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# REPORT BY NILS MUIŽNIEKS

COMMISSIONER FOR HUMAN RIGHTS  
OF THE COUNCIL OF EUROPE

FOLLOWING HIS VISIT TO BOSNIA AND HERZEGOVINA  
FROM 12 TO 16 JUNE 2017



Summary.....	1
Introduction.....	2
1 Major issues pertaining to transitional justice and reconciliation .....	3
1.1 The need to end impunity for wartime crimes and provide effective redress to all war victims.....	3
1.1.1 International and regional developments.....	3
1.1.2 Domestic wartime-related criminal proceedings.....	4
1.1.2.1 Wartime-related criminal trials and protection of witnesses .....	6
1.2 Provision of adequate and effective reparations to war victims .....	7
1.3 Missing persons.....	9
1.4 Ethnic segregation in public education .....	10
1.5 Human rights of forcibly displaced persons due to the 1990s' wars .....	12
1.5.1 Access to economic and social rights.....	12
1.5.2 Hate crime and discrimination affecting forcibly displaced persons .....	13
1.6 Statelessness .....	14
1.7 Conclusions and recommendations .....	14
2 Freedom of the media.....	15
2.1 General.....	15
2.2 Protection of media professionals from threats and violence .....	16
2.3 Journalists' social rights and ethical journalism .....	17
2.4 Major issues concerning public service media .....	18
2.5 Conclusions and recommendations .....	20

## SUMMARY

Commissioner Muižnieks and his delegation visited Bosnia and Herzegovina from 12 to 16 June 2017. In the course of this visit the Commissioner held discussions with state authorities, national human rights structures and non-governmental organisations. The present report draws on the themes of the Commissioner's visit and focuses on the following issues:

### I. Major issues pertaining to transitional justice and reconciliation

The Commissioner acknowledges the important contribution made by the International Criminal Tribunal for the Former Yugoslavia (ICTY) to the fight against impunity for serious violations of international human rights and humanitarian law in Bosnia and Herzegovina and the region. Noting with serious concern the recent reported regression in the co-operation on the prosecution of wartime crimes in the region, the Commissioner underlines the need for all states in the region, including Bosnia and Herzegovina, to take immediate steps in order to reverse this negative trend.

Whilst welcoming advances in the prosecutions of war-related crimes of sexual violence, the Commissioner is concerned that a high number of wartime-related criminal cases remain to be prosecuted in Bosnia and Herzegovina. He urges the authorities to take all necessary measures to end impunity, and effectively prosecute, try and sanction wartime crimes in line with international and European standards. The authorities are urged to address all shortcomings as concerns the protection of and support to witnesses, including by extending the application of the Law on the Witness Protection Programme in Bosnia and Herzegovina to all domestic courts. The Commissioner urges the authorities to ensure that all direct victims of war-related crimes and their families are provided with effective access to justice and adequate reparation.

The Commissioner reiterates that additional efforts at the national and regional levels are necessary to resolve the pending cases of missing persons, in line with the obligations stemming notably from the European Convention on Human Rights (ECHR) and the case-law of the European Court of Human Rights (the Court). The authorities are urged to establish the long-awaited fund for support to families of missing persons, and to fully comply with their international obligations notably as regards the relevant case-law of the UN Human Rights Committee.

The Commissioner is concerned that the chapter of forced displacement has not yet been closed, since some 50 000 internally displaced persons (IDPs) are still in need of targeted assistance, including more than 7 000 persons living in 156 collective centres. The authorities are urged to step up their work in this field with a view to creating adequate conditions for sustainable return. The Commissioner encourages the authorities to sustain their efforts notably in the context of the Regional Housing Programme which he fully supports. He calls on the authorities to resolutely fight ethnic intolerance and hate crime, which have impacted negatively on the returns of IDPs and reconciliation. Also, more resolute and systematic efforts are necessary to ensure awareness-raising and the effective implementation of anti-discrimination and hate crime legislation. Lastly, the Commissioner urges the authorities to pay particular attention to the recording of instances of hate crime and to ensure that law enforcement officials and legal professionals are adequately and systematically trained to be able to recognise and effectively investigate and sanction these offences.

### II. Freedom of the media

The Commissioner notes that despite the existence in Bosnia and Herzegovina of an adequate legislative framework, the media operate in very difficult conditions. He is seriously concerned that even though defamation was decriminalised around 15 years ago and is dealt with by civil law, it is increasingly used against journalists, which has had a chilling effect on their work and freedom of expression. The Commissioner stresses that domestic court judgments in defamation cases should be fully compliant with the requirements of Article 10 ECHR. To this end the training and capacity of domestic judges in this domain must be strengthened.

The Commissioner is worried about acts of violence and threats which have affected journalists' freedom of expression and their role of "public watchdog" which is valuable in every democratic society. He calls on the authorities to live up to their positive obligation to initiate prompt, thorough and transparent investigations into all cases of physical violence or threats against journalists, and to bring perpetrators to justice. Sanctions

should reflect the seriousness of these offences and be dissuasive. The Commissioner considers unacceptable the public use by certain leading politicians of inflammatory remarks, including personal insults, against journalists and their work. He urges politicians to put an end to inflammatory remarks against journalists and other forms of pressure on the media that have led to self-censorship and discouraged journalists from performing their important service of imparting information and critically feeding into open debates on issues of public interest, which is necessary in democratic societies.

The Commissioner is concerned about the reported deterioration of journalists' labour conditions which has had a serious negative impact on their work. He calls on the authorities to engage in an open dialogue with the professional media community on this issue and take all necessary measures in order to create adequate conditions for media professionals' work. At the same time the Commissioner points out that the media must undertake to abide by ethical principles guaranteeing freedom of expression and the fundamental right of citizens to receive truthful information. He underlines the need for media professionals to strengthen ethical journalism and to ensure that the mechanisms for self-regulation are effectively used by all media actors.

The Commissioner is seriously concerned by the failure of the authorities to find a sustainable funding solution for Bosnia and Herzegovina Radio-Television (BHRT). He regrets the lack of constructive and inclusive dialogue on necessary reforms of the public service media which would ensure that they serve effectively the needs of society as a whole with regard to information, education and culture. He is gravely concerned about the existing tendency to organise the public service media along ethnic lines. The authorities are urged to find a long-term, sustainable funding model for the public service media, to ensure that their independence is preserved, and to refrain from any action that could lead to censorship and threaten their editorial independence.

The report contains the Commissioner's conclusions and recommendations addressed to the authorities of Bosnia and Herzegovina and is published on the Commissioner's website [along with the authorities' comments].

## INTRODUCTION

1. The present report follows a visit to Bosnia and Herzegovina by the Council of Europe Commissioner for Human Rights (hereinafter "the Commissioner") from 12 to 16 June 2017.<sup>1</sup> The visit focused on certain major issues concerning transitional justice and reconciliation, and freedom of the media.
2. During his visit, the Commissioner held discussions with the national authorities, including the Chairman of the Council of Ministers, Denis Zvizdić; the Minister for Security of Bosnia and Herzegovina, Dragan Mektić; the Minister for Human Rights and Refugees, Semiha Borovac; the Deputy Minister for Communication and Transport of Bosnia and Herzegovina, Saša Dalipagić; the Deputy Minister of Justice of Bosnia and Herzegovina, Nezir Pivić; the Prime Minister of the Federation of Bosnia and Herzegovina, Fadil Novalić; the Minister for Refugees and Displaced Persons of Republika Srpska, Davor Čordaš; and the Minister of Education and Culture of Republika Srpska, Dane Malešević. In addition, Commissioner Muižnieks met with the Ombudsmen, Jasminka Džumhur, Nives Jukić and Ljubinko Mitrović. While in Sarajevo the Commissioner met with the Director of Radio and Television of Bosnia and Herzegovina (BHRT), Belmin Karamehmedović, and took part in the [international conference](#) on "National Public Service Broadcasting in Bosnia and Herzegovina", jointly organised by the Council of Europe, the European Broadcasting Union (EBU), BHRT, the BH Journalists Association, the Office of the OSCE Representative on Freedom of the Media, the European Federation of Journalists and the South East Europe Media Organization.
3. Meetings were also held with civil society organisations active in the field of human rights, representatives of the media sector and of the international community and families of missing

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<sup>1</sup> During his visit the Commissioner was accompanied by the Deputy to the Director of his Office, Mr Nikolaos Sitaropoulos and his Adviser, Ms Erliha Bičakčić.

persons. In addition, the Commissioner visited a collective centre for displaced persons in Hrasnica, Sarajevo.

4. The Commissioner wishes to thank sincerely the authorities of Bosnia and Herzegovina in Strasbourg and in Sarajevo for their assistance in organising his visit and facilitating its independent and smooth execution. He also extends his thanks to all his interlocutors for their willingness to share with him their knowledge and views.
5. Since the visit in 2010 by the Commissioner's predecessor, Bosnia and Herzegovina has made some progress in the eradication of statelessness and the resolution of cases of missing persons. However, the Commissioner is gravely concerned by the stagnation and even regression in many aspects of human rights protection and the rule of law. Notably the Constitution of Bosnia and Herzegovina and the Election Law remain unchanged despite their discriminatory character and Bosnia and Herzegovina's clear legal obligations in this context stemming from the 2009 *Sejdić and Finci* judgment of the Court.
6. These reforms are long overdue and need to be implemented. Divisions along ethnic lines have been exacerbated by aggressive nationalist rhetoric and hate speech widely used in the public sphere, as well as by increased inter-ethnic tensions in the region. The adoption of several important strategic documents and laws pertaining to the rights of civilian war victims has been blocked due to the lack of political agreement between the Entities, leaving thousands of victims without access to reparation and a possibility to rebuild their lives in dignity. Furthermore, two important draft strategic documents pertaining to the protection of human rights and discrimination, namely the National Strategy on Human Rights and the National Strategy on the Fight against Discrimination, have been put on hold due to lack of support by the Republika Srpska authorities. The denial of genocide and the glorification of war criminals, such as the Republika Srpska authorities' 2016 decision to present convicted war criminals with 'appreciation certificates', seriously undermine reconciliation efforts in the country. Moreover, generations of children in Bosnia and Herzegovina have been deprived of inclusive education due to the authorities' failure to abolish the system of 'two schools under one roof' and mono-ethnic schools. The country's political leadership needs to act in a principled and determined manner towards rebuilding a tolerant and inclusive society without discrimination on any ground.
7. The Commissioner invites the authorities at all levels to consider the issues examined in this report and step up their efforts to resolve the shortcomings identified. He would like this report and its recommendations to constitute a fruitful continuation of the dialogue that he has initiated with the authorities of Bosnia and Herzegovina.

## 1 MAJOR ISSUES PERTAINING TO TRANSITIONAL JUSTICE AND RECONCILIATION

### 1.1 THE NEED TO END IMPUNITY FOR WARTIME CRIMES AND PROVIDE EFFECTIVE REDRESS TO ALL WAR VICTIMS

#### 1.1.1 INTERNATIONAL AND REGIONAL DEVELOPMENTS

8. Noting that the mandate of the ICTY comes to an end in December 2017, the Commissioner acknowledges the important contribution made by the ICTY to the fight against impunity for serious violations of international human rights and humanitarian law committed in the 1990s in the region, and in providing justice to the victims of those crimes.
9. By its Resolution 1966 (2010) the UN Security Council tasked the ICTY with facilitating the establishment of information and documentation centres in the countries of the former Yugoslavia, which will provide digital access to electronic copies of all ICTY's public records and archival material. In addition, the centres will conduct various outreach activities to promote the Tribunal's legacy. The city of Sarajevo and ICTY have concluded a memorandum of understanding for the establishment in

Sarajevo of a first such centre by the end of 2017.<sup>2</sup> The Commissioner supports this initiative, considering that these centres will play an invaluable role in continuing the legacy of the ICTY.

10. There remain two cases pending in the ICTY concerning Bosnia and Herzegovina, which are expected to be completed by the end of its mandate. These concern the first instance proceedings against *Ratko Mladić*<sup>3</sup> and the appeal proceedings in *Prlić and others*<sup>4</sup>. The UN Mechanism for International Criminal Tribunals<sup>5</sup> deals with the appeals in the cases of *Karadžić*<sup>6</sup> and *Šešelj*,<sup>7</sup> and the retrial in the case of *Stanić and Simatović*,<sup>8</sup> all of them relating to wartime crimes committed in Bosnia and Herzegovina.
11. In 2013 the State Prosecutors of Bosnia and Herzegovina, Croatia and Serbia signed bilateral protocols on co-operation in prosecuting perpetrators of war crimes, crimes against humanity and genocide. In 2014 Bosnia and Herzegovina also signed a co-operation protocol in this field with Montenegro. Moreover, in April 2015, under the auspices of the UN, the State Prosecutors of Croatia, Bosnia and Herzegovina and Serbia signed the [Guidelines](#) for enhancing regional co-operation in war crimes processing, the search for missing persons and the establishment of a coordination mechanism.
12. Notwithstanding these positive steps aimed at strengthening regional co-operation, serious concern has been expressed by the ICTY Prosecutor about regression and negative trends in judicial co-operation in the region. He has, *inter alia*, noted that “the political environment, nationally and regionally, is having a strong negative impact on war crimes justice in national courts and regional judicial cooperation continues moving in a negative direction. Denial of crimes and the non-acceptance of the facts established by the ICTY continue to undermine regional stability and hinder reconciliation”.<sup>9</sup>
13. The Commissioner continues to be concerned by the fact that Bosnia and Herzegovina, Serbia and Croatia still bar the extradition of their nationals who are charged with wartime crimes.<sup>10</sup> One of these persons is Novak Djukić, former commander of the Republika Srpska army, sentenced by the State Court of Bosnia and Herzegovina to 20 years’ imprisonment for wartime crimes. In October 2014 the Bosnian authorities issued an international arrest warrant for Djukic. The ICTY Prosecutor has noted that Serbia can enforce Djukic’s sentence through the 2010 agreement between Serbia and Bosnia and Herzegovina on the mutual execution of court decisions in criminal matters.

### 1.1.2 DOMESTIC WARTIME-RELATED CRIMINAL PROCEEDINGS

14. The Commissioner wishes to emphasise the importance for the rule of law and reconciliation in the region of the effective prosecution and sanctioning of serious human rights violations that happened during the 1990s wars. It is by effectively addressing the issue of impunity for wartime crimes that a society can overcome past traumatic experiences and move forward. The lack of justice inflicts additional suffering on victims and has serious adverse effects on the rule of law.

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<sup>2</sup> ICTY, press release, [Tribunal and the City of Sarajevo to establish first Information Centre](#), November 2016.

<sup>3</sup> Ratko Mladić was Commander of the Main Staff of the Army of Republika Srpska, Bosnia and Herzegovina. He was charged with genocide, crimes against humanity and war crimes committed during the war in Bosnia and Herzegovina. The first instance judgment is expected to be rendered in November 2017.

<sup>4</sup> In May 2013 Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić were found guilty by a first instance ICTY judgment for crimes against humanity and war crimes, and given prison sentences ranging from 16 to 26 years. The appeal judgement is expected to be rendered in November 2017.

<sup>5</sup> This mechanism was established by the UN Security Council in 2010 to perform tasks previously carried out by the ICTY and the International Criminal Tribunal for Rwanda.

<sup>6</sup> In March 2016 an ICTY trial chamber found Radovan Karadžić, the former president of Republika Srpska, guilty of the genocide in Srebrenica, persecution, crimes against humanity and war crimes committed in Bosnia and Herzegovina and sentenced him to 40 years’ imprisonment.

<sup>7</sup> In March 2016 Vojislav Šešelj was acquitted of the charges against him concerning crimes against humanity and war crimes.

<sup>8</sup> Jovica Stanišić and Franko Simatović were charged with crimes against humanity and war crimes committed during the war in Bosnia and Herzegovina and in Croatia. In 2013 they were acquitted of all charges. Following the Prosecutor’s appeal, the ICTY Appeals Chamber in December 2015 granted, in part, the appeal and quashed the acquittals.

<sup>9</sup> Prosecutor of the International Residual Mechanism for Criminal Tribunals, , [Progress report](#) for the period from 16 November 2016 to 15 May 2017, p. 30.

<sup>10</sup> See also the Commissioner’s 2015 report following his visit to Serbia, p. 4. para. 12.

15. Trials for war crimes, crimes against humanity and genocide continue to be held in the Court of Bosnia and Herzegovina, and in cantonal and district courts in the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District respectively. The ICTY Prosecutor has noted that despite the progress over the last decade, approximately 1 200 war crime cases, involving 5 000 suspects, still need to be processed by the authorities of Bosnia and Herzegovina, the success of many of which will depend on regional judicial co-operation.<sup>11</sup>
16. In 2008 the Bosnia and Herzegovina Council of Ministers adopted a National Strategy for the Processing of War Crimes (War Crimes Processing Strategy) which provides that the most complex and highest priority war crime cases should be prosecuted within seven years (i.e. before the end of 2015), and other war crime cases within 15 years. In 2011 a committee was established within the Court of Bosnia and Herzegovina tasked with the assessment of the complexity of war crime cases and the transferring of less complex cases to cantonal and district courts, while more complex cases from these lower jurisdictions would be forwarded to the Court of Bosnia and Herzegovina.
17. The Commissioner has noted with concern that the 2015 deadline set for the processing of most complex cases has not been met. As of December 2016, 335 of the 'most complex' cases and 450 'less complex' cases were completed, while 358 'most complex' and 357 'less complex' cases remained pending.<sup>12</sup> According to the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (HJPC), in 2016 there was a slight increase in the number of completed war crime cases in the Federation of Bosnia and Herzegovina, and a decrease in the Court of Bosnia and Herzegovina, and in the courts of Republika Srpska and the Brčko District.<sup>13</sup>
18. In September 2015, the Ministers of Justice of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republika Srpska, and the Brčko District Judicial Commission signed a "Protocol on the Outcome of the Ministerial meeting in the Framework of the EU-BiH Structured Dialogue on Justice"<sup>14</sup> in which they noted that the War Crimes Processing Strategy should be revised and new feasible deadlines for its implementation should be set. It was also noted that the monitoring role of the Supervisory Board tasked with the supervision of the implementation of the War Crimes Processing Strategy should be enhanced. The Commissioner would appreciate receiving more information about any further developments in this context.
19. The Commissioner has noted with concern that major shortcomings in the processing of war crimes at State level include the lack of experience by state war crime prosecutors in this field and inadequate management of war crime cases. Other weak points are the existence of parallel prosecutions by the State and Entity prosecutors of the same crime, inconsistency in the legal characterisation of crimes and low-quality indictments.<sup>15</sup> The Commissioner has also noted the views of some domestic court judges that state prosecutors have not prioritised complex war crime cases in order to be able to keep up with their regular monthly caseload and to avoid possible disciplinary sanctions.<sup>16</sup>
20. On a positive note, the Commissioner has noted the progress made by Bosnia and Herzegovina in addressing war crimes related to sexual violence. Bosnia and Herzegovina is reportedly one of the countries with the most advanced case-law related to such cases in the world. In recent years there has been an increase in the number of these cases as well as a tangible qualitative improvement in the

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<sup>11</sup> Prosecutor of the International Residual Mechanism for Criminal Tribunals, [Progress report](#) for the period from 16 November 2016 to 15 May 2017, p. 32.

<sup>12</sup> European Commission, Bosnia and Herzegovina 2016 [report](#), November 2016.

<sup>13</sup> HJPC, 2016 Annual Report, p. 43. In 2016 the Court of Bosnia and Herzegovina completed 166 cases (181 in 2015), and the courts in the Federation of Bosnia and Herzegovina 116 (91 in 2015), in Republika Srpska 56 (58 in 2015) and in the Brčko District 21 (23 in 2015).

<sup>14</sup> [The Structured Dialogue on Justice](#) is a mechanism of the European Commission which aims to consolidate an independent, effective, efficient and professional judicial system. It was launched in 2011. It provides the context for discussing all reforms that are necessary to allow Bosnia and Herzegovina to align its judicial system with the EU acquis and relevant standards.

<sup>15</sup> See Joanna Korner, [Processing of War Crimes at the State Level in Bosnia and Herzegovina](#), OSCE, 2016.

<sup>16</sup> Balkan Transitional Justice, [Bosnia's Top Court has Wasted Resources, Kreho Says](#), June 2017.



judicial and prosecutorial approach to these cases.<sup>17</sup> However, further improvements are necessary, especially concerning sentencing, plea bargaining, and the fragmentation of cases. The Commissioner calls on the authorities to give due regard to and redress these problems.

#### 1.1.2.1 WARTIME-RELATED CRIMINAL TRIALS AND PROTECTION OF WITNESSES

21. The Commissioner regrets that a new Law on the Witness Protection Programme in Bosnia and Herzegovina, which was finally adopted in April 2014, following many years of preparatory work, only applies to witnesses testifying before the Court of Bosnia and Herzegovina.
22. The 2008 War Crimes Processing Strategy underscores the importance of “creating an atmosphere in which witnesses will give evidence free of fear or threats or pressures that may pose a threat to their lives or lives of people close to them.” It addresses the introduction of witness protection and support measures, including the establishment of coordinating mechanisms on the State and Entity levels in order to improve the exchange of information and prevent repeated interviewing of vulnerable witnesses. Other measures, such as arranging separate rooms in courts for witnesses testifying under protective measures and hiring psychologist witness support officers in all prosecutors’ offices and courts, are also provided for in the Strategy.
23. Although the protection and support to witnesses before the Court of Bosnia and Herzegovina have been ensured, there is a lack of systematic witness protection in war-related criminal proceedings on the Entity level. Experts have noted that the protection of the identity of witnesses is difficult, if not impossible, to achieve in trials that take place in Entity courts, “owing to the self-contained nature of the more rural communities”, and that “even in the more populous towns such as Sarajevo or Banja Luka, the ethnically homogeneous areas make witnesses subject to the same problems”.<sup>18</sup>
24. In its 2016 concluding observations on Bosnia and Herzegovina, the UN Committee on Enforced Disappearance remained concerned at cases of intimidation and threats against victims and witnesses of enforced disappearance. The Committee was also concerned by the absence of witness protection programmes in the Entities where war crime cases have been transferred, as well as by insufficiencies and discrepancies in the provision of assistance and psychological support across the country. In his discussion with the Commissioner, the Minister of Security, Dragan Mektić, raised his concerns in this context, stressing that there are many cases of threats to witnesses and their families, and that the protection of witnesses who reside in the region is extremely difficult. He was also concerned about the lack of bilateral co-operation in the region in this context.
25. The Commissioner notes that there has been certain progress in the in-court protection of witnesses, in particular those concerning wartime sexual violence. Measures, such as the omission of a victim’s full name from public court documents, exclusion of the public from main trial hearings, and allowing vulnerable witnesses to testify from a separate room with audio-visual distortion are now used in many Entity courts. Additionally, the capacity of courts and prosecutors’ offices across the country to provide vulnerable witnesses with adequate psychological assistance has increased in the last three years, as most of these institutions now employ full-time, dedicated witness support officers to assist during the investigation and at trial. However, the Commissioner has noted that further improvements are needed.<sup>19</sup>
26. Lastly, the Commissioner commends the pivotal role played by civil society organisations in this field. During his visit, NGO representatives informed him about the work of 15 networks of witness protection and support which were established in 2015 throughout Bosnia and Herzegovina. These networks, which include victims’ associations, social welfare centres, law enforcement authorities and

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<sup>17</sup> See OSCE Mission to Bosnia and Herzegovina [Report](#), Towards Justice for Survivors of Conflict-Related Sexual Violence in Bosnia and Herzegovina: Progress before Courts in BiH 2014-2016, June 2017.

<sup>18</sup> Joanna Korner, *idem*.

<sup>19</sup> See OSCE Mission to Bosnia and Herzegovina [Report](#), Towards Justice for Survivors of Conflict-Related Sexual Violence in Bosnia and Herzegovina: Progress before Courts in BiH 2014-2016, June 2017, pp. 75 -76.

public health institutions, are co-ordinated by national NGOs and have been instrumental in establishing victims' trust in public institutions.<sup>20</sup>

## 1.2 PROVISION OF ADEQUATE AND EFFECTIVE REPARATIONS TO WAR VICTIMS

27. All victims of gross violations of international human rights law and serious violations of international humanitarian law have the right to adequate, effective and prompt reparation for the harm suffered in line with the 2005 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law ('2005 UN Basic Principles and Guidelines'). These principles and guidelines usefully highlight various forms of remedies that need to be introduced at national level in order to provide redress to victims. They underline that reparation should be proportional to the gravity of the violations and the harm suffered by victims.
28. The Commissioner notes with concern that an effective mechanism that would ensure reparation to all victims of war-related crimes and to their families has not yet been established in Bosnia and Herzegovina. Several legislative attempts by the State authorities to systematically address this issue have been unsuccessful due to the lack of political agreement between the Entities. Notably, a Transitional Justice Strategy, which was prepared in 2012 by the Bosnia and Herzegovina Ministry of Human Rights and Refugees and the Ministry of Justice, and a draft Law on the Rights of Victims of Torture,<sup>21</sup> both of which address the issue of reparations, have not been adopted.
29. Under Entity and Cantonal social protection and disability schemes, civilian war victims receive monthly allowances similar to those provided to persons unemployed or with disabilities. However many civilian victims reportedly do not meet the requirements set by relevant legislation. In Republika Srpska, the 1993 Law on the Protection of Civilian War Victims in Republika Srpska (as amended), regulates the conditions for acquiring the status of civilian victim. Reportedly, few Bosnian Croats and Bosniaks have obtained this status as they do not meet several restrictive conditions set in the law, namely the need to submit the request by December 2007 and to reside in Republika Srpska.<sup>22</sup> In the Federation of Bosnia and Herzegovina it is mandatory to have residence in this Entity and a 60% disability in order to acquire the status of civilian victim, which excludes many victims of war-related crimes. Moreover, the level of allowances varies throughout the Federation and compensation to war victims is still significantly more favourable to war veterans than to civilian victims.<sup>23</sup>
30. As concerns victims of wartime crimes of sexual violence, slow progress has been made in establishing a comprehensive support system for survivors of these crimes. The stigmatisation and economic marginalisation of these victims remain a concern. The authorities need to harmonise legislation and policies so that the rights of survivors of conflict-related sexual violence to reparations are consistently recognised and to allocate a specific budget for this purpose. They should also protect and support survivors participating in judicial proceedings through, *inter alia*, referrals to free legal aid, psychosocial and health services, as well as economic empowerment programmes.<sup>24</sup>
31. The Commissioner has noted with concern reports about serious challenges facing victims of war-related crimes of sexual violence. Most of these victims suffer from social and psychological problems, including Post-Traumatic Stress Disorder (PTSD), which are exacerbated by the lack of employment opportunities and affordable medical and mental health care. Social stigma makes it difficult for survivors to speak about their traumatic experience and many choose not to come forward and seek help. Untreated traumas prevent survivors from gaining employment and achieving economic independence, with many relying on their families and/or monthly benefits to survive.

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<sup>20</sup> These networks were established in the context of the [project](#) "Ensuring Access to Justice for Witnesses/Victims through Strengthening Existing and Establishing new Witness Support Networks Across BiH", which was initiated in 2015. The project ends in December 2017.

<sup>21</sup> The adoption of this law is an obligation of Bosnia and Herzegovine under the UN Convention against Torture. See UN Committee against Torture, *Concluding observations on the combined second to fifth periodic report of Bosnia and Herzegovina*, 20 January 2011, para. 18.

<sup>22</sup> [Diskriminacija.ba](#), [Zakon o zaštiti civilnih žrtava rata u RS je prepreka zaštiti](#), February 2017.

<sup>23</sup> TRIAL International [Report](#), *Compensating survivors in criminal proceedings: perspectives from the field*, 2016, p. 11.

<sup>24</sup> UN Secretary General, [Report](#) to the Security Council on Conflict-related sexual violence, March 2015.

32. Against this background, the Commissioner notes with regret that the Programme for Improvement of the Status of Survivors of Conflict related Sexual Violence which was prepared in 2012 by the Bosnia and Herzegovina Ministry of Human Rights and Refugees has not been adopted because Republika Srpska did not consent to the submission of the document to the Council of Ministers of Bosnia and Herzegovina. In the presentation of their state report under the 2017 UN UPR review,<sup>25</sup> the authorities noted that a law establishing a Committee on Defining the Status of Victims of Sexual Violence was in the pipeline. The Commissioner would like to receive more information about any further developments in this regard.
33. The Ministry of Labour and Veterans' Affairs of Republika Srpska has prepared a draft law on victims of wartime torture including victims of war-related crimes of sexual violence in this Entity. While noting that the draft law intends to address the status and benefits available to survivors, some of the eligibility criteria appear to remain overly restrictive and may exclude many survivors and their families. Like the abovementioned Law on Protection of Civilian Victims of War in Republika Srpska, which is currently in force, the draft law on the protection of victims of wartime torture included strict cut-off deadlines, which would automatically exclude most survivors. Moreover, it stipulated that persons who were members of enemy military forces or who assisted the enemy cannot claim compensation and allowances. This would exclude the majority of the victims belonging to ethnic groups other than ethnic Serbs. The Commissioner would appreciate receiving information about the state of play of this draft legislation.<sup>26</sup>
34. The Commissioner has noted with interest that some victims of wartime crimes of sexual violence have succeeded in obtaining compensation for pecuniary and non-pecuniary damage in relevant criminal proceedings in domestic courts. In a landmark judgment rendered in June 2015 by the Court of Bosnia and Herzegovina, compensation was awarded to several victims of wartime crimes of sexual violence in one set of criminal proceedings against three defendants. As of September 2017, in eight cases domestic courts awarded compensation to victims of war-related crimes of sexual violence, in four of which final judgments have been rendered. However, reportedly these judgments have not been enforced because the perpetrators lacked financial means to provide compensation to the victims. Despite these recent positive developments, many civilian war victims continue to seek compensation in civil proceedings, facing challenges such as the lack of access to legal aid.
35. In this regard, the Commissioner is pleased to note that in 2016 the long-awaited Law on Free Legal Aid in Bosnia and Herzegovina was adopted. However during his visit the Commissioner noted concerns on the part of experts and victims and the reported need for the authorities to step up the implementation of this law.
36. The Commissioner is also seriously concerned by the information provided by the Ombudsmen according to which some survivors of torture have had their property seized because they could not pay high court fees related to the civil proceedings for compensation which they lost. Reportedly, in some cases the fees amounted to BAM 6 000 to 10 000 (€ 3000 – 5000).<sup>27</sup> In this context, the Commissioner recalls the Court's case-law according to which the "imposition of a considerable financial burden after the conclusion of proceedings, such as an order to pay fees for the representation of the State according to the "loser pays" rule could well act as a restriction on the right to a court".<sup>28</sup>
37. The Ombudsmen also expressed their concern about the Constitutional Court's inconsistent practice concerning compensation for pecuniary damages related to war crimes, which has impacted negatively on victims' right to reparation. In 2015 and 2016 the Constitutional Court changed its case-law. According to the current case-law, claims for pecuniary damages that are a result of war crimes are subject to statutes of limitations if they are directed against the State or the Entities. This has

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<sup>25</sup> Human Rights Committee, [Consideration of the third periodic report](#) of Bosnia and Herzegovina on its implementation of the provisions of the International Covenant on Civil and Political Rights, March 2017.

<sup>26</sup> See Amnesty International, ["We need support, not pity"](#): Last chance for justice for Bosnia's wartime rape survivors, 12 September 2017, p. 35.

<sup>27</sup> *Idem*. p 41.

<sup>28</sup> See, European Court of Human Rights, *Cindrić and Bešlić v. Croatia*, judgment of 30 January 2017.

created legal uncertainty and resulted in the dismissal by domestic courts of many compensation claims from civilian victims of torture.

38. The Commissioner considers that these legal hurdles that civilian war victims are facing show the necessity to create a comprehensive reparation scheme that would provide effective reparation to all civilian victims. The Commissioner recalls that under Council of Europe standards, states should support, by all possible means, the investigation of serious human rights violations and the prosecution of alleged perpetrators. Legitimate restrictions and limitations on investigations and prosecutions should be restricted to the minimum necessary to achieve their aim.<sup>29</sup> The Court's case-law holds that where a state agent has been charged with crimes involving torture or ill-treatment, it is of the utmost importance for the purposes of an 'effective remedy' that criminal proceedings and sentencing are not time-barred and that the granting of an amnesty or pardon should not be permissible is also recalled.<sup>30</sup>

### 1.3 MISSING PERSONS

39. It is estimated that 28 000 - 30 000 persons disappeared in Bosnia and Herzegovina during the 1992-1995 war. While acknowledging the progress made by Bosnia and Herzegovina in addressing this serious human rights issue, the Commissioner is concerned that still more than 6 800 persons remain unaccounted for.
40. In 2004 Bosnia and Herzegovina enacted the Law on Missing Persons, and in 2008 the Missing Persons Institute (MPI) was founded by the Council of Ministers of Bosnia and Herzegovina, tasked with the search for missing persons in partnership with the International Commission on Missing Persons. In 2012 Bosnia and Herzegovina ratified the Convention for the Protection of all Persons from Enforced Disappearance.
41. The Commissioner is seriously concerned by the failure of the authorities to fulfil the remaining obligation of Bosnia and Herzegovina stemming from the 2004 Law on Missing Persons, namely to establish a fund for support to the families of missing persons. The families of missing persons that the Commissioner met during his visit expressed their deep disappointment with the pace of the search for missing persons and noted the lack of funding for the work of missing persons' associations. The Commissioner was informed by the Minister for Human Rights and Refugees, Semiha Borovac, that a draft law on the fund for support to the families of missing persons has been submitted to the Parliamentary Assembly of Bosnia and Herzegovina, but has not yet been adopted due to the disagreement between the Entities on each other's financial obligations in this context.
42. In its 2016 concluding observations on Bosnia and Herzegovina, the UN Committee on Enforced Disappearances expressed its concern at the slow pace of exhumations and identifications and the insufficient budget allocated to the Prosecutor's Office of Bosnia and Herzegovina and the lack of sufficient forensic experts. It also noted that challenges, including politicisation, have slowed down the verification process of data compiled in the Central Records of Missing Persons. Concerns were also expressed that the Missing Persons Institute has not been provided with all the technology necessary to efficiently detect graves and exhume them.
43. The Commissioner noted with interest that following his visit, on 23 August, a new mass grave was discovered at the Korićanske Stijene area, believed to contain the bodies of the victims of the 1992 killings committed in this area.<sup>31</sup>
44. The Commissioner has also noted that Bosnia and Herzegovina is yet to comply with its international obligations stemming from the 2014 decision<sup>32</sup> of the UN Human Rights Committee (HRC) in respect of the enforced disappearance of 12 men of Bosniak origin during the war in the Sarajevo suburb of

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<sup>29</sup> See [Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations](#), 2011, Guideline XIV.

<sup>30</sup> See, inter alia, *Yeter v. Turkey*, judgment of 13 January 2009, para. 70.

<sup>31</sup> The Korićani cliffs (Koricanske stijene) massacre relates to the killings of more than 200 Bosniak and Croat men on 21 August 1992 at the Korićani cliffs in Central Bosnia.

<sup>32</sup> See UN HRC, *Zekija Selimovic et al., v. Bosnia and Herzegovina*, [Communication](#) No. 2003/2010, Views adopted by the Committee on 17 July 2014.

Vogošća. The HRC found, *inter alia*, that Bosnia and Herzegovina was responsible for not having effectively investigated the arbitrary deprivation of liberty, ill-treatment and enforced disappearance of the 12 direct victims, and also for having subjected their families to inhumane and degrading treatment because it has not unveiled the truth about the fate and whereabouts of their loved ones. The HRC requested, *inter alia*, that the authorities establish the fate and whereabouts of these persons, bring to justice those responsible for the crime and ensure that the relatives of the missing persons receive adequate compensation.

45. Lastly, the Commissioner was pleased to note that a co-operation protocol on the search for missing persons which was signed in 2015 by Bosnia and Herzegovina and Serbia was ratified in 2016 by the Parliamentary Assembly of Bosnia and Herzegovina. The protocol provides for access by each signatory country to detected locations where remains of missing persons were found, and for participation in the exhumation of mortal remains.

#### 1.4 ETHNIC SEGREGATION IN PUBLIC EDUCATION

46. The Commissioner deeply regrets that long-standing divisions along ethnic lines in the education system seem to be accentuated and are even openly backed by certain political leaders. In its 2017 report<sup>33</sup> on Bosnia and Herzegovina, ECRI noted that none of its 2010 recommendations concerning integrated education had been implemented and that the situation remained on the whole unchanged, in particular as regards the system of 'two schools under one roof'.<sup>34</sup> In 2010, ECRI had urged the authorities to bring to completion, as a matter of priority, their work to resolve all remaining cases of "two schools under one roof". It emphasised that in doing so, the authorities should ensure not only that these schools are unified administratively but also that pupils are taught together.
47. There are currently 32 'two schools under one roof' in the country: 14 in the Central-Bosnia Canton; 12 in the Herzegovina-Neretva Canton; and six in the Zenica-Doboj Canton in the Federation of Bosnia and Herzegovina where Bosniak or Bosnian Croat populations are dominant. The system persists despite the 2014 judgment<sup>35</sup> of the Supreme Court of the Federation of Bosnia and Herzegovina which found that the Herzegovina-Neretva cantonal authorities discriminated against Bosnian Croat and Bosniak pupils by separating them along ethnic lines in public schools. The cantonal authorities were ordered to take all necessary measures to ensure that integrated multicultural schools are established while respecting the pupils' right to education in their own language. Regrettably this judgment remains unimplemented to date.
48. The Commissioner is seriously concerned that in March 2016 the Central Bosnia cantonal authorities adopted a decision to open a high school in Jajce that would function according to the model of 'two schools under one roof'. This is the first attempt in nearly 15 years to establish a new segregated school in the Federation of Bosnia and Herzegovina in a city where Bosniak and Bosnian Croat high school students currently attend classes together in two secondary schools following the Croatian curricula. Reportedly, the cantonal authorities have taken this measure in order to accommodate a request from the local Bosniak community to organise education for their children in the Bosnian language.
49. The Commissioner has noted with particular interest that Bosniak and Bosnian Croat high school students from Jajce have protested against the above plan, calling for the abolition of the system of 'two schools under one roof'.<sup>36</sup> A group of citizens from Jajce, comprising students, parents and professors have come up with the initiative "[A Better School](#)" which advocates for integrated education. The organisers of the initiative have proposed to use a high school<sup>37</sup> in Jajce as a pilot school where an experimental integrated curriculum would be introduced.

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<sup>33</sup> ECRI, Report on Bosnia and Herzegovina, published on 28 February 2017.

<sup>34</sup> The main feature of this system is that students go to two distinct schools in one building, following two separate curricula in Bosnian and in Croatian language. The pupils use different textbooks, have different teachers, and even entirely different administrations.

<sup>35</sup> [Judgment](#) of the Supreme Court of the Federation of Bosnia and Herzegovina, 29 August 2014 (available in Bosnian).

<sup>36</sup> See BBC, [Bosnian school pupils reject ethnic divisions](#), September 2016.

<sup>37</sup> The school Srednja strukovna škola Jajce has already been used as a pilot school in the context of the CoE-run regional project "Regional support to inclusive education".

50. The Commissioner was pleased to note that as a result of the Jajce students' activism, strongly supported by the international community, the cantonal authorities revoked their decision to establish a segregated high school in Jajce. The Commissioner also noted with interest that in September 2017 the government of the Federation of Bosnia and Herzegovina supported a draft law banning the segregation of children in education along ethnic lines in the Federation of Bosnia and Herzegovina. The draft law was put forward by an opposition political party and is expected to be sent to the Federation parliament for adoption. The Commissioner would appreciate receiving more information about any new developments in this regard.
51. In Republika Srpska, the entity with a predominantly ethnic Serb population, the schools do not accommodate the needs of minority pupils. The curriculum is taught in Serbian and the Cyrillic alphabet, and is designed to meet the needs only of the majority pupils. In June 2016, the Republika Srpska Ministry of Education instructed all primary schools in this Entity to use in their documents, including school diplomas, the term "the language of the Bosniak people" which refers to the ethnic group, instead of the name Bosnian language that was used before. The parents of Bosniak children perceived this measure as an attempt to downgrade their linguistic identity in Republika Srpska.
52. In May 2016 the Constitutional Court of Bosnia and Herzegovina rendered a decision<sup>38</sup> which found that the provision of the Constitution of Republika Srpska which refers to 'the language of the Bosniak people' is in line with the Constitution of Bosnia and Herzegovina. However, the Court concluded that that does not imply that the language of the Bosniak people should be called the Bosniak language and that it is up to the Bosniak people to choose the name of their language. The Court also concluded that any other interpretation of the abovementioned provision would be contrary to the Constitution of Bosnia and Herzegovina.
53. The Commissioner also raised with the Minister of Education and Culture of Republika Srpska, Dane Malešević, the issue of a statement made last June by him and the President of Republika Srpska that no children attending schools in Republika Srpska will learn about the siege of Sarajevo or the Srebrenica genocide.<sup>39</sup> Referring to a 2002 agreement between the Entities on education for returnee children,<sup>40</sup> the Minister reiterated that he would ban the use in Republika Srpska of any schoolbooks from the Federation of Bosnia and Herzegovina referring to the above historical events. The Commissioner emphasised that avoiding teaching about recent history does not lead anywhere and that these issues cannot be ignored forever. He hopes that the authorities in Republika Srpska will reconsider the issue and will not deprive children of learning their country's history.
54. In 2017 the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina expressed his concern about the 2016 judgment of the District Court of Banja Luka which found that the primary school "St. Sava" in Vrbanjci, Republika Srpska, did not discriminate against the Bosniak children who attend this school by failing to provide them with classes on the so-called "national subjects" (language, history and geography). In his discussion with the Commissioner concerning this issue, Minister Malešević stressed that national subjects are taught in 22 primary schools which use textbooks from the Federation of Bosnia and Herzegovina, but that the school in Vrbanjci does not meet one of the criteria to have the national subjects introduced, which is the existence in a school of at least 18 pupils of a certain ethnic group.
55. In its 2017 report on Bosnia and Herzegovina, ECRI noted the absence of a neutral learning environment in schools, including the presence of symbols associated with a specific ethnic or religious community. The Commissioner also noted similar concerns expressed by the NGOs he met. For example, in Čelinac, Republika Srpska, following the end of a high school celebration all students were

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<sup>38</sup> Constitutional Court of Bosnia and Herzegovina, [Decision on admissibility and merits U7/15](#), adopted in May 2016. The decision concerned the request of the second deputy of the House of Peoples of the Parliament of Bosnia and Herzegovina, Sakib Softić, for a review of constitutionality of the first sentence of Article 7, paragraph 1, of the Constitution of Republika Srpska which reads "the language of the Bosniak people".

<sup>39</sup> Nezavisne Novine, [Malešević: O genocidu u Srebrenici se neće učiti u RS](#), June 2017.

<sup>40</sup> In 2002 the Entity Ministers of Education signed a temporary agreement on education for returnee children which aimed at facilitating the integration of returnee children in the education system in their place of return. It was agreed, *inter alia*, to initiate the process of the creation of new curricula and schoolbooks which would not contain offensive content.

obliged to participate in a religious event in a local church, regardless of their ethnicity or religious beliefs.

56. The Commissioner recalls the 2017 recommendation by ECRI which called for the country-wide implementation of the common core curriculum and “a stronger incorporation of all subjects, including culturally sensitive ones like history.” The Commissioner agrees with ECRI that the main obstacle to establishing a common core curriculum is the limited role of State authorities in the education sector. The Bosnia and Herzegovina Ministry of Civil Affairs only has a coordinating role and curricula are approved by the Ministries of Education of Republika Srpska and of the cantons in the Federation of Bosnia and Herzegovina. Political objections to the harmonisation of curricula remain particularly strong with regard to the so-called “national group of subjects”, including history, language and geography.<sup>41</sup>

## 1.5 HUMAN RIGHTS OF FORCIBLY DISPLACED PERSONS DUE TO THE 1990S’ WARS

### 1.5.1 ACCESS TO ECONOMIC AND SOCIAL RIGHTS

57. According to official data, there are 98 324 internally displaced persons (IDPs) in Bosnia and Herzegovina. The preliminary results of a 2016 UNHCR streamline updating of relevant IDP data have indicated that some 50 000 IDPs in Bosnia and Herzegovina still require sustained attention and targeted assistance.
58. The 2010 Revised Strategy of Bosnia and Herzegovina for the Implementation of Annex VII of the Dayton Peace Accords (Revised Strategy) identifies ten major areas related to the implementation of Annex VII: housing; property repossession; access to electricity; infrastructure; health care; social protection assistance; education; employment; safety; and compensation for damaged property. In April 2016 the Parliamentary Assembly of Bosnia and Herzegovina adopted a report on the implementation of the Revised Strategy which noted that while some progress has been made, including in the areas of access to electricity and support for income generation and employment schemes, the implementation process has fallen severely behind schedule, mainly due to insufficient funding. The report noted that as of early 2016, only 50% of the planned housing units were completed.
59. UNHCR has also expressed its concern that the needs of most vulnerable IDPs and returnees exceed the resources available. It also noted that many problems facing IDPs and returnees are similar to those faced by large parts of the entire population, irrespective of their status. UNHCR intends to phase out its operational involvement as concerns the IDPs by the end of 2017.
60. The Commissioner is concerned that more than 20 years after the war, durable solutions have not been found for more than 7000 residents of 156 collective centres in Bosnia and Herzegovina. During his visit, the Commissioner visited the collective centre in Hrasnica, Sarajevo, which at the time of the visit accommodated 21 families. Some of them have lived in the centre for 21 years. They expressed hope that they would be provided with adequate housing soon, given the substandard living conditions in the centre. The Commissioner visited, among others, a family of four, with two small children whose mother has a serious medical condition, who lived in two decrepit rooms.
61. In her discussion with the Commissioner, the Minister for Human Rights and Refugees, Semiha Borovac, highlighted the authorities’ commitment to closing all collective centres by 2020. In co-operation with the Council of Europe Development Bank (CEB) the authorities are implementing a project which aims to provide the residents of 121 collective centres with social housing in 45 municipalities in Bosnia and Herzegovina.<sup>42</sup> The closure of the 35 collective centres that are not included in this project is planned to be funded by the Entities. The Minister stressed that the pace of closure of collective centres depends on local authorities’ readiness to provide buildings for this purpose. As of early February 2017, out of the 45 municipalities covered by the abovementioned

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<sup>41</sup> ECRI, [Report](#) on Bosnia and Herzegovina, published on 28 February 2017.

<sup>42</sup> The project is called “Closure of collective centres and alternative accommodation by providing public housing solutions / CEBII”. The project is jointly funded by the Council of Europe Development Bank and Bosnia and Herzegovina.

project, only five had published tenders to commence works (Modriča, Foča and Derвента in Republika Srpska, and Maglaj and Gorazde in the Federation of Bosnia and Herzegovina). The Commissioner commends the reported good co-operation on these issues of authorities on all levels in Bosnia and Herzegovina and urges them to step up their efforts in order to provide appropriate accommodation to all persons in need.

62. Other housing projects in Bosnia and Herzegovina, including the Regional Housing Programme (RHP), have been completed or are on-going.<sup>43</sup> As concerns the RHP, Bosnia and Herzegovina has signed four grant agreements with the CEB and the total amount of the funds granted so far amounts to about EUR 35 million. The projects will be implemented in 73 local communities and should provide 1 942 housing solutions for about 6 250 IDPs and refugees.
63. The Commissioner has noted with concern challenges facing IDPs and returnees as concerns access to health care, due to lack of harmonisation of relevant Entity and cantonal legislation in this field. The quality of health care, the amount of contributions to the health care system and the list of essential medicines vary throughout the country. The 2016 report on the implementation of the Revised Strategy noted that the Agreement (on the manner and procedure of the use of health care by insured persons in Bosnia and Herzegovina outside the Areas of Entities and/or Brčko District) had not been amended, which is necessary in order to regulate better access to health care by vulnerable groups, such as IDPs and returnees. The Bosnia and Herzegovina Ministry of Civil Affairs has initiated the adoption of amendments to the above Agreement which would define the minimum standards and provide a list of basic health services that can be transferred from one health care fund to another within the country. The Commissioner would appreciate receiving more information about follow up to this initiative.
64. As concerns pension rights of returnees, the Commissioner is pleased to note that the authorities have implemented the Court's 2007 and 2011 judgments *in Karanović*, and *Šekerović and Pašalić*, respectively. This resulted in the adoption by the Committee of Ministers of Resolution CM/ResDH(2012)148 closing the examination of these cases. In order to implement the above judgments the authorities of the Federation of Bosnia and Herzegovina have adopted amendments to the Pension and Disability Insurance Law which provide for a possibility for returnees from Republika Srpska to the Federation of Bosnia and Herzegovina to apply for and receive their pension in the Federation, if they wish to do so.

### 1.5.2 HATE CRIME AND DISCRIMINATION AFFECTING FORCIBLY DISPLACED PERSONS

65. In its 2017 report on Bosnia and Herzegovina, ECRI noted that the inter-ethnic tensions are the main cause of racist violence in the country, in particular against returnee communities. Reports indicated that in 2015 146 alleged bias-motivated incidents were reported to State police, in the majority of which (85 %) the victims were targeted because of their ethnic or religious background, and in most cases they belonged to minorities.<sup>44</sup> These incidents included offensive graffiti, verbal assaults, damage to religious facilities/desecration of graveyards, damage to property and physical violence. The Commissioner has noted with concern that the authorities do not collect systematic data on hate crime which are required for a long-term strategy and action in this domain.
66. The Commissioner has noted concerns expressed by NGOs that attacks against returnees are often treated as 'isolated incidents' and are rarely prosecuted as hate crimes, even though the authorities have legislative tools at their disposal to that end. The Criminal Codes of the Federation of Bosnia and Herzegovina, Republika Srpska and the Brčko District provide for a criminal offence of hate crime

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<sup>43</sup> The RHP is supported by the European Commission, the OSCE, the US Government and UNHCR. The RHP Fund is managed by the Council of Europe Development Bank (CEB) which also provides assistance to the four partner countries in preparing and implementing their housing projects as well as monitoring the use of grants disbursed from RHP Fund resources to the Partner Countries. As of December 2016 a total of EUR 269 million was pledged in support of the RHP. The initial aim of the RHP was to find solutions for 74,000 persons.

<sup>44</sup> OSCE Mission to Bosnia and Herzegovina, [Hate Crime and Bias-Motivated Incidents in Bosnia and Herzegovina](#), 2015 Monitoring Findings, November 2016.



which includes grounds of race, colour, religious beliefs, nationality or ethnicity, language, disability, sex, sexual orientation, and gender identity. Moreover, the laws provide that hate motivation is an aggravated circumstance of an ordinary criminal offence.

67. The Commissioner is also concerned about the reported lack of condemnation by political leaders and public officials of hate crime incidents against returnees. In his discussion with the authorities, the Commissioner stressed the need to raise awareness about the shattering impact that hate crimes have on the victim and the community as a whole. He also underlined the importance of continuous training for legal professionals and law enforcement officials on human rights standards concerning the fight against hate speech, xenophobia and racism.
68. Lastly, the Commissioner notes with interest that last March the Council of Europe launched a distance-learning course on Hate Crime and Hate Speech for the staff members of the Ombudsmen in Bosnia and Herzegovina. The objective of the course is to strengthen the capacity of Ombudsmen lawyers in order to identify and effectively address issues of incitement to hatred on various grounds.

## 1.6 STATELESSNESS

69. In the 2011 report on Bosnia and Herzegovina the Commissioner's predecessor noted that there were 5 000 persons of concern in terms of statelessness-related problems in Bosnia and Herzegovina. The Commissioner is pleased to note the progress made by Bosnia and Herzegovina in this field. Since 2011, the Bosnia and Herzegovina Ministry of Human Rights and Refugees, together with UNHCR and its local implementing partner NGO Vaša Prava, have undertaken important steps to register Roma populations and provide them with personal identity documents. According to UNHCR, there are currently 54 persons in the country at risk of statelessness, most of them Roma who still lack identity documents or/and birth certificates. The Commissioner hopes that these remaining cases will be dealt with promptly in order to make statelessness a thing of the past in the country.

## 1.7 CONCLUSIONS AND RECOMMENDATIONS

70. The Commissioner underlines that inter-ethnic reconciliation and social cohesion in the former Yugoslavia, including Bosnia and Herzegovina, cannot be achieved without justice. Justice is not only retributive, in the sense that it is aimed at punishing, through fair proceedings, perpetrators of serious human rights violations. It is also, or above all, preventive, aiming to ensure that all people in the region come to terms with their past, and live in peace in a cohesive, pluralist and democratic society.
71. The Commissioner considers that the lack of full accountability for serious human rights violations committed during the 1990s wars in the former Yugoslavia is a serious impediment to the process of achieving justice and lasting reconciliation in the region as a whole. Thus he urges Bosnia and Herzegovina to end impunity by effectively prosecuting and sanctioning all perpetrators of wartime crimes, in line with the aforementioned 2005 UN Basic Principles and Guidelines and the 2011 Council of Europe Committee of Ministers' Guidelines on Eradicating Impunity for Serious Human Rights Violations. Underlining the importance of effective regional co-operation in this regard, the Commissioner urges all states in the region to reverse the reported negative trends in the region by stepping up their co-operation in the prosecution of wartime crimes.
72. The authorities are called upon to address urgently the shortcomings in the witness protection and support system, paying particular attention to women witnesses. All efforts should be made to extend the provisions of the 2014 Law on the Witness Protection Programme to all domestic courts.
73. The Commissioner urges the authorities at all levels to put civilian war victims high on their agendas and to ensure that they are provided with prompt, adequate and effective reparation, in line with internationally established standards, paying particular attention to victims of war-related crimes of sexual violence and victims of torture. The authorities are called upon to adopt and implement the draft Law on the Rights of Victims of Torture and the Programme for Improvement of the Status of Survivors of Conflict related Sexual Violence.
74. While he welcomes the signing in 2014 by Serbia, Montenegro, Croatia and Bosnia and Herzegovina of the declaration on missing persons, the Commissioner underlines that additional efforts are needed to resolve the pending cases of missing persons in the region. He calls on all states in the region to

continue with determination their efforts, at national and regional level, in line with their obligations stemming notably from Articles 2 and 3 of the European Convention on Human Rights.

75. The authorities of Bosnia and Herzegovina are urged to give effect to the 2004 Law on Missing Persons and establish the fund for supporting the families of all missing persons. Useful guidance for the authorities' national and international undertakings in this context can be found in the Commissioner's 2016 [Issue Paper](#) on missing persons and victims of enforced disappearance in Europe.
76. Bosnia and Herzegovina is urged to continue in a determined and principled manner to remedy the effects of displacement by addressing the pending issues related to IDPs' access to economic and social rights, including adequate housing. The Commissioner supports the Regional Housing Programme and the constructive role played by the authorities in this context.
77. Noting with satisfaction the progress made in the eradication of statelessness, the Commissioner calls on the authorities to continue and complete their work in this context. Bosnia and Herzegovina is also urged to accede to the 2006 Council of Europe [Convention for the Avoidance of Statelessness in relation to State Succession](#).
78. The Commissioner is seriously concerned by the widespread segregation and discrimination in schools in Bosnia and Herzegovina. The authorities are urged to take effective measures to end the system of 'two schools under one roof' or mono-ethnic schools, and to introduce a common, core curriculum while respecting the particularities of each constituent people's culture.<sup>45</sup>
79. In this context, the Commissioner recalls the Council of Europe Parliamentary Assembly [Recommendation 1880 \(2009\)](#) on History teaching in conflict and post-conflict areas and reiterates the significant role of history teaching for reconciliation in post-conflict situations. Underlining that genuine knowledge of history facilitates understanding, tolerance and trust between individuals, especially the young, the Commissioner calls on all relevant actors to engage in an open dialogue on this important issue, while realising the vital need to teach history without resorting to one single interpretation of events.
80. The Commissioner urges the authorities to take resolute action in fighting crimes motivated by hatred, or racial or ethnic discrimination. Such crimes need to be adequately qualified and effectively prosecuted and effective, dissuasive penalties should to be imposed on perpetrators. The authorities are invited to draw on the guidelines contained in ECRI's [General Policy Recommendation No. 11](#) on combating racism and racial discrimination in policing and to reflect upon and develop a strategy to promote inter-ethnic dialogue and reconciliation. Continuous training for legal professionals and law enforcement officers on applying anti-discrimination legislation, including combating racism and racial discrimination, needs to be ensured.
81. In this context, the authorities and political leaders at all levels are urged to condemn firmly and unequivocally all instances of hate speech and other forms of ethnic intolerance, in line with the Council of Europe Committee of [Ministers Recommendation No.R\(97\)](#) on hate speech and with ECRI's [General Policy Recommendation No. 15 on combating hate speech](#).

## 2 FREEDOM OF THE MEDIA

### 2.1 GENERAL

82. Bosnia and Herzegovina has an adequate legal framework governing the media, which incorporates safeguards and standards protecting media freedom. The legislation is reportedly among the most advanced ones in Europe.<sup>46</sup> The 2003 Law on Communications of Bosnia and Herzegovina and the laws

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<sup>45</sup> See Commissioner's [Position paper](#) Fighting school segregation in Europe through inclusive education, and Commissioner's [Human Rights Comment](#) Inclusive education is vital for social cohesion in diverse societies.

<sup>46</sup> Reporters Without Borders, [2017 World Press Freedom Index](#).

governing the work of the public service broadcasters (see relevant section below) are the main pieces of legislation regulating this field.

83. Nonetheless, the lack of effective implementation of the media legislation is one of the main issues of concern, as noted in the 2016 “Report on Freedom of Expression and the Situation of Media in Bosnia and Herzegovina”, which was adopted by the Bosnia and Herzegovina Council of Ministers in July 2016.<sup>47</sup> The report also highlighted that threats against journalists and divisions in the media field along ethnic lines have had a serious negative impact on the professionalism of journalists. In addition, concerns were expressed about economic pressure on media outlets and journalists by politicians and businesses close to political parties, through advertising and defamation proceedings, which have negatively affected journalists’ independence.
84. Several of the Commissioner’s interlocutors expressed concern about the lack of transparency of ownership of many online media portals established in recent years, some of which are reportedly funded by local political parties and foreign countries, including countries from the region, which use these platforms to influence political developments in the country. Media experts have stressed the need to regulate this field by ensuring that all online media portals are registered and have an ‘impressum’ published on their webpage, and that they abide by the Press and Online Media Code of Conduct (see section on Journalists’ social rights and ethical journalism below).
85. Bosnia and Herzegovina decriminalised defamation in 2003, which is now only a civil offence punishable by a fine. However, recent research on media freedoms in the Western Balkans noted that the threat of defamation has a serious chilling effect on journalists and negatively affects the free work of the media.<sup>48</sup> Reportedly, about 300 defamation proceedings are initiated against journalists annually.<sup>49</sup> Awards of damages in defamation cases range from €1000 to €2 500. An editor-in-chief of a widely read newspaper whom the Commissioner met in Sarajevo stressed that at one point 100 defamation proceedings were pending against her in domestic courts. The Commissioner is concerned that even though the Constitutional Court of Bosnia and Herzegovina has developed an extensive body of case-law in defamation cases relating to Article 10 ECHR, domestic court judgments do not always comply with the requirements of this provision and the Court’s case-law.
86. Against this background, the Commissioner notes with interest that the Council of Europe-run [programme](#) Reinforcing Judicial Expertise on Freedom of Expression and the Media in South-East Europe (JUFREX), is currently implemented in six countries in the region, including Bosnia and Herzegovina. It aims to promote freedom of expression and freedom of the media in line with Council of Europe standards, with a specific focus on the judiciary. The main partners in this project are judicial academies/centres, bar associations, regulatory bodies, and associations of journalists and media outlets.

## 2.2 PROTECTION OF MEDIA PROFESSIONALS FROM THREATS AND VIOLENCE

87. There are currently three media freedom [alerts](#) concerning Bosnia and Herzegovina on the Council of Europe’s Platform to promote the protection and safety of journalists. The first one was submitted in December 2016 and concerns death threats to Slobodan Vasković, a blogger and journalist from Banja Luka, who left Bosnia and Herzegovina temporarily due to these threats. The second concerns the event last January when a TV crew from N1 (affiliate of CNN) was prevented by officials of Republika Srpska from attending and reporting on a press conference in Banja Luka organised by the President of Republika Srpska. The third alert concerns the possible shutting down of BHRT, due to the absence of an agreed plan for its sustainable funding (see also relevant section below). The Commissioner calls on the authorities to address these Council of Europe media alerts with the utmost seriousness and act upon them in order to eradicate and prevent all threats and violence against media professionals.

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<sup>47</sup> The report was prepared by the State Ministry of Justice upon a request by the House of Representatives of the Parliament of Bosnia and Herzegovina. It is available in local languages only.

<sup>48</sup> Western Balkans regional platform for advocating media freedoms and safety of journalists, [Indicators](#) on the level of media freedom and journalists’ safety (BiH), December 2016

<sup>49</sup> Ombudsmen of Bosnia and Herzegovina, [Special report](#) on the status and cases of threats against journalists in Bosnia and Herzegovina, June 2017.

88. Regrettably there are no comprehensive official statistics about the number of criminal offences committed against journalists or relevant pending criminal proceedings. In 2004, the Bosnia and Herzegovina Journalists' Association established a free helpline for journalists, in the context of which from 2012 to 2017, 266 attacks against journalists, including physical attacks, threats and cases of intimidations were recorded. However, there is limited information as to the legal follow-up of these cases.
89. While in Sarajevo the Commissioner was informed and concerned about the results of a recent survey according to which 28% of the participants in the survey in the Republika Srpska, and 6% in the Federation of Bosnia and Herzegovina, justified attacks against journalists. In January 2016 a group of media associations from Bosnia and Herzegovina, "the former Yugoslav Republic of Macedonia", Montenegro, Kosovo\*, Croatia and Serbia established a regional platform for advocating for media freedoms and the safety of journalists and an [online platform](#) for reporting attacks against and threats to journalists. 70 cases of threats and attacks on journalists in Bosnia and Herzegovina in 2015 and 2016 were registered on this platform, 52 of which were cases of intimidation, 15 related to physical attacks and 5 concerned attacks on journalists' property.
90. Journalists who write about corruption and war crimes, and who express views challenging nationalistic ideas and politics are often targets. For example, in March 2016, a two-member TV crew of N1 TV (affiliate of the CNN) that was covering a nationalist gathering in Višegrad (Republika Srpska) was violently attacked and injured.<sup>50</sup> Reportedly only misdemeanour proceedings have been initiated against the perpetrators of this attack. In August 2016, an explosive device was thrown in front of the house of Tihomir Bradvica, website editor of Ljubuski.net, who has published articles on corruption. A family member of this journalist sustained injuries in this attack. Following his visit, the Commissioner noted that the journalist from Banja Luka, Dragan Bursać, who had been threatened and attacked in the past, received online death threats related to his work.<sup>51</sup> Reportedly, the perpetrator was arrested last August and criminal proceedings have been initiated against him. The Commissioner would appreciate receiving more information about any judicial follow-up to the above-mentioned cases.
91. Threats and verbal attacks on journalists by politicians are also common and are rarely followed by condemnation from political leaders or authorities. One such example concerns the public verbal attack in July 2016 by an MP and former minister in the Federation of Bosnia and Herzegovina on Borka Rudić, the Secretary of the Bosnia and Herzegovina Journalists' Association, who was accused of being a "pro-Gülen" lobbyist because of her criticism of the crackdown on media in Turkey after the attempted coup d'état. Following this verbal attack, the journalist was threatened on the street by two men. She has filed a criminal complaint. There is no publicly available information about any legal follow-up to this complaint.<sup>52</sup> The Commissioner would appreciate receiving more information on this case as well.

## 2.3 JOURNALISTS' SOCIAL RIGHTS AND ETHICAL JOURNALISM

92. The Commissioner noted with serious concern many reports indicating that working conditions for journalists in Bosnia and Herzegovina have deteriorated in recent years.<sup>53</sup> Journalism as a profession is not well recognised and salaries are on average low and irregular. According to the Association of Journalists of Bosnia and Herzegovina, between 35% to 40% of journalists do not have adequate employment contracts or social and health insurance. The situation is reportedly worse in the private

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\* All reference to Kosovo, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 (1999) and without prejudice to the status of Kosovo.

<sup>50</sup> Two members of the TV crew were physically attacked (a [video](#) of the attack) during a commemoration to mark the 70th anniversary of the arrest of Draža Mihailović, leader of the extreme right-wing Serb "Chetnik" movement during World War II, by group of Serb nationalists after the journalist said they came from Sarajevo.

<sup>51</sup> He wrote an article entitled "Is Banja Luka celebrating the Srebrenica genocide?" in which he criticised a gathering in Banja Luka on 11 July, the day commemorating the victims of the Srebrenica genocide, in support of Ratko Mladić, charged with the genocide in Srebrenica.

<sup>52</sup> See [Media Sustainability Index](#) 2017, Bosnia and Herzegovina.

<sup>53</sup> See the Ombudsmen's 2017 special report pp. 34-39, and the [Indicators](#) on the level of media freedom and journalists' safety, December 2016, both mentioned above.

media sector. Salaries in local media range from €200 to €500 (the net average salary in the country in the first quarter of 2017 was about €420), in the public service media €700, while in some private media it is about €900.<sup>54</sup> There is no journalists' trade union, but general trade unions on the Entity level which journalists may join. However, these organisations are reportedly weak and with no political leverage.

93. The Commissioner is concerned that the social and political context in which journalists operate and the lack of effective protection of their social rights has impacted negatively on the quality of journalism. He has noted reports indicating that professional standards of journalism are not consistently applied and that self-censorship is on the rise. A frequent use of unsupported claims or unreliable sources, including social media posts, has also been noted. The independence of journalists is often not respected as well as their right to refuse to perform tasks that are not in accordance with professional standards and ethics.<sup>55</sup>
94. Against this background, the Commissioner emphasises the importance of media self-regulation in upholding freedom of expression. He is concerned that self-regulation is not exercised systematically and by all the media in the country. Self-regulation of print and online media in Bosnia and Herzegovina is entrusted to the Press Council of Bosnia and Herzegovina. The Council oversees the implementation of the [Press and Online Media Code of Conduct](#) which sets out reporting standards. It was adopted in 1999 by all journalists' associations in Bosnia and Herzegovina. The Council handles complaints concerning print and on line media publications but has no power to fine or suspend outlets breaching those standards. It mediates between the complainant and the outlet, which often results in a retraction or publication of a response by the complainant. The Council is part of the regional network of self-regulatory bodies of South-East Europe, established in 2015 in the context of a Council of Europe regional media project which ended in 2015.
95. The Ombudsmen and media experts have expressed their concern about developments in the field of access to public information. The 2000 Law on Freedom of Access to Information which governs this field provides for the Ombudsmen's oversight of the implementation of this law. The Bosnia and Herzegovina Ministry of Justice has prepared a new draft law on access to information and carried out a public debate thereon in December 2016. Media experts, Transparency International and the Ombudsmen have criticised the draft, considering it overly restrictive and in contradiction with relevant standards in this field. They have argued that if adopted it would make the publication of information an exception and not a rule. Additionally, it does not oblige public institutions to systematically apply the "test of public interest" that prescribes the examination in each case of whether a limitation of access to information serves the public interest. According to expert organisations this leaves room for unjustified refusal by the authorities of access to information. Moreover, the draft law provides for the monitoring of the implementation by the Ministry of Justice, while the Ombudsman no longer has an oversight role.<sup>56</sup> The conclusion last February of the public debate, which was initiated by NGOs and supported by the Bosnia and Herzegovina Ministry of Justice, was that the draft should be redrawn and the current law should be improved in line with the relevant standards in this field. The Commissioner looks forward to receiving more information about the authorities' plans in this context.

## 2.4 MAJOR ISSUES CONCERNING PUBLIC SERVICE MEDIA

96. The Commissioner recalls that public service media play a specific role with regard to the respect of the right to seek and receive information and the provision of varied and high-quality content, contributing to the reinforcement of democracy and social cohesion, and promoting intercultural dialogue and mutual understanding.<sup>57</sup>

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<sup>54</sup> Western Balkans regional platform for advocating media freedoms and safety of journalists, [Indicators](#) on the level of media freedom and journalists' safety (BiH), December 2016.

<sup>55</sup> Ibid.

<sup>56</sup> See Analiziraj.ba, [Zakon o slobodi pristupa informacijama:vrijedi se boriti za nove slobode](#) (in Bosnian language), March 2017

<sup>57</sup> See Council of Europe Committee of Ministers [Recommendation CM/Rec \(2012\)1](#) on media pluralism and diversity of media content, February 2012.

97. Bosnia and Herzegovina's public service media system comprises three public broadcasters: the state public service broadcaster Bosnia and Herzegovina Radio-Television (BHRT), and two entity broadcasters, Federation of Bosnia and Herzegovina Radio-Television (RTV FBiH) and the Republika Srpska Radio-Television (RTRS). Their work and relations are regulated by the 2005 Law on the Public Broadcasting System of Bosnia and Herzegovina and three specific laws regulating the work of each of the broadcasters. The 2005 Law on the Public broadcasting System provided for the establishment of a Corporation of the Public Broadcasting Services of Bosnia and Herzegovina ('the Corporation') to be run jointly by the three public service media, however this body has never been established.
98. Besides advertising, the main source of funding for the public service media is the licence fee, which all citizens who possess a TV set should pay. The fee is distributed at a ratio of 50% to BHRT, and 25% to each Entity broadcaster, the latter being in charge of the collection of the fee.
99. The Commissioner is concerned about an extremely difficult financial situation facing BHRT, to which several factors have contributed. Firstly, in June 2016 a temporary funding solution which entailed the collection of a licence fee through the bills for fixed telephone lines expired and a new model had not been found. In July 2016, the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina voted against amendments to the Law on the Public Broadcasting System that would have linked the subscription fee to electricity bills in order to increase the fee collection. Secondly, RTRS has stopped depositing on the common account the fee that it collected, accumulating a debt of about €4 million. The civil proceedings initiated in 2008 by BHRT against RTRS concerning this debt are still pending. In view of this situation, BHRT has not been able to fulfil its financial obligations at national and international level. It has accumulated debts to the European Broadcasting Union (EBU) of over €3 million over the last eleven years. In a [letter](#) addressed to the authorities in May 2017 24 MEPs called on the Bosnian authorities to act in order to preserve public service broadcasting in Bosnia and Herzegovina.
100. The Commissioner has noted with interest that following his visit, BRHT, RTV FBiH and a public electricity supplier signed a contract which provides for linking the license fee to electricity bills in the Federation of Bosnia and Herzegovina. Whilst this is a positive development, it remains to be seen if this short-term funding solution will be effective given the reported reluctance of many citizens to pay the license fee. Moreover, some politicians have publicly called on citizens not to pay the fee, arguing that BHRT does not cater for the needs of all constituent peoples. Reportedly, if 95% of the fee was collected and distributed as explained above there would be a surplus.<sup>58</sup>
101. The Commissioner notes that the lack of political consensus on the issue of the funding of BHRT epitomises deeply engrained polarisation along ethnic lines and aspirations to further divide public service media along ethnic lines. He is concerned by reports about the strong influence exerted by the main political parties on editorial policies of public service media, in particular the Entity ones, resulting in biased and unethical reporting by these media. The Communications Regulatory Agency (CRA) has a role to play in this context, as it monitors the observance by electronic media of standards set in the Law on Communications and the Code on media audio-visual and radio services, concerning, *inter alia*, the respect for freedom of expression, right to privacy, hate speech and the prohibition of discrimination. The CRA has a mandate to respond to complaints about violations of professional standards with warnings, fines, and even license suspensions, but it also carries out *ad hoc* monitoring of electronic media content. Even though biased reporting and hate speech in electronic media, including the public service media, have reportedly been on the rise, in 2016 the CRA did not find any violations of that kind. Most of the violations it found related to the protection of minors and the broadcasting of reality shows.<sup>59</sup> The Commissioner has been informed and concerned that the CRA's political neutrality, independence and its public perception as a neutral body need to be strengthened.<sup>60</sup>

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<sup>58</sup> See Council of Europe Parliamentary Assembly, [Summary Report](#) on the Parliamentary Seminar on the Independence of the Media (Sarajevo, May 2017), June 2017.

<sup>59</sup> Communications Regulatory Agency, [2016 report](#) on violations of standards and rules relating to electronic broadcasting, (available in local languages).

<sup>60</sup> See [Recommendations](#) of the International Conference "National Public Broadcasting in Bosnia and Herzegovina, June 2017.

## 2.5 CONCLUSIONS AND RECOMMENDATIONS

102. The Commissioner underlines that freedom of expression and media freedom have a crucial role to play in the development and progress of every European democratic society.<sup>61</sup> They are the pillars upon which two major characteristics of democracy are founded: pluralism and openness to dialogue. Particular attention should be paid to the protection of the press, especially investigative journalists - they are “public watchdogs” who inform the public about developments in society, expose state policies and actions to the close scrutiny of the public and stimulate critical public debate on issues of public interest. As stressed by the [Court](#), not only does the press have the task of imparting such information and ideas; the public also has a right to receive them.
103. Even though Bosnia and Herzegovina decriminalised defamation approximately 15 years ago, the Commissioner is seriously concerned that the threat of defamation charges has a chilling effect on media professionals and has a negative impact on their freedom of expression. The Commissioner underlines in this context that acceptance by politicians of a higher degree of public criticism and scrutiny, including from journalists, is an inherent part of democratic life. Their tolerance to criticism sends an important signal to the public and the media themselves that democracies can only thrive when they are based on openness and dialogue within the contours of the rule of law and human rights standards.
104. The Commissioner stresses that it is important to ensure that domestic court judgments in defamation cases are compliant with the requirements of Article 10 ECHR. To this end, the authorities are encouraged to pursue their efforts aimed at strengthening the capacity of judges in this context, in line with the Council of Europe Committee of Ministers’ Recommendation [Rec\(2004\)4](#) on the European Convention on Human Rights in university education and professional training.
105. States have an obligation to take all appropriate measures to protect the lives of threatened journalists. All forms of threats and violence targeting media professionals must be effectively investigated, prosecuted, tried and punished. The Commissioner is very concerned by the apparent lack of awareness of the authorities of the adverse impact that attacks against journalists and impunity for such attacks have on freedom of the media, and, as a consequence, on democracy.
106. Recalling the Council of Europe Committee of Ministers 2016 Recommendation [CM/Rec\(2016\)4](#) on the protection of journalism and safety of journalists and other media actors, the Commissioner urges the authorities to fulfil their positive obligation to protect journalists and other media actors from all forms of attacks and to end impunity for such attacks. The authorities are also urged to unequivocally condemn violence against journalists and refrain from discourse which is detrimental to media freedom and which could lead to journalists ceasing to perform their important role of public watchdogs in European democracies.
107. At the same time, journalists themselves must show a high degree of respect for human rights and abide by ethical standards of journalism.<sup>62</sup> Media actors should promote education and systematic training on ethical journalism, usefully drawing upon the Council of Europe’s rich expertise and standards. All media actors need to reflect upon and overcome the divisions along ethnic lines in the media sector and stand together when defending their profession and their rights.
108. Lastly the Commissioner underlines that by providing varied and high-quality content, public service media contribute to the reinforcement of democracy and social cohesion, promoting intercultural dialogue and mutual understanding. Recalling the Council of Europe Parliamentary Assembly’s [Recommendation 1878 \(2009\)](#) on Funding of Public Service Broadcasting, the Commissioner urges the authorities to find a long-term, sustainable funding model for the public service media to ensure that their independence is preserved, and to refrain from any action that could lead to censorship and threaten their editorial independence.

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<sup>61</sup> See Commissioner’s [thematic webpage](#) on media freedom, independence and diversity.

<sup>62</sup> See also the Commissioner’s [Positions on freedom of the media](#), 2010.