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**SECOND REPORT SUBMITTED BY BOSNIA AND HERZEGOVINA  
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THE PROTECTION OF NATIONAL MINORITIES**

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## S E C O N D   R E P O R T

OF BOSNIA AND HERZEGOVINA ON LEGAL AND OTHER  
MEASURES ON IMPLEMENTATION OF THE PRINCIPLES  
DETERMINED IN THE FRAMEWORK CONVENTION FOR THE  
PROTECTION OF NATIONAL MINORITIES

Sarajevo, June 2007

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## **INTRODUCTORY REMARKS**

Since the first Report submitted by Bosnia and Herzegovina in February 2004 and responses to Additional Questions of the Advisory Committee for Monitoring of the Framework Convention for the Protection of National Minorities in April 2004 to submission of the present Second Report slightly more than three years have been passed. In this period, after reception of comments by the Advisory Committee for Monitoring of the Framework Convention for the Protection of National Minorities, which have been distributed to all relevant addresses of entities dealing with implementation of the Framework Convention and the Law on the Protection of Rights of Persons Belonging to National Minorities of BiH, an activity has been launched on completion of legal system of Bosnia and Herzegovina in the field of national minorities. In May 2004 the Law on Amendments to the Electoral Law of BiH was adopted ("Official Gazette of BiH" No: 20/2004): At the end 2004 National Assembly of Republika Srpska adopted the Law on the Protection of Rights of Persons Belonging to National Minorities ("Official Gazette of Republika Srpska" No: 2/2005), which represents further elaboration and concretisation of the 2003 Law on the Protection of Rights of Persons Belonging to National Minorities of BiH ("Official Gazette of BiH" No: 12/2003), while adoption of this Law by the Parliamentary Assembly of the Federation of BiH is being expected. The Law on the Amendments to the Law on the Protection of Rights of Persons Belonging to National Minorities was promulgated in October 2005 ("Official Gazette of BiH" No: 76/2005). The Decision on Establishment of the National Minority Council of BiH was adopted and promulgated in May 2006 ("Official Gazette of BiH" No: 38/2006). It has created better conditions for systematic realisation of rights of national minorities in Bosnia and Herzegovina. These laws have been passed through agreement and consensus of the parties the Parliamentary Assembly of BiH, securing in this way a political will for their implementation.

The Council of Ministers of BiH has made efforts towards protection and promotion of national minorities of BiH through agreement with representatives of national minorities, their inclusion into individual programmes of the Council of Ministers of BiH, using concrete measures. It also works on addressing remaining open issues faced by national minorities, as well as on persistence towards full implementation of the Law on the Protection of Rights of Persons Belonging to National Minorities of BiH.

Since the First report of BiH on Implementation of the Framework Convention to date, as per assessment of the Council of Ministers of BiH, there has been clear advancement of rights of national minorities, particularly in legislation; implementation of right to their own culture and language, and enabling widening of right of members of national minorities to participation in all spheres of life and decision-making. Soon establishment of the National Minority Council with the Parliamentary Assembly of BiH will certainly make contribution towards this end. The Council of Ministers of BiH is aware there are still difficulties and problems that need to be addressed, most often related to financial situation of the country, which is also a limiting factor for all citizens of BiH, among them members of national minorities in BiH. This particularly relates to realisation of

rights of members of national minorities to employment, donations, assistance and faster return of refugees, creation of overall better conditions for life. The Ministry for Human Rights and Refugees of BiH, in cooperation with the Roma Committee, has prepared a document named "Strategy of BiH for addressing the Roma problems". It contains a review of measures and activities to be undertaken in addressing problems of Roma population in BiH, the most numerous and most vulnerable national minority in BiH. Implementation of that programme will require inclusion of all social and state structures, as well as significant funds. Underway is preparation of three action plans, namely in the field of education, housing and health care.

Particular progress has been achieved in democratic atmosphere in Bosnia and Herzegovina which enables realisation of one starting point of the Council of Ministers of BiH, namely that national minorities represent its wealth not a problem. There have been intensive efforts on strengthening atmosphere of tolerance and dialogue among cultures, traditions, nations and national minorities. Many conferences, seminars, round tables, exhibitions, shows and other activities have been organised. Bosnia and Herzegovina is trying to promote, enrich and assert itself towards multicultural society in which minorities contribute to its cultural and any other development like contemporary European countries.

Bosnia and Herzegovina has given due consideration of the Opinion of the Advisory Committee for Monitoring the Framework Convention for the Protection of National Minorities, as well as the Resolution of the Council of Ministers of BiH on implementation of the Framework Convention in Bosnia and Herzegovina regarding the first State Report. The Opinion has been translated to local language made available to all concerned competent ministries, other state authorities and associations of national minorities. We would like to mention that the Opinion of the Advisory Committee and the Resolution of the Council of Ministers have significantly contributed to elaboration of legislative solutions, as well as on other measures and activities on advancement of position of minorities BiH, particularly Roma. In the meantime, an expert from BiH has been nominated into the Committee of Experts for the Protection of National Minorities with the Council of Europe (DH-MIN). Moreover, good and continued cooperation has been achieved with the Advisory Committee, in monitoring the situation in BiH and more efficient realisation of the rights of national minorities in BiH alike. So, in December 2005 the Council of Europe and the Ministry for Human Rights and Refugees of BiH organised a joint conference in Sarajevo, which has contributed to better and comprehensive cooperation and exchange of information with a view of promotion of rights of national minorities.

From 4 to 6 December 2006 in Sarajevo training on monitoring and evaluation techniques within the project "Equal rights and treatment of Roma in South-Eastern Europe" was organised in cooperation with the Council of Europe. The training was carried out by Mr. Alan Phillips and representatives of the Ministry for Human Rights and Refugees of BiH. Continuation and concretisation of this Project is expected during summer 2007.

Within this programme promoted was a wider part of a joint programme carried out by the Council of Europe and European Commission, being implemented in Albania, Bosnia and Herzegovina, Serbia, Montenegro and Macedonia, concerning a campaign named "Enough". The aim of this campaign is bringing close Roma and non-Roma population, by removing barriers caused by prejudices and stereotypes.

Bosnia and Herzegovina has vigorously supported and expressed interest for III Joint Programme of the Council of Europe, OSCE-ODHIR, and European Commission within the Stability Pact. It has particularly emphasised valuable experiences implemented by councils of international organisations and experts with many years experience in various kinds of assistance concerning overall Roma population in Bosnia and Herzegovina.

In the end, we particularly emphasise that competent ministries and other state authorities, associations and institutions of national minorities participated in preparation of the Second Report. Their opinions have been fully incorporated, so to enable this Report to be as realistic, complete and objective as possible. The Report has tried to include instructions and questions of the Council of Europe with review of the most recent situation in Bosnia and Herzegovina concerning national minorities in BiH.

The Ministry for Human Rights and Refugees of BiH, as a bearer of activities in preparation of this Second Report, has realised cooperation and communication with all relevant organisations gathering minority communities in BiH. Communication methods have been the following: the Ministry for Human Rights and Refugees of BiH has informed in appropriate way NGOs of minority communities on the forthcoming preparations and elaboration of the Second Report, and invited these organisations to give their opinions, suggestions, proposals and views concerning the principles set forth in the Framework Convention. Minority communities' organisations have responded to this call in various ways. Most of them answered in a written form and expressed their attitudes and opinions, while some Roma NGOs have organised consultations and conferences with participation of NGOs, representatives of authorities and the Ministry (e.g. in organisation of the Centre for Support – informing and joint actions of Roma associations, ORI – Kakanj, a round table was held on 29 June 2005 on the topic "Decade of Roma inclusion – a key for solution of Roma issue in BiH"; a round table with a topic "Roma in educational system of Republika Srpska was held in Banja Luka on 22 November 2005; Conference "Roma women can do it" was held on 9 February 2006; a round table "Roma in BiH society" was held in April 2007, etc). In elaboration of the Report fully respected were opinions and views collected by organisations which did research in position of minorities, and organisations dealing with problems of minority communities in everyday work, namely: Civil Initiative Centre – Sarajevo, Centre for Civil Society Promotion – Sarajevo, Association of Journalists of BiH, Media Plan Institute – Sarajevo, Helsinki Committee for Human Rights BiH, Independent – Institution for Human Rights Protection, Zenica and others). Views and opinions of the Roma Council BiH and the Roma Committee with the Council of Ministers of BiH on the position of Roma in

Bosnia and Herzegovina have been respected at the greatest possible extent. The Roma Council BiH is an association which (new composition as of June 2006) gathers representatives of majority Roma NGOs in BiH. In the preparation of the Report, the Ministry also has taken into consideration views of the Association of National Minorities of Republika Srpska (there are 13 groups of national minorities in Republika Srpska, while 11 have established their associations), Czech community in BiH, Hungarian community in BiH, Albanian community in BiH, Macedonian community in BiH, Slovenian community in BiH, and others. All these consultations and exchanges of views took place in the course of 2005, 2006 and 2007, and were an integral part of activities for preparation of the Second Report. Following formulation of the Report, it was submitted to all relevant entities of nongovernmental and state sector for their comments and remarks.

The Ministry for Human Rights and Refugees of BiH sent a special letter in May 2006, inviting competent State, Entity and Cantonal ministries, a number of municipalities with registered significant groups of minority communities in 1991 census, to cooperate in preparation of the Second Report on implementation of the Framework Convention and to give their opinion and suggestions on position of minorities in Bosnia and Herzegovina. We have received written answers and comments on the mentioned by some entities dealing with problems of minorities in their everyday work (a short version presented in the last part of the Report). It is clear from the answers that the authorities have been informed on current problems of minorities in their zones of responsibility, particularly Roma, and that they undertake, in accordance with their capabilities, steps towards improvement of their position and rights. These consultations with minority and nongovernmental organisations have been carried out with at all levels (State, Entity, Cantonal, municipal).

## **INTRODUCTION**

A new census still has not been carried out in Bosnia and Herzegovina. Therefore, we will provide you with official data of the 1991 census refreshed with new relevant data and facts:

## **LAND AND PEOPLE**

Bosnia and Herzegovina is a South-Eastern country with a total area of around 50 thousand square kilometres.

There is a 20 km long coastal border at the Adriatic Sea. There is an almost 1,500 km long land border, out of which almost 900 km long border is with the neighbouring Republic of Croatia, while remaining more than 500 km long land border is with Serbia and Montenegro.

According to last 1991 census, Bosnia and Herzegovina had some 4.3 million people in slightly less than 1.3 million households; so the average household size was some 3.4 persons.

Average population density in BiH in 1991 was 86 persons per a square kilometre, while almost 40% of population lived in urban areas.

According to 1991 census, there were over 1.9 million Bosniaks, almost 1.4 million Serbs, almost 760 thousand Croats, almost 250 thousand Yugoslavs and some 100 thousand of others.

A tragic conflict in the region (which is how war destructions from 1992 to 1995 are defined by the General Framework Agreement for Peace in BiH signed in Dayton at the end 1995) resulted in huge direct and indirect demographic losses and changes in BiH.

Tens thousands of people were killed, while some 14,000 are still officially reported as missing ones.

The consequence of the war was also an increased mortality rate and decrease of natural population growth rate in BiH.

Moreover, from 1992 to 1995 some 2.2 million persons were moved from their pre-war homes in BiH, which makes over 50% of pre-war domicile population. Out of that number, some 1.2 million persons sought protection in over 100 countries around the world; while in the same period close to one million persons were displaced within Bosnia and Herzegovina.

As a consequence of conflicts, voluntarily migrations of BiH citizens have been increased, who emigrate from BiH even after the establishment of peace.

Return to BiH started immediately after the end of conflict. Up to date over million of returns to BiH have been registered, out of which almost half so-called minority returns.

According to the UNHCR data, in formal legal terms property laws have been fully implemented, i.e. pre-war owners have repossessed their property.

## **PROFILE OF BOSNIA AND HERZEGOVINA**

### **Administrative-territorial structure**

Before the war Bosnia and Herzegovina had 109 administrative units - municipalities. Municipality is a basic unit of local self-government, composed of community of inhabitants of legally defined territory.

Post-Dayton Bosnia and Herzegovina along its 1,537 km long State border, with a total area of 51,129 square kilometres, consists of two Entities, namely the Federation of Bosnia and Herzegovina comprising some 51% of territory, and Republika Srpska, comprising some 49% of territory. The Brcko District, a special administrative unit under sovereignty of BiH, but also under international supervision, is situated in south-eastern part of the country.

Dayton demarcation created 147 municipalities, out of which 85 municipalities were formed at the territory of the Federation of 85; 61 municipalities at the territory of Republika Srpska, and Brcko District BiH as one administrative unit in BiH. Subsequently, one more municipality was formed in Republika Srpska, while recently seven municipalities of Mostar (Federation of BiH), including Central Zone as a separate administrative unit, have been united into city administration of Mostar.

Today in BiH there are 142 basic administrative-territorial unities, out of which 79 at the territory of the Federation of BiH, 62 at the territory of Republika Srpska, and Brcko District BiH.

### **Population of BiH in 1991**

According to last 1991 census, Bosnia and Herzegovina had some 4.3 million people, with average population density of 86.6 persons per a square kilometre.

Almost 40% or 1.7 million persons lived in urban areas. Sarajevo, Banja Luka, Zenica, Tuzla, Mostar, Prijedor and Bijeljina had more than 100,000 inhabitants, and also had the highest population density.

In 1991 Bosnia and Herzegovina had some 1.3 million households, which made average household size of some 3.4 persons.

### **Ethnic composition of population in 1991**

1991 census, besides persons belonging to Bosniak, Croat and Serb ethnicity, included also 242,682 Yugoslavs, which made up 5.54% of national structure. A total of 104,439 or 2.39% inhabitants belonged to other ethnicities.

Bosnia and Herzegovina is well known for its various ethnic groups and national minorities. As per 1991 census, population of Bosnia and Herzegovina consisted of Bosniaks (43.5%), Serbs (31.2%), Croats (17.4%), Yugoslavs (5.5%) and Others (2.4%). The category of "others" was composed of members of 17 national minorities, although notions nationality and ethnic groups were used during the census, which was sanctioned by recently adopted law (1 April 2003), the Law on the Protection of National Minorities. The following dominant monotheistic religious denominations coexist in Bosnia and Herzegovina: Islam, Orthodoxy, Catholicism i Judaism, as well as other religious groups and sects. According to the Constitution of Bosnia and Herzegovina, all its citizens have equal rights and freedoms concerning demonstration of religion and other convictions.

Percent of participation of individual age groups in the overall population in BiH in 1991 was the following: percent of those aged 0-6 was 11.1%; percent of those aged 7-17 was 13%; percent of those aged 15-19 was 8.4%, percent of those aged 20-64 was 61.5% and those aged 65 and more was 6%. Fertility rate was 52‰, while mortality rate was 7.4‰ for males and 6.5‰ for females in year 1990.

a) Statistics: Population of Bosnia and Herzegovina per censuses

Census year	Area in sq. km	Household number	Population			Population density – persons per 1 sq. km
			Total	Male	Female	
1879	51246	...	1158440	607789	550651	22,6
1885	51246	226699	1336091	705025	631066	26,1
1895	51246	257493	1568092	828190	739902	30,6
1910	51200	310339	1898044	994852	903192	37,1
1921	51200	....	1890440	966209	924231	36,9
1931	51564	398238	2323555	1185040	1138515	45,1
1948	51189	498116	2564308	1236932	1327376	50,1
1953	51221	565212	2847459	1385559	1461900	55,6
1961	51197	706107	3277948	1599665	1678283	64,0
1971	51197	848545	3746111	1834600	1911511	73,2
1981	51197	1030689	4124256	2050913	2073343	80,6

b) Statistics: population as per 1991 census

Area sq. km	Household	Population			Density population – persons per 1 sq. km	Number of persons per a household	Number of females on 1,000 males
		Total	Male	Female			
51,129	1,207,098	4,377,033	2,183,795	2,193,238	85.6	3.63	1,004

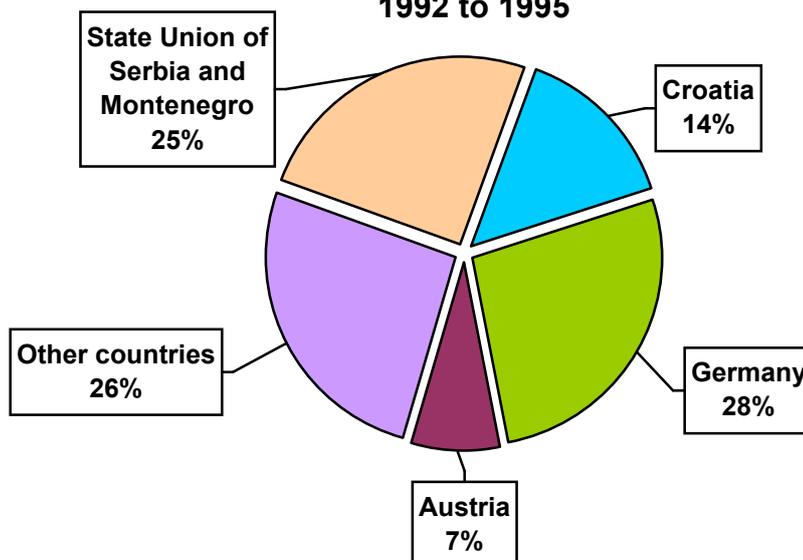
c) Bosnia and Herzegovina`s population by age and sex

	1971			1981			1991		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
<b>Total</b>	<b>3,746,111</b>	<b>1,834,600</b>	<b>1,911,511</b>	<b>4,124,256</b>	<b>2,050,913</b>	<b>2,073,343</b>	<b>4,377,033</b>	<b>2,183,795</b>	<b>2,219,328</b>
Years									
0-4	405,505	207,129	198,376	365,332	186,494	178,838	332,422	170,535	161,887
5-9	442,665	225,726	216,939	375,765	192,284	183,481	347,379	177,988	169,391
10-14	442,199	225,066	217,133	393,024	201,313	191,711	347,590	177,932	169,658
15-19	411,387	209,215	202,172	433,304	222,406	210,898	360,008	185,292	174,716
20-24	319,317	162,073	157,244	404,751	211,100	193,651	359,991	188,724	171,267
25-29	225,727	109,724	116,003	357,773	184,730	173,043	371,776	194,041	177,735
30-34	289,810	140,952	148,858	294,502	150,178	144,324	361,854	186,643	175,211
35-39	280,482	139,035	141,447	216,718	107,411	109,307	334,569	172,024	162,545
40-44	243,016	118,781	124,235	280,137	138,850	141,287	276,412	139,433	136,979
45-49	166,241	70,017	96,224	267,657	133,616	134,041	201,165	98,993	102,172
50-54	101,840	41,069	60,771	230,515	112,499	118,016	257,382	125,380	132,002
55-59	114,629	48,828	65,801	157,374	63,861	90,513	241,011	116,919	124,092
60-64	112,727	53,087	59,640	90,131	35,365	54,766	198,647	92,924	105,723
65-69	79,808	37,590	42,218	92,274	37,922	54,325	124,752	48,102	76,650
70-74	53,549	23,136	30,413	77,597	34,744	42,853	62,922	22,893	40,029
75 and over	42,986	16,166	26,820	80,495	33,300	47,195	96,691	37,257	59,434
Unknown	14,223	7,006	7,217	9,907	4,840	5,067	102,462	48,715	53,747

## A) Bosnia and Herzegovina from 1992 to 1995

1. Bosnia and Herzegovina has been internationally recognised on 6 April 1992. It continued its legal existence as an independent state within the administrative borders of the Republic of Bosnia and Herzegovina. The present administrative borders have been recognized internationally.
2. The tragic conflict in the region, how the Constitution of Bosnia and Herzegovina defines war destructions from 1992 to 1995, left enormous direct consequences on demographic picture of Bosnia and Herzegovina. There are claims that some 200,000 people were killed, while some 14,000 persons were officially reported as missing ones.
3. Moreover, from the beginning of the war to the signing of DPA, some 2,200,000 persons were moved from their home, which makes over 50% of pre-war domicile population. Out of that number, some 1.2 million persons sought refugee protection in over 100 countries around the world; while in the same period close to one million persons were displaced within Bosnia and Herzegovina.
4. Countries of the region: the State Union of Serbia and Montenegro and Republic Croatia have sheltered almost 40% of refugees from Bosnia and Herzegovina, while Germany and Austria offered asylum to majority of BiH refugees outside the region. These four countries sheltered almost 80% of refugees from Bosnia and Herzegovina who fled the country.

**The most important countries of reception of BiH refugees from 1992 to 1995**



5. As a consequence of the 1992 to 1995 conflict, close to 1 million persons have been displaced in Bosnia and Herzegovina. Almost one-third of the displaced persons are displaced within their domicile municipalities.
6. A huge number of refugees, upon returning from abroad, haven't returned to their pre-war homes. In this way they basically changed their status from refugee into IDP. This refers, first of all, to persons forcibly returned to BiH, as well as to a huge number of persons who had returned to BiH following cancellation of hospitality by host countries. In this way, some 60-65% of returnees from Germany have been relocated.
7. As per data from the paper "Strategy of Urban Planning of the Federation of Bosnia and Herzegovina, Phase 1", economic damage, including lost incomes, has been assessed to US \$ 50-70 billion. According to the World Bank assessments, the economic damage has been evaluated to US \$ 15 to 20 billion. Industrial production during the war years reached only 5% of pre-war production.
8. Towns, town complexes, villages, hamlets, monuments and monumental unities, business premises and religious infrastructure facilities, roads and parks and other have been destroyed.

More than 1/3 of housing facilities in Bosnia and Herzegovina were destroyed, out of which 18% of housing capacities were completely destroyed. Forest resources of Bosnia and Herzegovina were heavily damaged by illegal felling of trees, setting fire and illegal getting hold of forest area. A total of 24% of pre-war medical facilities have been entirely destroyed, while the percent of damage is over 40%.

One of the worst war consequences for Bosnia and Herzegovina are some 2 million remaining mines and some 3 million other UXOs, which have not been demined yet.

Demographic changes in Bosnia and Herzegovina compared to data of 1991 census result from war cataclysm, exile, migration and emigration, so that previous schedule of population in Bosnia and Herzegovina is considerably different. Due to disappearances, killings, immigration and disability, biological reproduction of population has been destructed. During the war birth-rate and mortality ratio was negative.

## **POLITICAL ORGANISATION OF THE STATE**

1. After the signing of the General Framework Agreement for Peace in Bosnia and Herzegovina (hereinafter referred to as: "Dayton Peace Agreement"), Bosnia and Herzegovina continues its existence with new territorial organisation.

Pursuant to Article 1 of the Constitution of Bosnia and Herzegovina:

*"The Republic of Bosnia and Herzegovina, the official name of which shall henceforth be "Bosnia and Herzegovina", shall continue its legal existence*

*under international law as a state, with its internal structure modified as provided herein and with its present internationally recognized borders. It shall remain a Member State of the United Nations and may as Bosnia and Herzegovina maintain or apply for membership in organizations within the United Nations system and other international organizations".*

2. The Preamble of the Constitution of Bosnia and Herzegovina contains a basic principle under which: "Bosniacs, Croats and Serbs, as constituent peoples (along with Others), and citizens of Bosnia and Herzegovina hereby determine that the Constitution of Bosnia and Herzegovina...". Also, under the same principle, Bosnia and Herzegovina is a complex democratic state that consists of the two Entities: the Federation of Bosnia and Herzegovina and the Republika Srpska. The Federation of Bosnia and Herzegovina covers 51%, and the Republika Srpska 49% of Bosnia and Herzegovina's territory.

The Federation of Bosnia and Herzegovina is administratively sub-divided into 10 Cantons. There are 84 municipalities at the territory of the Federation of Bosnia and Herzegovina.

The Republika Srpska is administratively divided into 63 municipalities.

The town of Brčko of Brčko and its pre-war municipality territory is a separate administrative unit, organized as The District Brčko.

The capital of Bosnia and Herzegovina is Sarajevo. Bosnia and Herzegovina has its coat of arms, flag and anthem.

3. According to the new organization endorsed by the Constitution, there is the Parliamentary Assembly of Bosnia and Herzegovina, composed of two chambers: the House of Peoples and the House of Representatives.

The House of Peoples comprises 15 Delegates, two-thirds from the Federation and one-third from the Republika Srpska (including five Croats, five Bosniaks and five Serbs).

The House of Representatives comprises 42 Members, two-thirds elected from the territory of the Federation, one-third from the territory of the Republika Srpskae.

4. The Presidency of Bosnia and Herzegovina consists of three Members: one Bosniak and one Croat, each elected directly from the territory of the Federation, and one Serb elected directly from the territory of the Republika Srpska.

Each member of the Presidency has a civilian command authority over armed forces. The members of the Presidency elect a Standing Committee on Military Matters to coordinate the activities of armed forces in Bosnia and Herzegovina. The Members of the Presidency are members of the Standing Committee.

The Standing Committee on Military Matters consists of seven (7) members: three members of the Presidency of BiH, Chair of the Council of Ministers of BiH, Minister of Foreign Affairs of BiH, President or Vice-President of the Republika Srpska, President or Vice-President of the Federation of Bosnia and Herzegovina.

5. Judicial organs in Bosnia and Herzegovina are the Constitutional Court of Bosnia and Herzegovina and the Court of Bosnia and Herzegovina. The Constitutional Court has been established under the Constitution of BiH, while the Court of BiH has been established under the Law on the Court of Bosnia and Herzegovina, adopted by the Parliamentary Assembly of BiH in 2002.

6. Authority responsible for implementation of decisions and policy of Bosnia and Herzegovina, as determined by the Constitution of BiH, is the Council of Ministers. The Council of Ministers, according to the Law on the Council of Ministers of Bosnia and Herzegovina, consists of nine Ministries: Ministry of Foreign Affairs, Ministry for Communications and Transport, Ministry of Civil Affairs, Ministry for Human Rights and Refugees, Ministry of Finance and Treasury, Ministry for Foreign Trade and Economic Relations, Ministry of Justice, Ministry of Security, and Ministry of Defence. The Ministers operate the Ministries. Each Minister has his/her Deputy Minister, who replaces the Minister in case of absence or prevention of his/her presence. Each Ministry also has its Secretary who performs his/her duties and tasks in accordance with the Law on Civil Service in the Institutions of Bosnia and Herzegovina. The Council of Ministers of Bosnia and Herzegovina operates and takes decisions in sessions. The Council of Ministers takes up decisions with more than half of the Council of Ministers' members being present at the sessions, out of which at least two representatives of each of three constituent peoples.

7. With a view of easier realisation of the rights of BiH citizens living abroad, there are seven General Consulates of BiH at their service, namely in New York, München, Stuttgart, Bonn, Istanbul, Oslo and Milan. Consulates provide legal-administrative aid, adequate to municipal level, like registering of births, marriages and deaths, testaments, giving of various authorities to other persons in the country for their needs at the level of administration and judiciary.

8. Other institutions of Bosnia and Herzegovina are: Ombudsman for Human Rights of Bosnia and Herzegovina, Directorate of European Integrations and Independent Administrative Organizations, the Office for Auditing of Financial Operations of the Institutions of Bosnia and Herzegovina, the Central Bank of Bosnia and Herzegovina, the Permanent Election Commission of Bosnia and Herzegovina, Agency for Promotion of Foreign Investments in Bosnia and Herzegovina, Institute for Crediting of Bosnia and Herzegovina, Institute for Standards, Metrology and Intellectual Property, Agency for Statistics of Bosnia and Herzegovina.

## **RESPONSIBILITIES AND RELATIONS BETWEEN THE INSTITUTIONS OF BOSNIA AND HERZEGOVINA AND THE ENTITIES**

1. The Institutions of Bosnia and Herzegovina are responsible for foreign policy; foreign trade policy; customs policy; monetary policy; finances of the institutions and for the international obligations of Bosnia and Herzegovina; migration, refugees and asylum; implementation of international and inter-Entity policies and regulation of criminal regulations, including relations with Interpol; establishment and operation of common and international communications;

regulation of inter-Entity transportation; and air traffic control. In the meantime the following responsibilities have been transferred from Entities to the authorities of Bosnia and Herzegovina, namely: defence, customs, taxes, the Court of Bosnia and Herzegovina.

All functions, which are not the functions of the institutions of Bosnia and Herzegovina, are the responsibility of the Entities.

General principles of the international law are an integral part of legislation of Bosnia and Herzegovina and its Entities.

2. The Federation of Bosnia and Herzegovina is one of two Entities of Bosnia and Herzegovina. It is territorially divided into 10 Cantons. The Federation of Bosnia and Herzegovina has its Constitution. Legislative authority in the Federation of Bosnia and Herzegovina are the House of Representatives and the House of Peoples.

The House of Representatives has ninety-eight (98) representatives, with at least four members of a constituent people represented in the House.

The composition of the House of Peoples has parity representation, every constituent people has the same number of representatives. The House is composed of fifty-eight (58) representatives, each constituent people has 17 representatives, while "Others", i.e. national minorities have seven (7) representatives, securing the right to representation to «Others». Representatives of the House of Peoples are selected among the Cantonal Assemblies' representatives, proportionate to national structure of population.

The Federation has its President and two Vice-Presidents appointed by the President and confirmed by the House of Peoples of the Parliamentary Assembly of the Federation of Bosnia and Herzegovina, under principle one representative of each constituent people.

Judiciary authorities of the Federation of Bosnia and Herzegovina are the Constitutional Court, the Supreme Court, and the Misdemeanor Council.

The Federation of Bosnia and Herzegovina has the Government, composed of the Prime Minister and 16 ministers.

Cantons of the Federation of Bosnia and Herzegovina have their Constitutions, as well as their Assemblies as the highest legislative organ. Executive organ of the Canton is the Government of the Canton, composed of ministries. Judicial authority of Cantons is organized in ten (10) Cantonal Courts. The Cantons are organized in municipalities with municipal courts and Magistrates' Courts.

The Federation of Bosnia and Herzegovina has 84 municipalities as the lowest administrative level of administrative organization. All municipalities have their councils – municipal Parliaments and municipal administrative service, run by the mayor.

3. The Republika Srpska has the President and two Vice-Presidents, one from each constituent people. They represent the Republika Srpska in expressing unity of power.

*The National Assembly of the Republika Srpska* is the highest legislative organ, composed of 83 members.

*The Council of Peoples of the Republika Srpska* is elected by the Parliamentary Groups of the National Assembly of the Republika Srpska. The Council has 28 members - 8 members representing each of three constituent people and 4 members representing national minorities and others.

*Judicial organs* of the Republika Srpska are the Constitutional Court of the Republika Srpska, the Supreme Court of the Republika Srpska, basic courts and magistrates' courts.

The Government of the Republika Srpska has the Prime Minister and 16 ministers.

The Republika Srpska is organized within 63 municipalities, which have their municipal assemblies and municipal administrative services, run by mayors.

4. The structure of authorities in Entities has been amended in accordance with the Partial Decision of the Constitutional Court of BiH on Constituency of all Three Peoples at the Entire Territory of Bosnia and Herzegovina. According to the mentioned Decision, Entities are bound to harmonise their Constitutions with the Constitution of BiH and to amend their structure of authorities in line with the mentioned Decision, which has mainly been realised through harmonisation of Amendments on Entity Constitutions with the assistance of the Office of the High Representative of BiH.

5. The Brčko District of Bosnia and Herzegovina has been established on 8 March 1999 according to the Final Award of the Arbitral Tribunal of Dispute over Inter-Entity-Boundary in Brčko on 5 March 1999. The Brčko District extends along the Sava River and has an area of 493 square kilometres. As per recent assessments, the District has some 85,000 inhabitants, out of which 40,000 live in town.

The Brčko District has its Statute; the highest legislative authority is the Assembly, composed of 29 representatives. The Mayor leads the Government of the District.

Judicial authority of the Brčko District consists of the Basic Court and Appellate Court. Impartiality of the courts is assured through the work of the Judicial Commission

6. Independence of the judicial authorities of Bosnia and Herzegovina: Judicial organs are independent, particularly after the establishment of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina and High Judicial Councils of the Federation of Bosnia and Herzegovina and the Republika Srpska. The High Representative has a temporary authority to appoint the members of the Councils. During this period there have been attempts to improve the implementation of the international and European standards by establishing legal framework for restructuring of the courts and prosecutor's offices, as well as the process of impartial selection of judges and prosecutors for posts in restructured courts.

The same principle has been applied in the process of the appointment of prosecutors at the level of BiH, its Entities and Cantons.

7. Participation of national minorities in legislative and executive organs: In accordance with the constitutional principles, each individual has a right to express freely his/her ethnic commitment. According to the amended Entity Constitutions and harmonized amendments, minorities have rights to be represented in legislative and executive organs. The Electoral Law of Bosnia and Herzegovina guarantees a right of representatives of national minorities to take part in the conduct of public affairs, to vote and to be elected in legislative and executive organs of Bosnia and Herzegovina at all levels.

The Amendments to the Electoral Law of Bosnia and Herzegovina have opened the possibility, i.e. obligation is proscribed that national minorities, depending on the percent of participation in population, have their representatives in local authorities – municipal assemblies/municipal councils, as well as the possibility of their participation at all levels of authority in legislative and executive authorities in BiH. In order to exercise this right, it is necessary to organise and to include more significantly and to strengthen capacities of NGOs gathering persons belonging to national minorities in BiH. The Ministry for Human Rights and Refugees of BiH is bound to render assistance in strengthening capacities of NGOs in realisation of this right by minority communities in BiH, according to its capabilities.

The Law on the Protection of Rights of Persons Belonging to National Minorities, adopted by the Parliament of Bosnia and Herzegovina on 1 April 2003, determines the obligation for the Entities, Cantons, municipalities and towns in Bosnia and Herzegovina, to regulate in their laws and other regulations rights and obligations stemming from this Law in a comprehensive manner, and to enable more effective inclusion of members of national minorities in legislative and executive organs at all levels.

According to the Law and with the understanding that the Romas are the largest national minority in Bosnia and Herzegovina, the Council Ministers of Bosnia and Herzegovina has established the Roma Committee.

8. Function of the Office of the High Representative: General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 10 Article V (Agreement on Civilian Implementation), determines the mandate and competencies of the High Representative as the final authority in BiH regarding interpretation of the implementation of the civilian aspects of the peace settlement.

The High Representative facilitates, as he judges necessary, the resolution of any difficulties arising in connection with civilian implementation.

Under the Conclusion of the Conference on Peace Implementation, held in Bonn on 9 and 10 December 1997, the High Representative could use his authority in Bosnia and Herzegovina, for resolution of any problem, by passing of binding decisions, as he judges necessary. This authority includes passing the laws and decisions that are the competence of executive bodies, as well as specific regulations on appointment and dismissal of public servant, including measures securing implementation of the Peace Agreement at the whole territory of Bosnia and Herzegovina and its Entities.

## GENERAL LEGAL FRAMEWORK FOR HUMAN RIGHTS PROTECTION

1. The Constitution of Bosnia and Herzegovina specifies that BiH shall ensure the highest level of internationally recognized human rights and fundamental freedoms. Furthermore, Article II of the Constitution of BiH stipulates that the rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and Protocols thereto shall apply directly in Bosnia and Herzegovina. These international human rights instruments have priority over all other laws.

2. Article II 3 of the Constitution of Bosnia and Herzegovina, enumerates the following human rights:

- a. The right to life.
- b. The right not to be subjected to torture or to inhuman or degrading treatment or punishment.
- c. The right not to be held in slavery or servitude or to perform forced or compulsory labor.
- d. The rights to liberty and security of person.
- e. The right to a fair hearing in civil and criminal matters, and other rights relating to criminal proceedings.
- f. The right to private and family life, home, and correspondence.
- g. Freedom of thought, conscience, and religion.
- h. Freedom of expression.
- i. Freedom of peaceful assembly and freedom of association with others.
- j. The right to marry and to found a family.
- k. The right to property.
- l. The right to education.
- m. The right to liberty of movement and residence.

Bosnia and Herzegovina and both its Entities have committed themselves to ensure the highest level of protection of the economic, social and cultural rights through the implementation of domestic and international regulations.

3. The Constitutions of Bosnia and Herzegovina and both Entities prohibits discrimination on any ground.

Article II. 4 of the Constitution of Bosnia and Herzegovina reads:

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

4. Civil and political rights and freedoms of citizens are guaranteed by the Constitutions of BiH, Entities and Cantons. Restrictions of these rights and freedoms in serving a military obligation. The laws, under which all adult male

citizens of Bosnia and Herzegovina are subject to military service, regulate restrictions of these rights and freedoms in state of war or state of war threat are regulated by the laws on serving a military obligation for all major citizens of BiH. All persons aged 18 to 60 are subject to military conscription. Military service lasts 6 months. The Entities' Laws on Military Service provide a possibility of civilian service by males and voluntarily military service by females.

Persons subject to military conscription can be mobilized only in case when a competent body declares state of war, state of war threat and in case of natural disaster. Males are exempted from military service in case of incapacity of serving a military obligation, while females are not subject to military conscription, and could be mobilized only for compulsory work order in case of state of war threat and in case of natural disaster. Females and self-supporting parent (male or female) with children under age of 7 years old are exempted from this obligation.

5. Liberty and security of person are secured by the police forces organized within the Ministries of Interior. If a police authority deprives of liberty a person for whom there are grounds for suspicion that he may have committed a criminal act, it must immediately, and not later than 24 hours bring that person to the prosecutor.

Liberty of a person cannot be subject of any restrictions except those which are provided by the Law on Execution of Criminal Sanctions, notably on the basis of the decision of the competent Court. Liberty may be restricted to ill persons referred to compulsory treatment due to risk of endangering his/her own or someone's other life. Referral to health-care institutions is exclusively carried out on the basis of a diagnosis made by the competent medical board, that is health-care institution competent for issuing of such medical findings. Work of such commissions is regulated by special regulations.

6. Freedom of movement: There is no restriction regarding the right of citizens of Bosnia and Herzegovina to liberty of movement and freedom to choose their places of residence. The only obligation of citizens of BiH is to obtain appropriate documents indicating permanent residence address.

7. Economic, social and cultural rights are also guaranteed by the Constitution of Bosnia and Herzegovina and both Entities, and are regulated by individual laws. Because of the war consequences in Bosnia and Herzegovina and in accordance with the DPA, a particular attention has been given to legal regulations of right to repossession of the pre-war property, right to return to the pre-war places of residence, education, employment, health and social protection.

8. Right to freedom of access to the market: Since Bosnia and Herzegovina is a country in transition, a new policy of market economy has been introduced and, consequently a need has emerged for a new legal framework regulating this field. The State Labour and Employment Law is currently in the parliamentary procedure. Bosnia and Herzegovina has accepted or underway are procedures of consideration and negotiation of international conventions in

the labour field. It is necessary to emphasise that, Article II of the Constitution, along with confirmation of continuity of Bosnia and Herzegovina as an entity in international law, stipulates maintenance of its membership in international organizations. BiH has maintained its membership in the International Labor Organization (ILO), and is thereby a signatory of 65 ILO conventions, which is bound to implement. Entity laws have regulated field of employment; however, some of them have not yet been harmonized with Conventions signed by Bosnia and Herzegovina.

9. Freedom of choice of profession, right to equal remuneration for work of equal value (males and females). The laws regulating the labour rights in Bosnia and Herzegovina and in the Entities and Cantons do not make any distinction between males and females in regards to a highest possible realization of the right to work and workers` rights deriving from it. The only exception is the legal privileges granted to mothers during and after childbirth. The present economic situation in Bosnia and Herzegovina affects realization of workers rights. Due to high unemployment rate and slow economic recovery there is outstanding problem of realization of workers rights and social welfare.

10. Right to social welfare and health care in Bosnia and Herzegovina is realized at the Entity level and is regulated by Entity laws from the field of social welfare and health care. Realization of these rights has been made difficult due to lack of resources in the budgets of the Entities and Cantons, which are obliged to secure resources for this purpose. Laws regulating this field are still not harmonized with the conventions Bosnia and Herzegovina is bound to apply.

11. Right to freedom of assembly and association is determined by the Constitution of Bosnia and Herzegovina, which in Article II. paragraph (3) determines that citizens of Bosnia and Herzegovina have right to freedom of peaceful assembly and association with others. Regarding these freedoms, numerous laws have been passed in BiH. Freedom of assembly and association at the State level have been regulated by the Constitution and laws passed at the State and Entity level, determining obligation of an organizer of assembly to announce intention of assembly to the competent authority. Practice, however, shows that there are situations in which there are attempts to prevent the assembly of citizens, or restrict it in another way. On the other hand, organizers of assemblies often misuse their right to freedom of assembly for the purpose of carrying out some other aims, not reported in explanation of reasons for assembly.

12. Education: Bosnia and Herzegovina has bound itself to carry out necessary reforms of educational system, launched within European space and defined by the Joint Declaration of European Ministers of Education in Bologna in June 1999. With a view of fulfilling this obligation and access to education without discrimination, a basic condition for realization of this process is adoption and harmonization of legislation on primary, secondary and higher education by the end of 2003. At the moment this field has been regulated by Entity and Cantonal laws, which have not been harmonized with the principles set forth within/in international conventions, signed and ratified by Bosnia and

Herzegovina. However, on 30 June 2003, the Framework Law on Primary and Secondary Education in Bosnia and Herzegovina was adopted on the State level and the process of harmonization of Entities' and Cantonal laws is underway.

13. National minorities: The Law on the Protection of Rights of Members of National Minorities of Bosnia and Herzegovina has created obligation for Entities, cantons, municipalities and towns in Bosnia and Herzegovina to set up an adequate legislation and to regulate legal obligations at all levels to protect and promote minority rights stemming from this Law. Moreover, the Electoral Law of Bosnia and Herzegovina has provided for the possibility of participation of representatives of national minorities in legislative bodies of Bosnia and Herzegovina at all levels. These regulations have made significant moves towards a better protection of rights of members of national minorities in Bosnia and Herzegovina.

14. Freedom of religion: The Constitution of Bosnia and Herzegovina and Constitutions of the Entities prohibit any kind of discrimination on the ground of religious affiliation. The Law on Freedom of Religion and Legal Position of Churches and Religious Communities in Bosnia and Herzegovina was adopted by the Parliamentary Assembly of BiH in November 2003. This Law has been harmonized with international conventions from the field of human rights protection signed by Bosnia and Herzegovina. Highly ranked religious clericals representing different religion communities in Bosnia and Herzegovina are organized into Inter-religious Council of Bosnia and Herzegovina, working on prevention of discrimination on the ground of religion. This Council fully cooperates with the authorities of Bosnia and Herzegovina and international institutions and organizations in BiH. In close cooperation with the authorities of Bosnia and Herzegovina, the Inter-religious Council carries out activities aiming at improvement of freedom of religion, legal position of churches and religious communities in Bosnia and Herzegovina.

15. Rights of women and child: The Law on Gender Equality in Bosnia and Herzegovina prohibits discrimination against women on any grounds. Accordingly, the State Plan of Action to Combat Discrimination against Women was adopted and the Gender Equality Agency of Bosnia and Herzegovina established. Adoption of the above-mentioned Law, as well as the State Plan of Action, and establishing of the Agency, would enable authorities of Bosnia and Herzegovina to prevent all forms of discrimination against women. The rights of the child in Bosnia and Herzegovina are guaranteed by the Constitution of Bosnia and Herzegovina and the Constitutions of the Entities, as well as by the laws adopted at the level of Entities, the Brčko District and cantons in BiH. Laws protecting the rights of the child are those from the field of social welfare, family and child protection, education, and health care. The Council of Ministers of Bosnia and Herzegovina has adopted the Action Plan for Children 2002-2010, and has established the Council for Children of BiH, as an advisory body to the Council of Ministers. The Council is responsible for the implementation of the Action Plan, and its activities are directed towards prevention of discrimination against children.

16. Stabilisation and Association Process: Comprehensive process of harmonization of laws in BiH is underway. There are three reasons for this: harmonization with determined principles in presented international documents, inclusion of Bosnia and Herzegovina into the flows of the European integration processes, and preparation of feasibility study for the Stabilisation and association Process towards the European Union.

Effective production of human rights requires more efficient state functioning, with all necessary instruments for realisation of protection of all citizens. There are legal instruments which act in the direction of building of Bosnia and Herzegovina as democratic country with the rule of law and human rights and freedoms of all its citizens. At the same time, this presents a challenge accepted by Bosnia and Herzegovina. However, considering economic situation and level of mechanisms developed in BiH, further assistance in efficient development of the State and continuation of the started processes is required.

***Bosnia and Herzegovina has ratified the following UN international human rights instruments:***

- a) Convention on the Prevention and Punishment of the Crime of Genocide  
– *Official Gazette of R BiH 25/93, succession on 29 December 1992*
- b) Convention on Non-Compliance with Statutory Restrictions at War for Crimes Against Humanity  
– *Official Gazette of R BiH 25/93, succession on 1 September 1993*
- c) International Convention on the Prevention and Punishment of the Crime Pertaining to Apartheid  
– *Official Gazette of R BiH 25/93, succession on 1 September 1993*
- d) International Convention on the Prevention of Racial Discrimination in Sport  
– *Official Gazette of R BiH 25/93, succession on 1 September 1993*
- e) International Covenant on Economic, Social and Cultural Rights (CESCR)  
– *Official Gazette of R BiH 25/93, succession on 1 September 1993*
- f) International Covenant on Civil and Political Rights (CCPR)  
– *Official Gazette of R BiH 25/93, succession on 1 September 1993*
- g) Optional Protocol to the International Covenant on Civil and Political Rights (CCPR-OP1) – *ratification on 1 March 1995*
- h) Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at the abolition of the death penalty (CCPR-OP2-DP) – *signed on 7 September 2000, ratified on 16 March 2001*
- i) International Convention on the Elimination of All Forms of Racial Discrimination (CERD)  
– *Official Gazette of R BiH 25/93, succession on 16 July 1993*
- j) Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)  
– *Official Gazette of R BiH 25/93, succession on 1 September 1993*
- k) Option Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW-OP)

- *Signed on 7 September 2000, ratified on 4 September 2002*
- l) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
  - *Official Gazette of R BiH 25/93, succession on 1 September 1993*
- m) Convention on the Rights of the Child (CRC)
  - *Official Gazette of R BiH 25/93, succession on 1 September 1993*
- n) Optional Protocol to the Convention on the Rights of the Child (CRC-OP-C) on Participation of Children in Armed Conflicts
  - *Signed on 7 September 2000, ratified on 10 October 2003*
- o) Optional Protocol to the Convention on the Rights of the Child (CRC-OP-SC) on the Sale of the Children, Child Prostitution and Child Pornography
  - *Signed on 7 September 2000, ratified on 4 September 2002*
- p) International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families (MWC)
  - *Accession on 13 December 1996*
- q) 1951 Convention relating to the Status of Refugees
  - *Succession on 1 September 1993*
- r) 1967 Protocol Relating to the Status of Refugees
  - *Succession on 1 September 1993*
- s) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime
  - *Official Gazette of BiH 3/02, ratification on 27 March 2002*
- t) Protocol Against the Smuggling of Migrants by Land, Air and Sea, supplementing the UN Convention against Transnational Organized Crime
  - *Official Gazette of BiH, no. 3/02, ratification on 27 March 2002*
- u) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime
  - *Official Gazette of BiH, No.3/02, ratification on 27 March 2002*

Human rights instruments of the Council of Europe, signed and ratified by Bosnia and Herzegovina:

- a.) Convention on the Protection of Human Rights and Fundamental Freedoms - *Signed on 24 April 2002, ratified on 12 July 2002 – entered into force on 12 July 2002,*
- b.) Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms,
  - *Signed on 24 April 2002, ratified on 12 July 2002 – entered into force on 12 July 2002,*
- c.) Protocol No. 2 to the Convention on the Protection of Human Rights and Fundamental Freedoms, conferring upon the European Court of Human Rights competence to give advisory opinions,
  - *Signed on 24 April 2002, ratified on 12 July 2002 – entered into force on 12 July 2002,*

- d.) Protocol No. 3 to the Convention on the Protection of Human Rights and Fundamental Freedoms, amending Articles 29, 30 and 34 of the Convention,  
- *Signed on 24 April 2002, ratified on 12 July 2002 – entered into force on 12 July 2002,*
- e.) Protocol No. 4 to the Convention on the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the First protocol thereto  
- *Signed on 24 April 2002, ratified on 12 July 2002 – entered into force on 12 July 2002,*
- f.) Protocol no. 5 to the Convention on the Protection of Human Rights and Fundamental Freedoms, amending Article 22 and 44 of the Convention  
- *Signed on 24 April 2002, ratified on 12 July 2002 – entered into force on 12 July 2002,*
- g.) Protocol no. 6 to the Convention on the Protection of Human Rights and Fundamental Freedoms, pertaining the abolition of the death penalty,  
- *Signed on 24 April 2002, ratified on 12 July 2002 – entered into force on 1 August 2002,*
- h.) Protocol no. 7 to the Convention on the Protection of Human Rights and Fundamental Freedoms,  
- *Signed on 24 April 2002, ratified on 12 July 2002 – entered into force on 1 October 2002,*
- i.) Protocol no. 8 to the Convention on the Protection of Human Rights and Fundamental Freedoms,  
- *Signed on 24 April 2002, ratified on 12 July 2002 – entered into force on 12 July 2002,*
- j.) European Convention on Protection Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,  
- *Signed on 12 July 2002, ratified on 12 July 2002, entered into force on 1 November 2002,*
- k.) Protocol no. 11 to the Convention on the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby  
- *Signed on 24 April 2002, ratified on 12 July 2002, entered into force on 12 July 2002,*
- l.) Framework Convention on the Protection of National Minorities,  
- *Ratified on 24 February 2000, entered into force on 1 June 2000,*
- m.) Protocol no. 12 to the Convention on the Protection of Human Rights and Fundamental Freedoms  
- *Signed on 24 April 2002, ratified on 29 July 2003,*
- n.) Protocol no. 13 to the Convention on the Protection of Human Rights and Fundamental Freedoms  
- *Signed on 3 May 2002, ratified on 29 July 2003, entered into force on 1 November 2003.*

Human rights instruments of the Council of Europe, signed but not ratified by Bosnia and Herzegovina:

-1996 Revised Social Charter signed on 24 May 2004.

Constitutional documents in Bosnia and Herzegovina:

- The Constitution of Bosnia and Herzegovina,
- The Constitution of the Federation of Bosnia and Herzegovina,
- The Constitution of the Republika Srpska,
- The Constitution of the Brčko District of Bosnia and Herzegovina,
- The Constitution of the Federation of Bosnia and Herzegovina, Amendments,
- The Constitution of the Republika Srpska, Amendments.

By signing of the Dayton Peace Agreement, Bosnia and Herzegovina has accepted the Constitution of BiH as one of the Annexes to the DPA. "Additional Human Rights Agreements To Be Applied In Bosnia And Herzegovina" are an integral part of the Constitution of BiH, namely:

1. 1948 Convention on the Prevention and Punishment of the Crime of Genocide
2. 1949 Geneva Conventions I-IV on the Protection of the Victims of War, and the 1977 Geneva Protocols I-II thereto
3. 1951 Convention relating to the Status of Refugees and the 1966 Protocol thereto
4. 1957 Convention on the Nationality of Married Women
5. 1961 Convention on the Reduction of Statelessness
6. 1965 International Convention on the Elimination of All Forms of Racial Discrimination
7. 1966 International Covenant on Civil and Political Rights and the 1966 and 1989 Optional Protocols thereto
8. 1966 Covenant on Economic, Social and Cultural Rights
9. 1979 Convention on the Elimination of All Forms of Discrimination against Women
10. 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
11. 1987 European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
12. 1989 Convention on the Rights of the Child

13. 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
14. 1992 European Charter for Regional or Minority Languages
15. 1994 Framework Convention for the Protection of National Minorities

Apart from direct application of international human rights instruments, the High Representative of International Community, together with numerous missions of all relevant international institutions, has significant role in implementation of the DPA as a whole, thereby also the Constitution of BiH. Under authorities vested in the High Representative in Article V of Annex 10 (Agreement on Civilian Implementation) of the General Framework Agreement for Peace in BiH, the High Representative is the final authority regarding interpretation of this Agreement. Under the Conclusion of the Conference on Peace Implementation, held in Bonn on 9 and 10 December 1997, the High Representative is vested with authorities to pass binding decisions as he judges necessary with a view of finding solutions to problems which may arise.

Up to date authorities to pass «binding decisions» in practice has been applied to: passing of amendments on the Entity Constitutions, passing of the State level laws, removal of the members of the Presidency of BiH, removal of the Presidents of Entities, removal of deputies` mandates in assemblies at all levels, removal of Entity and cantonal ministers, removal of municipal mayors, removal of public enterprises` managers, removal of municipal officials, prohibition of work in institutions financed through the budget or those whose capital is mostly owned by the State, Entity or Canton, and other decisions under competence of authorities. Authorities of the High Representative refer also to suspension or banning from execution of documents of authorities at all levels. Besides the High Representative, by the end of 2003 the Human Rights Chamber and Ombudsman of BiH participated in decision-making of the representatives of the International Community; while from 2004 it is the responsibility of the Constitutional Court of BiH and the Court of BiH. By the end of 2002 police matters were monitored by the UN, while the Mission of the European Union, the OSCE Mission, UNHCR, the Council of Europe and European Commission and specialised agencies of these organisations monitor all processes in Bosnia and Herzegovina since 2002. It could be stated that the protection of national minorities and rights and freedoms of persons belonging to these minorities are an integral part of international protection of human rights and international cooperation of Bosnia and Herzegovina, as well as all other fields of authorities` functioning, social, economic and political life in Bosnia and Herzegovina.

The Preamble of the Constitution of Bosnia and Herzegovina has stated that it is "*Inspired by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, as well as other human rights instruments*".

These principles may be realised in mutual cooperation and developing the principles of neighbourly and friendly relations and cooperation with other countries. By respecting international norms in relations between countries and full respect of territorial integrity and sovereignty of other countries, there have been efforts to develop good and useful relations with neighbours, international organisations, particularly with European Union countries, the membership of which is the ultimate goal of BiH.

Bosnia and Herzegovina borders with the Republic of Croatia, Serbia and Montenegro. According to the Law on the Protection of Rights of Persons Belonging to National Minorities in BiH, Montenegrins are national minorities in BiH, while their kin state is Montenegro.

Even in cases when Croats and Serbs have origin in neighbouring countries, they are considered members of constituent peoples in BiH.

There are three constituent peoples in Bosnia and Herzegovina: Bosniaks, Croats and Serbs. Members of numerous national minorities live in Bosnia and Herzegovina, as well. Their status as members of national minorities has been recognised by the Law on the Protection of Rights of Persons Belonging to National Minorities. The said Law was adopted on 1 April 2003, and went into force on 14 May 2003 (BiH Official Gazette, No. 12/03).

Position of national minorities before tragic conflict in Bosnia and Herzegovina had not been regulated through separate domestic legislation at the level of ex-SFRY. Therefore, there has been no continuity concerning validity of legal regulations, including status of national minorities. This has been a reason for preparation of completely new Law on the Protection of Rights of Persons Belonging to National Minorities. Having started the process of ethnic identification of members of minorities, Bosnia and Herzegovina has decided to accept ethnic, cultural and linguistic (as well as religious) identities of persons belonging to national minorities in BiH. It has also decided to accept last 1991 census carried in ex-SFRY as exact information, although it *de facto* does not contain completely exact information. One more reason for such approach is freedom of expression on census, as well as the possibility for citizens to use his/her right to declare belonging to a national minority – minority group. As per last census carried out in 1991, the number of persons belonging to certain national minorities in Bosnia and Herzegovina is as follows:

<b>National minority</b>	<b>Number of affiliates</b>
Albanians	4.922
Montenegrins	10.048
Czechs	590
Italians	732
Jews	426
Hungarians	893

Macedonians	1.596
Germans	470
Poles	526
Roma	8.864
Romanians	162
Russians	297
Ruthenians	133
Slovaks	297
Slovenians	2.190
Turks	267
Ukrainians	3.929

It is clear from the 1991 census that there are minorities that could be called "traditional ones", and conditionally said, "new" minorities which are the result of disintegration of ex-SFRY (Montenegrins, Macedonians and Slovenians). Regardless the origin of the minorities, their numerousness (from 133 to 10,048 persons), Article 3 of the Law on the Protection of Rights of Persons Belonging to National Minorities stipulates that the national minority in a sense of this Law "is a part of the population – citizens of BiH that does not belong to one of three constituent peoples of BiH (Bosniaks, Croats and Serbs), and it consists of the people of the same or similar ethnic origin, same or similar tradition, customs, religion, culture, and spirituality, and close or related history and other features".

## **PART II**

### **Advisory Committee Questionnaire to Bosnia and Herzegovina**

**The Advisory Committee of the Council of Europe adopted at the end January 2006 questions for Bosnia and Herzegovina, submitted to us on 23 February 2006, to be analysed in the State Report within the Second monitoring cycle of the Framework Convention on the Protection of National Minorities. The purpose of the questionnaire is not to repeat those questions, but to ensure that the Report contains additional information on new circumstances, developments and issues which have not been covered directly in the results of the first monitoring cycle. Therefore, we provide you with the following:**

#### **Responses to the Questionnaire of the Advisory Committee**

**1. Please provide information on the implementation of the Law on the Protection of Rights of Persons belonging to National Minorities, adopted in 2003, including on its transposition at the level of Entities and Cantons. Has the Council of National Minorities been set up, in accordance with the Law on Law on the Protection of Rights of Persons belonging to National Minorities and the amendments to this Law adopted in October 2005?**

#### **Response:**

The Law on the Protection of Rights of Persons Belonging to National Minorities was passed and entered into force in May 2003 ("Official Gazette of BiH" No: 12/2003). It has been adopted after two-year discussion, debate and harmonisation of several versions of the Law which were in procedure, and after approval (in the form of opinion) was received from the so-called Venice Commission of the Council of Europe that the bill fulfills minimum of criteria to be enacted and entered into force. A long procedure of law adoption in BiH is the first objective factor of legal-political situation in BiH, which may not be ignored when considered are adoption and implementation of laws in BiH. After being adopted, the Law on the Protection of Rights of Persons Belonging to National Minorities, was published in three official languages of BiH in "Official Gazette of BiH", thus made available to all organs and institutions of authorities in BiH, as well to other entities using publications of such kind and contents. Then it was translated into English and Romani languages. We consider the first translation of a law in BiH into Romani language extremely important for emancipation of Roma national minority in BiH; we consider it a positive example of recognition of Roma. It has been published in a special booklet in 1000 copies, also distributed at various addresses. Therefore, any authority in BiH has neither justification nor alibi for possible ignorance of the contents of the Law. Unfortunately, in practice, i.e. in legal-political reality of BiH today, there are no rare cases that structures of authorities use ignorance of the law as excuse for failing to comply with their obligations.

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

In this context, it is also important to recall the fact that the Ministry for Human Rights and Refugees of BiH has warned on several occasions in a written form the Collegium of the House of Representatives of the Parliamentary Assembly of BiH on its legal obligation to establish the Council of National Minorities of BiH as a permanent working body of the House of Representatives. The Law on the Amendments to the Law on the Protection of Rights of Persons Belonging to National Minorities was adopted in October 2005 ("Official Gazette of BiH" No: 76/2005) has foreseen establishment of this body more precisely and in exact deadline of 60 days from the date of adoption of this Law. Finally, the Decision on the Establishment of Council of National Minorities of BiH within the Parliamentary Assembly of BiH was adopted and published in May 2006 (Official Gazette of BiH, No: 38/2006), stating that the mentioned advisory body is to be constituted as soon as possible. Constituting is underway, and there is hope that the Council of National Minorities of BiH within the Parliamentary Assembly of BiH will finally be established by the end 2007.

We consider execution of this legal obligation very important from the aspect on awareness rising on significance of establishment of a body for the promotion and protection of rights and addressing of open questions of all national minorities and Roma even more, since they are the most numerous and most vulnerable national minority at the territory of BiH.

**2. Please provide information on the state of discussions regarding the position of those groups referred to as "Others" in the Constitution, especially as far as their access to and participation in political life is concerned. Please also provide information on the involvement of representatives of groups referred as "Others" in the current process of design of a new constitution of Bosnia and Herzegovina.**

**Response:**

After many month discussions, at the end March 2006, leaders of seven parliamentary parties, which together have majority in both Houses of the

Parliamentary Assembly of BiH signed the Agreement on amending the Constitution of Bosnia and Herzegovina. This Agreement has finalised many month talks of local political factors, with mediation of representatives, first of the American Democratic Institute, and subsequently of representatives of the European Union and USA administration.

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

Previous solutions of the Constitution of BiH have not prevented in formal legal terms members of national minorities, i.e. "Others" to run for and to be elected deputies in the Parliamentary Assembly of BiH, be it either as individuals or on lists of political parties. However, in previous convocations of Parliaments there have been no deputies from members of national minorities. Proposed constitutional amendments present recognition of rights of persons belonging to national minorities in Bosnia and Herzegovina. In other words, proposed solution reads: „b. Three seats are guarantee in the House of Representatives for persons belonging to national minorities; c. The House of Representatives has 84 members, plus 3 guaranteed seats for persons belonging to national minorities“.

Proposed solution is a guarantee to minority communities that they will be represented in the Parliamentary Assembly of BiH. Since deputies of the House of Representatives are elected through direct votes of citizens for candidate lists of political parties of individual candidates, the Electoral Law should have work out a mechanism to fill up 3 guaranteed seats for national minorities.

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

The Agreement on acception of this and other amendments to the Constitution of Bosnia and Herzegovina has been signed by seven parties which have

majority in the Parliamentary Assembly of BiH. However, since two-third majority of 42 deputies in the House of Representatives of the Parliamentary Assembly of BiH is needed for amending the Constitution, the proposed amendments to the Constitution have not been adopted. A total of 26 deputies voted for the Amendments to the Constitution.

Since General Parliamentary elections were held on 1 October 2006, political parties, proposers of amendments and representatives of the international community (EU and OHR) have agreed that immediately after the elections they resume the agreed constitutional solutions and reconstitute proposal to be decided by the Parliament.

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

**3. Please provide information on general policies to foster better community relations and tackle discrimination particularly affecting persons not belonging to one of three constituent people.**

**Response:**

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

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

Within the general policy it is important to emphasise that in the last two years several topic discussions various issues concerning position of minorities have been held (analysed later in the Report). These round tables, with participation of representatives of minority communities, NGOs dealing with the protection of minority rights, representatives of international organisations and competent State, Entity, Cantonal and municipal ministries, have been covered by the media at a high professional level, which has certainly contributed to

improvement of the climate of tolerance and understanding of the position of minorities in Bosnia and Herzegovina.

A fact that proposals for amendments to the Constitution of BiH concerning position of national minorities have been accepted with the least difficulties, and that they have been accepted in the public as necessary minimum enabling political recognition and adequate representation of minority groups' interests in BiH should certainly be interpreted in the light of general policy towards minorities.

Although it has been stated above that there has been improvement of position of national minorities as a whole, position of Roma community is still very difficult and unsatisfactorily. General policy of authorities is support to all minority communities, particularly Roma. However, needs of Roma in the field of housing, employment, health care and social welfare are huge and exceed capabilities of impoverished and conflict-broken BiH. Problem in these fields is poverty, not discrimination by majority groups or community as a whole.

**4. Please provide information on the process of administrative unification of "two schools under one roof" in some localities: has there been any progress in unifying separate classes set up to provide teaching to pupils belonging to different ethnic groups? Please also provide an overall assessment of the implementation of the Law on education, especially for those elements which are relevant for persons belonging to national minorities.**

**Response:**

Two months after adoption of the Law on the Protection of Rights of Persons Belonging to National Minorities, the Parliamentary Assembly of BiH enacted the Framework Law on Primary and Secondary Education in BiH. In a part concerning education of members of national minorities, it is complementary to the Law on the Protection of Rights of Persons Belonging to National Minorities, while certain provisions work out in detail obligation of the authorities in this field and manner of their realisation. Entities and Cantons have enacted their Laws on Primary and Secondary Education. Unfortunately, framework law on preschool education has not been enacted yet, which would in a way regulate issue of treatment of members of national minorities, particularly Roma, in preschool education. The mentioned Entity and Cantonal laws also treat issue of fulfilling educational needs of members of national minorities. However, the Ministry of Education and Culture of Republika Srpska has prepared a concrete Instruction on Implementation of this Law, elaborating contents and manner of execution of obligations concerning national minorities.

Concerning education of members of national minorities in BiH, it is important to emphasise as a measure of the authorities of BiH that they adopted in February 2004, with mediation of the Mission of OSCE in BiH, the Action Plan for Fulfilling Educational Needs of Roma and Members of Other National Minorities in BiH. It has been verified by signatures of portfolio Ministers of Education. Its implementation is underway and yields results. Indicators for this are, among

other, conclusions and recommendations of an expert conference, organised by the Ministry for Human Rights and Refugees of BiH in Vogosca in July 2005. It was solely dedicated to evaluation of implementation of this Action Plan. On 20 February 2006 the Conference named "Two years of implementation of the Action Plan for Fulfilling Educational Needs of Roma and Members of Other National Minorities in BiH: Experiences and Challenges" was held in the Joint Institutions Building. These conferences gathered almost all portfolio ministries of education and the largest part of representatives of NGOs gathering national minorities, members of the Council of Roma BiH, members of the Roma Committee with the Council of Ministers of BiH, other Roma leaders and representatives of international organisations. The conclusion of these conferences was that the Action Plan had still been current, that it should not be changed or amended in its textual part and in the sense of meaning, but only to be more persistent in its implementation, particularly concerning obligations of educational and local authorities in BiH. This Action Plan is not faultless, particularly because it has not defined precisely entities for monitoring of its implementation. However, it yields positive results, particularly concerning Roma, which is evident in the number of Roma children who enrol, regularly attend, do not drop out and complete primary school. Likewise, every day there are more and more Roma children attending secondary school. At the moment there are almost 30 Roma students at one of the numerous universities in BiH. Care of society, particularly competent education authorities, for providing textbooks, school supplies, transportation, warm meals for poor Roma pupils, inclusion of Roma assistant lecturers in teaching processes, etc, has also increased. The above stated has been confirmed at a conference organised jointly by the Ministry for Human Rights and Refugees of BiH, Roma Committee with the Council of Ministers of BiH and the Council of Europe (Office in Sarajevo) in December 2005. The Conference discussed the position of national minorities in BiH in the light of implementation of recommendations of the Council of Europe's Advisory Committee of the Framework Convention for the Protection of National Minorities on the occasion of consideration of the Initial Report of BiH on implementation of the Framework Convention for the Protection of National Minorities in BiH in the period 2000-2004.

We would also like to stress the existence of the problem of "two schools under one roof" in the Federation of Bosnia and Herzegovina from the end of the war to date. From today's point of view, nothing important has been solved in the issue "two schools under one roof". Why?

The reason for this could be in the fact that all constitutional authorities on educational issues in the Federation of BiH rest with Cantons. At the level of the Federation of BiH, and at the State level before 3-4 months, there are coordinating bodies composed of ministers of education. This body should propose solution of this problem.

Just to remind that the Educational Department with the OSCE, two BiH Entities and Brcko District of BiH have also been included in the educational system reform process in BiH. So, changes during solution of the problem "two schools under one roof" are more of a "cosmetic" and less of substantial nature; they refer to, for example, management has been united in a small number of

schools, but pupils are still divided, etc. Among a series of actions on educational system reform process in BiH are removal of negative contents from textbooks, school names and some signs from school premises. We also have to mention inadequate implementation of common cores of curricula which would solve dilemmas and obstacles, including "two schools under one roof". There are two curricula in schools of the Federation of BiH: Bosnian and Croatian curricula. Moreover, the Law on Higher Education has not been adopted yet, although a term for its adoption has expired long time ago.

**5. Please provide information on efforts made to facilitate the return of refugees and displaced persons, especially in localities where returnees do not belong to the majority population. Have measures been taken to improve their access to social rights (housing, social protection, health care, employment)?**

**Response:**

Bosnia and Herzegovina has achieved huge progress in realisation of strategic aims for implementation of the Annex VII of the Dayton Peace Agreement.

Particularly good results have been achieved in the field of creation of favourable safe environment in the places of return, property and occupancy rights` repossession, while significant results have also been achieved in the field of housing stock and infrastructure reconstruction in the places of return.

Good results in the field of return and property repossession have not been followed by significant results in the field of creation of conditions for sustainability of return, this refer, first of all, to employment of returnees, exercising rights to social welfare, health care, education, etc. Moreover, related to sustainability of return and security is demining issue, which has not been realised in BiH yet, ten years after the end of the war.

Unfortunately, funds in BiH secured for realisation of aims for implementation of the Annex VII of the Dayton Peace Agreement have not been under expected frameworks.

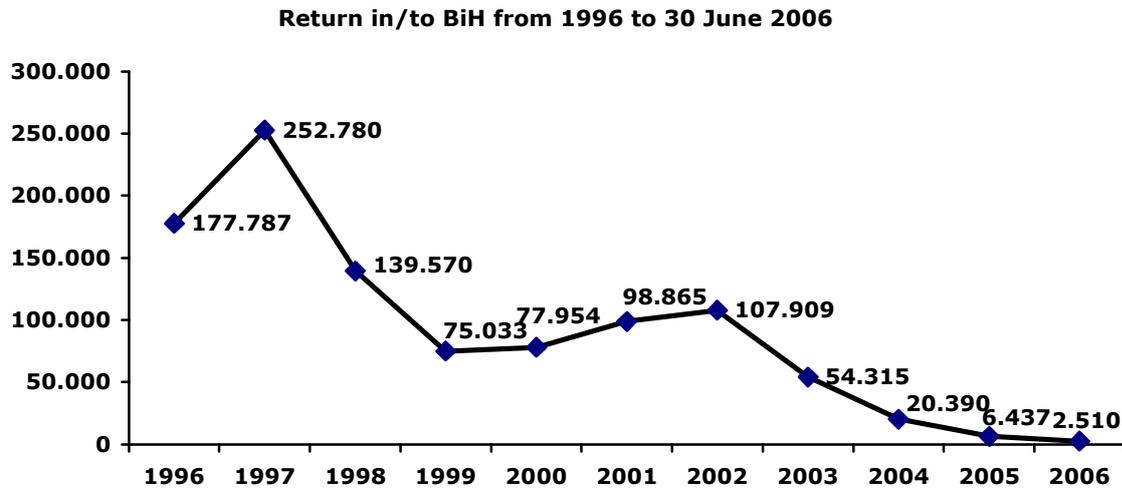
Credit funds disbursed by BiH for the needs of solving problems of refugees and displaced persons will also not be sufficient to solve this problem in the course of this and the following year.

### ***Return of refugees and displaced persons***

Return in/to BiH started immediately after signing of the Dayton Peace Agreement.

Up to date a total of 1,014,340 returns in/to BiH have been registered, out of which 442,352 refugees and 571,988 displaced persons. Almost half of returns,

i.e. 45% of the overall return are the so-called minority returns (456,370 of such returns registered).<sup>1</sup>



The largest number of returns has been realised in years followed the signing of the Dayton Peace Agreement; so in the first three years only recorded was return of 570,925 persons, which makes more than a half, i.e. some 56% of the overall number of returns in/to BiH since the signing of the DPA to date.

After that period, return was decreasing, with almost halved number of registered returns in 1999 in relation to 1998. In 2001 the return started increasing again, while particularly good results were recorder in the course of 2002 which, like the first three years, recorded over 100,000 returnees.

Reasons for increase in number of returns in this period are related, first of all, to facilitated and efficient property laws` implementation, which has resulted in repossession of housing units by their pre-war owners and occupancy rights holders, creating thereby preconditions for return of significant number of displaced persons and refugees to their homes.

Moreover, in that period significant funds were invested into reconstruction of housing stock for the needs of return, while particularly large contribution was given through increase of general security in BiH, including security of returnees.

Moreover, advancement of mutual cooperation of competent institutions in Bosnia and Herzegovina and their cooperation with other significant local and international partners in this field has given great contribution to due process creation, particularly in the field of reconstruction and selection of real priorities.

After 2002 the return has still be decreasing and current situation, at the first sight, points to soon completion of the process, since it is indisputable that even today, more than ten years after the signing of the DPA, there is still huge

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<sup>1</sup> UNHCR Statistics as of 30 June 2006

number of refugees and displaced persons waiting for securing basic preconditions for permanent solutions through return.

The Ministry for Human Rights and Refugees is of opinion that the return process could not be completed until the last refugee from BiH and displaced person in BiH wishing to return to his/her pre-war home has access to this right. There is political consensus of all relevant participants in BiH and international community for such commitment and determination towards securing the return and, not less important, its sustainability.

Although in 2005 and the first half of 2006 number of returns significantly decreased, it could be stated that a million return to BiH was registered as yet as 2004.

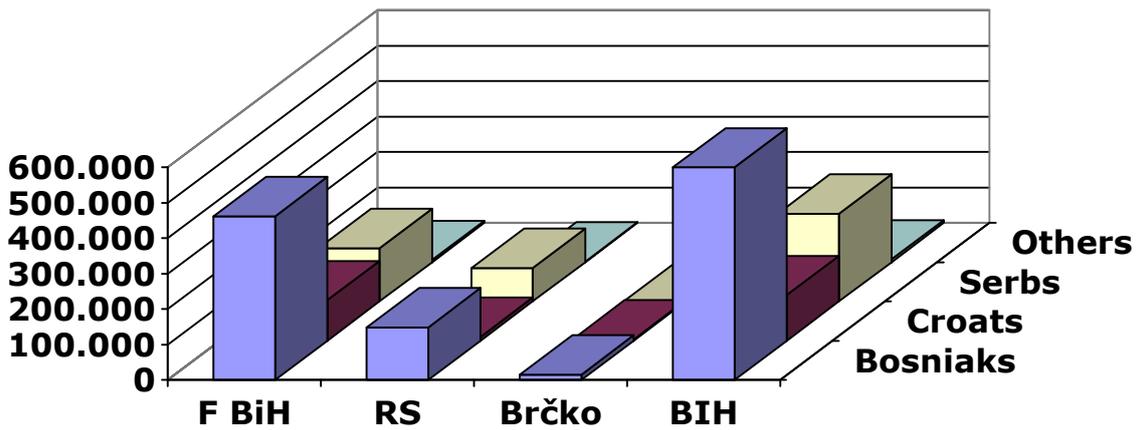
Therefore, it is necessary to consider affirmatively the results achieved by Bosnia and Herzegovina in this field, which, when rate of realised returns in BiH of some 50% is compared with situations after crises in other fields, undoubtedly represent significant success.

Also, it is significant to recall that almost half of the overall number of returns is the so-called minority returns. Tables and graphs below show number and ethnic structure national structure of returnees per Entities.

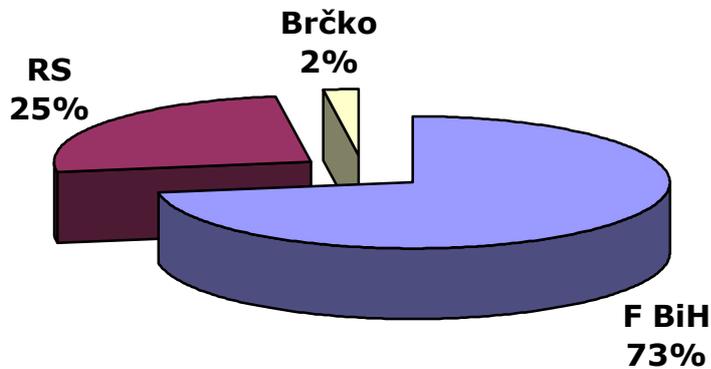
#### **Overview of number and ethnic structure of returnees per Entities**

<b>Return from 1996 to 30 June 2006</b>	<b>Bosniaks</b>	<b>Croats</b>	<b>Serbs</b>	<b>Others</b>	<b>TOTAL</b>
<b>FBiH</b>	462,662	114,969	151,587	6,546	<b>735.764</b>
<b>%</b>	62.88%	15.63%	20,60%	0,89%	<b>73%</b>
<b>RS</b>	150,394	10,720	94,560	1,520	<b>257.194</b>
<b>%</b>	58.47%	4,17%	36,77%	0,59%	<b>25%</b>
<b>Brcko District BiH</b>	15,145	3,746	2,491		<b>21.382</b>
<b>%</b>	70.83%	17,52%	11,65%		<b>2%</b>
<b>TOTAL BiH</b>	<b>628,201</b>	<b>129.435</b>	<b>248.638</b>	<b>8.066</b>	<b>1.014.340</b>
<b>%</b>	<b>62%</b>	<b>13%</b>	<b>25%</b>	<b>1%</b>	<b>100%</b>

#### **Return from 1996 to 30 June 2006**



Participation of Entities in return



## Reconstruction

Some 445,000 homes in BiH have been partially or totally destroyed as a war consequence, which is more than a third (37%) pre-war housing stock.

Destroying continued even after cessation of war conflicts, so some 14,000 housing units have been devastated after signing of the Peace Agreement.

Reconstruction followed the return process, so some 260 thousand housing units have been reconstructed since the signing of the Dayton Peace Agreement to date, out of which almost two-thirds with donor funds.

## Housing stock situation in BiH in 2006

<b>Reconstructed housing units (1996-2005)</b>		<b>260,388</b>	
<b>Grade of housing stock reconstruction</b> (total number of reconstructed housing units as compared to a total number of damaged and destroyed housing units)		<b>57.94%</b>	
<b>Number of remaining damaged and destroyed housing units</b> (per damage level)	<b>I (5%-20%)</b>	17,963	9.59%
	<b>II (25%-40%)</b>	24,945	13.34%
	<b>III (45%-65%)</b>	29,355	15.67%
	<b>IV (75%-100%)</b>	82,219	43.90%
	<b>n/a</b>	32,791	17.51%
	<b>TOTAL</b>	<b>187,273</b>	
<b>Grade of unreconstructed housing stock</b> (total number of remaining unreconstructed housing units as compared to a total number of damaged and destroyed housing units)		<b>42.06%</b>	

The highest housing stock reconstruction level is in FBiH (66.70%), then in Brcko District BiH (46.30%), and the lowest is in RS – reconstruction level of some 40%.

Percentage of housing units that still have not been reconstructed, expressed as a number of remaining housing units for reconstruction in relation to number of war damaged and destroyed housing units, at the BiH level is some 42%, out of which almost half (some 44%) are destroyed (devastation level over 75%), some 16% housing units with devastation level between 45% and 65%, some 13% with devastation level from 25% to 40%, while some 10% housing units are slightly destroyed (devastation level up to 20%). Devastation level for remaining number of damaged and destroyed housing units expressed in total number is not available.

### **Priority reconstruction of housing units for the needs of return**

By means of the Strategy for implementation of Annex 7 of the Dayton Peace Agreement, BiH has committed itself to priority reconstruction of a part of housing stock for the needs of return of refugees and displaced persons, and securing their sustainability from the point of view of housing needs in accordance with standards on minimum housing conditions.

Even today, after many years since they left their homes, a huge number of people is waiting to reconstruction and return.

A huge enthusiasm and efforts of the employees of the Department for Refugees, Displaced Persons and Housing Policy of the MHRR has been made on creation of database on registered potential beneficiaries of assistance. It has been created on the basis of applications for registration submitted in the public call procedure of the MHRR published in the middle 2004. It was also one of the strategic aims of Bosnia and Herzegovina. This database has

already given extraordinary results in identification of needs on the basis of which identified are priority areas for implementation of reconstruction projects for the needs of return.

At the same time, such systematically collected and recorded data for the entire territory of Bosnia and Herzegovina could be extraordinary instrument not only in determination of individual priorities at local level, but also on planning of activities for successful completion of reconstruction for the needs of return.

Underway are activities on transfer of ownership over this database on the authorities of BiH. By the end of month all applications, together with instructions for updating of the database, will be transmitted to pertaining municipalities of return.

According to current indicators on number of submitted applications for registration of potential beneficiaries of assistance there is close to 42 thousand families, i.e. 142 thousand of persons who need assistance in reconstruction with a view of voluntary return in BiH.

Since Bosnia and Herzegovina is not able to secure all necessary funds for completion of priority housing stock reconstruction through its budget, competent institutions have opted for credit indebtedness with a view of solving these issues.

The first step in this direction is credit with the Council of Europe Development Bank (CEB), by means of which BiH will reconstruct 1,100 housing units of residents of collective centres and alternative accommodations in BiH. In this way significant double effects are achieved: enabled is return of residents of collective centres and alternative accommodations to their pre-war homes, and reduced is burden of budgets in which significant items are providing housing conditions and care of residents of such form of collective care in BiH.

### ***Occupancy rights and property repossession***

Occupancy rights and property repossession is one of the basic conditions for realisation of the right to return of displaced persons and refugees. Therefore, it was logically set as the second strategic aim for implementation of the Annex 7 of the DPA.

Just to remind that a large part of population was resettled due to physical destruction of their prewar housing units, moving into „safe buildings“, temporary occupation of abandoned buildings and fulfilling of economic needs for sustainability of families in war period.

Therefore, persons displaced within BiH temporary occupied largest number of habitable abandoned housing units. Such decisions were most often legally founded, since laws on disposal of abandoned property were in force in both Entities.

Such legal decisions on allocation of abandoned housing units changed beneficiaries in more than 200,000 housing units, out of which almost equal percent in public and private ownership.

Adoption of laws on cessation of laws and other regulations on abandoned property in both Entities in 1998 was the first concrete sign of commitment and readiness of Entity Governments to engage actively on realisation of the process of return of refugees and displaced persons, repossession of their private property and public apartments on which they had occupancy right.

The start of property laws implementation was very difficult, followed with large pressures and requests for as much legalisation of found situation, and at the same time repossession of as less number of temporary occupied housing units.

Of course, such prognoses did not favour legal security within that process, so the High Representative for BiH in 1999 passed a series of amendments to the existing laws and often ordered binding by-laws.

In 2000 the International Community in BiH established the so-called PLIP cell for monitoring implementation and application of relevant regulations, composed of representatives of four leading organisations of the International Community in BiH dealing with these problems, namely the OHR, the OSCE, the UNHCR and the CRPC. The PLIP Representatives started publishing monthly statistical indicators at the level of BiH, its Entities and Brcko District, monitoring regularly realised progress, analysing and comparing those indicators.

It should be mentioned that property laws implementation percent at the level of BiH at the end 2000 was only 21% (FBiH - 29%, RS - 13% and Brcko District BiH - 14%).

Achieved results have been assessed as unsatisfactorily, so the High Representative for BiH already at the end 2001 passed new amendments to the existing legal regulations. This time it was more radical and completely different circumstances, since for the first time the High Representative passed amendments on a temporary basis until they are adopted by competent bodies without possibility of any changes in parliamentary procedure.

Thus, already in 2002 it became visible that new amendments to the property laws, passed by the High Representative would have positive effects, although it became clear long time ago that it was extremely difficult to implement certain provisions due to accompanying social and other circumstances.

In the course of 2003 property laws implementation dynamics was some 3% in a month, so implementation percent at the end of year at the level of BiH was 92.48% (FBiH – 92.18%, RS – 92.55% and Brcko District BiH – 96.69%). This percent does not include negative decisions which, as such were treated as solved cases, in which case this percent would be in the framework of realistic

implementation. In the same year the PLIP members issued the first certificates on essential completion of the property laws implementation.

In the course of 2004 completed was significant number of the so-called "hard cases", in which courts previously solved by binding decisions validity of issue of transfer of the disposal right, after which procedure was continued before competent authorities. Such cases are characteristic for Republika Srpska and were mainly related to exchange of property between Republika Srpska – the Republic of Croatia.

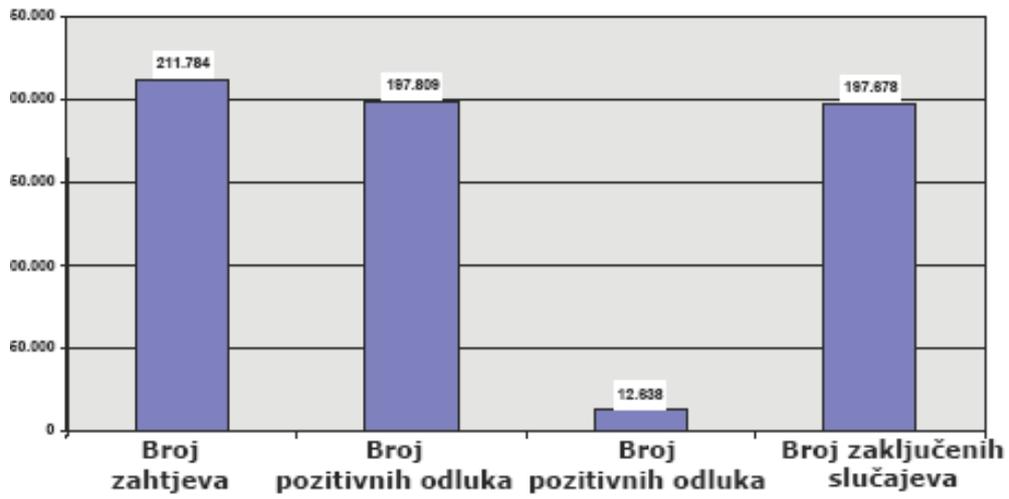
Most municipalities in BiH received essential certificate on property laws implementation completion in 2004, while remaining municipalities received it in 2005.

Finally, we could state with satisfaction that this strategic aim has been realised very successfully, since property laws have been fully implemented, i.e. implementation level of positive decisions was almost 100%, which means that housing units have been repossessed by their prewar owners and occupancy right holders.

#### Review of property laws implementation in BiH

<b>Public property</b>	Claims	<b>97,149</b>
	Positive decisions	<b>87,583</b>
	Negative decisions	<b>9,153</b>
	Closed cases	<b>8,751</b>
	Implementation rates	<b>90.08%</b>
<b>Private property</b>	Claims	<b>114,635</b>
	Positive decisions	<b>110,226</b>
	Negative decisions	<b>3,485</b>
	Closed cases	<b>110,168</b>
	Implementation rates	<b>96.10%</b>
<b>Total</b>	<b>Claims</b>	<b>211,784</b>
	<b>Positive decisions</b>	<b>197,809</b>
	<b>Percent</b>	<b>93.40%</b>
	<b>Negative decisions</b>	<b>12,638</b>
	<b>Percent</b>	<b>5.97%</b>
	<b>Closed cases</b>	<b>197,678</b>
	<b>Implementation rates</b>	<b>93.34%</b>
<b>Implem. rate</b>	<b>as of 31 December 2003</b>	<b>92.48%</b>
	<b>as of 31 December 2002</b>	<b>68.70%</b>
	<b>as of 31 December 2001</b>	<b>40.51%</b>
	<b>as of 31 December 2000</b>	<b>20.76%</b>

## Bosna i Hercegovina



## **Health care**

It could be stated that poor progress has been achieved in health care as an element of sustainability of returnees. Moreover, in this segment there is still violation of international and domestic regulations.

As an example, the fact was stated that there is inadequate implementation of the Inter-Entity Agreement on Health Care, which is a temporary solution for rendering health service to displaced persons in BiH. Systematic measure still pending is passing of the umbrella Law on Health Care, which, according to valid legislation, should be prepared by the Ministry of Civil Affairs of BiH.

Pending adoption of umbrella laws in the health area, competent Entity and Brcko District are expected to implement consistently the existing Entity and other regulations, as well as the Inter-Entity Agreement regulating issue of health care of returnees.

There are complex links between health and human rights, primarily:

- Violation or lack of respect of human rights which could have serious consequences for human health;
- Health policies and programmes could promote or violate human rights in a way they are designed or implemented;
- Vulnerability and influence of bad health could be reduced by undertaking steps towards respect, protection and fulfilment of human rights;
- Normative content of each right is fully articulated into human rights instruments;
- Regarding the right to health and freedom from discrimination, normative content is emphasised in the issues below. Examples of language used in human rights instruments in the sense of determination of contents of some other key rights relevant to health equality, solidarity and reciprocity.

At the State level there is neither framework law on health care nor portfolio Ministry. The Ministry of Civil Affairs of BiH (Health Department) is competent for coordination of activities, harmonisation of plans of Entity authorities and defining the strategy at international plan in the area of health in BiH.

Under the Constitution of BiH, organisation and management of the health care system in BiH have been decentralised at the level of its Entities and Brcko District BiH.

### **Representation of principles of equality, equity and solidarity in health care and problems faced with targeted categories of population (refugees from BiH, displaced persons in BiH, returnees)**

Regulations in the field of health care and health insurance proclaim equality, equity and solidarity in health for all citizens. However, due to weak implementation of regulations, these principles are not adequately realised in practice.

Problems faced by refugees and displaced persons in realisation of health care are the same as those faced by other vulnerable categories of population, and are result of impossibility to realise the right of health insurance holder in accordance with the law.

Hard economic and social circumstances are one of the obstructions to return, particularly sustainable return. Impossibility of employment and realisation of right to pension is additional problem which aggravate realisation of right to health care for this category of population.

Fragmentation and untransferability (between Entities, cantons or municipalities) of health insurance are reasons of difficult realisation of right to health care. For example, in some areas the nearest health institution could be under other health competence. Since insurance is untransferable, some patients are forced to pay unnecessary high costs of health service or transportation costs in order to come to a health institution which is under their area competence and which would accept their insurance.

- **Functional connection between Entity and Cantonal systems in the sense of securing free movement of people across Cantonal, Entity and Brcko District BiH borders**

Weakness of functional connection between Entity and Cantonal health systems is one of the problems in realisation of health care.

With a view of overcoming problems and regulating manners and procedure of realisation of health care of insurees outside territory of Canton, i.e. Entity to which he/she belongs, concluded and signed was: the *Agreement on the Manner and Procedure of Using Health Care Services of Insurees in the Territory of Bosnia and Herzegovina Outside the Territory of Entity, including Brcko District BiH, in which they are not Insured* („Official Gazette of BiH“, No. 30/01 from 18 December 2001) entered into force as of 1 January 2002.

The Agreement was concluded between the Health Insurance Fund of Republika Srpska, the Brcko District Government - Department for Health Care, Public Safety and Other Services and the Health Insurance and Re-Insurance Fund of the Federation of BiH under authority of Cantonal Health Insurance Funds. Signatories of the Agreement jointly appointed the Commission for Elaboration of the Instructions, to facilitate its implementation, so the Agreement is mostly implemented at the entire territory of Bosnia and Herzegovina with certain problems.

This Agreement regulates provision of using health care in case when a person insured with Health Care Fund in one Canton, Entity, or Brcko District BiH has a need to use health care at the territory of other Canton, other Entity, i.e. Brcko District BiH.

However, the practice witnesses that this Agreement has not been respected and applied. So, in this sense realisation of health care of pensioners-returnees is particularly difficult, since pension-disability funds do not pay benefits in

accordance with provisions of this Agreement. In accordance with Article 13, each party in the Agreement may denounce this Agreement by written notification to all parties to the Agreement three months before expiry of a calendar year for the following year, which has not been done to date by any party. In the forthcoming period it is necessary to consider critically provisions of this Agreement; to regulate obligatory certain kinds of behaviour; and to proscribe sanctions for violations of the Agreement.

**- Plans and programmes for the forthcoming period which would contribute to advancement of situation in this field**

As regards overcoming of problems which lead to inequality in access to health care, there are a series of priority measures set forth in the Poverty Reduction Strategy Paper of BiH – PRSP, adopted by the Council of Ministers and Entity Governments.

Regarding realisation of the right to health care, it is necessary to realise the following measures:

- Provide for universal coverage of population with health insurance, particularly vulnerable categories of population;
- Adoption of basic package of health rights;
- Provide for unhindered implementation of the *Agreement on the Manner and Procedure of Using Health Care Services of Insureds in the Territory of Bosnia and Herzegovina Outside the Territory of Entity, including Brčko District BiH, in which they are not Insured*;
- Rationalisation of health institutions` network;
- Reform of primary health care by means of strengthening of family medicine.

### **Education**

Right on education is an integral part of the Constitution of Bosnia and Herzegovina, whose part reads:

“Rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Bosnia and Herzegovina. These shall have priority over all other laws. All persons in the BiH territory enjoy human rights and freedoms, which includes the right on education.”

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

According to the BiH Constitution Organisation and managing the system of education are decentralised in BiH to the level of entities and in Brčko District BiH.

**- Problems faced with target groups (refugees from Bosnia and Herzegovina, displaced persons within BiH, returnees) in realization**

## **of education, and procedures in realizing of their rights in the area of education**

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

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

All principles determined by the Framework Law and worked out in details at the lower levels are in the function of realisation and protection of rights on education of all children, including children of refugees and returnees:

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

**AIM 1** – to enable children returnees to study the so-called „national group of subjects“ based on the curriculum they choose

**AIM 2** – to increase employment of teachers returnees,

**AIM 3** – to supervise and collect data on children returnees,

**AIM 4** – to harmonise national system of school boards,

**AIM 5** – to provide adequate textbooks, to remove inappropriate names and school symbols etc,

**AIM 6** – instructions for implementation of the Agreement

Displaced children and children living in the collective centers are rendered assistance by educational authorities depending on possibilities (textbooks free of cost, free meal). Numerous NGOs are very active in this area.

- **Positive outcomes and results of implementation of the Framework Law and of the Interim Agreement in practice:**

- Increased number of pupils returnees into pre-war places of residence;
- Increased number of employed returnees teachers, as well as domicile teachers from the minority groups;
- In more than 25 schools in BiH organised education from the so-called „national group of subjects“ under the Curriculum chosen by pupils /parents;
- Revision of textbooks carried out, inappropriate contents removed from the textbooks;
- Instructions for writing history and geography textbooks;
- Elaborated „prototypes“ of the Rulebook on Establishment and Work of School Boards (in accordance with provisions of the Framework Law), and of the Rulebook on Criteria for Names of Schools, Symbols and Organisation of School Manifestations (based on which RS, Brcko District BiH and some Cantons in FBiH, 3-6, have already adopted their own bylaws);

The Council of Ministers BiH has established the Commission for elaboration of curriculum for supplementary classes for children living abroad. According to the latest information the Commission has completed its work on elaboration of the curriculum.

**Open questions /challenges and problems still present in practice:**

- The system is not yet established for continuous studying of national group of subjects, in the areas where the number of students is below the pedagogy standards; There is still practice (which is not yet eliminated) that pupils are transported to the schools outside their area - with the aim to be in one-nation school, the school boards structure practice is not yet fully implemented, the collective and transit centres still exist, and it is difficult to include their school population into regular educational process; procedures for recognition of foreign school documents are still complex and ununiform.
- An example of still present discrimination of pupils in practice (including children refugees and returnees) is existence of the many so-called “two schools under one roof“ (out of 52 schools in FBiH – up to date, administratively and legally united were two secondary schools in Zepce, Vares and the secondary school in Mostar. There are some explicit examples of non-implementation of the decision of the High

Representative in Herzegovina-Neretva Canton, Central Bosnia Canton, Zenica–Doboj Canton; after harmonization of laws it is expected that necessary preconditions will be created for unification of all schools by beginning of school year 2005 -2006).

### ***Work and employment***

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

According to the Constitution of Bosnia and Herzegovina, organisation and managing system of legal protection at work are decentralised in BiH to the level of its Entities and Brcko District.

#### **- Problems faced by target groups (refugees from BiH, displaced persons in BiH, returnees) in realisation of employment**

Target categories face the same problems as all other unemployed persons in realisation of employment. These are, first of all, devastated economy, lack of job vacancies, huge number of high-qualified persons registered as unemployed at the employment bureaus.

#### **- Procedures in realisation of employment rights - relating to refugees from BiH, displaced persons in BiH, returnees**

Procedures in realisation of employment rights are the same for all the unemployed persons regardless their pre-war place of residence. The law defines that an unemployed person realizes his/her rights during unemployment with an employment bureau according to the place of residence; while an unemployed person who left his/her place of residence due to the war realizes his/her rights during unemployment with an employment bureau according to the temporary place of residence.

#### **- Present problems and possible solutions for their overcoming**

According to the OSCE data, most returnees from BiH has not realized their right on health care, so according to the opinion of this Ministry, some regulations need to be amended in the Law on Health Insurance, in order to overcome this problem.

#### **- Principle of equality and equity relating to employment issue**

According to the Law on Mediation in Employment and Social Security of Unemployed Persons no person can be put into less favourable position on the ground of race, colour, sex, language, belief, political or other opinion, national

or social origin, property conditions, birth or other circumstances, membership or not belonging to the political party, to trade union, or physical and mental impairments.

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

With a view of realization of the above-mentioned programmes, job vacancies for stimulus to employment are announced in media, and in this way funds are made available to all legal and natural persons meeting the vacancy requirements.

- **Functional connection of Entity and Cantonal systems in a sense of providing freedom of movement across Canton, Entity and in Brcko District BiH borders, and achieving higher equality and equity in employment at the BiH territory**

The responsible Employment services are bound to achieve mutual cooperation, to coordinate their work and to exchange information contained in official records. Employment services are bound to submit reports to the Employment bureaus, which unite them, make summary records in the field of work and employment, and which are responsible to propose measures and necessary means for development and functioning of the unique information system.

However, unfortunately, the unique work market is not yet established at the entire Entity and State territory.

- **The Employment Bureaus, job market, mediation in job finding**

Periodically the employment bureaus evaluate work market (according to the Bureau instructions) with the aim to get and provide information on developments in job markets, and carry out mediation in employment aimed towards connecting unemployed persons with potential employers, or connecting persons who are looking for another job with potential employers.

- **Formal registering of unemployed persons in order to receive assistance and health care, registration for the purpose of job finding**

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

There is a good cooperation between Entity Bureaus, Brcko District BiH Bureau, Cantonal Bureau, and the BiH Work and Employment Agency.

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

Accuracy of information on number of unemployed is directly related to black market, which is the case of Brcko District BiH, which imposes a need to adopt systematic measures at the BiH level, to place it under control.

### **Programmes and plans for the forthcoming period**

Programmes of work are defined for each new calendar year with the aim to improve situation in the field. Entity governments agree about the employment programmes offered by Employment Buroes.

## **SOCIAL PROTECTION**

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

### **Problems and possible solutions**

Main obstacles in application of above-mentioned rights of displaced persons which are regulated by law in the field of social protection are as follows:

- Functional operations of the system of social protection in both entities are not balanced and continually give preference to the certain groups and special categories (for example: soldiers, invalids and etc.), providing them privileged status regarding the displaced persons;
- Financing of the social protection is transferred to the entities what, together with insufficient coordination produces lack of harmonization between entities on the issue of categories of beneficiaries as well as the scope and level of compensations for the persons that need social protection;
- Limited funds for social protection or weak financing by entities cause transfer of competences to the cantons in Federation BiH and municipalities in RS, what additionally marginalized households of displaced persons.
- Entities and cantonal ministries often do not achieve or are not able to achieve proclaimed goals of social policy and to fulfil obligations prescribed by laws in the field of social protection

From the other side, there is relatively small number of displaced families which have sufficient earnings to meet even minimum of social needs and still most of them live in poverty.

Current laws which regulate the issue of social protection in BiH are developed and entity, cantonal and the level of municipalities which is insufficient for all BiH citizens and returnees' access to the rights in the sphere of social protection is especially difficult.

For example, with change of their residence i.e. return to the former place of residence, the displaced person should cancel his/her registration in the current place of residence what causes loose of social protection and register at the place of return. In order to have access to social protection at the place of return, the person must be registered at the “new” address in the period from 6 to 12 months, pending of the entity or canton.

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

Because of mentioned and other factors it is highly likely that displaced persons and refugees will be in the state of social need than the other population.

According with data of the panel study<sup>2</sup> “*Zivjeti u BiH*” (“*Live in BiH*”), most of households of displaced persons live at the edge of poverty with little oscillations what is marked as an “anxiety” at the bottom of the society.

Even the minimum of the social assistance guaranteed by the domestic and international regulations is not ensured.

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

Displaced persons in BiH, ten years after the war, survive in the margins of the society exposed to the social exclusion.

At the same time, almost all key recommendations and assumptions of the optimal social protection in BiH, like commitments to the social cohesion, solidarity, equality and inclusion – are not realized what automatically lead to neglect and loose of concern for protection of all vulnerable groups including displaced persons and refugees.

The rights from social protection include an active, even intervening role of the state. Those rights are based on philosophy about what “good society” is composed of and how the state can contribute to such society in the best possible way.

### **Other elements of the sustainable return**

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<sup>2</sup> The sample of the panel study “Live in BiH” is the sub-sample of the Life Standard Measurement Sample (LSMS) conducted by the World Bank in cooperation with statistical institutions in 2001. Almost half households from LSMS study were selected and transferred to the panel study. The same households were interviewed in September 2003 and for the fourth time in November 2004. The Study was conducted by the Statistical Institute of RS, Federal Statistical Institute and BiH Statistical Agency in cooperation with Birks Sinclair (BSAL), Independent Bureau for Humanitarian Issues (IBHI) and the Institute for Social and Economic Research in Essex (ISER).

In order to create conditions for sustainable return and reintegration of returnees, the Ministry of Human rights and Refugees undertook some specific activities directed towards that goal. Some of those activities are as follows:

- **Memorandum on Understanding on connection of the houses of returnees to the power supply network in Bosnia and Herzegovina**

In January 2005 the Ministry of Human Rights and Refugees signed the Memorandum on Understanding on connection of the houses of returnees to the power supply network in Bosnia and Herzegovina. The Memorandum was signed with the following co-signatories: the RS Ministry of Agriculture, Energy and Development, the Federation BiH Ministry of Energy, Mining and Industry, Public Enterprise of Electric-power Industry of BiH, Public Enterprise of Electric-power Industry of RS, Public Enterprise of Electric-power Industry of HZHB and witnessed by the representatives of the Office of High Representative in BiH – OHR, Organization for Security and Coordination in Europe – OSCE, United Nation High Commissariat for Refugees – UNHCR.

The agreement with representatives of three enterprises for electric-power industry in BiH was reached by signing of the Memorandum to enable returnees with equal and non-discriminatory access to power supply network across territory of BiH.

Procedures and technical conditions for re-connection to power supply are agreed, harmonized and simplified by the signing of the Memorandum. Returnees do not pay taxes and work cost for power supply connection 50 meters away.

Signing of this Memorandum was the result of the new approach to the work of the Ministry of Human Rights and Refugees and its coordination role with all signatories during six months of the last year.

Analysis of collected information on implementation of the Memorandum in the field showed that significant progress was made but some difficulties were identified as well why a new meeting was held in September last year with all signatories. The continuation of improvement of the Memorandum was agreed aiming to its updating and informing returnees on its content within the next two months including its resigning and publication. The holder of activities will be the Ministry of Human Rights and Refugees.

- **(Micro)crediting aiming to employment and self-employment of the returnees**

In order to ensure conditions for sustainable return of refugees from BiH and displaced persons within BiH to their former place of residence in Bosnia and Herzegovina and to provide comprehensive information accessible to all refugees from BiH and displaced persons in BiH on possibilities, conditions and criteria for getting loan aiming to ensure employment within the private and state sector and possibilities of self-employment in the places of pre-war residence, the Ministry of Human Rights and Refugees, Foundation for

Sustainable Return of Federation BiH (Odras), Fund for Development and Employment of Republika Srpska, Regional Development Agency from Sarajevo, Association of micro- financial organizations in BiH, Employment Bureau of the Republika Srpska, Federal Bureau for Employment Sarajevo, concluded Protocol on mutual cooperation in Sarajevo on 18 October 2004.

The main goals of this Protocol are as follows: establishment of the mutual cooperation between all signatories of the Protocol, development of Publication on conditions to be fulfilled in order get a loan for the purpose of employment and self-employment of the refugees from BiH and displaced persons in BiH (the distribution of the Publication will be carried out through regional centres of the Ministry of Human Rights and Refugees - municipalities).

### **Other projects aiming to the sustainable return**

- The Ministry of Human Rights and Refugees was coordinator between all relevant institutions and organizations trying to find good solutions for realization of assistance in the field of agriculture and sowing and planting in 2004, which enable existential security to returnees and make their return sustainable. Ministry of Human Rights and Refugees played important role in these activities.
- The Ministry of Human Rights and Refugees initiated and coordinated the project of planting strawberries, blackberries and raspberries in the following municipalities: Srebrenica, Bratunac, Zvornik, Gorazde, at the territory from Konjevic Polje to Zvornik. The cold storage plant was built in Srebrenica and 73 hectares was planted for its need including 35 hectares previously planted. Activities and talks are ongoing and at least 50 hectares are expected to be planted at new locations as well.
- Activities on identification of donors for the pilot-project of employment of returnees in public sector in 15 municipalities in BiH are undergoing. If donors' funds will be ensured the project may start in the next year.
- In accordance with criteria of USAID and CRSP program worth around 3 million euros, regional centres of the Ministry of Human Rights and Refugees provided the priority list of the projects regarding infrastructure. USAID gave the priority to reconstruction of the power supply especially in the settlements with minority return. The project included 13 municipalities and 52 settlements and implementation will start next year.
- Activities regarding equipping of two medical centres are undergoing, one in village Krizevici, Zvornik municipality and another in the village Klasnik, Visegrad municipality.

Coordination of other ongoing projects to be implemented by assistance of different bilateral partners.

These are some examples where the Ministry of Human Rights and Refugees is coordinator in implementation of the projects aiming to make easier approach to guaranteed rights of displaced persons and refugees.

If we keep in mind that most of those projects are under entities' competences and that numerous domestic and international, governmental and non-

governmental organizations and institutions are dealing with them, it is clear what capacities are needed in order to drive and coordinate the whole process.

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

Limitations come from the constitutional provisions, and the Ministry of Human Rights and Refugees has no possibility to implement directly the projects of return and reconstruction in BiH and especially the projects of infrastructure.

**6. Please provide information on measures taken to improve the situation of the Roma, especially with regard to tackling discrimination they face in accessing education, housing, employment and social protection. Details on the implementation of the Action Plan on the educational needs of Roma and other groups would be welcome. Finally, please inform on the planned modalities of the implementation of the newly designed National Strategy for Roma (allocation of responsibilities, funding, calendar, etc).**

**Response:**

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

Roma problem in BiH and the necessity to deal with it according to the needs of this national minority and in compliance with European standards.

The awareness and commitment of relevant BiH authorities, primarily of the BiH Ministry of Human Rights and Refugees, to resolve the problems that have been identified among the Roma population, to make all efforts to emancipate this national minority, to ensure the full equality of its members and to make them equal in their rights and duties with other constitutional peoples, is the “cradle” of BiH Roma Strategy, which is designed to resolve the Roma problem. A driving force behind this Strategy is a strong motivation to define all the problems and challenges that BiH Roma are facing with at the beginning of the third millennium, to develop the guidelines and determine the approaches as to how to address the problems, as well as to identify addresses, institutions, civil society bodies and authorities which are empowered and obliged to deal the Roma issues in order to resolve them. The Strategy identified 15 areas with the most numerous challenges for Roma population in BiH which require concrete and operational activity plans. The implementation of these plans can bring about nothing less than an improved social status for the Roma minority. There is almost no vital question that has not been addressed by the Strategy; all the problems that Roma are having here and now have been identified in this document and addressed through the commitment to overcome the hurdles that Roma are faced with as they progress towards the full social affirmation and equality. That is exactly why there have been as many as 15 areas identified, which is far more than in any other similar strategy or an action plan addressing the Roma issues in the countries of the region, and far more than required for accession to the Roma Decade.

Finally, these 15 vital areas in which Roma are facing problems include: education; employment; housing; health care; social security; civil registration and identification documents; census; participation in and partnership with authorities; organisation and networking of Roma and other NGOs dealing with Roma issues; information; maintenance and improving cultural identity and tradition, customs, religion, learning Roma language, history, art and culture and establishing religious and cultural institutions and associations; cooperation and exchange of experience with Roma and other NGOs from neighbouring and other countries and international organisations; demographic and population policy; family relations; gender equality; children’s rights; non-discrimination and raising awareness on the necessity of Roma inclusion in all social process in BiH.

As mentioned above, the BiH authorities have already, at different organisational levels and even without the concrete action plans, carried out a number of activities aimed at improving the legal-political and the socio-economic and infrastructure position of the Roma minority in BiH. I would like once more to underline that the experience with the Education Action Plan can and should be edifying and applicable. Apart from that, the successful activities, which, of course, could not solve all the problems, have been carried out to date in the area of civil registration and identification documents which include the identity cards, health booklets, driving licences and similar. Other activities included the mapping of the housing situation and accommodation needs of

Roma population, examining the employment opportunities, small business opportunities, and loan prospects for Roma population. However, a lot of these activities were sporadic, spontaneous and a matter of understanding and goodwill of individuals, local and lower-ranking officials in the governance structures and public companies and services. In order to overcome these unstructured and ad-hoc activities and not to leave everything to the will of current governing structures and understanding of individual ministers or local politicians, it is necessary to adopt action plans which would serve as concrete operational reminders for steps and measures to be undertaken in particular spheres of life in order to improve the Roma position. In other words, it is necessary to establish a system, to set the rules and determine the obligations of authorities and deadlines for their completion, to name those in charge and monitor the implementation of the plans on a regular basis.

The action plans in the areas of employment, housing and health care are on the top of the agenda. The BiH Roma Strategy has already provided some indications, drafts and the inventory of activities to be undertaken by the BiH authorities in all the areas, which require the adoption of the action plans. That means that in terms of concretisation and making the measures and steps in the spheres of employment, housing and health care operational, a starting point has already been established. The authors of the action plans need to take into account the contents of the Strategy having in mind that the BiH Council of Ministers adopted this Strategy and made it obligatory for all the institutions and authorities in BiH. Basically, the Strategy will be the starting point for the development of the action plans which need to fully correspond to the real situation, and which will not be only a wish list of what should be done, without naming the activity holders, the resources for funding of some of the activities, the monitoring bodies and similar, but which will instead directly indicate who is responsible for what.

Only with such action plans it can be expected that the authorities, especially those at the local level, who are responsible for a major portion of issues to be addressed, accept and incorporate them into their work programmes and budgets. Once the action plans are prepared, funds for their implementation need to be secured. It will be possible then to seek the additional funds from the World Bank and other financial organisations and institutions, and, as you already know, the donation of funds is conditioned with the drafting of 4 action plans, which are, at the same time, the requirement for accession of the country to the Roma Decade. BiH has already developed, formalised and started with the implementation of the Education Action Plan. Clearly, the drafting of these documents requires the involvement of the Roma civil society, their associations and NGOs. It is thus very important that the lawful and legitimate representatives of the Roma minority take part in these activities in accordance with the appropriate criteria and in an applicable manner.

In order to successfully complete the drafting of the action plans and to secure the support of relevant authorities, notably that of the BiH Council of Ministers, it is necessary that these activities be coordinated by the BiH Ministry of Human Rights and Refugees with the support provided by the entity ministries, offices, funds and agencies dealing with the issues of employment, housing, health

care and other. As these action plans are, *inter alia*, the requirement for the accession to the Roma Decade, they need to be drafted and adopted by the end of 2007, at the latest. It should be kept in mind that, if BiH wishes to accede to the Roma Decade, all the documents not only need to be in place in good time, but also published and made publicly available and that their implementation commence, and the will of all BiH authorities clearly demonstrated and expressed in terms of their commitment, ability and capacity to successfully resolve some specifically Roma-related problems.

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

To that end, the BiH Ministry of Human Rights and Refugees has already undertaken some concrete activities for the preparation of the action plans in the following order:

- The BiH Ministry of Human Rights and Refugees and the UNHCR initiated the Conference on the National Roma Strategy in Bosnia and Herzegovina – the development of the action plans - which took place in Mostar on 19 – 20 June 2006. This two-day conference brought together relevant representatives from the state, entity, cantonal and municipal level, including also the representatives of the international organisations. The conference aimed at initiating the process of development of concrete action plans addressing the health care, housing and employment issues with a view to implementing the BiH Roma Strategy. The necessity of establishing the three working groups for the three mentioned areas and securing financial support of international organisations to the Ministry in the process of drafting the action plans was acknowledged at the Conference.
- In September and November 2006, the UNCHR and the BiH Ministry of Human Rights and Refugees organised two donors meetings with the representatives of international organisations, at which the international organisations supported the funding of those action plans in which they were interested (e.g. the SIDA and the UNHCR supported the action plan addressing the issue of housing, the UNICEF supported the health care, while the World Vision expressed its readiness to support all three action plans). It was agreed to establish the Steering Committee in charge of coordinating the preparation of the three action plans.
- On 4 December 2006, the BiH minister of Human Rights and Refugees, Mr. Mirsad Kebo, rendered a Decision establishing three working groups

in charge of drafting of the Health Care, Housing and Employment Action Plans for Roma.

- In January 2007, the SIDA and the World Vision informed the Ministry of that the funds for the preparation of the Action Plans were approved in accordance with the set-funding plan.
- The Steering Committee was established at the first meeting held on 30 March 2007. On that occasion, the authorised representatives of international organisations signed the Memorandum of Cooperation as an expression of their support to the mentioned action plans. All representatives of the international organisations and institutions, donors and other participants unanimously supported the nomination of Mr. Slobodan Nagradic as a coordinator of the Steering Committee, bearing in mind his great experience and involvement in Roma-related issues in BiH.
- The Round Table under the title "Roma in BiH Society: translating policy into practice" was held on 11 April 2007. The support was expressed to the action plans working groups and the need to innovate the Education Action Plan for Roma and other national minorities in BiH, which was adopted in February 2004, was stressed at this Round Table.
- In May 2007, the Financial Agreement on the Housing Action Plan was signed between the BiH Ministry of Human Rights and Refugees and the Swedish International Development Agency -SIDA. The Agreement covers the period from 1 April 2007 to 1 October 2008, during which it is expected that the plan will be drafted and that its implementation and monitoring will begin.
- The signing of the agreement with the World Vision is expected beginning of June 2007. Irrespective of the agreements with international organisations and their signing, the activities on the development of the action plans have commenced and are going as planned.
- Meanwhile, the two meetings of the Health Care Working Group were held in February and May 2007. The first meeting of the Housing Working Group is expected to take place in June and the meeting of the Employment Working Group is also probable. A joint meeting with the majors of municipalities with significant Roma population has also been planned.

In my opinion, positive results have also been achieved in terms of meeting the information needs of national minorities. Several electronic media including the Republika Srpska Radio Television - RTRS and some other regional and local radio and TV stations have for already two years been broadcasting the programmes for national minorities and on the life and work of their members. Several local radio stations periodically broadcast the programmes in the Roma language, and upon the initiative and with the financial support of the National Advisory Board on Roma of the BiH Council of Ministers, a special education

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

### **PART III**

#### **Response of the NGOs, the State, Entity and Cantonal Ministries and the BiH Roma Council**

**When preparing their reports, the NGO sector, the state, entity and cantonal ministries and the BiH Roma Council were requested to provide answers to the Advisory Board's questions, as well as to submit their proposal and observations that would help improving the position of national minorities in BiH.**

This section of the Report provides the most relevant proposals, opinions and observations made by the ministries and the NGOs (in an abridged form), as well as the full version of the opinion presented by the Roma Council of Bosnia and Herzegovina.

#### **The Ministry of Labour, Social Policy, Displaced Persons and Refugees of the Sarajevo Canton – Sarajevo:**

In accordance with the applicable legislation, the national minorities are not discriminated against in any of the areas that fall within the competences of this Ministry, these being the labour, the social policy and displaced persons and refugees. It has been stressed that all the citizens of Sarajevo Canton, irrespective of the fact whether they belong to the constitutional peoples or the national minorities, exercise their rights under the same set conditions, therefore, we believe that the national minorities exercise their rights in accordance with the European Human Rights Convention and thus in accordance with the legal acts that you have listed in your questionnaire.

In accordance with the provisions of the Law on Displaced Persons - evictees and Refugees – returnees in the Sarajevo Canton, the Ministry of Labour, Social Policy, Displaced Persons and Refugees of the Sarajevo Canton has so far directly or in cooperation with other authorities took part in the activities on reconstruction of the pre-war settlements for the displaced persons in Sarajevo Canton, as well as in the reconstruction of the pre-war settlements for the displaced persons residing in Sarajevo Canton and returning to Republika Srpska or to the Federation of Bosnia and Herzegovina. The Ministry has also taken part in the following sustainable return programmes in Sarajevo Canton:

- the project of production and processing of the eco-buckwheat
- the formation of agricultural cooperatives,
- raising the livestock (the distribution of the cattle to the returnees), the reconstruction of the electrical network, roads and other individual cases in relation to the support to sustainable return.

Starting with that fact that the Roma national minority is socially the most vulnerable category of population, and that in carrying out our duties we have had the opportunity to realise the necessity to systematically resolve a number of issues and problems of Roma in Sarajevo Canton.

It is also stated that the proposal contained in the BiH Roma Strategy has been supported by the authorities of Sarajevo Canton and municipal authorities, as well as by the local self-governance bodies, owing to its professional and thorough approach to addressing all the Roma-related issues in BiH.

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

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

**The Cantonal Ministry of Education, Science, Culture and Sport of Una-Sana Canton – Bihac:**

On the issue of “two schools under one roof”, it can be said that no similar problems have been identified in Sana-Una Canton to date. Although the children of all three constitutional peoples attend their schools there have been no problems of segregation and discrimination there. In their opinion, such an approach is inappropriate in the modern education trends and more should be done to raise the awareness of people in order to eliminate such bad practices.

In terms of implementation of the Law on Education with a stress on national minorities, Una-Sana Canton has no problems in that area either. The returnees population have been duly informed of the children’s rights and the school programmes have been tailored to their needs. The national group of teaching subjects is being carried out according to the expressed needs, including the religion.

When it comes to Roma children, they are mostly present in schools in Bosanska Krupa, Bosanski Petrovac, Bihac and Kljuc. The Government of Una-Sana Canton has been occasionally allocated the funds for the procurement of schoolbooks and accessories, as well as the sandwiches and insurance. Following the adoption of the Roma Action Plan, the Ministry has organised several round tables with the participation of all stakeholders. The implementation of the Action Plan is very demanding when it comes to the Roma language and culture due to the lack of qualified teaching staff. The Ministry is willing to provide the support, however, due to the budgetary constrains the space for normal functioning remains very limited.

They also pointed out that owing to the “Right to Education” project, which is financially supported by Save the Children Norway, they have managed to enrol certain number of Roma children, and that Roma children also attend the secondary schools, such as the technical and art secondary schools.

### **Posavina-Orasje Cantonal Government**

In accordance with the Law on National Minorities, the members of the national minorities and the categories falling under the Constitution within the “Other” are equal in their rights with other constitutional peoples. The National Minority Council has not been established yet. The Government makes all efforts to ensure that no individual is discriminated against including the members of any constitutional people. There is no such school as is the “two schools under one roof” on the territory of this Canton. The Government’s position is to enable the return of all displaced persons and refugees including those who do not belong to the majority group of population. There is no discrimination against Roma, on the contrary, our Roma do not live in tents and the majority of them is better well-off than some individuals belonging to the majority groups.

### **The Ministry of Labour, Health, Social Security and Displaced Persons in The Herzeg-Bosnia Canton – Tomislavgrad**

In the Herzeg-Bosnia Canton, the Forum for Returnees, Refugees and Displaced persons has been established which involves the representatives of

the Cantonal municipalities, ministries, local civil associations of returnees, refugees and displaced persons, as well as the representatives of the Cantonal Ministry of Internal Affairs.

The purpose of the Forum is to monitor the safety status of returnees, refugees, and displaced persons, respond to their grievances, and suggest and undertake measures to increase their safety. In the cantonal government's budget estimate for the year 2006, the amount of KM 20,000 has been planned for their alternative accommodation and health care.

### **The Ministry of Science, Education, Culture, And Sports – Livno**

The project aimed at integrating "two schools under one roof" has not been undertaken in schools of the Herzeg-Bosnia Canton. Under the laws on primary and secondary education, minorities are entitled to education in their native language, to religious classes consonant with their religious affiliations, and, on request of the parents, to a set of national subject classes. In the Herzeg-Bosnia Canton there are no students who declare themselves as Roma.

### **The Ministry of Social Security, Health, Refugees And Displaced Persons in The Bosnian-Podrinje Canton – Goražde**

In 2003, Bosnia and Herzegovina enacted the Law on Protection of Members of National Minorities, based on the Framework Convention on Protection of National Minorities, which the country had ratified. The law enumerates 17 national minorities living on the territory of Bosnia and Herzegovina. According to the census of 1991, the number of Roma living in the present area of the Bosnian-Podrinje Canton was 428, or 0.95%. Today the number is estimated to be between 0.1 and 0.2%. As regards access to social support and health care, the situation of national minorities in the Bosnian-Podrinje Canton may be said to be satisfactory, while access to other "social rights" such as employment and economic security has been hampered by the overall socio-economic conditions in the Canton.

With regard to return of refugees and displaced persons, important steps have been taken to create the conditions for sustainable return through projects of restoration and reconstruction of destroyed housing and infrastructure and repossession of property. Problems arising in this regard are various discrepancies between entity and cantonal laws and between systems of health care, education, and pension funds, which put the population of returnees throughout Bosnia and Herzegovina in an unenviable position.

### **The Ministry of Education, Science, Culture and Sports in the Zenica-Doboj Canton – Zenica**

In the Zenica-Doboj Canton, analyses of the Council of Europe Monitoring Mission's directives against segregation in schools and of the degree to which the Decision on Administrative and Legal Unification of "two schools under one

roof” had been implemented established that there was a need to implement the said Decision in Šeher, the Municipality of Maglaj, and in the mixed secondary schools in Žepče. The competent ministry invested considerable funds in the practical implementation of the aforementioned decisions and, through support by the Prime Minister and OSCE, managed to finalize the implementation in the school year 2004/2005. As a result, since 2005/2006 the schools have had a unified administration and management, a common calendar and class schedule, a joint teaching staff, shared school premises, and joint budget planning.

Along with the above-mentioned activities, the Ministry has fully implemented the Criteria on acceptable school names and symbols in educational units under its jurisdiction and has focused on the use of names and symbols which do not offend the sentiments of student populations not belonging to the national minority in any particular school. This has resulted in name changes of schools in the municipalities of Maglaj and Olovo which bore the names of individuals who were actively involved in the past wars.

As regards issues pertaining to Roma population, in 2005/2006 free textbooks and didactic material were provided to elementary school students by the Ministry in cooperation with the cantonal Roma associations (in Zavidovići, Kakanj, Visoko, Zenica) and the Sarajevo Publishing House. The cooperation with Roma associations, as well as with the Roma Center operating in the municipality of Zenica, has continued in the aim of increasing the integration of Romani students in the educational process.

Following the general policies aimed at accommodating for the special needs of returnees, our Ministry has been providing free transportation for students (regardless of economic data on justifiability of particular lines, e.g. the D. Rakovica – Maglaj line and various lines in the municipalities of Olovo and Vareš) and has funded provisions of equipment to local schools and reconstruction projects through capital investment programs of the Zenica-Doboj cantonal government.

### **Media Plan Institute - Sarajevo**

In 2005, the Media Plan Institute and Media Initiatives in Sarajevo initiated a long-term project aimed at increasing the coverage of Roma issues in BiH media. The motivation for this project came from the realization that the specific post-war conditions in the society and the state of Bosnia and Herzegovina had pushed national minorities to the margin.

The Law on Protection of Members of National Minorities (2003) was long awaited, while the corresponding law in the BiH federation is still being considered by the Parliament.

In 2005, the Media Plan Institute conducted a research which showed that none of the TV stations within the public RTV contains a regularly featured program addressing the issues of Roma or being aired in the Romani language. An exception to this is the Republika Srpska Television which has a regular

program devoted to national minority issues and which occasionally features Roma-related content. Roma content was also occasionally featured on three local private radio stations, but this did not become a regular practice. According to this research, information on Romani problems is sometimes provided in radio and TV news broadcasts, mostly as part of reports devoted to specific occasions.

Thus, media coverage exhibits the same attitude to Romani issues as the society as a whole, i.e. one with little initiative and insufficient activity on the part of government bodies on all levels. On the other hand, the most recent analysis shows that in this area things have been changing for the better. The number of reports on Romani social problems have been on the increase in both the written and the electronic media. It is encouraging to see that these reports make strong points against discriminatory practices and contain a harsh warning about social negligence, prejudice, and discrimination-based incidents.

The Media Plan Institute and Media Initiatives have established a quality cooperation with the BiH Ministry of Human Rights and Refugees but have had difficulties establishing cooperation with non-governmental Romani organizations, which in part is due to the lack of an “umbrella” Romani organization and in part to their mutually conflicting interests. A serious problem is the fact that the public RTV service centers have not carried out their legal obligations to incorporate in their programs Roma-related news and other informative broadcasts that would be delivered to the Romani population in their own language. In cooperation with the BiH Ministry of Human Rights and Refugees, USAID Media / Chemonics, and Swedish Helsinki Human Rights Committee, the Media Plan Institute has carried out three research projects which media, in particularly the public service, and the state-run bodies on all levels should use as a foundation for launching initiatives aimed at resolving Roma-related problems.

These three projects are: analysis of presence of Roma-related issues in BiH media, analysis of treatment of Roma-related content by major media in Bosnia and Herzegovina, and a study on the possibility for launching a show on Roma issues in the Romani language on the Public Broadcasting Service – BiH Radio One.

By the end of 2006, they will be working on enabling BiH Radio One to launch regular programs for Roma at the beginning of 2007, and will be assisting two radio stations, Student Radio EFM and Radio Studio 88 in reintroducing the aforementioned features into their schedule.

Taking into consideration the low educational level of Roma in BiH, four workshops have been organized in which members of the Roma nationality were trained to cooperate with the media in order to create a foundation for contacts between the media and the Roma community and for the involvement of Roma in the creation of radio programs.

Conceptually, the proposal is to create combined B/H/S and Roma language programs in order to avoid the ghettoization of Romani issues and at the same

time sensitize the widest possible audience and the public as a whole towards solutions to Roma problems.

These projects have enjoyed the support of Romani associations and have been found to be viable and effective by representatives of the electronic media.

### **Centers of Civic Initiatives**

Under the Law on Amending and Supplementing the Law on Protection of Members of National Minorities ("The Official Gazette of BiH" no.76/05) the Parliamentary Assembly of BiH was under the obligation to pass a decision on the formation of a national minority council no later than by 8 January 2006. The decision was not passed until April 13, and the national minority council has not as yet been established. Unfortunately, the decision does not specify a deadline for the formation of the council; we hope, though, that the procedure of appointing the members of the council will not take too long.

In the Federation of BiH, a procedure towards the enactment of the Law on Government Bodies for the Protection of Rights of National Minorities is underway. A draft version was approved by the FBiH Parliament in March, whereupon, at the initiative of the Centers of Civic Initiatives and the Center for the Promotion of Civil Society, it was put up for public discussion. The public discussion lasted 60 days (with roundtables held in Tuzla and Sarajevo), and ended in mid-May.

The public discussion afforded the national minorities the opportunity to familiarize themselves with the draft law and voice their opinion and proposals on the matter. The report on the public discussion will be submitted to the Ministry of Justice and we hope that the law will soon be considered for adoption by the FBiH Parliament.

Regretfully, the implementation of the Law on the Protection of Members of National Minorities is still not on a satisfactory level. What is needed is an increased involvement of members of national minorities and a stronger support of minority rights by authorities.

### **The Association of National Minorities of Republika Srpska**

The constitutions of BiH and the Entities create the greatest problem in the area of minority rights and discrimination. BiH is the only country on the territory of the former Yugoslavia whose constitutions do not contain names of national minorities; instead, the category "others" is used therein, as if to refer to something marginal and insignificant. This creates the possibility for political parties to manipulate data by subsuming under "others" the persons who chose not to declare their nationality, but who have nothing to do with the actual national minorities in BiH. Despite the fact that the term may have entered the BiH Constitution under the Dayton Agreement, it is still surprising that today's politicians, who are actively drafting the new provisions for the Constitution, are quite insensitive to our requests that the injustice be remedied.

Such attitudes result in a situation in which thousands of national minorities are turned into an unconstitutional category, the category itself is unconstitutional, and that the Law on National Minorities is unconstitutional as well since national minorities are not recognized in the constitution and cannot be elected for governmental office under the interpretation of the Electoral Commission. The Commission takes advantage of this situation to deny the minorities the right to elect their own delegates and thereby be justly represented in governmental bodies.

The BiH Constitution does not provide national minorities with a possibility to hold political offices in a number of governmental structures.

The Constitutional Commission of Republika Srpska has considered amending the Entity Constitution and has acknowledged the objections of national minorities by incorporating in an article of the Constitution the term “national minorities” along with the term “others” for the few members of national minorities and those who do not wish to declare their nationality. Unfortunately, this was not acceptable to the Commission of the BiH federation, and in this they were supported by the High Representative, Mr. Petrić; the effort of RS eventually failed, to the great disappointment of thousands of members of national minorities in RS. The disappointment is still felt today when politicians who are involved in debates on constitutional changes do not even bother to ask the national minorities about what they might have objections to and why; instead, they have it their own way, and do as they please.

2. Is it, then, our lack of legal expertise, or is it something else which, based on the aforementioned considerations, makes us believe that the Law on the Protection of Members of National Minorities in BiH, and consequently in RS as well, are unconstitutional, or are they not? (the BiH federation has not yet enacted such a law although the deadline has long passed).

National minorities in RS are satisfied with the Law on protection of National Minorities which was adopted in 2004. We had worked on the text of the Law jointly with the RS government’s Ministry of Administration and local self-governance, and the Law was passed by the National Assembly in December 2004 with a single vote against. The single remaining objection raised by national minorities is the failure to incorporate a provision on a minority council associated with the RS National Assembly and to specify the number of the council members. This turned out to be a problem when the Personnel Office refused to put forward before the Assembly the proposed appointment of the council on grounds that there was no corresponding provision in the Law, which in effect created the need for another amendment procedure. The Association of National Minorities had submitted the list of its candidates for the Council in due time.

Similar problems beset the Decision to Appoint the National Minority Council in the BiH Parliamentary Assembly. This Decision does not specify when the Council is to be established, nor does it say how many members of the Council will come from RS and how many from the Federation; in addition, the appointment of the Council has been procrastinated with no end in sight. The Council and the House of Peoples include representatives of national minorities

as well as those who have nothing to do with the minorities and whose only right is to vote for “the constituents”; they are not concerned at all with the minority problems and have never even contacted any of the minority associations during the their entire term of office, which is understandable given that they must represent the political parties which appointed them rather than the national minorities whose seats they have taken.

3. The electoral Commission and the Electoral Law is a story for itself. Amendments to the Law on Local Elections is fair to the national minorities. However, the minorities have been manipulated again by the Electoral Commission, this time only as a matter of two days. They said that the deadline for the verification of candidates was May 15, and that the “permission” for the minorities’ own lists was given until May 17. In effect, these two days prevented the minorities from having their representatives in municipalities in which they constitute a substantial part of the population. Aware of the possibility of such manipulations, the minorities had prepared their lists with 10 candidates who had been verified and were eligible to enter the local administrative bodies. The law on National Minorities provides for such a possibility. Apparently, the Electoral Commission need not concern themselves with the Law on National Minorities since the minorities are not a constitutional category. Our proposal was to eliminate from the provision the “local authorities” part; however, we were told that this could not be done without first changing the Constitution and was therefore not to be considered in debates on Electoral Law. In effect, the minorities will again be left without their representatives in bodies where decisions are made on what rights the minorities are supposed to have. One of the basic political rights, namely “the right to vote and to be voted for” has thus been reduced to just the first half.

4. As for the attitude of politics and politicians to national minorities, we can say that their attitude has been commendable. With a few exceptions, they have proven responsive to our problems and have enabled us to exercise most of the rights that we are entitled to, which cannot be said for the rights that are supposed to be exercised on the state level (through the Constitution and the Electoral Laws).

5. Access to education in the minorities’ native languages has not yet been established, although provisions to that effect exist both in the Law on national Minorities and in the laws on primary and secondary education. National minorities themselves bear a part of the responsibility for this situation, since they do not seek realization of rights that have been granted to them. No problems have been reported in regular school activities of the common educational system.

6. There are thirteen larger national minority populations in Republika Srpska, eleven of which have established their associations, who exercise most of their rights on the basis of the European Convention on Rights of National Minorities. Frequent contacts with their parent countries have helped them preserve the sense of national origin, as well as their mother tongue, customs, religion and culture, and they have been aided in the process by local and Entity authorities who provided office space and financed their expenditures and activities.

Particularly commendable in this regard are the municipalities of Banja Luka, Prijedor, and Prnjavor, and to a lesser extent other municipalities whose minority populations are less numerous. In addition, the Ministry of Education and Culture and the Ministry of Administration and Local Self-Governance have regularly allocated funds in their budgets for cultural activities of national minority associations.

Apart from Roma, the number of national minority returnees in this area is almost negligible. Returnee issues are resolved on individual basis, in the same way as for members of the constituent peoples.

As for Roma, they raise specific issues and their problems, which are predominantly social in character, are resolved as well as the conditions in the relevant local communities tend to allow; the files of the Council of Roma contain a number of data in this regard.

7. As for media coverage, the Republika Srpska Radio and Television public service features regularly scheduled programs on national minority problems in addition to reporting on our activities in the general program. Wednesday morning broadcasts provide news on minority activities, while a regular half-hour show "Bono home" which contains in-depth reports on life, work, and rights-related issues of national minorities in Republika Srpska is featured every other Saturday at 6:35 pm. A half-hour (sometimes longer) radio show airs every Saturday morning at 9:00; its first part addresses minority rights issues while the second part presents activities of national minority associations. All television and radio outlets, as well as the daily press, regularly inform the public about important minority-related events.

8. Cooperation with other non-governmental organizations. – The national minority associations and organizations in Republika Srpska have established cooperation with other organizations, in particular the Helsinki Citizens' Assembly in Banja Luka. Thanks to the cooperation between the Association and this organization, which for three years now has been financed by the European Union, there have been many accomplishments in informing the public, training the association members, fund raising and other areas of importance to the life and work of national minorities. Within this project the RS National Minority Association has published 14 newsletters entitled "The Word of National Minorities". Associations of Czechs, Ukrainians, Slovenians, and Hungarians regularly publish their own newsletters.

### **The Council of Roma in the Federation of Bosnia and Herzegovina**

Roma, traditionally a peaceful nation, have their origin in the area of the present-day India. On first signs of discrimination or persecutions, they left India and, in pursuit of prosperity and better living conditions, decided to settle in Europe. First records of Roma settlements in Europe date back to the area of Transylvania (Romania) in 1416, while the chronicle of the city of Forli (Italy) mentions them in 1422. The official records of Roma in Bosnia and Herzegovina date back to the beginning of the 16<sup>th</sup> century during which Sultan Pasha Suleyman the Magnificent approved their settlement and land cultivation on parts of his *pashaluk* with the obligation to pay taxes.

Due to resistance of indigenous populations, Roma were frequently forced to change locations of their settlements, as a result of which the adjective “nomadic” became permanently associated with their lifestyle. This perception about Roma is still prevalent in literature and among people who refer to them as *Čergari* (*čerga* = cart).

Discrimination, intolerance, mass slaughter and persecutions have to this day marginalized the Roma population and caused them to be perceived by many as unacceptable, unequal and less worthy people in areas where they decided to settle.

Today, at the onset of the 21<sup>st</sup> century, Roma found themselves living below the minimal standards of social, economic, educational, and cultural prosperity of civilized men.

The official census of 1991 estimates the Roma population in Bosnia and Herzegovina to be around 9,000. On the other hand, statistic records of non-governmental Romani organizations set the number at present to be somewhere between 75,000 and 100,000. This shows that the treatment of Roma in Bosnia had been like everywhere else in the world. For fear of being left behind in the socio-economic progress, Roma in Bosnia had tended to declare themselves as Yugoslavs, Muslims, Serbs, Croatians, or “undecided”.

The war in Bosnia caused large-scale displacements of the Roma population and the consequent changes in terms of their residential address. It is estimated that during the war more than 1/3 of Roma emigrated from Bosnia and Herzegovina, while at the same time more than 85% of those who were unable to leave for other countries moved from the territory of Republika Srpska into the Federation.

People with unresolved housing problems are by far the most endangered category of the BiH Roma population, with more than 70% of them homeless, and with a very low percentage of returnees to pre-war settlements.

Roma are subject to frequent evictions and address changes, which makes it difficult for them to provide regular education to children and obtain official social documents. During the war, Roma settlements were totally destroyed, whereupon the locations were used as storage sites of various companies, or were declared to be water supply or “buffer” zones. Alternatively, they were taken by non-Roma population, or were claimed as property by Municipal authorities, etc.

Reconstruction of Roma family houses and apartments is at its lowest in Bosnia and Herzegovina, and the agreements/promises made in this respect by with the Ministry of Social Support, Politics, Refugees and Displaced Persons have not as yet been carried out. In contrast, returning populations of constituent nations have been provided with new settlements which did not exist on these areas before the war and which in some cases were built without the required construction or zoning authority licenses. The only bright example of the

involvement of local authorities in efforts aimed at resolving the Roma housing problems is one carried out by the Municipality Center in Sarajevo, which has effectively used a donation by Dutch government to build 30 apartments for Roma in the Gorica section of the city. Regrettably, this is the only such example in Bosnia and Herzegovina.

As regards education, the pre-1992 statistics shows that about 36.5% of Roma children were regularly involved in educational programs, whereas the number in the period since 1996 has dropped to barely 12.5%. A noticeable increase in Romani children enrolment in primary and secondary schools was observed in 2003/2004. In the same year, no more than 4-5 Roma students enrolled higher degree educational programs, and these were the students coming from well-to-do Roma families. In one case, a student's application was accompanied by a supporting letter from the Ministry of Human Rights and Refugees, and the student was successfully enrolled.

This low response and involvement of Roma children in the educational process is another consequence of various negative factors which ranging from lack of personal identification cards and birth certificates, housing problems, unemployment of parents, inability to provide for textbooks, gear, and meals, to discriminatory practices towards Roma children in certain communities. On the other hand, one should be realistic and point out that some Romani families show little interest in regular and continuous education. Most female children do not go beyond the third or fourth elementary grade.

As we observed, there was a noticeable increase in the enrolment in 2003, which is primarily due to cooperation between the NGOs, the BiH Council of Roma, the Advisory Board on Roma within the Council of Ministers, the OSCE Mission in Bosnia's Education Unit, Save the Children UK, etc.

In 2003, the OSCE Mission in Bosnia and Herzegovina launched a number of initiatives within the educational reform project and undertook a number of activities aimed at defining the educational needs of Roma and other national minorities. Besides the OSCE's representatives, these projects included members of all organized national minorities in BiH, educational bodies in BiH such as ministries and school representatives, the BiH Ministry of Human Rights and Refugees, and NGOs involved in Roma issues. After a number of workshops, an Action Plan was drawn up on the educational needs of Roma and other national minorities in BiH. The Action Plan was presented at the meeting of the Entity and Cantonal ministers of education which was held on 17 February 2004. The plan was signed by all the ministers who in effect undertook to ensure its implementation by all educational institutions and ministries in BiH.

By some statistics, the Roma employment in BiH in 1992 was 17%, whereas today's employment figures in the public sector and state-owned companies do not even reach 1%. The socio-economic outlook of this population has drastically deteriorated, for reasons having to do with inactivity of state-owned companies, unresolved employee status and, in particular, with discrimination against Roma applying for readmission to earlier employment and unequal treatment of Roma applying for public and other job vacancies.

During the war in Bosnia and Herzegovina, most workers from the Roma population have responded to the military conscription but were subsequently denied the opportunity to regain the earlier employee status. They are now names on “waiting lists”, having been dismissed from jobs without severance accommodations or payments based on years of previous work. The only thing that some of them (mostly younger people) managed to obtain from the Employment Bureaus are the medical record cards.

The status of newly employed Roma workers does not warrant much comment, as these are practically nonexistent. Most companies have been privatized, making it practically impossible for Roma to get hired. This has led many young and capable Roma to leave the country in search of employment.

**More than 85% of Roma aged between 15 and 65 do not have social or health care coverage**, the percentage being somewhat higher for other age categories. This catastrophic situation has resulted in deaths of young children who were denied medical help for not having a medical card or some other form of health care protection. A large number of Roma are refugees or displaced persons who have been unable to obtain the official refugee or displaced person status and thereby ensure an adequate health protection for lack of officially processed pre-war documents and unresolved property rights. Obtaining health care through applications with the Employment Bureaus is impossible without a permanent home address. The causes of problems in this area can be traced to their not being properly defined in the health care laws of individual cantons or, in Republika Srpska, municipality divisions.

Some maternity clinics do not furnish birth data in cases where Romani women fail to pay the hospitalization expenses, thus leaving their children without an entry in the birth register.

Apart from a single delegate, the politically unorganized Roma have not had their representatives on any level of the BiH government, which, according to NGOs, is another source of a difficult Roma situation in Bosnia and Herzegovina.

The Dayton Peace Accords and the creation of “Dayton Bosnia and Herzegovina” resulted in the Constitution of Bosnia and Herzegovina which specifies “Bosniaks, Croats and Serbs as constituent peoples, along with Others....”

Thus, this Constitution, as well as the constitutions of the two Entities - the Federation of Bosnia and Herzegovina and Republika Srpska - classifies national minorities among “Others”, failing to identify who the others are and how their rights and responsibilities are to be defined.

Bosnia and Herzegovina ratified the Framework Convention on Protection of Rights of National Minorities whereby it undertook the obligation to protect the rights of national minorities, including Roma as the largest national minority in the country. As a result of this act, the BiH Law on Protection of Rights of

Members of National Minorities was passed on 1 April 2003. This Law provides a more specific characterization of rights and obligations of national minorities, as well as an alphabetical list of the seventeen minorities, a point to which we will return. It should be noted at this point that, with the exception of Roma, all national minorities and Herzegovina have their embassies or consular offices in Bosnia.

According to the official census from 1991, Roma population in Bosnia and Herzegovina is estimated to be around 9,000, which is not even close to the actual number of the present population. Statistics gathered from Romani non-governmental organizations (of which 40 are currently registered in BiH) estimate the number to be between 75,000 and 100,000. The discrepancy between these figures is the result of years of discrimination against Roma as well as their reluctance to declare themselves nationally. Evidence to this claim is the fact that Roma do not have their representative on any level of the government and are not politically organized. In fact, it was only in 2003 that their one and only political party, the Democratic Party of Roma in BiH, was registered.

Until today, individual cases have been noted in which Roma were on candidate lists in local elections, but this failed to produce any significant result in terms of their actually being elected. In most cases, the candidates served to demonstrate the "civil" orientation of political parties which used them as an instrument to win Romani votes. Otherwise, the Electoral law does not allow members of national minorities to run or be elected for high political offices, which are reserved for members of the constituent peoples. Evidence for this claim, for example, is provided by the structure of the House of Peoples, which consists of 15 delegates (5 from each of the three constituent peoples), and the tripartite Presidency which includes one representative from each of the three constituent peoples.

The latest example of discrimination against national minorities in BiH is the position of the Minister of Defence, an office available only to members of the constituent peoples and inaccessible to the minorities; at the same time, military service is mandatory for all. In the interest of truth, we should note that, with the exception of Roma, all national minorities are in one way or another represented at various levels of the government, but not on the basis of the Framework Convention or the Law on Protection of Members of National Minorities. This claim is supported by a number of such employees in public state-run institutions.

The institution of Ombudsman, which was established in order to protect human rights and liberties, is also discriminatory in terms of its personnel structure, as here too the posts have been reserved for the members of the constituent peoples (one each from the Bosniak, Croat, and Serb constituencies). There is a large body of materials pertaining to requests for help from this institution, and a sizable volume of the processed cases, particularly those referring to Roma complaints about property rights. However, the opinion and decisions received from these institutions has frequently been ignored by the local authorities,

which shows the degree of authority that this institution can be claimed to actually have.

As regards the period following the ratification of the Framework Convention, it may be stated that:

- The implementation of the Framework convention in BiH has been slow and insufficiently specific;
- The implementation of the Framework convention has been restricted to members of the constituent peoples which “felt like minorities” in Entities in which they did not constitute a majority (fortunately, this privilege has been abolished by amendments to the BiH constitution).
- The implementation of the Framework Convention and the Law on Protection of Members of National Minorities has been made conditional upon the Constitution and other applicable laws in Bosnia and Herzegovina.
- In the international forums, the implementation of the Framework Convention and the “achievements” in this regard have been misrepresented to the international community and used by BiH representatives as a screen for accomplishing “higher goals”

The ratification of the Framework Convention and the adoption of the Law on the Protection of Members of National Minorities are regarded by BiH Roma as positive steps towards realization and protection of basic human rights of national minorities, and accordingly of Roma as well, despite the fact that the Law itself does not define or provide for a solution of certain issues.

The public debate on the draft version of this Law had been used by the proposing bodies (of which there were four: the Parliamentary Assembly of BiH, its president as a separate proposing party, the BiH Ministry of Human Rights and Refugees, and a group of delegates from HDZ) as an opportunity to secure more electoral votes, particularly during the election campaign. That this is true is obvious from the fact that, although members of national minorities had taken active part in the public discussion, their suggestion on how to improve on the amendments were treated as mere proposals without a possibility of being incorporated into the Law and despite the fact that they had been put forward by those for whom the Law was apparently being formulated in the first place. This is particularly relevant to the sections on the distribution of powers and on introduction of minority languages in the educational system.

Thus, under the current Law on the Protection of Rights of National Minorities, a member of a minority cannot exercise his or her right to participate in the distribution of powers in BiH, as this has been more precisely defined by the Electoral Law of BiH in which only the members of the constituent peoples are recognized as eligible for higher political offices in the state and the entities. This, of course, is discriminatory against national minorities. The principle of proportional representation in the overall population on the local, Entity, and State levels does not allow the minorities to participate in the sharing of powers since under the official statistics none of the minorities is large enough to share in the power structures. This is because the Law on the Protection of Members of National Minorities is based on the census from 1991.

The only possibility is to have one delegate appointed on the level of national minorities; however, Roma do not take this to be an adequate representation, given that in the past such representatives have only been concerned with the interest of their own group. An example of such a representation is provided by the former president of the BiH Federation, Ejup Ganić, who used to declare himself as “Yugoslav”, i.e. as a member of a group which is not recognized or mentioned in the current Law on Protection of Members of National Minorities.

The rights granted to national minorities have in reality been exercised by members of the constituent peoples which do not constitute the actual majority in a particular area. In this way the members of the constituent peoples have enjoyed combined benefits of both the majority and the minority rights at the expense of the national minorities for whom the Law was enacted in the first place. For example, the funds provided by international donors and foundations for the purpose of addressing the minority have been used by members of the constituent peoples that were in the minority in the Entities, or by those who declared themselves as belonging to a minority group although in all other respects they enjoyed the rights of the constituent peoples. This has also been used as a way of securing extra seats in the Parliament, and their voice has always been for the benefit of the members of their own “confession.”.

The implementation of the Framework Convention and the Law on Protection of Members of National Minorities have regularly been made conditional upon the implementation of the Constitutions, the Electoral Laws and other applicable laws in Bosnia and Herzegovina.

Neither the Dayton-based Constitutions in BiH and the Entities nor the Electoral Law provide a clear definition of national minorities. In most cases the issue is left to be elaborated in subsequent legislation. However, this calls into question the implementation of the Framework Convention since, in addition to the 3,000 existing laws, Bosnia and Herzegovina would need at least as many new laws which would precisely define a particular area or issue.

The progress of Bosnia and Herzegovina toward European integrations is conditional upon its protection of human rights and liberties. The Law on Protection of Members of National Minorities and the Advisory Board are often referred to as democratic steps that have been taken in this direction. Namely, Roma in Bosnia and Herzegovina have established the Council of Roma in BiH as a representative advisory body whose work has also lead to the establishment of the Advisory Board of Roma within the BiH Council of Ministers.

In the relevant Decision by the BiH Council of Ministers, the Board was established with a 4-year term of office and the Decision presupposes financing of the Board by the Government. The Board includes nine members, as well as representatives of the relevant ministries (3 from the State and 3 each from the Entity ministries).

The Board's Working Plan and Program for 2002-2006 was presented to and adopted by the BiH Council of Ministers. However, even though 18 months have passed since that time, the Board has not yet been incorporated into the State Budget. The Budget revision in 2003 set aside KM 30,000 to refund expenses related to travel, translation, and document publication (The Law on protection of members of National Minorities was published in English, Romani, and the three official languages), a football game between the Roma associations team and the national team of Hungary, as well as travel expenses incurred in 2002. The financing of the Roma Council of BiH, which was founded on 11 November 2001, has had a similar fate. Until today, the only financial support provided to the Council was one from the Soros Foundation in 2003, which was used to organize an NGO convention, to cover the travel and luncheon expenses of Council members on five meeting occasions, and to equip the Council's Office in 2003. At the time the Council was established, a promise was made that it will be funded and incorporated in the Budget as a partner involved in the joint project of solving the Roma problems in BiH.

On the other hand, these two bodies are being shown to international institutions as examples of the freedom of association and a successful Framework Convention implementation. In the reality of our social-political life, neither the Framework Convention nor the Law on the Protection of Minorities are being implemented in any real sense (though it is true that the Law was not enacted before May 2003). To date, the only ministry that has acknowledged the importance of these acts and accepted the partnership role of the Council and the Board of Roma has been the BiH Ministry of Human Rights and Refugees.

The government agencies on all levels show little interest in establishing cooperation with local Romani communities. Nor do they accept either of the aforementioned bodies (the Council of Roma and the Advisory Board within the BiH Council of Ministers) as partners in the project of securing human rights and liberties to the Roma national minority in BiH. In contrast, other countries in the region provide state support to such or similar bodies and have set aside special purpose funds by which to finance Romani projects and NGOs.

The press and media in Bosnia and Herzegovina act as if they have never heard of the Framework Convention on the protection of rights of members of national minorities (here we have in mind public services in the State and the Entities). Until today, not even one of them has provided a space in their program schedule for reports on political or cultural issues of national minorities that would be aired in the minority's native language. Public outlets are the best indicator of the degree to which minority rights are observed and the framework Convention implemented in BiH, as they are still in hands of the constituent peoples who are involved in power structures on all levels. On the other hand, subscription fees for Radio and TV programs are mandatory for all.

In contrast to the State and Entity-controlled public Radio and TV services, some outlets in the city of Sarajevo have made it possible for national minorities to air shows in their own language. Most prominent among these is the Student

EFM Radio which provides access to all interested national minorities, but no less important in this regard are Alfa TV in Sarajevo and Ask Radio in Ilidža.

When discussing the written media, one should note that they are as objective as the politicians who control them allow them to be. One feature that appears to be more noticeable than before is that nationality is typically given alongside the name of a person who has “transgressed against the law”; on the other hand, when a member of another nation performs a good deed, the nationality is left out. In this way the media in BiH create hatred and intolerance between members of different nations. If a Roma man offends or transgresses against the law, his ethnic background is always given, just as it for Serbs in the Federation or Bosniaks in Republika Srpska. In both Entities the ethnicity of Roma who are presented in a negative context is always mentioned. One should note that there are media in BiH whose professionalism will come to the foreground once the nationalistic parties which currently rule the country have left the political arena.

Bosnia and Herzegovina is a country in which human rights and liberties will be restricted and denied for a long time to come, and there is no near end in sight to ethnic hatred and intolerance, corruption and crime, which are often backed by top State and Entity officials, as well as by those operating on lower administrative levels.

It is to be expected that the international community and its organizations, along with the governmental and nongovernmental organizations which concern themselves with the protection of human rights and liberties, will take steps to steer Bosnia and Herzegovina towards respect for man as a standard of quality and ability and towards mutual respect and tolerance regardless of one’s skin color or one’s racial or ethnic or political affiliations, though these are issues that will not be marginalized in Bosnia and Herzegovina for some time to come.

**Simply stated, Bosnia and Herzegovina is still not a country with a clear orientation to European integrations, nor has it developed awareness of civilized relations in which people respect each other as equals.**

#### **PART IV**

**The position of the BIH Council of Ministers on remarks and suggestions received from the association of national minorities, the Council of Roma, and the representatives of national minorities.**

The Council of Ministers of Bosnia and Herzegovina and its Ministry of Human Rights and Refugees wish to note that they have undertaken the obligation to take concrete measures toward protection and promotion rights of national minorities, to resolve problems facing the national minorities today, and to persevere in efforts to ensure full implementation of the Law on Protection of Members of National Minorities. We are aware of the fact that the implementation of this Law and provisions of the Framework Conventions are complicated by the lack of reliable data. The last official census was conducted

in 1991, i.e. before the war, and the data contained therein are not even close to being a true reflection of the current demographic situation in the country. The need for a new census is obvious, particularly from the point of view of national minorities. On the other hand, the 1991 census provides evidence for the linguistic, ethnic, and cultural diversity that have characterized Bosnia and Herzegovina for decades.

In the Constitution of Bosnia and Herzegovina (which as yet has not been amended) contained in Annex IV to the General Framework Agreement for Peace in Bosnia and Herzegovina which was signed on 14 December 1995 (better known as the Dayton Peace Agreement), national minorities as such are not explicitly mentioned. In the ensuing legislation, the issues pertaining to national minorities in the political life of Bosnia and Herzegovina have been considered within the general category of "Others". The category "Others" is contained in the Preamble to the Constitution, which specifies Bosniaks, Croats and Serbs as the constituent peoples, i.e. as pillars in the post-Dayton organization and statehood of Bosnia and Herzegovina. In other words, the term "Others" is used in place of the category of national minorities and the enumeration thereof, leaving it to the ensuing legislation to determine which national minorities exist in Bosnia and Herzegovina and define their recognition as well as the measures to be taken in order to protect and promote the minority rights.

The Law on Protection of Members of National Minorities ("The Official Gazette of BiH" no.12/03) took effect on 6 May 2003. The transitional and final provisions of this Law stipulate that Republika Srpska and the Federation of BiH shall enact their own laws and harmonize their laws on national minority rights with this Law within six months from its effective date. In December 2004, Republika Srpska passed the Law on Protection of Rights of Members of National Minorities ("The Official Gazette of RS" no.2/05), whereas a Draft Law on Protection of Rights of Members of National Minorities is currently being debated in the FBiH Parliament.

The BiH Law on the Protection of Rights of Members of National Minorities is a powerful instrument in hands of national minorities, and it is on them, as well as on their representatives, NGOs, associations and institutions, that the content and quality of the implementation of this law and the fate of national minorities in general, namely their rights and freedom and equality with other BiH citizens, depend. On the other hand, in order to avoid an exclusive or primary reliance on the degree to which the minorities have managed to organize themselves, or on the effectiveness of their representatives or support from international institutions and organizations, the lawmaker has decided to place the main burden for implementation of the law and for securing the individual and collective rights of members of national minorities on the government in BiH and its Entities, Cantons, cities and municipalities. In this respect the lawmakers have relied on "solutions" and standards that have already been put in place by the European Council's Framework Convention on the Protection of National Minorities which has been accepted and ratified by BiH and which has been the part of the BiH legal system since the date of signing of the General Framework Agreement for Peace in Bosnia and Herzegovina (better known as

the Dayton Peace Agreement – DPA), i.e. from the date it was incorporated in the BiH Constitution as one of the international agreements, conventions, and instruments of minority protection to be applied in BiH. The lawmakers have also relied on European standards in defining the content of the provisions of the Law, particularly those having to do with the responsibilities and obligations of competent authorities. In any case, it is not an accident that the Law contains a provision (Article 2 of the Law), which makes it clear that protection of minority rights is a part of the international obligations governing the protection of human rights and basic liberties. In this respect the Law goes beyond the directives of the Framework Convention, i.e. it provides for a higher degree of rights and liberties to national minorities and at the same time imposes a greater burden of obligations and responsibilities for their implementation. Of course, laws and regulations to be enacted on the level of Entities will further elaborate on specific standards relating to minority rights and the manner of their implementation. In any event, with this Law in effect and once the corresponding laws have been passed and harmonized in the entities, it will no longer be possible to exempt the authorities from failure to implement minority rights in all segments of life in Bosnia and Herzegovina.

The Law on Protection of Rights of Members of National Minorities also stipulates the obligation on the part of authorities in BiH, its Entities, Cantons, cities and municipalities to ensure additional affirmation as well as and *ex officio*, institutional protection of individual and collective rights to members of national minorities, as well as their continuous national and civil emancipation and integration in all normal and legal social processes, relations, and events, without discrimination and in historically rooted non-assimilatory coexistence with members and communities of the constituent peoples of BiH. In fact, assimilation in this respect is forbidden by law, except when a member of a national minority allows it, i.e. when he does not require to be treated as a member of the minority.

On 5 October 2005, the House of Peoples of the BiH Parliamentary assembly adopted the Law on Amending and Modifying the Law on Protection of Rights of Members of national Minorities which had previously been adopted by the House of Representatives and published in the Official Gazette of Bosnia and Herzegovina no.76/05 of 31. October 2005. The adoption of the amendments followed the period of public discussion and numerous debates, public meetings and roundtables involving the government authorities, NGOs and representatives of national minorities on all levels. This brought about several good proposals on various aspects of minority life in Bosnia and Herzegovina and, which is particularly important, lead to the adoption of the 60-day deadline for the establishment of national Minority Council at the Parliamentary Assembly of Bosnia and Herzegovina.

In May 2006 the BiH Parliamentary Assembly adopted and announced its Decision to establish the Council of National Minorities at the Parliamentary Assembly of Bosnia and Herzegovina (“Official Gazette of BiH” no.38/2006). The establishment of the Council at the Parliamentary Assembly of BiH has now reached its final stage and is being jointly implemented by the Commission for Human Rights, Immigration, Refugees and Asylum of the House of

Representatives and the BiH Ministry of Human Rights and Refugees. The formation of the BiH National Minority Council will create better conditions for systematic realization of minority rights in Bosnia and Herzegovina. The laws have been based on agreements and consensus between the political parties, which provides a guarantee that there is enough political will for the implementation.

In cooperation with the BiH Council of Roma, the Ministry of Human Rights and Refugees prepared the document entitled "The BiH Strategy for Solving Roma Issues". After months of discussion in Entity and Cantonal governments, as well as discussions with NGOs involved in minority issues, the Strategy was adopted by the BiH Council of Ministers, whereupon it was published in the "Official gazette of BiH" no. 67/05 of 27 September 2005. The adoption of this document implies the implementation of 15 separate programs in various areas of life and is expected to substantially improve the overall condition of the Roma population in BiH (in terms of education, employment, housing, social security and health care, creation of census data on Roma population, etc.). The Strategy is the first serious and comprehensive document in the state of BiH or any of its entities in which Roma issues are addressed and strategies proposed for their articulation and solution. The scope and nature of activities defined therein cannot be found in the Draft Work Plan of the Board of Roma from 2002 or in the Platform for Roma in BiH drawn up by the Roma Council as an umbrella organization of nongovernmental Roma organizations in BiH. The content of the document has been articulated with a special purpose in mind – as an inventory of problems facing the Roma population here and now, and as a support and instruction to Authorities and other entities on how to identify problems and determine the measures and activities required for their articulation and solution, in the aim of ensuring a normal integration of Roma into all segments of the BiH society with all its specific features and challenges.

Notwithstanding the fact that the Strategy was officially published in the Official Gazette of BiH no. 67 on 27 September 25, the Council of Roma within the BiH Council of Ministers decided to publish the strategy in English, Romani, and the three official languages of BiH.

The Ministry expects that in cooperation with the Entity authorities, NGOs and international organizations such as European Commission, UNHCR, OSCE, UNICEF, the Council of Europe, the Swedish International Development Agency (SIDA – Svedsak), World Vision, World Bank, and others, they will be able to produce three action plans for the implementation of the Strategy in the areas of employment, housing, and health care. It is the obligations of authorities on all levels (i.e. the levels of state, Entities, cities, and municipalities), to make sure that within the domain of our capacities these obligations are carried out. The preparation of three quality action plans, along with the already existing Action Plan on Educational Needs of Roma and Other National Minorities in BiH) would add concreteness to the realization of Roma needs in BiH at large and in everyday life, and would create conditions for BiH to get involved in the Decade of Roma Inclusion 2005 – 2015 Project.

The expansion of NGOs addressing minority, particularly Roma, issues and their networking on the BiH level has continued.

On 27-28 June 2006, the BiH Council of Roma organized in Banja Luka the "Assembly of Roma Nongovernmental Organizations and Associations." Participants in the Assembly were representatives from Romani NGOs and associations from the entire Bosnia and Herzegovina, and a new membership of the Roma Council was elected. Members of the Council are local nongovernmental Roma organizations, which took part in the Inaugural Assembly and others who have signed the declaration/application and who respect and protect the interests of the Roma Council in BiH. Decisions on the appointment of new members are made by the Council's bodies: the Assembly and the Management Board. The Management Board has 9 members. The appointed members of the Council are required to protect the interest of the Romani population, and to represent and defend the interests of the Council organizations' members unless they are contrary to the BiH constitution and applicable laws.

The implementation of the "Action Plan on educational needs of Roma and other national minorities in BiH", which was adopted in February 2004, is being actively pursued. In the school year of 2005/2006, most of the Romani students as well as those from other national minorities have enrolled educational programs on all levels of schools and universities (often under the principle of "positive discrimination"). Within the capacities of the relevant municipalities, Cantons, and Entities, the students were provided with textbooks, school gear and financial support for transportation and meals.

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

1. Seminar on the implementation of the Framework Convention for the Protection of national Minorities, organized by the Ministry of Human rights and Refugees and supported by the Council of Europe (Sarajevo – 5-6 December 2005)
2. Conference on the implementation of Action Plan on educational Needs of Roma and Other National Minorities, organized by the Ministry of Human Rights of Bosnia and Herzegovina and the Advisory Board of Roma within the BiH Council of Ministers, and financially supported by the OSCE Mission in Bosnia; (Vogošća, 5 July 2005)
3. Seminar on meeting the educational needs of Roma, organized by the Ministry of Education and Culture of Republika Srpska; (Banja Luka, 22 November 2005)
4. A three-week project "Educating Roma for work as Media Assistants or Journalists", which was complete on 16 November 2005;
5. Conference on the preparation of Action Plans for the implementation of the "BiH Strategy for solving Roma Problems", organized by the BiH Ministry of Human rights and Refugees, UNHCR BiH and the Council of Europe - Strasbourg; (Mostar, 19-20 June 2006)

6. BiH Council of Roma inaugurated and organized the “Assembly of Roma nongovernmental organizations and Associations.” in Banja Luka, 27-28 June 2006.
7. Training in monitoring and evaluation techniques organized within the project “Equal Rights and Treatment of Roma in Eastern Europe” in cooperation with the Council of Europe; (Sarajevo, 4-6 December 2006)
8. A meeting related to the Council of Europe’s campaign “Enough!”
9. Roundtable “Roma in the BiH Society: Putting Politics to Practice”, (Sarajevo, 11 April 2007);

and many others.

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

These should primarily be the activities which strengthen the role of national minority councils, representatives, and nongovernmental organizations, and increase their level of participation in the government bodies on state, entity, cantonal, and municipal levels. Common activities and cooperation between national minority associations as well as nongovernmental organizations is extremely important in protection of minority rights and promotion of a democratic and civil society. In Bosnia and Herzegovina it is necessary to undertake public-oriented activities in order to eliminate the entrenched stereotypes about national minorities.

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

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

Overall, present political situation in Bosnia and Herzegovina, with the current composition of the BiH Council of Ministers headed by Mr. Adnan Terzić, has

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

Finally, we wish to express our satisfaction with the successful cooperation with the European Council's Advisory Committee, their generous assistance and services, and with improvements that have been made to date in the implementation of the Framework Convention for Protection of National Minorities from the day of the first report. We believe that this trend will continue in the future, i.e. that there will continue to be improvement in the more expeditious and higher quality implementation of laws addressing the rights, liberties, and conditions of national minorities in Bosnia and Herzegovina, and that through successful resolution of the current and future issues Bosnia and Herzegovina will attain the highest standard of minority protection.

## **PROPOSAL OF CONCLUSIONS**

1. The Council of Ministers of Bosnia and Herzegovina accepts the Second Report of Bosnia and Herzegovina on legal and other measures on implementation of the principles determined in the Framework Convention for the Protection of National Minorities.

2. The Second Report of Bosnia and Herzegovina on legal and other measures on implementation of the principles determined in the Framework Convention for the Protection of National Minorities shall be submitted for consideration to the Advisory Committee of the Council of Europe in Strasbourg.