

SHADOW REPORT ON THE PROGRESS OF BOSNIA AND HERZEGOVINA'S
EUROPEAN UNION ACCESSION PROCESS

Sarajevo, 2013.

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HERZEGOVINA'S EUROPEAN UNION ACCESSION PROCESS**

INITIATIVE FOR MONITORING BIH' S EUROPEAN INTEGRATION

Sarajevo, 2013

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Background

This Shadow Report on the Progress of Bosnia and Herzegovina's (BiH) European Union (EU) Accession Process (hereinafter: Shadow Report) was developed by an informal coalition of civil society organizations called the Initiative for Monitoring BiH's European Integration, which is a group of nongovernmental organizations active in BiH and interested in the EU accession process.¹The initiative's main goal is to effectively monitor the work of the government throughout its mandate and constantly inform the domestic and international public about all of the positive and negative developments in the integration process. The initiative recognizes the need for connectivity and empowerment of civil society organizations working on the promotion and protection of human rights and the promotion of EU integration at the local and national levels.

The main objective of this Shadow Report is to give a nongovernmental perspective on the level of progress achieved by BiH in the EU Accession Process. As this is the first such report to be published in BiH, our aim was primarily to scrutinize the progress achieved by BiH, but also to test the capacity of the NGO sector in BiH to work together and produce such a complex and demanding report. This report focuses on human rights in light of the EU accession process. Our hope is that this report will have an impact on how BiH's EU accession process is addressed in public life, that it will serve as a

1 Members of the initiative: Center for Political Studies, CURE, Human Rights Center of the University of Sarajevo, Sarajevo Open Centre, Alumni Association of the Center for Interdisciplinary Postgraduate Studies, UG Zašto Ne?, Green Council, Helsinki Citizens Assembly Banja Luka, Green Neretva, Centre for Socio-ecological Development, PerpetuumMobile, Center for Youth "Kvart", Foreign Policy Initiative BiH, and the European Research Centre.

point of reference for those interested in reading about how the civic sector perceives the EU integration process, and that it will set a basis for future similar reports that should be published on a regular (yearly) basis with the increased participation of NGOs in its development.

The shared opinion of all NGOs that contributed in the development of this report is that it is in the interest of both BiH and the EU to open membership negotiations as soon as possible. Croatia's concluded accession process and Montenegro's ongoing process show that the most powerful political and socio-economic reforms begin with the opening of membership negotiations. The Shadow Report reveals a disturbing combination present in BiH; our country is very far from opening negotiations, while at the same time in a desperate need for true political and socio-economic reforms.

BiH has been a potential candidate country for EU membership since the Thessaloniki Council meeting in 2003. Since then BiH can claim only two successes, (1) the lifting of visa requirements for BiH citizens and (2) the completion of negotiations for the Stabilization and Association Agreement (SAA). Otherwise, on the EU agenda, BiH has not achieved much; BiH-EU trade relations are regulated by an interim agreement as the SAA is still not in force and conditions for a credible membership application have not been met.

In order for the SAA to enter into force, BiH politicians need to make a credible effort to bring the BiH constitution in line with the European Convention on Human Rights (ECHR). A credible membership application requires that BiH politicians agree on a coordination mechanism that would enable BiH's complex political and administrative structures to speak with one voice on EU affairs. These conditions were set by the EU Council in March 2011 and confirmed by the EU-BiH High Level Dialogue in July 2012.¹ However, little or no progress can be observed in implementing these conditions.

This means that for almost three years since conditions were set, BiH's EU accession process has been stalled. This Shadow Report explains why implementation of the two remaining conditions set by the EU is important for BiH's future. At the same time, it points to a wide range of other issues that are pressing and must be addressed. The stalemate in the EU accession process is hurting BiH as a whole and must be overcome as soon as possible. Overcoming it would first allow BiH, but also the EU, to dedicate their energy to the other issues identified in this report.

The Shadow Report is structured in three chapters. The first chapter provides NGO insight on BiH – EU relations, the second chapter addresses issues of democracy and the rule of law, and the third chapter provides an overview of the state of protection of human rights. This report is based on the experiences of the contributing NGOs over a one-year period. Each chapter provides information about the issues addresses, concrete findings, and proposals.

1 European Commission – June 2012 Joint Conclusions from the High Level Dialogue on the Accession Process with Bosnia and Herzegovina and the Road Map for BiH's EU membership application.

Introduction to NGO Activism in BiH

BiH is known to be among the countries with the highest number of NGOs “per capita” in the Western Balkans. In 2008, the number of registered NGOs in BiH was estimated at 12,189. For comparison, there are 18,119 registered NGOs in Serbia, 11,326 in Macedonia, and 3,454 in Montenegro. Of course, comparisons with EU countries are not of great use (for example, Hungary has 40,000 NGOs, while Croatia has over 45,000). Due to the fact that some organizations are registered on more than one administrative level, the number of active NGOs is actually much smaller in reality and does not surpass 5,000. We estimate that there has been a significant increase of registered NGOs over the past 2 years, but it is difficult to estimate the number of active NGOs.

The overall percentage of citizens’ associations founded to work for the interests of their members is 71.8%, while the remaining 28.2% of associations are those that work for general interests. Most associations in BiH were registered after 1991, whereas only 9.4% of associations were registered prior to 1991.

Furthermore, BiH civil society is dominated by small NGOs (with a maximum of 10 employees or 100 active members/volunteers), which make up 85.4% of associations in BiH. Associations with more than 10 employees or 100 members/volunteers are considered to be large NGOs (14.6%). Apart from activities that are directly related to the consequences of war, there are several differences in the fields of work of BiH’s NGO sector as compared to more developed countries. The main areas of NGO activities include: culture and recreation, economic and social services, and civil services and advocacy. In the mid-2000s, NGOs provided services for 29% of BiH citizens, and 60% of NGOs were active at the local (municipal) level.

BiH – EU Relations

BiH is a potential candidate country and as such is included in the EU's enlargement policy. Overall political and trade relations between the EU and BiH are regulated by the SAA, which is considered to be the first step in the accession process. Although it was signed in 2008 and ratified in 2010, the agreement has not yet been put into force. In the meantime, an Interim Agreement regulates bilateral trade relations. BiH has not yet applied for EU membership. In March 2011, the EU Council set four conditions for a credible membership application of which BiH fulfilled two (adoption of the census and state aid laws). BiH failed to fulfill the other two conditions (Sejdic-Finci and the establishment of a coordination mechanism on EU affairs). Since March 2011, BiH has therefore made little or no progress in the EU accession process.¹

The stalemate in the EU accession process is worrying because it does not reflect the will of BiH's citizens. Recent surveys show that citizen support for BiH's EU membership is almost 80%. Lack of progress resulted in the suspension of IPA funding for BiH, and threatens to leave BiH without future IPA funding. This is worrying because the NGO sector will be affected and because there is danger of reversing that little progress BiH has achieved so far.

What is also worrying is that other countries in the region are making significant progress while BiH is lagging behind. Albania applied for EU membership and expects to be rewarded with candidate status, Macedonia already has candidate status, Serbia was given a timeframe for opening negotiations, Montenegro has started the negotiation of

1 EU Progress Report 2013 – BiH.

several chapters, and Croatia has been a full EU member since 1 July 2013.

In September 2011, the EU began its 'enhanced presence' in BiH with the appointment of Peter Sorensen as the first EU Special Representative to serve concurrently as Head of the EU Delegation. Despite the increased efforts he invested in order to facilitate political agreement on the remaining conditions for a credible membership application, he did not manage to achieve tangible results.

In fact, BiH is not only in a situation where it is failing to achieve progress and falling behind in all aspects of reform and adjustment to the rule of law, it is in a situation where its chances of entering the EU are actually decreasing as opposed to increasing. In order to explain the situation in which BiH finds itself today, it is helpful to describe what occurred in May during the European Parliament debate on BiH's progress.

In May 2013, a European Parliament debate came to the conclusion that BiH is a divided state with a bad economy dominated by corruption, a low level of press freedom, and a political culture where tactics of instigating ethnic tensions are still widely used as a means of effectively manipulating the public. Furthermore, the country has not done enough to fight corruption or to implement constitutional reforms to ensure respect for human rights.¹ Rightfully, the European Parliament decided not to call for any sanctions as these would have affected citizens more than political leaders.² Furthermore, the EU rightfully stands firm in its position to make political leaders adjust institutions in order to make them functional and to enable reforms leading to accession. It was also concluded that there is a need for new people in state structures. Doris Pack, the member of the European Parliament delegation for relations with BiH, said that more political will and consensus is needed to resolve issues in BiH. At this plenary session, Stefan Füle, the Commissioner for Enlargement, expressed his concern over the inefficiency of BiH's politicians. He also said that BiH will need at least 10 more years to join the EU.³

Despite the fact that the European Parliament ultimately rejected sanctions for BiH, this plenary session demonstrated a clear shift on the part of many EU policy-makers, who are now clearly willing to call for the usage of sanctions against BiH. The most worrying sanctions that might be imposed are the freezing of all funding for BiH and a continuation of the stalemate in BiH's progress toward accession.

The recently published EU Progress Report notes mostly limited or no improvement in BiH's accession process. Moreover, the State Aid Council, praised for its establishment in the 2012 Commission Progress Report, was criticized in the 2013 Commission Report for being nonfunctional. Moreover, in the summer of 2013, EU rural development and agriculture projects in were halted. On 10 October 2013, a procedure for freezing 54% of all IPA funding for 2013 was initiated by the European Commission because of failure to make progress.⁴

1 European Parliament resolution of 23 May 2013 on the 2012 Progress Report on Bosnia and Herzegovina (2012/2865(RSP)).

2 <http://www.euractiv.rs/eu-i-zapadni-balkan/5869-bih-zaostaje-za-regionom-na-putu-ka-eu->

3 <http://www.euractiv.rs/eu-i-zapadni-balkan/5869-bih-zaostaje-za-regionom-na-putu-ka-eu->

4 http://europa.eu/rapid/press-release_MEMO-13-874_en.htm.

Monitoring Coalition Opinions on the EU Integration Process

This year, seven organizations provided written contributions by responding to interview questions about the EU integration process. Below, we provide a summary of the NGO coalition partners' opinions on EU-BiH relations.

We asked the participating organizations about how they have viewed the process of EU integration until today, and who is most responsible for the EU integration process:

ACIPS – the Association Alumni of the Center for Interdisciplinary Postgraduate Studies states that since 2006, neither major improvements in the EU integration process nor any changes in the political sphere have happened. They claim that BiH politicians are to blame for this stagnation. Furthermore, they say that the passing of laws in Parliament has become a question of blackmail and trade, and that in recent years the EU has been lowering its criteria when it comes to the integration process.

The **feminist organization CURE** also claims that the process of EU integration has been very slow and that citizens should be more involved.

Green Council (an organization focusing on agriculture and rural development) is of the opinion that after 12 years of being a part of the EU integration process, it seems as though these processes are actually nonexistent in BiH. Politicians are to blame because they want to keep the status quo in the country. No important decisions can be made because politicians are intentionally blocking them.

The **Sarajevo Open Centre, an LGBT advocacy group**, emphasizes the complexity of BiH's state apparatus and therefore the need for non-conventional modes of EU integration. This organization also stresses that BiH was created by international agreements and therefore should be helped by international and supranational organizations during its peaceful transition.

The **Citizens Association Zašto Ne?** is unsatisfied by the limited reaction on the part of the EU to political turmoil and upheavals in BiH. They think more stringent measures should be in place.

Populari, a research think tank, underlines the complexity of political mechanisms in BiH and the inability to collectively set forth a decision or strategy. They claim that the country's non-linearity is causing these problems.

The **Helsinki Citizens Assembly of Banja Luka** considers the process to be slow and unclear (in terms of the obligations and responsibilities of BiH as a state that wants to submit an application for membership to the EU). This organization believes local politicians are most responsible.

In response to the question of how they see the work of the EU Delegation and the Special Representative in BiH, the organizations gave the following answers:

ACIPS thinks that the EU Delegation produces reports and sends them to Brussels. However, the organization believes that the EU Delegation doesn't have any political power. Everything is decided in Brussels and the main problem is that not much pressure is placed on BiH politicians. Accession criteria are constantly lowered.

CURE also thinks that the EU is not pressuring BiH politicians enough.

The **Green Council** shares the opinion of ACIPS and CURE, but underlines that the sanctions the EU is imposing are not targeting politicians, but rather citizen. One example is the recent blocking of IPA agriculture funds. They also claim that the Sejdić-Finci ordeal is causing more problems for citizens than for politicians, and that there are similar human rights problems in other countries. However, the EU has not placed as much emphasis on those problems as they have on this case.

The **Sarajevo Open Centre** thinks that, given the organizational complexity of the EU, they are doing a good job at the government level, but that there is an "elite barrier" when it comes to enabling access to information for citizens. This is probably not the case in developed EU countries.

Zašto Ne? notes that in the Sejdić- Finci case, the resolution of that problem is being agreed on in political party meetings with international organizations and not in the parliament, which would make it transparent for civil society.

Populari notes that the EU is bureaucratic and that this is causing the process to go slowly. They think that the EU should make BiH's citizens put more pressure on their politicians.

The **Helsinki Citizens Assembly of Banja Luka** believes that representatives of the European Commission are constantly engaged and involved in the development of the accession process, but it sometimes seems that even they don't know what to do with us. Similarly, they don't know how to continue work with our politicians.

What is the role of civil society in the process of EU integration?

ACIPS – civil society should be a "guard dog" for the integration process. Unfortunately, it does not do enough.

CURE – claims that the feminist movement is doing a great deal to improve the position of women in society. However, they are displeased that they cannot participate directly in decision making processes in the government.

Green Council – the role of civil society organizations is to (without bias) inform

citizens about what is happening in the country.

Sarajevo Open Centre is of the opinion that civil society is the third actor, following the government and international organizations, which should be a corrective factor for societal change.

Zašto ne? – civil society's role is not well defined and it's mostly "project oriented." This prescribed project implementing, in *Zašto ne?*'s opinion, has a short term effect and does not change things from the bottom up. They think the EU should do more to educate and include citizens in political change processes.

Populari shares the opinion of Olli Rehn, and thinks that civil society is the backbone of social change. However, in BiH there is no national strategy for NGOs. Civil society is highly unorganized and there are only a few platforms, which each consist of the same organizations.

Helsinki Citizens Assembly Banja Luka – It should be significant, but it is not. Civil society organizations have been involved in this process through specific initiatives, working groups, etc. However, their impact is more or less invisible.

What do you think would speed up the process of EU integration?

ACIPS – making politicians responsible. According to some surveys, 80% of citizens want to enter the EU. Civil society should be more active, better organized, and play a greater role.

Green Council – implement the predetermined reforms, make the politicians more responsible, and strengthen the role of civil society so that it is more active, critical, and influential.

Sarajevo Open Centre – set conditions for politicians through funding. Allocating funding for projects or relieving the budget deficit should be based on fulfilling certain conditions. This works to a certain extent, as we have witnessed that IPA funds were sacrificed in order to retain certain political functions.

Zašto Ne? – Make politicians more responsible.

Populari – Revise the relations of the EU vis-à-vis BiH.

Helsinki Citizens Assembly Banja Luka – a clear definition of obligations; the dismissal of current politicians, approaching "ordinary" citizens regarding the concept and process of European integration (what does this mean for BiH?, what will we get and what will we lose?, etc); strengthening the personnel of government institutions, and providing professional opportunities for people to "pull" funding from various funds intended for BiH so as to avoid having them redirected elsewhere.

How do you think Croatia entering the EU influenced BiH?

ACIPS – blocking the import of food products to Croatia had the greatest impact. Politicians were not prepared for that. However, if BiH's producers obtain the necessary certificates for export, they will be able to benefit given that the EU market is open to them via Croatia.

CURE – the organization collaborates with feminist movements in Croatia and can learn a great deal from their experiences.

Green Council – politicians are to blame for major losses in export in the agricultural sector. Other impacts are not yet measurable.

Other organizations responded similarly, placing emphasis on the losses in export of products.

Do you think the EU's approach to BiH differs from that for other countries when it comes to the association processes? How would you describe it?

ACIPS – BiH has a specific political structure, but so does every country. As a result, some integration policies are different. However, this allows space for the lowering of accession criteria, which is not good.

CURE does not believe that the process of accession for BiH is any different from that of other countries. BiH is lagging behind because it has a specific political structure and needs more pressure from the EU.

Green Council stresses that it's strange that problems with implementing the Sejdić- Finci decision have blocked the entire integration process, which was not the case when other countries were entering the EU. There are cases of countries that also had human rights deficiencies in their constitution and this did not prevent them from entering the EU.

Sarajevo Open Centre is adamant about resolving the Sejdić- Finci problem and thinks sanctions should be stricter. However, they say that more in-depth analysis is necessary in order to assess whether the EU's policies towards BiH are different from EU policies towards other countries.

Zašto Ne? claims that EU policy towards BiH is definitely different because the EU negotiates with political parties and not with democratically elected leaders.

Helsinki Citizens Assembly Banja Luka –It is hard to say. Slovenia became a member of the EU despite its failure to resolve the problem of individuals who were "erased" (i.e. those who lived and worked in Slovenia but who were simply erased from the list of residents of the former Yugoslavia by the former Slovenian leadership). The Helsinki Monitor of Human Rights in Ljubljana continuously reported on this issue.

Another example of an unresolved issue is that of refugees, the displaced, and missing Serbia in Croatia. To this day, this has yet to be fully reviewed. Thus, one can conclude that there are double standards.

BiH's EU Accession Process—a Timeline

<p>In 1997, the EU Council of Ministers established political and economic conditionality for the development of bilateral relations. BiH was granted autonomous trade preferences.</p>
<p>In 1998, the EU/BiH Consultative Task Force (CTF) was established, ensuring technical and expert assistance in the field of administration, regulatory framework, and policies.</p>
<p>In May 1999, the Stabilization and Association Process (SAP) was started. The SAP offers a clear EU accession perspective for BiH and other five West Balkans countries.</p>
<p>In June 1999, the agreement on the Stability Pact was reached, a political document whose strategic goal is the stabilization of South-East Europe by bringing the countries of the region closer to Euro-Atlantic integration and the strengthening of regional cooperation.</p>
<p>A Summit of Heads of State and Governments, including those of Canada, Japan and the USA, was held in Sarajevo in July 1999. There, the establishment of the Stability Pact for South-Eastern Europe was endorsed and made official. In March 2000, the EU Road Map was defined. The document defined 18 essential steps to be undertaken by BiH in order to start work on a Feasibility Study for the opening of negotiations on a Stabilization and Association Agreement.</p>
<p>In 2000, the introduction of duty-free access of products from BiH to the EU market (Autonomous Trade Measure – ATM) was agreed on.</p>
<p>In December 2000, the Council of Europe adopted Regulation 2666/2000 on Community Assistance for Reconstruction, Development and Stabilization (CARDS), a technical assistance program designed for the SAP countries: Albania, BiH, Croatia, FYR Macedonia, and the Federal Republic of Yugoslavia (Serbia and Montenegro).</p>

<p>In March 2003, work on the Feasibility Study started. The European Commission gave the Council of Ministers of BiH a questionnaire consisting of 346 questions, covering BiH's economic and political set-up, and other fields relevant for conclusion of the Stabilization and Association Agreement.</p>
<p>The European Commission adopted the assessment of the Feasibility Study in November 2003. The Feasibility Study identified 16 priority areas where substantive progress in reforms would constitute the basis for the European Commission to propose to the Council of the EU to open negotiations with BiH on the Stabilization and Association Agreement.</p>
<p>The Council of the European Union adopted the first European Partnership with BiH in March 2004.</p>
<p>Negotiations on the Stabilization and Association Agreement officially started in Sarajevo on 25 November, 2005. In January 2006, the first Plenary round of SAP negotiations between the EU and BiH, and the first plenary meeting on Reform Process Monitoring, which replaced the Consultative Task Force were held. The Council of the EU adopted the second European Partnership with BiH.</p>
<p>The Instrument for Pre-Accession Assistance (IPA), designed for all pre-accession activities and financed by the European Commission, was introduced at the beginning of 2007.</p>
<p>In February 2008, the Council of the EU adopted the third European Partnership with BiH. In November 2007, technical negotiations on the Stabilization and Association Agreement were finalized, with initiating and signing dependent on the fulfillment of political conditions.</p>
<p>The Stabilization and Association Agreement was signed on December 4, 2007.</p>
<p>On February 20, 2008, the Framework Agreement on Rules of Cooperation in the Implementation of Financial Assistance from the European Commission to BiH within IPA was signed.</p>
<p>The Stabilization and Association Agreement was signed on 16 June 2008.</p>
<p>The Interim Agreement on Trade and Trade Matters entered into force on 1 July 2008.</p>

In November 2008, the first meeting of the Interim Committee for Stabilization and Association was held. This is the highest body within the Stabilization and Association Process, and has the primary task (together with 6 Interim Sub-Committees) of monitoring the fulfillment of obligations set out in the Interim Agreement;

In June 2011, the first meeting of the Structured Dialogue on Justice between BiH and the EU was held.

June 27, 2012. – The 1st meeting of the High Level Dialogue on the EU accession Process with BiH was held on June 27, 2012, as which time the Road Map for the BiH's EU Membership Application was handed over. The second meeting was held in November 2012.

Democracy and the Rule of Law The Constitution

BiH's Constitution established a complex institutional architecture, which remains inefficient and is subject to different interpretations. The complicated decision-making process continues to have a negative impact on structural reforms and the country's capacity to make progress towards the EU.

The Federation's Constitution entails costly and complex governance structures with certain overlapping competencies between the Federation, the Cantons, and the municipalities.

There is an apparent need for reform.¹

A Coordination Mechanism for European Integration²

One urgent issue BiH faces is the establishment of a functional coordination mechanism among different levels of government for the transposition, implementation, and enforcement of EU legislation. Such a mechanism would enable the country to speak

1 http://www.ustavnareforma.ba/bs/o_projektu.html.

2 Makul, Anes. <http://cps.ba/wp-content/uploads/2013/10/cps.pdf>.

with one voice on EU issues.

Although formal relations between BiH and the EU exist, due different interpretations of BiH's obligations, representatives of Republika Srpska seek to establish a separate accession process for the entities. This represents an additional problem and slows down the entire integration process as no agreements or solutions on specific issues can be reached. The Directorate for European Integration (DEI), a body of the BiH Council of Minister, officially has a coordinating role. However, despite the existence of the Directorate, the BiH's existing constitutional structure prevents DEI from actively dealing with its defined job. In addition, it is still problematic that not enough communication and harmonization of policies among different institutions and levels of government exist due to the politicization of the administration. It is necessary to carry out constitutional reforms that would allow the state level to have a stronger coordinating role. Furthermore, the authorities in each area should have one point for receiving information from lower levels of government, as well as from European neighbors. This would allow for easier implementation of EU policies since the Commission primarily communicates with the state level, and not with lower levels of government.

Proposals for Constitutional Reform: A Civil Society Perspective

ACIPS proposes doing away with the institution of the Presidency – or to significantly diminish its role – and have the House of Peoples elect the President. While the executive branch and House of Representatives would remain as they are now, the House of Peoples would be expanded in order to include minorities and members from the Brčko District. The House of Peoples would have an exclusive say on matters of collective rights and vital national interest.

In 2011, the Forum of Citizens of Tuzla proposed that the House of Representatives nominate the President. The House of Peoples would be expanded to 31 members, including 4 members from the "Others." Quorum would necessitate 17 members, 5 from each of the constituent peoples and 2 from the "Others." The House of Representatives and the Council of Ministers would remain more or less the same.

The Law Institute of BiH proposed that the President be nominated by the House of Peoples. He or she would then nominate 3 vice Presidents (none of whom could be from the same group of constituent people). The House of Peoples would be expanded by 7 members from each constituent people, plus 2 members from the "Others" (for a total of 23 delegates). The number of delegates in the House of Representatives would be reduced. Some adjustments would be made to allow for the presence of "Other" ministers in the Council of Ministers. Regarding reform of the Federation of BiH, the Law Institute proposed the inclusion of a referendum mechanism. It also proposed a more transparent division of powers between the Federation and other levels of government. There would be no radical reductions in this scheme.

The BiH Council of National Minorities proposed a solution to the Sejdić- Finci problem that would expand the Presidency by one member. The House of Peoples would be expanded by two members. In this way, "Others" would be accommodated. All other institutions would remain unchanged.

The Youth Contact Group of the Youth Initiative for Human Rights (YIHR) proposed a more radical restructuring. They called for three regions with administrative powers, and the elimination of Cantons. This structure would be similar to that of Cantons, with the difference being that there would only be three such regions, as opposed to ten. This proposal foresaw only one house of parliament, called the United Regions Parliament.¹

Parliament

The BiH Constitution envisaged a set of specific solutions pertaining to the BiH Parliamentary Assembly. Its position is predominantly determined by BiH's federal state organization, and accompanied by the many specificities of consociational democracy. The Constitution does not explicitly proclaim the principle of division of power, but the application of this principle can be inferred from constitutional norms. The Parliament's ethnic elements, i.e. the domination of national political elites, are evident both in the structure of the Parliamentary Assembly and in the manner of its decision-making. Although the House of Representatives should represent the citizens (which it does, judging by the direct election of its members), it is also dominated by ethnic and entity elements (ethnic nature of political parties and so-called entity voting). The House of Peoples represents constituent peoples, while its delegates are elected indirectly, in the entities. The Parliamentary Assembly performs the usual legislative functions, however with unusual content and scope. This is conditioned by a narrow scope of state competencies, as opposed to the entities' parliaments. The Parliamentary Assembly does not perform functions that are often within the competencies of the legislative authority. For example, it does not elect the judges of the BiH Constitutional Court; that competence belongs to the entity parliaments. The Parliamentary Assembly, as well, has no role in appointing the holders of judiciary functions at the state level, as that is a competence of an independent institution – the High Judicial and Prosecutorial Council of BiH. The exercise of functions of the Parliamentary Assembly is conditioned by the domination of ethnic political elites and broad coalitions. So far, opposition in the Parliamentary Assembly has been scarce. The broad coalition consists of parties associated with all three constituent peoples. The heterogeneous composition of broad coalitions complicates the functioning of a parliamentary majority, i.e. government and opposition, as it increases the uncertainty of adopting and implementing policies. This influences the work of the Parliamentary Assembly, particularly its performance of its legislative function and its relation to the Council of Ministers. Although the Council of Ministers dominates the legislative procedure (more often than in other states) it happens that the bills it submits are not adopted due to the instability of the parliamentary majority. Party

¹ Public International Law & Policy Group. Constitutional reform diagrams: Modeling for clarity and comparison.

discipline that bonds the members of the Parliamentary Assembly and non-institutional agreements of party leaders reduce the importance of the Parliamentary Assembly, which only formalizes the political agreements achieved at the meetings of party elites. Some of the most important competencies of the Parliamentary Assembly were seized in that manner, thus significantly reducing its credibility. The analysis of performance of legislative and control functions, as well as of transparency and international influence, should respond to the question of if and to what extent the Parliamentary Assembly exercises the functions granted to it by the Constitution.¹

Public Administration

Over the past decade, BiH's public administration capacity has grown, with each government level increasingly fulfilling its basic responsibilities. As time progresses, so do the expectations of the people. Securing basic governance is no longer sufficient; all citizens aspire to sustained economic and social development, in the framework of EU membership. To meet citizen demands, and to move closer to the goal of European integration, the administration must undergo a process of improvement and reform. The administration should actively contribute to the formulation of policies, including the regulation of markets and stimulation of private initiatives. Better coordination on all levels is needed in order to move away from defective and mutually contradictory policies and legislation. It should be capable of delivering higher quality services to citizens and businesses. This requires a modern administration, which is flexible and open to public participation.

Finally, progress toward these goals requires a financially responsible and sustainable administration. Excessive spending and administrative complexity deter private investment, slow down growth, and curtail poverty reduction efforts. Higher levels of corruption are a symptom of administrative malfunction; transferring costs to citizens and business. The EU has acknowledged the enormous extent of the challenge and the transformations that needs to take place to attain membership. Accordingly, it has provided clear guidelines for countries wanting to become members of the EU. The accession criteria were fixed by the European Council in Copenhagen in 1993, and reinforced by the European Council in Madrid in 1995. The EU criteria consider sufficient administrative capacity a key requirement for EU membership. The EU operates primarily through its members' administrations: it is necessary for candidates to demonstrate the ability to adopt the 35 Chapters of rules in the EU legislation (the *acquis communautaire*), and the capacity to fully implement them. The other accession criteria are a matter of political obligations as well as economic conditions.²

However, political and economic progress must occur in parallel with appropriate capacity building measures.

Currently in BiH, little progress has been made in the area of public administration

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- 1 Sarajevo Open Center – Improvement of Democratic Performances of the Parliamentary Assembly of Bosnia and Herzegovina 2012.
 - 2 Bosnia and Herzegovina – 2012 Public Administration Reform Strategy PARCO.

reform. The Public Administration Reform Coordinator's Office (PARCO) revised the 2006 Action Plan under the Public Administration Reform (PAR) Strategy, providing a framework for reforms over the next five years. The Public Administration Reform Strategy is being implemented in six reform areas: (1) Policy Making and Coordination Capacities, (2) Public Finance, (3) Institutional Communication, (4) Information Technologies, (5) Administrative Procedure, and (6) Human Resources Management, equally and at the same time at all four administration levels (the state of BiH, the Federation of BiH, the Republika Srpska, and Brčko District).

The issue of financial sustainability of public administration at all levels needs to be addressed. The directors of the Indirect Taxation Authority (ITA), the State Investigation and Protection Agency (SIPA), and the State Veterinary Office have been appointed. Appointments to some key agencies are still awaited, in particular the Communications Regulatory Agency, the State Aid Council, and the electricity transmission company TRANSCO. The state-level Law on Civil Servants has been amended to allow the Civil Service Agency to handle civil servants' personal data and thus make use of the human resources management information system. In the Federation, amendments to the Law on Civil Service were adopted, aligning it with the Constitutional Court of the Federation of BiH decisions and ensuring compliance with the Bologna Process on recognition of diplomas. Following a decision by the Constitutional Court, a framework law harmonizing the Cantonal legislation was drafted. The adoption in two Cantons of separate laws on the civil service, which are not fully in line with the framework law, contributed to the fragmentation of the civil service system and the establishment of separate civil service agencies at the Cantonal level.

According to the last Quarterly Report of the Coordinator for the Public Administration Reform Office, progress in implementation of the Action Plan 1 of the Strategy for the Public Administration Reform is 37.69%. But a number of domestic and international reports consistently evaluate public reform at all administrative levels negatively.¹ Public Administration is mostly described as a bulky and fragmented apparatus burdened by unclear divisions of competence and strong influence of political elites to executive and administrative functions of public administration. Public administration is also seen as a slow and inaccessible mechanism without sufficient capacity to plan its work in coordination with the needs of the society or to implement what it plans.

The need to maintain, but also to increase, the process of monitoring of public administration reform progress in BiH is obvious. The regional context imposes public administration reform in BiH as one of the key societal priorities. The process of liberalization of the visa regime for the Western Balkans countries can serve as an excellent illustration. Namely, when in mid-2009 the European Commission made a decision on liberalization of the visa regime for Serbia, Montenegro, and Macedonia, that was only one step in a row of signals that BiH lags behind the countries in the region. This conclusion is again confirmed by insight to the numerous indexes that deal with evaluation of countries and their capacities in certain fields. As an example, BiH is in the 75th place of the Human Development Index² and it is the worst ranked country in the Western Balkans. On the other hand, on the index list in which it is best to be last, and this is the

1 Alumni Center of the Interdisciplinary Postgraduate Studies – Quo Vadis Public Administration.

2 World Bank.

"Failed States Index,"¹BiH is in 63rd place, accompanied by countries that make up the category "In danger." On the Corruption Perceptions Index² for 2012, BiH is again placed (72th place) behind the neighboring countries. Also, from all countries in the region, BiH has the worst place in the index "Doing Business 2012," which evaluates the ease of doing business in 183 countries in the world. A bad international perception of BiH is a result of bad public management whose integral part is, as was already stated, public administration as a totality of the executive, administrative, and technical function of management. Of course, it must not be forgotten that the disordered political situation in the country is the main culprit for the existing situation, but that is not sufficient to amnesty the public administration. Actually, it has to be emphasized that lack of trust of citizens toward public administration is a basic internal factor that requires reform.³ Citizens' experiences in contact with public administration, are most often described as: unprofessional, inefficient, corrupt, and politicized.

Institution of Human Rights Ombudsman of BiH

The BiH Ombudsman has issued reports to the UN and the BiH Parliamentary Assembly on the status of human rights in the country and on the implementation of the anti-discrimination law. Several of the recommendations, e.g. regarding the judiciary, access to information, and discrimination, have not been implemented due to weak enforcement capacity and a lack of political support. The reduction in funding has had a negative impact on the functioning of the Ombudsman.

Although the legislative framework provides a good platform for an important role for the BiH Ombudsman in combating discrimination, numerous problems that the institution faces in its work in practice diminish the potential offered by its broadly defined legal mandate. Compared to judicial protection, the institution can be a simpler, faster, and more efficient means of getting protection against discrimination. Over time they develop specific expertise and experience and can have an important impact on the law and its application. In order for the BiH Ombudsman, who was accorded the role of central institution for protection against discrimination, to become a true catalyst for social change in this field, however, conditions need to be ensured for this institution's unhampered, independent, and effective activities – primarily its financial and staff equipping.

The BiH Ombudsman to a large extent shares the problems faced by equality institutions in other countries, which are primarily related to limited resources and lack of acknowledgement from the authorities that approve the budget. This is illustrated by the fact that the legally envisioned special budget item required for the operation of the Department for Elimination of all Forms of Discrimination has not yet been adopted.

1 Foreign Policy Research Group Index.

2 Transparency International.

3 Alumni Center of Interdisciplinary Postgraduate Studies – Quo Vadis Public Administration.

This directly impacts the implementation of all of the institution's competencies: the speed of handling complaints, presence on the ground, organization of public awareness raising activities, implementation of various surveys, normative legal analyses, initiating and participating in different forms of court proceedings, and others. But some problems are related to the procedures, processes, and conditions in which the Ombudsman institution exercises its function. In the context of an insufficiently developed culture of the rule of law, its recommendations are not always given due attention, while necessary support by other key actors, primarily parliaments, for improving the implementation of recommendations that have not been complied with is often missing. This also means that support for strengthening the institution's reputation and authority is lacking. Examples are misdemeanor proceedings for protection against discrimination, promotion of numerous innovations offered by the Law, such as extending the competences of the Institution of the Ombudsman of BiH to act on complaints related to the private sector, or prohibition of victimization. Although it is clear that the majority of these issues are directly influenced by the scope of resources available to the Ombudsman of BiH and by the fact that the role of the Ombudsman in this important field is relatively new, the present moment is optimal for revising the existing practices and establishing, in light of best comparative experiences, strategic steps needed for optimizing the efficiency of this key mechanism for protecting the individual against discrimination in BiH.¹

Judicial system

According to the 2013 EU Progress Report, there has been no significant progress in the area of judicial system reform. The Structured Dialogue on Justice increased political support and allocation of human and financial resources. The Law on the High Judicial and Prosecutorial Council and the Law on Courts of Republika Srpska have been changed recently so as to be brought closer to international standards of independence, but have not yet been harmonized. Bringing the Court of BiH closer to international standards is still being discussed.

The biggest problem, according to EU officials in BiH, is the budgetary fragmentation of courts in BiH, which affects their independence. All courts experience serious backlogs in resolving cases. It is also emphasized that there is a lack in investigative capacity and human resources across courts in BiH, which in turn leads to a diminishing number of cases resolved.

As for antidiscrimination laws and systems in BiH, the adoption of the Law on the Prohibition of Discrimination of BiH in 2009 was an important step toward advancing the protection of individuals from discrimination in BiH. Some time has passed now from when the normative prerequisite for protection from discrimination was established, however, judicial practice regarding this matter remains very scarce. Statistics kept by the organization *Vaša prava BiH*, which, among other activities, deals with legal representation of victims of discrimination and strategic litigation, are certainly

¹ Analitika - Ombudsman in the System of Protection Against Discrimination.

telling. Until December 2012, only three claims approved by applying the Law on the Prohibition of Discrimination of BiH (LPDBiH) were known of – a final judgment by the Mostar Municipal Court, a first-instance judgment by the Livno Municipal Court, and a first-instance judgment by the Mostar Municipal Court. Meanwhile, five claims were rejected and lawsuits in two cases were dismissed. Considering the above, it is difficult at this time to draw firmly substantiated conclusions on the application of many legal institutes and innovations prescribed by the Law, as well as on problems that may appear in this regard in future court practice. The BiH judiciary still faces the important and challenging task of their interpretation and proper application. In the absence of developed case-law, as a Livno Municipal Court judge who conducted one of these cases pointed out, judges are struggling to “resolve their dilemmas in line with the acquired experience and practice from other types of proceedings, in the spirit and meaning of the legal provisions.”¹ This is consistent with the EU progress report and the claim that more should be invested in education to hasten the process of court proceedings.

Anti-corruption Policy

BiH has made limited progress in addressing corruption, which continues to remain widespread in the public sector and in public- private interaction. The legal framework is largely in place but sanctions need to be harmonized across the country. Corruption continues to affect all spheres of life, economic development, and the rule of law.²

The Law on Conflict of Interest is in place; however, the harmonization of conflict of interest legislation across the country is pending. Communication and coordination among various levels of government is very weak. Nepotism and extortion are common and the fight against them remains at the very beginning. No whistle blowing mechanisms are in place. Corruption in public procurement is also very widespread.

Overall, BiH is still at an early stage in the fight against corruption. Corruption remains prevalent in many areas and is a serious problem. A legal framework is in place but the political will to tackle the issue and to improve institutional capacity remains weak. The implementation of the strategy and action plan needs to be stepped up. Sustained efforts are needed to establish a convincing track record of proactive investigation, prosecution, and conviction of high level corruption cases.

Financing of political parties is vague. The Central Election Commission reports on it. In the post-war period, many NGOs were also involved in corruption activities. There are reports on this, but little empirical evidence.³

The country routinely performs very poorly in Transparency International’s Corruption Perceptions Index (CPI). In 2012, it ranked 72nd out of the 180 countries assessed, suggesting widespread and endemic forms of corruption. The 2012 World Bank Worldwide Governance Indicators, however, indicate positive trends in recent years for most areas of governance assessed. Except for poor and deteriorating scores in terms of

1 Analitika – Judicial Protection Against Discrimination.

2 EU Progress Report 2013.

3 www.antikorupcija.ba– anticorruption network.

'political stability,' the country has made steady progress in terms of 'voice and accountability' (40 in 2012 compared to 44 in 2011) and 'control of corruption' (45,9 compared to 43,7 in 2008), while major improvements have been recorded in terms of 'government effectiveness' (35,1 compared to 20,9), 'rule of law' (43,5 compared to 23,3), and 'regulatory quality' (48,8 compared to 27,8). Bosnian citizens also perceive corruption to be very high in the country. A survey conducted in May 2008 for the Center for Investigative Reporting (CIN) in Sarajevo found that 82% of the citizens surveyed consider corruption in BiH a serious problem. According to TI's 2007 Global Corruption Barometer, Bosnian citizens are pessimistic about the future, with 66% of the respondents believing that corruption will increase in the next three years. Corruption is also identified by the World Economic Forum's 2008-2009 Global Competitiveness Report as one of the major constraints for doing business in the country, along with government instability, policy instability, inefficient government regulation, and inadequate infrastructure. Consistent with regional trends, 35% of the companies surveyed within the framework of the World Bank and IFC 2009 Enterprise Survey also identified corruption as one of the largest constraints to business operations.

The types of corruption prevalent in BiH are: political corruption, bureaucratic corruption, organized crime, and judiciary. Sectors most affected are: licenses infrastructure and public utilities, tax and customs administration, natural resources and extractive industries, public procurement, and privatizations.¹

¹ www.antikorupcija.ba.

Overview of the State of Human Rights

Human Rights Controversies

There is a clear existence of tensions between a constitutional system based on collective equality of ethnic groups on one hand, and the principle of individual rights and equality of citizens on the other. The most visible is the composition and election of the House of Peoples, which is incompatible with Article 14 of the European Convention on Human Rights (ECHR), while the rules on composition and election of the Presidency seem to be incompatible with its Protocol 12, which in BiH came into force on April 1, 2005. So far, elections have been held regardless of these breaches.¹

The interests of persons not belonging to the three constituent peoples are at risk of being neglected, or people may be forced to artificially identify with one of the three constituent peoples in order to realize their rights although they may, for example, be of mixed origin or belong to a different group. Each individual is free to change his political party affiliation. By contrast, ethnic identity is immutable, and individuals may not be willing to vote for parties perceived as representing the interests of a different ethnic group, even if these parties provide better and more efficient government. A system favoring and enshrining a party system based on ethnicity therefore seems flawed.

The Constitution endorses a large number of human rights conventions and

¹ Alumni of the Center for Interdisciplinary Postgraduate Studies – Our Attitude Towards the Constitution.

guarantees that these conventions will have supremacy over local legislation. However, despite formal fulfillment of requirements in the area of human rights, and regardless of the fact that these conventions should be directly applied, BiH is one of the rare countries in the region and beyond in which the Constitution directly violates the rights of minorities. In a multi-ethnic state such as BiH, it appears legitimate to ensure that state institutions reflect the multi-ethnic character of the society. The problem, however, is the way in which the territorial and the ethnic principle are combined.¹

In the field of anti-discrimination policies, the European Commission recognizes that the state and entity constitutions guarantee equal treatment to all people. However, a comprehensive antidiscrimination law has not yet been adopted. Anti-discrimination legislation exists in some areas, but its application is insufficient.²

State Institutions and Main human Rights Issues

Three main institutions in charge of protecting human rights in BiH are the BiH Constitutional Court, the Institution of Human Rights Ombudsman of BiH, and the state-level Ministry for Human Rights and Refugees.

The Ombudsman is an advisory body. Everyone can contact the Ombudsman regarding violations of human rights and he or she can, at his or her discretion, investigate the application. The Ombudsman has a legal right to access all official documents and any relevant information he or she requires. At the conclusion of an investigation, the Ombudsman is required to issue findings and conclusions. The Ombudsman may also present special reports to any competent government organ or official, who is then required to provide specific responses to any conclusions of the Ombudsman. In the event that a person or entity does not comply with the conclusions and recommendations of the Ombudsman, the Ombudsman's report will be forwarded to the High Representative. The report will also be referred for further action to the Presidency of the appropriate Entity.³

The Human Rights Chamber of BiH was active between March 1996 and December 2003. It was a judicial body established in BiH under Annex 6 of the Dayton Peace Agreement. It was an independent body until 2004, when it was renamed the Human Rights Commission, becoming an office within the Constitutional Court. The structure of the Commission (with regards to the Chamber) also changed, with a reduced number of judges. At this point, there aren't any more foreign (international) judges in this institution. The Commission only has the mandate to resolve pending cases of the previously established and extinguished Human Rights Chamber. New violations against human rights are to be referred to the Constitutional Court. The enforcement of the outstanding decisions of the Human Rights Chamber and the Human Rights Commission, which is

1 Analitika Think Tank – New/Old Constitutional Engineering 2011.

2 EU Progress Report 2013.

3 <http://www.ombudsmen.gov.ba/Default.aspx?id=10&lang=BS>.

now under the competence of the BiH Constitutional Court, remains to be addressed - in other words, the Commission is not resolving any pending cases from prior to 2003.¹

The state-level Ministry for Human Rights and Refugees was formed in 2000 by the Law on the BiH Council of Ministers, which states that the Ministry for Human Rights and Refugees has a mandate to ensure the protection of human rights and refugees in accordance with the Constitution (Dayton Peace Agreement), international conventions, and other legally binding acts. It also coordinates efforts on ensuring refugees' rights between entities.²

Some other human rights issues are casualties resulting from landmines, bad conditions in prisons and other correctional facilities, property rights and land ownership by religious communities, discrimination and violence against minorities (women, sexual minorities, and religious groups), discrimination of disabled persons, human trafficking, and the limited right to employment.

In regard to international human rights instruments, BiH has ratified all major UN and international human rights conventions. The principles of the European Convention on Human Rights are entrenched in the BiH Constitution, which also guarantees the supremacy of this Convention over national legislation. In a number of cases, the decisions of the BiH Constitutional Court have not been enforced, which led to cases being lodged before the European Court of Human Rights.

Overall, the legal and institutional framework for the protection of human rights is in place, but the implementation of human rights standards remains uneven. It remains essential to implement the European Court of Human Rights judgment in the Sejdić-Finci case, which is still a priority in this area.

Dervo Sejdić and Jakob Finci, BiH citizens of Roma and Jewish origin, filed a complaint against BiH, complaining that the BiH Constitution prevents citizens who do not declare themselves as one of the three constituent peoples (Bosniak, Serb, and Croat) from running for BiH Presidency and the House of Peoples of the BiH Parliamentary Assembly. An Interim Joint Parliamentary Committee was set up in October 2011 and tasked with drafting amendments to the BiH Constitution and the Election Law of BiH, to comply with the European Convention on Human Rights and the judgment of the European Court of Human Rights regarding discrimination against citizens on the grounds of ethnicity. So far, no concrete changes have been made.

Accountability for War Crimes

The courts and prosecutors' offices in BiH have been dealing with cases of war crimes since the end of the 1992-1995 war. In 2003, the newly established Court of BiH and the BiH Prosecutor's Office were given jurisdiction over these cases and a significant number of cases – approximately 100 – have been processed successfully since the institutions became fully operational in 2005. In addition, war crimes proceedings are still ongoing in a number of courts in the entities and Brčko District, as the laws and

1 <http://www.hrc.ba/commission/bos/default.htm>.

2 http://www.mhrr.gov.ba/default.aspx?langTag=bs-BA&template_id=127&pageIndex=1.

policies in force in BiH foresee the processing of less complex war crimes cases before the Cantonal and district authorities.

Current estimates indicate that BiH has over 1,300 cases involving some 8,000 suspects in its backlog of war crimes cases. The National Strategy for War Crimes Processing was developed to tackle this backlog by BiH justice sector actors and adopted in December 2008.¹

A lack of information available to the public in BiH about the judicial system has fostered misconceptions about war crimes prosecutions and the capacity of the domestic criminal justice system to deal with these cases. This situation has contributed to overall public distrust in the criminal justice system and consequently, a growing reluctance to cooperate with courts and prosecutors. This is particularly problematic for resolving war crimes cases and moving towards the full restoration of the rule of law in BiH.

In the context of the International Criminal Tribunal for the Former Yugoslavia (ICTY) Completion Strategy, the ICTY transferred six cases involving ten defendants from The Hague to the BiH authorities, in accordance with Rule 11bis of the ICTY Rules of Procedure and Evidence (known as Rule 11bis cases). The Mission submitted approximately 60 reports on these cases to the ICTY Prosecutor's Office, describing the main developments in each case and focusing on any challenges identified from the perspective of human rights standards, as well as on positive steps that were taken to address these challenges.

BiH made some progress in processing war crimes cases. Between 2004 and March 2013, 214 war crimes cases were completed in BiH. A total of 235 persons were convicted and sentenced to a combined total of 2,262 years imprisonment. Despite these achievements, a backlog of approximately 1,315 war crimes cases still remains to be processed.²

The BiH National War Crimes Strategy set deadlines for completing the most complex and top priority cases by 2015, and all remaining cases by 2023. In an effort to meet these deadlines, the pace of case processing needs to be greatly accelerated whilst ensuring that the highest judicial and human rights standards are met.

As foreseen in the BiH National War Crimes Strategy, hundreds of war crimes cases were transferred from the State-level to lower level jurisdictions in recent years. This transfer significantly adjusted the structure of the war crimes backlog in BiH. Approximately half of the backlogged 1,315 cases now fall under state-level jurisdiction, while the remaining half will be processed by the entity and Brčko District jurisdictions.

The Balkan Investigative Research Network (BIRN) started a campaign in July 2013 to stop the anonymity of witnesses to war crimes in BiH courts. This campaign aims to provide citizens all testimonies and video recordings of witnesses in these cases, because so far the identity of culprits of war crimes has been anonymous.

ACIPS is also (in their study on Sexual Violence and Prosecution at the Court of BiH) advocating for ending the anonymity of perpetrators of sexual war crimes. Moreover, they advocate for more sensitivity when it comes to reporting on these cases and for judges to be more tolerant towards the victims in these cases. They suggest additional education for judges and journalists.

NGOs in BiH are concerned about the privileged status felons convicted of war crimes enjoy in prisons, as well as war crimes convicts escaping from prison. A recent

1 Human Rights Watch World Report 2013 Bosnia and Herzegovina.

2 OSCE War Crimes Processing Report 2013.

example of this is Dominik Ilijašević, who was convicted of war crimes and escaped from the Mostar prison.

Rights of Persons with Disabilities

With the ratification of the Convention on the Rights of Persons with Disabilities in 2009, following the adoption of the Common Disability Policy in 2008, BiH made a commitment to pursue the highest standards in access to programs for education and upbringing of persons with disabilities. Given the political structure of BiH and the distribution of responsibilities between the state and the Entities and, in the Federation, between the Entity and the Cantons, it can be very difficult and even impossible to ensure that persons with disabilities have equal opportunity of access to educational programs throughout the country. BiH devotes a large share of GDP to social protection (more on this in the chapter on “Social Protection”). This is so because there are many groups involved in social protection schemes, mainly due to the war. There is also a significant difference in social transfers for persons disabled as a consequence of war and those disabled by other causes. This in itself constitutes discrimination.

There is a system of special schools that a smaller number of children and young people with disabilities attend, but their institutional status has not been fully settled and few have appropriate conditions. There are special public educational institutions for people with impaired sight, impaired hearing, intellectual disabilities, or physical disabilities. Thus educational services for individuals with disabilities are currently provided by mainstream educational institutions, special educational institutions, NGOs, and Disabled Persons Organizations (DPOs). A few “mainstream” institutions, mainly primary schools, have professional teams to support children with disabilities included in mainstream educational programs and their teachers. Such teams generally provide support for several educational institutions, the main form being support for teachers in adapting curricula and working with students with disabilities during the teaching process. Only rarely do they work with parents and peers.¹

There are 8 special public educational institutions for persons with intellectual disabilities across BiH. Additionally, there are 5 centers that, among other activities, provide aid to persons with intellectual disabilities.²

Public educational institutions specifically for the blind are the Centre for the Education and Upbringing of Blind Children (a primary and secondary school) in Sarajevo and the Institute for Blind Children “Budućnost” (a primary and secondary school) in Derventa. Special public educational institutions for persons with impaired hearing are the Sarajevo Centre for Speech and Hearing Rehabilitation, the Tuzla Centre for Hearing and Speech Rehabilitation, and the Banja Luka Institute for the Education and Upbringing of Children with Impaired Hearing.³

1 International Alliance for People With Disabilities.

2 Informativni centar za osobe s invaliditetom Lotos Tuzla – An Analysis of the Current and the Future Model for Supporting People with Disabilities in BiH, 2013.

3 Informativni centar za osobe s invaliditetom Lotos Tuzla – An Analysis of the Current and the Future Model for Supporting People with Disabilities in BiH, 2013.

There are 8 institutions that provide transport to persons with disabilities to their educational institutions.

Under the BiH Constitution, health care and health insurance are the responsibility of the entities. In the Federation of BiH, this responsibility is shared by the Entity and the Cantons. This decentralization of health insurance and health care, particularly in the Federation of BiH, and the difference in economic power between the Entities and the Cantons, means that insured individuals neither enjoy equal rights under their compulsory health insurance nor have equal access to all levels of health care and related institutions.

For persons with disabilities, exercising their right to health care is marked by discrimination caused by their disability, an inadequate health care financing system, irrational allocation of resources across the levels of health care, an inadequate degree of organization and outfitting of health care institutions, poor accessibility, inappropriate training of medical and paramedical staff, lack of quality control of healthcare service delivery, and control of spending. Access to health care services is unequal, both for primary health care (rural vs. urban and between the Entities and the Cantons) and for more specialized and complex services. Persons with disabilities cannot exercise their right to healthcare if they are not insured. In most Cantons, they cannot be insured on the basis of their disability alone. A large number remains without health insurance and care, resulting in further deterioration of their health and increase in disability.

Persons with disabilities are often excluded from mainstream health care services and systematically directed towards specialized medical institutions. On a more positive note, there are 60 community-based centers in BiH within the primary health care system in which people with disabilities can access some medical services and rehabilitation care. They were founded between 1997 and 2004, with 38 in the Federation of BiH and 22 in the Republika Srpska. The aim of this integrated rehabilitation model is to ensure safe and improved access to medical care for persons with disabilities, with an interdisciplinary approach and referral to relevant institutions as needed. Mental health services are provided through a network of 55 mental health centers, 38 in the Federation of BiH, 16 in the Republika Srpska and one in Brčko District. Health care services provided by public health institutions, private medical clinics, and NGOs and DPOs through projects also offer specific forms of medical rehabilitation, including physiotherapy and psychosocial support for persons with disabilities and family members.¹

Under the BiH Constitution, social protection is in the sole jurisdiction of the entities. In the Federation of BiH jurisdiction is, however, shared between the Entity and the Cantons. This structure of jurisdiction substantially complicates the creation of a unified approach to social protection, especially in providing different forms of support to people with disabilities.

The Republika Srpska's Law on Social Protection (an amendment to which is currently in parliamentary procedure) stipulates an entitlement to an allowance for assistance and care by another person for those with severe physical or sensory disabilities, those with developmental disabilities related to more serious and severe impairments, those with multiple developmental disabilities related to moderately serious and severe intellectual disorders, persons with autism and persons with chronic intellectual

¹ Informativni centar za osobe s invaliditetom Lotos Tuzla – An Analysis of the Current and the Future Model for Supporting People with Disabilities in BiH, 2013.

disabilities and no capacity for employment, and those with absolutely reduced mobility or unable to meet their fundamental needs without another person's care and assistance, with the provision that they must not be eligible for this entitlement on any other legal basis or for accommodation in social care institutions. This same law sets the allowance at 41.00 BAM.

Some causes of the low employment rates for persons with disabilities are poor adaptation of working conditions and the work environment to their needs, poor employer motivation, and prejudice and distorted attitudes about their employability and performance. Both Entities have been trying to redesign and reform their programs and legislation in the entire employment field. Policies, which refer to the employment of persons with disabilities, indicate a commitment to take measures that prioritize and promote it. One institutional model is represented by recently adopted laws: the Law on Vocational Rehabilitation, Training and Employment of Disabled Persons, enacted in 2004 in Republika Srpska, and the Law on Vocational Rehabilitation, Training and Employment of Persons with Disabilities, enacted in 2010 in Federation of BiH.

The conventional wisdom in BiH is that people with disabilities, especially women, cannot live independently, have families, take care of themselves or perform everyday activities. There is no systematic support to help them realize an intimate and family life, which would be most clearly reflected in achieving parenthood. Parents or other family members provide support to most persons with disabilities. This is particularly true of women with disabilities. There are no programs to support the independent living of intellectually disabled persons. As to rights related to family issues, the law does not deal with benefits for families headed by a person with a disability, except in the case of disabled veterans.¹

There are 8 social housing institutions for persons with disabilities in BiH. According to a study by Sumero, 1,926 persons were accommodated in the 5 institutions for social protection in the Federation of BiH in 2011: 848 (44.07%) women and 1078 (55.93%) men, of whom 1848 (95.95%) were adults and 78(4.05%) were children. There are two institutions in the Republika Srpska, in which 361 people were housed: 150 women and 211 men, of whom 311 were adults and 50 were minors.²

Under articles 21 and 30 of the Convention on the Rights of Persons with Disabilities, states are obligated to take appropriate measures to ensure persons with disabilities can exercise freedom of expression and opinion, including the freedom of researching, receiving, and expanding information and ideas on an equal basis with others through the usage of all forms of communication, in accordance with their choice. BiH recognizes the right of all persons with disabilities to participate in cultural life on an equal basis with others and has committed to taking appropriate measures to ensure they develop and use their creative, artistic, and intellectual potential, not only for their own benefit but for the enrichment of society as a whole. Under the BiH Constitution, culture and information are under the purview of the Entities, while in the Federation of BiH these areas are in the domain of Cantons. This decentralized system barely functions, especially with regard to the rights and needs of persons with disabilities. Persons with disabilities, especially those with severe disabilities or with sensory and intellectual

1 Informativni centar za osobe s invaliditetom Lotos Tuzla – An Analysis of the Current and the Future Model for Supporting People with Disabilities in BiH, 2013.

2 Informativni centar za osobe s invaliditetom Lotos Tuzla – An Analysis of the Current and the Future Model for Supporting People with Disabilities in BiH, 2013.

disabilities, are almost entirely excluded from mainstream culture and information. Those with hearing impairments and blind persons have limited access to information in some forms of communication. Government departments have no sign language interpreters, while persons with impaired vision may have difficulties obtaining information in written form, as Braille printers are not used anywhere. The Internet is not set to accommodate the needs of the disabled, especially government sites, so they cannot be informed properly.

The media in BiH presents disability issues in an unacceptable manner, often as a tragedy or a sensation, thus maintaining stereotypes.

Return and Reintegration

The Medureligijsko vijeće (The Inter-Religious Council) of BiH has reported attacks on religious property as a means of threatening returnees. From 2011 to 2012, the number of these incidents decreased by half. Only two - out of more than 70 of these cases - were prosecuted as hate crimes in 2011 and 2012. Attacks on private property have been reported in Banja Luka. The police did not react efficiently. The Association Zašto Ne? reports an increase in attacks on private property in 2012 before and during local elections, especially in the municipalities of Srebrenica and Bratunac. In April of 2013 there were also reports that the Republika Srpska Ministry of Internal Affairs conducted residency checks for 900 residents of the named municipalities. 300 residency claims of returnees were rejected.

Apart from this sort of maltreatment of returnees, there is also discrimination in employment and in other spheres of personal life, even though the antidiscrimination law prescribes equal treatment. Zašto Ne? also reported attacks against returnees in the municipality of Prijedor in 2013.

Education

Nationalism is taught in ethnically homogenous schools to young children who were not alive during the war to understand these animosities. Textbooks contain both subtle and blatant hate speech, and schools display religious symbols of the local majority.¹With memories of the war still fresh for adults in BiH, each ethnic group interprets the past differently. Culture, history, and even language are permeated with the politics of difference and discrimination. This is strengthened by the existence of three languages, which are almost identical, and the right of parents to educate their children in the language of their respective ethnic group.

In the Republika Srpska, problems arise when Muslim Bosniaks return to their towns. In these communities, education policies primarily reflect the domination of the

1 OSCE in BiH Education website.

Serb majority group over minorities. Minority children are allowed access only to education organized to serve the needs of the majority students and the atmosphere is hostile in some schools.¹ The Serbian curriculum has a Serbian world perspective, is taught in the Serbian language, and uses the Cyrillic alphabet. In music class students learn patriotic Serbian songs, and in religion class only Orthodox Christianity is considered. Vague references to "our country" implicitly refer to Serbia and not to BiH.² Although the education system in Republika Srpska is centralized and the administration functions more smoothly than the system in the Federation of BiH, schools fail to incorporate minorities.

In the Federation of BiH, education is less centralized and the majority of decisions are delegated to the Cantonal level. A great deal of tension exists between Bosniaks and Croats, and is evident in their schools. In the five Cantons with a Muslim majority, education is provided in the Bosnian language and from a Bosniak perspective. Literature focuses on Bosniak authors, and does not include authors from other ethnicities in the region. History textbooks heavily emphasize aggression and genocide attempts specifically against Muslims.³ In the two Cantons with a Croat majority in the Federation of BiH, the study of language means instruction only in Croatian, without any references to the other languages of the region. The 1990s wars are referred to as defending "the homeland." History books focus on the Croatian perspective and neglect the "non-Croatian population." BiH is referred to as a foreign country such as Serbia or Macedonia because textbooks are published in Zagreb.⁴

The constitutions of the Federation of BiH and Republika Srpska explicitly guarantee religious freedom while implicitly referring to a separation of church and state. Religious education was introduced in all public schools in the 1990s, yet only the religion of the majority is taught. Authorities explain that it is not possible to provide teachers to represent each religious group, reflecting the political divisions in the country.⁵ Technically, religious education is optional. In reality, students who opt out of these courses face discrimination in some school districts. In some schools, students are forced to sit in the hallway if they do not attend religion classes.⁶ This method of dealing with multiculturalism in schools only emphasizes and strengthens differences between ethnicities.

Some of the worst cases are schools in the two ethnically mixed Cantons of the Federation of BiH, which extend from central Bosnia, through the city of Mostar and south to the border with Croatia. Many schools in these two Cantons operate what have come to be known as "two schools under one roof," with Muslim and Croat students attending school separately in the same building. Stolac High School, located in southeastern BiH near the Croatian border is one such example. Stolac has a Croat majority, and students use the school in two shifts with Croat students attending school

1 Open Society – Teaching Intolerance 2008.

2 Low-Beer, Ann. "Politics, School Textbooks, and Cultural Identity: The Struggle in Bosnia and Hercegovina." *Paradigm* 23 (2001).

3 Open Society – Teaching Intolerance 2008.

4 Spirit of Bosnia – Segregated Education in Bosnian High Schools 2013.

5 United States Institute of Peace. *The Current Status of Religious Coexistence and Education in Bosnia and Herzegovina*. By Renata Stuebner. DC: Washington, 2009.

6 Russo 5.

in the morning and Bosniak students attending in the afternoon. After the war, the Organization for Security and Cooperation in Europe (OSCE) urged Croat authorities to allow Bosniak students to attend the schools in the afternoon. This compromise was meant as a temporary solution until the adoption of a national curriculum, which has yet to happen. On the first day when Bosniak students used the building, Croat school staff piled up chairs to build a barrier to separate the children when the shifts changed.¹ Today, more than 50 schools in BiH operate like Stolac High School.²

Mostar, which is located in the same Canton as Stolac, and boasts about having one of the few integrated high schools in BiH. The Mostar Gymnasium is located on the boulevard that formerly served as the front line between the Croat and Bosniak forces during the war. The city remains divided between the two ethnicities and the Mostar Gymnasium is the only mixed public school. Despite the claims of this school, integration is limited. Croat and Bosniak students learn two separate curricula for the main subjects, while sports, school activities, and a few classes such as technology are integrated. A private school is located on the third floor of the same building called the United World College high school. This school accepts students from all ethnicities in BiH, as well as international students, and operates in English.

In the Federation of BiH, the ethnically divided school system creates fissures locally although local governments do not dictate education policy. In April 2012, a Mostar Municipal Court banned the practice of "two schools under one roof" in the towns of Stolac and Čapljina, but the ruling has not been implemented due to weak political will (the Herzegovina- Neretva Canton Ministry of Education even appealed it). In October 2012, the Travnik Municipal Court dismissed a lawsuit on the same issue. However, in 2013 the Cantonal Court in Mostar annulled the 2012 first instance judgment of the Municipal Court in Mostar, which established that organizing lectures based on the principle of ethnicity discriminated against children in the divided schools of the Herzegovina-Neretva Canton.

Taking all of this into consideration, we can see that minorities are directly neglected in the education system because they only have a choice of Croat, Serb or Bosniak programs in schools. There have been projects from the Federal Ministry of Education and Sports to resolve these issues, but the Cantonal ministries of education are not implementing these reforms and they have more authority over education than the Entity level.

NGOs were also very active regarding the question of religion in schools in the Canton of Sarajevo.

On the 22nd of April 2011, Minister Suljagić ordered all primary and secondary schools in the Sarajevo Canton to remove the grades that students receive in Religious Education from the overall grade average, which provoked strong reactions throughout all of BiH. Minister Suljagić resigned from his position because he was threatened and bullets were sent to his home address. Nobody was prosecuted for hate speech towards Suljagić or for the threats sent to his home address.

1 Cerkez-Robinson, Aida. "Bosnia's ethnic divisions are evident in schools ." Seattle Times 22 August 2009: Web. 9 Jan 2010. <seattletimes.nwsources.com>.

2 Cerkez-Robinson.

Roma

In order to ensure adequate solutions for issues pertaining to Roma, one of the largest minorities in BiH, the BiH Ministry for Human Rights and Refugees and the Council of Ministers of BiH adopted the following documents:

- In 2005 – BiH Council of Ministers adopted the BiH Strategy for Roma
- 3 July 2008 – The Council of Ministers adopted the BiH Action Plan on Roma Issues in the Fields of Roma Employment, Housing, and Health Care.
- 4 September 2008, BiH signed a Declaration to join the Decade of Roma Inclusion 2005-2015
- The Revised Action Plan on Roma Education was adopted in 2010.¹

The basis of all the adopted documents was included in the Law on Protection of Minorities in BiH that was adopted in 2003. The last census in BiH was in 1991, and only about 8,000 citizens self-identified as Roma. All field information available suggested that there were more Roma in BiH. For this reason, the BiH Ministry for Human Rights and Refugees organized a registration process for Roma and their needs in 2010. In 2010 and 2011, registration data were included in this unique data base. The registration process remained open for each Roma returnee family or other Roma individual who missed the chance to register. Local social welfare centers have led the registration process and received technical equipment (computers) in order to establish their data base. Special attention was paid to data protection, in accordance with the Law on Data Protection. The registration of Roma needs was useful for better planning of activities and funds. In total, about 17,000 Roma were registered. If we take into consideration those who were not registered and those who were absent, it is estimated that there are between 30,000 and 40,000 Roma in BiH.²

Housing: Many Roma in BiH live in informal settlements that fail to offer their families stability and security. Forced evictions are an ever-present danger, and the government has made no provisions for adequate alternative housing for those who are evicted. Forced evictions have been a particular problem in Mostar, with some Roma families were evicted twice in the past two years. Most recently, in October 2011, 100 Roma were left without adequate housing after an eviction carried out in order to make space for housing for other Roma. None of these evicted were offered alternative accommodation.

Education: Roma families across BiH face financial barriers to school enrollment, including the cost of meals, textbooks, clothes, and transportation, which the government generally does not provide. As a result, Roma children have low school attendance rates in many parts of the country, with only a third of Roma children attending primary school nationwide, compared to 93% of the country's children as a whole.

1 OSCE – Report on Informal Roma Settlements in BiH.

2 Council of Roma of the Federation of BiH– Comments on the Implementation of the Framework Convention of the Protection of National Minorities in BiG.

Employment: The main source of income for most Roma families is recycling scrap metals and begging on the streets. Although the government has established an employment program for Roma, very few Roma or employers have participated. This is because few Roma are officially registered as unemployed. Access to civil service jobs in the Federation of BiH and Republika Srpska is hampered by constitutional requirements to fill positions based on ethnic affiliations in the 1991 census.

Healthcare: In the Federation of BiH, Roma must register with unemployment offices within 30 days of losing a job in order to receive healthcare coverage, a rule that many learn about only after the deadline has passed. For much of 2011, the Herzegovina-Neretva Canton, which includes Mostar, violated Federation of BiH law by not funding healthcare for young children, pregnant women, and older people. This situation particularly impacted Roma.¹

Although it seems like Roma issues are being addressed by adopting strategies and laws for safeguarding Roma interests, in reality Roma face blatant discrimination. This year, 5 Roma coordinators for Roma issues were fired on the BiH state level. There are numerous examples of degrading names and discriminatory articles or reports in the media. NGOs reported a case this past year in which one parent (a police officer by vocation) attacked a school director in Sarajevo for not kicking out a Roma child from a class that his child was attending.

Social Protection – Right to Retirement/Pension

Spending on social protection schemes in BiH is high by international standards. Public spending on pensions is high by regional standards, driven by early retirement and privileged pension schemes, while spending on active labor market programs is low. This results in limited opportunities for employment support for disadvantaged groups in the labor market. From 2008 to 2012, BiH was spending up to 4% of its GDP on noncontributory cash transfers, which makes the country one of the highest spenders in the Europe and Central Asia (ECA) region. Over one-half of this spending is allocated to war veteran-related benefits, which are regressive in terms of targeting. However, outreach to disadvantaged groups, such as those with disabilities or lacking minimum resources, is quite limited. The opportunity cost of public spending on generally regressive transfers is also high. Public expenditures on noncontributory cash transfers take up a large share of the entities' respective budgets (roughly 40% in the Federation of BiH and 14% in the Republika Srpska). This level of spending has the effect of crowding out resources that could be devoted to public investments. The main performance indicators of the social assistance system in BH are poor by standards of middle-income

¹ Human Rights Watch - *Second Class Citizens: Discrimination Against Roma, Jews, and Other National Minorities in Bosnia and Herzegovina*.

countries in Europe. The targeting accuracy is low, while the leakage of resources to the rich is significant. Only a small proportion of the poor receive social benefits.¹

The social protection and social assistance system in BiH is highly fragmented and is comprised of 13 almost independent systems, with a low level of coordination and cooperation between them. Even within the “single” system, functions overlap and division of responsibilities is unclear. These are just some of the reasons preventing equal access for all to resources and services provided by the system.

State-level institutions are not involved in the regulation or provision of social protection and social assistance in BiH. To some extent, the state is involved in refugee, health, employment, and labor issues through the BiH Ministry of Human Rights and Refugees and the BiH Ministry of Civil Affairs. However, the role of state-level institutions, even in the area of coordination of the system and setting up basic principles and standards, is minimal or non-existent.

Social protection assistance and social service policies are defined at the Entity level (and Cantonal level in the Federation of BiH) while responsibility for their implementation resides with lower government tiers. Fragmentation and decentralization of the system create large territorial disparities in the availability and accessibility of social assistance and services. Due to a lack of financial resources, lower administrative levels and the poorest communities are mostly unable to fulfill their mandated obligations (especially in Federation of BiH).²

Each Canton has its own ministries in charge of the protection of war invalids and their families, displaced persons and refugees, labor and employment, health care, and social protection. Although Cantons have legislative powers to adopt their own legislation in the social security area, not all of them have a Social Security Law, nor are the laws of those Cantons that do harmonized with the Social Security Law of the Federation of BiH. In some cases, even when there is a Cantonal Law on Social Security, the Canton failed to adopt necessary by-laws and thereby blocked full implementation of the legislation.

The absence of a legal framework at the Cantonal level results in the exclusion of certain vulnerable categories of population. In these Cantons, civilian war victims, although having documentation confirming their disability, do not receive any assistance due to the absence of the Social Security Law. The absence of this law also prevents access to some benefits such as maternity leave benefits, health care during maternity leave, and access to health care for some groups of population who are socially needy. Additionally, one of the most vulnerable groups of the population is households with dependent children (especially households with two or more children) - in some Cantons in the Federation of BiH, no benefits are provided to households in a state of social need.³

Due to the centralized system in Republika Srpska, access to some aspects of social protection is equal for all throughout this Entity. However, when it comes to services provided by the Center for Social Work of Republika Srpska, the picture is quite different and there are significant territorial discrepancies in availability and accessibility of social assistance and services. The system comprises a social protection system based on

1 World Bank Group – Bosnia and Herzegovina Partnership Country Program Snapshot April 2013.

2 European Social Watch –BiH 2010 Report.

3 NGO Vesta- Recommendations for improvement of the position of newly delivered mothers in BiH.

social insurance schemes funded from social contributions on wages (pension, health, unemployment, and family and child protection benefits in Republika Srpska) and social assistance and services schemes financed from the governments' general revenues. When it comes to contributory social protection schemes, problems are mainly related to adequacy and quality of assistance. When we speak about social assistance financed from general budgets, the primary issue is inequality in access to these services throughout the territory of BiH.

The most notable characteristics of social exclusion in BiH are: (i) high unemployment, high inactivity rates, large informal sector employment, and poor quality jobs that lead to economic exclusion that results in poverty, (ii) a large share of the population with low educational attainment, which leads to inactivity, long-term unemployment or employment in the informal sector thus resulting in poverty (iii) ethnic exclusion and discrimination of "minority" groups and returnee communities, and (iv) an inadequate system of social protection with poor targeting and ineffective coverage, resulting in inequalities in access to resources and services. The lack of financial resources for the provision of social assistance and inefficiencies inherent to the functioning of the Centers for Social Work reinforce social exclusion. A large share of the population is below the poverty threshold. The rural population, which suffers from limited access to the labor market, limited access to resources, the unresolved status of farmers, and limited access to public services, is by far the most affected segment of population.¹

The most affected groups are households from rural areas, households headed by individuals with primary or less than primary school level education, households with elderly members, households with two or more dependent children, female-headed households and single-parent households with dependent children, the Roma population, people with disabilities, and ethnic minorities, displaced persons, and returnees.²

There are no social inclusion policies at any level of government in BiH that would, in a structured way, address the underlying causes of poverty and social exclusion. As was already mentioned, the system is poorly coordinated, vertically as well as horizontally, and not capable of responding to numerous challenges. Inherent flaws in the system, institutional and regulatory, are to some extent reinforcing social exclusion. These results in measures that are rather reactive than proactive, are addressing only the consequences instead of causes of poverty and social exclusion.

The legal framework for the pension system is well-defined. The pension system is defined by two Entity pension laws and related legislation. Pension system parameters are already adjusted to very sharp levels – moving the pensionable age to 65 for both genders (previously 55 for women/60 for men) with a very short transition period, and define the full working age as a reference period for pension base calculation (previously best 10 for women/15 for men years). In terms of financing, the main sources of revenue for the pension system are contribution revenues – almost 100% of revenue in the Federation of BiH, and 65% of revenue in Republika Srpska. Apart from this, Republika Srpska pension funds receive budget subsidies (35%), and pension funds also collect up to 2% of their source revenue by issuing certificates and providing other services.³

1 Social Protection and Social Inclusion in Western Balkans - European Commission Directorate-General for Employment, Social Affairs and Equal Opportunities.

2 UNICEF – Social Protection and Inclusion Report.

3 UNDP - Pension System Reform and Social Protection System in BiH.

The main expenditure of the pension system is pension benefits (94%), pension system administration (3% of the total expenditure, health insurance of pensioners (2% of the total expenditure) and other expenditures (1%). The pension system of BiH provides old-age, disability, and survivor pensions. Old-age pensions account for 44% of the total number of pension benefits provided. Disability pensions represent 21%, and survivor pensions 35% of the total number of pension benefits provided. Estimated activity participation is relatively low – 45%. The ratio of the number of workers to the number of pensioners is relatively unfavorable – 1.29 workers to 1 pensioner, which results in a low level of pension benefits – the net replacement ratio is 0.43. The social groups that are most excluded from the pension system are: (a) the rural population and farmers, especially those engaged in subsistence farming; (b) self-employed and employees of the self-employed; (c) “wait listed” workers; and (d) traditionally excluded groups, such as the Roma population etc. The main challenges of the Bosnian pension system are adequacy, sustainability and transparency.¹

Freedom of Media

The BiH Constitution guarantees freedom of the press, but politicians exert considerable pressure on journalists, and media outlets tend to be aligned with political parties. Each Entity has its own public broadcaster, private media, and political parties. Intimidation of the press is especially common in the Republika Srpska.

Libel was decriminalized in 2003, but journalists can face civil penalties over libel complaints, and the burden of proof in such cases is placed on defendants. Municipal courts are often biased, and suits can drag on for years. The process for obtaining information through the country’s Freedom of Information Law can be cumbersome, and the law is not always heeded by government bodies. These complications discourage journalists from requesting official information.²

Journalists and media outlets frequently face pressure from political parties in both Entities. Their respective public broadcasters, Federation Television and Radio-Television of Republika Srpska, the largest public broadcasters in the country, tend to behave as rivals and are generally organized along ethnic lines. In June 2012, in a clear display of political interference, the House of Representatives of the Federation of BiH appointed three individuals to a “provisional steering board” at Federation Television, despite the fact that no provisional board is established by law and only one member of the public broadcaster’s steering board is supposed to be appointed annually. The countrywide public broadcasting service, Radio-Television of BiH (BHRT), also faces considerable pressure from political parties and leaders across BiH, and recent internal changes have greatly undermined its editorial independence. In 2011, its statute was amended to give its steering committee, comprised of four appointed members, full editorial and managerial control, including the authority to appoint editors and approve programming.

1 UNDP - Pension System Reform and Social Protection System in BiH.

2 Freedom House – 2012 Freedom of the Media Report.

The Free Media Helpline, a program run by the BiH Journalists' Association, recorded 39 violations of journalists' rights between the 1st of January and the 10th of September, 2012, and noted an increase since 2011 in threats and pressure by politicians against journalists. In June, Republika Srpska president Milorad Dodik demanded that Ljiljana Kovačević, a correspondent for Serbia's Beta News Agency, leave a press conference, calling her a liar and using other disrespectful language. Two days later, Dodik publicly asserted that press freedom was guaranteed in Republika Srpska. Journalists in BiH also remain susceptible to physical attacks. In July, Štefica Galić, a filmmaker and editor of the web portal Tacno.net, was beaten by a group of people in the southwestern town of Ljubuški. The attack took place two days after the debut of her documentary film, *Neđo of Ljubuški*, about her late husband's efforts to help Bosnian Muslims escape Ljubuški during the war. Despite appeals from the OSCE's representative on freedom of the media, the United States, and the European Union to thoroughly investigate the beating, local police deemed the incident a minor offense against peace and order, and said the media had exaggerated its severity.¹

According to IREX's Media Sustainability Index², BiH has 9 daily newspapers (most of which are privately owned), 101 weekly and monthly newspapers and periodical magazines, 147 radio stations, 48 television stations, and 6 news agencies, of which 2 are state owned and 4 are privately owned. The public television and radio stations in the two Entities are the most influential broadcasters in the country, although there are also several private television stations with near-national reach. BiH's media outlets are strongly divided along ethnic lines and many are openly affiliated with political parties. The difficult economic situation faced by the sector, made worse by recent withdrawals of international funding for media outlets, has resulted in diminished independence of the media from political and commercial influences. Due to shrinking advertising revenue and major advertisers' affiliations with political parties, many media outlets practice self-censorship to protect the commercial and political interests of their advertisers, upon whom they are financially dependent.

Corruption and the use of subsidies also influence media content. In March 2012, the Center for Humane Politics, a Bosnian watchdog group, reported the Republika Srpska Prime Minister and several members of his cabinet to the Public Prosecutor's office, claiming that they had approved the payment of several million convertible marks from the state budget to media outlets in return for favorable coverage. In November, Croatian journalist Domagoj Margetić, who authored a series of articles on a Croatian corruption case involving Austria's Hypo Alpe-Adria-Bank, claimed that Dodik had threatened him and offered him money not to link him and his son to controversies at the bank. On 20 September 2013, there were two attacks on the media in BiH. The front door of the editorial office of *Slobodna Bosna* weekly was set on fire; at the same time in Mostar, graffiti appeared containing threats against local journalist Nermin Bise. These events are a common occurrence in BiH.

1 Censorship and manipulation of the media - Global Integrity Report Bosnia and Herzegovina.

2 International Research & Exchanges Board

Political Participation of Minorities

The BiH Constitution allows for only ethnic Bosniaks, Serbs, and Croats to be elected members of the Presidency and the House of Peoples of BiH. The applicants, being a Roma and a Jew, contested these provisions.

The Court found that the applicants' ineligibility to stand for election to the House of Peoples violates Article 14 of ECHR (ban of discrimination in the field of Convention rights) taken in conjunction with Article 3 of Protocol No. 1 (free elections), by 14 votes to 3, and that their ineligibility to stand for election to the Presidency violates Article 1 of Protocol No. 12 (general ban of discrimination), by 16 votes to 1.

In October 2011, the BiH Parliamentary Assembly set a process of constitutional reform in motion, including changing the election provisions.¹

When it comes to representation of minorities, the 2003 BiH Law on Minorities stipulates that persons belonging to minorities "have the right to be represented in state institutions and public service at all levels in accordance with their share in population based on the last census." The details related to the mechanisms and criteria for implementing this provision of the law are left to be regulated by the BiH election legislation and the statutes and appropriate rules and regulations at the Entity, Cantonal, and municipal levels. However, it was not until the amendments to the 2001 Election Law were enacted in 2004 that the provision on reserved seats in municipal councils for the representatives of minorities was introduced. The allocation of seats was to be implemented according to the numerical threshold of 3% based on the 1991 population census: at least one seat was to be reserved in those municipalities in which members of minorities constitute up to 3% of the population. In those municipalities where more than 3% of persons belonging to minorities reside, at least two seats were to be guaranteed. This in principle meant that each municipality with a significant number of persons belonging to minorities was obligated to guarantee at least one seat for a minority representative in its council or assembly. However, having in mind that the law came into force after the deadline for the registration of candidates for the 2004 local elections, this new provision could not be implemented in practice. The amendments to the Election Law of 2008 introduced a different, more general provision that seems to be, at first glance, less favorable to minorities. According to the new solution, at least one seat is to be reserved for members of minorities in those municipalities where minorities make up more than 3% of the population.

The respective minority protection laws at different levels of government – state, Entity and Tuzla Canton laws - have established Councils for National Minorities as advisory bodies to the respective legislative bodies tasked with the protection of national minorities. In addition to the Councils, a Roma Advisory Committee to the Council of Ministers was formed in 2002 at the state level.

It has to be noted that these bodies at all levels of government took a very long time to form upon the adoption of laws, despite a timeframe specified by the laws. The Republika Srpska Minority Council began meeting in 2007, the BiH Minority Council was established in April 2008, and the Federation of BiH Minority Council had its first

1 Sejdic and Finci v. Bosnia and Herzegovina (application nos. 27996/06 and 34836/06) European Court of Human Rights.

meeting in December 2009. The Tuzla Minority Council was only recently established, in May 2010, and is, according to several of our interlocutors, still inoperative.

These are advisory bodies.

Cantonal Assemblies have no requirements regarding national minorities, but the Federal House of Peoples does.

LGBT Rights¹

BiH was one of the last countries in the Balkans to have an active human rights organization working for the rights of lesbian, gay, bisexual, and transgender persons. LGBT activism in BiH surfaced in 2004 through the work of the first registered LGBT organization, Association Q. Nowadays, there are only two registered organizations, Sarajevo Open Centre and Association Okvir, working on this issue in Sarajevo, as well as several activist initiatives organizing community gatherings in smaller cities.

Violence against LGBT persons mainly remains unreported. This is due to lack of trust of LGBT persons in governmental institutions and the lack of involvement and dedication of institutions in ensuring proper sanctions for violations of the human rights of LGBT persons. The lack of recorded cases and the increase in violence toward LGBT persons, however, are a matter of concern. Research from 2013 showed that 130 out of 550 persons polled faced violence because of their sexual orientation or gender identity. Only 17 of those cases were reported to the police, out of which 3 were processed in court. 68.9% of interviewees marked physical violence as their greatest threat and problem, and 68.7% selected emotional and psychological violence. 70% of the interviewed persons said that they do not have any trust in the police.

The criminal codes of Republika Srpska and Brčko District already define hate (based on sexual orientation among other grounds) as a motive for committing a criminal act and explicitly state that the court is obligated to take bias motivation into account as an aggravating circumstance. In the Federation of BiH there has been no such regulation so far, but recently the Government of the Federation of BiH addressed the Parliament of the Federation of BiH with a draft of the Law on amendments to the Criminal Law of FBiH, which regulates hate crime and should be adopted in abbreviated procedure. The proposed regulation explicitly states sexual orientation and gender identity as prohibited motives of hate crime. Republika Srpska has also initiated the adoption of amendments to the Criminal Law of the Republika Srpska, which include sexual orientation and gender identity as a hate crime motive.

As an example of widespread violence against LGBT persons, the Sarajevo Open Centre documented the case of a young man in December of 2012 who was, as witnesses claimed, severely beaten by two other men because of his sexual orientation. The victim was taken to the hospital and the police and prosecutor's office started investigating the case. However none of the perpetrators have been arrested so far and no information about the course and outcome of the investigation has been released to the public. The attack occurred in Mostar, in the Hercegovina- Neretva Canton. The Sarajevo Open

¹ Sarajevo Open Center 2013 Report.

Centre reacted to this by sending law amendment proposals to the Parliament.

The Sarajevo Open Centre, in collaboration with the police and ministries of internal affairs, has started working on sensitizing police officers and governmental officials, in order to improve the relations between LGBT persons and governmental institutions and increase the trust of LGBT persons in these institutions. The Ministries of Internal Affairs (MUP) –of the Sarajevo Canton, Canton 10/Livno, Tuzla Canton, and Una-Sana Canton – have agreed to cooperate with the Sarajevo Open Centre to ensure that LGBT persons are not discriminated against when reporting cases of violence to the police. The organization has put up posters in all the police precincts in their jurisdiction saying LGBT persons are welcome there and that the police is there to protect all citizens regardless of their sexual orientation and gender identity. At the beginning of 2013, the Sarajevo Canton MUP proactively sought further means of cooperation to ensure full protection of LGBT persons. Presently, they are cooperating in order to organize a police officers' sensitization training in September 2013.

Freedom of assembly and freedom of speech are guaranteed by the Constitution and in accordance with various international treaties and legal norms. Thus, in theory LGBT persons possess those rights and should be enabled to exercise them effectively. However, the advisor of the Ministry of Human Rights and Refugees, in a meeting with representatives of the Sarajevo Open Centre in 2012, showed no willingness to ensure LGBT persons' freedom of assembly. The Sarajevo Open Centre organized different public events (for example a three-day LGBT film festival) without any problems. These events were organized with no, or very limited, support from the police. Thus far there have been no attempts to organize a large public LGBT gathering. It remains to be seen whether BiH authorities are able and willing to protect LGBT persons when exercising their right of freedom of assembly by organizing a pride march or a similar event in a public space.

Freedom of association is broadly respected. LGBT human rights organizations are able to work with national human rights institutions such as the Ombudsman's office, which are willing to work on raising awareness of the public and institutions on the necessity of proper regulation and establishing proper procedures for reporting hate crime and discrimination, as well as the mechanism for protecting the human rights of LGBT persons.

Same-sex couples have no ability to legalize their partnerships. The family laws in both Entities and Brčko District provide recognition for unmarried heterosexual couples. However, such recognition is not extended to same sex couples in BiH. Providing any kind of legal recognition was never discussed in any of BiH's parliaments or governments.

Homosexuality is not considered a disease in either Entity in BiH. The Minister of Health of Republika Srpska claimed that health and social workers are encouraged to create an open and safe environment for LGBT individuals. The United Nations Development Programme initiated an HIV/AIDS prevention program, which also provided services for the MSM (men who have sex with men) population.

Though **health officials** have reported that discrimination based on sexual orientation is nonexistent, evidence shows otherwise. In 2012, some LGBT students at the University of Sarajevo noticed that a questionnaire for blood donors at an annual blood drive stated that "any person that has ever had contact with homosexuals is banned to

donate blood” and started warning other students about discrimination while demanding to speak to the person in charge about the evident discrimination in the questionnaire and violation of the BiH Anti-discrimination Law. A health technician and one university employee mocked the students and physically assaulted the male student. The students then went to the Ombudsman’s office and the police. This case was never prosecuted. The faculty later filed a new case against the students for disrupting public order. Through the cooperation between several human rights activists, the Blood Donation Institute in the Federation of BiH erased the discriminatory statement. The Blood Donation Institute in Republika Srpska has also changed their questionnaire, but even the new version contains discriminatory phrasing aimed towards gay men.

Transgender persons suffer additional discrimination as the procedure for changing their identity number and sex marker in the documents for a transsexual person, who has undergone sex reassignment in BiH, depends on the Entity and district laws and institutions. In Brčko District the current Law on Registry Books does not predict sex change as one of the circumstances that has to be additionally written in the registry books, and the only possible procedure for changing sex markers in the documents is to treat the former sex marker as a mistake written when the person was born, which is being corrected. This way the possibility of document replacement for a transsexual person, the correspondence between his or her documents and appearance, and the ability to live as a person of the desired sex, all depend on the willingness and knowledge of the employees of the institutions in charge. This creates serious instability and insecurity in the social and legal status of transsexual persons living there.

In the laws on registry books of Republika Srpska and the Federation of BiH, sex change is regulated as one reason for additional registry in the registry books, thus making it easier for other documents to be changed accordingly. However these procedures are different for the two Entities. Due to little or no knowledge of the employees of municipal offices and ministries of internal affairs (depending on which is in charge of authorizing sex markers change), these procedures are not regulated, defined, or adequately established within the institutions. Additional difficulties appear when a person from one administrative unit attempts to change its sex marker and documents in another.

Moreover, transgender persons do not have access to appropriate gender reassignment services. Neither do the Federation of BiH, Republika Srpska nor Brčko District health insurance institutions cover the costs of gender reassignment treatment. Transgender persons wishing to undergo gender reassignment treatment are thus forced to seek such treatments abroad and at their own expense. The Sarajevo Open Centre, among its recommendations to the state, also proposed that BiH guarantee and ensure the full legal recognition of a an individual’s gender reassignment in a quick, transparent, and accessible way, as well as to start working on ensuring the effective access to appropriate gender reassignment services for transgender persons in BiH in future.

No progress has been achieved in relation to the Ministry of Human Rights, even though this institution is the ultimate guarantor for the implementation of the Anti-discrimination Law. There is still no state-level database of discrimination cases, and no public awareness campaign of existing legal remedies has been launched to reach out to BiH citizens. Therefore, it is no wonder that the number of reported discrimination cases remains low. The state-level Ministry of Human Rights refused to answer letters from CSOs and embassies inquiring about the rights of LGBT persons on the occasion of the

International Day Against Homophobia in May 2013.

Education: The Gender Equality Law (2003) introduced for the first time an explicit prohibition of discrimination on the grounds of sexual orientation; indirectly on the grounds of gender identity in terms of ensuring the right to education of LGBT persons, and introduces an obligation related to the presentation of topics related to sexual orientation and gender identity in curricula and programs promoting the principle of equality. The same goal exists in the Anti-Discrimination Law (2009), which explicitly prohibits any discrimination based on gender identity.

However, no initiatives were taken by governmental institutions or ministries of education to ensure that discriminatory texts and insinuations are removed from textbooks, or to research homophobia, biphobia, and transphobia in schools. No further education was organized for teachers in schools and universities on how to combat homo/bi/transphobia and make the educational environment inclusive for their LGBT students.

In their analysis of textbooks in 2008, Association Q revealed that there is a very little information accessible to students and that the current curriculum in both Entities and Brčko District underline prejudice and stereotypes towards women and LGBT persons and the promotion of "heteronormative" values.

Further research focusing on homophobia in BiH and the attitudes of high school students towards LGBT persons, conducted by the Association Kosmos in 2012, revealed that 19.58% of students justify verbal violence towards LGBT persons and 18.90% find physical violence towards LGBT persons acceptable. 51.02% of students consider homosexuality a disease and 54.89% of them find it unnatural. Other answers revealed that as much as 35% of students would not hang out with a homosexual person and 73.12% think homosexuality should be hidden and kept private. Other findings underline common stereotypes and reveal in total a hostile environment towards LGBT persons in high schools.

In a community research and needs assessment that the Sarajevo Open Centre conducted in 2013, they found that 20.5% of LGBT persons were discriminated against at university and that 41% experienced discrimination in schools.

Employment

In BiH, like in many other countries in transition, the Anti-discrimination Law regulates and prohibits discrimination relatively well. However this regulation is not accompanied by adequate implementation. Partially, inadequate implementation of this law might be attributed to the fear LGBT persons have of reporting workplace discrimination and mobbing cases. This reason is rather dominant in BiH, especially if we take into account the high rate of unemployment and almost permanent political and economic crisis which affects all BiH's citizens, including LGBT persons. The possibility of violation of the right to work, and other work-related rights, makes LGBT persons less confident and less prone to openly express their sexual orientation and gender identity.

Even though there are no records or evidence of workplace discrimination cases in BiH which explicitly concern LGBT persons, this lack of official data does not mean that these cases do not exist. The government has done nothing to combat discrimination in

any field and the consequences are reflected in employment and workplace discrimination. No specific research about the attitudes of employers and employees towards employees of different sexual orientation and gender identity or about the status of LGBT employees in their workplaces has been conducted in BiH. Moreover, no recommendations or guidelines for employers have been issued by the ministries or institutions in charge.

The Sarajevo Open Centre has documented a case of workplace discrimination, when a young man was verbally assaulted, mocked, humiliated and then fired from his job after his employer found out he was homosexual. However, this case was not reported to officials.

According to research conducted by the Sarajevo Open Centre from 2013, 21.5% of LGBT persons were discriminated against in their workplace and 2.6% in the institutions for employment.

Gender rights – Women’s rights¹

BiH has significantly improved in this area over the past ten years by establishing a framework of government institutions, and adopting the Law on Gender Equality in 2003 and its amendments in 2009, as well as the Anti-Discrimination Law in 2009. However, governmental institutions’ failure or avoidance to harmonize laws at the state, Entity and Cantonal levels in order to ensure equal rights and treatment for women before the law remains a concern. Significant progress was made with the adoption of the Gender Action Plan in 2006, which is supposed to lead to real improvement of the status of women in BiH. Despite this, it is clearly evident that measures taken by the state in terms of law and public policies adoption, establishment of the institutional framework, and implementation of action plans have not been accompanied by substantial progress in deconstructing traditional and patriarchal gender roles of women and men in BiH society.

The legal provisions guaranteeing women’s rights and gender equality are in place. The implementation of the Action Plan on UN Security Council Resolution 1325 regarding Women, Peace and Security continued, but the awareness and the financial resources for its implementation need to be strengthened. The rate of political participation of women remains low. The 40% quota for women within the public administration, as stipulated by the Gender Equality Law, has not been reached. Women continue to face unequal access to the labor market and the level of female participation in the workforce remains low. Limited progress has been made in harmonizing Entity and Cantonal laws with the state-level Law on Gender Equality. Institutional mechanisms for ensuring gender equality continue to face resource constraints. The availability of statistical data on gender equality remains insufficient. Discrimination in employment with regard to maternity rights remains widespread. Some progress has been made in combating violence against women. In Republika Srpska, the implementation of the Strategy against Domestic Violence continued and police training was launched. In the Federation of BiH, the Law on Domestic Violence needs to be amended in order to enhance victim

¹ Sarajevo Open Center –Edita Miftari 2013 Report on Genders Rights.

protection. The implementation of the state-level strategy remains weak. Financing of shelters for victims is not sufficient.¹

The Labor Market and Maternity Rights

The participation of women in the labor force is still at a low level. According to data from the Federal Employment Institute, the rate of unemployment for women in the Federation of BiH increased by 3.09% in the second half of 2012, i.e. almost 6,000 women were left without a job in only six months in this entity.² At the end of June 2013 in the Federation of BiH, 385,253 unemployed persons were registered, which represents an increase of 1,740 or 0.45% compared to the previous month.³ Out of that number, 198,185 (51.44%) are women, of which 32.69% are unskilled workers (NKV), and 7.81% are highly educated (VSS).⁴ In Republika Srpska, the rate of unemployment for women varied in the first half of 2012, but then stabilized in the second half of 2012 showing 73,275 women in the unemployment register.⁵ That number slightly rose in the first trimester of 2013, but then decreased by 2.53% until July 2013.⁶ According to the data, 72,106 women are currently unemployed in the Republika Srpska, of which 22.23% are unskilled workers (NKV), and 11.38% are highly educated (VSS).⁷

The preliminary data obtained from the Labor Force Survey in BiH in 2013 show that 898,596, i.e. 61.3% of women are inactive in the labor market.⁸ Out of that number, 58.8% of women stated that they are discouraged from seeking a job for various reasons.⁹ Civil society organizations in BiH assume that this category mostly consists of women who lost their jobs during the privatization process and are older than 40. Hence they represent a group of people that face extreme difficulties in finding employment.¹⁰ The same

- 1 European Commission (2012) *Bosnia and Herzegovina 2012 Progress Report accompanying the document Communication from the commission to the European Parliament and the Council; Enlargement Strategy and Main Challenges 2012-2013*, Brussels, Chapter 2.2., p. 17-18.
- 2 Federal Employment Institute Sarajevo, Statistical data from January 2012 to June 2013, available at: <http://www.fzzz.ba/statistika-graf/statistika-graf?Itemid=2>.
- 3 Federal Employment Institute Sarajevo, Statistical Review - June 2013, available at: http://www.fzzz.ba/statistika/pdf/2013/Bilten_FZZZ_06_2013.pdf.
- 4 Ibid.
- 5 Employment Institute of the Republic of Srpska, Statistical data from January 2012 to July 2013, available at: <http://www.zzzrs.net/index.php/statistika/>.
- 6 Ibid.
- 7 Ibid.
- 8 BiH Statistics Agency (2013) „Preliminary Data of Labor Force Survey in BiH 2013“ (conducted in line with the ILO methodology), available at: <http://www.bhas.ba/saopstenja/2013/LFS%202013%20Preliminarni%20bos.pdf>.
- 9 Ibid.
- 10 Idžaković, F. (2013) „Economic Status of Women“. In: Miftari, E. ed. *Annex to the 3rd Alternative Report on the Implementation of CEDAW and Women's Human Rights in Bosnia and Herzegovina*, Sarajevo: Sarajevo Open Center, pp. 9-14.

source points out that this category includes women from vulnerable groups, such as women with disabilities, Roma women, victims of violence, etc.,. It is almost impossible for these women to find jobs due to lack of qualifications and job skills, as well as due to long absence from the labor market.¹On the other hand, a high percentage (around 70%) of women are unpaid family members/workers, i.e. women working in family establishments or on farms.²

BiH has adopted measures aiming to ensure gender equality in employment policies,³and the reduction of discrimination against women in this field is also recognized and planned in other relevant strategic documents.⁴However, these policies have not led to a more significant change in this regard, and the implemented incentive programs for the unemployed or self-employed in vulnerable population categories show that women are not properly informed about these programs and pre-requisites they need to meet in order to obtain these funds.

Another frequent form of violating women's labor rights is related to maternity pay which is, in most cases, lower than the wage earned during work. The budget constantly lacks funds for maternity leave payments, and in periods of crisis, when the state reduces pricey security transfers, the budgets intended for women and marginalized groups are the first to be targeted.⁵Also, analysis of the impact of current legal solutions governing compensation during maternity leave shows that the enjoyment of this right depends on the place of residence, that is, the place where contributions are paid. There are huge differences between the amount, requirements, and procedures in certain administrative units, meaning there are as many as 12 different models for the realization of this right. Therefore, the payment during maternity leave is not harmonized, and there are cantons where this right is not guaranteed at all. For example, maternity pay for employed mothers in the Sarajevo Canton amounts to 60% of the net wage, in the Zenica- Dobož Canton 80%, and in the Tuzla Canton 90% of the net wage; no administrative unit in BiH or its Entities provides 100% of the net wage for a maternity leave payment.⁶The right to compensation during maternity leave based on place of residence after the adoption of the Law on Salaries and Compensations in the Institutions of BiH has led to significant differences, but only for persons employed in BiH institutions. Maternity allowance for unemployed mothers during pregnancy and childbirth varies between 10% and 20% of the average net salary, or is paid as a one-off assistance, or not even paid at all.⁷For example, in the Zenica- Dobož Canton, unemployed mothers are offered a one-off assistance in the amount of 150 BAM.⁸The Federation of BiH is preparing a new Law on Protection of Families with Children that should equalize maternity pays throughout this Entity

1 Ibid.

2 Ibid.

3 Employment Strategy in Bosnia and Herzegovina 2010-2014, Employment Strategy of the Federation of Bosnia and Herzegovina 2009-2013, Employment Strategy of the Republic of Srpska 2010-2015.

4 Development Strategy of Bosnia and Herzegovina (2010), Strategy of Social Inclusion (2010).

5 Idžaković, F. (2013) „Economic Status of Women“. In: Miftari, E. ed. *Annex to the 3rd Alternative Report on the Implementation of CEDAW and Women's Human Rights in Bosnia and Herzegovina*, Sarajevo: Sarajevo Open Center, pp. 9-14.

6 OSCE (2012) "The Right to Social Protection in Bosnia and Herzegovina – Concerns on Adequacy and Equality." Sarajevo.

7 Ibid.

8 Ibid.

since the draft of this document stipulates the payment of 60% of the average wage in the Federation of BiH, while the rest – up to the full amount of wage – is to be paid by the employer.¹ This solution should be carefully considered in order to prevent new obstacles for women in the labor market.

Political Participation of Women

Women in BiH are evidently not equal with men in the area of political life. In general, BiH has a small number of women political leaders, on both national and local levels. The results of all previous, both local and general, elections can serve as an illustration. According to the percentage of women in ministerial positions and parliaments, BiH can be compared with countries such as Saudi Arabia and Cambodia since the Council of Ministers is exclusively composed of male members, while the representation of women in the Parliament is not much better. There are 9 (21.4%) female representatives in the House of Representatives of the Parliamentary Assembly of BiH, which numbers 42 members,² and 2 (13.3%) female delegates in the House of Peoples of the Parliamentary Assembly of BiH, which has 15 members.³ Only one (5.8%) female minister was appointed to the current government of the Federation of BiH out of 17 ministerial seats.⁴ The House of Representatives of the Federal Parliament consists of 98 representatives, of which 22 (22.4%) are women.⁵ The House of Peoples of the Federal Parliament counts 14 (24.1%) female delegates of a total 58.⁶ Positive examples are the appointment of 5 (31%) women to the Government Republika Srpska, and the appointment of the first female Prime Minister of the Republika Srpska Government, who was elected in March 2013.⁷ The National Assembly of Republika Srpska counts 18 (21.7%) female representatives, of 83 in total.⁸

Some positive changes recently occurred in BiH's political life. In February 2013, female representatives of the House of Representatives of the Federal Parliament established the Club of Women Parliamentary Representatives. This is currently operating

- 1 Idžaković, F. (2013) „Economic Status of Women“. In: Miftari, E. ed. *Annex to the 3rd Alternative Report on the Implementation of CEDAW and Women's Human Rights in Bosnia and Herzegovina*, Sarajevo: Sarajevo Open Center, pp. 9-14.
- 2 Parliamentary Assembly of Bosnia and Herzegovina, Representatives of the House of Representatives, available at: <https://www.parlament.ba/sadrzaj/poslanici/p/Archive.aspx?m=2&langTag=bs-BA&pril=b>.
- 3 Parliamentary Assembly of Bosnia and Herzegovina, Delegates of the House of Peoples, available at: <https://www.parlament.ba/sadrzaj/poslanici/d/Archive.aspx?m=2&langTag=bs-BA&pril=b>.
- 4 Government of the Federation of Bosnia and Herzegovina, Ministers, available at: <http://www.fbihvlada.gov.ba/bosanski/sastav%20vlade/index.php>.
- 5 Federal Parliament, Representatives of the House of Representatives, available at: <http://predstavnickidom-pfbih.gov.ba/bs/page.php?id=8>.
- 6 Federal Parliament, Delegates of the House of Peoples, available at: http://www.parlamentfbih.gov.ba/dom_dom_naroda/bos/dom_naroda/organizacija/delegati.html.
- 7 Government of the Republic of Srpska, Ministers, available at: <http://www.vladars.net/sr-SP-Cyrl/Vlada/ClanoviVlade/Pages/default.aspx>.
- 8 National Assembly of the Republic of Srpska, Representatives in the National Assembly, available at: <http://www.narodnaskupstinars.net/lat/sastav/poslanici>.

as an informal group, but the initiative to adopt amendments to the Parliamentary Statutes was launched since there is still no possibility to establish multi-party clubs. This was a significant step for female representatives, although it caused strong public reactions from some politicians. Progress also came in the form of harmonization with the Law on Gender Equality in BiH, by means of adopting the Law on Amendments to the Election Law of BiH, which refers to provisions regulating the institutions in charge of implementing elections, as well as provisions regulating certification and nomination of candidates for elections. These were changed so that it is now necessary to have 40% of representatives from the less represented gender.¹ The law now provides that "equal representation of genders exists when one of the genders is represented by at least 40% of the total number of candidates on that list."² Although the latter represents significant progress in terms of participation of women in political life, it remains to be seen how it will be implemented by political parties in the 2014 general elections. Regarding this, the debate about closed and open lists represents a double-edged sword. Closed lists would ensure the higher participation of women elected, but could also represent a new basis for manipulation of election results where political parties might use suitable female candidates but not necessarily competent ones.

Violence against Women and Marginalized Women

Despite the fact that new legislation on protection from domestic violence was adopted in 2012 in both Entities,³ there was failure to harmonize the provisions of these laws. Thus, a lack of legal security, unequal treatment, and the low level of implementation of laws treating violence against women by the responsible officials are still key issues in BiH. Systematic coordination is still missing between the relevant authorities in cases involving the gravest criminal offences or murders, where women are mostly victims and sometimes perpetrators after years of being subjected to violence.⁴

Furthermore, the state has an extremely weak penal policy that leads to impunity for violence. In Republika Srpska, the act of domestic violence is still treated as both a misdemeanor and as an offence, while in the Federation of BiH, it is treated as an offence. This directly contributes to the perception that domestic violence is only a mild threat to

1 The Law on Amendments to the Election Law (Official Gazette of BiH, number 18/13), Article 1 and 2

2 Ibid., Article 3.

3 The Law on Protection from Family Violence of the Republic of Srpska(Official Gazette of RS, number 102/12), the Law on Protection from Family Violence of the Federation of Bosnia and Herzegovina (Official Gazette of FBiH, number 20/13).

4 The Institution of Human Rights Ombudsman of Bosnia and Herzegovina (2013) Observations of Jasminka Džumhur, Human Rights Ombudsman of Bosnia and Herzegovina on the Implementation of the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in Bosnia and Herzegovina, available at: http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BIH/INT_CEDAW_IFN_BIH_13699_E.pdf.

society. Thus, it is punished more leniently and often not prosecuted at all.¹

Current state services are insufficient, poorly managed, and inadequate. Non-governmental services such as free legal aid, psychological support, shelters and hot-lines are poorly budgeted or dependent only on limited foreign funds and NGO work. Currently there are ten shelters for women and children who are victims of domestic violence in both the country's Entities, which are run by non-governmental organizations. These shelters provide necessary psychological, medical, and legal aid, support in rehabilitation and re-socialization, and support in terms of elaborating exit strategies.² However, support is solely offered to victims of domestic violence and trafficking, while services for victims of other forms of violence do not exist. This is a consequence of irregular allocation of mandatory state funds, as well as sporadic planning and allocation of those funds by local communities and Cantons, although both Entities' laws on protection from domestic violence stipulate mandatory funding for shelters in the amount of 70% coming from the Entities' budgets, and 30% from local communities and Cantons.³

Other Issues

The Population Census

The Census of Population, Households and Dwellings in BiH 2013 began on 1 October and officially ended on 15 October at 9 pm. Before and during the 2013 Census, PopisMonitor (CensusMonitor), a project of citizen-based monitoring of the census, received numerous questions and inquiries from BiH citizens, but also many reports of irregularities, which citizens had encountered in census-taking process.

CensusMonitor started its info-campaign in September 2013, with direct street actions in 32 cities all over BiH, aiming to inform citizens and give them better insight into the census process, provide support in dealing with problems they might encounter, identify the key problems in the process, and conduct an assessment of the census' integrity in terms of credibility and quality of gathered data through direct contact with citizens.

Civic monitoring of the 2013 Census was conducted through CensusMonitor's continuous communication with citizens through street actions, online platforms (website popismonitor.ba, e-mail, social networks) and three telephone lines established solely for this purpose. So far, the website popismonitor.ba had had over 40,000 unique visitors, while the street actions provided an outlet for distribution of over 120,000 pieces of informative material created by CensusMonitor's team. More than 2,000 people follow CensusMonitor's Facebook page, while its reach (the number of people who had seen the page) peaked at a little less than 150,000 people. During and around the time

1 Petrić, A. (2013) „Violence against Women“. In: Miftari, E. ed. *Annex to the 3rd Alternative Report on the Implementation of CEDAW and Women's Human Rights in Bosnia and Herzegovina*, Sarajevo: Sarajevo Open Center, p. 23.

2 Ibid.

3 The Law on Protection from Family Violence of the Republic of Srpska (Official Gazette of RS, number 102/12), the Law on Protection from Family Violence of the Federation of Bosnia and Herzegovina (Official Gazette of FBiH, number 20/13).

the census took place, CensusMonitor's team made about 100 appearances in various local, national, and international media. Based on this data, it is estimated that CensusMonitor's info-campaign managed to reach around 500,000 people, or 15% of BiH's population.

During the census-taking process, CensusMonitor's activists replied to over 1,700 questions and inquiries, which they received through online platforms, phone lines, and street actions. Out of that number, 987 questions were received during street actions, over 600 were received by telephone, and the rest was asked and answered through via online platforms. Questions most commonly asked were those related to "sensitive questions: in the census form (questions number 24, 25 and 26 on national/ethnic identity, religious identity, and mother tongue), enumeration of persons absent from the country during the census, rights and responsibilities of enumerators, which legal penalties citizens might encounter, content of questions in the census form, usage of personal data collected in the census, and secrecy and confidentiality of citizens' personal data. Citizens expressed particular concern over the issue of whether or not they could be penalized if they were not enumerated through any fault of their own, in cases when enumerators and local census commissions failed to do their job properly. Many of them were also concerned about the way their personal data was going to be used. Since the public was not properly informed about the census, many citizens, especially those living outside of BiH, had expressed anxiety over the possibility of losing their residence, citizenship, right to vote, personal assets in BiH, or suffering some other legal consequences based on the data collected through the census. This was a direct result of state institutions' failure to properly and timely inform the public on the fact that personal data collected through the census could only be used for statistical purposes and couldn't be connected to any other database kept by the state.

Due to a severely belated and inadequate info-campaign by BiH's Statistical Agency and statistical institutes of the two Entities, a large number of citizens weren't properly informed about the census process, which is clearly visible from CensusMonitor's preliminary results. The official informative campaign of the institutions in charge of running the entire process was launched just a few days before the census started, the information presented through the campaign was not substantial, and the Agency's website wasn't optimized for an average internet user, thus failing to provide relevant information in a user-friendly way (for example, a lot of relevant information was only given in the form of large PDF documents which are hard to navigate through, making the process of finding specific information very tiresome and complicated). Additionally, the Agency's call center started working only 4 days before the census begun, at which time CensusMonitor's activists had already been receiving dozens of inquiries from citizens on a daily basis. Also, during the two weeks when census took place, the call center was operational only on work days from 8 am to 5 pm, although the census was being conducted every day from 9 am to 9 pm. This means that, during the census, out of 180 hours of field activities of enumerators, the call center was only available to citizens for 99 hours.

These, as well as other omissions on the part of institutions in the process of providing information to citizens about the census had a significant influence on the large number of inquiries directed to CensusMonitor. CensusMonitor was seen as a place of reference by citizens in the absence of a proper information campaign and insufficient

availability of official institutions to citizens,. The organization is sincerely grateful for the trust citizens gave them. Many citizens were not properly informed about the census, or they encountered various problems, and some of them were even directly discriminated against in the process because official institutions failed to protect their rights and remained silent despite their questions and/or complaints.

An illustrative example of state institutions' attitudes towards the problems recorded during the census can be found in the public statements of BiH Statistical Agency officials during the time the census was being conducted. From day one, they kept repeating that the process was going smoothly and that no major issues had been reported. On the final day of the census, the Agency's director stated, during an official press conference, that the Agency – the main institution in charge of the census – had only registered three cases of breaches in census legislation and methodology and acted accordingly, sanctioning those responsible and repeating the census in certain enumeration units. Based on previous media reports, we can assume that he was referring to repeating the census in five enumeration units in the region of Srebrenica, where the three cases of severe irregularities were reported (an enumerator filling out census forms in a restaurant, as well as two cases of both successful and unsuccessful attempts to move census forms across the border with Serbia, in both directions). The Agency had no comment or reaction whatsoever to all the other irregularities that had been reported during the previous 15 days. On the same day, the Agency's spokeswoman stated that, "neither the Agency, nor the Central Census Bureau, had received any official report of any kind of irregularities."

At the same time, CensusMonitor had already received over 850 reports of irregularities of different kinds from 45 municipalities in BiH, the majority of them from Sarajevo, Tuzla, Banja Luka, Srebrenica, Prijedor, Gradiška, Trebinje, and Mostar. Most of these reports came via telephone (458 of them), while the online forum on the popismonitor.ba website was used to report 205 problems. The rest of the reports came via e-mail and the organization's Facebook page. After the census ended, CensusMonitor kept receiving numerous reports from citizens who were never visited by enumerators and thus remained unremunerated. Over 50 such reports were received from 14 different municipalities, some of them even coming from large urban centers, such as Sarajevo, Tuzla, Zenica, Bihać, and Banja Luka.

Almost half of the issues reported were related to the improper conduct of enumerators (41.52% of overall reports), covering various procedural transgressions (the enumerators never came to a particular household, leaving it unremunerated; the enumerators came when the household was empty and left a notification, but then never appeared at the scheduled time; conducting the census in public places instead of in households; enumerator's behavior during census-taking in the households, etc.). A high rate of received reports (24.19%) referred to unlawful treatment of sensitive questions in the census form, specifically question 24 on ethnicity/nationality. Procedural infringements in this segment have been different in their form and intensity, ranging from enumerators making inappropriate comments about a person's declaration of his or her ethnicity; making suggestions and trying to persuade him/her to change his/her answer, and even cases where enumerators "skipped" this question and entered the answer themselves without even showing it to the surveyed person; asking the question but refusing to enter the given answer into the census form; filling out this question themselves and refusing to discard the incorrectly completed form and fill out a new one in accordance with

the person's answer. The conduct of municipal census commissions was the subject of 13.72% reports, dealing mostly with the commissions handling the census process in an unprofessional manner (the commissions being closed during work hours, inappropriate behavior towards both citizens and enumerators in cases when they tried to file a complaint, discriminatory treatment of people based on their ethnicity, etc.). Citizens also reported irregularities in the process of hiring enumerators, breaches of personal data secrecy protection and, to a limited extent, the presence of unauthorized persons during the enumeration process.

The enumerators primarily reported problems with signing contracts and statements of confidentiality and unprofessional conduct of municipal census commissions, but many of them were also dissatisfied with their instructors, who, in some reported cases, refused to do the required fieldwork with the enumerators, failed to take the enumerator through their enumeration units and introduce them to the "terrain" (which was a very major problem for those conducting the census in unfamiliar and distant areas), or failed to properly train the enumerators (some of them receiving no training at all). In some cases, the enumerators themselves reported organized attempts to manipulate census data by the municipal commissions (for example, the recently reported case of a municipal commission stating that those households which refused to participate in the census will be enumerated by the commission itself using data from police databases).

Around 90% of the reports came from different enumeration units and depicted problems of a systemic nature (meaning that the nature of the reported problem indicates a very strong probability that the enumerator repeated the same improper practice in the entire unit he/she was covering). This data indicates that the census' legitimacy and credibility has been seriously compromised in over 500 enumeration units, which, on average, is equal to 50,000 households, or 100,000 individual census forms.

Taking into consideration that CensusMonitor's online and offline campaign had an estimated reach of 500,000 people, it can be concluded that significant transgressions in census taking procedures were recorded in around 20% of the entire number of people covered by the campaign. Since the sample of 500,000 people is more than representative for BiH, this raises a justified suspicion that around 20% of census forms in the BiH 2013 Census can be considered invalid.

Given all these examples, and results that CensusMonitor has so far, it is quite impossible to believe the aforementioned statement of Zdenko Milinović, the head of the BiH Statistical Agency, about "only three cases of breaking census' laws and methodology." Additionally, at the same press conference, Milinović also stated that the Agency "followed through with all the necessary elements of personal data protection of all citizens." This statement rings even less true than the previous one, since multiple breaches of these laws and regulations were revealed on the very first day of the census, when it was discovered that local census commissions didn't even consider, much less provide, and secure storage spaces for the safekeeping of census material. Instead of being stored in secure locations, provided specifically for this purpose with access allowed only to limited personnel as required by the law, the census forms were "stored" in the private homes of the enumerators. Thus, both blank and completed census forms were taken home daily by the enumerators. This is in direct breach of both the Law on Census and the Law on Personal Data Protection since the forms, which contained various personal data on BiH citizens, were kept with no oversight whatsoever and could be accessed by tens of

thousands of unauthorized persons. This may be added to the fact that most of the enumerators didn't even sign statements of confidentiality (let alone contracts) before they started working on the 2013 Census (some of them weren't even offered contracts to sign until the very end of the process). Thus, one comes to the astonishing conclusion that, for a large segment of the census-taking process, even the enumerators themselves weren't legally obliged to keep citizens' personal information confidential. In light of all of these facts, the news of an estimated one million census forms "disappearing" in Republika Srpska was hardly surprising. The "disappearance" of census forms forced the Agency to urgently print 50,000 new forms because the enumerators, left without the required material, couldn't complete their work in the enumeration units they were supposed to cover. To date, the public hasn't been informed on what happened to the missing census forms and how they simply "disappeared."

As for the central location for storage of census material, where all the census forms should have been stored at the end of the entire process, the storage space was rented on 9 October 2013, only six days prior to the end of the census. On 15 October (the last day of the census) Mirsada Adembegović, spokeswoman for the state statistical agency, announced that census material wouldn't be transferred to the central storage unit until the next week, adding that the Agency still hadn't employed the necessary personnel for the central storage unit to become fully functional (the estimated number of required employees is approximately 300). She also added that census forms would be transferred to the central storage unit "from the municipal census commissions" – although the forms were never stored in those premises to begin with. This adds to the statement she gave on the second day of census when, confronted with public outrage about the fact that census material was being taken to enumerators' homes, she falsely claimed that this practice was only endorsed in cases when enumerators were working in distant areas, and that census forms were only kept at enumerators' homes at night and brought to the commissions' premises the very next day. This claim was proven to be false on the same day when the statement was given, but the Agency never issued an apology, or even an explanation for falsely informing the public about such an important matter.

Legal provisions regarding personal data protection weren't the only provisions broken by the institutions in charge of the census process. None of the enumerators who were conducting the census were offered a legal contract to sign before the census started, and many didn't sign such a contract until the census was almost done. Prior to the census ending, CensusMonitor recorded a sharp increase in the number of reports filed by enumerators themselves, mostly on the subject of their (illegal) work-status, some of them even reporting that, at a time when all of their work was already completed, it was suggested that they "give up on the job" because of these issues. The sheer absurdity of this is the fact that state institutions illegally employed approximately 20,000 people for census-related jobs. Aside from the fact that the enumerators were, for most of the census' duration, illegally working for the state, there was clear discontent with the process from the enumerators even before the census began. Only 6 days before the census, the public was informed that some 18% of selected and already trained enumerators had decided not to complete the job, dissatisfied with working conditions, low salaries, and uncertainty about when and whether their wages would be paid. Because such a high number of people quit the job before it even started, a significant number of enumerators was hired just days before the census was officially launched, receiving little or no

training in that short period of time.

Taking all this into consideration, it is justifiable to ask if the data provided by the census will have any relevance at all for its intended original purpose. The census is supposed to be the most relevant statistical survey done by the state. In BiH, it has special significance bearing in mind that the country, due to political controversies around drafting and adopting the Law on Census of Population, Households and Dwellings in BiH, hadn't conducted a census since 1991. If the census had been properly conducted, it would have, for the first time, provided the state with reliable data for development planning and the creation the economic, social, health, educational and other policies. Instead, we were given an utterly mishandled and unprepared process, compromised by serious breaches of laws and regulations on the part of the institutions whose job it was to ensure that these rules were followed. Severe omissions throughout the process, from a poorly implemented information campaign, to the institutions' complete disregard for all reported misdemeanors and manipulations, accompanied the process from day one.

It is impossible to justify the fact that the institutions in charge not only agreed to enter this process without securing basic conditions for its legal and legitimate conduct, but also remained completely silent to all the reports of irregularities that repeatedly sparked public outrage over the past few months. With the exception of just one employee, who did publicly identify all of the problems compromising the census' integrity and confirmed that the census was not being conducted in accordance to the law – and has consequently been pulled out of the public eye – the Agency kept repeating that the census was progressing according to plan. It's even harder to understand and justify the attitude of the International Monitoring Operation in all of this. Despite the fact that it was supposed to serve as an impartial and independent observer of the process, the IMO sided with the Agency in its absurd claims on the census' supposedly satisfactory conduct, completely ignoring the evident and unjustifiable law-breaking by the institutions themselves, as well as numerous irregularities reported from the field.¹

1 <http://zastone.ba/en/civic-monitoring-reveals-numerous-irregularities-in-bihs-2013-census/>.

Conclusions and Policy Suggestions

This report shows that the state apparatus is very fragmented, large, and nonlinear. A great deal of work needs to be done and much consensus must be achieved to improve its functioning. Political decision-making is static and stagnant because the system requires that everyone should be involved in the political processes for it to work, but in the end, only few political parties decide on everything in meetings behind closed doors. The Constitution and most of the laws were written (or the writing was financed) by international organizations. They need to help BiH on its path to a safe transition. All credit-lending and grant-giving international policy organizations have to reach a consensus on what they want to achieve in BiH and then must act accordingly.

1. The NGO sector is fragmented and unorganized. NGOs are mostly dealing with human rights and the improvement of the political system. There are research and advocacy NGOs, but they do not cooperate well and there is a need for more structure and cooperation to make this sector more functional and influential.
- 1a Recommendation: The informal coalition *Initiative for Monitoring European Integration* is composed of different organizations and sets an example of cooperation. This synergy should be increased and the Initiative should be developed in the years to come.
2. The European Commission and the European Delegation to BiH show inconsistency and disharmonized policy toward BiH. The European Delegation to BiH hasn't

really involved civil society as a true partner in this process.

- 2a Recommendation: The European Commission should try to define a unique policy towards BiH. The European Delegation to BiH should substantially involve civil society in the process of European integration.
3. Most NGOs are concerned about the complexity of the political system and the Constitution, which were created to satisfy ethnicity criteria and not civil rights. Many conduct research and publish on these topics. However, there is much less advocacy and interaction with the government to communicate the results of their research.
- 3a Recommendation: Debates on constitutional reform should be placed with the parliament and civil society, and focused on substantial democratic reform of the political system enabling all citizens to participate in decision making processes.
4. Responsibility for war crimes is one sphere of human rights that is improving, but not sufficiently enough. There has been a delegation of authority from the ICTY to state and Entity courts. However, the judicial system is overloaded and there is a lack of trust in the judiciary. EU progress reports always show that there are improvements in resolving cases of war crimes. In other neighboring states, war crimes were a strict prerequisite for EU accession. BiH also has to deal quickly with the remaining war crime cases.
- 4a Recommendation: The structural dialogue on judiciary reform between BiH and the EU should be more focused on the problem on war crimes.
5. The respect for rights of persons with disabilities in BiH is at a low level. All the international conventions in this area have been ratified, but the complexity of the state and lack of finances to cover all affected groups block their implementation on different levels. It is usually organizations or families with disabled members that organize on their own in order to provide for the needs of the disabled. In some Cantons, the disabled cannot be insured precisely because they are disabled, and therefore do not have access to healthcare. Disabled individuals seem neglected by the state. The system for helping the disabled should be simplified and harmonized or unified across BiH.
- 5a Recommendation: Future constitutional reform of the Federation of BiH should provide equal social rights to all persons with disabilities in the Federation of BiH. There is also an urgent need to harmonize the social system at the state level in order to provide equal treatment to all persons with disabilities.
6. Education is still segregated and different programs are administered for different ethnic groups. "Two schools under one roof" programs exist, and these in and of themselves exacerbate divisions. Moreover, the quality of education is poor and dogmatic. One-sided narratives are taught in schools where programs and teachers are poisoned with nationalistic rhetoric. Education is fragmented. In the Federation of BiH, Cantons have authority over education and different levels advocate different policies in education.
- 6a Recommendation: The Federation of BiH should enact extra measures to unify the

educational system and provide multicultural curricula. Educational system in Republika Srpska should enact extra measures to provide multicultural curricula and right to education to the members of the constituent peoples (Bosniaks and Croats)

7. Roma are, by some estimates, the largest minority in BiH. They face numerous problems with housing, education, employment, and healthcare. There are large-scale campaigns from the government, NGOs, and international donors to help Roma. Strategies are adopted on many levels but a universal solution for Roma problems remains a mystery. However, there are plenty of cases of discrimination against the Roma population even though all legal tools are in place to help them integrate well into society. A great deal must be done to help get Roma children off the streets.

7a Recommendation: BiH should take extra measures to include the Roma population in society and in public life by providing equal opportunities.

8. Social protection in BiH is high by international standards. 4% of GDP is devoted to social protection. This is so because BiH has more groups in need of protection than other countries, such as war veterans. However, the system is fragmented, with 13 separate systems hindering equal protection. The absence of legislation at the Cantonal level causes some groups to be excluded from protection schemes.

8a Recommendation: The social system in BiH should be harmonized and reformed in order to provide equal treatment to all citizens.

9. Most media outlets are biased and associated with larger political groups. Reporters who are unbiased are physically attacked or threatened. The regulatory agencies do not have real power to impose sanctions.

9a Recommendation: BiH has to sanction all attacks aimed to limit freedom of media and to take measurable actions to provide a safe environment for reporters and journalists.

10. Political participation of minorities is best illustrated by the Sejdić- Finci dispute, which should be resolved as soon as possible. The large and fragmented political system produces many inconsistencies when it comes to minority participation. For example, Cantonal assemblies do not have a quota for minorities, but Cantons send minority representatives to federal parliamentary assemblies. Quotas exist on the municipal level, and call for up to three minority representatives. In addition to the Sejdić- Finci case, more minority inconsistencies and breaches of human rights can be found on different levels. This is so because of an inefficient, overly burdensome, and incredibly complex political apparatus.

10a Recommendation: BiH has to implement the decision of the European Court for Human Rights in the Sejdić- Finci vs. BiH case, thus abolishing all forms of ethnic discrimination in enjoyment of the right to political participation at the state level.

11. The LGBT community in BiH still faces discrimination by society and negligence on the part of public institutions. Still, some progress has been made when it comes to the reform of the legal system. However, full implementation of anti-discriminatory

provisions is still lacking.

- 11a Recommendation: BiH has to take extra measures in order to secure full implementation of anti-discriminatory legislation and to sanction all forms of attacks and violence against the LGBT community properly. The Federation of BiH has to change its Criminal Code in order to include hate crime in its legal system.
12. The political participation of women has improved, but violence against women is still prosecuted leniently. Laws have been harmonized and major advancements have been noted in this area. Women's political participation is increasing, but this increase is only symbolic because men run politics in BiH.
- 12a Recommendation: BiH has to implement provisions that guarantee the full political participation of women in the political system and to take extra measures to sanction all forms of violence against and attacks on women.
13. The census, which was conducted for the first time since 1991, demonstrated a great number of violations of the law and procedures. There is reason to believe that statistical data will not be realistic.
- 13a Recommendation: Data collected should be profoundly revised in order to have a realistic picture of BiH society.

The Initiative for Monitoring European Integration is composed of the following organizations:

CURE Foundation (www.cure.org) - a non-governmental and non-profit organization that works through feminist activism, education, arts and culture, publishing, and event management, in order to spark continued public dialogue on gender equality issues that are essential for a democratic society in BiH.

Sarajevo Open Centre (www.soc.ba) is an independent, non-political and non-profit organization, founded in 2007, which promotes active citizenship through political education and advocates for the human rights of women and LGBT persons through equality policies.

Perpetum mobile Banja Luka (www.pm.rs.ba) – the Center for Youth and Community Development works on preventing domestic violence and promoting gender rights, as well as in the area of political advocacy.

HCABL– Helsinki Citizens Assembly Banja Luka (www.hcabl.org) has existed since 1996 and its mission is to support and stimulate the autonomy and freedom of all citizens through the involvement of marginalized social groups in democratic processes, particularly women and youth.

The Human Rights Center of the University of Sarajevo (www.hrc.unsa.ba) was founded with the aim of providing the University with the possibility of organizing and enabling itself for the confident and expert realization of international human rights.

Zašto Ne – The NGO Why not? (www.zastone.ba) is an organization existing since 2001 and deals with the construction of a safe, healthy, active, efficient and responsible BiH society as a whole, through the promotion and establishment of mechanisms of political accountability, strengthening and building civic activism and the use of new media and technologies, all of which together with other civil society organizations,

institutions and individuals.

ACIPS – The Association Alumni of the Center for Interdisciplinary Postgraduate Studies (www.acips.ba) is a non-governmental association of experts in the fields of EU integration processes, democracy, human rights, state management and humanitarian affairs, gender studies, and religious studies.

CPS– The Centre for Political Studies (www.cps.ba) is an independent and non-profit think tank organization that promotes active political participation through research, education and advocacy.

The Green Council (www.green-council.org) is a recently established NGO, aimed to be a hub for motivated, educated and skilled individuals to jointly develop green projects for the benefit of society. These projects will drive positive changes not only in our country but in the region as a whole.

The Foreign Policy Initiative (www.vpi.ba) was established in 2004 as a non-profit, non-government organization, dedicated to advance and influence the debate and discussion among academics, activists, and policy and decision makers in BiH.

Green Neretva (www.zeleni-neretva.ba) - Association for environmental protection “Green - Neretva” from Konjic is a non-governmental, non-partisan and non-profit organization, legally registered as an association of citizens. The main objectives are the protection of the environment and the promotion of sustainable development.

CeSER – The Scientific and Research Association of Citizens’ “Center for Socio-ecological development” is a non-profit and non-partisan association, founded in 2013, whose goals are the protection and improvement of the environment, education of citizens about the importance of a healthy environment, as well as public advocacy for changing habits regarding the use and conservation of natural resources and the treatment of waste materials, inclusion of population and the promotion of sociological values.

Youth Center “Kvart” was founded in 2006 at the initiative of a group of young people from Prijedor. Although inactive until 2010, after this period the organization began to seriously engage in reaction to the human rights situation in the local community, youth issues, youth activism and organizing.

The European Research Centre (ERC) (www.erc.ba) is a think tank focusing on the European Integration process. Registered in the summer of 2006, it gathers a team with rich academic and professional experience in the field of Euro-Atlantic Integration. ERC focuses on composing expert texts and recommendations, fostering dialogue between experts and governmental institutions as well as on educating citizens and key players in society.

Key International Actors

Delegation of the European Union to Bosnia and Herzegovina and European Union Special Representative (EUSR)

The Delegation of the European Union to Bosnia and Herzegovina was established on 10 July 1996, as the Delegation of the European Commission. Upon the Treaty of

Lisbon's entry to force on 1 December 2009, it changed its name to the Delegation of the European Union to Bosnia and Herzegovina.¹

Office of the High Representative in Bosnia and Herzegovina (OHR)

The position of High Representative was created under the General Framework Agreement for Peace in BiH (Dayton Peace Agreement) of 14 December 1995 to oversee implementation of the civilian aspects of the Peace Agreement. The current main goal of the OHR is to pursue a viable state on the path towards European integration.²

Organization for Security and Co-operation in Europe, Mission to Bosnia and Herzegovina (OSCE BiH). As the primary instrument for early warning, conflict prevention, crisis management and post-conflict rehabilitation in Europe, the OSCE plays a major role in fostering a stable, peaceful and democratic Bosnia and Herzegovina. The OSCE began operations in BiH under its GFAP (Dayton) mandate on 18 December 1995.³

NATO Headquarters Sarajevo

The primary mission of NATO Headquarters Sarajevo is defense reform. The NATO Headquarters Sarajevo assist BiH in meeting the requirements for the NATO Partnership for Peace (PfP) program and eventually becoming a member in the NATO alliance. NATO Headquarters Sarajevo also undertakes certain operational tasks, including counter-terrorism, while ensuring force protection.⁴

United Nations Development Programme (UNDP)

The UNDP is the UN's global development network, advocating for change and connecting countries to knowledge, experience and resources to help people build a better life. UNDP is on the ground in 166 countries, working to foster solutions to global and national development challenges.⁵

World Bank and European Bank for Reconstruction and Development

These are international credit institutions loaning money to BiH, mostly for infrastructure development. They are, like the OSCE, in the Dayton Peace agreement as institutions that should help BiH on its transitional path.

International Monetary Fund

The IMF is a credit loaning institution that has been very active recently in BiH by offsetting the budget deficit. It has a small office in Sarajevo but is essential for BiH's functioning. It supervises fiscal stability and gives loans accordingly to balance the budget. Recently, salaries, pensions and other money transfers have, to a large extent, depended on IMF loans.

1 <http://www.delbih.ec.europa.eu/Default.aspx?id=0&lang=EN>.

2 <http://www.ohr.int/>.

3 <http://www.oscebih.org/>.

4 <http://www.jfcnaples.nato.int/hqsarajevo.aspx>.

5 http://www.ba.undp.org/bosnia_and_herzegovina/en/home.html.

Bibliography

James Sloan - The Dayton Peace Agreement: Human Rights Guarantees and their Implementation
<http://www.ombudsmen.gov.ba/Default.aspx?id=10&lang=BS>

<http://www.hrc.ba/commission/bos/default.htm>

http://www.mhrr.gov.ba/default.aspx?langTag=bs-BA&template_id=127&pageIndex=1
http://www.oht.int/oht-info/gen-info/default.asp?content_id=38519

<http://www.delbih.ec.europa.eu/Default.aspx?id=7&lang=EN>

EU Progress Report 2012 – BiH

<http://www.euractiv.rs/eu-i-zapadni-balkan/5869-bih-zaostaje-za-regionom-na-putu-ka-eu->

European Parliament resolution of 23 May 2013 on the 2012 Progress Report on Bosnia and Herzegovina (2012/2865(RSP))

<http://www.euractiv.rs/eu-i-zapadni-balkan/5869-bih-zaostaje-za-regionom-na-putu-ka-eu->

European Commission – June 2012 Joint Conclusions from the High Level Dialogue on the Accession Process with Bosnia and Hercegovina and the Road Map for BiH's EU membership application

http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm

<http://www.delbih.ec.europa.eu/Default.aspx?id=0&lang=EN>

<http://www.ohr.int/>

<http://www.oscebih.org/>

<http://www.jfcnaples.nato.int/hqsarajevo.aspx>

http://www.ba.undp.org/bosnia_and_herzegovina/en/home.html

Initiative for Better and Humane Inclusion BiH 2012 Report – Why is NGO Potential Unreleased

http://www.ustavnareforma.ba/bs/o_projektu.html

Project Constitutional Reform: Christian Steiner, Nedim Ademović et al., Ustav Bosne i Hercegovine, Komentar, 2010

BiH Constitution

Law on Amendments to the Law on the Court of BiH; Law on Amendments to the Law of the Prosecutor's Office of BiH; Law on the Transfer of Cases from the ICTY to the Prosecutor's Office of BiH and the Admissibility of Evidence Collected by ICTY in Proceedings before the Courts in BiH; Law on Amendments to the Law on Protection of Witnesses under Threat and Vulnerable Witnesses; and Law on Amendments to the BiH Criminal Code

Constitution of the Federation of BiH

RS Constitution

Public International Law & Policy Group: Constitutional reform diagrams: Modeling for clarity and comparison

Alumni of the Center for Interdisciplinary Postgraduate Studies – Our Attitude Towards the Constitution

Analitika Think Tank – New/Old Constitutional Engineering 2011

Sarajevo Open Center – Improvement of Democratic Performances of the Parliamentary Assembly of Bosnia and Herzegovina 2012

Association Croatian Student Political Forum - Column

Bosnia and Herzegovina – 2012 Public Administration Reform Strategy PARCO

Alumni Center of the Interdisciplinary Postgraduate Studies – Quo Vadis Public Administration

World Bank

Foreign Policy Research Group Index

Transparency International

Alumni Center of Interdisciplinary Postgraduate Studies – Quo Vadis Public Administration

Analitika - Ombudsman in the System of Protection Against Discrimination

Analitika – Judicial Protection Against Discrimination

www.antikorupcija.ba – anticorruption network

Human Rights Watch World Report 2013 Bosnia and Herzegovina

OSCE War Crimes Processing Report 2013

International Alliance for People With Disabilities

Informativni centar za osobe s invaliditetom Lotos Tuzla – An Analysis of the Current and the Future Model for Supporting People with Disabilities in BiH, 2012

Repossession and Sustainable Return Report BiH, 2012

UNHCR BiH – Regional Operations Profile South-Eastern Europe

OSCE 2011 Report - Torture, Ill-treatment and Disciplinary Proceedings in Prisons of Bosnia and Herzegovina An assessment of the human rights situation in penitentiary institutions in Bosnia and Herzegovina

Civil Rights Defenders - Report on Prisons 2013

Low-Beer, Ann - Politics, School Textbooks, and Cultural Identity: The Struggle in Bosnia and Hercegovina. Paradigm (2001).

United States Institute of Peace - The Current Status of Religious Coexistence and Education in Bosnia and Herzegovina.

Cerkez-Robinson, Aida – Bosnia’s ethnic divisions are evident in schools. Seattle Times 22 August 2009: Web. 9 Jan 2010

OSCE – Report on Informal Roma Settlements in BiH

Council of Roma of the Federation of BiH – Comments on the Implementation of the Framework Convention of the Protection of National Minorities in BiG

Human Rights Watch - Second Class Citizens: Discrimination Against Roma, Jews, and Other National Minorities in Bosnia and Herzegovina

World Bank Group – Bosnia and Herzegovina Partnership Country Program Snapshot April 2013

European Social Watch – BiH 2010 Report

NGO VestaBiH - Recommendations for improvement of the position of newly delivered mothers in BiH

Social Protection and Social Inclusion in Western Balkans - European Commission Directorate-General for Employment, Social Affairs and Equal Opportunities

UNICEF BiH – Social Protection and Inclusion Report

UNDP BiH- Pension System Reform and Social Protection System in BiH

Freedom House – 2012 Freedom of the Media Report

Refworld - Freedom of the Press 2013 - Bosnia and Herzegovina

Censorship and manipulation of the media - Global Integrity Report Bosnia and Herzegovina

Sejdic and Finci v. Bosnia and Herzegovina (application nos. 27996/06 and 34836/06) European Court of Human Rights

Sarajevo Open Center 2013 Report on LGBT Rights

Sarajevo Open Center – Edina Miftari 2013 Report on Genders Rights

European Commission (2012) Bosnia and Herzegovina 2012 Progress Report accompanying the document Communication from the commission to the European Parliament and the Council; Enlargement Strategy and Main Challenges 2012-2013, Brussels, Chapter 2.2., 17-18 p.

Federal Employment Institute Sarajevo, Statistical data from January 2012 to June 2013, available at: <http://www.fzzz.ba/statistika-graf/statistika-graf?Itemid=2>

Federal Employment Institute Sarajevo, Statistical Review - June 2013, available at: http://www.fzzz.ba/statistika/pdf/2013/Bilten_FZZZ_06_2013.pdf

Employment Institute of the Republic of Srpska, Statistical data from January 2012 to July 2013, available at: <http://www.zzzrs.net/index.php/statistika/>

BiH Statistics Agency (2013) „Preliminary Data of Labor Force Survey in BiH 2013“ (conducted in line with the ILO methodology), available at:

<http://www.bhas.ba/saopstenja/2013/LFS%202013%20Preliminarni%20bos.pdf>

Idžaković, F. (2013) „Economic Status of Women“. In: Miftari, E. ed. Annex to the 3rd Alternative Report on the Implementation of CEDAW and Women’s Human Rights in Bosnia and Herzegovina, Sarajevo: Sarajevo Open Center, pp. 9-14.

Employment Strategy in Bosnia and Herzegovina 2010-2014, Employment Strategy of the Federation of Bosnia and Herzegovina 2009-2013, Employment Strategy of the Republic of Srpska 2010-2015

Development Strategy of Bosnia and Herzegovina (2010), Strategy of Social Inclusion (2010)

OSCE (2012) „The Right to Social Protection in Bosnia and Herzegovina – Concerns on Adequacy and Equality“, Sarajevo

Parliamentary Assembly of Bosnia and Herzegovina, Representatives of the House of Representatives, available at: <https://www.parlament.ba/sadrzaj/poslanici/p/Archive.aspx?m=2&langTag=bs-BA&pril=b>

Government of the Federation of Bosnia and Herzegovina, Ministers, available at: <http://www.fbihvlada.gov.ba/bosanski/sastav%20vlade/index.php>

Federal Parliament, Representatives of the House of Representatives, available at: <http://predstavnicki-dom-pfbih.gov.ba/bs/page.php?id=8>

Federal Parliament, Delegates of the House of Peoples, available at: http://www.parlamentfbih.gov.ba/dom_naroda/bos/dom_naroda/organizacija/delegati.html

Government of the Republic of Srpska, Ministers, available at: <http://www.vladars.net/sr-SP-Cyrl/Vlada/ClanoviVlade/Pages/default.aspx>

National Assembly of the Republic of Srpska, Representatives in the National Assembly, available at: <http://www.narodnaskupstinars.net/lat/sastav/poslanici>

The Law on Amendments to the Election Law (Official Gazette of BiH, number 18/13), Article 1 and 2

The Law on Protection from Family Violence of the Republic of Srpska (Official Gazette of RS, number 102/12), the Law on Protection from Family Violence of the Federation of Bosnia and Herzegovina (Official Gazette of FBiH, number 20/13)

The Institution of Human Rights Ombudsman of Bosnia and Herzegovina (2013) Observations of Jasminka Džumhur, Human Rights Ombudsman of Bosnia and Herzegovina on the Implementation of the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in Bosnia and Herzegovina, available at: http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BIH/INT_CEDAW_IFN_BIH_13699_E.pdf

Petrić, A. (2013) „Violence against Women“. In: Miftari, E. ed. Annex to the 3rd Alternative Report on the Implementation of CEDAW and Women’s Human Rights in Bosnia and Herzegovina, Sarajevo: Sarajevo Open Center, p. 23.

The Law on Protection from Family Violence of the Republic of Srpska (Official Gazette of RS, number 102/12), the Law on Protection from Family Violence of the Federation of Bosnia and Herzegovina (Official Gazette of FBiH, number 20/13)

<http://www.izbori.ba/Mandati27102008/ShowMunicipality.asp?MunicipalityCode=153&M=1>

<http://www.vecernji.ba/vijesti/raste-broj-hrvata-a-bosnjaci-sve-vise-sele-sarajevo-inozemstvo-clanak-405131>

<http://www.fzs.ba/Podaci/07.pdf>

<http://www.vecernji.ba/vijesti/raste-broj-hrvata-a-bosnjaci-sve-vise-sele-sarajevo-inozemstvo-clanak-405131>

Državna agencija za statistiku BiH

CIP