 14/09),
- The RS Law on Social Protection (“The RS Official Gazette», No.5/93, 15/96 and 110/03),
- The BD Law on Social Protection (“The BD Official Gazette”, No. 1/03,4/00 and 4/04).

According to the above listed laws regulating social protection, rights from the social protection can be exercised by citizens and families in permanent or temporary need of social protection.

Children can be users of social protection in cases when they are:

- Children without parental guardianship,
- Neglected children,
- Derelict children,
- Children whose development affected by family circumstances,
- Persons with socially negative behavior,
- Persons with physical and mental disabilities,
- Persons and families in need of social protection, which under special circumstances need certain type of social protection.

In accordance with above mentioned laws, a “person with socially negative behavior” is considered to be a person practicing dawdle, vagrancy, mendicity, prostitution, alcoholism, drug abuse and other forms of socially negative behavior.

Laws on social protection in the entities and BD regulate basics of the social protection of citizens and their families, define their basic rights from social protection, users, foundation and work of social protection of institutions, formations of persons with disabilities associations, funding and other matters of importance to exercise basic rights from social protection.

Above mentioned laws determine the basic definitions, categories of persons under protection and types of rights such as financial and other material help, education for life and work, placements in other family, social and other expert services, home care and assistance in house.

Family laws in FBiH, RS and BD regulate relationships of parents and children, their rights and duties. It is important to emphasize that parents have right and duty to protect their underage children and care about their life and health, and children have right to protection from all forms of violence, abuse and neglect in family.

Laws on child protection/protection of families with children in FBiH, RS and BD:

- The RS Law on Child Protection („The RS Official Gazette“, No. 4/02),
- The BD Law on Child Protection („The BD Official Gazette“, No. 1/03,4/04 and 21/05,
- The FBiH Law on Basic Social Protection, Protection of Civil War Victims and Families with Children („The FBiH Official Gazette“, No. 36/99,.54/04, 39/06 and 14/09)

These laws regulate parental rights and duties, as well as matters of custody over children.

The FBiH Law on Basic Social Protection, Protection of Civil War Victims and Families with Children regulates the matters of child protection. The social protection of children is regulated by cantonal laws, leading to different practices and solutions when it comes to social protection of children in FBiH.

The RS and BD laws on child protection regulate social contributions such as child allowance, salary contributions to women on maternity leave, newborns' packages and other social needs of children, while in FBiH these rights are regulated by the Law on Basic Social Protection, Protection of Civil War Victims and Families with Children.

#### Housing for families

According to the BiH Constitution, housing is not within the competencies of the state, but the entities and BD BiH.

In 1991, the Housing Fund had 1.2 million of housing units distributed to 7,000 settlements. The average area of the housing unit was 60m<sup>2</sup> per household, or 17m<sup>2</sup> per inhabitant.

Almost three quarters of the housing fund in 1992 were privately owned, while remaining housing units, mostly apartments in apartment buildings was public property. The right to assign these units was given to municipalities and legal entities organized under principles of self governance. The institution of tenants' rights, public apartments were assigned to employees and families in need of social housing.

The consequences of 1992 – 1995 war had radically changed the situation in the housing sector with partial or total destruction of over 450,000 housing units that were built before war, making it over 40% of the total housing fund. Out of these 40%, almost 80% of the housing units was destroyed or heavily damaged. Unfortunately, the destruction of housing units continued after signing the peace agreements, so in 1995 additional 14,000 housing units was destroyed, out of which over 80% was at the territory of FBiH.

Even though consequences of war differently affected housing units in two entities, with higher degree of destruction in FBiH, the destruction was a common feature across the country.

Since beginning of the war and until signature of the General Framework Peace Agreement for BiH – Dayton Peace Agreement (DPA), 2.2 million people had left their pre-war residencies, making it more than 50% of the pre-war population. Out of this number 1.2 seek protection as refugees in over 100 countries across the world, while at the same time approximately 1 million was displaced within borders of BiH. Large number of population was displaced due to physical destruction of the housing they lived in before was, moving to „safer facilities“, temporary occupation of abandoned housing units, as well as satisfying the economic needs to preserve of family during the war.

Therefore, the largest number of habitable and abandoned housing units was settled in by persons displaced within the borders of BiH. These solutions were mostly legally grounded, having in mind that both entities had laws on tendering the abandoned property in force.

Following the legislative models of reassignment of the abandoned units to temporary housing, the users of more than 200, 000 housing units, in equal percentage of private and public, had changed.

Housing support in elevating consequences of war, in accordance with the provisions of the Annex VII of the DPA had a primary purpose to reduce consequences of war on population. In the housing sense, this assistance was primarily directed into two areas: property/housing right return and reconstruction.

Property and housing rights return to refugees and displaced persons was conducted in accordance with entities property regulations, and in general that process was finished in the end of 2006.



The process of return of property and housing in general is finished, meaning that before war owners/users were recorded as owners/holders of the property/housing rights, in the remaining cases due to contested factual and legal status some of the administrative procedures, disputes or court cases were initiated.

According to the latest statistical data published by the PLIP (Property Laws Implementation Plan) agencies tasked to monitor and implement relevant regulation, consisting of OHR, OSCE, UNHCR and CRPC, there were 211,791 requests for property or housing right return submitted.

197,688 cases of property return was concluded, with 197, 815 cases with positive, and 12,642 with negative decision, making it 100% positive decisions and returning the housing units to their pre-war owners or owners of the housing right.

Having in mind results achieved in the area of property or housing rights return, BiH is considered to be a good example not just in region but wider.

Privatization of the housing fund included housing units in the public ownership across BiH, even though entities applied different models of the privatization.

Apartments' sale for certificates in BiH was favorable method from the stance of end-users, while on the other hand, the vouchers in the RS achieved more favorable effects to financial strengthening of the housing budgets.

In the end, transition from the public to private ownership resulted in additional discrepancies in the housing sector of two entities.

Reconstruction followed return process, in that light since signing the DPA in 1995 until now, 322, 000 housing units were reconstructed making it to 70% reconstruction. Out of this number, 236,200 housing units were reconstructed in the FBiH, 73,300 in the RS and 12,600 in BD BiH.

The estimates show that more than two thirds, approximately 200.000 housing units were reconstructed by different types of international and domestic donations, while remaining one third, mostly lightly damaged units, was reconstructed by the private owners or housing rights holders.

Current status of the housing fund in BiH, according to the collected data from competent municipal authorities, shows that there are 146,000 housing units that have not been reconstructed, making it 30% of the total damaged and destructed housing fund. Most of these housing units are heavily damaged or completely destroyed. In the FBiH 78,500 housing units are in need of reconstruction, making it 25% of the destroyed and damaged housing fund in FBiH. 65,000 housing units are in the RS (47%) and 2,700 unreconstructed housing units in the BD (18%) of the destroyed or damaged housing fund.

The expenses of the complete reconstruction of the remaining destroyed and damaged housing funds, according to the expressed degree of destruction at the field, can be estimated to approximately 2 billion BAM.

This estimate refers to reconstruction in accordance with the minimum standard of housing conditions. However, the minimum standard of housing conditions was set by the international community soon after the end of war, and it ensured 5m<sup>2</sup> per member of the returnee family, which in comparison with the average area of housing per inhabitant in 1991 presents substantial reduction.

There is still a large remaining number of refugees, displaced persons and other persons affected by conflict who still need assistance in housing. Many of them are homeless or live in improvised settlements and housing. Collective housing with poor living conditions still houses some 2,500 families, some 8,000 persons, who without doubt present a priority in seeking permanent solutions.

Strong interdependence between housing policies and other policies connected to social rights, such as social protection, health, education and employment, affects economic productivity as access to housing is key not just for an individual but for social coherence of the society. This is also a precondition to the workforce mobility and plays an important role in creating a political environment for businesses and creation of new jobs.

Article 20 of the FBiH Law on Basic Social Protection, Protection of Civil War Victims and Families with Children provides that persons and families in social need, fulfilling the conditions for rights of social protection from the Article 19 of the same Law, shall have ensured at the expense of the social protection funds some forms of the health protection and housing and other needs in accordance with the Law.

According to the BD Law on Social Protection („The BD Official Gazette, No. 15/03) and Rulebook on Ways and Conditions Resolving Housing Problems of the Permanent Users of Social Protection and Persons in Need of Social Protection (Article 2) it is provided that an apartment can be subject to distribution, which are by the competent department – Department for Housing, as well as all other apartments placed under disposal to the Department by the Mayor – Department for Health, Public Safety and Citizen Service with the purpose of resolving housing problems of the persons as provided by this Rulebook.

Right to resolution of the housing rights as stipulated by the Article 3 of the BD BiH Law on Social Protection and Rulebook on Ways and Conditions Resolving Housing Problems of the Permanent Users of Social Protection and Persons in Need of Social Protection is given to persons permanent users of social protection and persons in need of social protection.

Article 6 of the BD Law on Social Protection and Rulebook on Ways and Conditions Resolving Housing Problems of the Permanent Users of Social Protection and Persons in Need of Social Protection regulates criteria: number of family members, age of child, health condition, disability, family status (single parents).

Based on above mentioned regulations special criteria are determined that affect the priority when deciding on housing allocation regardless of general criteria and include: loss of housing due to a force majeure – fire, flood, storm, earthquake, and unplanned increase in family members.

### Child Care Institutions

In FBiH, accommodation of children in pre-school educational institutions, with provided food, is one of the basic rights, which, in terms of the Law on Basis of Social Protection, Civilian War Victims Protection and Protection of Families with Children (Social Welfare Law), may be realized by families with children (Article 89, item 7).

In more detail, canton regulations provide for conditions, methods, procedures, bodies and funding of the aforementioned right (Article 90, paragraph 2 of the Social Welfare Law).

However, problems in exercising this right exist due to lack of funds in canton budgets, being also the case in the exercise of other rights by families with children.

Thus, Herzegovina-Neretva Canton has not passed a regulation governing this right; however, in 2008, accommodation of children in kindergartens was subsidized in the amount of 65.00 BAM in the municipality of Neum. Likewise, Posavina Canton has not passed any regulation in this field, so that this canton does not exercise this right, as neither the cantons that have passed legislation do. Namely, subsidized accommodation of children in pre-school institutions in Canton 10 (Livno Canton), was provided only in 2007, while its continuous implementation was maintained only within West Herzegovina Canton and Canton Sarajevo.

In RS, according to Article 38 of the Law on Social Protection, accommodation in social welfare institutions is realized upon referral of beneficiaries to relevant institutions that provide shelter (housing, food, clothes, care, assistance and guardianship), upbringing/education, training for specific work-related activities, and health care, according to particular regulations, as well as working/occupational, cultural/entertaining and recreational/rehabilitation activities and social welfare services. Exceptionally, accommodation may be provided in a health care institution that meets requirements for provision of accommodation, in students' dormitories, when a beneficiary is referred to training. Persons, entitled with the right to be accommodated with another family, are those persons with the right to institutionalized accommodation (Article 38).

According to law, the following are social welfare institutions that provide accommodation for children: homes for children and youth, homes for handicapped children/youth, for bodily-impaired children/youth with preserved intellectual abilities, juvenile institutions, receiving centers, service and day care centers.

Homes for children and youth provide shelter for children without parental care and for those challenged by family situation, until conditions for return to own family are met or for sheltering in adoptive or another family, i.e. until they are equipped to live independently (Article 61).

Homes for handicapped children and youth provide children/youth suffering from moderate, heavy and severe intellectual disabilities, multiply handicapped children/youth and children/youth suffering from autism, with adequate forms of upbringing, education and training for work and work-related activities, according to their intellectual and physical abilities, work on lessening or removing effects in their development, work-related engagement under special conditions in line with their working abilities, full and lasting shelter (housing, food, care, health care, cultural entertainment and other activities) paired with their needs and psycho-physical abilities (Article 62).

Homes for bodily-impaired children and youth with preserved intellectual abilities provide their beneficiaries with accommodation, health care, upbringing, recreational activities and cultural entertainment, according to their abilities and impairment degree, assisting them in education and training for work (Article 63).

Juvenile institutions provide shelter, education/upbringing, vocational training and health care for children and youth with behavioral issues (63a).

Receiving centers for children and youth provide shelter and short-term accommodation for vagrant and begging children/youth, or in other cases in need of urgent short-term accommodation, food, health/hygienic measures, identity and residence identification, and behavioral report, with the aim of returning the child as soon as possible to his/her parents or accommodation institution, or of referring to social welfare service of the relevant municipality (Article 64).

The Republika Srpska (RS) establishes social welfare institutions of wider importance, which ensure that rights, referred to in this law, are implemented. Social welfare institutions may be established in public, private or mixed ownership (Articles 50 and 51).

The Ministry of Health and Social Welfare prescribes criteria and scale for defining the price of service and establishes the pricelist for accommodation of beneficiaries - in line with law and social welfare centre's price of the work program pertaining to the exercise of public authority – as well as price of the program for vocational training of beneficiaries in a respective organization that is in charge of training. A competent municipal administration body prescribes criteria and scale for defining the price of services and establishes them in social institutions founded by the municipality (Article 83).

Costs of accommodation, i.e. a part of the costs that are incurred in the institution providing social welfare services, or in another family, are born by the welfare beneficiary, the parent or relative who is obliged to support the beneficiary, competent body or another organization and persons who undertook to pay the costs. The beneficiary partakes in the costs with all his/her income, reduced for the amount required for personal needs. Both parents and support obliging relatives partake in the beneficiary's costs of accommodation. The Ministry of Health and Social Welfare prescribes criteria and scales for participation of parents and/or siblings in costs of accommodation in the social welfare institution and another family, and for defining the amount of funding for personal needs (Article 41).

In the RS, there are two institutions for sheltering children without parental care and children whose development is challenged by family situation; two institutions for

accommodation of challenged children and youth (institutions for female/male children); and one institution for disabled children and youth with preserved intellectual abilities.

RS is the founder of these institutions. In 2009, the Ministry of Health and Social Welfare secured in total 2,895,701.00 BAM for investment in social welfare institutions for their construction, refurbishment, repair and equipping, as well as for subsidizing a part of costs for accommodation of children in institutions; another 510,130.00 BAM was secured for training for work of physically and psychically challenged children and youth.

As per 2008, 10 girls aged 10-18 with moderate, heavy and severe intellectual disabilities were accommodated in the Social Welfare Institute for Female Children and Youth in Višegrad.

As per 2008, 11 boys aged up to 19 were accommodated in the Home for Challenged Children and Youth, Prijedor.

As per 2008, 35 blind, partially sighted children and children with combined impairments were accommodated in "Budućnost", the Institute for the Blind and Partially Sighted, Derventa.

As per 2008, 83 children without parental care lived in the Children's' Home "Rada Vranješević", Banjaluka, distributed in ten teaching groups – families.

As per 2008, 35 children were accommodated in the Home for Children and Youth "Kiseljak", Zvornik, out of which are 30 primary school children and five secondary school children.

In developed municipalities, within centers for social welfare, there are active service and day care centers, as well as receiving centers for children and youth. In 2009, 95 children received services in the day care centre.

Accommodation in social welfare institutions is realized upon referral of beneficiaries into relevant institutions that provide shelter (housing, food, clothes, care, assistance and guardianship), upbringing/education, training for specific work-related activities, and health care, according to particular regulations, as well as working/occupational, cultural/entertaining and recreational/rehabilitation activities and social welfare services. Exceptionally, accommodation may be provided in a health care institution that meets requirements for provision of accommodation, in students' dormitories, when a beneficiary is referred to vocational training. (Article 36) Persons, entitled with the right to be accommodated with another family, are those persons with the right to institutionalized accommodation (Article 38).

Aimed at ensuring that child institutions are acceptable and in favorable condition (coverage in the number of children between 0-6 years, number of persons per child, staff training, adequate space, parental costs for child care, etc.), the Minister of Health and Social Welfare passed a Rulebook on Detailed Requirements in Terms of Space, Equipment, Needed Professional Staffs and Other Employees for Founding of Social Welfare Institutions ("The RS Official Gazette", No. 26/03), Rulebook on Criteria and Scale for Establishing Prices for Accommodation of Beneficiaries, Price of the Beneficiary Vocational Training Program and Price of the Program of Work of Social Welfare Centers ("The RS Official Gazette", No. 83/02), Rulebook on

Participation of Relatives in Upholding Social Welfare Beneficiaries ("The RS Official Gazette", No. 83/02).

Each year, the Minister prescribes price of accommodation in the social welfare institutions with protective character. Decision of the Minister of Health and Social Welfare ("The RS Official Gazette", No. 123/08) defines prices of accommodation in the social welfare institutions, as follows: for underage persons - 595.00 BAM, for persons of age, fully dependant on assistance from another person and those with heavy and severe intellectual disabilities - 650.00 BAM, for independent persons of age and those with insignificant and mild intellectual abilities - 595.00 BAM.

Each year, the RS Government allocates in the Budget some funds to construct, overhaul, refurbish and equip social welfare institutions, to subsidize a part of the costs for sheltering children in institutions, as well as for vocational training of the bodily and mentally disabled.

The RS Government adopted a Strategy for Enhancement of Social Welfare of Children without Parental Care, including an Action Plan for 2009-2014. By adopting the Strategy with the Action Plan in RS and facilitating prerequisites for its consistent implementation, the RS Government expressed its determination in meeting its commitments taken on through ratification of international documents, such as: *UN Convention on the Rights of the Child*, and other UN key documents: *Millennium Development Goals* and the *World Fit to Children*. This document is also a response to commitments arising from the *Action Plan for Children in 2002-2010 in BiH*, adopted by the BiH Council of Ministers, and *the Policy for Protection of Children without Parental Care and Families under Separation Risk in 2006-2016*. The documents advocate for strengthening of children's position, through recruitment of all available governmental and non-governmental resources, of families and individuals, in order to improve living conditions in the interest of development of children in BiH. The Action Plan for institutional accommodation of children without parental care foresees the following activities: refurbishing, overhaul, renovation and equipping of premises where children live; introduction of standards, norms and procedures of professional work; development of new classification standards; additional training of the current staff in institutions; exploring needs for additional services in the community; provision of fixed assets and professional resources in institutions, to facilitate introduction of new activities.

Through the BD Assembly Decision, the Law on Social Welfare of the Brčko District of BiH ("The BD BiH Official Gazette", No. 1/03, 4/04), Article 81, foresees, for children without parental care, a possibility to open institutions for children and youth, for children neglected in terms of upbringing and for children with intellectual and physical disabilities; however, there is no such institution on the BD territory.

Enrolment of children in pre-school institutions (infant nurseries, kindergartens-playschools) on the BD territory depends on trained staff capacities.

Ratio between the number of children and employees in a preschool institution is 2 trainers per group of 25–28 children. The trained staffs employed in pre-school institutions in BD are trainers, support staff, and medical nurses.

Availability of adequate space for care of children between 0-6 years of age in BD includes infant nurseries (1-3 years, 140 children) and kindergartens (3-6 years, 230 children).

Articles 52 and 53 of the BD Statute ("The BD Official Gazette", No. 17/08), Article 11, paragraph (2) of the Law on BD Government ("The BD Official Gazette", No. 19/07, 36/07, 38/07, 2/08, 17/08), Articles 2, 3 and 7 of the Decision on the Mode of Financing of the Stay of Children in the public pre-school institutions in BD, provide that users of accommodation/stay of children between 3 years of age and school attendance, i.e. in kindergartens, pay for monthly price of services for one child, as follows:

- a) Employed parent(s)..... 150.00 BAM
- b) AVC\* groups:

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\*AVC – Average Variable Cost

- Parent with disabilities (category 1-4) 100.00 BAM
- Unemployed single parent.....100.00 BAM

Users of accommodation/stay of children between 1-3 years of age, i.e. in infant nurseries, pay for monthly price of services for one child, as follows:

- a) Employed parent(s)..... 180.00 BAM
- b) AVC groups:
  - Parent with disabilities (category 1-4) 120.00 BAM
  - Unemployed single parent.....120.00 BAM

Right to accommodation without compensation:

- Children whose parents are beneficiaries of the right to permanent financial support are entitled to free accommodation/stay.

### **Parent Counseling Centers**

In FBiH, the Social Welfare Law provides services of social and other expertise (Article 19, paragraph 1, item 5) for one of the rights related to social protection. These services include, inter alia, counseling work by institutions in addressing family problems.

In addition, the Family Law of FBiH prescribes that a guardianship body shall render assistance to parents in addressing their social, material and personal relationships and situation, and, if required by the child's best interest, parents will be referred to a counseling centre (Article 151, paragraph 2).

Thus, besides the social welfare centers as guardianship bodies, which are 79 in FBiH, family support in terms of settling their own family situation is also provided by family counseling centers; the Social Welfare Law foresees that nongovernmental organizations may serve this purpose (Article 4).

According to incomplete data, there are seven (7) family counseling centers in FBiH, with three (3) at the Herzegovina-Neretva Canton, as follows:

- Counseling Centre for Protection of Marriage, Family and Children, established within the Social Welfare Centre of the City of Mostar;
- Family Counseling Centre established within the Caritas, Mostar (NGO);
- Centre for Family and Child established within the SOS Kinderdorf, Mostar (NGO).

1,505 beneficiaries were serviced by these centers in 2009.

- Cantonal Public Institution - Family Counseling Centre operates at the territory of Sarajevo Canton. Two teams provide counseling/therapeutic assistance: the Marriage and Family Team and the Children and Adolescents Team. This Centre also offers services to persons from neighboring cantons.

885 beneficiaries were serviced by this Centre in 2009, and primary prevention projects (eight projects – workshops and interactive lectures/public fora) included 3,508 persons of different age groups, depending on the target population.

- At the territory of Zenica-Doboj Canton, a Counseling Centre for Marriage and Family Issues operates within the Social Welfare Centre Zenica, with 553 beneficiaries registered in 2009.

- Counseling Centre for Marriage, Family, Children and Adolescent Issues operates within the Social Welfare Centers of the Bosnia-Podrinje Canton Goražde. In 2009, the Centre worked with 56 clients in 315 sessions.

- In 2009, at the territory of Tuzla Canton, activities related to opening of the Family Counseling Centre were undertaken in co-operation with the nongovernmental organization "Amica EDUCA" from Tuzla and the Centre started working in 2010. There were 552 beneficiaries of family counseling, served by the social welfare centers, within their activities, and by NGOs in the Canton.

RS offers free family mediation services. There are 45 social welfare centers within RS, but 17 municipalities have not established these centers yet. Social welfare services operate within the administrative service of local self-government units.

In developed municipalities, counseling centers operate within social welfare centers.

RS Law on Social Protection (Article 60) provides, inter alia, for competences of the social welfare centers to render social protection services when addressing social welfare rights in procedures, to render diagnostical services, carry out relevant treatments, counseling/therapeutical services and expertise to beneficiaries, as well as to work on establishment of a family counseling centre aimed at rendering services to families and individuals.

Social welfare centers/social protection services, in the conduct of legal competences, often exercise mediation between parents, or between parents and children. Namely, social welfare centers/social protection services conduct marital conciliation procedures, when spouses, who have mutual under-aged or adopted children, or children with parental rights extension, want to institute divorce proceedings, in line with the RS Family Law. The conciliation procedure is a form of family protection, and attempted preservation of a family community. Social welfare



centers/social protection services also make decisions in cases of disagreement between parents on the exercise of parental rights (Article 85), and assist parents in settling their social, material and personal conditions and relationships, or refer them to a relevant counseling centre, in the interest of children (Article 95).

The RS Family Law (Article 95) also prescribes that the guardianship body assists parents in settling their social, material and personal conditions and relationships, or refers them to a relevant counseling centre, in the interest of children.

The guardianship body may also order permanent supervision over the conduct of parental rights, while assisting parents in the conduct of the parental rights through advice and other adequate methods of social work; calls on parents to agree on the conduct of parental rights; visits parents and children, invites parents and children to attend regular periodical meetings in the guardianship body's premises, etc. (Articles 96 and 97, paragraph 2).

The BD Division for Social Protection, i.e. social welfare centre, provides counseling services within its regular work-related activities, through an expert team: pedagogue, psychologist and social welfare worker.

Besides the Sub-department, there are 11 associations registered in BD, representing families and providing counseling and expert assistance, psychosocial treatment or humanitarian assistance to families registered at the BD Municipal Court.

Most of these associations are interactive (co-ordination and co-operation) with international organizations (OHR, OSCE, etc.).

## Legal protection

Specific legal protection of a family in BiH is incorporated in the family laws of FBiH, RS and BD, which provide for issues related to family, marriage, parents and children, adoption, support, property relationships, proceedings before respective bodies with regard to marital and extramarital relationships. Family laws also provide a definition of family.

The Family Law of FBiH ("The FBiH Official Gazette", No. 36/05) provides for family, marriage and marital legal relationships, relationship among parents and children, adoption, guardianship, legal effects of the common-law marriage between a woman and a man, rights and obligations of family members in FBiH, as well as for authorized bodies' actions in regard to marital and family relationships (Article 1).

In terms of this law, a family is a living community of parents and children and other next-of-kin's, in-laws, adoptive parents and adoptees, and persons from a common law marriage, if they share a household (Article 2, paragraph 1).

Regulation of relations within the family (Article 2, paragraph 2) is based on: protection of privacy of family life; equality, reciprocal assistance and respect among the family members; obligation of parents to ensure protection of child's and own interests and welfare; responsibility in child's raising up, upbringing and education; obligation of the state to ensure protection of the family and child.

The law prescribed that spouses are equal in marriage, making decisions in agreement and equality about birth and upbringing of children, about regulation of mutual relations and carrying out jobs in marital, i.e. family community (Article 30, paragraph 1 and 4).

The common-law marriage, in terms of this law, is a life union of a man and a woman, who are not engaged in marriage or common-law marriage with another person, and which lasts no less than three years, or even less, if it has produced a common child (Article 3).

Provisions of the Family Law, regulating personal rights and obligations of spouses (Chapter 5, Articles 30– 44), provide that:

- Spouses are equal in marriage.
- Spouses are obliged to be faithful to each other, to respect and assist each other.
- Spouses decide on the place of living in agreement.
- Spouses, in agreement and equality, make decisions about birth and upbringing of children, about regulation of mutual relations and carrying out jobs in marital, i.e. family community.

There is also a possibility that, after the marriage is concluded, future marital partners agree to: withhold his/her family name; take either his or her family name for a common name; take both partners family names as a common one, with agreement on their sequence; any of the two or only one marital partner can add family name of another marital partner to his/her family name; any of the two or only one marital partner adds his name to the family name of his marital partner.

Every marital partner may ask for divorce if the marital relations are heavily and permanently disturbed; however, a husband does not have the right to begin divorce proceedings during his wife's pregnancy or until their child does not turn three years of age.

Marital spouses may have marital and separate property (Article 250); they have equal share in marital property, if not otherwise agreed (Article 252, paragraph 1). Marital property includes the property acquired through work by marital partners during the marital community, as well as revenues from the property (Article 251, paragraph 1).

Together, parents are primarily responsible for development and upbringing of the child, and they should ensure child's protection, which is needed for its welfare (Article 130).

Together, in agreement and equally, parents take care about the child, if not otherwise regulated by law (Article 141, paragraph 1).

In case of a dispute between parents on realization of parental custody, decision is made by the court in extrajudicial proceedings according to proposal of the parents, the child that is capable of understanding the meaning and legal consequences of all actions, or a guardianship body in which area the child resides (Article 141, paragraph 3).

Court also takes decision about the parent with whom the child is going to live, if the parents do not live in the family community (Article 142, paragraph 2).

If they do not live with the child, both parents are obliged to maintain personal relationship and direct contacts with the child and respect the child's connection with another parent, in case the court does not rule otherwise (Article 140, paragraph 2).

In its decision about the child's care, the court shall determine the manner of maintaining personal relations and direct contacts between the child and the parent with whom he/she does not live (Article 145, paragraph 1).

In taking above decisions, the court shall respect agreement of the parents, if it is in the best interest of the child (Articles 142, paragraph 7 and 145, paragraph 2). If parents have not reached agreement on which parent the child will live, the court shall refer them to the person authorized for mediation (Article 142, paragraph 7).

According to this law, right and obligation of parents is to govern the child's property until his/her maturity, in his/her best interest, except the property that the minor acquired by own work (Article 139).

With regard to expert assistance and protection of rights and interests of the child and other members of family, resolving of disputes between the family members, as in all cases of disturbed relations, the centre of social welfare is competent, as a guardianship body, the court, and the person who is authorized for mediation (Article 5, paragraph 1 of the Family Law of FBiH).

The Family Law of RS ("The RS Official Gazette", No. 54/02 and 41/08), governs family and legal relations between spouses, parents and children, adoptive and adoptee, guardian and ward; relations between relatives in the marital, common-law or adoptive family; and procedures by relevant bodies in terms of family relations and guardianship (Article 1).

According to Article 2 of this law, family is defined as a living community of parents and children and other relatives.

The right to free decision on starting a marriage, starting a family, bearing children, on rights and obligations of parents and children among each others, and state institutions' care for family (rendering services and protection to the family), are regulated by legal provisions and guaranteed to every citizen of RS.

According to Article 6 of the Law on Child's Protection in RS ("The RS Official Gazette", No. 04/02, 17/08, 01/09), family includes marital or common-law partners, children (marital, common-law, adopted and step-children, as well as children under guardianship and taken under support), and relatives in the direct line, and in the lateral, until the second degree of relationship, if they live in the common household.

The field of marriage and marital relations is governed by the Family Law of RS, defining marriage as a legally regulated living community of woman and man. Every person who turned 18 years of age is legally granted to conclude a marriage. The marriage is founded on the free decision by a man and a woman to conclude the marriage, on the equality of marital spouses, mutual respect and reciprocal assistance. Decisions regarding the place of residence, raising-up mutual children and the manner of regulating relations, carrying out duties related to marital, i.e. family community, is taken by spouses in agreement.

With regard to rights to shared support and other property and legal relations, the living community of a man and a woman that has not been legally regulated in the manner prescribed by this law (common-law community) is leveled with the marital community.

The law regulates in which cases marriage may not be concluded, i.e. which are the obstacles to conclude the marriage, when marital community ends, in which cases marriage may be cancelled and when a spouse may require the end of the marriage (Article 29-36).

Obstacles to conclusion of marriage are defined by law: if the marriage is not concluded for the common life of the spouses, if a spouse accepted to conclude it out of fear, if it was accepted by a spouse misguided regarding the other spouse's personality or his essential characteristic (when a spouse thought to be stepping into marriage with one person, but stepped with another, when the characteristic or circumstance was such that would divert the other spouse from the conclusion of the marriage if he/she was aware of it); while one marriage lasts, another cannot be concluded; a person who is not able to make judgment out of specific health reasons; next of kin in the first line (brother and sister, brother and sister per father or mother, uncle and niece<sup>2</sup>, aunt and nephew<sup>3</sup>, brother's or sister's children, neither children of brothers and sisters per father or mother); in case of total adoption or common-law relationship, all the aforesaid provisions are applied; in-law relatives may not conclude a marriage (father-in-law and daughter-in-law, son-in-law and mother-in-law, stepfather and stepdaughter, stepmother and stepson), no matter whether the marriage causing their relationship has ceased; nor persons younger than 18 years of age.

Marriage ends by death of a spouse, proclamation of a missing spouse as dead, cancellation of marriage and divorce (Article 44).

Marriage will be cancelled if it is found that, during its conclusion, one of marital setbacks existed: if the marriage was not concluded for the living community of spouses (Article 29) or if a person has not turned 18 years of age (Article 36).

A spouse may require divorce if the marital relations have been severely and permanently disturbed, creating living together unbearable (Article 52).

According to the Article 52 that aims to protect mothers and a child until he/she is one year old the law prescribes that a husband/father does not have a right to request a divorce during woman's pregnancy and until child is one year old. Additionally, having in mind that a child rights and interests come first, the law regulates that a court cannot grant dual judgment of divorce in case parties have joint underage children, adopted children or children in their joint custody. In this case, before filing for divorce spouses have to initiate mediation before competent custody authority.

A court ruling that marriage is judged annulled or divorced, the court decides on protection, care and support for joint children as well as support of spouse (alimony) in case it is requested (Article 72).

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<sup>2</sup> Brother's or sister's daughter

<sup>3</sup> Brother's or sister's son

In case when other regulations are concerned, such as Law on Retirement and Disability Insurance, Law on Housing, etc.) That regulate rights and obligations, family is defined in the sense of determining wider circle of relatives. Wider circle of relatives are defined by the Law on Protection from Domestic Violence.

The RS has a developed a system of institutions that provide help, services and protection of family, as legal framework determines that state has to provide special protection for family, mother and child in accordance with internationally recognized human rights and fundamental freedoms.

In implementing family protection and protection of child rights, it is important to mention existence of the Ombudsman for Human Rights in BiH, with a department for child rights, while in the RS there is the Ombudsman for children.

Marriage and marital relations are regulated by the Family Law in the RS. This Law defines marriage as union of a woman and man regulated by the law. Every person that is 18 years of age can conclude marriage. The marriage is based on free will of a man and a woman to conclude a marriage, on their equality, mutual respect and helping each other. Decisions on place of residence care for joint children and ways the relationships are realized, as well as their family community, are made jointly. .

When it comes to the right of mutual livelihood and other legal and property relations of the union of a woman and a man that has not been regulated by this law, ("common law marriage") is equalized with marriage.

The Law regulates cases when marriage cannot be concluded, as well as obstacles to the marriage, when marriage ends, can be annulled and when a spouse can request an end of a marriage (Articles 29 – 36).

Obstacles to conclude marriage are defined as follows:

- if the marriage is not concluded with the goal of joint life of spouses,
- if one of the spouses agreed to marriage from fear, if one of the spouses was deceived on the personality of the other spouse or his important characteristics (in case when one spouse thought he/she is marrying one person, but in fact was marrying someone other, or the characteristic or circumstance that would divert a spouse from concluding the marriage provided he/she had previous knowledge about it),
- if one of the spouses is already married,
- if a spouse is not in capacity to reasonable judgment,
- kinship in the first line (brother and sister, first cousins, uncle and niece, aunt and nephew, children of brothers and sisters, children of cousins),
- if the complete and final adoption is in question,
- if the common law marriage among kin is in question,
- marrying kin cannot conclude marriage (father-in-law and daughter-in-law, son-in-law and mother-in-law, stepfather and stepdaughter, stepmother and stepson) regardless if the marriage by which they came into kinship is finished,
- if the person is younger than 18 years of age.

The marriage ends by the death of one spouse, the declaration of missing spouse dead, annulment of the marriage and divorce (Article 44).

The marriage will be considered annulled if an obstacle existed during its conclusion: if the marriage is not concluded with an aim of joint life of the spouses (Article 29) and if person was not 18 years of age (Article 36).

A spouse can file for divorce in case when the marital relations are gravely and permanently disturbed, making the life with each other unbearable (Article 52).

According to the Article 52 to protect mother and a child until one year old the law determines that a husband/father does not have right to request divorce during the woman's pregnancy or their child is not one year old. Additionally, having in mind that a child rights and interests come first, the law regulates that a court cannot grant dual judgment of divorce in case parties have joint underage children, adopted children or children in their joint custody. In this case, before filing for divorce spouses have to initiate mediation before competent custody authority.

A court ruling that marriage is judged annulled or divorced, the court decides on protection, care and support for joint children as well as support of spouse (alimony) in case it is requested (Article 72). During this procedure, the participation of competent custody authority is mandatory.

The BD Family Law ("The BD Official Gazette", No. 23/07) regulates family and legal relations among spouses, parents and children, adopting parents and adoptees, guardian and protégée, and relations among relatives in marriage, common law marriage, or adopting family, as well as procedures of competent authorities when it comes to family relations and custody (Article 1).

As defined by this Law family is a unit consisting of parents, children and other relatives (Article 2, paragraph 1).

Regulating family relations (Article 2, paragraph 2) is based on:

- protection of privacy of family life
- equality
- mutual assistance and respect of family members
- obligations of parents to secure protection of interests and welfare of a child
- responsibility of parents in care, upbringing and education of children
- obligations of the BD to ensure protection of the family, mother and a child in accordance with international conventions
- Provide guardianship to children without parental care.

According to the provisions of the BD Family Law marriage is a life union set between a man and a woman, based on free decision, equality of spouses, mutual respect and assistance, concluded before registrar (Article 4-6).

The BD Family Law prescribes providing expert support and protection of right and interests of a child and other family members, settling disputes among family members. For all this, as well as in all cases relating to disturbed family relations, the

BD Department for Health and other Services – Division of Social Protection BD as the custody authority is the competent authority (Article 2, paragraph 3).

Obstacles and restrictions to conclude marriage (Article 19-38) state the reasons for the annulment of marriage and they include: if the marriage is concluded under threat, fear and misconception; if the previous marriage is still valid; due to mental illness; social incompetence; incapacities of judgment; if person is not 18 years of age, except when the court granted a person older than 16 right to marry; marriage between kin, adopting parents and adoptees, guardians and protégées, as well as reasons to end marriage, annulment, and divorce (Article 39-41).

The BD Family Law provides that parents jointly have a duty to care about the life and health of a child, and primarily responsible for development and education necessary for his/her well-being in the best interest of a child (Article 112-113).

The custody authority decides on which parent to give custody in case one of the parents is unavailable, on responsibility, duties and rights of each parent toward a child, as well as placing the child in the other family in case both parents are not capable or are prevented to take care of a child (Article 125).

In case of dispute among parents on custody, the competent custody authority in the place of child's residence makes the decision (Article 124), while in the changed circumstances, the court will, upon the filing for divorce or at the request of custody authority, brings a new decision granting custody of a child (Article 126).

Spouses can have the joint property, acquired during the marriage as well as income from that property, or individual property, of which they are equal owners, if not agreed otherwise (Articles 227 -229).

Common law marriage, as the union of a woman and a man, is equal to marriage taking into consideration the rights to interdependent support and other legal and property relations as provided by this Law (Article 5).

Besides family laws in the FBiH, RS and BD, definition of family in BiH legislation is given by laws on social protection, laws on child protection, laws on retirement and disability insurance, laws on health protection, laws on health insurance and other in a sense defining members who make family with a purpose of exercising certain rights and protection.

All three family laws in BiH, besides obligation and duty to care for children, and support them, the above mentioned law regulate obligation of adult children to support their parents who do not have capacity to work, do not have funds for living or they cannot acquire fund from the property they own.

### Mediating Services

In the FBiH, a person authorized for mediation is competent authority to provide assistance and mediating disputes between family members.

In accordance with the Article 45, paragraph 1 of the FBiH Family Law, before initiating divorce procedure, a spouse or both spouses with children in their custody have a duty to submit a mediation request to an authorized mediating individual or legal entity.

A mediation request may be submitted by spouses who do not have children in their custody (Article 45, paragraph 3).

During mediation, competent authority shall try to remove the causes that brought to disturbed marital relations and reconcile spouses. In cases needed, it will recommend to the spouses counseling or other institutions that can provide them with needed advice (Article 48, paragraph 1).

If during the process of mediation spouses do not reconcile, the competent authority shall try to come to an agreement among them to whom the underage child or the child in their custody after becoming an adult shall live, on their personal relations with parent he/she shall not be living, the financial support for a child and other issue that are part of parental care (Article 50, paragraph 1).

If spouses for not come into agreement on above-mentioned issues, or agreement reached does not match the interests of a child, the custody authority will, at the competent mediating authority, or in their official capacity decide on these matters (Article 50, paragraph 2).

There are 93 individuals and legal entities in FBiH authorized to mediate between spouses before initiating divorce, however there is no data on number or success of these mediations.

Having in mind that the FBiH Family Law does not contain provisions that regulate payments for mediation, there are discrepancies when it comes to payment collection of these services.

The FBiH Family Law provides that a child have a right to live with parents. If he/she does not live with both or one parent, it is right of a child to maintain regular personal and direct contact with a parent he/she does not live. Additionally, a child has a right to maintain regular personal and direct contact with grandparents (Article 124, paragraph 2). The same Article in paragraph 3 provides that a child have a right of protection from illegal interference into his/her privacy and family. Maintaining personal relations and direct contact with parent may be limited or forbidden only for protection of child's interests (Article 145, paragraph 3).

In accordance with above mentioned a child placed in other family or institution has a right to maintain personal relations with parents, and grandparents, if this is not contrary to his/her interest in manner as decided by the court based on the provisions of the FBiH Family Law.

There are 45 Social Welfare Centers in the RS, while 17 municipalities do not have centers but services of the social protection within local self-governance administrative unit. The mediating services for family disputes are free of charge.

Pursuant to the Article 72 of the RS Family Law in case of divorce or annulment of marriage, in their official capacity the court shall decide on protection of care and support for mutual children. During this procedure it is mandated that custody services are present to protect interests of children (Article 73), and the court summons the custody authority to all hearings and delivers all decisions in that procedure.



The RS Family Law provides that the custody authority provides help to parents in settling their social, material and personal circumstances and relations, or directs them to competent counseling if the interests of children require so (Article 95).

The custody authority can prescribe permanent supervision over parenthood, during which, with the advice and other appropriate measures of social work, assists parents in parenthood, invites parents to agree on parenthood, visits parents and children, invites parents and children to regular and occasional meetings at the premises of the custody authority (Article 96 and 97, paragraph 2).

Social Welfare Centers, and Social Protection Services, during its activities often mediate between parents, and between parents and children. Namely, Social Welfare Centers, and Social Protection Services conduct mediation between spouses who have joint underage children, adopted children and children in custody, wanting to initiate divorce procedures (Article 57 of the RS Family Law).

Mediation procedure represents a type of family protection and an attempt of family preservation. Additionally, Social Welfare Centre, and Social Welfare Service decides in disputes of parents in executing parenthood rights (Article 85) and assists parents in settling their social, material and personal circumstances and relations, or directs them to competent counseling if the interests of children require so (Article 95).

The Division for Social Welfare – Service for Protection of Family and Children in the BD works in the capacity of Social Welfare Centre.

Pursuant to the provisions of the BD Family Law (Articles 42-47) ("The BD Official Gazette", No. 23/07) in cases of the divorce or uncontested divorce of a marriage in which parents have underage/joint, adoptive or children in custody, the court shall from the custody authority request mediation between spouses. The custody authority shall mediate within two months period, and if the mediation is deemed unsuccessful shall try to reach an agreement with parents on protection, care and support of underage children. All this shall be put in the official note.

The custody authority shall have an official duty to take all necessary measures to protect the rights and the best interests of a child based on direct knowledge and information.

In case there is no agreement, the custody authority shall have a duty to talk with underage children, appreciate and respect their opinion, and deliver opinion, with a proposition after a review with underage children, to the court.

Pursuant to the Article 133 of the BD Family Law, the custody authority shall hear the child on the matters of importance to make a decision, if the child is in capacity to understand what it is about. The opinion of the underage child shall especially be taken into account when deciding on measures of separation from parents.

This provision is consisted in the FBiH and RS Family Law.

The mediation is conducted by an expert team /psychologist, pedagogue, social worker/ with a goal to determine and repair causes and disputes among spouses and support for children.

The Basic Court may recommend that spouses turn to other institutions or family counseling /there are no family counseling in the BD/.

## Domestic Violence

The Law on Gender Equality in BiH („The RS Official Gazette”, No. 16/03 and 102/09) recognizes domestic violence as gender based violence, regulates, promotes and protects equality of sexes, guarantees equal opportunities for all citizens, in public and private domain, and prevents direct and indirect discrimination based on gender.

The Article 6 of the BiH Law on Changes and Amendments to the Law on Gender Equality provides that:

- (1) Gender based violence is prohibited.
- (2) Gender based violence is every violence that may cause physical, psychological, sexual or economic damage or suffering, as well as threat by which the person or a group is prevented to enjoy its rights and freedoms in private and public domain of life.
- (3) Gender based violence includes, but is not limited to:
  - a. Domestic violence;
  - b. Violence in wider community;
  - c. Violence committed or tolerated by the authorities or other privileged authorities or individuals;
  - d. Gender based violence during armed conflict.

The competent authorities have duty to undertake appropriate measures to eliminate and prevent gender based violence in public and private domain of life, and ensure instruments to protect, assist and compensate victims.

The competent authorities have to undertake appropriate measures, including but not limited to educate to eliminate prejudice, customs and all other practices based on the idea of inferiority or superiority of any gender, as well as stereotype roles of male and female sex. This includes but is not limited to education and awareness rising among civil servants, in public and other ways.

The FBiH Criminal Code („The FBiH Official Gazette, No. 36/03, 37/03, 21/04, 69/04, and 18/05) in the Article 222 prescribes criminal act of domestic violence: (1) Whoever by violence, insolent or arrogant behavior violates peace, physical integrity or mental health of a member of his family, shall be punished by a fine or imprisonment for a term not exceeding one year. (2) Whoever perpetrates the criminal offence referred to in paragraph 1 of this Article against a member of his household shall be punished by a fine or imprisonment for a term not exceeding three years. (3) If in the course of the perpetration of criminal offence referred to in paragraphs 1 and 2 of this Article, a weapon, dangerous object or other instrument suitable to inflict grave bodily injury or impair health has been used; the perpetrator shall be punished by imprisonment for a term between three months and three years. (4) If, by the criminal offence referred to in paragraph 1 through 3 of this Article, a serious bodily injury was inflicted on a family member or his health is severely impaired; or if the criminal offence referred in paragraph 1 through 3 of this

Article is perpetrated against a child or juvenile, the perpetrator shall be punished by imprisonment for a term between one and five years. (5) If, by the criminal offence referred to in paragraphs 1 through 4 of this Article, a death of a family member is caused, the perpetrator shall be punished by imprisonment for a term between two and fifteen years. (6) Whoever deprives of a life a family member whom he has been previously abusing, shall be punished by imprisonment for a term of no less than ten years or by long-term imprisonment.

The BD Criminal Code („The BD Official Gazette, No. 10/03, 45/04 and 06/05) in the Article 218 prescribed the same criminal act of domestic violence in the same way as in the FBiH Criminal Code.

The FBiH Criminal Code provides for following criminal acts that can be connected with domestic violence: bigamy, connivance at contracting illicit marriage, common law marriage with a junior juvenile, abduction of a child or juvenile, child desertion, breach of family obligations, domestic violence, avoiding support, preventing and not applying measures for protection of juveniles, transmission of contagious disease, transmission of a venereal disease, murder, assisting in suicide, jeopardizing safety, incest, rape and other.

Under which of the above mentioned forms the competent authority (police, prosecution, court) shall classify the criminal act, depends on characteristics of concrete act, with a possibility to for one criminal act to have multiple legal qualification, among which the form provided by the BiH Law on Gender Equality can be applied, encompassing the incriminating action of criminal act of gender based violence. The competent authority can classify the criminal act exclusively as gender based violence and thus only use legal classification of the criminal act from the BiH Law on Gender Equality, which provides for imprisonment in term from six months up until 5 years.

The underlying reason for adoption of the Law on Protection from Domestic Violence is urgently to protect the victim of domestic violence, so that protective measures present the key element in protecting victims of domestic violence. There are four measures (removal from apartment, house or other living space and prohibition of return to home, restraining order in favor of victim, ensuring protection of a victim of domestic violence, prohibition of disturbance or stocking of the person exposed to domestic violence) in function of direct protection of a victim of domestic violence, while other two (mandatory psychosocial treatment and mandatory substance abuse treatment) are directed towards treatment of violent person to eliminate violent behavior.

Article 208 of the RS Criminal Code (“The RS Official Gazette”, No. 49/03, 108/04, 37/06 and 70/06) prescribes a criminal act of domestic violence as (1) Whoever by violence, insolent or arrogant behavior violates peace, life and health or mental health of a member of his family or family household, shall be punished by a fine or imprisonment for a term not exceeding two years. (2) If during the commission of the criminal offence referred to in Paragraph 1 of this Article, weapons, dangerous implements or other instruments suitable to inflict grave bodily injuries or harm person’s health have been used, the perpetrator shall be punished by imprisonment for a term between three months and three years. (3) If the commission of the

criminal offence referred to in Paragraphs 1 and 2 of this Article has resulted in grievous bodily injury of the family member or impaired his health or if the criminal offence referred to in Paragraphs 1 and 2 of this Article has been committed against a minor, the perpetrator shall be punished by imprisonment for a term between one and five years. (4) If the commission of the criminal offence referred to in preceding Paragraphs of this Article has resulted in the death of the family member, the perpetrator shall be punished by imprisonment for a term between two and twelve years. (5) Whoever kills a member of family or member of household, whom he has abused previously, shall be punished by imprisonment for a term not less than ten years. (6) For the purpose of this Chapter, family members or members of household shall be also understood to mean ex-spouses, their children and ex-spouses' parents.

The FBiH Law on Protection from Domestic Violence („The FBiH Official Gazette, No. 22/05 and 51/06) and the RS Law on Protection from Domestic Violence („The RS Official Gazette, No. 118/05 and 17/08) define domestic violence as every act which causes physical, psychical and sexual injury, suffering or economic damage, as well as threat by these acts or lack of due actions and attention which restricts family members and persons in close social relations, regardless if there is or was union, to enjoy their rights and freedoms based on the gender equality principles, in public and private domain of life.

The BD Law on Protection from Domestic Violence is in the adopting procedure.

These laws regulate protection from violence, the definition of domestic violence, persons considered as family, ways of protection of family members, as types and purpose of punishments for perpetrators of violent actions.

Domestic violence as provided by the Article 6 of the FBiH Law on Protection from Domestic Violence include: every application of physical force, or physical constraint to physical and psychical integrity of family members; every action of a family member that can cause or solicit danger causing physical or psychical pain or economic damage; causing fear or personal danger, or violate dignity of a family member regardless of appearance of physical injury or not; verbal attack, insult, cursing, bullying as well as other forms of violent disturbance of family member by other family member; sexual harassment and harassment of other family member in accordance with the BiH Law on Gender Equality; stocking and all other similar forms of disturbance of other family member; attempts to damage or destruct joint or individual property; avoiding due attention, supervision over family member or failure to render assistance and protection to the family member even though there is an obligation presence in law and moral with consequence of physical, psychical, economic and/or social jeopardy for that member of a family.

Pursuant to the Article 6 of the RS Law on Protection from Domestic Violence, domestic violence actions include: physical assault of a family member on another family member regardless of causing injury; every application of physical force which does not result in direct attack, psychical constraint to physical or psychical integrity of family member; causing feeling of fear and personal jeopardy, or psychical integrity of family member by blackmail, verbal threat or other constraint; serious verbal attacks, insult, cursing, bullying and other forms of violent harassment of family members, stocking and all other similar forms of disturbance of other family

member; attempts to damage or destruct joint or individual property; avoiding due attention, supervision over family member or failure to render assistance and protection to the family member even though there is an obligation presence in law and moral with consequence of physical, psychical, economic and/or social jeopardy; isolation, limiting of movement and communication with third parties; sexual harassment; deprivation of right to economic independency by prohibiting work or holding a family member in subordination by threats, failing to give means for life or other forms of economic discrimination of one family member over the other family member; corporal punishment for children during upbringing and other forms of humiliating conduct, other forms of violence in family.

Police, Prosecutor's Offices, Welfare Centre/Guardianship Body and Minor Offence Courts are obligated to provide protection against violent behaviour.

The protection procedure is exercised according to the provisions of the Law on Minor Offences.

The minor offence sanction for the protection against family violence in both entity Laws on the Protection against Family Violence is protective measure or fine in case the protective measure has not been respected.

The purpose of protective measures is prevention and suppression of family violence, as well as remedying the consequences of committed violence, undertaking effective rehabilitation measures against the perpetrators and removing circumstances favourable or stimulating for committing new minor offences of family violence.

Protective measures are: 1) dislodgment from the apartment, house or other accommodation and prohibition of return to the apartment, house or other accommodation, 2) prohibition of access to the victim of violence, 3) securing protection for the person exposed to violence, 4) prohibition of disturbance or spying on the person exposed to violence, 5) obligatory psychosocial treatment, 6) obligatory addiction treatment, 7) community service (this measure exists in RS).

The definition of the term of family violence includes all forms of violence occurring in the family. The simplest definition of the term of family violence would be the following: „Violence, which encompasses any violence within the core family as well as within broader family, is any action taken by one person towards the other without his/her permission“.

Family violence represents a special form of criminality. The relationship between the victim and the perpetrator is specific, as perpetrators are close family members, either relatives or spouses. When offering assistance to victims of family violence, special role is played by police, whose officers are the first to make contact with the perpetrator and the victim of family violence. Along with police, the Welfare Centre plays a very significant role as well. Persons working at Welfare Centres play very significant role, as they can help stop the violence and further victimisation.

Family violence is any form of physical, sexual, psychological (emotional) or economic violence that exposes to the risk the safety of any family member, permanent or temporary partners and/or utilization of physical or emotional force or physical threat, including sexual violence, within a family or household. This includes abuse of children, incest, hitting spouses and sexual or other abuse of any member of the household.

The most frequent causes that lead to family violence are: inadequate living conditions, unemployment, financial insecurity, alcoholism, stress, mental diseases, drug addiction, and violence as the behavioural pattern originating from a patriarchal understanding of the relationship between wife and husband. Victims of family violence are spouses, former spouses, children, parents, as well as other persons living in a family community.

Though victims of family violence may be of both sexes, studies related to family violence show that women are most frequently victims of family violence, while men are in most cases perpetrators. In cases of family violence, children are by rule considered to be victims, no matter if physical violence has been executed against them or not. Family violence causes in children very deep consequences and traumas. Violent persons usually originate from families with history of family violence.

Prevention against family violence should be taken at various levels of society: state, community and individual. Prevention includes three categories:

- Primary prevention: prevention of violent behaviour (raising awareness, campaigns, education on human rights, educational programmes for children and adolescents and similar).
- Secondary prevention: identification of risk factor and risk groups, providing assistance, opening of SOS telephone lines, legal counselling – interpretations of legal provisions and similar.
- Tertiary prevention: provisions that prevent further violent behaviour (direct assistance to victims of violence, opening of shelters, efficient police intervention, court proceedings, work with perpetrators).

BiH is obliged to respect international legal documents in the area of human rights, which forbid violence in public and private life, including family violence. Both domestic and international legal documents oblige the state of BiH and its entities to undertake all available measures to prevent family violence, protect the victims to the highest possible extent and appropriately sanction the perpetrators.

The Family Law of FBiH („Official Gazette of FBiH”, nos. 30/05 and 41/05) in Article 4 paragraph 1) reads that “violent behaviour of spouse or any other family member is forbidden”.

The Family Law of BD („Official Gazette of BD”, no. 23/07) in Article 3 also forbids violent behaviour of spouses or any other family member, and family violence is regarded as a criminal act of family violence according to the Criminal Code of BD, while protection against family violence is granted to spouses, partner in common law marriage and all family members (Article 288). Protection against violent behaviour and counselling is to be provided by Police, Guardianship Body, Prosecutor’s Office and Court, and all physical persons and legal entities are obliged to report any violent behaviour that may come to their attention to the Police and the Prosecutor’s Office of BD.

Pursuant to the Law on Social Protection of BD („Official Gazette of BD“, nos. 1/04 and 4/04), abused persons, including children, are beneficiaries of social protection (Article 16).

In 2008, the Parliamentary Assembly of BiH adopted the „Resolution on Fighting Family Violence against Women“ („Official Gazette of BiH“, no. 15/08). The Resolution confirms that any form of violence against women, including family violence, violation of human rights and fundamental freedoms, and that it prevents or annuls the exercise of these rights and fundamental freedoms. By this Resolution, concerns have been raised with regard to insufficient progress in the protection and promotion of these rights and freedoms in all cases of violence against women.

#### Safe houses

Six safe houses within FBiH (Foundation of Local Democracy - Sarajevo, Association Medica-Zenica, Vive Women -Tuzla, Association Women from Una -Bihać, Women of Bosnia and Herzegovina - Mostar and Caritas - Mostar), accommodate 244 victims of violence, out of which 194 victims of domestic violence who stayed up to three months, and 50 victims of domestic violence who stayed more than three months. 265 victims of domestic violence were accommodated at the above said safe houses in 2007.

Apart from accommodation of the victims of violence in the safe houses the activities of these non-governmental organizations in the course of 2008 were as follows: assistance providing to the victims of violence, prevention of the trafficking in human beings, economic strengthening of woman population, professional capacity development in the institutions, medical assistance, work with abusers, media campaigns, and etc. Those services were provided, in the course of 2008, to totally 4,937 direct users and the number of the indirect users of such services is much bigger.

It is important to mention that any safe house within Federation BiH was established by governmental institution. Consequently the professional assistance to victims of violence was ensured from international funds and donations.

In 2008 joint activities of the representatives of the governmental and non-governmental sector resulted in allocation of significant funds in amount of BAM 668,888 for the needs of the victims of violence accommodated in the safe houses. Those budget funds were also used for the activities of the non-governmental sector in providing different forms of professional assistance to the victims of domestic violence.

Non-governmental organizations in RS provide assistance to three safe houses as follows: „Bućnost“ (*Future*), Modrića, „Udružene žene“(*Associated Women*), Banja

Luka and „Fondacija za obrazovanje, razvoj i socijalnu zaštitu djece“ (*Fondation for Education, Development and Social Welfare of Children*), Prijedor.

Currently safe houses in Republika Srpska fulfill conditions prescribed by laws and bylaws and their full operational capacity is 57 persons (Banja Luka: 21 person, Modriča: 16 persons and Prijedor: 20 persons). The future model and capacities for accommodation of victims of domestic violence will be regulated by the Strategy to Fight Domestic Violence taking in account that such standard is being established by the Recommendation of the Council of Europe which says that population from 7.500 – 10. 000 citizens require existence of one accommodation capacity.

Model of financing is regulated by the Law on Protection from Domestic Violence and in line with Article 4 of the Law on Amendments to the Law on Protection from Domestic Violence the 70% funds for accommodation of victims of violence shall be secured from entity budgets and 30% shall be secured from budgets of the local communities. The funds allocated from the budgets of the municipalities/cities shall be transferred to the competent Social Welfare Centre at the place where a victim resides i.e. to the service of the social welfare which will then transfer the funds to the safe house which accommodates a victim. Funds from entity budgets are also allocated to the safe houses.

In 2007 and 2008 the grant in amount of BAM 100,000 was allocated from the budget of the Action Plan to Fight Domestic Violence for interim financing of the safe houses in Banja Luka and Modriči.

Apart from above mentioned funds RS Government allocated additional funds in amount of BAM 400,000 distributed by competent ministries. Draft budget of RS for the next year foresees budget of BAM 400,000 for the operations of the safe houses i.e. accommodation of the victims of domestic violence.

#### SOS Phones

FBiH Gender Center established SOS line 1265 for assistance to victims of domestic violence at FBiH level. This project has been developed in partnership with Social Welfare Centre, Jajce, Foundation of the Local Democracy, Sarajevo, "Association "Medica" - Zenica, Association "Vive women" - Tuzla, Association "Women of BiH" - Mostar and Association "Women from Una" - Bihać. Gender Center of FBiH ,in cooperation with all telecom operators, reached an agreement that all calls of above number are free. From the date of establishment of this phone line (beginning of December 2008 till 31 December 2009) professional staff provided assistance to 2,978 victims of domestic violence. It also should be noted that non-governmental



organizations play important role regarding functioning of this service having in mind that staff of those organizations provide professional assistance to victims including ensuring of financial allowance to these professionals. Having in mind that minimal standards of the Council of Europe require the state to establish a single phone line to assist victims of domestic violence it is necessary to consider, in the forthcoming period, ensuring of funds from regular governmental budgets for operations of this service.

By signing of Memorandum of Understanding and Cooperation in June 2005 between four nongovernmental organizations in RS and RS Gender Centre a single telephone line 1264 for entire Republika Srpska was established. According to data of nongovernmental organizations who manage this SOS line: „Women Association“ Banjaluka, „Future“ Modriča, Woman Association „Lara“ Bijeljina and „Women Centre“ Trebinje, for the first five months in 2005 (from establishment of SOS line until the end of 2005) 1,019 calls were recorded regarding domestic violence. In the course of the year 2006, 2657 calls were recorded. Out of total number, victims were males in 70 cases and 2,587 cases victims were women between 19 to 60 years of age (88%). Two years after establishment of SOS line in RS 1,973 calls were recorded out of which 1,941 calls belonged to women victims of domestic violence and in 32 cases victims were men.

RS Gender Centre established a single SOS line 1264 for the victims of domestic violence and other forms of violence based on gender. This number is operational from 1 August 2005. SOS calls are received by four nongovernmental organizations based on concluded Memorandum of Understanding with RS Gender Centre. These nongovernmental organizations are as follows: “Women Association”, Banja Luka, “Future”, Modriča, “Lara” Bijeljina and “Women Centre” from Trebinje. Also volunteer services operate within these organizations to assist victims of violence. Safe houses in Banja Luka and Modriča accommodate victims of domestic violence.

“Foundation for Education, Development and Welfare of Children”- Prijedor signed Memorandum of Understanding in 2007. Thus the number of services providing assistance over SOS line 1264 was increased.

RS Gender Centre established cooperation with nongovernmental organization in East Sarajevo which provides assistance to victims of domestic violence within the operation system of short number 1209. Regular data exchange on cases of domestic violence was agreed with this organization in order to systematize data at RS level as there is no accurate data on domestic violence.

Economic protection

Review of family benefits

FBiH Law on the Principles of Social Protection, the Protection of War Victims and Families with Children establishes the basic rights, types, beneficiaries and terms and conditions for the exercise of the social welfare entitlement (Article 1).

In the sense of this Law, members of family of the civil victim of war are: the spouse, children (born into the marriage or out of wedlock, adopted child, or an orphan in custody of a guardian) — members of the immediate family, as well as father, stepfather, mother, stepmother and adopted parent — members of the extended family (Article 5, Paragraph 1).

Shared household in the sense of this Law is the economic union of one or more families, who jointly earn and spend monetary and other means acquired through work and use of shared material goods (land, buildings, etc.) (Article 5 Paragraph 4).

Financial and other kinds of material assistance consist of the following: permanent financial allowance, financial allowance for care and assistance by the third person, and other kinds of material assistance (Article 21.).

The right to permanent financial allowance and other kinds of material assistance (Article 22, Paragraph 1) have the persons and families that satisfy the following requirements: they are unfit for work, or prevented in exercising the right to work, they do not have income sufficient for sustaining themselves, they do not have family members who are legally obliged, or are incapable of, providing for their sustenance.

Permanent financial assistance is determined in monthly amounts in the value of difference between the joint income of all members of household and the value of the lowest household income which is considered as sufficient for the sustenance (Article 25.).

When determining the household income in the sense of above said, incomes realized through allowance, disability allowance, allowance for care and assistance by the third person, child allowance and pupil and student scholarships shall not be taken into account (Article 27 Paragraph 3).

Other material support, in the sense of this Law, is a temporary one-time or other financial support or support in goods to materially uncared persons or families in need of social protection due to suffered forced migration, repatriation, natural catastrophe, death of one or more family members, return from medical treatment, release from prison or correction facility and they do not have income sufficient for sustaining themselves and they do not have family members who are legally obliged, or are incapable of, providing for their sustenance (Article 28 in connection with Article 18 and 22, Paragraphs 2 and 3)

Cantonal legislation closely defines social welfare entitlements and the protection of families with children, procedure for the exercise of these rights, scope and a manner in which the social welfare can be enjoyed, supervision, funding of social welfare and other issues of importance for the exercise of rights of the Canton.

It is already said above that the Law on Public Revenues in the Federation BiH and Financing of the Federation of Bosnia and Herzegovina defines distribution of public revenues between the Federation of Bosnia and Herzegovina and Cantons. A significant portion of funds is being yielded to Cantons. Cantons define, by their own regulations, a type and scope of revenues to be yield to the municipalities. Accordingly, social welfare funds and funds for the protection of families with children originate from cantonal budgets.

The number of social welfare beneficiaries registered by the local welfare services who are entitled to the rights defined by the aforesaid FBiH Law keeps increasing. Number of beneficiaries by categories at the end of 2006 was 72,106 (12,811 children and 59,295 adults), while at the end of 2007 there were 98,858 beneficiaries of welfare by categories (16,191 children and 82,667 adults).

Cantonal regulations prescribe amounts of financial and other contributions, conditions and a procedure for receiving such contributions. Based on collected data, permanent financial assistance in the Federation BiH ranges from BAM 50.00 in Una-Sana Canton up to BAM 170.00 in the Sarajevo Canton for a single member household (BAM 114.00 plus 50.00 for public utility bills and BAM 11.00 for each next member of the household).

The social protection system in the Federation of Bosnia and Herzegovina is in very difficult position, facing an extremely high increase in terms of needs for different types of social care that continue to rise. The functioning of such system is additionally burdened by inadequate laws that prescribe much wider scope of social welfare than the one which would be possible to finance from the available budget. This problem gets additionally complicated by the unclear division of competences between different levels of power, wherein the Federation of Bosnia and Herzegovina defines the level of social protection and Cantons have the obligation to ensure funds for its implementation.

Things are additionally complicated by a lack of updated and complete information on social care beneficiaries. The establishment of a data base of social care beneficiaries in the Federation of Bosnia and Herzegovina within a Social Sector Technical Assistance Credit (SOTAC) - World Bank has been finished and it is now operational, covering persons with disability only. The database became operational on January 1, 2006.

Protection of the families with children, in terms of the FBiH Law on the Principles of Social Protection, the Protection of War Victims and Families with Children, is ensuring a family with financial and other means, for the purpose of raising, upbringing and care for the children and preparing them for the independent life and work to the best interest of the child (Article 87).

- Protection of a family with children (Article 88 Paragraph 1) aimed to:
- ensure for all children approximately equal conditions for healthy and appropriate physical, intellectual and emotional development in the family

- assist family in performing its reproductive role, care, upbringing, raising and protection of the children and improvement of the quality of life in the family
- develop humane relations in accordance with the principles of public moral and solidarity.

The fundamental rights which, in terms of this Law, are exercised by the families with children, are as follows:

- child allowance, financial assistance to the non-working mother during the period of pregnancy and childbirth, one-off assistance for a newborn child equipment, support in feeding child under the age of six months and additional food supply for nursing mother, ensuring one meal during classes in primary schools, school fees and scholarships for students.

Cantonal legislation closely regulates the conditions, manner, procedure, organs, and funding of aforesaid rights (Article 90, Paragraph 2).

Right to child allowance belongs to family whose aggregate monthly income realized through all means, except the income realized from social protection and protection of families with children, per member of the household do not exceed the amount determined by the cantonal legislation as the lowest income sufficient for sustenance (Article 91).

Foreign citizens and stateless persons who are permanently residing in the territory of the Federation enjoy the right to child allowance in accordance with international treaty (Article 92).

As the child allowance is funding from cantonal budgets identical problem exists in practice when it comes to exercising of the rights of families with children that is conditioned by financial capabilities of the certain canton. Right to a child allowance was realized in 2005 and 2006 at four cantons (Tuzla Canton, Bosnia-Podrinje Canton, Central Bosnia Canton and Sarajevo Canton), and from 2007 the same right was realized in Zenica-Doboj Canton as well. Child allowance amounts are different and ranges from BAM 10.85 to 50.00 per month.

Subsequently, differences are present in realization of other rights of families with children. Financial support for non-working mothers during pregnancy and after child birth has been paying in all Cantons except Herzegovina-Neretva Canton from 2005. Amounts of child allowances and payment periods are different as well (one-off, during the period of six or twelve months)

The Law on Social Welfare of Republika Srpska ("RS Official Gazette", nos 5/93,15/96,110/03 and 33/08) defines rights from the filed of social welfare, providing basic principles of organizing and financing as well as other issues of relevance.

Social welfare includes measures and activities required for creation of conditions for realization of protective function of family, for independent life and work of individuals in need of social welfare or for their active involvement into public life in

accordance with their capabilities, ensuring funds for those who are not able to earn that for themselves as well as to other citizens in need of social welfare.

Article 20 of the Law on Social Welfare of Republika Srpska prescribes the following rights: financial support, allowance for care rendered by other person, assistance in equipping with skills children and young people, placement in social welfare institution, placement in another family, in-house assistance, one-off allowance and health insurance. The Law also prescribes that municipality may, by its decision and in line with its financial capabilities, establish other rights in the field of social welfare which may be higher than the rights stipulated by the Law providing better conditions for their realization (Article 20 paragraph 4).

The beneficiaries of the rights may be individuals and families. Republika Srpska ensures funds for work with children disabled physically and intellectually then for construction, reconstruction, recovery and equipping of the institutions of social welfare. The municipality is responsible to ensure other rights stipulated by the Law (Article 20 Paragraph 4).

A person who has no income sufficient for sustaining him/herself and has no family members who are legally obliged to sustain him/her in compliances with provisions of the Family Law is entitled to financial assistance. Also if a person lives at the household whose income is below the level of social security prescribed by the Law, such person is also entitled to financial support (Article 21).

According to the Law in force, the amount of financial assistance is established in nominal value pending on number of family members: BAM 41.00 for a single person, BAM 49.00 for two family members, BAM 57.00 for three family members, BAM 65.00 for four family members and BAM 82.00 for the family with five and more members. Financial support for the current year shall be harmonized with index of expenditures for life for the previous year (Article 22).

Municipalities may, by their own decision, increase the funds and create better conditions for exercising of such rights. Monthly financial support is being established on the basis of difference between average monthly income of an individual i.e. family acquired in the course of previous month and the level of financial assistance prescribed by this Law (Article 25).

Persons with big physical disability and with hearing impediment are entitled to allowance for care rendered by third persons. The same rights have persons with insufficient mental development (slight, moderate, serious and severe degree), then mentally retarded persons, persons with autism, persons with mental deficiencies who are not capable to earn for life and who requires assistance and care by other person in order to fulfill basic needs for living if they do not use the right to be accommodate in the social welfare institution. Such right is to be recognized on the basis of the medical expertise of competent medical commission and such right is not conditioned by the property in possession of the beneficiary. Allowance for care rendered by other person is being established on monthly base in amount of BAM

41.00 paid from municipal budget (Articles 27 and 29). Also municipality has right to increase such allowances and create better conditions for its realization.

Right to receive training for job have children and young people with physical disability and insufficient mental development who, according to psychophysical capabilities, can be trained for certain job and they cannot realize such right in some other way. Such right is being realized in the form of training, financial support, accommodation and travel cost reimbursement including training costs as well. (Article 30 and 31) Such right is being directly financed from the budget of Republika Srpska.

In accordance with the Law on Social Welfare the right to health insurance has the user of the rights under this Law if he/she can not realize rights in different way (Item 22).

One-off financial support is intended to individuals who, due to specific circumstances, require such welfare. Such persons, in accordance with the Law, are persons who need welfare assistance due to war suffering, inability to work, natural disaster, migration, repatriation, death of one or more family members, long treatment at the hospital as well as person released from prison. One-off financial support for those persons and users of other rights established by this Law shall be paid twice a year the most for a single household and can amount up to 5 financial allowances the highest prescribed by the Law except in the cases when higher amount is approved due to specific conditions about what a decision shall be made by the head of the competent body (Article 19).

In practice, financial support is being recognized and paid in amounts defined by the Law, but municipalities are allowed to make a decision to extend such rights and pay higher allowance amounts. The significant growth of the users who require allowance for care rendered by other person is noticeable.

Some of rights are defined at the level of local community (extended rights). A municipality may, by its decision and available funds, extend rights in the field of social welfare, providing a large scope of rights than those provided by this Law including better conditions for their realization as well as other forms of social welfare if funds are ensured (Article 20 paragraph 4).

A concept of extended rights is based on ensuring legal ground that holders of social welfare (municipalities and cities) establish and define other rights which are not provided by the law and to prescribe conditions for their realization in compliances with financial capabilities. Those rights emerged from specific needs of each community and represent a direct respond to them. Using this legal option, 33 municipalities in RS passed decisions which define 50 new rights granted to children and adults in need of social assistance.

Recognizing need for stronger inclusion of local communities in ensuring better care for socially most handicapped persons, the option on extended rights was transferred

into legal obligation by a new Law on Social Welfare. In 2007, 6,000 person used those extended rights what cost BAM 700 000. Analysis of the list of those extended rights, defined by the municipal decision, a few categories of such rights can be noticed as follows: extended rights granted to children and young people (transport, play-rooms, textbooks providing and school materials, meals providing, scholarships for the socially handicapped students and etc.); extended rights aimed to fulfillment of health needs (treatment expenses, medicine providing, medical doctor services and etc.); extended rights in the area of housing (firewood providing, then rent, reconstruction and equipping of the houses, utility rates, and etc); expended rights in the field of fulfillment of the basic needs of life (clothes and shoes providing, then toiletries, food provisions for winter, farm animals purchase and etc.).

In accordance with the Law on Child Protection ("RS Official Gazette", no.: 04/02 – clear text, 17/08 and 01/09), and through the Public Fund for Child Protection, realization and financing of the rights of general interest is performing as follows: Maternity allowance; one-off assistance for equipment of the newborn baby, child allowance, fulfillment of development needs of children, preschool upbringing and education of children without parental care, disabled children and children at long hospital treatment;

The Law on Child Protection (Article 41) prescribes funds for financing of above said rights in the field of child protection.

Non-working mothers are entitled to maternity allowance (hereinafter MA) under condition that personal income, income from movable and real property do not exceed established census. This right can be exercised for the first three children for one year each.

Right to maternity allowance is regulated by Articles 15 and 16 of the Law on Child Protection and amounts to 30% maximum of average salary of RS in the area of economy for the previous year.

Namely, previous legislation considered enjoying of such right as universal right of unemployed mothers, regardless their material census, aimed to ensure material support to unemployed mothers. 2001 amendments to the Law on Child Protection foresee material census as one of conditions for enjoying maternity allowance. This provision of the Law targets the most socially handicapped mothers. Apart from that, deadline to apply for maternity allowance is 90 days from the date of baby birth that exceptionally can be extended.

Worth of movable and real property is also one of conditions to exercise right to maternity allowance and child allowance as well.

The Law on Child Protection, Article 17, foresees one-off assistance for equipment for the newborn baby that to be allocated for every new born child. The is a unique right from the Law on Child Protection that is non-selective and unlimited by material conditions and enables inclusion of all newborn babies if one of parent resides in Republika Srpska.

Amount, form and manner of realization of this right, in accordance with Article 17 of the Law on Child Protection of RS, is to be established by the competent body having in mind that it can not be lower than 50% of the average net salary of the corporate employees of RS earned in the previous year and amounts BAM 232.00.

In accordance with the RS Law on Child Protection, every citizen of RS, first of all unemployed soldier, disabled veteran from the first to third group of disability, beneficiary of the family disability allowance who resides at the territory of RS has right to child allowance under conditions prescribed by the Law.

Right to child allowance (hereinafter CA) shall be assign to second, third and fourth child pending on financial situation of the family, ages of children, born order based on submitted application and up to the age of 15 for the full time pupils.

Child allowance, in line with legislation in force, as allocation of funds to vulnerable categories of children regardless the order of birth of the child as well as second and fourth child (in exceptional cases the first as well) has primarily social-protection character as the right is being granted on the basis of special social criteria and conditions and in regards to third child partially pro-birth-rate due to differentiated increased amount for the third child in birth order.

(SPIS) Project - The project, "Enhancing the Social Protection and Inclusion System for Children in Bosnia and Herzegovina", is currently implementing. The overall objective of the Project is to contribute to development of integrative model of social protection of children and families with children at all levels.

Also the Project will contribute to the development of a close cooperation between relevant social and financial sector. The integrated, inter-sector approach to development policy, based on best practices, planning, implementation, monitoring and evaluation will serve to define and enhance function, role and strategic goals in the field of education, health, social protection and other similar sectors which are dealing with specific form of child exclusion and their families.

Ministry of Health and Social Welfare initiated procedure for standardization of social welfare services. The ultimate goal of standards establishment for social welfare services is improvement of quality of life of dependants on such services and to ensure their efficiency and economy. The first five pilot standards refer to social protection for children (daily centers for children with special needs, placement to institutions, early detection of children with special needs, child villages, placement in another family - family sustainer).

One of applied measures for economic protection of the family is adoption of the Program to support and protect vulnerable electricity consumers. Above said Program is adopted in 2008. („Republika Srpska Official Gazette" nos. 10/08 and 38/08). The program prescribes that monthly subsidy should be provided for 100 KWh consumed electric power including VAT to the following socially vulnerable categories of population as follows: retired persons with smallest pensions, beneficiaries of permanent financial support, users of home care and in house assistance, users of maternity allowance and users of child allowance. By changes of



the Program in the second part of 2008 the subsidy for consumption of electric power was increased to 150 KWh.

Planned financial resources for implementation of Program to support and protect vulnerable electricity consumers for 2009 amounted to BAM 7,000.000.

Based on the Law on Social Welfare of Brcko District („Brcko District Official Gazette“ nos: 1/03, 4/04) the family benefits are as follows:

Assistance for home care and in house assistance, permanent financial assistance, family allowances (one-off assistance for equipment of the newborn baby, maternity allowance), beneficiaries for young married couples, assistance to vulnerable families (single parent families and Roma families).

In compliances with Article 43 of Brcko District Law on Social Welfare the financial assistance for home care and in house assistance belongs to the user of the permanent financial support i.e. to the member of his/her household if the user suffer from paralyze, dystrophy or similar muscular disease, severe mental disability, is blind or unable to move – who requires assistance of another person, under condition that he/she is not placed at welfare institution, every such family member is entitled to at least 70% of permanent basic financial support.

Based on Articles 31, 36 and 39 of aforesaid Law, the right to regular financial and other material support has an individual under the following conditions:

He/she has residence at the territory of Brcko District; he/she is disabled to work; has no income; has no relatives who, under the law, are obliged to support such person or relatives can not provide such support.

Material support is composed of:

-permanent primary financial support; family allowance; allowance for education and training of children with special needs and of age disabled persons; allowance for care rendered by other person; one-off financial support.

Primary financial assistance makes 21% of average monthly salary for the previous month.

Articles 12 and 10 of the Law on Child Protection of Brcko District („BD BiH Official Gazette nos.: 1/03, 4/04), and the Brcko District Law on Amending and Changing of the Law on Child Protection prescribe right to one-off assistance for equipment of the newborn baby that should be exercised without exceptions for every newborn baby within the family if a parent of newborn baby makes a request within the period of one month after a baby birth enclosing baby birth certificate and residence address. Subunit for social welfare has authority to monitor implementation of such right.

One-off assistance for equipment of the newborn baby amounts to 25% of average monthly salary in Brcko District.

Maternity allowance shall be paid for the period of 3 months and amounts to 15% of average monthly salary in Brcko District determined in accordance with the latest published data of BiH Brcko District Revenues Administration.

Right to maternity allowance has every non-working mother who is registered at the Employment Bureau of Brcko District for six months the latest, what has to be proved by the certificate issued by Employment Bureau and attached documents required by Article 2, Paragraph 2 of this Law.

Right to child allowance as financial support has every citizen of Brcko District under conditions prescribed by Articles 13, 15, 18, 20, 21, 22 of the BD Law on Child Protection and the Law on Amending and Changing of the Law on Child Protection of Brcko District.

Right to child allowance has a child up to the age of 15 if fulfills conditions foreseen by this Law;  
Children older than age of 15 may have right to child allowance up to the age of 26 if a child is full time student at primary and secondary school or at the academy and faculty; if child is incapable for independent life and work and if such incapability appeared before age of 15 or such incapability appeared during regular education.

Right to child allowance belong to the family pending on its material status, order of child birth and child age.

Right to child allowance will be realized if a family has right to social welfare in accordance with a Law on Social Welfare, if overall monthly income per family member does not exceed 15 % of average salary and cadastral income per family member for previous year does not exceed 3% of average cadastral income for 1 hectare of land.

Regardless to property conditions, right to child allowance increased for 50% belongs to:

-child without one or both parents, family with child disabled in mental and physical development, family in which one or both parents are invalids from I to VI (concluded with VI group) group – category, self-supporting parents.

Child allowance makes 10% of average monthly salary in Brcko District.

In accordance with Article 23 of the Brcko District Law on Child Protection, other forms of benefits for young married couples are special psycho-social treatments for young couples who want a baby as well as treatments for prospective mothers.

Right to special psycho-social treatment for married couples wishing a child and prospective mothers is to be realized at marriage-guidance clinic within Centers for Social Work of Brcko District. For the purpose of implementation of Article 23 special institutions may be established.

In accordance with Article 21 of the Law on Child Protection and the Law on Amending and Changing of the Law on Child Protection of Brcko District, self-

supporting parents have right to child allowance increased for 50% regardless the situation in terms of property.

Same criteria is to be applied to Roma families as for all other citizens reside in Brcko District.

Based on Article 21 of the Law on Social Welfare of Brcko District („BD Official Gazette“ nos. 1/03, 4/04), 2002 Decision on establishment of Solidarity Fund and Decision on establishment of criteria for beneficiaries of Solidarity Fund from 2010, the socially vulnerable families have right to one-off allowance.

A person who requires adequate form of social assistance due to specific circumstances is considered as a person in need of social protection due to suffered forced migration, repatriation, natural catastrophe, death of one or more family members, return from medical treatment, release from prison or correction facility.

#### Vulnerable families

It should be underlined that in Federation BiH, the issue of protection of vulnerable families is regulated by the Law on Principles of Social Welfare, the Welfare of Civil War Victims and the Welfare of Families with Children (Article 27) and cantonal legislation which stipulate that disabled children and adults with arrested physical and mental development of permanent nature are accorded favorable requirements for acquiring the social protection rights and higher amounts of basic financial assistance and allowance for care and assistance by the third person.

Apart from that a child without one or both parents, family with the child with arrested physical or mental development, and family in which one or both parents are disabled, are given favorable treatment in acquisition and exercise of rights, and higher amounts of material and other kinds of allowances stipulated by this Law and cantonal legislation and such parents have right to child allowance regardless of a value of a household income (Article 91, Paragraph 1 in connection with Article 88 Paragraph 2).

Article 92 of said Law prescribes that foreign citizens and stateless persons who are permanently residing in the territory of the Federation enjoy the right to child allowance in accordance with international treaty.

In RS, right to child allowance, regardless the property census, have children of fallen soldiers, civil war victims and war veterans of I and II category, children without parental care, disabled children if not placed to welfare institution, a child whose family has right to allowance in accordance with the Law on Social Welfare and children with celiac and chronic diseases.

Vulnerable categories have right to child allowance for all born children regardless the order of their birth up to the age of 19 i.e. while they are included into educational and upbringing process, without regard to prescribed census to exercise such right.

In Brcko District, the Brcko District Law on Child Protection foresees increase of child allowance for 50% to vulnerable groups regardless the property conditions as follows: child without one or both parents, family with disabled child, family in which one or both parents belong to I-VI group of disability and self-supported parents.

**Question 2 Outline measures undertaken (administrative-legal arrangements, programs, action plans, projects, and etc.) for the implementation of the legal framework.**

**Answer:**

Economic protection

In 2008 the BiH Council of Ministers adopted a Decision on establishment of the Steering Board for Coordination of the Project titled "Enhancing the Social Protection and Inclusion System for Children in BiH". The BiH Minister of Civil Affairs chairs the Board and the Board is composed of the representatives of UNICEF, national and entity institutions, signatories of the Protocol on Cooperation.

Management boards at the level of the entities and state were established, coordinated by the Ministry of Human Rights and Refugees in the form of an Expert Group at the level of Bosnia and Herzegovina.

Within the project "Enhancing the Social Protection and Inclusion System for Children in BiH" which implementation is supported by UNHCR aimed to improve child development and parenthood capacities, the establishment of 10 integrated centers for parents and children (ICRD) has commenced in the Federation of BiH and Republika Srpska. Those centers will be complementary to all existing municipal services providing services in the area of health, nutrition, education and social care. They will not replace the existing services in these areas; their aim is to assist them to function better and to complement existing gaps in services they provide at the municipal level.

Steering Board for the Project Coordination decided to initiate the project activity of establishment of the Integrated Early Childhood Development Center for parents and children in the territory of Federation BiH. The Integrated Early Childhood Development Center for parents and children is a model which aims to improve and achieve challenging and responsible parenting and early development of children aged 0-10 years, with a special focus on children aged 0-3 years. UNICEF, in cooperation with Federation Ministry of Education and Science, the Federation Ministry of Health and Federation Ministry of Labor and Social Policy, developed a proposed model of the integrated center of early childhood development and work programs of the centre. The municipalities of Novi Grad Sarajevo and Novi Travnik are already implementing activities related to the opening of the integrated centre. Activities related to the opening of integrated centres are also being implemented in Republika Srpska.

## Housing

Mainly there are no apartments in Federation BiH for accommodation socially vulnerable persons or more precisely there are a few of them. At the territory of Una-Sana Canton, in Sanski Most there are 7 apartments for socially vulnerable persons. In some cases, due to the lack of apartments for such categories, Sanski Most municipality allocates BAM 50.00 for accommodation needs of vulnerable persons. Three persons were beneficiaries of such financial support. In the same canton, in the town of Bihac, two apartments are occupied by socially vulnerable persons incapable to work.

In the area of Zenica-Doboj Canton there are buildings and houses for accommodation of socially vulnerable categories in few municipalities. 11 families with around 30 members were accommodated in such way in Maglaj municipality, 42 families with 81 members were accommodated in Tesanj municipality and 16 families in Vares municipality.

No more than three municipalities within Tuzla Canton have apartments for accommodation of socially vulnerable persons as follows: 1 apartment in Kladanj municipality, 10 apartments in Banovici municipality, 3 apartments in Srebrenik municipality which accommodate 18 occupants. Other centers throughout the canton have no apartments to accommodate socially vulnerable persons but such centers, in cooperation with municipalities undertake certain activities in order to ensure apartments for those vulnerable categories. Most municipalities use for this purpose unoccupied apartments built for refugees, displaced persons and returnees.

Municipal services for refugees and displaced persons i.e. competent commissions, in cooperation with community centers for social welfare, are charged to ensure accommodation for socially vulnerable peoples. Applying the same procedure Gradacac municipality accommodated in such way 205 persons at 61 apartments.

Registration of available housing units is currently performed by the Service for Housing Affairs in Tuzla municipality. Completion of registration will help to identify available housing units to be occupied by socially vulnerable categories of citizens.

Apart from above said, some municipalities in Federation BiH, try to solve the issue of accommodation of socially vulnerable persons through programs of house building and reconstruction of existing housing units. In that way a housing problem was solved for 10 families in the Central-Bosnia Canton, particularly in Kiseljak municipality, while six families were accommodated through humanitarian activities. Social Work Centre of Visoko (Zenica-Doboj Canton), in cooperation with economic organizations solved a housing problem of four self-sustained mothers with four or more children (four houses were built for that purpose). Social Work Centre of Srebrenik and Srebrenik municipality developed long term plan for accommodation of socially vulnerable categories of citizens. Based on that plan three family houses were built in the course of 2005 to accommodate socially vulnerable families and 220 beneficiaries received financial assistance in amount of BAM 300,000 for individual solving of accommodation problems.

Taking into account that adequate housing encourage integration of family, contribute to social cohesion and enhance a feeling of membership, safety and human solidarity which are of a key importance for safety of children, the Republika Srpska Ministry of Family, Youth and Sports implemented two significant project of housing care U RS as follows:

1. "Housing Project for Families with Five and More Children "

The Project is being implemented by the Ministry in cooperation with 29 local communities in Republika Srpska. The ultimate goal of this Project is improvement of living conditions for children in those families that are in most cases poor and in need of social welfare.

In 2007 the Government of Republika Srpska passed a Conclusion on solving housing problems of multi-member families.

According to this Project municipalities are obliged to establish priorities for housing accommodation of the vulnerable families within their respective municipalities and to actively participate in implementation of the Project.

29 municipalities of Republika Srpska submitted data on situation in their municipalities within set up deadline and expressed their readiness to participate in the Project and ensure utility infrastructure for the Project implementation.

Dynamics of houses building depended on ensuring required preconditions in regards to land providing, foundation construction and appropriate infrastructure what was the obligation of the concerned municipality.

16 houses were built in Republika Srpska till the end of 2008 as follows: Kneževo (1), Gradiška (5), Kostajnica (2), Srbac (4), Ribnik (2), Prnjavor (2).

48 more houses were built in 2009 as follows: Prnjavor (3), Kotor Varoš (2), Vlasenica(4), Bileća (5), Istočno Sarajevo (4), istočna Ilidža (1), Lopare (4), K. Dubica (1), D. Žabar (1), Pale (5), Vukosavlje (1), Bijeljina (3), Rogatica (3), Sokolac (2), Nevesinje (1) i Bosanski Brod (8).

Those houses are single-story house, floor space of 112 m<sup>2</sup> which fully meet housing needs of those families. The Project valued at BAM 8,620.666.45 what means that a value of a single house amounts BAM 88,872.85. This calculation does not include costs of municipalities in providing a land, foundation construction and ensuring appropriate utility infrastructure.

In this way 97 houses were built in 29 municipalities for the housing accommodation of the families with five and more children whose accommodation needs were not solved.

The Ministry of Family, Youth and Sports of Republika Srpska implements this Project within its activities aimed to increase of quality of family life. This Project aimed to improvement of housing conditions for, at first place, under age children.

## 2. „Project on subsidies to newly married couples for housing “

In compliance with the Law on Youth Organizations in RS and Youth Policy in RS 2006 – 2010 ("RS Official Gazette" no. 98/04) the implementation of a special program of subsidy of interest rate for housing loans for young people and young married couples was initiated in 2006. The implementation of the Project is being carried out in cooperation with Fund for Housing of the Republika Srpska. The primary objective of the Project was accommodation of young people and creation of conditions for their stay in Republika Srpska. Also one of the goals was assistance providing to the family as a basic precondition for development of modern society.

Implementation of the Special program of subsidy of interest rate for housing loans for young people and young married couples was continued in 2007. 50 loans for housing accommodation were allocated to the young people and young married couples in the course of 2007 thanks to the subsidy of the Ministry and operational funds of Commercial Bank. Those loans amount to BAM 2,000.000.00. Married couples younger than 35 years of age and unmarried young people were enabled to take a loan in 2007 amounted to BAM 50,000.00 with interest rate of 3,75%, with installment period of 25 years. This is to contribute the stay of young people in Republika Srpska, improvement of their housing conditions and quality of life in general.

Young people and young married couples in Republika Srpska had opportunity from 2008 to take loans for housing accommodation from commercial banks under best possible conditions in compliance with credit line of the Investment Development Bank of RS. Housing loans valued from BAM 5,000.00 to 100,000.00 for the period of 20 years and interest rates from 3,6% to 5,6% pending on education level of the young people and young married couples as well as a number of children of the family.

Ministry of Family, Youth and Sports subsidizes to these interest rates additional 1% of interest. Right to get such loans have young people and young married couples up to 35 years of age in line with Rule Book on Subvention of Interest Rates for housing loans for young people and young married couples ( "RS Official Gazette" no. 64/08).

-321 subventions granted in 2008

-189 subventions granted in 2009

This Project of support helps creating better living conditions for family and growth and development of children. In 2008 and 2009 this Project enabled 510 young people and young married couples to solve their housing problems.

Same criteria, general and special, apply equally to Roma families in Brcko District like to all other citizens. From 2002 and 2003 – allocation of apartments to Roma

families on provisional base has been done by support of OHR, OSCE and LOT teams.

Housing	Displaced	Beneficiaries	Refugees
Adequately granted apartments including Roma families	families	of the Social Welfare	from Republic of Croatia
	150	187	3
TOTAL	340 families		

Source: Brcko District Government

### Domestic Violence

BiH Gender Action Plan („BiH Official Gazette“ no. 41/09) is the basic strategy for introduction of the principle of gender equality into policy and programs in BiH. Gender Action Plan is developed in cooperation between BiH Agency for Gender Equality and entity gender centers. Chapter XIII of the Gender Action Plan foresees activities referring to harmonization of professional and family life with basic objective of „harmonized family and professional obligations of employee without discrimination on any ground“. This Action Plan is composed of 15 areas that include activities, deadlines and competent institutions which cooperation is indispensable for the implementation of activities prescribed by the Gender Action Plan. Chapter XI of the BiH Gender Action Plan refers to “Domestic Violence, Violence Based on Gender, Sexual Harassment and Trafficking in Human Beings”.

On 5 March 2009 the BiH Council of Ministers adopted 2009-2011 Strategy to Prevent and Fight Domestic Violence. Apart from activities at national level, the Strategy to Prevent and Fight Domestic Violence contains entity strategic and action plans as well.

FBiH adopted Strategic Plan for Prevention of Domestic Violence for the Federation of Bosnia and Herzegovina 2009-2010 in September 2008. („FBiH Official Gazette“ 75/08), developed by multidisciplinary work group composed of the representatives of institutions dealing with domestic violence, then experts in that field and representatives of non-governmental organizations dealing with such issues.

In 2007 Republika Srpska Government adopted Action Plan to Prevent Domestic Violence 2007-2008. (“RS Official Gazette“ no. 58/07). The implementation of the Plan started in 2008 and is still ongoing and procedure for adoption of the Strategy to Prevent Family Violence in RS for the period 2009-2013 is currently undergoing.

### **Question no. 3. Provide relevant figures, statistical data and other relevant information**



Divorce statistics in accordance with decision on disposition, care and maintenance of children in FBiH and RS

	2005	2006	2007	2008
<b>TOTAL</b>	<b>1.687</b>	<b>1.459</b>	<b>1.619</b>	<b>1.255</b>
No child custody	917	850	947	714
Wife	590	460	522	421
Husband	129	117	127	88
Wife and husband	30	22	17	17
Other persons	1	2	2	-
Institution	2	2	-	2
Other	1	3	2	-
Unknown	17	3	2	13

Source: BiH Statistics Agency

BiH Brcko Districts has no those figures so the data for Brcko District are not included.

### Economic Protection

Financial Assistance provided to under age beneficiaries of the social protection in BiH

	2005	2006	2007	2008
<b>TOTAL</b>	<b>9.004</b>	<b>7.188</b>	<b>10.281</b>	<b>11.916</b>
Permanent Financial Assistance	1.163	1.057	1.185	779
Exceptional financial assistance	355	275	344	227
One-Off financial assistance	4.128	3.124	3.564	3.514
Right to allowance and care for in-house assistance	2.817	2.461	4.173	4.620
Allowance for the equipment for a new born baby to non-working parents	541	271	1.015	2.776

Source: BiH Statistics Agency

Financial Assistance provided to of age beneficiaries of the social protection in BiH

	2005	2006	2007	2008
<b>Total</b>	<b>81.168</b>	<b>99.362</b>	<b>98.084</b>	<b>108.739</b>
Permanent financial assistance	15.463	13.819	13.768	16.718
Exceptional financial assistance	1.830	2.320	5.052	1.655

One-Off financial assistance	35.372	49.132	47.729	44.270
Right to allowance and care for in-house assistance	26.901	29.404	27.492	41.220
Allowance for the equipment for a new born baby to non-working parents	1.602	4.687	4.043	4.876

Source: BiH Statistics Agency

## Domestic violence

During the four-year period (2006-2010) for which data was required from FBiH competent courts, 1275 cases were registered in Federation under Article 222 of FBiH Criminal Code – Domestic Violence. Majority of suspects – perpetrators of criminal acts of domestic violence were males. Out of 1335 criminal acts, 1302 or 97.53% were committed by males and only 29 or 2.17 were committed by women. Remaining criminal acts were committed by juvenile offenders. From the other hand the victims of these criminal acts are women with share of 1005 or 79.87% within the overall number of 1258 victims of domestic violence. Number of male victims of domestic violence is much lower and figures out 100 or 7.95%. Consequently, according to official data men are present among victims of domestic violence although significantly lesser than women. It is interesting that children were recorded by competent courts as victims of domestic violence in 153 cases or 12.17%, out of which 68 girl victims and 85 boy victims. These figures can be confusing as it is hard to believe that we have such low number of cases in which children are victims of domestic violence in particular in comparison with large number of women victims of domestic violence. The logical conclusion is that children victims of domestic violence are not recorded at all or proceeded cases of domestic violence refer to partnership relation where there is no children or they do not suffer violence. It can be noticed that pronounced penalties to the committers of criminal acts of domestic violence are mostly conditional sentences pronounced for 1046 cases or 76.85%. Those figures are followed by fine for 143 cases or 10.50% and finally imprisonment for 131 cases or 9.55%. Other pronounced penalties make 42 cases or 3,08%. When it comes to protective measures in favor of victims of domestic violence, against perpetrators it is important to define what domestic violence is. This definition is given in provisions of the FBiH Law on Protection from Domestic Violence. This law lists all forms of domestic violence, based on which the competent court shall decide on protective measures. These protective measures include following removal from apartment, house or other living space and prohibition of return to home, restraining order in favor of victim, ensuring protection of a victim of domestic violence, prohibition of disturbance or stocking of the person exposed to domestic violence, mandatory psychosocial treatment and mandatory substance abuse treatment.

Based on the data received from all ten cantonal prosecutors, related to the Article 222 of the FBiH Criminal Code, there were 781 criminal charges, 414 indictments, 257 final judgments, while 286 cases are in the procedure. In 712 cases, the victims are women, while in 66 cases victims are men.

According to the data delivered by 26 Municipal Courts, it is evident that they have received 399 criminal charges, out of which 323 cases have been processed with 177 final verdicts, 73 non-final verdicts, and 161 cases is in the procedure, relating to the Article 222 of the FBiH Criminal Code

Data delivered by all ten Cantonal Courts indicated 11 procedures before these courts in 2008 were appeals for criminal acts from Article 222 of the FBiH Criminal Code

Overview of the statistical data in the RS on domestic violence – 2007 and 2008 /prosecutors and courts/

Prosecutors' Office in the RS – Comparative table for 2006, 2007 and 2008.

Law	Classification of the criminal act	Cases	2006	2007	2008
The RS Criminal Code  Article 208	Domestic violence	Reports:	647	534	259
		Initiated investigations:	488	396	242
		Indictments:	434	302	154
	Verdicts:	Rejected:	88	75	93
		Dropped:	8		
		Verdicts:	150	130	47
	Punishment:	Verdict of release:	4	3	5
		Prison:	8	6	1
		Fine:	5	11	3
		Probation:	168	113	38
		Caution:			
		Protective measures:			

Source: The RS Gender Center

The RS Basic Courts – Comparative table for 2006, 2007 and 2008.

Law	Classification of the criminal act	Cases	2006	2007	2008
The RS Criminal Code  Article 208	Domestic violence	Reports:	338	385	270
		Initiated investigations:	82	163	91
		Indictments:	274	229	161
	Verdicts:	Rejected:	10	4	5
		Dropped:	8	5	37
		Verdicts:	250	220	144
	Punishment:	Verdict of release:	1	1	2
		Prison:	18	16	12
		Fine:	21	25	15
		Probation:	233	185	103
		Caution:	1		5
		Protective measures:	1		
		Education measures:	1		1

Source: The RS Gender Center

RS Ministry of Interior data for domestic violence classified by gender – 2006.

Article of the RS CC	Classification of the criminal act	Number	Reported persons		Victims			
			Men	Women	Men	Women	Boys	Girls
208	Domestic violence	537	277	12	39	231	11	20

Source: The RS Gender Center

RS Ministry of Interior data for domestic violence classified by gender – 2007

Article of the RS CC	Classification of the criminal act	Number	Reported persons		Victims			
			Men	Women	Men	Women	Boys	Girls
208	Domestic violence	464	460	16	121	445	37	48

Source: The RS Gender Center

Number of victims of domestic violence in the RS – SOS Line 1264

No.	Year	until 18 years of age.		19-60 years of age		over 60 years of age		unknown age		total		Total
		F	M	F	M	F	M	F	M	F	M	
1.	2005	12	9	891	2	14	2	80	9	997	22	<b>1.019</b>
2.	2006	89	42	2.346	23	61	5	91	0	2.587	70	<b>2.657</b>
3.	2007	220	43	3.048	9	48	3	140	2	3.456	57	<b>3.513</b>
4.	2008	186	70	2.809	5	46	2	131	0	3.172	77	<b>3.249</b>
5.	2009	63	15	2.374	4	47	0	109	7	2.593	26	<b>2.619</b>
	<b>Total:</b>	<b>570</b>	<b>179</b>	<b>11.468</b>	<b>43</b>	<b>216</b>	<b>12</b>	<b>551</b>	<b>18</b>	<b>12.805</b>	<b>22</b>	<b>12.827</b>
	% of total:	4%	1%	89%	0%	2%	0%	4%	0%	100%	0%	
	% of age:	76%	24%	100%	0%	95%	5%	97%	3%			

Source: The RS Gender Center

**Article 17 – The right of children and young persons to social, legal and economic protection**

With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

- 1 a to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;

- b to protect children and young persons against negligence, violence or exploitation;
  - c to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support;
- 2 to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.

**Article 17, paragraph 1**

"With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

- 1 a) to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;
- b) to protect children and young persons against negligence, violence or exploitation;
- c) to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support";

**Question 1 Please describe the general legal framework. Please specify the nature of, the reasons for and extent of any reforms.**

**Answer:**

Legal status and definition of the child

The laws of BiH differently define the child with respect to its age, judgement ability, responsibility, the enjoyment and grant of the rights, obligations with regard to education, social protection, family law protection, child care, criminal law protection, civil law protection, etc.

With reference to criminal law protection, the Criminal Code of BiH, Article 1, items (8) and (9) thereof stipulate that: «A child, as referred to in this Code, is a person

who has not reached fourteen years of age, and a juvenile is a person who has not reached eighteen years of age».

With reference to the protection of child witnesses, the Law on Protection of Witnesses under Threat and Vulnerable Witnesses of BiH, Article 3, paragraph (3) thereof, contains an identical definition as provided for in the Criminal Code of BiH: «A vulnerable witness is a witness who has been severely physically or mentally traumatised by the events of the offence or otherwise suffers from a serious mental condition rendering him unusually sensitive, and a child and a juvenile.»

The RS Law on Child Protection does not contain the definition of the child, however, with respect to the child allowance entitlement, it sets the child's age limit at 15, and Article 23 of the Law contains the following references to children with developmental difficulties as incapable of work: "...up to 19 year of age.." or "...the child over 19 years of age..".

The Law on the Child Protection of BD also sets the child allowance age limit at 15 years of age (Article 15), while children over 15 are entitled to child allowance if they remain in regular education until they turn 26, as well as if they are incapable of living and working independently throughout the incapacity period.

Pursuant to the Law on the Basic Principles of Social Protection, the Protection of Civil Victims of War and Families with Children of FBiH (Article 6), the child is a person up to 18 years of age. Exceptionally – the person over 18 and below 27 years of age may be construed to be the child for the purpose of exercising the right to child allowance, scholarship or stipends for pupils and students.

With regard to the status of the child under civil law, none of the provisions contained in the Family Law of FBiH, RS and DB discriminate between martial and non-martial children. Mentioned laws prescribe that parental care is a set of responsibilities, obligations and rights of parents aimed at protecting personal and property rights and interests and it should be achieved in the best interest of the child. The duties and rights of parents are determined without prejudice to the fact whether the child was born within or outside marriage. The Law of Inheritance of the entities and Brcko District also prescribes that citizens enjoy equal inheritance rights, including martial and non-martial partners, as well as the children, both those fully adopted and those born into the family.

The Family Law of the entities and BD governing the right of the child to conclude marriage stipulate that a person under 18 years of age cannot enter into a marriage, and that only exceptionally the court may, in extra-judicial proceeding, allow the marriage of a minor who turned 16, if it finds reasonable grounds proving that the person is physically and mentally capable of exercising the rights and obligations arising from marriage and that marriage is in his/her interest. Before rendering a decision, the court must seek and obtain the opinion of the guardianship authority.

Child support obligation determined by the above family laws provides that the mother and father have equal parental rights and duties. Parents have the duty and

right to protect their minor children and to care about their life and health, as well as the duty to support their minor children. Criminal codes of the entities and Brcko District foresee sanctions for evasion of the child maintenance obligation.

The establishment of paternity and maternity is also foreseen under the family laws, which stipulate that the child's mother is a woman who gave birth to the child, and it is also clearly defined who can be considered the father of the child. Mentioned laws foresee the establishment of both paternity and maternity. Maternity and paternity may be established either by the recognition of parentage before a registrar, a guardianship authority, the court or a notary public, or by court decision, or through the will and is irrevocable.

A child may file a lawsuit to establish maternity or paternity. If the child is underage or has been declared incapacitated, a lawsuit may be filed on his behalf by the guardian, with the consent of the guardianship authority, in order to establish maternity, while a lawsuit to establish paternity may be filed by the child's mother if she enjoys parental rights, or by his guardian, with the consent of the guardianship authority.

A minor can file a lawsuit, provided that he acquired legal capacity before becoming a legal adult. Lawsuits to establish maternity can be filed by a woman who considers herself the mother of the child and to establish paternity by the man who considers himself the father of the child, as well as by the guardianship authority to establish either paternity or maternity.

After the death of the person claimed to be the mother or father of a child, a lawsuit to establish maternity or paternity shall be filed against their successors. These lawsuits can be filed within one year from the death of the person claimed to be the mother or the father of the child, or within six months following the decision on inheritance with final force and effect.

Family laws of the entities and Brcko District require all authorities, organisations and individuals to immediately notify the guardianship authority of the child's rights violations, especially regarding violence, abuse, sexual abuse or child neglect. Mentioned laws also require that parents and other family members must not subject the child to humiliating treatment, mental or corporal punishment or abuse, which constitute grounds for revocation of parental rights.

The abuse of parental rights involves physical and psychological violence against children, their sexual and other exploitation, inducement to use alcohol, drugs and other harmful substances, inciting a child to engage in any form of socially unacceptable behaviour.

These laws also contain definitions relating to the acquisition of legal capacity which read as follows: legal capacity is acquired upon turning the legal age or through the marriage before turning the legal age, an adult is the person who has reached 18 years of age, legal capacity may be granted to a minor aged 16 or over who has become a parent, while a minor aged 14 can gain limited legal capacity.

The acquisition of legal capacity is decided by the court in extra-judicial proceedings, on the proposal of a minor and taking due account of his mental maturity.

These family laws also regulate the extension of parental care over an adult child whose legal capacity has been taken away or limited by the court in extra-judicial proceeding.

The above mentioned family laws stipulate that a minor earning income may dispose of his/her personal income and profits in which case he/she is required to contribute to his/her own living and education.

With regard to criminal liability, the age of the child also determines his position and liability.

### Children in public care

The FBiH Family Law (Article 147), the RS Family Law (Article 97) and the BD Family Law (Article 130) stipulate that at the request of one or both parents, or ex officio, the guardianship authority may decide to place the child or to assign his/her care and upbringing to another person or authority, if it is necessary in order to protect the child's best interests. Such a decision is rendered by the guardianship authority and without parental consent if parents are absent, incapable or unable to care for the child, or if they have failed to entrust the care and upbringing to the person eligible to be a guardian, or if it finds that the parents or parent with whom the child lives have abused or neglected the child, or that the child's upbringing has been disturbed.

Family laws of the BiH Federation (Article 153), RS (Article 106) and BD (Article 135) prescribe the circumstances under which a parent may be deprived of the right to live with the child or of the parental care rights.

Consequently, the Court will, in extra-judicial proceeding, deprive parents of their right to live with the child and entrust the care and custody over the child to another person or authority, if the parents or the parent with whom the child lives have violated the interests of the child by grossly neglecting his/her raising, upbringing and education or by failing to prevent the other parent or a family member to treat the child in the above manner, or if the child has had a largely disturbed upbringing.

A parent who has abused parental rights, or who has grossly neglected parental duties, or who, by leaving the child or failing to provide care to the child who he/she does not live with, obviously puts at risk the safety, health and morals of the child, or who fails to protect the child from such behavior of the other parent or another person, will be deprived of parenting rights by the court, in extra-judicial proceeding.

The misuse of rights is particularly associated with cases of physical and mental violence against children, sexual exploitation of children, inciting engagement of the



child into socially unacceptable behaviour, and gross violations of child's rights in any other way.

Gross neglect of duty particularly refers to cases in which a parent abandons the child, fails to support and care for the child, does not adhere to previously imposed measures to protect the rights and interests of the child, fails to prevent the child from the enjoyment of alcoholic drinks, narcotic drugs and other substances or incites the child to it and other.

Parental right may be denied to a parent who had lost the right to live with the child, if in the course of one year he/she failed to fulfil the obligations and rights which did not cease with the imposition of this measure and who has failed to create the conditions for the reinstatement of the right in question.

Parental right may be denied to a parent who fails to create the conditions for maintaining personal relations and direct contacts of the child with the other parent or who disables and prevents them from maintaining such relations and contacts.

The Court will reinstate parental right to live with the child in the event when that is in the interest of the child and when the reasons for termination of the right cease to exist.

Guardianship is a form of protection of minor children without parental care, which is governed by the provisions of family laws of FBiH, RS and BD. The purpose of guardianship is to substitute for parental care, to protect the interests of the child and his personality and to enable him to live and work independently. A minor will be placed under guardianship in the event that his parents are dead, missing, unknown, or of unknown residence for more than one year, a minor whose parents are deprived of parental rights or of legal capacity, whose parents for a longer period of time neglected the care and upbringing of their children, or whose parents are absent or unable to regularly care for their child.

Guardianship is exercised by the guardianship authority, who will take the necessary measures for guardianship to achieve its function in the best way and who for that purpose utilizes all forms of social protection, methods of social and other professional services, as well as the services of social, healthcare, educational and other organisations and institutions.

Care and upbringing of a minor ward may be entrusted by the guardianship authority to the guardian, another person or institution. The guardian of a minor ward has the obligation as a parent to care about child's personality, and especially about his health, education and preparation for independent living and work. The guardian is also required to submit to the guardianship authority the report on his work and the status of the ward's property. The guardianship authority is obliged to periodically review the manner of the guardian's fulfilling its obligations towards the ward, through personal insight.

Mentioned family laws also specify who may not be appointed as a guardian: a person deprived of parental care rights, a person with revoked or limited legal capacity, a person whose interests are contrary to the interests of the ward, a person who cannot be expected to properly discharge the duties of the guardian.

Adoption is a special form of family law protection of children without parental care or without proper parental care, through which the parentage or kinship is established, and which is governed by the provisions of the Family Law of FBiH, RS and BD.

A child can be adopted only if it is in his best interest. Adoptive parent must be a citizen of BiH, and only exceptionally the adoptive parent can be a foreign national if such adoption is in the best interest of the child and if there are particularly justified reasons for that, and such adoption cannot take place without prior approval by the competent administrative authority for social care.

According to the FBiH Family Law, the adopter can be a citizen of BiH, as well as a foreign citizen, if such adoption is in the best interest of the child and if the child cannot be adopted in BiH. Namely, the existence of specific justification for adoption by foreign citizens is no longer a condition for adoption.

Adoption requires the consent of both parents or of one parent and the consent must be explicit in relation to the type of adoption. Parental consent is not required from parents deprived of parental rights, or from parents with revoked or limited legal capacity or whose residence is unknown for at least one year.

Adoption can be full and partial.

A child aged up to 10 years can be fully adopted under the Family Law of the FBiH and the BD, while the RS Family Law sets the age limit for full adoption at 5 years.

Adoption can take place only if it is in the interest of the adoptee. One can not adopt a blood relative in the direct ascending line, or a brother or a sister, a guardian can not adopt his wards, before the guardianship authority terminates the guardianship. Spouses may fully and jointly adopt the child if they are minimum 18 years older than the adoptee. Full adoption is the basis for the kinship between the adoptee and the adopter.

Adoption of a child older than 10 years requires his consent.

A child up to 18 years old can be partially adopted.

The FBiH Family Law (Article 92) stipulates that a child has the right to know that it has been adopted, and that the adoptive parents must inform the adopted child about that by its seventh year, or immediately upon the adoption if adopted child is over seven. The BD Family Law (Article 77) also stipulates that a child has the right to know that it has been adopted. The RS Family Law contains no such a provision.

The process of adoption is the competency of the guardianship authority in the place of residence or of temporary residence of the child, in the event that the place of residence cannot be determined. The guardianship authority obtains evidence ex officio, and determines whether the conditions for adoption have been met, as well as the suitability of persons who wish to adopt a child.

The process of adoption is not open to public.

The guardianship authority / the Centre for Social Work / ex officio gathers the evidence and determines whether the conditions for adoption have been met, keeps the case files and records and documentation of adopted children.

Placement in foster families (foster care) is regulated by the Law on Social Protection, the Protection of War Victims and Families with children, as well as by the cantonal laws on social protection in FBiH, and the Laws on Social Protection in the RS and BD. The purpose of the placement in a foster family is to enable children to meet their basic needs which cannot be met within their own families or otherwise. The right to foster placement is enjoyed by children without parental care, neglected children, children uncared for, children whose development is hindered by family circumstances, children with disabilities and children with physical and mental disabilities until their return to their own family, or until the completion of formal education, or of the training for independent life and work.

The decision on the placement of the child in a foster family, as well as the decision on termination of such placement is rendered by the Social Work Centre, which is responsible for supervision over the family, the provision of assistance to the family and which pays regular visits to the family and thus maintains a permanent contact with the placed child.

The competent social work centre decides on the placement in a foster family and concludes a contract with the foster parent who is entitled to compensation for the placement of the child.

The placement in social care, as a form of the right to social protection, is foreseen by the entities' Laws on Social Protection. The purpose is to enable the children to meet their basic needs in the event that these can not be met within their own or another family or otherwise.

The decision on the placement in an institution is rendered by the Social Work Centre in the territory of which the person in question resides based on the opinion of the expert team, the enforceable decision of the court, or of the guardianship authority, as well as based on the findings and opinions of the expert committee and the findings and opinions of the relevant health care facility. The Social Work Centre, which placed the child in an institution for the care and protection of interests of the child, is obliged to monitor his treatment in the institution.

Given that the decision-making process with regard to the placement of the child to foster family or an institution by the Social Work Centre is governed by the Law on

Administrative Procedure of FBiH, RS and BD, the decision rendered in such procedure may be appealed in accordance with the provisions of this Law.

Social welfare institutions for the placement of children in the FBiH are the institutions for children without parental care, facilities for neglected and uncared-for children, facilities for children with physical or mental disabilities, day-care facilities.

The establishment and operations of the institutions in FBiH are regulated by cantonal regulations, while the establishment of the institutions of relevance for FBiH is regulated by a federal-level regulation

Supervision of the professional work of institutions established by the municipality or the canton is carried out by the cantonal authority responsible for social welfare and protection of the family (Article 10).

Tuzla and Herzegovina-Neretva cantons have their respective Books of Rules governing the requirements in terms of premises, equipment and necessary professional and other staff, or in terms of general, technical and professional conditions for the establishment and operation of social welfare institutions including the institutions for children without parental care.

The social welfare institutions in the RS for placement of children are: children and youth residential care facility, residential care facility for children and adolescents with developmental disabilities, residential care facility for physically disabled children and youth with intact mental abilities, residential care facility for upbringing of children and adolescents, reception points, service centres and day-care facility.

The social welfare institutions in the RS provide care (housing, food, clothing, treatment, support and protection), education and upbringing, training for specific occupational activities and health care in accordance with special regulations, as well as occupational, cultural, entertainment, recreational and rehabilitation activities and social work services. The Law stipulates that institutions may be established on condition that premises, equipment and required number of professional and other staff is in place, depending on the type of the institution and activities to be carried out. Detailed requirements regarding premises, equipment and necessary professional and other staff of social welfare institutions are prescribed by the Minister of Health and Social Care. Institutions established by the RS can begin to work and perform their activities once the Ministry of Health and Social Welfare finds that the conditions for commencement of work and performance of activities of the institution have been met. Social welfare institutions established by municipalities and other physical or legal person may start to work and perform their activities once the municipal authority responsible for social security determines that the conditions for commencement of work and performance of activities of the institution have been met.

Brcko District does not have its own placement facilities so that children are placed in social care institutions of the entities, on an as-needed basis.

Protection of children against violence, maltreatment and abuse

The Law on the Protection against Domestic Violence of FBiH (Official Gazette of FBiH, No. 22/05 and 51/06) and the Law on the Protection against Domestic Violence of RS (Official Gazette RS, No. 118/05, 17/08) define domestic violence as any act that causes physical, mental or sexual harm, suffering or economic harm, as well as the threat of such an action or a failure to act and pay due attention, which seriously hampers the family members and persons who are in close social relation, irrespective of the fact whether there is or there was a community of life between them, to enjoy their rights and freedoms on the grounds of gender equality, in both public and private sphere.

These laws regulate: the protection from violence, the notion of domestic violence, persons who are considered family members, means of protecting family members, and the type and purpose of sanctions for perpetrators of violent acts.

Brcko District is in the process of passing the Law on the Protection against Domestic Violence.

With reference to the standards set under international and domestic regulations, it should be stressed that the family laws of BiH / FBiH, RS and BD /, also prescribe mandatory protection of children against violence. Thus, the Family Law of FBiH reads that "a child is entitled to protection from all forms of violence, abuse, mistreatment and neglect," and the Family Law of RS (Official Gazette RS, No. 54/02) stipulates that "parents have a right and a duty to protect their minor children and to take care of their life and health ", and the Family Law of BD (BD Official Gazette, No. 23/07) also prescribes an obligation to protect the rights and interests of the child, as well as the rights and duties of parents.

Article 97 of the RS Family Law stipulates that parents and other family members must not subject the child to degrading treatments, mental and physical punishment or abuse. If the parents or the parent with whom the child lives, abused or neglected the child, neglected the child's upbringing, or if the child's education was disrupted, the guardianship authority may remove the child and entrust it for care to the other parent, another person or an appropriate institution, if there is no court decision on entrusting the child.

Article 106 of the RS Family Law provides that a parent who abuses the child, misuses parental rights or who has abandoned the child, neglected the care for the child or neglected parental duties will be deprived of parental rights by the court in extra-judicial proceedings. The misuse of parental rights and duties involves physical or psychological violence against children, sexual exploitation, exploitation of a child by forcing him to work excessively or inappropriately for his age, allowing a child to enjoy alcoholic beverages, drugs or other intoxicating substances or inciting a child to engage in any form of socially unacceptable behaviour, or any other form of severe violation of the rights of the child.

The same article also stipulates that gross negligence of parental rights and duties includes, among other things, a failure to take care of basic needs of the child residing with the parent, or a failure adhere to measures imposed by the competent authority in order to protect the rights and welfare of the child.

The FBiH Family Law explicitly set forth the rights of children, especially the right to protection against all forms of violence, abuse, mistreatment and neglect in the family, and provisions governing the duties and rights of parents have been expanded compared to the earlier law. The issues pertaining to protection of the rights and interests of the child are regulated by the Law above (Article 150 - 159) including the protection of personal rights and interests of the child, warning for failures in child care, supervision over the exercise of parental care, taking away a parent's right to live with a child, deprivation of parental care, protection of property rights and interests of the child, termination of parental care, and acquisition of legal capacity.

One of the novelties is the provision (Article 154) under which parents are obliged to care about the life and health of the child, to take care of the child, to meet his needs and protect it from all forms of violence, injuries, economic exploitation and sexual abuse by others, while at the same time being required, depending on the age and maturity of the child, to control his behaviour.

With a view to securing the greatest possible protection of the child, the provisions have been provided under which the guardianship authority shall, ex officio, undertake necessary measures to protect the rights and interests of the child based on direct knowledge or information (Article 150), and especially those concerning violence, abuse, sexual abuse and child neglect.

All authorities and organisations, as well as the individuals are obliged to submit to the guardianship authority information on the violation of child rights.

Based on this information, the guardianship authority is obliged to take necessary measures in the line of duty. The opinion of the minor child will be specifically taken into account and appreciated when deciding on the measures to separate the child from the parents.

If parents are damaging the interests of the child and largely neglect raising, upbringing and education of the child, the court will, in extra-judicial proceedings, take away the right of such parents to live with the child and entrust the child for care and upbringing to another person or institution, and reinstate this right when it is in the interests of child.

The imposition of this measure does not terminate other duties, responsibilities and rights of parents in respect of the child. In addition to this measure, the court may order the supervision over the exercise of parental rights, and in extra-judicial proceeding, impose termination of parental rights in the event of abuse of rights or gross neglect of parental duties or child abandonment or of the neglect of the child

who does not live with that parent and who in doing so obviously puts at risk the safety, health and the morals of the child.

The Law also specifies what is considered as the abuse of the right: physical and mental violence against a child, sexual exploitation of children, inciting a child to socially unacceptable behaviour, gross neglect of duty (in the event when the parent does not fulfil the obligation of supporting the child for more than three months; fails to comply with measures imposed to protect the rights and interests of the child, fails to prevent the child from the enjoyment of alcoholic beverages, drugs or other intoxicants, fails to prevent the child under 16 from late night life).

The FBiH Family Law governs the procedure for protection from violent behaviour in the family. This protection shall be provided by police, guardianship authorities, that is the social care authorities and the court, while all natural and legal persons shall immediately upon learning of violent conduct notify relevant police authority.

The police is required to remove the violent person and inform the guardianship authority, which then takes action as provided by law.

The Family Law of Brcko District (Articles 107-140) stipulates the rights and duties of parents and children, and Article 110 stipulates the right of the child to protection against all forms of violence, abuse, mistreatment and neglect within the family. Parents are jointly responsible for development and upbringing of the child and must ensure that the child enjoys protection necessary for his welfare.

The issues pertaining to protection of the rights and interests of the child in this Family Law are defined identically as in the FBiH Family Law.

Article 136 of the BD Family Law stipulates that parents who, by abusing their parental rights or neglecting their duties or abandoning the child, put at risk the health or the morals of the child, or who fail to protect the child from such behaviour of the other parents or another person, shall be deprived of parental care rights by the court, in non-contentious proceedings. Paragraph 2 of the same Article stipulates that abuse of rights involves physical or psychological violence against children, sexual exploitation of children, inciting the child to socially unacceptable behaviour.

The guardianship authority is obliged ex officio to take all required actions to protect the rights and best interests of the child on the basis of knowledge or information, in particular those concerning violence, abuse, sexual abuse and neglect of children. In such cases the Court will, in non-contentious proceedings, take away the right of the parent to live with the child and entrust the child for care and upbringing to another person or institution.

In addition, the family laws in BiH stipulate that parents are obliged to take care of the child, to meet the child's regular needs, and protect him from all forms of vice such as drugs, alcohol, vagrancy, banditry, theft, prostitution, beggary and all forms of juvenile delinquency, violence, injuries, economic exploitation, sexual abuse and other antisocial phenomena.

The court before which a misdemeanour or criminal proceedings concerning violation of the rights of the child are launched shall notify the guardianship authority about it and deliver the final decision rendered in the proceedings.

The child will be advised by the guardianship authority in all procedures related to decision-making in accordance with the child's level of comprehension. It should be stressed that the views of the minor child will be specifically taken into account in all procedures and measures concerning the rights and interests of the child.

### Juvenile delinquency

In BiH, juvenile delinquency is treated as a socially unacceptable behaviour, which includes pre-delinquent and delinquent behaviour of young people aged between 14 and 18 (in the legislation children between 14 and 16 years are referred to as junior minors, and those aged between 16 and 18 as senior minors), as well as of those below 14 and over 18. Also, young adults, those aged between 18 and 21, in certain situations may become subject to provisions of juvenile criminal law. The risk factors that should be kept in mind are the quality of health and social care, the increase in drug traffic, and risks associated with the family environment (disturbed family relationships, lack of care and control by parents, violence, alcohol abuse), school (irregular attendance and dropouts), peer group (influence and peer pressure), immediate environment of children and youth, as well as some of the characteristics of adolescents themselves (emotional and social immaturity, low frustration tolerance, poor social adaptability, the need to prove oneself with negative identification, etc.).

Within the group of child offenders aged between 14 and 18, the most frequent offenders are those aged between 16 and 17. It is also evident that an age limit for juveniles in conflict with the law constantly shifts to younger and younger children. Particularly worrying is an increased number of children under 14 years, who are criminally irresponsible, as perpetrators of both offences and crimes. Such behaviour is often preceded or followed by a growing number of neglects, dropouts from formal education, especially secondary, but primary as well. Boys are a more dominant group among juvenile offenders, and juvenile delinquency is becoming increasingly present in urban environment. The most frequent offences are those committed against property (an estimated 90% of the overall number of committed offences), and a smaller part are those against life and limb, and the offences against public order and peace.

A juvenile offender is a child or young person who is alleged to have committed or who has been found to have committed an offense. Offense is any behaviour (act or omission) that is punishable by law under the respective legal system.

In BiH, both at the entity and the state level, there is still no single law which fully regulates the area of juvenile delinquency, although a draft law consistent with international standards was made in January 2005. Specific provisions of general regulations contained in the entity criminal procedure codes, criminal codes, laws on



enforcement of criminal sanctions, laws on social protection and laws on internal affairs apply. Criminal legislation sets the minimum age of criminal responsibility to a level at 14 years, and distinguishes between junior (aged between 14 and 16) and senior minors (aged between 16 and 18) as criminally responsible minors.

The RS Criminal Procedure Code (Chapter XXVI) and the FBiH Criminal Procedure Code (Chapter XXVIII) adopted in 2003, contain specific provisions on the proceeding against a minor applicable to persons who have committed a criminal offense and who are older than 14 years (which is the minimum age for criminal responsibility), that is those who have committed an offense as juveniles (up to 18 years), and who at the time of the trial are younger than 21.

The main novelty is the possibility of diverting a juvenile offender from further formal criminal process, which has been introduced through the obligation of the prosecutor and the judge to, for criminal offenses punishable by a fine or by imprisonment up to three years, take into account the possibility and the justifiability of imposition of correctional recommendations as an alternative to further court proceeding.

Important novelties in both entity Criminal Procedure Codes include: mandatory defence irrespective of the type of criminal offense; parent, guardian, social worker, confessor and defence counsel have the right not to testify in proceedings against a minor, the minor shall be summoned through his/her parents or through his/her legal representative; audio and video recording of the proceedings is not allowed, the juvenile panel of the first instance court is composed of three judges and it tries the appeals against decisions of the juvenile judge.

Similarly, the panel of judges of the second instance court is composed of three judges. As the concept of the prosecutor as an injured party has been abolished, the prosecutor now has the obligation to notify the guardian and the injured party of the decision not to institute a proceeding against minor on the grounds of expediency. The current provision stipulates that a juvenile judge may address a specialist (a social worker, special education, psycho-psychologists), without an earlier reference "if any in the court", for details about the minor such as his mental development and conditions in which he lives. The juvenile panel reviews the necessity of custody every ten days. Custody may be prolonged only on legal grounds, and the duration of custody is limited to six months upon a motion to initiate preparatory proceedings has been filed. A minor in custody is kept separately from adults (the previous possibility of placing a minor together with an adult, if the custody takes longer, or if an adult does not have an adverse effect on the minor, no longer exists).

With regard to termination of proceedings, the guardianship authority no longer has the possibility to initiate with the juvenile panel the review of the decision on termination of proceedings. The deadline to notify the President of the Court of cases that are not completed and give the reasons thereof has been shortened from 30 to 15 days. As a result of the abolition of the jury, the hearing on the imposition of corrective measures and the main hearing are now held before the juvenile judge alone. The provision has been abolished for the panel to decide at its session about holding the main hearing, but such a decision may be rendered at the hearing. The

course of the main hearing has been changed through the introduction and application of common law concepts, such as indirect and cross-examination, and other.

The provision which stipulates the rendering of a decision at the main hearing has remained. The deadline for drafting the decision or verdict is identical to the deadline for verdicts in cases against adults and it is 8 days, while in complex matters this deadline is 15 days following the publication of the decision. The right to appeal has now been expanded to include extramarital partner. Also, the juvenile panel session of a higher instance court now always calls both the juvenile and his defence counsel. The obligation of the management of the correctional facility to report on the behaviour of minors has now been shortened from previous six to two months.

Other important novelties and changes are related to the altered composition of the juvenile panel, a mandatory defence, regardless of the severity of the offense, detention separate from adults and a possible reduction of the custody period.

Criminal codes of FBiH and RS contain, within a separate chapter, the provisions on corrective recommendations, measures and penalties for juveniles. Other provisions of both codes are also applicable on condition that they are not contravening these special provisions. With the exception of the introduction of corrective recommendations and the removal of the corrective measure of *judicial reprimand* from the Criminal Code of FBiH, there were no other changes in the system of criminal sanctions for juveniles, both in terms of their nature and purpose, or of their duration.

The laws on enforcement of criminal sanctions in both entities have not been adopted in the form of new laws as is the case with the criminal procedure codes and criminal codes. Both these laws do not fully follow the changes introduced through new criminal procedure codes and criminal codes. The process of amending these laws is underway and their full alignment is expected.

The RS Law on Social Protection and the amendments to the Law on Social Protection define the role of the guardianship authority, that is the Social Work Centre, in gathering the data in the preparation process and work with juveniles (including preventive work with minors under 14). The amendments to the RS Law on Social Protection identify the Social Work Centre as a leading authority in the implementation of corrective recommendations, which is a novelty and an opportunity for the centres to organise themselves for the start-up of these activities.

In FBiH, the Law on Social Protection defines in the same way the tasks of the Social Work Centre, although at the two levels, the cantonal and the municipal one. Neither the amendments nor by-laws which define the implementation of corrective recommendations have yet been adopted.

The laws on courts and court operations of both entities define the jurisdiction of the juvenile judge through the provision stipulating that a court of competent jurisdiction is the court with the jurisdiction over the location of the offense.

In addition to the provisions of entity Laws on Internal Affairs defining the preventive role of police, there are also certain by-laws, guidelines and procedures in both entities detailing the conduct of the police in dealing with minors, especially when detaining them.

#### Juvenile Justice Institutional Framework

At the state level, that is at the level of joint bodies of Bosnia and Herzegovina under the BiH Council of Ministers, the Ministry of Justice, the Ministry of Human Rights and Refugees and the Ministry of Security, through their respective legally defined activities, have limited competencies in the field of juvenile delinquency. The BiH Council for Children, which has been established under the Ministry of Human Rights and Refugees, is a body that monitors the implementation of children's rights as foreseen under the UN Convention on the Rights of the Child.

There are no other bodies at the state or entity level, be it within one sector or cross-sectoral, which specifically deal with the issues related to child protection in special circumstances, as stipulated in the Convention on the Rights of the Child, including the children in conflict with the law.

In the FBiH and RS, policy development which also impacts the area of juvenile delinquency, falls within the competencies of ministries of interior, justice, social protection and education. With regard to enforcement of laws and implementation of policies, there is no uniform or common practice among different institutions at the level of entities, where the following *modi operandi* exist:

#### Internal Affairs

Police administrations in the FBiH and the public security centres and police stations in the RS, do not have separate departments for juveniles, with the exception of Sarajevo where such a department exists. The Public Security Centre Banja Luka has two inspectors who work with juvenile offenders. According to some surveys, the efforts are being made in practice to implement legally binding requirements of notifying juvenile's parents and the Social Work Centre that the juvenile is in custody when an arrest is made, as well as the not to keep juveniles longer than 24 hours.

Preventive activities are carried out by the police, mainly within the scope of their daily work, with some specific prevention projects which are quite recent. Police academies and police high schools have, within their respective curricula, juvenile delinquency as a separate field of expertise covering the provisions related to respect of the personality of minors, as well as the importance of first contact with minors, and some special training courses have been organised on this topic.

## Judicial institutions

Since the law does not provide the specialisation of judges and prosecutors for work with juveniles in conflict with the law, the prevailing practice in courts is the internal assignment of juvenile delinquency cases to a particular judge.

The changed role of the prosecutor, who under the new legislation plays a central role in all actions related to identification and prosecution of offenders has reduced the possibility for prosecutors to specialise. The new criminal legislation, although not explicitly requiring the employments of some specific profiles of staff (psychologists, social workers, defectologist), foresees their increasing role and opens up the possibility of employing greater number of this profile of staff than before, when their expertise generally was not utilised in cases involving minors. Although the law requires the urgency in dealing with juvenile cases, the situation significantly differs from one court to another.

In pre-trial detention, efforts are made to comply with the provisions of the law on bringing a minor before a judge within 24 hours after being detained by the police. The detention can last from one to three months. The number of imposed detention measures varies, with an estimated number of one out of ten cases.

The problem related to custody is the lack of appropriate detention facilities, poor conditions of existing premises and the absence of any educational activities for juveniles while in detention. The practice in imposing measures and imprisonment sentences is very similar in both entities. Within the range of existing measures, some of the measures are generally not imposed due to lack of infrastructure (committal to a disciplinary centre and committal to a reformatory facility).

Reformatory recommendations that reflect the modern trends in working with juveniles are generally not imposed, which is explained by the lack of regulations governing the procedure for imposition and enforcement of such measures. For less serious offenses the common measure is a court reprimand. For more serious or repeated offenses judges usually impose measures of intensified supervision by parents or intensified supervision by the guardianship authority, where the latter often replaces a committal to a reformatory facility, and this practice is based on the opinion of judges that the control established through the imposition of such a measure is still better than none. Special obligations related to intensified supervision represent a great opportunity to develop community-based alternative measures, however in practice these measures are generally not imposed. Juvenile imprisonment sentence is proportionally rare.

The practice of court supervision over the enforcement of court measures varies as well. It is widely believed that the suspension of already imposed measures, their substitution or termination is rare in practice.

At laws schools in BiH, the juvenile justice system is studied in the context of criminal law. There are no specialist studies in this field at postgraduate level.

## Social Sector

Social welfare institutions, that is the social work centres and social services in smaller places, remain the only legal institutions outside the judicial system which carry out preparatory proceedings, implement non-institutional reformatory recommendations and measures, and report back to courts on the implementation of these measures. Social work centres also have legal capacity to carry out prevention programs.

Social work centres in larger cities have departments for minors in conflict with the law, while in smaller places efforts are made to ensure – insofar as possible – the engagement of teams of experts of different profiles. Faced with the problems related to poor equipment, insufficient financial and human resources including the lack of staff with adequate education, experts in the centres are usually themselves dissatisfied with the existing practice. Hence the monitoring of resocialisation of minors under the intensified parental supervision and intensified guardianship supervision with active involvement of social work centres is a weak link of the Social Work Centres. Active involvement of children and parents in devising rehabilitation activities within the framework of implementation of these measures is usually not a common practice.

### Institutions for enforcement of institutional measures

Legally stipulated institutions for enforcement of institutional reformatory measures are reformatory facilities, institutions for training of minors with medical or special needs and penal-correctional institutions or detention facilities. These institutions fall within the scope of competencies of entity ministries of justice. In FBiH, there is one institution for placement of neglected and uncared-for male children, the Institution for Upbringing of Male Children and Youth – HUM, located in Sarajevo and accommodating 13 children.

In practice, the institution "Hum" Sarajevo in some cases also receives children in conflict with the law, but it does not function solely as a reformatory institution. In Banja Luka, a separate reformatory unit has been built within the Penal-Correctional Institute, but the conditions for its operation have not been created.

In practice, juveniles, in respect of whom the court imposed the measure of committal to a reformatory institution and in a situation when such an institution does not exist or is not in function, as a consequence remain unsupervised and left out of any service, programme or a team, where their rehabilitation and reintegration is left fully to their families, which in many cases are unable to provide adequate parental care and protection.

It is very important to note that there are no indicators suggesting that the lack of reformatory facilities contributes to the rise of juvenile delinquency, or to what extent the rise is caused by the dysfunctioning of reformatory institutions of closed type. The factors such as the traditional recourse to institutional placement and the experiences from other countries, where it was confirmed that prolonged institutional

placement leads to higher recidivism rates than the application of non-placement measures, is causing a variety of considerations among professional circles in BiH.

Persons sentenced to juvenile prison serve their sentences in the youth correctional facilities in Zenica and Foca.

The basic and fundamental problem is the serving of prison sentences by juveniles (including young adults up to 24 years old) together with adult inmates. The research on the position of young people serving sentence in juvenile prison emphasised that the separation of young prisoners from other inmates substantially improves the effects of treatment of young people in prisons. Despite the efforts to improve the conditions of stay and treatment under the reduced prison budgets, the current position of young persons in prisons is burdened with problems related to inadequate nutrition, inadequate medical care, poor assistance to drug addicts, excessive discipline and lack an open system of appeals.

The efforts are being made to secure education, recreation and sufficient contacts with the outside world. The links with the social welfare centres, which are necessary in the context of post-penal treatment, are weak and there is also a lack of connectivity with other system institutions or nongovernmental organisations that could improve the treatment of juveniles in prisons, which exists in other countries.

Local communities have an impact on juvenile delinquency through the financing of social welfare centres, however, these allocations are usually insufficient for more substantial efforts on the enforcement of intensified supervision or work with juveniles in the preparatory stage of the proceedings, when they are most mentally unstable according to the experts. Local authorities are increasingly providing funding and initiate projects targeting youth, and these projects are in most cases implemented by local NGOs.

There are no NGOs dealing specifically with these issues. We can only talk about the prevention of conflict with the law as a positive spillover effect of the implementation of NGO activities aimed at preventing violence and drug addiction and improving general quality of life of children and youth. The BiH Association of Mediators has so far not received any specific training on mediation between the injured party and the juvenile offender.

The state-level Criminal Code establishes the rules relating to reformatory recommendations, reformatory measures and the sanctioning of juveniles. Namely, a number of processes specific for countries in transition has been underway in BiH which, directly or indirectly, have an enormous impact on the lives of children. Adaptation to market economy followed by reform processes in the field of law and social sector, uneven development of civil society, economic poverty, changed system values coupled with a growing tendency to strive for material gain, as well as changed traditional role of the family, increase the risk factors related to children's health and their social behaviour.

The BiH Criminal Code, articles 75-106 thereof, regulates the field of juvenile delinquency, while the entity criminal codes regulate the protection of the family, marriage and youth. The BiH Criminal Procedure Code governs juvenile procedure in Chapter XXVI, articles 340-374 thereof.

The provisions of the above-mentioned laws ensure humane treatment of minors and protection of their rights in the proceedings. Among these provisions particularly significant are those from the BiH Criminal Procedure Code, which prescribes the following:

- provisions on circumspect treatment – /article 342, paragraphs 1 and 2/ stipulating that “a minor may not be tried in absentia; when proceedings are undertaken that are attended by the minor, and especially when he is examined, the bodies participating in the proceeding must be circumspect, mindful of the mental development, sensitivity and personal characteristics of the minor, so that the conduct of the criminal proceeding will not have an adverse effect on the minor's development”.
- provisions on mandatory defence – /Article 343, paragraph 1/ “A minor must have a defence attorney from the outset of the preparatory proceeding”
- provisions for providing the assistance of an interpreter if a minor does not know the language in which the proceeding is conducted –/ Article 343, paragraph 2/
- The provisions which prohibit the disclosure of the course of criminal proceedings –/Article 349/
- “Neither the course of a criminal proceeding against a minor, nor the decision rendered in that proceeding may be made public, nor may the course of the proceeding be visually or audio recorded. A legally binding decision of the court may be published, but without stating the personal data of the minor that might serve as the basis for identifying the minor.”
- provisions on duty of urgent action – /Article 350/

It is also important to mention that the juvenile procedure provides for the application of the principle of opportunity and gives the possibility of diversion through judicial and prosecutorial leeway in imposing reformatory recommendations for the offense for which a fine or imprisonment up to three years is envisioned. In this regard, Article 352, paragraph 1 of the BiH Criminal Procedure Code stipulates that “For criminal offenses carrying punishment of imprisonment up to three (3) years or a fine, the Prosecutor may decide not to file the indictment even though there is evidence that the minor committed the criminal offense if the Prosecutor feels that it would not be purposeful to conduct a criminal proceeding against the minor in view of the nature of the criminal offense and the circumstances under which it was committed, the minor’s previous life and his personal characteristics.”; and Article 75 of the BiH Criminal Code stipulates that “Reformatory recommendations may be applied to a juvenile for criminal offences for which a fine or a punishment of imprisonment for a term not exceeding three years is prescribed.” Further to this, the BiH Criminal Code, Article 77 thereof, stipulates that “the purpose of reformatory recommendations is to avoid initiation of criminal

procedures against juvenile perpetrators; and to use the reformatory recommendations as a means of influencing juveniles not to perpetrate criminal offences.”

Types of reformatory recommendations /Article 78, paragraph 1/

Personal apology to the injured party; compensation of damage to the injured party; regular school attendance; work for a humanitarian organisation or local community; an appropriate job; placement in another family, home or institution; treatment in an adequate health institution; attending instructive, educational, psychological and other forms of counselling;

The purpose of reformatory measures and juvenile imprisonment is to, through protection and assistance to juvenile offenders, the supervision over them, their professional training and development of their personal responsibility, ensure the correction of their behaviour and their proper development. In addition, the purpose of juvenile imprisonment is to influence juvenile offender not to perpetrate criminal offences, as well as to deter other juveniles from perpetrating criminal offences.

Types of reformatory measures are: disciplinary measures; intensified supervision and institutional measures.

(1) Disciplinary measures shall be imposed on a juvenile perpetrator of a criminal offence who does not need to be submitted to extended corrective or reformatory measures, in particular if he has perpetrated a criminal offence out of thoughtlessness or frivolity.

(2) Measures of intensified supervision shall be imposed on a juvenile perpetrator of a criminal offence if it appears necessary to subject the juvenile to extended corrective, reformatory or medical treatment under adequate supervision, but where it is not necessary to completely isolate him from the old environment.

(3) Institutional measures shall be imposed on a juvenile perpetrator of a criminal offence when it appears necessary to subject him to extended corrective, reformatory or medical treatment, as well as to detach him completely from his old environment. Institutional measures may not last more than five years.

Sentencing of senior juveniles

Only a senior juvenile criminally liable may be sentenced if he has perpetrated a criminal offence for which a punishment of imprisonment for a term exceeding five years has been prescribed, if it would not be justifiable to apply a reformatory measure because of the grave consequences of the offence perpetrated and the high degree of criminal responsibility.

Juvenile imprisonment

(1) The duration of the sentence of juvenile imprisonment may not be shorter than one or longer than ten years, and shall be measured in full years or half-years.

(2) In meting out punishment for a senior juvenile for a criminal offence, the court may not impose juvenile imprisonment for a term exceeding that of imprisonment



prescribed for that particular criminal offence, but the court shall not be bound by the minimal punishment prescribed for the particular criminal offence.

It is certainly significant that the BiH Criminal Procedure Code also envisages the possibility of an appeal against the verdict imposing any type of reformatory measure or juvenile imprisonment or dismissal of proceedings (Article 370), as well as the possibility of altering imposed correctional measure or dismissing the proceeding.

(1) It should be mentioned that juvenile imprisonment sentence is imposed only in exceptional cases – Article 80, paragraph 1 of the BiH Criminal Code stipulates that “Educational measures and certain security measures may be imposed to a juvenile perpetrator of a criminal offence, while in extreme cases, the juvenile imprisonment sentence may be imposed on a senior juvenile”. Mentioned provisions do not stipulate a long-term imprisonment sentence – Article 96, paragraph 1 of the BiH Criminal Code stipulates that “The duration of the sentence of juvenile imprisonment may not be shorter than one or longer than ten years.”

The above provisions, which are fully consistent with international standards, enable the provision of assistance and protection for juvenile perpetrators of criminal offences. Specifically, through the supervision over them and their professional training and development of their own responsibilities, their reformation, rehabilitation and proper development is enabled. In addition, it also helps deterring juvenile offenders from possible future offences, and has a preventive effect on other juveniles to not commit crimes.

At the same time it should be noted that criminal codes of the entities, in the part governing this subject matter, are consistent with the state-level laws.

Harmonised stipulations in entity criminal codes relating to minors are as follows:

- Penal code provisions that provide for humane treatment and the protection of minors and their rights in proceeding, such as provisions on the circumspect treatment, mandatory defense, the possibility that a minor receives the assistance of an interpreter in case he/she does not know the language of the proceeding, the prohibition against the disclosure of information pertaining to course of proceeding, obligation of urgent action.
- Imposition of detention only in exceptional cases, the provision on separation of juvenile from adult detainees, limited duration of detention.
- The possibility of applying the principle of opportunity and the possibility of diversion, which was given to the judge and / or prosecutor through the imposition of reformatory recommendations for the crimes for which a fine or imprisonment up to three years is envisioned.
- The possibility of an appeal against the verdict imposing any type of reformatory measure or imprisonment sentence.
- The possibility of altering imposed reformatory measures or of termination.
- The absence of long-term imprisonment and the death penalty.

In FBiH, the Law on Basic Social Protection, the Protection of Civilian War Victims and Families with Children, as well as the cantonal laws include among the beneficiaries of social welfare neglected children, or children whose behaviour

violates generally accepted norms or those committing violations or criminal offences.

The Laws on Social Protection of RS and BD include among the beneficiaries of social welfare neglected juveniles, who, because of inadequate supervision and insufficient parental care, or because of negative influence of their surrounding violate generally accepted norms of behaviour and commit violations or criminal offences.

According to the FBiH Law on Social Protection, the institutions for neglected children provide accommodation, upbringing, education, re-socialisation, care, health care and occupational training for children with socially challenging behaviour and offenders.

In order to bring the legislation, policies and practices in the area of juvenile delinquency in line with international standards, in the context of existing trends and estimated social, economic, cultural, political and legal factors and circumstances in BiH, a 2006-2010 National Juvenile Justice Strategy was developed. The Strategy encompasses five different topics relevant in the context of BiH, and it defines specific strategic objectives for each of the topics. The topics include: 1 legislation, 2 alternative measures, 3 institutional treatment, 4 prevention, and 5 application of criminal law on juveniles in practice.

**Question 2 Please describe the measures taken (administrative), arrangements, programmes, action plans, projects, etc. for application of legislative framework**

**Answer:**

Children in public care

With a view to developing the protection system that will have the capacity to respond optimally to the need of child to live in his/her biological family, as well as to the needs of children already separated from their parents to get the protection which will be in the best interests of each child individually, a Policy Document on the protection of children without parental care and families at risk of being separated in Bosnia and Herzegovina 2006-2016 was drafted and subsequently adopted by the FBiH Parliament in July 2008.

The document was developed through a joint initiative of the FBiH Ministry of Labour and Social Affairs, the RS Ministry of Health and Social Welfare, the UNICEF and Save the Children UK within the framework of the project for development of policies for the protection of children without parental care in BiH, which involved a number of experts, scholars and practitioners engaged in social care and child protection in Bosnia and Herzegovina, both from the governmental institutions dealing with social protection, as well as the NGOs operating in this field.

This document and related policy is based on the conclusions and recommendations of the Conference "The Protection of Children Deprived of Parental Care in Bosnia and Herzegovina" and four thematic working groups formed around key areas: 1) the transformation of institutional care for children without parental care, 2) development of alternative services for this category of children, 3) strengthening the capacity of centres for social work in providing care to families and children without parental care, and 4) development of legal framework for protection of families and children, including the prevention of separation of children from their parents.

This system favours family-based substitute care for children without parental care, the transformation of large institutions into smaller placement units, within which the existing capacities and resources will be transformed into various service offices, primarily focused on the prevention of separation of children from their parents.

The general policy objective is to establish the legal and professional criteria, the dynamics and the holders of reform initiatives and programs which, in the coming years, should contribute to the creation of a more inclusive and more evenly balanced model of social protection of children without parental care, and no later than in 10 years time, enable the completion of the reform of the social protection system for children without parental care and families at risk in the FBiH.

In addition, as a result of cooperation between the competent entity ministries of social protection, the competent authorities of the BD and Save the Children UK, a document "Framework Standards for Foster Care in Bosnia and Herzegovina" was developed as a part of the project "Promotion and Development of Alternative Forms of Care for Children without Parental Care in BiH ", which was implemented by Save the Children UK and funded by the U.S. Government through the U.S. Agency for International Development (USAID).

In the RS, with a view to ensuring a consistent realisation of children's rights to long-term care for a child outside his/her own family, primarily in the adoptive and foster families, the Minister issued the Instruction on the Child Adoption Procedure (RS Official Gazette, No. 27/04), as well as the Instruction on Maintaining Records of Adopted Children (RS Official Gazette, No. 27/04), and the RS Government adopted a Strategy to Enhance Social Protection of Children Without Parental Care with an Action Plan for the period 2009-2014. The following activities have been foreseen under the Foster Care Action Plan and the Adoption Action Plan: the ratification of international instruments in the field of adoption, the establishment of a central registry of adoption and a foster care database, development of uniform adoption forms, introduction of monitoring procedures for adoption and foster care and regular reporting by relevant institutions; the training of staff working in the field of adoption and foster care, the training of potential adoptive parents, the standardisation of adoption and fostering, public promotion of adoption as the most inclusive form of social care for children without parental care and raising awareness of the benefits of fostering.

In order to create the conditions to enhance all aspects of development of children in institutional care, the Minister has issued the Book of Rules detailing requirements in

terms of premises, equipment and staff for the establishment of social protection institutions (RS Official Gazette, No. 26/03). With the same objective, the Implementation Action Plan with the Strategy to Enhance Social Protection of Children Without Parental Care foresees the following activities: renovation, adaptation, rehabilitation and equipping of premises for children, the introduction of operating standards, norms and procedures, development of a new classification of posts (systematisation); additional training of existing staff working in institutions, the supervision of professionals in the field, the introduction of an independent living skills programme for youth, assessment of needs for additional community-based services, the provision of material and human resources required by the institutions for introduction of new services.

Each year, the RS government through its budgets is allocating the funds for construction, renovation, rehabilitation and equipping of social care institutions, as well as for partial subsidising of costs of institutional-based care for children, and training of children and youth with physical and mental disabilities.

The RS Ministry of Health and Social Welfare has initiated the process of standardisation of social welfare services. The ultimate goal to be achieved through social welfare standards is improved quality of life of those dependant on these services, and to ensure their effectiveness and efficiency. The first five standards that have been piloted refer to the social services for children (day care centres for children with special needs, institutional placement, early identification of children with special needs, children's villages, family-based placement-foster care).

The implementation of the project "Strengthening the Social Protection and Inclusion System for Children in BiH - SPIS" is underway. The overall objective of this project is development of an integrative model of social protection of children and families across all levels of governance. This project will build national capacity to establish closer cooperation between the relevant social and financial sectors. An integrated, inter-sectoral approach, which is based on case studies, to policy development, planning, implementation, monitoring and evaluation will help to define and strengthen the functions, roles and strategic objectives in the fields of education, health care, social protection and other related sectors dealing with specific forms of exclusion of children and their families.

In order to ensure adequate supervision over the social welfare system, the Minister has issued the Book of Rules on the supervision of professional work and provision of technical assistance to social welfare institutions of the RS (RS Official Gazette, No. 67/02).

#### Violence against children

The National Strategy for Combating Violence against Children 2007-2010 (hereinafter the "Strategy") was adopted in June 2007 by the BiH Council of Ministers. The Strategy, inter alia, stipulates the obligation of monitoring and evaluating the implementation of objectives and measures aimed to prevent and

combat violence against children in all areas of operation and across all levels of government.

Following its adoption in mid 2007, the implementation of the Strategy started at the end of 2007. The Monitoring Team, which was established in late 2007, developed a plan for monitoring the implementation of the Strategy on the basis of which the collection of relevant data and designing of data processing software was done in the second half of 2008 and in 2009.

Based on quantitative and qualitative indicators identified by the Monitoring Team, the data indicating the level of attainment of goals and measures foreseen in the Strategy was collected. Based on the collected data, it was noted that in a number of activities was implemented in Bosnia and Herzegovina which were aimed at strengthening the role of the family in society and raising public awareness of the extent of the phenomenon, the types, the specifics and consequences of violence against children. The Monitoring Team data:

#### Social Welfare Sector

In BiH, only one fifth (about 17%) of the social sector reports the existence of "counselling services for children, youth and parents", where the average annual number of beneficiaries is 78. The existing counselling services mostly employ social workers (55%), while other profiles of staff are lawyers (15%), pedagogues (10%), psychologists (10%) and others.

The scope of activities of the counselling services include: counselling and therapeutic work for couples in crisis, divorce therapy, family communication problems, assistance and support related to problems in parenting, partner relationships, emotional crises and domestic violence, working with foster parents – assistance in upbringing of children; familiarisation with the rights of the child, advising on reporting the perpetrator of violence, strengthening the child's personality, educational workshops, prevention of violence against children- psychosocial treatment, legal and financial assistance.

Only 10% of reporting units from the social welfare sector report the existence of local coordination teams for combating violence, 80% of which have their work programmes. The system for monitoring the environment of the child victims of violence exists in about 40% of the tested samples.

The analysis of the structure of child victims of sexual violence, in the reference period 2007-2008, shows equal representation and boys (52%) and girls (48%) as victims of violence, where the most common form of violence is neglect (27%) followed by economic exploitation (26%).

Also, according to the age of children that have been subjected to violence, most of them (26%) were aged 6 to 10.

## Healthcare sector

Within the healthcare sector, there are 19 counselling centres for children, youth and parents, with 525 beneficiaries per year. The majority of staff employed in counselling centres are psychiatrists and psychologists and there are also some social workers and therapists. Health education programmes for parents were present in only 3% of the sample. When it comes to regular medical examination, the coverage rate is approximately 58% of the total population, with the dominance of children under the age of 14 (28 481 annually).

In order to increase the level of specialisation in working with child victims of serious criminal offences, particularly of sexual violence, the FBiH Ministry of Health has developed and published the "Manual for Training and Education of Health Professionals in Handling Cases of Domestic Violence".

The Manual, among other things, addresses in detail the consequences of domestic violence against children and treatment by health professionals of a child victim of violence.

## Education sector

Half of the tested reporting units (50%) reported that, within the scope of their activities in the education sector, they have noted the cases that sufficiently indicate abuse. About 30% of respondents from the education sector who reported noted cases of violence notified the parents or social services of that, while other 70% responded with "other measures".

Peer violence is a major problem. The number of cases indicates a slight increase. Disciplinary offences are predominantly committed by boys often inflicting light bodily injuries and this is where they statistically differ from girls. It is also important to note that boys also prevail as those committing psychological violence, but here they statistically do not differ from girls who are also very frequently committing the offences. This fact leads us to the conclusion that psychological violence prevail in the overall structure of school violence in BiH.

When it comes to disciplinary measures, we can divide them into three groups: the most frequent ones (reduced conduct grade, a reprimand from the class teacher and a reprimand from the Students Council), common (a reprimand from the Teachers Council and a reprimand from the Council Director) and rare ones (transfer to another school and school expulsion).

Over the last four years, a total of 449 cases of school violence were reported to the police in BiH, of which 156 cases in 2008 only.

The RS education laws contain the provisions on the protection of human rights, which also includes the protection of children from all forms of physical or mental violence.

In accordance with Article 55 of the RS Law on Preschool Education (RS Official Gazette', No. 119/08), a person finally convicted of an offence is rendered unfit to work in preschool education. The offences include those against dignity, ethics and official duty, human trafficking, violation of sexual integrity, child abuse, sexual and other violence against a child or minor, exploitation of children and minors for pornography, producing and displaying child pornography, taking away of a minor person, neglect and abuse of a minor, and violence in the family or extended family, as well as other criminal offences (paragraph 1).

Teaching staff and principals against whom there are reasonable grounds for suspicion of having committed, in a preschool institution or outside it, gender-based violence against child(ren) or other person(s), or of having disturbed in any way child(ren) or other person(s), shall be removed from education system until a final decision is rendered through a disciplinary proceeding (paragraph 2).

Article 105, paragraph 5 of the RS Law on Primary Education (RS Official Gazette, No. 74/08 and 71/09) stipulates that the work in the school can not be performed by a person who has been convicted for crimes committed against the dignity, morals, official duty, sexual integrity, child abuse, sexual and other violence against a child or a minor.

The RS Law on Secondary Education (RS Official Gazette, No. 74/08 and 106/09), Article 74, paragraph 3 thereof, obliges teachers and experts to take measures to protect the rights of the child, and in case of any infringement of those rights, especially in case of any violence against a child, to immediately notify the competent social institution.

In the RS, in November 2008, the three ministers - the Minister of Education and Culture, the Minister of Health and Social Welfare and the Minister of Interior, signed a Protocol on Action in Cases of Peer Violence in Schools, starting from the fact that prevention, detection and suppression of violence among children and youth is of general public interest and stems from the obligations of Article 19 of the Convention on the Rights of the Child.

The Protocol contains the definition of violence, the obligations of competent institutions, forms, methods and contents of cooperation among competent institutions and other activities and obligations.

#### Internal Affairs Sector

Although by definition, the police is a "repressive authority", the public is put at the forefront when it comes to accountability and the prevention of antisocial behaviour

When it comes to cyber crime, only in 9% a special unit responsible for this type of crime has been established.

In the period 2005-2008, the police filed 3795 criminal reports (reports) and misdemeanour charges in cases of violence against children in BiH. The perpetrators

in these cases are predominantly men. It should also be noted that only a third of that number refers to criminal complaints.

In the period 2005-2008, the most prevalent type of violence was physical violence (409), followed by economic exploitation (136), which is dominated by females as perpetrators (110), sexual abuse (93), psychological abuse (93). In cases of economic exploitation, the majority of charges are filed against mothers who, in most of the cases, are also the victims, while no charges are filed against the head of the household (male person who is the organiser of economic exploitation).

In the reference period 2005-2008, 485 children were registered as victims of violence. Male children aged 11-18 years are dominating among these.

When it comes to victims of violence by type of violence, sex and age of the victim, the situation is as follows: the most common forms of violence against children are minor physical injuries (48%) and sexual abuse (22%).

In cases of physical violence, boys aged 11-18 are prevalent as victims, while in cases of sexual abuse prevalent victims are girls aged 11-16, or in 75% of physical violence victims are boys between 11 and 18 years of age, and in 75% of sexual abuse cases victims are girls aged 11 to 16.

The data on peer violence is quite indicative. Mild forms of physical violence (light bodily injuries) are prevalent with 232 registered offenders. Men are typically predominant perpetrators.

#### Justice sector

Based on the indicators of criminal charges filed against the perpetrators of violence against children classified according to their relationship with the victim, it is evident that violators are most often biological fathers. Particularly interesting is the sequence of other persons who appear as perpetrators of violence against children, and these are: other relatives, people who are not relatives, biological mother, stepfather, stepmother, brother and sister, and others in foster families.

When we look at the perpetrators of violence against children by level of their education and by gender, we need to first compare these indicators with the overall indicators of the education structure of the population in BiH, based on which it can be concluded that the perpetrators of violence against children are equally represented in all population groups.<sup>4</sup>

It can also be noted that women constitute over 63% of the overall population, and that they appear as perpetrators of violence in significantly smaller numbers, and not at all among those having V to VII education level or higher.

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<sup>4</sup> (The total number of unemployed persons in BiH is 504,087, with the following education structure: 31.90 % unskilled, 2.81% semi-skilled, 35.57% skilled, 0.81% highly-skilled, 0.43% primary education level, 23.84% secondary education level, 1.44% post-secondary education level, 3.20% higher education level.)



When it comes to data relating to children victims of violence classified by gender, it is evident that extremely large number of child victims are females, except in 2006 when the male to female victim ratio was almost equal. What is worrying is the apparent increase in the number of female victims in particular in 2008, which can be explained by an increasing trend of reporting of violence, as well as by an increased overall number of female victims.

**Question 3 Please supply relevant figures, statistical data and other relevant information.**

**Answer:**

- Children in public care/ data for BiH/

Guardianship and adoption of minor beneficiaries of social welfare in BiH

	2005	2006	2007	2008
<b>GUARDIANSHIP AND ADOPTION</b>	<b>4,471</b>	<b>5,285</b>	<b>4,650</b>	<b>3,234</b>
Guardianship	2,056	4,044	2,009	1,744
Special case guardianship	2,333	1,174	2,554	1,421
Adoption	82	67	87	69

Source: BiH Statistics Agency

Minor beneficiaries of social welfare in residential care in BiH

	2005	2006	2007	2008
<b>INSTITUTIONAL PLACEMENT</b>	<b>2,323</b>	<b>2,276</b>	<b>2,160</b>	<b>1,839</b>
Pre-school institutions	142	285	110	36
Children and youth residential care facilities	129	160	187	150
Residential care for children without parental care	669	595	661	679
Family placement	934	821	742	610
Pupil's and student's dormitories	80	59	66	80
Rehabilitation and protection facilities	208	177	241	158
Other social care facilities	161	179	153	126

Source: BiH Statistics Agency

Beneficiaries of residential care facilities for children and youth without parental care by gender and by age group in BiH

	Total	Age of beneficiary						
		Up to 3 years of age	3 – 6	7 – 10	11 - 14	15 - 18	Over 18	
<b>2005</b>	<b>total</b>	<b>721</b>	<b>66</b>	<b>96</b>	<b>124</b>	<b>123</b>	<b>143</b>	<b>169</b>
	Male	362	36	61	76	65	78	46
	Female	359	30	35	48	58	65	123
<b>2006</b>	<b>total</b>	<b>763</b>	<b>64</b>	<b>91</b>	<b>133</b>	<b>130</b>	<b>167</b>	<b>178</b>
	Male	358	35	56	77	61	97	32
	Female	405	29	35	56	69	70	146
<b>2007</b>	<b>total</b>	<b>790</b>	<b>96</b>	<b>78</b>	<b>128</b>	<b>144</b>	<b>165</b>	<b>179</b>
	Male	384	59	45	85	75	83	37
	Female	406	37	33	43	69	82	142
<b>2008</b>	<b>total</b>	<b>794</b>	<b>78</b>	<b>69</b>	<b>120</b>	<b>165</b>	<b>189</b>	<b>173</b>
	male	407	61	45	79	99	100	23
	Female	387	17	24	41	66	89	150

Source: BiH Statistics Agency

\*No data is available for Brcko District on children and youth without parental care placed in residential care

Beneficiaries of residential care facilities for children and youth without parental care in BiH by parents' situation

	2005	2006	2007	2008
<b>TOTAL</b>	<b>721</b>	<b>763</b>	<b>790</b>	<b>794</b>
Without both parents	108	138	136	122
With mother only	331	312	324	318
With father only	71	72	74	64
With both parents	211	241	256	290
of which children of divorced parents	114	130	137	144

Source: BiH Statistics Agency

Beneficiaries of residential care facilities for children and youth without parental care in BiH  
by type of school attended

	Total	Type of school attended				Do not attend school
		total	Primary school	Secondary school	High school or university	
2005	721	438	290	138	10	283
2006	763	464	308	147	9	299
2007	790	486	315	161	10	304
2008	794	518	354	158	6	276

Source: BiH Statistics Agency

Beneficiaries of residential care facilities for children and youth without parental care in BiH  
by payment status

	Total	Paying for residential care			Do not pay
		Total	In full	In part	
2005	721	414	329	85	307
2006	763	421	349	72	342
2007	790	293	255	38	497
2008	794	207	149	58	587

Source: BiH Statistics Agency

FBIH Table Overviews

The number of children under guardianship in FBIH for the period 2005-2008

Canton	2005	2006	2007	2008
UNA- SANA	375	NO DATA AVAILABLE	357	317
POSAVINA	17	9	6	18
TUZLA	545	299	297	236
ZENICA- DOBOJ	394	295	289	196
BOSNIA- PODRINJE	53	40	40	29
CENTRAL BOSNIA	123	161	125	109
HERZEGOVINA- NERETVA	95	68	21	46
WEST HERZEGOVINA	5	22	7	13
SARAJEVO	376	322	321	304
KANTON 10	35	6	14	9
<b>Total in FBIH</b>	<b>2,018</b>	<b>1,222</b>	<b>1,477</b>	<b>1,277</b>

Source: FBIH Ministry of Labour and Social Policy

Children without parental care placed in residential care in the period 2005 – 2008 in FBiH

NAME AND SEAT OF THE INSTITUTION	NUMBER OF CHILDREN PLACED			
	2005	2006	2007	2008
JU DJEČIJI DOM "BJELAVE" SARAJEVO	105	105	109	93
JU"DOM PORODICA" ZENICA	-	86	116	126
DOM ZA DJECU BEZ RODITELJSKOG STARANJA TUZLA	111	111	106	106
DJEČIJI DOM "MOSTAR" MOSTAR	43	52	44	47
DJEČIJI DOM "DUGA" GRADAČAC*	10	14	27	23
DJEČIJI CENTAR "MOST" ZENICA*	50	49	50	-
<b>TOTAL</b>	<b>319</b>	<b>417</b>	<b>452</b>	<b>395</b>

Source: FBiH Ministry of Labour and Social Policy

\*The Child Centre "Most" Zenica ceased to exist in 2008. The care for children placed in the Centre was taken over by "Dom porodica" in Zenica

Data on the number of children placed in the residential care facilities for children without parental care (NGO) for the period 2005 – 2008 in FBiH

NAME AND SEAT OF THE INSTITUTION	NUMBER OF CHILDREN PLACED			
	2005	2006	2007	2008
KINDERDORF INTERNACIONAL SOS CHILDREN'S VILLAGE SARAJEVO	102	110	114	114
KINDERDORF INTERNACIONAL SOS CHILDREN'S VILLAGE GRACANICA	82	82	83	82
RUDOLF WALTHER FOUNDATION CHILDREN'S VILLAGE OF PEACE TURIJE LUKAVAC	102	102	106	110
CHILD CENTRE "DUGA" KULEN VAKUF	-	23	16	9
THE SOCIO- PEDAGOGICAL LIVING COMMUNITY BIHAC	84	68	83	126
CHILD RESIDENTIAL CARE FACILITY "MAJČINO SELO" MEDJUGORJE	-	52	52	48
<b>TOTAL</b>	<b>370</b>	<b>437</b>	<b>454</b>	<b>489</b>

Source: FBiH Ministry of Labour and Social Policy

FBiH- Data on the number of children placed in the Centre for Upbringing of Male Children and Youth "Hum" for the period 2005 – 2008

No.	NAME AND SEAT OF THE INSTITUTION	THE NUMBER OF CHILDREN PLACED			
		2005	2006	2007	2008
1.	CENTRE FOR UPBRINGING OF MALE CHILDREN AND YOUTH "HUM" SARAJEVO	-	15	11	13

Source: FBiH Ministry of Labour and Social Policy

RS data on child care/social protection institutions, adoption, fostering/

- The Institute for Protection of Female Children and Adolescents in Visegrad, until 2008 inclusive, accommodated 10 girls aged 10-18 with moderate, severe and profound mental retardation
- Home for Children and Youth with Developmental Disabilities Prijedor, until 2008 inclusive, accommodated 11 boys aged up to 19.
- The Institute for the Blind and Visually Impaired „Budućnost“ Derventa, until 2008 inclusive, accommodated 35 children –blind, visually impaired and those with combined impairments.
- Children’s Home „Rada Vranješević“ Banja Luka, until 2008 inclusive, accommodated 83 children without parental care are grouped into ten educational groups - families.
- Home for Children and Youth „Kiseljak“ Zvornik until 2008 inclusive, accommodated 35 children, 30 of which were primary school and 5 secondary school age.

In developed municipalities there are day care and service centres, as well as the reception centres for children and youth which function within the existing social protection centres. In 2009, the number of children using the services provided by day care centres was 95.

According to the RS Ministry of Health and Social Protection, in the period 2005 – 2008, there were 79 adoptions in which adoptive parents were BiH nationals and 8 adoptions by foreign nationals. Expressed in annual terms, these data indicate that there are 20 adoptions by BiH nationals and 2 by foreign nationals on average per year.

In the RS, there is family placement (foster care) practice that includes "kinship foster care", "nonkinship foster care" and foster care taking place in the so-called socio-pedagogical living communities, that is residential care units where specially selected foster parents, with or without their own children, live and take care of a number of children without parental care. According to the latest data of the RS Ministry of Health and Social Protection, under the jurisdiction of the twelve social work centres (Banja Luka, Trebinje, Prnjavor, Doboje, Banja Luka, Bijeljina, Zvornik, Banja Dubica, Prijedor, Visegrad, Gacko and Bileća) there are approximately 150 foster families, which include previously mentioned forms of foster care. Socio-pedagogical living communities are a form of care for children without parental care, which by its legal nature is a form of foster care. This form of child protection has

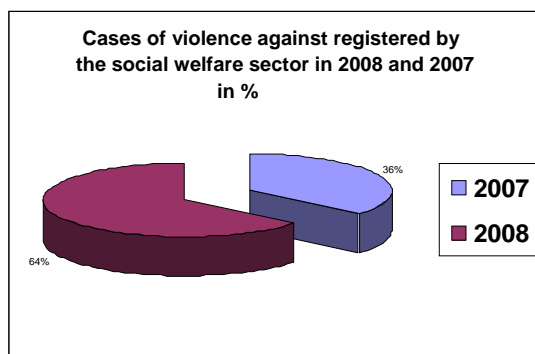
been introduced into the social protection system through a project of the Swiss Government, that is the Directorate for Development and Cooperation (DEZA), together with the RS Ministry of Health and Social Protection and the municipalities of Banja Luka, Laktasi, Gradiska and Novi Grad where the project was implemented. This form of care has proven to be very effective and it does not only offer the placement for children, but also an integrated approach to help children without parental care, and at the same time it is an important means of promoting community-based foster care.

In the RS, in 2009, seven persons appealed the decision of social work centres, which concerned the right to placement to a social care institution (there were about 215 requests submitted in respect of this right), 11 persons appealed the decisions of social work centres concerning the exercise of guardianship; about 50 persons appealed the decisions of social work centres concerning the right to maintain personal relationships with the minor child ( 1085 conciliation procedures were initiated), and about 16 persons appealed the decision of social work centres concerning entrusting of the child for care and upbringing.

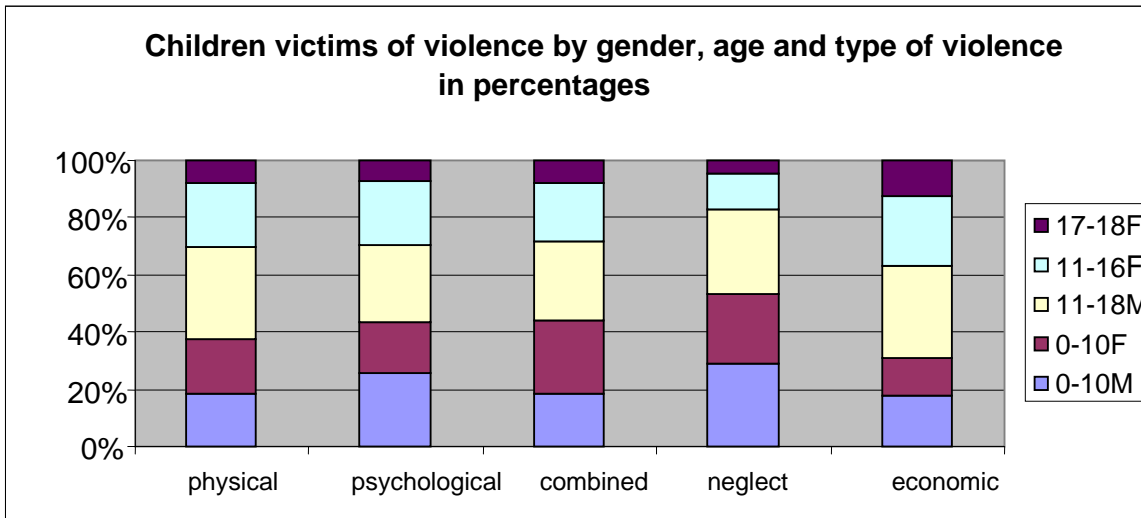
Violence against children

#### Report on Implementation of the BiH National Strategy to Combat Violence Against Children for the period 2007-2008 /table overviews/

##### Social Welfare Sector

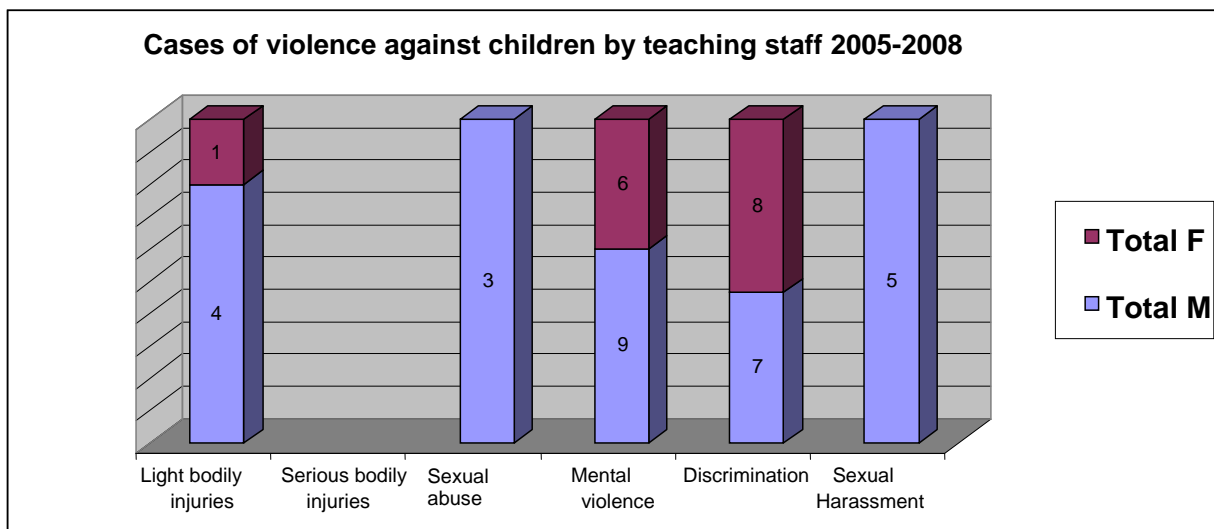


Source: BiH Ministry of Human Rights and Refugees /BiH Monitoring Team/

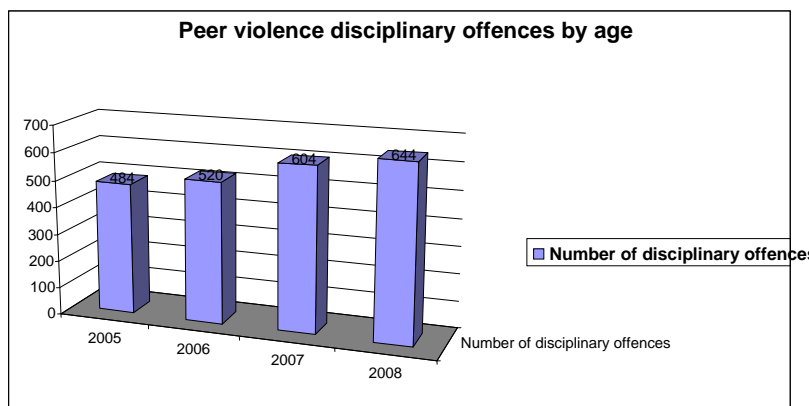


Source: BiH Ministry of Human Rights and Refugees /BiH Monitoring Team/

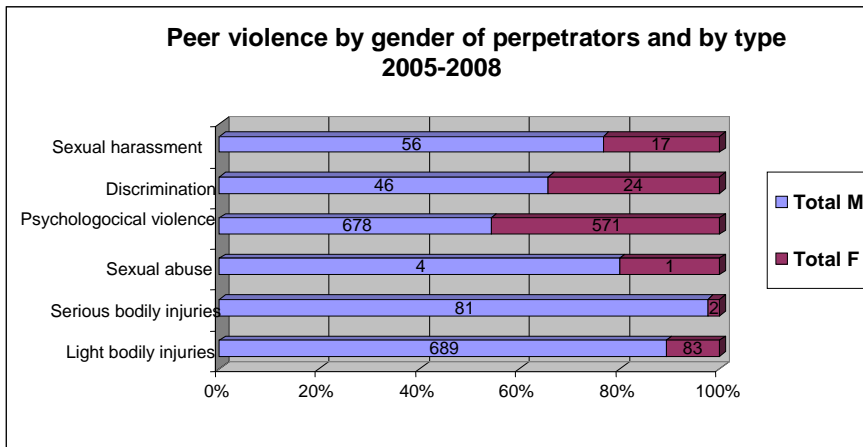
### Education Sector



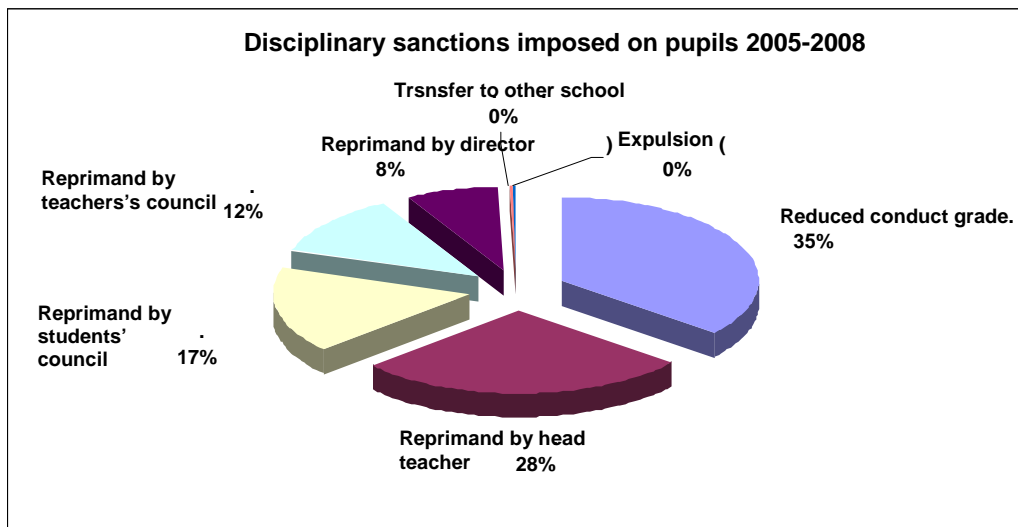
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Source: BiH Ministry of Human Rights and Refugees /BiH Monitoring Team/

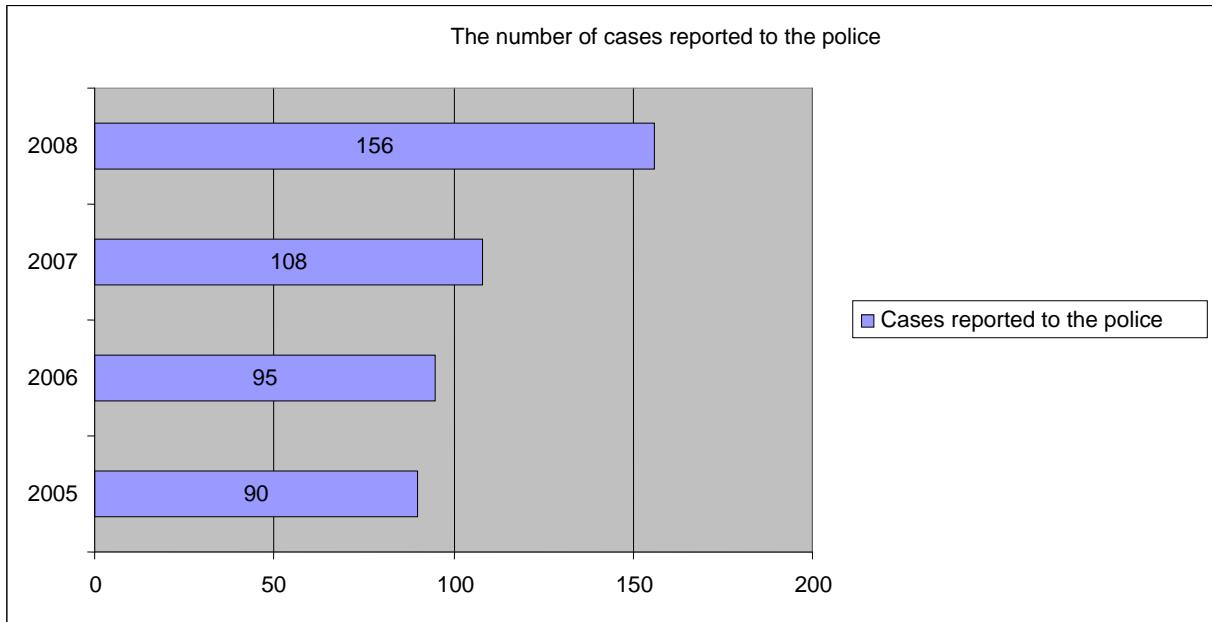


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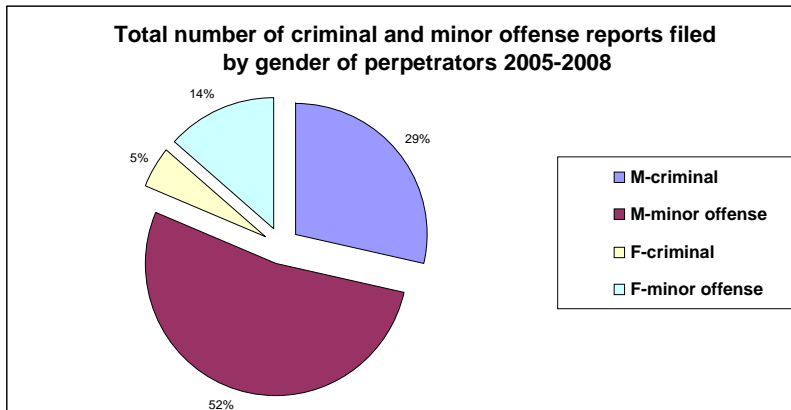
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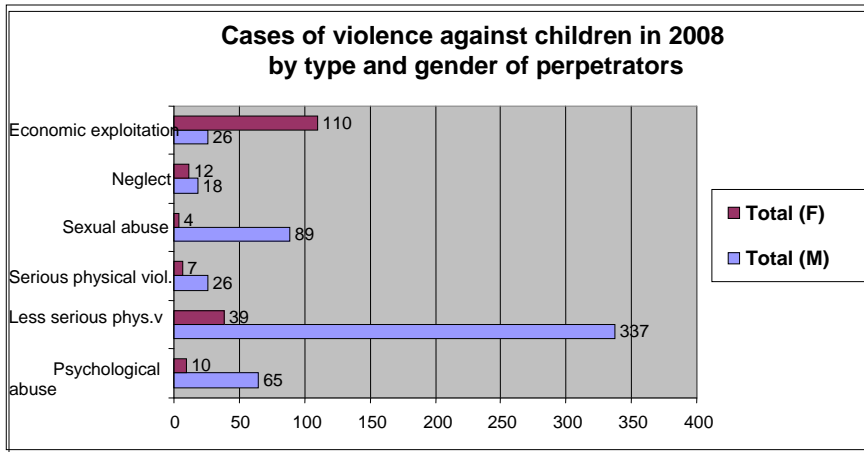


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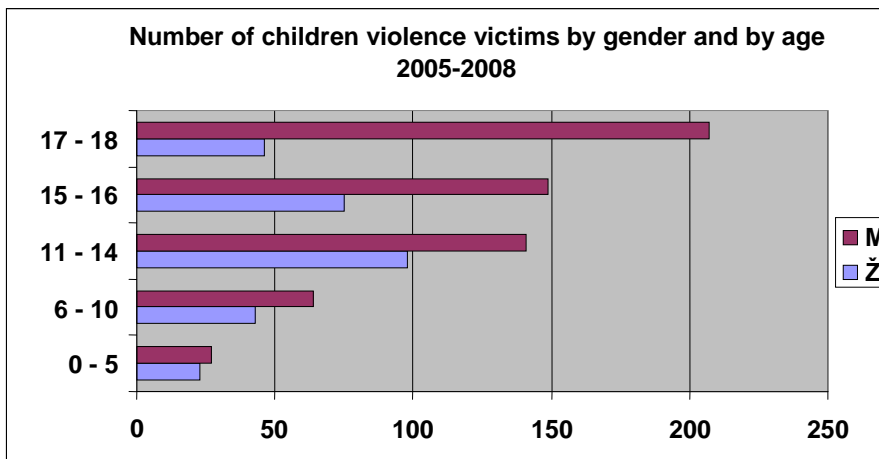
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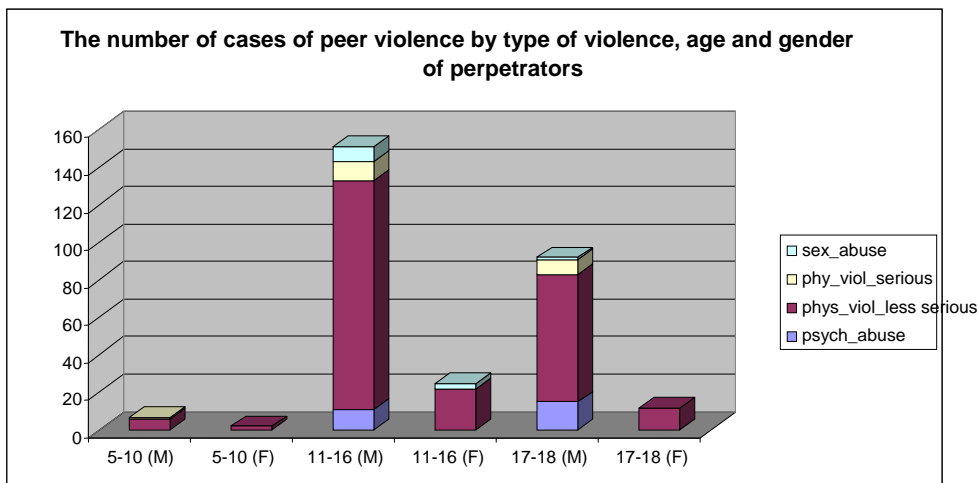
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Source: BiH Ministry of Human Rights and Refugees /BiH Monitoring Team/

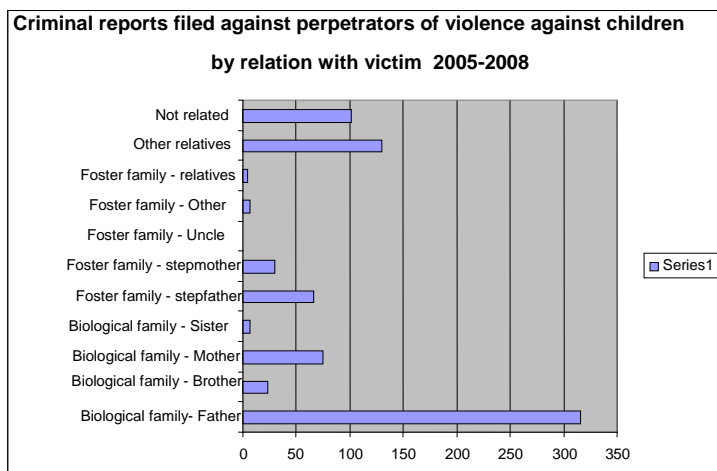


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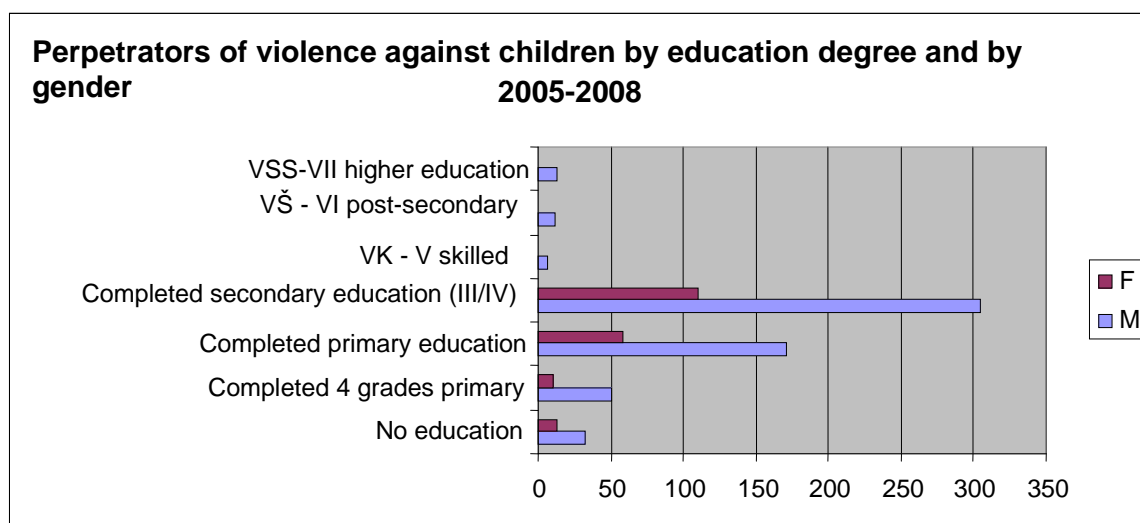


Source: BiH Ministry of Human Rights and Refugees /BiH Monitoring Team/

## Justice Sector



Source: BiH Ministry of Human Rights and Refugees /BiH Monitoring Team/



Source: BiH Ministry of Human Rights and Refugees /BiH Monitoring Team/

### Article 17, paragraph 2

With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.

**Answer:**

Education

The Parliament of BiH started the implementation of education reform and adopted the following laws:

1. Framework Law on Primary and Secondary Education in BiH („Official Gazette of BiH“, no.18/03),
2. Framework Law on Higher Education in BiH („Official Gazette of BiH“ no. 59/07),
3. Framework Law on Pre-school Upbringing and Education in BiH („Official Gazette of BiH “, no. 88/07),
4. Law on the Agency for Pre-school, Primary and Secondary Education („Official Gazette of BiH “, no. 88/07),
5. Framework Law on Secondary Vocational Education and Training in BiH („Official Gazette of BiH “, no. 63/08).

According to the Framework Law on Pre-school Upbringing and Education in BiH, mandatory pre-school education is foreseen for all pre-school age children during one year prior to their enrolment to primary school.

Secondary education in BiH is not mandatory. Secondary education encompasses various types of education following the completion of primary education, whereby students acquire knowledge and skills required for their work and further education as individuals.

Primary education represents the only mandatory level of education, and it, by rule, finishes at the age of 15.

Mandatory types of upbringing and educational work are, inter alia, practical lectures and exercises, then practice and practical work when stipulated by the curriculum.

A part of the answer is given in Article 7, paragraph 3.

General acts that preceded the adoption of framework laws at state level are:

1. Strategy for the Development of Vocational Education and Training in BiH for the period 2007-2013 („Official Gazette of BiH “ no. 65/07),
2. Strategy for the Development of Pre-school Upbringing and Education in BiH (adopted by the Council of Ministers of BiH, 10 February 2005, in Sarajevo),
3. State Strategy for Combating Violence Against Children („Official Gazette of BiH “ no. 64/07),
4. Strategic Directions in the Development of Education in BiH with an Implementation Plan 2008 – 2015 („Official Gazette of BiH “ no. 63/08).

Following the adoption of the Framework Law on Primary and Secondary Education in BiH, 2003, reform of primary education started, which stipulated the introduction of mandatory nine-year primary education. In the course of 2003/2004, RS fully implemented this legal obligation, while its implementation in FBiH started a year later, with an observation that two cantons (West-Herzegovina Canton and Central Bosnia Canton) implemented this legal obligation only in school year 2009/2010.

At the level of BiH, three state-level agencies for education were established by the abovementioned framework laws:

1. Agency for Pre-school, Primary and Secondary Education,
2. Agency for the Development of Higher Education and Quality Assurance,
3. Centre for Information and Recognition of Documents in the Area of Higher Education.

Agency for Pre-school, Primary and Secondary Education in BiH is responsible for the development of standards of knowledge, assessment of the achieved results and development of common core curriculum for pre-school, primary and secondary education.

The Agency represents a cohesive factor and offers services to pedagogical institutes, ministries of education, the Department for Education in BD Government, Ministry of Civil Affairs of BiH and to schools, based on a common activity framework, but taking into consideration the competencies and responsibilities of these institutions. A CARDS project was recently finalized which aimed to contribute to the functional strengthening of the Agency for Pre-school, Primary and Secondary Education and quality assurance in education through reforming pedagogical institutes. As result of this project, among others, the following documents were prepared:

- Report on the Review of the Existing Common Core Curricula for Nine-year Primary Schools in BiH;
- Report on Curricula for Nine-year Primary Schools in BiH;
- Recommendations for Modernization of the Common Core Curricula for Primary Schools in BiH;
- Comparative Review of the Inclusion of Program Contents of the Common Core Curricula in the Curricula for Nine-Year Primary Schools in BiH;
- Introduction of Changes to the Organization and Functions of the Pedagogical Institutes in BiH.

The Agency for the Development of Higher Education and Quality Assurance, as an independent administrative organization, assists the responsible education authorities in accreditation and licensing of higher education institutions, develops criteria and standards for quality assurance, offers advices and recommendations for overcoming any shortcoming pertaining to the quality of studying and of higher education institutions, and performs other tasks as well.

The Centre for Information and Recognition of Documents in the Area of Higher Education (CIP) is an independent administrative organization responsible for sharing information and performing tasks related to recognition in the area of higher education within the framework of the Convention for the Recognition of Diplomas in Higher Education – Lisbon Convention. Prior to the establishment of the Centre, the Ministry of Civil Affairs of BiH mediated in offering information within the scope of work of CIP.

The BiH Rectors' Conference has been established pursuant to the Framework Law on Higher Education in BiH, as an advisory body for the implementation of higher education reform. The Rectors' Conference determines and represents common

interests of BiH universities, as well as cooperates with institutions engaged in the area of higher education in the country.

By the means of a Memorandum of Education, a Conference of Ministers of Education in BiH has been established, as a permanent and senior advisory body for the coordination of the education sector in BiH.

By adopting a proposed list of members of a Council for General Education in BiH at the Conference of Ministers of Education in BiH on 8 June 2010, the Council for General Education in BiH was established to serve as an expert and independent advisory body for decision makers when it comes to policies in the field of pre-school, primary and general secondary education in BiH.

Within the mentioned education structure, it is necessary to list important institutions, which make the structure of the education sector in cantons in FBiH, RS and BD: eight pedagogical institutes are in function (one in RS, two in Herzegovina-Neretva Canton and per one in Sarajevo, Tuzla, Zenica, Bihać and Goražde).

They are tasked with curriculum development, affirmation of new approaches and methods in the educational process, organization of teacher training, counselling and evaluation of the work of teachers, school directors and schools as a whole, etc. Out of the total number of pedagogical institutes, only three of them are independent organizations (the two institutes in Mostar and the institute Bihać), while others act as parts of the relevant ministry of education. Education inspection exists in each ministry of education with the mandate to oversee the implementation of laws and by-laws adopted at the level of relevant ministry – their priority task is administrative supervision.

Having in mind current situation in education in BiH, the following priorities are imposing as imperatives: upgrading the educational level of the population and competitiveness of the labour force, improving the effectiveness of education and training, preventing social exclusion among children and youth, broadening opportunities for adult education and training, quality assurance and revitalization of research in education.

It is expected that these interventions in education will result in faster economic development, decreased unemployment and improved living standards in BiH.

Support will be provided to increasing the pre-school attendance rate, while educational opportunities following the completion of mandatory nine-year primary education will be widened by introducing various general and vocational training educational programs. All students attending four-year secondary schools will be obliged to take an external final exam (*matura*) for the purpose of standardizing learning outcomes, then standardizing the mobility towards higher education. In addition to general gymnasium, other types of general education secondary schools will be developed. Within an EU project „Reform of General Education in BiH “, implemented between January 2004 and January 2006, the following documents were developed: Model of Framework Curriculum, Model of Syllabi for Mother

Tongue and Mathematics for 3<sup>rd</sup>, 6<sup>th</sup> and 9<sup>th</sup> grades of primary schools and for 4<sup>th</sup> grade of general education secondary schools, and Draft Guidelines for Curricula Implementation.

Reform of vocational education and training in BiH is being implemented for almost 10 years, while the implementation of EU VET III programme was completed in mid 2009, which circled the mentioned process. In the previous period, a new classification of vocations was prepared and agreed on, whereby the total number was reduced from almost 500 to 100, split in 13 families of vocations. Out of this number, eight families of vocations were involved in the reform programme which resulted in the curricula developed by modular methodology. The EU VET III programme conducted reform of the curricula for the remaining 5 families of vocations, along with the preparation and implementation of a pilot project for external evaluation and assessment in the final grades of VET schools for five groups of vocations, the establishment of virtual and real companies in all vocational schools and the creation of a centre for career development in all vocational schools in BiH for the purpose of student professional orientation.

#### Roma Education

Pursuant to the provisions of the Framework Law on Primary and Secondary Education in BiH ("Official Gazette of BiH", no. 18/03.) it is stipulated that: every child has a right of access and equal possibility to participate in appropriate educational process, without discrimination on whatever grounds (Article 4), equal access and equal possibilities signify ensuring equal conditions and opportunities for everyone, to start and further pursue education (Article 4), the language and culture of any significant minority in BiH shall be respected and accommodated within the school to the greatest extent practicable, in accordance with the Framework Convention for Protection of National Minorities (Article 8).

All above listed is in accordance with international instruments that are directly applicable in BiH based on the Constitution of BiH, i.e. Annex IV of the General Framework Peace Agreement.

The Law on the Protection of Rights of National Minorities in BiH and entity Laws on the Protection of Rights of National Minorities determined that national minorities are, in accordance with the mentioned laws, a part of population – citizens of BiH, who do not belong to any of the three constituent peoples /Bosniacs, Serbs, Croats/, and they shall include people of the same or similar ethnic origin, same or similar tradition, customs, religion, language, culture, and spirituality and close or related history and other characteristics. The Law on the Protection of Rights of National Minorities in BiH, in Article 5, states that „members of national minorities shall have right to organise and gather in order to express and protect their cultural, religious, educational, social, economic and political freedoms, rights, interests, needs and identities “.

By adopting the Law, as well as by establishing legislative bodies, National Minorities Councils, at the level of BiH and the Entities, BiH created, both institutionally and

legally, necessary conditions to enable national minorities to preserve and develop their ethnical, national, religious and cultural identity and get integrated in the BiH society.

Difficulties present in resolving Romani issues, pertaining to non-existence of relevant data on their number, educational level, unemployment, housing needs and other demographic indicators, will be significantly overcome by the implementation of the Programme of Registration and Establishment of Database on Roma in BiH.

In BD, there are neither special schools nor classes for Roma children. Instead, an effort is made to integrate them in regular schools and classes, and in accordance with that the Pedagogical Institution directed a part of its activities foreseen in its programme towards so called „HUMAN INCLUSION“ to be implemented in two primary schools in BD.

These are IX Primary School Maoča and V Primary School Brčko that are attended by a significant number of Romani national minority members.

Namely, this student population, significantly present in IX Primary School Maoča, is very irregularly attending classes, while student achievements, despite their inclusion in inclusive teaching, are low in most cases.

In the spirit of all mentioned, the Pedagogical Institution endeavours to tackle this problem through cooperation by implementing the model of „Human inclusion“, which is recognizable in the definition of achievement outcomes of this category of students.

Learning outcomes of students (who, in up to-date practice, regularly failed and have to repeat the same class once or twice) are defined primarily in the sphere of socialization and integration of students. In other words, these students would not repeat classes, but they would digest regular programmatic contents by the means of adjusted teacher activities to enable these students to be successful as well, and value their own identity.

The aim of the Strategy „Human Inclusion“ is social integration, which significantly affects parents' views as well. The pedagogical standards for primary and secondary education in BD stipulate the possibility for this part of student population to exercise the right to have at least one part of lectures conducted in their mother tongue.

Pursuant to the Law, primary education in RS is mandatory for all children, including Roma children. All children, irrespective of their ethnicity, religion and race attend the same classes and are welcome to school across RS, segregation and separation along ethnic lines are not present. The Ministry of Education and Culture of RS, in line with its strategic interests and budgetary possibilities, invests maximum efforts to create as favourable as possible schooling conditions for all children.

Thus, Roma children are, like all other children, included in the education system in accordance with valid education laws and the Law on Education of National Minorities. The access to education by Roma children varies in RS, as a consequence



of bad economic situation of the entire society and in particular of this part of population.

The Ministry of Education and Culture of RS takes care of Roma children, but in reality serious problems exist related to their education. Thus, a certain, lower number of them irregularly attends classes, even leave school, because most of them live in very hard conditions (do not have adequate clothing and shoes, have irregular meals and inadequate housing – sleep in small and untidy rooms and come from uneducated families).

With regard to the implementation of the Action Plan for Roma Inclusion in the Education System in RS, due attention is paid to the following activities:

- Data on Roma children and their education are being gathered. Currently, 427 Romani students attend primary schools, which is 80 per cent of total number of Roma children at primary school age. Additionally, for the second year in row, 80 girls and boys at the age 15-18 attend adult primary education courses in Banja Luka, Bijeljina and Gradiška and receive instructive teaching in an adjusted curriculum.
- In the beginning of every school year, Roma children receive free textbooks provided by the Ministry of Education and respective local self-administration units.
- All children have free transport to school provided, and the poorest have a meal provided by respective local self-administration units.
- In RS, preparatory classes are being organized for children during the year prior to their enrolment to primary school. Roma children also attend.

A project 'Fundamental right to Education' is being implemented. Upon the return from abroad of Romani families, it was found out that their children did not attend school at all. Most of such children were at the age between 10 and 18. It was concluded that elder children should get literate, while younger ones should be included in regular classes and given an opportunity to catch up classes and continue regular schooling. The parents gave their guarantees that children will regularly attend school or instructive lessons (older children). In cooperation with schools, Roma school associates contact parents of the children who do not attend school. The advisors from the Republic Pedagogical Institute supervise the implementation of this project. So far, the project has covered 65 Roma children. The main factor for success has been motivation of both parents and children, especially younger ones, who wanted to enrol secondary education. The major obstacle has been poverty and engagement of children in gathering secondary raw materials and begging.

As regards activities aimed at improving Romani education in the FBiH, the Federation Ministry of Education and Science provides free textbooks for Roma children in primary schools. Additionally, it provides scholarships for attending higher education institutions. School magazines „*Male novine*” and „*Vesela sveska*” publish two pages in the Romani language. Many other projects aimed at improving upbringing and educational process of Roma children have been supported. The Federation Ministry of Education and Science, within its budget, regularly earmarks funds for programmes to support Roma education at higher education institutions, education of handicapped students, upbringing and educational institutions with

programmes for prevention of juvenile delinquency in divided schools in the Federation of BiH, education of Roma children (minors, but also adults through various kinds of literacy and educational courses), as well as other national minorities and socially vulnerable categories, and co-funds projects aimed at preventing family violence.

**Question 2. Specify measures that have been undertaken (administrative arrangements, programmes, action plans, projects, etc.) for the implementation of the legislative framework.**

**Answer:**

Starting with the UN Convention on the Rights of the Child, which is incorporated in Annex I of the Dayton Peace Agreement and the standards defined by other conventions ratified by BiH, the policy towards children may be regarded in the light of these international sources.

BiH became a signatory state of two Facultative Protocols to the Convention on the Rights of the Child, namely: the Facultative Protocol on the Participation of Children in Armed Conflict and the Facultative Protocol on the Sale of Children, Child Prostitution and the Utilization of Children in Pornography from 2000, and BiH also signed the Millennium Declaration. In order to implement the Convention on the Rights of the Child and to meet the UN Millennium Development Goals, an Action Plan for Children in BiH was adopted for the period 2002 – 2010, which aims to strengthen the status of children in BiH.

The Action Plan includes general goals stated at the World Children Summit. By this Action Plan, an obligation is undertaken to deal with judicial and legislative reform, issues of juvenile delinquency, health, and social protection. According to the Action Plan, a precondition for strengthening the status of children in BiH is involvement of all capacities within the society in developing a well thought-through action aimed at improving living conditions to the benefit of children, as well as involvement of all available recourses within the governmental and NGO sector, families and individuals. Such multi-disciplinary approach, that has been advocated for by the Action Plan for Children in BiH, is appropriate, taking into account highly fragmented administrative system in BiH.

Being aware of the fact that great number of children in BiH lives in poverty, suffers violence and is exposed to mine and other risks, the state adopted and is being implementing several documents with the aim to improve social care for children and ensures systemic improvement of respect for the rights of the child:

- Strategy on Social Inclusion with a State-level Development Plan (2008 – 2012),
- State Strategy for Combating Violence against Children (2007-2010),
- Mine Action Strategy,
- Strategy on Inclusion of Children with Special Needs (2006),
- State Strategy on Early Child Development (2006),
- Strategic Direction in Development of Education in BiH (2008-2015),

- State Strategy on supervision over narcotic drugs, prevention and suppression of the abuse of narcotic drugs in BiH (2009-2013),
- Strategy against Juvenile Delinquency In BiH (2006-2010).
- Within the analysis of legislation pertaining to the identity (birth registration and acquiring of citizenship), an action was conducted which resulted in registration of over 2 000 children in birth registries, and almost full registration of children – families facing problems with this kind of registration. A solution to other similar cases has been offered as well, which will positively affect the exercise of children’s right to education, health and social protection.
- The implementation of project „Strengthening the System of Social Protection and Inclusion of Children in BiH “, which will contribute to establishing a developmental process and implementing a sustainable strategy of an integrated system of social protection for children and their families. Drafting of an Action Plan for improvement of the system for protection of children from child pornography is anticipated by the Ministry of Security of BiH, as well as organization of training for NGOs on child pornography and prevention mechanisms. The Law on Changes and Amendments to the Law on Health Protection in FBiH was adopted, ensuring that all children below the age of 15 will have right to health protection. Its implementation is hampered by the failure of some cantons to adopt acts pertaining to its implementation.

## Education

The document titled Education Reform, which clearly defines that education reform is needed to ensure better future in BiH, was adopted in Brussels in 2002. This document, which is at the same time a message to BiH citizens, defines goals to be achieved through education reform, namely to depoliticize education, end discrimination in education and encourage returnee families with school-age children to continue return to their homes.

It also state that the goal is to conduct de-segregation of education, with due respect to rich cultural diversities that are the hallmark of our country, build a system with strong legal basis, whereby the needs and interest of children will be a top priority, decrease surplus, duplication and inefficiency that exist in BiH education system, include the principle of inclusive education for students with special needs in all aspects of legislative and pedagogical reforms, associate all education stakeholders in these reforms, including students, parents and teachers, in a democratic and transparent manner, energetically remove the bureaucratic and organisational impediments to the reform of our education system, foster and reinforce innovation in the classroom at all levels, and promote the implementation of the provisions and criteria of the Bologna and Lisbon Convention processes in higher education.

Action plans are legal acts developed by experts in relevant fields from the entire BiH under the guidance of the OSCE and adopted by entity and cantonal ministries of education, as well as BD.

The following action plans were developed:

- Action Plan on Educational Needs of Roma and Members of Other National Minorities in BiH (2004),
- Action Plan on School Enrolment and Completion in BiH (2007),
- Action Plan on Children with Special Needs (the developed material has not yet been officially adopted due to its high sensitivity and complexity).

All three documents contain a common element and that is the identification of obstacles to full inclusion of Roma children, children of members of national minorities and children with special needs in the education system of BiH.

The basis of everything done so far regarding education reform and of the activities that will follow are certainly short-term, mid-term and long-term objectives as defined in the document titled „Strategic Directions of the Development of Education in BiH with an Implementation Plan 2008-2015.

The secondary education system encompasses gymnasiums, art and religious schools, four-year vocational schools (technical, economic, medical and others), three-year vocational schools, and educational and training programmes for adults.

A Feasibility Study for Adult Education in BiH was developed, which offers guidelines for the development of a strategic document and legal framework, as well as for the establishment of institutions in this field, as foreseen *inter alia* by the IPA 2009 project.

On 14 July 2010, the Council of Ministers adopted a Revised Action Plan on Educational Needs of Roma and Members of Other National Minorities in BiH.

#### Education of National Minorities

According to the Framework Law on Vocational Education and Training in BiH, a part of teaching subjects and contents may be taught in one of foreign languages, in addition to the languages of constituent peoples in BiH, while children belonging to national minorities may receive instructions in the language and alphabet of national minorities in accordance with the Law on the Protection of the Rights of National Minorities in BiH.

Roma are, as national minority, inadequately included in education. Amongst this population, there is high illiteracy rate and low rate of inclusion in primary, secondary and higher education.

In 2008, OSCE initiated a project to develop a Student Workbook on the Culture, Heritage and Tradition of National Minorities in BiH and a Methodological Manual for Teachers. The Workbook and the Manual were completed in February 2009. Representatives of three state ministries and representatives of 17 national minorities participated in its development.

A positive example comes from the Fund Open Society BiH („SOROŠ"), which in partnership with the Association "Education Builds BiH" - Sarajevo, allocated 237 000

BAM in the reporting period for scholarships for 335 Romani primary and secondary students, as well as for Romani university students.

With the aim to protect Roma, the most vulnerable national minority in BiH, a "BiH Strategy for Resolving Roma Issues" was adopted, based on which action plans were developed in the fields of education, employment, housing and health care. In 2008, BiH joined the Roma Decade. Then, in the beginning of 2009, it established a mechanism to follow up the implementation of the adopted action plans. By recognizing the status of Roma as national minority and by respecting the fact that Roma in BiH are the most vulnerable national minority, BiH has undertaken concrete activities and made significant positive steps in resolving Roma issues. Roma in BiH, through their associations, the Roma Council in FBiH and the Roma Alliance in RS, as well as through the Roma Committee within the Council of Ministers of BiH, cooperate with the authorities and BiH institutions at all organizational levels to resolve their problems.

Paying due attention to the fact that Roma face most serious problems with employment, housing, health care and education, the responsible BiH authorities, in cooperation with Roma and international NGOs, have prepared an Action Plan for resolving Roma problems in these areas, which was adopted by the Council of Ministers. The Action Plan on Educational Needs of Roma (adopted in 2004) is being revised to harmonize it with the requests put forward by the Roma Association. Having in mind shortcomings of the Action Plan on Educational Needs of Roma and Members of Other National Minorities in BiH (2004), a Revised Action Plan on Educational Needs of Roma in BiH is being developed, which adoption by the BiH Council of Ministers of BiH is expected.

By the adoption of the Action Plan and by its accession to the Roma Social Inclusion Decade 2005-2015, BiH committed itself to ensuring budgetary funds until the duration of the Decade and to resolving Roma problems contained in the Action Plan in a systematic and planned manner. The budget of BiH institutions for 2009 earmarks funds in the amount of 3 000 000 BAM and the Federation Ministry of Spatial Planning earmarks 320 000 BAM for the implementation of the Action Plan for resolving Roma problems with housing, health care and employment. By its Decision, the Council of Ministers defined the criteria for allocation of funds, and the Ministry of Human Rights and Refugees defined the implementation methodology to direct the funds for building houses for Roma, improving their housing conditions, self-employment and stimulation of entrepreneurs to employ Roma, as well as for improving their health care – immunization of Roma children. The implementation of the Programme is ongoing by the Ministry of Human Rights and Refugees of BiH, in cooperation with entity and cantonal authorities, relevant municipal services and Roma associations, with financial support by international NGOs.

Additionally, the Action Plan is corresponding to the provisions of the Law on the Protection of the Rights of National Minorities in BiH, which defines that the entities and cantons are obliged to provide to national minorities, upon their request and irrespective of their number, teaching of their mother tongue, literature, history and culture in the language of national minority they belong to, as facultative classes.

**Question 3. Provide relevant figures, statistical data and other relevant information.**

**Answer:**

Education

**Students of regular primary schools in the beginning of school year  
Eight-year education in BiH**

	Students		
	Total	Female	Male
2005/2006	226436	110177	116259
2006/2007	202434	98611	103823
2007/2008	180399	87605	92794
2008/2009	161520	78694	82826

Source of information: BiH Agency for Statistics

**Students of regular primary schools in the beginning of school year  
Nine-year education in BiH**

	Students		
	Total	Female	Male
2005/2006	149252	72635	76617
2006/2007	165184	80621	84563
2007/2008	181861	88568	93293
2008/2009	197214	96068	101146

Source of information: BiH Agency for Statistics

**Students of primary schools for children with special needs in the beginning  
of school year Eight-year education in BiH**

	Students		
	Total	Female	Male
2005/2006	746	296	450
2006/2007	657	263	394
2007/2008	612	234	378

2008/2009 565 208 357

Source of information: BiH Agency for Statistics

**Students of primary schools for children with special needs in the beginning of school year  
Nine-year education in BiH**

	Students		
	Total	Female	Male

2005/2006	503	194	309
2006/2007	543	209	334
2007/2008	566	215	351
2008/2009	603	222	381

Source of information: BiH Agency for Statistics

**Number of primary schools in BiH**

	Regular primary schools	Primary schools for children with special needs
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2005/2006	1888	62
2006/2007	1883	62
2007/2008	1855	62
<b>2008/2009</b>	1874	63

Source of information: BiH Agency for Statistics

**Students of secondary schools in the beginning of school year in BiH**

	Students			Out of which are students with special needs		
	Total	Female	Male	Total	Female	Male

2005/2006	164887	81915	82972	451	176	275
2006/2007	163286	81252	82034	466	172	294
2007/2008	157450	77998	79452	472	188	284
2008/2009	148100	73387	74713	414	173	241

Source of information: BiH Agency for Statistics

### Number of secondary schools in BiH

	Number of secondary schools		
	Total	Regular secondary schools	Secondary schools for students with special needs
2005/2006	301	288	13
2006/2007	304	289	15
2007/2008	305	289	16
2008/2009	306	291	15

Source of information: BiH Agency for Statistics

### Higher education – enrolled students by sex in BiH

	Total enrolled		
	Total	Female	Male
2005/2006	91263	50352	40911
2006/2007	99557	55155	44402
2007/2008	104938	58624	46314
2008/2009	105488	59028	46460

Source of information: BiH Agency for Statistics

### Number of higher education institutions in BiH

	Number of institutions and organizational units	Number of higher education institutions				
		Faculties	Academies	Colleges	Religious faculties-academies	International studies
2005/2006	137	110	9	12	4	2
2006/2007	160	130	10	12	4	4

	Number of institutions	Colleges	Universities			Religious faculties
			Number of universities	Organizational units		
				Faculties	Academies	
2007/2008	41	16	21	143	10	4



2008/2009            39                    15                    20                    139                    10                    4

Source of information: BiH Agency for Statistics

Remark: The data for school year 2007/2008 are shown in accordance with the Framework Law on Higher Education in BiH dated 2007. According to that Law, higher education institutions in BiH are universities and colleges.

The term „university“ shall refer to higher education institutions undertaking both education and research, offering academic degrees in all three cycles. That is a higher education institution offering studies in at least five different subject groups in at least three scientific areas – natural sciences, technical sciences, biomedicine and health, biotechnical sciences, social sciences and humanities.

The term „college“ shall be limited to a higher education institution that has been accredited to offer diplomas and degrees of the first cycle, It refers to a higher education institution offering studies of the first cycle in at least one subject group in one scientific area.

The Statute of higher education institution stipulates the organisational structure within the institution comprised of units that may be faculties, institutes, centres, academies or schools.

\* In 2005/2006 and 2006/2007 school year there were no data on the number of teaching staff at primary schools by sex.

Remark: In 2005/2006 and 2006/2007 school year there were no data on the number of teaching staff at secondary school by sex.

## **GENERAL LEGISLATIVE FRAMEWORK:**

### **Article 7: The Right of Children and Young Persons to Protection**

#### **International documents ratified by Bosnia and Herzegovina:**

- UN Convention on the Rights of the Child -1989 („Official Gazette of RBiH“, no. 25/93).
- Facultative Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and the Utilization of Children in Pornography („Official Gazette of BiH – International Treaties no. 5/02)
- Facultative Protocol to the UN Convention on the Rights of the Child on the Participation of Children in Armed Conflict („Official Gazette of BiH – International Treaties no. 5/02)
- International Pact on Economic, Social and Cultural Rights -1966
- European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

- ILO Convention no. 138 concerning Minimal Age for Admission to Employment, 1973, ratified on 2 June 1993
- ILO Convention no.182 on the Worst Forms of Child Labour, 1999, ratified on 5 October 2001
- ILO Convention no. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal, 1951, ratified on 2 June 1993
- ILO Convention no. 132 on Holidays with Pay /revised/, 1970, ratified on 2 June 1993
- ILO Convention no. 90 on Night Work of Young Persons in Industry (Revised), 1948, ratified on 2 June 1993
- Council of Europe Convention on Cyber Crime with Accompanying Protocol, ratified on 19 May 2006
- Convention no. 16 on Mandatory Medical Examination of Children and Young Persons (Sea), International Labour Organization;
- Council Directive 94/33/EZ dated 22 June 1994 on the Protection of Young Persons at Work

## **Constitutions of BiH, FBiH, RS**

### **Primary legislation /laws/:**

- Labour Law („Official Gazette of FBiH“, nos. 43/99, 32/00 and 29/03),
- Law on the Protection at Work („Official Gazette of SRBiH“, no. 22/90),
- General Collective Agreement for the Territory of FBiH („Official Gazette of FBiH“, nos. 54/05 and 62/08),
- Labour Law – cleaned text (“Official Gazette of RS” no. 55/07),
- Law on the Protection at Work (“Official Gazette of RS” no. 1/08),
- Law on Employment (“Official Gazette of RS”, nos. 54/05 and 64/06),
- Law on the Employment of Foreign Nationals and Persons without Citizenship („Official Gazette of RS, no. 24/09),
- Law on Voluntarism – cleaned text (“ Official Gazette of RS" no. 63/06"),
- Labour Law of BD (“Official Gazette of BD”, nos. 7/00, 8/03, 33/04 and 29/05);
- Law on the Protection at Work of BD BiH (“Official Gazette of BD”, no. 31/05);
- Family Law of BD BiH (“Official Gazette of BD”, no. 23/07);
- Law on the Protection of Children of BD BiH (“Official Gazette of BD”, nos. 1/03, 4/04, 21/05, 19/07 and 2/08);
- Criminal Code of BiH („Official Gazette of BiH“, nos. 32/03,37/03,54/04,61/04,30/05,53/06, i 32/07);
- Criminal Code of F BiH („Official Gazette of FBiH“; no.35/03);
- Criminal Code of RS („Official Gazette of RS“, no. 49/03);
- Criminal Code of BD BiH („Official Gazette of BD“, nos. 10/03 and 6/05);
- Law on Criminal Procedure of BiH ("Official Gazette of BiH" no. 3/03);
- Law on Criminal Procedure of FBiH („Official Gazette of FBiH“, no. 35/03);
- Law on Criminal Procedure of RS („Official Gazette of RS“, no. 49/03);
- Law on Criminal Procedure of BD („Official Gazette of BD“, no. 10/03);

- Law on the Protection of Witnesses under Threat and Vulnerable Witnesses („Official Gazette of BiH“, Nos. 3/03, 21/03, 61/04 and 55/05).
- Law on Employment and the Rights during the Employment Period („Official Gazette of BD“, nos. 33/04, 19/07 and 25/08);
- Law on the Inspection of RS (adopted 2005);
- Law on the Inspection of FBiH (adopted 2005);
- Framework Law on Primary and Secondary Education in BiH („Official Gazette of BiH“, no. 18/03);
- Framework Law on Higher Education in BiH („Official Gazette of BiH“, no. 59/07);
- Framework Law on Pre-school Upbringing and Education in BiH („Official Gazette of BiH“ no. 88/07);
- Law on the Agency for Pre-school, Primary and General Secondary Education („Official Gazette of BiH“, no. 88/07);
- Framework Law on Secondary Vocational Education („Official Gazette of BiH“, no. 63/08);
- Law on Education in Primary and Secondary Schools of BD, („Official Gazette of BD“, no. 09/01);
- Law on Changes and Amendments to the Law on Education in Primary and Secondary Schools of BD, („Official Gazette of BD“, no. 28/03);
- Law on Changes and Amendments to the Law on Education in Primary and Secondary Schools of BD, („Official Gazette of BD“, no. 29/04);
- Law on Education in Primary and Secondary Schools of BD („Official Gazette of BD“, no. 10/08);
- Law on the Employment of Foreign Nationals of FBiH („Official Gazette of FBiH“, no. 8/99);
- Law on the Employment of Foreign Nationals of RS („Official Gazette of RS“, no. 15/97);
- Law on the Employment of Foreign Nationals of BD („Official Gazette of BD“, no. 17/02);
- Law on Voluntarism („Official Gazette of RS“, no. 63/06“);

#### **Secondary legislation /bylaws/**

- Rulebook on the Allocation of Republic Award for Voluntarism („Official Gazette of RS“, no. 09/09);
- Decision on the Procedures and Methods of Coordination of Activities towards Preventing Human Trafficking and Illegal Immigration in Bosnia and Herzegovina and the Establishment of a State Coordinator for BiH / „Official Gazette of BiH“, no. 24/03/;
- Decision on the Formation of a Task Force for Combating Human Trafficking and Organized Illegal Immigration („Official Gazette of BiH“, no. 3/04);
- Rules for the Protection of Victims and Witnesses of Human Trafficking involving Citizens of BiH „ („Official Gazette of BiH“, no. 66/07).

#### **Article 8 - The right of employed women to protection of maternity**

## **International documents ratified by Bosnia and Herzegovina:**

- UN Convention on the Rights of the Child -1989 („Official Gazette of RBiH“, no. 25/93);
- Facultative Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and the Utilization of Children in Pornography („Official Gazette of BiH – International Treaties no. 5/02);
- Facultative Protocol to the UN Convention on the Rights of the Child on the Participation of Children in Armed Conflict („Official Gazette of BiH – International Treaties no. 5/02);
- International Pact on Economic, Social and Cultural Rights -1966;
- European Convention for the Protection of Human Rights and Fundamental Freedoms (1950);
- UN Convention on Elimination of All Forms of Discrimination of Women /CEDAW/-1979;
- Convention no. 103 on Maternity Protection /revised/, International Labour Organization;
- Convention no. 45. on Underground Work (Women), International Labour Organization;
- Convention no. 100. on Equal Remuneration, International Labour Organization;
- Convention no. 3 on Women Labour Prior and After Birth and Maternity Protection, International Labour Organization;
- Convention no. 89. on Women Night Work /revised/, International Labour Organization;
- Convention no. 111 concerning Discrimination in Respect of Employment and Occupation, International Labour Organization;
- Convention no. 156 concerning Workers with Family Responsibilities, International Labour Organization;
- Convention no. 183 on Maternity Protection, International Labour Organization;
- Council of Europe Directive no. 92/85 dated 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding.

## **Constitutions of BiH, FBiH, RS**

### **Primary legislation /laws/**

- Law on Civil Service in the Institutions of Bosnia and Herzegovina („Official Gazette of BiH, nos.: 12/02, 19/02, 08/03, 35/03, 04/04, 17/04, 26/04, 37/04, 48/05, 02/06, 32/07, 50/08, 08/10);
- Law on the Work in the BiH Institutions („Official Gazette of BiH“ nos. 26/04, 07/05 and 48/05);
- Law on Salaries in the Institutions of Bosnia and Herzegovina („Official Gazette of BiH“, no. 50/08);
- Labour Law („Official Gazette of FBiH“, nos. 43/99, 32/00 and 29/03);

- Law on the Inspection of FBiH („Official Gazette of FBiH“, no. 69/05);
- Labour Law („Official Gazette of RS“, no. 55/07 – cleaned text);
- Law on the Protection at Work („Official Gazette of RS“; no. 1/08);
- Labour Law of BD BiH („Official Gazette of BD BiH“, nos. 7/00 and 8/03),
- Law on Principles of Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of FBiH“, nos. 36/99, 54/04, 39/06 and 14/09);
- Law on Allocation of Public Revenues in FBiH („Official Gazette of FBiH“, no. 22/06);
- Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of Una-Sana Canton “, nos. 5/00 and 7/01);
- Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of Tuzla Canton“, nos. 12/00, 5/02, 13/03 and 8/06);
- Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of Zenica-Doboj Cantona“, no 13/07);
- Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of Bosnia-Podrinje Canton Goražde“, nos.10/00, 5/03 and 5/05);
- Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of Central Bosnia Canton “, no. 10/05);
- Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of West-Herzegovina Canton “, nos. 16/01, 11/02, 4/04 and 9/05);
- Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of Canton Sarajevo, nos. 16/02, 8/03, 2/06 and 21/06);
- Labour Law – cleaned text („Official Gazette of RS“, no. 55/07);
- Law on Children Protection – cleaned text („Official Gazette of RS“, nos. 04/02 and 17/08 and 01/09);
- Law on Children Protection of BD BiH („Official Gazette of BD BiH“, no. 1/03).

### **Secondary legislation /bylaws /**

- Rulebook on Manner and Procedure of Realisation of the Right to Remuneration during Maternity Leave, i.e. Child Care (Tuzla Canton);
- Rulebook on Changes and Amendments to the Rulebook on Manner and Procedure of Realisation of the Right to Remuneration during Maternity Leave, i.e. child care (Tuzla Canton);
- Decision on Determination of Basic Compensation from the Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children (West-Herzegovina Canton);
- Instruction on Procedure of Realization of the Right from the Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of West-Herzegovina Canton“, no. 6/08);
- Decision on Women/Mothers Rights to Remuneration („Official Gazette of Herzeg-Bosnia Canton“, no. 1/05);

- Rulebook on Realization of the Rights of Children Protection ("Official Gazette of RS", no. 80/05);
- Rulebook on Manner and Procedure of Realization of the Rights of Employed Parent to Work Half-Time to Take Care of a Child with Special Needs ("Official Gazette of RS", no. 14/03);
- Decisions on Conditions and Manner of Remuneration during Maternity Leave („Official Gazette of BD BiH“, nos. 7/00, 8/03 and 33/04).

## **Article 16 – The right of the family to social, legal and economic protection**

### **International documents ratified by Bosnia and Herzegovina**

- UN Convention on the Rights of the Child -1989 („Official Gazette of R BiH“, no. 25/93);
- Facultative Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and the Utilization of Children in Pornography („Official Gazette of BiH – International Treaties no. 5/02);
- Facultative Protocol to the UN Convention on the Rights of the Child on the Participation of Children in Armed Conflict („Official Gazette of BiH – International Treaties no. 5/02);
- International Pact on Economic, Social and Cultural Rights -1966;
- European Convention for the Protection of Human Rights and Fundamental Freedoms (1950);

### **Constitutions of BiH, FBiH, RS**

#### **Primary legislation /laws/**

- Law on Principles of Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of FBiH“, nos. 36/99, 54/04, 39/06 and 14/09);
- Law on Allocation of Public Revenues in FBiH („Official Gazette of FBiH“, no. 22/06);
- Family Law of FBiH („Official Gazette of FBiH“, no. 36/05);
- Law on Protection against Family Violence („Official Gazette of the Federation of BiH“. nos. 22/05 and 51/06);
- Law on Minor Offences of FBiH („Official Gazette of FBiH“, no. 31/06);
- Law on Inheritance („Official Gazette of FBiH“; no. 70/80,15/80);
- Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of Una-Sana Canton“, nos. 5/00 and 7/01);
- Law on Social Protection („Official Gazette of Posavina Canton“, no. 5/04);
- Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of Tuzla Canton“, nos. 12/00, 5/02, 13/03 and 8/06);
- Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of Zenica-Doboj Canton“, no. 13/07);

- Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of Bosnia-Podrinje Canton Goražde“, nos. 10/00, 5/03 and 5/05);
- Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of Central-Bosnia Canton“, no. 10/05);
- Law on Social Protection („Official Gazette of Herzegovina-Neretva Canton“, no. 6/05);
- Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of West Herzegovina Canton“, nos. 16/01, 11/02, 4/04 and 9/05);
- Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of Canton Sarajevo“, nos. 16/02, 8/03, 2/06 and 21/06);
- Law on Social Protection („Official Gazette of Herzeg-Bosnia Canton“, no. 5/98)
- Law on Social Protection („Official Gazette of RS“, 5/93, 15/96, 110/03, 33/08);
- Law of Children Protection – cleaned text („Official Gazette of RS“, nos. 04/02, 17/08 and 01/09);
- Family Law („Official Gazette of RS“, nos. 54/02, 41/08);
- Law on Protection against Family Violence („Official Gazette of RS“, nos. 118/05, 17/08);
- Law on Social Protection of BD („Official Gazette of BD BiH“, nos. 1/03, 4/04);
- Law on Children Protection of BD („Official Gazette of BD BiH“, nos. 1/03, 4/04);
- Family Law of BD („Official Gazette of BD BiH“, no. 27/07);
- Law on the Sale of Apartments with Occupancy Right („Official Gazette of FBiH“, nos. 27/97, 11/98, 22/99, 27/99, 7/00, 32/01, 61/01, 54/04, 36/06);
- Law on the Execution of Decisions by the Commission for Property Claims of Displaced Persons and Refugees of FBiH and RS („Official Gazette of FBiH“, no. 43/99);
- Law on the Cessation of the Application of the Law on Abandoned Apartments („Official Gazette of FBiH“, nos. 11/98, 38/98, 12/99, 18/99, 27/99, 43/99, 31/01, 56/01, 24/03 and 29/03);
- Law on the Cessation of the Application of the Temporarily Abandoned Real Property Owned by Citizens („Official Gazette of FBiH“, nos. 11/98, 29/98, 27/99, 43/99, 37/01, 56/01 and 24/03);
- Law on the Cessation of Application of the Law on the Use of Abandoned Property („Official Gazette of RS“, nos. 38/98, 12/99, 31/99, 38/99, 65/01, 39/03 and 96/03),
- Law on Privatisation of State-Owned Apartments („Official Gazette of RS“, nos. 11/00, 18/01, 35/01, 47/02, 65/03 and 3/04),
- Law on the Repossession of Abandoned Property of Brčko District of BiH („Official Gazette of Brčko District of BiH“, nos. 5/01, 1/02, 10/02, 17/04, 41/06),
- Law on the Purchase of Apartments with Occupancy Rights in Brčko District of BiH („Official Gazette of Brčko District of BiH“, nos. 10/02, 17/04 and 41/06),

- Law on the Repossession of Abandoned Property („Official Gazette of Brčko District of BiH“, no. 10/02),
- Law on the Protection of the Rights of Members of National Minorities in BiH („Official Gazette of BiH“, no. 12/03).

### **Secondary Legislation /bylaws/**

- Rulebook on Conditions To Be Met by Physical Persons and Legal Entities Authorised to Mediate between Spouses Prior to Initiating the Divorce Procedure („Official Gazette of the Federation of BiH“, no. 15/06);
- Rulebook on Manner and Venue for the Implementation of Mandatory Psychosocial Treatment for Perpetrators of Family Violence („Official Gazette of the Federation of BiH“, no. 60/06);
- Decision on Determination of the Basic Allowance for Exercising the Right to Social Protection (Posavina Canton 2006);
- Rulebook on Conditions and Manner of Exercising the Right to Other Social Protection Assistance (Posavina Canton);
- Decision on Conditions, Procedure and Manner of Exercising the Right to Single Financial Assistance (Posavina Canton);
- Decision on Maternity Compensation to Unemployed Mothers („Official Gazette of Posavina Canton“, nos. 2/05 and 8/06);
- Decision on Determination of Basic Allowance and Level of Compensation deriving from the Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children (West Herzegovina Canton);
- Decision on the Right of Women – Mothers to Compensation („Official Gazette of Herzeg-Bosnia Canton“, no. 1/05);
- Instruction on the Allowances deriving from the Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children (Bosnia-Podrinje Canton Goražde);
- Instruction pertaining to the Application of the Law on Social Protection („Official Gazette of Herzegovina-Neretva Canton“, no. 6/05);
- Instruction on the Allowances deriving from the Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of Sarajevo Canton“, no. 17/07);
- Instruction pertaining to the Implementation of the Law on Cessation of the Application of the Law on Abandoned Apartments („Official Gazette of FBiH“, nos. 43/99, 46/99),
- Instruction on the Implementation of the Law on Cessation of the Application of the Law on Real Property Owned by Citizens („Official Gazette of FBiH“, no. 43/99).

### **Article 17 – The right of children and young persons to social, legal and economic protection**

#### **International documents ratified by Bosnia and Herzegovina:**



- UN Convention on the Rights of the Child -1989 („Official Gazette of RBiH“, no. 25/93);
- Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and the Utilization of Children in Pornography („Official Gazette of BiH – International Treaties no. 5/02);
- Optional Protocol to the UN Convention on the Rights of the Child on the Participation of Children in Armed Conflict („Official Gazette of BiH – International Treaties no. 5/02);
- International Pact on Economic, Social and Cultural Rights -1966;
- European Convention for the Protection of Human Rights and Fundamental Freedoms (1950);
- UN Standard Minimum Rules for the Administration of Juvenile Justice /The Beijing Rules/ (1985);
- UN Guidelines for the Prevention of Juvenile Delinquency /The Riyadh Guidelines/, (1990).

## **Constitution of BiH, FBiH, RS**

### **Primary Legislation /laws/**

- Framework Law on Pre-school Upbringing and Education in BiH („Official Gazette of BiH“, no. 88/07);
- Framework Law on Primary and Secondary Education in BiH („Official Gazette of BiH“, no. 18/03);
- Framework Law on Vocational Education and Training in BiH („Official Gazette of BiH“, no. 63/08);
- Framework Law on Higher Education in BiH („Official Gazette of BiH“, no. 59/07);
- Law on Agency for Pre-school, Primary and Secondary Education („Official Gazette
- Family Law of FBiH („Official Gazette of FBiH“, no. 35/05);
- Family Law of RS („Official Gazette of RS“, nos. 54/02, 41/08);
- Family Law of BD („Official Gazette of BD“, no. 23/07);
- Law on Children’s Protection of BD („Official Gazette of BD“, nos. 1/03, 4/04, 21/05, 19/07 and 2/08);
- Criminal Code of BiH („Official Gazette of BiH“, nos. 32/03,37/03,54/04,61/04,30/05,53/06, and 32/07);
- Criminal Code of FBiH („Official Gazette of FBiH“; no. 35/03);
- Criminal Code of RS („Official Gazette of RS“, no. 49/03);
- Criminal Code of BD („Official Gazette of BD“ no. 10/03 and 6/05);
- Law on Criminal Procedure of BiH („Official Gazette of BiH“, no. 3/03);
- Law on Criminal Procedure of FBiH („Official Gazette of FBiH“, no. 35/03);
- Law on Criminal Procedure of RS („Official Gazette of RS“, no. 49/03);
- Law on Criminal Procedure of BD („Official Gazette of BD“, no. 10/03);
- Law on Principles of Social Protection, Protection of Civil Victims of War and Protection of Families with Children („Official Gazette of FBiH, no.
- Law on Social Protection of BD („Official Gazette of BD“, nos.1/03, 4/04, 19/07 and 08);

- Law on Marriage and Family Relations of RS („Official Gazette of RS", no. 54/02);
- Law on Social Protection („Official Gazette of RS"; nos. 5/93, 15/96, 110/03, 33/08);
- Law on Children's Protection – Cleaned text ('Official Gazette of RS", nos. 04/02, 17/08 and 01/09);
- Law on Protection against Family Violence ('Official Gazette of RS", nos. 118/05, 17/08);
- Law on Social Protection of BD ('Official Gazette of BD BiH", nos. 1/03, 4/04);
- Law on Children's Protection of BD ("Official Gazette of BDBiH", nos. 1/03, 4/04);

### **Secondary Legislation /bylaws/**

- Guidelines for Writing and Evaluation of Geography Textbooks for Primary and Secondary Schools in BiH („Official Gazette of BiH ", no. 105/06),
- Guidelines for Writing and Evaluation of History Textbooks for Primary and Secondary Schools in BiH („Official Gazette of BiH", no. 5/2007),
- Implementation Plan of the Interim Agreement on the Accommodation of Specific Needs and Rights of Returnee Children (March 2002),
- Law on Standardised Classification of Vocations in FBiH („Official Gazette of FBiH", nos. 22/04 and 28/04),
- Law on Standardised Classification of Vocations in FBiH („Official Gazette of FBiH", no. 40/04),
- Law on the Validity of Identification Documents in BiH („Official Gazette of BiH", no. 23/04),
- Law on the Organization of Bodies of Administration in FBiH („Official Gazette of FBiH", no. 35/05),
- Decision on the Establishment of Student Loans Fund in FBiH („Official Gazette of FBiH", no. 75/06),
- Decision on the Revision of the Decision on the Establishment of Student Loans Fund in FBiH („Official Gazette of FBiH", no. 51/07),
- Memorandum on the Establishment of the Conference of Ministers of Education in BiH („Official Gazette of BiH", no. 19/08),
- Decision on Standards and Norms in the Area of Higher Education in FBiH („Official Gazette of FBiH", no. 40/08).