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articles 16 and 17 of the Covenant

List of issues in relation to the second periodic report of Bosnia and Herzegovina

Addendum

Replies of Bosnia and Herzegovina to the list of issues*

[5 October 2013]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document has not been formally edited.

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Introduction

1. The Ministry of Human Rights and Refugees of Bosnia and Herzegovina (hereinafter: the MHRR), as the responsible ministry in accordance with Article 12 of the Law on Ministries of BiH, started fulfilling its obligations under the International Covenant on Economic, Social and Cultural Rights, which BiH accessed to by succession and prepared the Second Periodic Report on the human rights situation in BiH under the International Covenant on Economic, Social and Cultural Rights in a timely manner.

2. We note that on its session held on 14 and 15 November 2005 in Geneva, the Committee on Economic, Social and Cultural Rights reviewed and approved the Initial Report on the implementation of the International Covenant on Economic, Social and Cultural Rights in Bosnia and Herzegovina in the ten-year period 1993-2003.

3. At the 58th session held on 25 November the same year the Committee adopted concluding observations and recommendations, to which Bosnia and Herzegovina replied in the form of the Second Periodic Report within the timeline set on 30 July 2010. We note that representatives of all levels of the government of Bosnia and Herzegovina were involved in the preparation of the Second Periodic Report under the International Covenant on Economic, Social and Cultural Rights as a working group. Bearing in mind the above and the fact that the Office of the High Commissioner for Human Rights sent to Bosnia and Herzegovina a list of questions for Bosnia and Herzegovina to obligatorily respond to no later than 1 October 2013.

4. The following documents are answers which are designed on the basis of the list of issues arising from the above-mentioned second periodic report.

5. List of issues in relation to the second periodic report of Bosnia and Herzegovina (E/C.12/BIH/2), adopted by the pre-sessional working group at its fifty-first session (21-24 May 2013)

Reply to the issues raised in paragraph 1 of the list of issues (E/C.12/WG/BIH/Q/2)

6. The cessation of the ombudsmen at the entity level, institutional reform and the appointment of new ombudsmen resulted in the establishment of a single, state-level Institution of Human Rights Ombudsman, thus fulfilling the legal requirement and one of the conditions for BiH's membership in the EU. The process of unification of BiH ombudsmen was completed in 2010, and it involved the consolidation of both human and financial resources. On the financial side, it is important to note that the overall budget of all three institutions (the Institution of BiH Ombudsman, the Institution of FBiH Ombudsman and the Institution of the RS Ombudsman) prior to their merger in 2010 amounted to BAM 5,080,881.00, and the 2011 budget approved for a consolidated Institution of the Ombudsman amounted to BAM 2,473,406.00. When it comes to staffing level, the number of the existing 26 staff members in 2008 increased to 56 in 2011.

7. The Anti-Discrimination Law (BiH Official Gazette 59/09) was passed in July 2009, pursuant to which the Institution of the Ombudsman is a central anti-discrimination institution, where Article 7, paragraph 5 of the Law provides that the budget of the Institution of Human Rights Ombudsman of BiH (IHROBH) will include a separate budget line that is necessary for the operation of special anti-discrimination department/departments. Unfortunately, the adoption of this Law has imposed new obligations to the Institution of the Ombudsman for which no financial allocations have been made.

8. In 2009, the IHROBH had 35 employees with the annual budget amounting to BAM 2,228,023.00, where the newly-appointed ombudsmen were not involved in the budget creation process.

9. In February 2009, the ombudsmen passed the Decision on the takeover of staff, assets and equipment from the entity ombudsmen. The Decision was partly implemented in March 2009 with the takeover of 9 employees of the FBiH Ombudsman – Sarajevo Office, while other employees of the entity ombudsman institutions were not taken over due to the position of the then entity ombudsmen who maintained that all legal prerequisites for merger were not met yet. With the takeover of 9 employees, the need emerged for additional funds, and they were requested from the contingency budget. The BiH Ministry of Finance and Treasury approved the request and remitted BAM 177,023.00 to the Institution of Human Rights Ombudsman of BiH from the contingency fund.

10. In December 2009, the RS National Assembly passed the Law on the Cessation of the Law on the RS Ombudsman, thus removing all obstacles to the ombudsmen merger, so on 28 April 2010, the IHROBH made a decision to take over the remaining staff from the entity ombudsman's institutions. With the implementation of this decision, 15 employees were taken over. The Government of the FBiH Federation transferred the amount of BAM 220,000.00 for salaries of the employees taken over from the FBiH Ombudsman, while the RS failed to provide funds for employees taken over from the RS Ombudsman. In 2010, the institution had 58 employees with a budget of BAM 2,721,000.00.

11. Along with the activities aimed at inter-institutional capacity building, the newly-appointed ombudsman launched the procedures for re-accreditation of the IHROBH with the Geneva-based International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). This process was halted in 2008 when it was already seriously compromised with a likely outcome of the institution being degraded from the status "A" to "B".

12. In its 2010 report on the financial audit of the IHROBH, the Audit Office of the Institutions of BiH noted that not all the provisions of the Law on BiH Ombudsmen, as a *lex specialis*, were fully implemented in the part concerning the financial independence of the Institution. At the same time, it is important to note that owing to a number of activities undertaken by the ombudsmen, including the passing of a number of by-laws and the introduction of internal control and financial discipline mechanisms, the negative 2008 audit report on the operations of the IHROBH was subsequently replaced with an audit finding according to which the Institution of BiH Ombudsmen was fully compliant with the legal regulations governing financial operations of BiH institutions. Therefore, the IHROBH received positive audit reports from the Audit Office of the Institutions of BiH for 2009, 2010 and 2011.

13. In October 2010, the IHROBH received a re-accredited "A" status, which implies its independence and the functioning in line with the Paris Principles. Given the general difficulties in the functioning of the Institutions and in an attempt to overcome them, in 2011 the IHROBH requested from the BiH Ministry of Finance and Treasury the budget amounting to BAM 2,994,449.00, which was the amount agreed with the BiH Ministry of Finance and Treasury. However, due to the political crisis in BiH and the failure to approve the 2011 budget for the BiH state institutions, the Decision on Temporary Financing of the Institutions and International Obligations went into effect, pursuant to which the Institution of BiH Ombudsmen was approved budget in the amount equal to the budget realised in 2010, that is BAM 2,473,406.00, which also included the funds from other sources, such as the funds received from the FBiH.

14. Reduced budget with the same number of employees further hampered the functioning of the IHROBH, especially given the fact that the Anti-Discrimination Law and

the Law on Free Access to Information expanded the remit of the Institution without securing the funds necessary for its effective discharge. All these difficulties were regularly reported in annual and special reports of the ombudsmen, as well as through their direct communication with the relevant authorities.

15. The problems encountered by the IHROBH were acknowledged by the House of Peoples of the BiH Parliamentary Assembly at its session held on 28 July 2011, when, along with approving the 2010 Annual Performance Report of the IHROBH, it also passed the conclusion on the need to organise a topical session of the Joint Committee for Human Rights, the Rights of the Child, Youth, Immigration, Refugees, Asylum and Ethics of the BiH Parliamentary Assembly in connection with the problems encountered by IHROBH, including those related to its financial independence. Unfortunately, this meeting never took place.

16. In light of all the problems mentioned above, after receiving the request for a written statement with regard to the establishment of a National Preventive Mechanism in BiH from the BiH Ministry for Human Rights and Refugees, the BiH ombudsmen maintained that the IHROBH could accept a new obligation, that of serving as a NPM, only on condition that additional financial and human resources were secured and that this obligation was covered by the Law.

17. In order to ensure the required minimum level in the exercise of their mandate, IHROBH substituted the lack of funds from alternative sources, donor funds in particular. Since this served as a stopgap budget not recorded in the 2011 budget, which was approved only at the level of previous year's budget realisation, without taking into account the funds obtained through various projects, an unrealistic and deceptive impression of the 2011 budget realisation rate was created.

18. In accordance with the Instruction of the BiH Ministry of Finance and Treasury, IHROBH submitted its budget request at the level of 2011 budget realisation rate, which, as already said, did not take into account the funds obtained through various projects, nor the funds required for the implementation of the Anti-discrimination Law. The 2012 approved budget amounted to BAM 2,304,000.00, while the requested budget together with the annexes pertaining to the fulfilment of obligations arising from the Anti-discrimination Law amounted to BAM 3,260,274.00.

19. In accordance with the ICC rules, after two years the IHROBH is subject to status re-verification and re-accreditation. The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) and its Sub-Committee on Accreditation (SCA) considered the application for re-accreditation of the IHROBH at its meeting held 19-23 November 2012 in Geneva and gave following recommendations:

20. «In particular, adequate funding should, to a reasonable degree, ensure a gradual and progressive improvement in the organisation's operations and the fulfilment of its mandate. This promotes the independence of the national human rights institution by allowing it to freely determine its own priorities and allocate its resources accordingly. The SCA encourages the IHROBH to advocate for an increase in the funding provided by the government.

21. Funds should be allocated to a separate budget line item. Once the funds have been allocated by Parliament, the funds should be released to the NHRI and it should exercise absolute management and control. Where accountability requirements are imposed by government, such regulation must not compromise the capacity of the NHRI to function independently and effectively.

22. When we talk about the 2013 budget, in accordance with the Instruction of the BiH Ministry of Finance and Treasury, in its budget request IHROBH had to stick to the 2012 expenditure ceiling, which amounted to BAM 2,311,000.00. After the consultations with the BiH Ministry of Finance and Treasury, the limit was increased to BAM 2,401,000.00. However, in accordance with the Law on the Budget of BiH Institutions and its International Obligations, the BiH Ministry of Finance and Treasury sent a notice informing that the final approved budget for 2013 amounted to BAM 2,374,000.00, without the inclusion of funds for the implementation of the Anti-discrimination Law.

23. In addition to issues related to the financial stability, IHROBH is faced with the problem of accommodation where substantial funds are spent for the lease of premises due to the existence of regional offices. Through a series of activities undertaken in the previous period, the ombudsmen made efforts to solve the problem of office space for the IHROBH by seeking help from potential donors. Current options in terms of premises for the Head Office in Banja Luka and the largest Regional Office Sarajevo require funds in the amount of BAM 2,500,000.00.

24. All problems related to funding and implementation of obligations arising from the Anti-Discrimination Law were reported to the BiH Parliamentary Assembly and the BiH Council of Ministers by the BiH ombudsmen in their letter dated 27 March 2012, as well as to the EU Delegation to BiH in the letter dated 16 May 2012, with respect to implementation of the Action Plan for addressing the Road Map - item 8, requiring BiH to provide adequate resources so to ensure the sustainability of ombudsmen, the implementation of which is the responsibility of the Council of Ministers.

25. The above clearly indicates that the IHROBH was been allocated adequate financial and human resources to enable its efficient functioning and the exercise of its mandate to the full extent under the Anti-Discrimination Law. It can be concluded that since 2009 onwards there has been a concerning downward trend in terms of financial allocations for the IHROBH, which is not in line with the IHROBH mandate and the expectations of BiH citizens who, based on 2012 indicators, were increasingly turning to the IHROBH for the protection of their rights.

26. With a view to ensuring financial independence and more effective enforcement of the Anti-Discrimination Law, it is necessary to:

- Secure funds in the amount of BAM 84,795.00 per annum for the implementation of the Anti-Discrimination Law
- Secure funds for long-lasting accommodation in a lump sum of BAM 2,500,000.00, which would allow that current assets intended for lease and amounting to BAM 202,623.00 spent on the IHROBH activities (Banja Luka BAM 81,840.00 and Sarajevo BAM 120,783.00. The rental costs for Sarajevo Office include costs of heating, electricity and other utilities).
- Initiate amendments to the Law on Salaries and Allowances in the Institutions of Bosnia and Herzegovina to bring it into line with the Law on BiH Ombudsman.

27. In order to ensure full functionality and independence of the IHROBH, the ombudsmen express their readiness to take part in all activities of other institutions aimed at achieving the above.

Reply to the issues raised in paragraph 2 of the list of issues

(a) Health insurance

28. Health insurance coverage in the BiH Federation in a five-year period was 83-86%, which in 2010 was 85% or 1.98 million of the estimated 2.32 million residents. According to the information from the field, in addition to the essential right to emergency health care for all citizens of the BiH Federation under the health care law, the majority of those uninsured (estimated at 340,000) enjoys a free of charge access to certain health care services.

29. The Decision determining a basic package of health services ("Official Gazette of the BiH Federation" no.21/09), refers to a set of health care services for uninsured persons, which are financed from the cantonal or municipal budgets. However, although the implementation of the Decision determining a basic package of health services is a shared responsibility of the BiH Federation and the cantons, both in terms of the adoption of relevant implementing regulations, and the financing of the basic package of health services, this Decision has not been fully implemented in the cantons primarily because of an undefined source of funding for implementation of this basic package.

(b) Health care situation in Republika Srpska

30. One of the 5 objectives foreseen in the Strategic Development Plan of the RS Health Insurance Fund 2008-2012 is the universal health coverage. To achieve this objective, the entire population needs to have health insurance and health care contribution should be paid on a regular basis by healthcare payers.

31. In the current period, the number of insured citizens increased by over 230,000, and the three categories have acquired full compulsory health insurance; children up to 15 years of age, persons over 65, women during pregnancy and 12 months after giving birth (18 months in the event of birth of twins or the third and every subsequent child).

(c) Number of insured population

32. It is not possible to give exact figures on the percentage of the population not covered by full compulsory health insurance. Compared with the number of registered residents by the family medicine teams, the percentage of those uninsured is around 12 per cent (24 per cent in 2004). Compared with an estimated population of about 1.4 million, the percentage of those uninsured is about 25 per cent, however, this figure is extremely unreliable.

33. The largest number of those uninsured belongs to the category of those who are at the same time the healthcare payers, such as farmers.

34. Since 2005, the number of persons entitled to health care (active insurance payers), that is those for whom the health insurance was paid, was on the constant rise in the period 2006-2010, after which it decreased (in 2005 the number of those entitled to health care was 804,885; in 2006 – 810,007; in 2007 – 943,375; in 2008 – 963,552; in 2009 – 1,025,518; in 2010 – 949,000, and in 2011 – 923,877).

35. As stated above, all children up to 15 years of age, pregnant women and persons over 65 are covered by the so-called compulsory health insurance and their health insurance card is always valid, regardless of whether the contribution is paid or not. In addition, the validation of health insurance cards is also enabled to those employees whose employers failed to pay contribution in case of a serious illness (e.g. malignant disease, mental illness, etc.). Children, the elderly, persons with progressive muscle disease, blind people, people with mental retardation and people suffering from severe chronic illnesses (some 20

illnesses) are exempted from co-payment requirement, meaning that the Health Care Fund fully covers their health care expenses.

(d) Using health care services in the other entity

36. Health care use on the territory of the other entity is regulated by the Agreement on the procedure for use of health care by those insured on the territory of BiH, outside the territory of the entity, or of Brčko District, that they belong to (RS Official Gazette 9/02; BiH Official Gazette 30/01).

37. The Agreement stipulates that the right to health care can be exercised in the place of residence or in the place of employment that is where health care contribution is paid. Republika Srpska consistently applies this Agreement, among other, in such a way that the pensioners from the BiH Federation living in Republika Srpska have never been denied health services, even when their contributions are paid.

38. In the event that the insured person insured in one of the entities (BiH Federation or Republika Srpska) needs emergency care in the other entity, every health care facility in Republika Srpska is required to admit such patient and provide necessary treatment. So far, there have been no problems in this respect. Unfortunately, in some cantons in the BiH Federation (Canton 10 for example), pensioners of the RS Pension Fund living in the BiH Federation have problems in exercising their right to health care (they are charged the validation of health insurance card, refusal to validate health insurance card in case of delayed payment of contributions, although this is in contravention of the Agreement)

39. In addition, the RS Healthcare Fund has had cooperation with healthcare providers from Sarajevo, Tuzla, Mostar and Brčko for several years already. Based on the signed agreements, persons insured with the RS Healthcare Fund have the possibility to use healthcare services in Serbia or in the BiH Federation in the event when these cannot be provided in the RS. Unfortunately, none of the cantonal healthcare institute showed any desire to enable their insureds to use health services in Republika Srpska.

(e) Complaints, reports of violations of the rights arising from compulsory healthcare insurance

40. Protecting the rights of the insured is one of the strategic objectives of the RS Healthcare Fund. In this regard, a Control Section was established in 2006, which, among other things, controls the application of agreements concluded with healthcare providers and established facts in relation to reported violations of the rights of the insured. The Steering Committee of the Healthcare Fund passed the Book of Rules on the Type, Scope and Method of Control, which, among other, stipulates the procedure for reporting a rights violation and the maximum timeframe for resolving the complaint. In case of established violation, insured person shall be indemnified for improperly charged services or co-payment, and the healthcare provider shall be fined.

41. Rights violation can be reported via telephone. In order to improve the protection of the rights of insured persons, the Book of Rules on the Protection of Rights of the Insured Persons has been adopted at the beginning of this year, which is modelled on the European Charter of Patient Rights stipulates 13 rights for persons insured with RS Healthcare Fund. Among other, these rights refer to the respect of time of insured persons, the right to seek a second medical opinion, the right to respectful care by medical staff, the right to protection of personal data, etc. To ensure the implementation of this Book of Rules, in all its branch offices (in all municipalities) the Healthcare Fund appointed protectors of rights of insured persons and formed a separate department for the protection of rights of insured persons. Contact details, including the names and phone numbers of these protectors, are available in all branch offices, as well as on the Fund's website and on posters and leaflets distributed to

healthcare facilities and pharmacy shops throughout the RS. The Fund's Headquarters has opened an email address for all comments and questions regarding the rights of the insured persons and the exercise of these rights. The rights' protectors spend a part of their working hours in their respective healthcare facilities in order to be available to the insured persons at all times. The primary role of the protector is to be available to the insured person for advice, information, assistance with various applications and requests, mediation in case of any disagreement with the medical staff and to prevent violations of the healthcare rights.

42. Violations of the rights arising from compulsory healthcare insurance can be reported to any branch office of the Fund. Allegations are examined by the Control Section of the Healthcare Fund, and the insured person is notified of the outcome of his/her complaint in writing. Complaint can also be reported via the following phone numbers 1371 and 051 249 238 – Department for Protection of Rights of Insured Persons.

43. The average number of complaints and violation reports received annually by the Healthcare Fund is 60, and they are submitted in writing. The established violations of rights mainly relate to services being charged in full, even though they were contracted by the Healthcare Fund, charging co-payments to persons exempted from co-payment requirement. Very often, complaints relate to long waiting time for certain treatments, unfriendly attitude of medical staff, etc.

44. There were no complaints or reports of discrimination on any ground while using healthcare services.

45. Every month, all primary health care centres and hospitals carry out customer satisfaction surveys. They evaluate the attitude of medical staff, the organisation of work, treatment conditions, the availability of medical and other supplies in hospitals, etc. Since 2009, when these surveys were introduced, the average satisfaction score has significantly improved. Some medical facilities were rated below three, and now none of the facilities received a score of less than four.

(f) Health care situation in Brčko District of BiH

46. All residents of Brčko District with paid contributions have medical care. According to the data, there are about 73000 of insured persons in Brčko District. Domiciled population and refugees and displaced persons are equally represented. The right to health care can be transferred outside the territory of Brčko District to BiH. Healthcare services that cannot be provided by the healthcare facilities in Brčko District are provided outside BD, in BiH and abroad. Brčko District Health Care Fund has contracts concluded with several healthcare providers in BiH and abroad. Co-participation for treatments received in BD medical facilities is 20% of the cost of provided services. The list of essential medicines is determined by the Healthcare Fund. Children up to 15 years of age and person over 65 are covered by compulsory medical insurance. Brčko District has no law on infectious diseases and the containing of infectious and communicable diseases is carried out under the RS law.

47. The transfer of rights from one territory to another - the Agreement on the procedure for use of healthcare services outside the territory of the cantonal health insurance institute to which the insured person belongs (Official Gazette of the Federation of BiH, no. 41/01) stipulates measures of healthcare use outside the domicile canton. Also, the use of healthcare services of those insured in one entity/Brčko District in the other entity is regulated by the Agreement on the procedure for use of healthcare services by those insured on the territory of BiH, outside the territory of the entity, or of Brčko District, that they belong to (BiH Official Gazette 30/01). According to information from the field, there are no problems in the implementation of these two agreements. In 2010, according to the calculations in the healthcare sector of the BiH Federation, the spending for healthcare

services provided outside the cantons amounted to BAM 43.2 million (mostly tertiary healthcare). In order to harmonise the criteria for the provision of healthcare services throughout the BiH Federation, the Health Insurance and Reinsurance Fund of the BiH Federation, in coordination with cantonal health insurance institutes and with the approval of Federal Ministry of Health, has prepared a document titled “Uniform methodology for specification of criteria and standards for making contracts between health insurance institutes and healthcare providers”, which was published on 3 May 2013 in the FBiH Official Gazette 34/13.

Reply to the issues raised in paragraph 3 of the list of issues

48. The judiciary in Bosnia and Herzegovina is an independent branch of power, which is based on the principle of division of power among a legislature, an executive and a judiciary, where judges acting as individuals or as members of three or five-judge panels (depending on the value of dispute or on whether the dispute in question is being resolved through regular or extraordinary legal remedies) decide their cases independently and autonomously.

49. In accordance with the principle of legality, judges act on the basis of applicable legislation, including multilateral international agreements such as conventions, charters and covenants that have been signed and ratified by Bosnia and Herzegovina, including international treaties taken over through succession, which are listed in Article 2 of the Constitution of Bosnia and Herzegovina stipulating that the rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Bosnia and Herzegovina and shall have priority over all other law. The catalogue of human rights (II/3 of the Constitution of Bosnia and Herzegovina) includes the International Covenant on Economic, Social and Cultural Rights, meaning that the judiciary is not prevented from referring to its provisions for resolving a dispute, just the opposite, the basis for that is provided in the Constitution as the highest legal act.

50. Bosnia and Herzegovina does not have data on the number of cases solved before the courts in which judges referred to the provisions of the Covenant since the CMS database maintained by the HJPC does not contain this type of information, but it can certainly be argued that the applicable national legislation is in full compliance with the Covenant and other abovementioned multilateral agreements.

I. Answers relating to general provisions of the Covenant (arts. 1–5)

Article 2, paragraph 2 – Non-discrimination

Reply to the issues raised in paragraph 4 of the list of issues

51. The BiH Constitution is an integral part of the General Framework Agreement for Peace. It has been amended in the past in order to improve the level of protection of human rights. These amendments ensured the constitutionality of the peoples throughout the territory of the country, abolished the entity attributes, and returned the pre-war names of some of the BiH citizens.

52. These amendments concerns the following:

(a) A 2002 partial decision on constitutionality issued by the Constitutional Court of Bosnia and Herzegovina gave an interpretation of Preamble of the Constitution in which Bosniaks, Serbs and Croats are defined as “constituent peoples” in the entire territory

of BiH. Furthermore, the decision notes that Article II (4) of the Bosnia and Herzegovina Constitution prohibits discrimination on any grounds, which meant the elimination of discrimination of individuals and minority groups on the grounds of affiliation with a national minority, religious or political affiliation.

(b) A decision issued by the Constitutional Court of Bosnia and Herzegovina abolished previous entity symbols (flag, coat of arms and anthem), because they do not represent constituent peoples in the whole territory of Bosnia and Herzegovina.

(c) A decision issued by the Constitutional Court of Bosnia and Herzegovina re-naming the towns in pre-war names.

Ethnic representation in the territory of Bosnia and Herzegovina

53. However, the Council of Europe ECRI' (European Commission against Racism and Intolerance) took a general position after completion of monitoring visits to Bosnia and Herzegovina that, although the above-mentioned steps have been made, ethnic representation has not been achieved throughout the country as it should have been in accordance with the results of the 1991 census.

54. Owing to the violation of the right to be elected and discrimination against "Others", who are not members of any of the three constituent peoples of Bosnia and Herzegovina according to the Constitution, an application was filed with the European Court of Human Rights in Strasbourg by representatives of Roma and Jews. It is the case of Dervo Sejdic and Jakob Finci against Bosnia and Herzegovina. On 22 December 2009 the Grand Chamber of the Court of Human Rights in Strasbourg rendered judgment No. 27996/06 in favour of the applicants, ordering BiH to bear the legal costs of applicants and to proceed with the constitutional changes that will be compatible with the European Convention on Human Rights and Fundamental Freedoms.

55. With the aim of introducing the relevant constitutional and legislative amendments, the Council of Ministers adopted an action plan on 4 March 2010 and appointed a Working Group to draft them. The Central Election Commission adopted the Action Plan on 18 February 2010, stating in detail the provisions which should be adopted and possible steps to be taken if the amendments are not adopted before the scheduled general election by the end of May the same year.

56. The Council of Ministers appointed a Working Group which did not meet the deadline set to reach an agreement on proposed constitutional amendments because the leading politicians had a disagreement on substantive issues. After that, on 22 April 2010, the Council of Ministers considered the report of the Working Group responsible for the preparation of constitutional and legislative amendments and gave it a new deadline for discharging the task. This means that also the October election in Bosnia and Herzegovina passed without Bosnia and Herzegovina having complied with the judgment of the European Court of Human Rights.

57. On 20 October 2011 a joint committee of the Parliamentary Assembly was appointed to prepare amendments to the Constitution of BiH by 30 October and amendments to the Election Law in order to fully implement the judgment of the European Court of Human Rights of Strasbourg. Despite the above-mentioned efforts Bosnia and Herzegovina has not enforced the judgment.

58. Bosnia and Herzegovina has failed to fulfil its obligations under the European Convention on Human Rights and Fundamental Freedoms, which represents legal grounds ("*iustus titulus*") for the enforcement of judgments of the European Court of Human Rights (Sejdić - Finci against BiH).

59. Programme of Employment and Self-employment of Returnees in 2012 in the Federation of BiH

60. The implementation of the Programme of employment and self-employment of returnees that was initiated in 2011 was completed in 2012. This programme was granted BAM 2,018,000 for employment of 576 returnees, as follows: 420 returnees got employed with legal persons, while 155 have launched their own business. Also, the implementation of the programme for employment of returnees in 2012 has begun. It is being implemented with the aim of promoting employment of returnees who are registered in the unemployment register in order to strengthen their competitiveness in the labour market, prevent long-term unemployment, and strengthen sustainability of return across Bosnia and Herzegovina. The implementation of this programme, for which funds were granted in the amount of BAM 1,500,000, has begun in the second half of 2012, and it will be completed in the first half of 2014. Under this programme, the base amounts range from BAM 1,920 for unqualified workers, to BAM 3,150 for workers with higher education. The base amount increases from 5% to 10% for specific categories in order to promote social sensitivity. Also, the base amount for employment of women was increased for the purpose of achieving their equal status in the labour market. Special increase is provided to employers who will keep employees engaged through this programme for a longer period of time, as follows: for employment for a period of 15 months – a 10% increase, 18 months – a 15% increase, 23 months – an 18% increase and for permanent engagement a 20% increase. By the end of 2012 BAM 137,779 have been allocated through this programme.

61. Regarding the implementation of Annex 7 to the General Framework Peace Accords detailed answers are given in Section 23.

Reply to the issues raised in paragraph 5 of the list of issues

(a) Specific position of Roma

62. Bosnia and Herzegovina has taken concrete activities and made significant progress in addressing the issues of Roma by granting them status of a national minority and by acknowledging that all indicators suggest that Roma in BiH are the most vulnerable and the largest national minority.

(b) Progress

63. The competent authorities in BiH have been implementing the Action Plan of Bosnia and Herzegovina for addressing the issues of Roma in the area of employment, housing and health care for the past four years.

64. For the successful implementation of this Action Plan, the Ministry, in cooperation with local authorities and Roma NGOs, has carried out the Programme of recording needs of Roma in specific areas which has enabled more realistic overview of the social needs of Roma under all three areas of the Action Plan.

65. The current Action Plan of Bosnia and Herzegovina for addressing the issues of Roma in the area of employment, housing and health care needs to be revised for the reasons deriving from findings about the number of Roma, real possibility of the state to allocate planned funds, too ambitious goals and foreseen measures set therein.

66. Since 2009 the funds for implementation of the Action Plan have been mostly provided from the Budget of the Institutions of Bosnia and Herzegovina. The Ministry, as a coordinator of the implementation of the Action Plan's activities, has established necessary cooperation with competent state and entities institutions, Roma NGOs and international organisations that provided financial support to projects, in particular in the area of Roma housing. The results are measurable in the area of improved housing conditions,

employment, health protection and education. The competent Ministry of Human Rights and Refugees provided regular reports about implementation of the Action Plan for addressing the issues of Roma to the Council of Ministers of Bosnia and Herzegovina.

(c) Roma Employment Programme

67. The Project of employment and self-employment of Roma in Brčko District BiH was also implemented in 2012. In 2012, this Project involved two Roma in total (1 self-employment and 1 employment) for which BAM 24,000 were allocated. The main problem in implementing this Programme in Brčko District BiH was complexity within the target group, education requirements and the fact that potential beneficiaries failed to declare as Roma when applying for funds.

68. In order to improve the situation of the Roma minority, BAM 90,000.00 were earmarked in the 2012 budget of the Federation of Bosnia and Herzegovina for the Federation Ministry of Labour and Social Policy to implement a decision on allocation of “Current transfers to other levels of government-employment of Roma”. Please note that on 7 December 2012 a Memorandum of Understanding regarding the implementation of the Roma Action Plan of Bosnia and Herzegovina was signed and that an amount of BAM 450.000,00 was earmarked in 2012 BiH Budget for Roma employment. In early February 2013 the Federation Ministry of Labour and Social Policy gave its approval to the Federation Employment Institute to pool the funds from the budget of Bosnia and Herzegovina up with funds provided in the budget of the Federation of Bosnia and Herzegovina with a view to employing a large number of Roma through employment and self-employment programmes. In 2011, through cantonal employment services, the program of employment and self-employment of Roma was implemented and 21 Roma were given funds for self-employment and 15 legal entities were given funds for hiring 29 Roma.

69. Thus, Bosnia and Herzegovina continues its efforts to prevent all forms of possible violations of human rights in order to accelerate involvement in the European integration process.

(d) Health protection of Roma

70. The Convention on the Rights of the Child and the European Social Charter are the most important international document that guarantees the right of the child to the highest standard of health care.

71. The BiH legislation in the area of health care has been significantly improved in the past three years in relation to its harmonisation with international standards that guarantee to each child the right to health insurance and care, as one of the fundamental rights and freedoms. Laws regulating health insurance¹ and health protection² in the entities and Brčko District BiH provide for the health protection of children in such manner to separate it from the health protection of their parents, granting children the status of an insured person from birth to 15 years of age or until the end of a formal schooling not exceeding maximum age of 26 years, unless such status is granted to a child on the basis of a family relationship with an insured person. This is particularly important for Roma children considering that many do not exercise this right on the basis of being related to an insured

¹ See the Law on Health Insurance (FBiH Official Gazette 30/97, 7/02, 70/08 and 48/11; RS Official Gazette 18/99, 51/01, 70/01, 51/03, 57/03, 17/08, 01/09 and 106/09; Brčko District BiH Official Gazette 1/02, 7/02, 19/07, 2/08 and 34/08).

² See the Law on Health Protection (FBiH Official Gazette 46/10; RS Official Gazette 106/09; Brčko District BiH Official Gazette 38/11).

person, i.e. through their parents, because they themselves do not enjoy this right and also because significant number of children is still outside the regular education system. However, the Federal Law on Health Protection has limited the age of the child to 15 years as the legislator has linked it to the age of children attending primary education. However, certain number of children, including Roma, who are older than 15 are not integrated into the system of regular education. This is not the case in RS.

72. Children from birth to 15 years of age who are not regular students exercise their right to health care through social welfare centres. Unfortunately, in most cantons in FBiH, the Law was not implemented because the competent ministries of social welfare failed to adopt bylaws/instructions for the application of the Law, and thus a large number of Roma children, especially pre-schoolers, remain deprived of free health care. In addition, in practice there is still a problem of uninsured pregnant women and women who have given birth recently, which makes it common for pregnant women, especially Roma, to present health insurance cards of other women who have health insurance when giving birth, because they are unable to pay medical expenses of giving birth and postpartum treatment. This issue was raised by the Institution of Human Rights Ombudsman following their research on the children health care in BiH³, which pointed out specific weaknesses in the children health care in BiH. These are reflected in the fact that procedures for exercising the right of access to health care by children are in conflict with international standards, that the present system fails to ensure equal access to health care and that no additional measures are introduced to including marginalised groups of children, especially Roma, in the health care system.

73. Pursuant to the applicable legal regulations in the field of health care, children are exempt from additional covering the health care expenses. Furthermore, the basic package of health rights explicitly provides the right to all children up to 18 years of age, as well as children who attend regular school until the age of 26, the right to a basic package of health care services, including primary, secondary and tertiary health care. Unfortunately, in six cantons of the Federation this is not the case, and if children, including Roma do not pay annual health insurance premiums for each service they have to additionally cover the expenses.

74. In order to improve the access to health care by Roma, in particular children, BiH has adopted the Roma Health Care Action Plan. Its goals are to include all Roma into the health insurance scheme, conduct awareness-raising in the area of health protection and insurance and implement preventive measures with the aim of improving health status of Roma. In the past three years the Ministry of Human Rights and Refugees has allocated BAM 545,000 for implementation of the Roma Health Care Action Plan. These funds were mostly used for ensuring and implementing preventive measures with the aim of improving health of Roma through vaccination of Roma children, treating addictions, infectious and mass non-infectious diseases, oral health as well as preparing other programmes to improve health according to the needs and specificities of Roma in local communities. However, many measures from the Action Plan are still pending implementation which indicates that many Roma children and their parents are not part of the health protection system. A database containing data on Roma with health insurance is still not developed. Roma are insufficiently informed about their rights to health protection and importance of health protection which results in a poor state of health of Roma children.

75. The data provided by Social Welfare Centres in the FBiH reveals that 710 children have health insurance based on different entitlements, which represents 28.55 % of the total

³ Institution of Human Rights Ombudsman of Bosnia and Herzegovina Special Report on Children Health Protection in BiH, December 2012.

number of registered Roma children in the said Centres. It is worrying that no data is available at all as to the health insurance of 71.45% or 1,776 Roma children. This is a clear indicator that serious steps need to be taken to address this problem, which is also what the nongovernmental organisations that work with Roma children call for. This would mean that there could be around 4,000 Roma children without health insurance, based on the estimated total number of Roma children in FBiH.

76. As shown in the graph below, out of this number, 313 Roma children (44%) are ensured through their parents, 187 children (26.33%) are insured through the Social Welfare Centres, 2 children over the age of 15 are insured through their jobs, 8 Roma children ages 15–18 are insured based on unemployment status, 86 children (12.10%) based on regular schooling, and 114 children (16%) do not have health insurance.



77. The text in the graph:

- Number of children in FBiH with health insurance based on different entitlements
- Through their parents
- Through Social Welfare Centres
- Through their job (15–18 years)
- Based on unemployment (15–18 years)
- Based on regular schooling
- Without health insurance

78. The graph below showing the number of children in RS and BDBiH who have health insurance based on different entitlements indicates that there are 850 Roma children who are insured, which is 73.65% of the total number of the children registered in these Social Welfare Centres. This means that these Centres do not have information as to the health insurance of 304 children. The largest number of children with health insurance — 667 of them (or 78.4%) are insured through their parents, 112 (13.1%) through regular schooling, 47 children through Social Welfare Centre. Three children between the ages of 15 and 18 are insured through their jobs. Twenty-two children do not have health insurance.



79. The text in the graph:

- Number of children in RS and BDBiH with health insurance based on different entitlements
- Through their parents
- Through Social Welfare Centres
- Through their job (15–18 years)
- Based on unemployment (15–18 years)
- Based on regular schooling
- Without health insurance

80. The question is rightly being posed as to why 114 children registered in Social Welfare Centres in FBiH do not have health insurance considering that the last Amendments to the FBiH Law on Health Insurance, which entered into force on 1 January 2009, afford every child between the ages of 15 and 18 who are not otherwise entitled to health insurance, to have health insurance through the social welfare system at the cantonal level. Unfortunately, the answer to that question lies perhaps in the fact that some cantons in FBiH have not adopted by-laws necessary for the implementation of the said Law as yet, nor have they ensured the funds for this purpose, which is the reason why a large number of Roma children are being denied this right. This question also pertains to the 22 children without health insurance in RS and BDBiH since their respective legislation also affords each child the right to health insurance.

81. It is also important to note that in addition to the failure of government institutions to implement the Law, a large number of Roma children do not have health insurance due to the lack of awareness of their parents with regards to the eligibility to health insurance of their children and the lack of health issues awareness. The latest research conducted by the “Zemlja djece” organisation carried out in primary schools in the Tuzla area revealed that over 500 children do not have health insurance because their parents were not given information by any institution on the possibilities and manner of obtaining health insurance for their children on the basis of regular schooling, nor did the schools themselves paid particular attention to addressing this problem although they were aware of it. In addition, this organisation pointed out that they observed through their work in Roma settlements that the majority of Roma parents do not have basic information on the possibilities of obtaining health insurance for their children. Parents also complained about increasingly complicated and expensive process of applying for health insurance for their children,

which requires a certain level of literacy and financial resources, and they expressed the need for the assistance from nongovernmental organisations in this process. In 2011 alone, this organisation received request for such assistance from 36 parents. The assistance in the process of applying for health insurance for children was provided for 48 children.

82. The Roma are insufficiently covered by the preventative health education programmes, which, together with the difficult social and economic living conditions, contributes to a very low awareness on the importance of health, especially in children. The Roma do not recognise the importance of prevention, especially the vaccination of children, which is the reason a large number of children is not vaccinated or only partially vaccinated. The lack of health awareness often means that they do not seek help for their children in health institutions on time and use alternative/traditional methods of healing instead. This is why these children frequently have chronic illnesses of lower and upper respiratory organs.

(e) Roma housing

83. The Roma Housing Action Plan was adopted in July 2008. The audit of the Action Plan began in 2012 for the purpose of a more realistic planning with regards to activities and budget and in order to establish better indicators which would enable the evaluation of results. The revised Action Plan, drafted on the basis of recommendations and conclusions of the International Steering Committee of the Roma Decade and European Commission will be finished by the end of May 2013.

84. As previously reported, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina and the BiH Council of Ministers adopted a decision to allocate EUR 1,500,000 per year in the state budget for addressing Roma issues. Out of this amount, EUR 1,000,000 per year was allocated to the Roma housing issue.

85. Every year, the Ministry, on the basis on the planned budget, publishes a public call for the submission of projects for housing of Roma, open for one month. The Commission for the selection of the project checks all the locations given within projects and, based on the defined priorities in the field, it issues a decision as to which projects would be financed from these budgetary funds.

86. Municipalities, cities, cantons, entities, national and international government and nongovernmental organisations, institutions and donors are eligible to participate in cooperation with the municipality in whose territory the project is implemented. All projects are based on co-financing by the implementing party, thus doubling the budgetary funds.

87. The priority is given to the construction of housing units for the Roma, reconstruction, and improvement of living conditions and infrastructure.

88. The following criteria were applied: the funds were used for the most vulnerable Roma families that could prove their property and legal status or for the homeless Roma provided municipalities assign a location (as was the case in Zenica),

- Co-financing was essential in deciding
- The selection of project also depends on the number of housing units in question and costs per one housing unit
- Utilities infrastructure connections were obligatory (in some locations a power grid reconstruction was needed rendering the connection slightly late but within the legal deadlines
- The representatives of the Roma at the local level were included in the Commission for selection of beneficiaries

89. Once the project is approved, the Commission for the selection of beneficiaries (consisting of representatives of the municipality, the Social Welfare Centre, implementing partners (if not the municipality) and the Roma), selects the most vulnerable Roma families as the beneficiaries of the project. Representatives of the Ministry are the observers of the selection process.

90. Overall Results Until January 2013:

- The total budgetary funds, donor funds and the co-financing funds of the implementing parties amounted to: 12,085,405.71 BAM (including funds in 2012)
- The projects have been implemented in 55 municipalities/locations (data from 2012 included)
- 162 new housing units have been built, and the construction of another 10 housing unit in Kakanj is expected (2012 data not available)
- 198 housing units reconstructed/repared (2012 data not available and another 2 reconstructions in Tuzla are expected which have not been added to the total)
- A total of 360 built/reconstructed housing units by the end of 2012. Building/reconstruction of at least 90 housing units continues in 2013, financed with the 2012 funds. The exact data on the number of housing units will be reported in the 2013 Progress Report.
- The total number of families/beneficiaries of the infrastructure project is 270

91. The Ministry of Human Rights and Refugees of Bosnia and Herzegovina regularly applied for the IPA funds and in 2012 an amount of EUR 5 million was finally approved, which will be implemented in two phases. 80% of the funds will be directly allocated for the housing of Roma. Examples of good practice in addressing the housing of homeless Roma, i.e. the social housing, could be found in Zenica, Bihac, Mostar, Teslic, etc. Municipalities assigned locations for the homeless Roma and the housing units were built using the allocated budgetary funds.

Article 3 – Equal rights of men and women

Reply to the issues raised in paragraph 6 of the list of issues

92. A progress in the institutionalization of gender equality standards in the legal framework of Bosnia and Herzegovina is obvious and today a great number of systemic laws contain standards that prohibit discrimination and gender-based violence. This progress means that gender equality standards have been introduced in legislative processes, including policies and strategies designing, as well as in the planning and measure designing in various areas. This primarily includes: adoption of policies and strategies which include the principles of gender equality, keeping sex-disaggregated statistics, use of affirmative action and the like. The harmonization of regulations on labour, health and social care as well as the laws that are harmonized in order to provide protection to victims of sexual violence, including domestic violence are considered a notable progress.

93. At the 169th meeting held on 21 December 2011 the Council of Ministers of Bosnia and Herzegovina issued a special conclusion that the institutions proposing laws and regulations had to obtain such opinions before submitting them to the Council of Ministers for consideration. Again in March 2012 the Gender Equality Agency initiated amending of the Rules of Procedure of the Council of Ministers so that all legal documents, proposed for adoption by the Council of Ministers, would be sent to the Agency of Gender Equality to give its opinion. However, the proposal has not been considered by the Council of

Ministers yet. A manual for the harmonization of laws with the Law on Gender Equality of BiH, which was promoted and distributed to relevant institutions, was prepared and it presents the approach to be taken to legislative alignment with the Law on Gender Equality. In 2012 opinions were requested for 5 laws.

94. Thanks to its collaboration with the Commission for Gender Equality of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, the Gender Equality Agency of Bosnia and Herzegovina proposed amendments to legal texts that were before Parliament or initiated amending of laws in cooperation with the Commission.

95. The Rules of Procedure of the RS Government requires authorities to deliver to the RS Gender Centre legal documents before submitting them to the Government for consideration. So, in accordance with the 2011 activity program, this Gender Centre gave a total of 63 opinions (of 42 laws, 2 strategies, 2 bylaws and 17 enactments of local authorities) of compliance with the Law on Gender Equality. In 52 cases the opinions were completely accepted, in 2 cases the opinions were partly accepted, while in 9 cases the proponent did not accept proposals and suggestions for compliance.

96. The Federation of Bosnia and Herzegovina has committed in its “Policies and Basic Strategies of the Government of the Federation of Bosnia and Herzegovina in the 2007-2010 Term of Office” to consistently implement the Law on Gender Equality in Bosnia and Herzegovina. In 2011 the Gender Centre of the Federation gave 35 opinions and suggestions on legislation, strategies and development policies in various areas of social life in order to make them compliant with the Law on Gender Equality. Of those opinions 11 ones and 24 ones were given to the proponents and the Parliamentary Committees for Gender Equality of the Federation, respectively. Given the above-mentioned activities, improvements are evident in institutions that harmonize their legislation with the Law on Gender Equality. The FBiH Gender Centre gave 25 opinions of action plans that were adopted by municipal councils and mayors finding them to be in line with Article 14 of the Law on Gender Equality.

97. The Draft Law on Legal Aid has been introduced into the BiH Parliamentary Assembly on 23 July 2012. This Law regulates the issues of effective and equal access to justice in order to ensure the rule of law and equality of citizens before the court, administrative authorities and other authorities before which individual rights, obligations and interests are exercised/protected. The Draft Law has a general provision prohibiting discrimination of beneficiaries of legal aid on any grounds. It is particularly important that victims of domestic violence or sexual violence are defined as beneficiaries of legal aid.

98. By nature of their mandate the Agency and Gender Centres have responsibility to take necessary actions in all areas, so it is important to stress that they have financial and human resources constraints. The lack of human resources is still a major obstacle, which is a major problem for the implementation of the Law on Gender Equality of BiH and BiH Gender Action Plan.

99. Funds for operating costs (staff costs, rental of premises and utility costs) of the Gender Equality Agency are appropriated in the budget of the Ministry of Human Rights and Refugees. Funds for the implementation of the Agency’s activities were not appropriated in the 2011 and 2012 budgets. Budgets of Entity Gender Centres amount to around BAM 400,000 each and three fourths are spent on operating costs of Gender Centres.

100. The valid Rulebook on the Internal Structure of the Gender Equality Agency of Bosnia and Herzegovina provides for one position of director, three positions of civil servants and two positions of employees with secondary school. The Agency has recruited two civil servants and two employees with secondary school. Three officers are hired under special service agreements for jobs that correspond to positions of civil servants by the

level of complexity of tasks. The new draft Rulebook on the Internal Structure provides for an increase of positions by one civil servant. Although the number of staff members in Gender Centres is higher than in the Gender Equality Agency the positions provided for in the Rulebook have not been filled yet, which is still a major problem for the implementation of the Law on Gender Equality of BiH and the BiH Gender Action Plan.

101. The Gender Equality Agency, the Gender Centre of the Federation of Bosnia and Herzegovina and the Gender Centre of the Republika Srpska have continuous and very successful cooperation. They are coordinated through regular meetings and activities of the Coordinating Board of Gender Institutional Mechanisms made up of directors of the BiH Agency and Entity Gender Centres. This cooperation has been significantly strengthened by joint implementation of FIGAP. Cooperation and joint planning contribute to smooth implementation of programme and strategic activities and coordinated monitoring and reporting. Strengthening cooperation and capacity building is a continuous process that includes improvement of expertise of both the gender institutions and other institutions at all levels of governance, with the aim of further developing and implementing the systems, mechanisms and tools for gender analysis, assessing the impact of gender equality and gender-responsive budgeting. In addition, in accordance with individual sectoral strategies in the field of gender equality, bodies have been established to monitor the implementation of these documents. The Agency and Gender Centres usually manage and coordinate the work of these bodies.

102. In order to enhance cooperation with institutions the Gender Equality Agency of BiH and Entity Gender Centres have organized a number of courses of training for gender focal points in ministries at all levels of governance.

103. It is particularly important to emphasize cooperation of the Agency and Gender Centres with state and entity parliamentary Gender Commissions through regular joint planning and implementation of various activities (drafting laws, strategies, conducting courses of training or organizing joint thematic sessions, public consultations and promotional activities). These activities have resulted in the adoption of specific conclusions and recommendations, which has given parliamentary support to the work of gender institutional mechanisms, and in the adoption and implementation of sectoral strategies and action plans.

104. Some municipal gender commissions were very active in the development of municipal gender action plans, implementing number of activities in the field of gender equality. However, a major problem in their work was personnel shifting and shuffling after local elections, which are held every four years. Therefore, it is necessary to further strengthen the capacity of municipal and cantonal commissions so they can carry out their activities as mandated.

105. Every year Gender Centres carry out programmes of training and capacity building of municipal / cantonal commissions. While this process is going very slowly, it can be concluded that in some municipalities there are good and functional models of work and that the number of municipalities that have developed local plans to improve gender standards, including in budgets, have been increasing. What is especially encouraging is that the adopted local plans become sustainable in the long run because this method provides an institutional response to the issue of gender equality.

106. The main contribution of the 2006 - 2011 Gender Action Plan (GAP) was the introduction of a strategic approach to the implementation of activities in the field of gender equality with the aim of introducing the principle of gender equality in the work of relevant governmental institutions. Existing mechanisms for gender equality in the executive and legislative branches were strengthened and new ones were set up while a network of contact persons in different institutions was expanded.

107. Objectives of the BiH Gender Action Plan provide a framework for development of activities of gender institutional mechanisms in BiH, which contributed to the introduction of strategic and coordinated approach to the implementation of activities in the field of gender equality. In addition, in order to carry out activities in those areas, specific action plans and strategies were adopted. They are primarily strategies and action plans in the area of domestic violence, the Action Plan for the Implementation of United Nations Security Council Resolution 1325 (2000) on Women, Peace and Security in Bosnia and Herzegovina, action plans in the field of gender-responsive budgeting and implementation of activities to introduce gender equality in other strategic documents adopted by governments at various levels of governance.

108. GAP was a very ambitious document which included 15 sections. In addition, GAP identified the gender institutional mechanisms as main stakeholders in the first place and then the relevant ministries and other governmental bodies at all levels of governance. Therefore, it can be concluded that this led to a lack of understanding of the responsibility on the part of competent ministries. Therefore, it were just gender institutional mechanisms that were initiators and promoters of activities while institutions as the main authorities responsible for the activities did not have a sense of responsibility. The FIGAP program with four goals introduced a clear division of roles and responsibilities. Institutional partners have become initiators and implementers of activities aimed at introducing standards for gender equality within their competences. In this sense the FIGAP program represents an innovative mechanism for the implementation of activities in BiH and the region and this approach has been recognized and accepted in formulation of the new BiH Gender Action Plan for the period 2013-2017.

109. With the aim of improving coordination of the implementation and monitoring of the implementation of the Gender Action Plan of Bosnia and Herzegovina in 2013, a Steering Committee will be established to coordinate and monitor the implementation of the BiH Gender Action Plan and to be made up of Directors of the Gender Equality Agency, Gender Centre of RS and FBiH Gender Centre. The Steering Committee will be responsible for the adoption of guidelines for the preparation of annual operating plans, approval of the annual operating plans and reporting to the Council of Ministers and the Parliamentary Assembly. In addition, coordination committees will be established by the Council of Ministers, the Government of the Federation and the RS Government and will be responsible for the development and adoption of annual operating plans and for reporting to the Coordinating Committee of BiH GAP.

Reply to the issues raised in paragraph 7 of the list of issues

110. Pursuant to Article 16 of the Law on Gender Equality in Bosnia and Herzegovina – consolidated text (“Official Gazette of BiH” No. 32/10) prohibits gender-based discrimination in the exercise of any form of social rights set forth in valid legislation, in particular when an application for the exercise of any social welfare right is filed. Article 16 prohibits gender-based discrimination at work and in employment and any unfavourable treatment of a parent or guardian in balancing their commitments in family and professional life.

111. For the time being maternity leave or parental leave is only regulated by the Labour Law of the Republika Srpska, under which the child’s parents may agree that the child’s father should continue using the maternity leave after 60 days from the date of birth of the child rather than the mother. The intention of the legislator is to ensure this model of approach to this entitlement for all employees in BiH, regardless of the law that is applied to their contract of employment in order to avoid any problems in practice.

112. Draft Laws on Amendments to the Law on Labour in Institutions of Bosnia and Herzegovina and to the FBiH Labour Law also provide for the introduction of the right to

parental leave in order to exercise this entitlement by the father of the child in accordance with the above-stated model.

113. The Draft Gender Action Plan of BiH for the period 2013-2017 envisages activities that are aimed at improving measures for balancing commitments in family and professional life, including the protection of motherhood and fatherhood, improving the provisions governing paid maternity leave and paid parental leave for both parents, as well as specific measures to facilitate employees' balancing professional and family obligations.

Reply to the issues raised in paragraph 8 of the list of issues

114. The legislation at all levels of government, which regulates the area of equal representation of women and men in decision-making positions, is not fully in line with the Law on Gender Equality in BiH. However, there has been significant progress.

115. The Election Law provides for an increase of mandatory quotas for candidate lists at 40%. This Election Law is brought in line with Article 20 of the Law on Gender Equality, which regulates the matter of equal representation of men and women on the candidate lists.

116. The new parliamentary coalition announced amendments to the Election Law of BiH that will provide for closed lists, which was one of the goals of amendments that were proposed in 2009. An analysis of this model indicates a possible increase in the number of women elected by 5-15%, which would make a significant step forward.

117. Awareness-raising campaigns are conducted continuously, usually on the occasion of Human Rights Day. Activities aimed at promoting gender equality are general or in particular areas. Every year the Gender Centre promotes standards of gender equality through public media campaigns and regular relationships with different target groups and the media. Depending on the election cycle for local and general elections, awareness about the need and importance of greater representation of women in public and political life is raised through campaigns and promotional events.

118. An analysis was made on the basis of results of 2012 local elections published by the Central Election Commission. The results of 2012 local elections are indicative of the fact that women are still less represented gender in most of the local legislative body. The analysis shows that 507 women were elected and, compared to the 2008 local elections when 15% of women were elected on average in municipal councils, it was an increase of 1.5-2%. According to data by municipalities it can be seen that there were variations in relation to the representation of women compared to the 2008 elections.

119. Women were generally less represented gender on the lists and in that sense most of the political parties were obliged to respect Article 4.19 of the Election Law of BiH. Therefore, the female candidates were on the every fifth, eighth, eleventh and so on place on the lists of candidates. In addition, voters affected with their votes the order of all candidates. However, as a rule, in accordance with the votes male candidates moved to the top of the lists leaving the female candidates behind and because of this there was a difference between the number of female candidates and the number of elected women.

120. As an additional measure, on a proposal of the Agency for Gender Equality of BiH, the BiH Parliamentary Assembly passed the Law on Amendments to the Law on Political Parties Funding. This Law determines that 10% of the funds available to fund the parliamentary groups represented in the Parliamentary Assembly of Bosnia and Herzegovina, the BiH budget 10% of the total amount allocated to parliamentary groups in proportion to the number of seats belonging to the less represented gender.

(a) Courts and prosecutor's offices

121. An analysis of the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina ("Official Gazette" No. 25/04, 32/07, 48/07, 15/08) found that the Law contains provisions prohibiting gender-based discrimination and requiring striking a gender balance in the appointment to any judicial office at all levels of judiciary. In addition to the statutory criteria, the High Judicial and Prosecutorial Council appointments to judicial positions also take into account gender equality, as can be seen from the statistics below.

122. The High Judicial and Prosecutorial Council consists of five or 45.45% women and six men. Data from the July 2011 Annual Report of the High Judicial and Prosecutorial Council shows that the number of women and men sitting in prosecutors' offices and courts is in line with the standards defined by the Law on Gender Equality. HJPC's appointments to judicial positions take into account equal representation of the sexes, as can be seen from the statistics below.

123. The overall percentage of female judges in BiH is 56.25% and the percentage at the levels of governance is as follows:

- Court of BiH: 44%
- FBiH courts: 66%
- RS courts: 61%
- BD courts: 56%

124. The overall percentage of female prosecutors in BiH is 48.5% and the percentage at the levels of governance is as follows:

- Prosecutor's Office of BiH: 52%
- FBiH prosecutor's offices: 47%
- RS prosecutor's offices: 45%
- BD Prosecutor's Office: 50%

125. Data on gender representation in senior positions, i.e. presidents and chief prosecutors, shows smaller percentage of women (35%) than the overall percentage of women. The president of the Court of BiH is a woman. Women, as presidents, were dominant in the cantonal courts (80%). Only two women have been appointed as chief prosecutor at the entity level: one in the cantonal prosecutor's office (of 9 appointed) in the Federation of BiH and one in the District and Special Prosecutor's Office of Banja Luka (of 6 appointed) in the Republika Srpska.

Table: Number of female and male court presidents in BiH

<i>Court</i>	<i>President</i>		<i>Total</i>	<i>%</i>
	<i>M</i>	<i>F</i>		
Court of BiH	0	1	1	100
Supreme courts	2	0	2	0.00
Cantonal courts	2	8	10	80.00
District courts	4	1	5	20.00
Appellate Court of Brčko District	1	0	1	0.00
Municipal courts	15	13	28	46.43
Basic courts	13	5	18	27.78
Basic Court of Brčko District	1	0	1	0.00

<i>Court</i>	<i>President</i>		<i>Total</i>	<i>%</i>
	<i>M</i>	<i>F</i>		
TOTAL	38	28	66	42.42

Table: Number of female and male chief prosecutors in BiH

<i>Court</i>	<i>President</i>		<i>Total</i>	<i>%</i>
	<i>M</i>	<i>F</i>		
Court of BiH	1	0	1	0.00
Prosecutor's Office of BiH	1	0	1	0.00
Prosecutor's Office of FBiH	1	0	1	0.00
Prosecutor's Office of RS	8	1	9	11.11
Cantonal prosecutor's offices	5	1	6	16.67
District and Special Prosecutor's Office of RS	1	0	1	0.00
Prosecutor's Office of Brčko District	1	0	1	0.00
TOTAL	17	2	19	10.53

(b) Representation of women in diplomacy and peacekeeping missions

126. According to the Ministry of Foreign Affairs, the diplomatic and consular missions of Bosnia and Herzegovina (DCM) currently have 78 women and 73 men, which indicates that the representation of women is higher by 20% compared to 2009 statistics, when there were 56 women and 122 men. Currently there are 6 female ambassadors and one consul general. BiH female experts participate in all activities at the international level, including participation in international meetings at all levels and of all types. Female members of the Armed Forces and police were engaged in peace-keeping missions in East Timor, Eritrea, Ethiopia, Cyprus Iraq and Liberia.

II. Issues relating to the specific provisions of the Covenant (arts. 6–15)

Article 6 – The right to work

Answers relating to Articles 6–15 of the Covenant

127. All activities carried out, especially active employment policy measures, are in line with the basic objective of the 2010-2014 Employment Strategy of BiH. The objective is to increase the quality and quantity of jobs while promoting social inclusion and the fight against gender inequalities. With the implementation of active employment policy, employment and employment services are paid special attention to programs intended to improve the employability of disadvantaged groups in the labour market. About 70% of the programs related to new programs co-employment and self-employment, and the programs were mostly involve young people without work experience, women, returnees and members of the Roma population. In total, the 2012 active labour market programs in Bosnia and Herzegovina included 13,347 people and spent more than 38 million.

Reply to the issues raised in paragraph 9 of the list of issues

(a) Federation of BiH

(i) *Co-funding of Employment of Young People without Work Experience Programme*

128. In 2012 the Programme of Employment Co-funding for young people without work experience, which was directly implemented by the Federation Institute of Employment, was finished. The Programme enabled employment of, i.e. acquiring the first work experience by 875 young adults, including 514 ones with four-year university education, 33 ones with two-year university education, 200 ones with secondary education - level IV and 128 ones with secondary education - level III, with 404 employers. The value of the Programme was BAM 4,782,250, of which BAM 871,250 were paid to employers in 2012.

(ii) *“40+” Co-funding of Employment of Young People without Work Experience Programme*

129. The “40+” Co-funding of Employment of Young People Without Work Experience Programme is a portion of joint efforts of the Federation Institute of Employment and the United Nations Development Programme (UNDP), which was implemented within the Youth Employability and Retention Programme of Bosnia and Herzegovina (YERP). The objective of the Programme is to enable the first employment of people under 30, with secondary education (levels III and IV), with four-year and two-year university education, without work experience, who are registered with the employment service in the Federation of BiH. The Programme, which was implemented through the cantonal employment services, enabled co-funding of employment of:

- persons with secondary education (levels III and IV) for six months with an amount of BAM 402 on a monthly basis
- persons with four-year and two-year university education for 12 months with an amount of BAM 563 on a monthly basis.

130. This Programme provided jobs for 323 persons (129 women), including: 245 persons with secondary education (levels III and IV) and 78 persons with four-year and two-year university education, 24 years old on average, having been registered with the employment service for two and a half years. The value of the Programme was BAM 1,070,019.80, of which two thirds were provided by UNDP and one third was provided by the Federation Institute of Employment.

(iii) *“Youth entrepreneurship” Co-funding of Self-Employment of Young People Programme*

131. A public invitation for participation in the “Youth entrepreneurship” Co-funding of Self-Employment of Young People Programme was published on 30 October 2012. The objective of this programme was to encourage self-employment of 145 young people registered with employment service in the Federation through co-funding of costs of setting up and maintaining their own business in the first year of operations. Funds in the amount of BAM 1,015,000 were provided for the implementation of the programme. The amount given for co-funding of registration costs, for purchase of productive assets, materials and equipment necessary and a part of statutory contributions and taxes was BAM 7,000 per person. The target group was young people under 35, who will register and maintain their own business for at least 12 months after approval of their business idea. Out of 145 approved applications which were rated as the best business idea, by the end of 2012 132 business ideas were implemented and an amount of BAM 462,000 was paid from the total of BAM 1,015,000.00 appropriated.

(iv) *Youth Employability and Retention Programme in BiH (YERP)*

132. The Youth Employability and Retention Programme in BiH (YERP), which is funded by the Spanish Government through the Fund for the Achievement of the Millennium Development Goals (MDG-F) and by the United Nations Volunteers (UNV) through a Special Voluntary Fund is implemented in the period 2010-2013. It is implemented by UNDP, the United Nations Fund for Children (UNICEF), UNV, the United Nations Population Fund (UNFPA) and the International Organization for Migration (IOM).

133. Within this programme, the Federation Institute of Employment took part in the implementation of the “40+” Co-funding of Employment of Young People Without Work Experience Programme and in the establishment of Information, Counselling and Training Centres (ICTC-CISO) in the employment services of the FBiH. After having established ICTCs/CISOs in Sarajevo, Bihać, Mostar, Zenica, Vitez, Tuzla, Odžak, Goražde and Livno at the beginning of the Programme, in late 2012 a memorandum of understanding was signed to create pre-conditions for the establishment of an ICTS/CISO in Široki Brijeg. Users of ICTC services are unemployed persons under 30 years of age, students facing a choice of further education and profession, employers and other interested parties.

(v) *Youth Employment Project (YEP)*

134. The Youth Employment Project in BiH (YEP) funded by the Swiss Agency for Development and Cooperation (SDC) and the Austrian Development Agency (ADC) and implemented by a German consulting firm, GOPA, in cooperation with the FBiH Employment Institute and Employment Institute of Republika Srpska. In the Federation of BiH seven job clubs were formed within the cantonal employment services and they are in Travnik, Kakanj, Orašje, Tuzla, Živinice, Cazin and Goražde, led by employers of the employment services who were trained specifically for this job. The goal of job clubs is to assist young people between 18 and 30, who have been registered with the employment services for at least six months, to master active seeking job techniques and gain self-confidence in the shortest possible period in order to have successful interviews with employers. The fact that almost 200 users have found job speaks about justifiability of these job clubs.

(b) Republika Srpska

(i) *Employment of Young People with Secondary School under 30 in the Republika Srpska Project*

135. In 2012 the implementation of the “Employment of Young People With Secondary School under 30 in the Republika Srpska Project” was completed. The Project was implemented within the Youth Employability and Retention Programme (YERP). The Project budget of BAM 279,792.00 was provided by the United Nations Development Programme (UNDP) in cooperation with local self-governments. The goal of this Project was employment of 116 people with secondary education to have the status of trainees/interns (pripravnik) for a period of six (6) months, who are registered at the Employment Bureau and do not have work experience in their profession, which they need as a requirement for employment/ taking an internship exam. The Project provided funds for net monthly salary of trainees in the amount of BAM 402.00 per month with the employer’s obligation to pay taxes and contributions on the net salary in the amount of BAM 264.67 per month, provided that in accordance with its by-laws and financial possibilities the employer can pay a higher salary than the amount envisaged in the Project from its own funds. The Project provided internship jobs for 96 persons and the total funds spent on this basis amounted to BAM 221,960.62.

(ii) *“Have Knowledge, Find Job - Znanjem do posla” Employment of Young People With Two-year and Four-Year University Education in the Republika Srpska Project*

136. In accordance with the Programme of the Employment Institute, the 2012 Fundamentals of the Economic Policy and the 2012 Employment Action Plan, in 2012 the Employment Institute completed “Have Knowledge, Find Job - Znanjem do posla” Employment of Young People With Two-year and Four-Year University Education in the Republika Srpska Project, which began in 2011. The project originally envisaged co-funding of salaries of 1,000 people with two-year and four-year university education registered with the Employment Institute who have no work experience in their profession, which they need as a requirement for employment/taking internship exam. However, because of the very great interest of the unemployed people and employers to participate in the Project, at the proposal of the Management Board of the Institute, the Government of the Republika Srpska made a decision to provide funds for 1,500 instead of 1,000 interns.

137. The primary objective of the Project is for people with two-year and four-year university education to gain work experience and to strengthen human capacities and create a more efficient labour market of the Republika Srpska with the 1,500 highly educated young people after successful completion of the internship. The project enables a faster integration in working place of the people with no work experience and the development of knowledge and skills acquired at university. The target group includes persons with two-year and four-year university education registered with the Employment Institute who have no work experience in their profession. The value of the Project is BAM 17,238,730.00, of which the Employment Institute contributes BAM 10,219,230.00 and employers contribute BAM 7,019,500.00.

138. The Project provided funds for net monthly salary of interns with four-year university education in the amount of BAM 600 and for net monthly salary of interns with two-year university education in the amount of BAM 500 with all statutory contributions and taxes. The implementation of contractual obligations of employers is audited on a quarterly basis. Since the implementation continues in 2013, the Employment Institute will continue regular audits of the execution of contractual obligations until the Project has been completed.

(iii) *Projects implemented in cooperation with other institutions and organizations*

139. In addition to these projects where the implementing authority was the Employment Institute, it is important to emphasize its participation in projects implemented in cooperation with other institutions, partners and organizations, mostly international, which mostly related to institutional capacity building of the employment services and advancement of active employment policy. These activities continued the implementation of the second phase of the following projects

- “Institutional and capacity building in employment sector – ICBES”
- “Youth Employability and Retention Programme (YERP)”
- “Youth Employment Project- YEP”

140. The “Institutional and capacity building in employment sector – ICBES” Project has facilitated a number of important activities which were primarily directed towards the development of more effective active employment policies and programmes in the labour market in order to combat unemployment and increase employment. The third component of the Project launched a “Local Partnership for Employment and Economy Development” in nine municipalities whose main objective is the development of partnership with the local communities, the education system and a large number of employers and their inclusion in the education-job creation matter. The local partnership is successfully

implemented u Bijeljina, Zvornik, Doboj, Prijedor, Banja Luka, Čelinac, while its preparation is in progress in Trebinje, Istočno Novo Sarajevo and Istočna Ilidža.

141. The “Youth Employment Project - YEP” is a continuation of the first phase of the project in the period 2009-2011. The second phase of the Project is envisaged for the period 2011 to October 2014, which is funded by the Swiss Agency for Development and Cooperation (SDC) and implemented by a German consulting firm, GOPA, through its BiH representative office. In 2012 the following activities were directed towards the implementation of the second phase of the Project:

- Continuation of the establishment of job clubs
- Development of the modern concept of the Employment Institute (redecorating of premises, mainstreaming of practices and processes, better perception ...)
- Holding a youth employment forum: a dialogue on policy designing and cooperation among stakeholders in the field of youth employment;
- Sharing of lessons learned with the Swiss cantonal employment services
- Improvement of the Employment Institute through the establishment of a pilot office in Doboj and building of its own system of performance measuring

142. “Youth Employability and Retention Programme – YERP” has enabled the establishment of Information, Counselling and Training Centres (ICTC-CISO) in the employment services of the Republika Srpska. In 2012 this Project was almost finalized and the remaining activities concerning round tables held to discuss and find out various forms of gaining work experience by young people.

(c) Brčko district of BiH

Employment of Interns Programme

143. In 2012 the Employment Institute of Brčko District of BiH, in cooperation with the Government of the Brčko District of BiH, implemented the Employment of Interns with Four-Year University Education Programme. In 2012 this Programme included 297 persons and an amount of BAM 3,898,800 was spent for this purpose.

Reply to the issues raised in paragraph 10 of the list of issues

144. The laws concerning labour and employment prohibit discrimination on any grounds, including on the basis of sex. The Law on Gender Equality in Bosnia and Herzegovina defines denial of equal pay and other benefits for the same work or work of equal value as a form of discrimination.

145. A significant progress in the protection of rights in the field of non-discrimination on grounds of sex is made by amending the Law on Gender Equality in Bosnia and Herzegovina, which determines that rights can be protected through the application of the Anti-Discrimination Law. The Law on Gender Equality in Bosnia and Herzegovina and the Anti-Discrimination Law of Bosnia and Herzegovina are mutually consistent in the part where victims of discrimination are accorded the possibility of recourse to legal mechanisms for the protection of the rights provided for in that legislation (types of lawsuits, jurisdiction, deadlines, the burden of proof, victimization and others). This ensured a legal protection mechanism that provides protection against gender-based discrimination.

146. The laws concerning labour and employment clarify the forms of gender discrimination, sexual harassment and gender-based harassment. The Labour Laws (of FBiH, RS and BD) provides for fines to be imposed on the employer if it puts a person

seeking employment or an employee at a disadvantage. It is very important that these laws have introduced provisions relating to violations of gender equality as these laws provide a framework for the competent inspectors' acting.

147. The Labour Law of Republika Srpska and delegated legislation respecting labour and employment in the Republika Srpska are mostly in line with national and international standards in the field of gender equality. In the reporting period the following laws: the Law on Voluntary Pension Funds and Pension Plans, the Law on Civil Servants, the Law on Pension Reserve Fund of the Republika Srpska, the Law on Volunteering and the Law on Amendments to the Law on the Promotion of Small and Medium Enterprises were brought in line with the Law on Gender Equality of Bosnia and Herzegovina.

148. Alignment of the Labour Law of the Federation of BiH and delegated legislation in the Federation of BiH with the Law on Gender Equality of Bosnia and Herzegovina is in progress. The FBiH Gender Centre has proposed new amendments to the Labour Law of the Federation of BiH respecting the prohibition of direct and indirect discrimination, harassment and sexual harassment and other amendments respecting the provision of equal rights and equal representation in the areas of labour and employment. These proposals have been integrated into the draft amendments to the Labour Law of the Federation of BiH, which will be referred to the Federation Government for approval.

Article 7 – The right to just and favourable conditions of work

Reply to the issues raised in paragraph 11 of the list of issues

(a) F BiH

149. On 18 September 2013 over 20 taxable entities were inspected in Canton Sarajevo by inspectors of the Tax Administration of the Federation of BiH in relation to the application of the Fiscal Systems Act.

150. These inspections were conducted on the basis of individual reports and investigative data available to the tax inspectors. Hotels, motels, hostels, and catering facilities known to operate without permits, who fail to respect provisions of the Fiscal Systems Act and the Contributions Act, and who engage unregistered workers were inspected.

151. There were eight decisions suspending the work issued to the following taxable entities: Hostel Balkan in Jelica 2, ZMAJEVAC d.o.o (Ltd.), Hotel Ahat in Pijacna 82, NEY d.o.o. (Ltd.) - Prenočište Šeher in Safet bega Basagica 34, Srce Sarajeva, rooms to let in S.H. Muvekita 2, Herceglić d.o.o (Ltd.) - Herc in Podcarina 1, Plavi zamak d.o.o (Ltd.), Hotel Dardanija in Radiceva 13 and Hostel SUN in Branilaca Sarajeva 13.

152. Although all requirements for shutting them down were fulfilled these facilities remained opened because they hosted guest for overnight stay. The procedure to temporary close these facilities will continue if they fail to rectify irregularities within 24 hours.

153. Total of 32 fines in the amount of BAM 60,000.00 were issued in misdemeanour proceedings in relation to the observed irregularities.

154. The inspection found 7 unregistered workers in these facilities.

155. One foreigner without a work permit and who was not registered with competent bodies was found in one of the facilities. He was handed over to the BiH Ministry of Security – Department for Foreigners for further actions.

156. Police forces assisted in carrying out one inspection.

157. The Tax Administration of the Federation of BiH intends to continue inspecting taxable entities in the following days.

(b) RS

158. In 2011, the activities of the Labour Inspection, which makes part of the Republika Srpska Inspectorate, were primarily directed at reaching strategic goals to increase legality in the area of employment and labour relations, as well as increasing security of jobs. This was done through further expanding the scope of inspections, introducing integrated inspections, increasing number of inspections – inspections by business activity, increasing number of inspections at municipal level in order to achieve equal number of inspections across Republika Srpska, actively cooperating with social partners (representatives of employees and employers) and harmonising approach of labour inspectors in cases of same or similar legal circumstances.

159. In 2011 there were 35 inspectors engaged in the Labour Inspection, with the average age structure over 50 years. Many inspectors have over 15 years of working experience in the same position and 3 inspectors on average are continuously on sick leave. Considering that there are 50,000 registered businesses in Republika Srpska, it has to be emphasised that only 10% of businesses can be inspected annually given the number of inspectors and inspections that they are able to conduct in the course of one year. Considering the very small number of labour inspectors, the Labour Inspection was reinforced with inspectors from other Inspectorates. This was done through granting competences to inspectors who fulfilled the requirements applicable to labour inspectors (51 inspectors with granted competencies) and all were trained in a very short period of time to inspect the manner in which employment contracts are concluded and applied.

(i) Labour relations area

160. In the course of 2011 there were 4,961 inspections conducted in total, involving 84,871 employees. From the total number of inspections conducted, 34% were cases in which irregularities were identified (1,666 inspections) on the basis of which inspectors issued 1,312 decisions ordering rectification of irregularities, there were 34 decisions suspending the work, 715 fines issued in the misdemeanour proceedings and 108 misdemeanour charges filed.

161. In addition to conducting inspections, inspectors were approach by a number of individuals daily, in person or by telephone. As a result, in 2011, labour inspectors conducted over 15,000 consultations with clients who sought legal assistance for protection of their rights and proper application of the Labour Law (key problems were the increased number of terminations of employment, lack of pay, abuse of fixed term employment contracts and unpaid overtime work). Also, in 2011 the Labour and Safety at Work Inspection received 1,960 complaints.

162. On the basis of the inspections conducted in 2011 the most frequent violations of the labour related legislation refers to the following:

(ii) Payment of salaries and allowances

163. Progressively more employers in Republika Srpska are late with payment of salaries which was an issue raised in many complaints received from employees and to which inspectors paid particular attention when conducting inspections. Particular attention during inspections was also paid to protection of motherhood (pregnancy and maternity) in relation to payment of salaries and allowances.

(iii) *Fixed-term employment contracts*

164. Fixed term employment contracts are becoming a rule and not an exception. They keep being extended for a period less than two years. At that moment the employee's contract is terminated in order that s/he does not acquire continuity in employment and meet requirements necessary for concluding a permanent contract. After this the employee ends his/her employment with the employer.

(iv) *Contract for occasional or temporary work*

165. Such employment/engagement of employees is most frequently abused in production branch. Namely, the Labour Law (Article 34) provides for definition of such work engagement, stipulating that it may be performed only for certain number of hours annually (no longer than 60 days in one calendar year). In practice, this form of employment is abused in such way that employees work for several years on the basis of this contract; the contributions paid do not match the real state of facts whereby the Funds and employees are being directly affected in relation to payment of contributions. The main reason why employers opt to conclude such contracts and engage employees in such way is to avoid the obligations they will have towards the employees in case of cancellation/termination of employment.

(v) *Unregistered workers*

166. In the past years the Labour Inspection was working intensively in suppressing engagement of unregistered employees in Republika Srpska. The continuous monitoring of this phenomenon indicates at some of its characteristics that are clearly visible in terms of activities in which engagement of unregistered workers occurs most frequently, regions where it is most frequent and the periods in which it increases. In the period from 2006 onwards, the social partners of the Government of Republika Srpska and the Labour Inspection have initiated and organised campaigns and activities on suppressing unregistered labour. Such activities were aimed at employers who engage unregistered employees. Employers who registered their employees upon an order issued by inspection often deregistered them after the inspection was over.

(vi) *Safety at work*

167. In the area of safety at work in 2011, in comparison to previous years, a number of inspections were conducted in the high-risk industries (forestry, construction, primary wood processing mills, chemical industry) since it was noted that employers fail to take sufficient measures with the aim of reaching safety and healthy work environment.

168. In the course of 2011 inspectors conducted 1,046 inspections in total. Out of the total number of inspections in 44% of cases inspectors found irregularities (457 inspections with irregularities) on the basis of which inspectors issued 416 decisions ordering that irregularities are rectified, they issued 9 decisions suspending the work, 127 fines in misdemeanour proceedings and filed 34 misdemeanour charges.

169. In this area, special attention is paid to certain categories of workers, such as: pregnant women, minors, workers with disability, seasonal workers and elderly workers.

170. The number of occupational injuries resulting in death in Republika Srpska, continuously shows no tendency to decline. Nevertheless, it is important to mention that the number of injuries stands at the level of the average for the European Union member states, however the scope of production is below the European Union's average.

171. In the safety at work area, a conclusion can be reached that the consequences of the failure to comply with requirements of the safe workplace result in a significant number of

serious injuries and injuries resulting in death. On the basis of indicators in relation to number of reported injuries and injuries resulting in death a conclusion can be reached that there are no positive developments in this field.

172. In the area of safety at work, employers continue to pay insufficient attention to prevention. Drafting risk assessments is considered an expense by many employers and not a preventive measure for reducing work injuries and ensuring safe work environment for their employees.

173. Training about integrated inspections of nearly all inspectors for safety at work and protection at work was conducted in 2010. Integrated inspections include both areas (labour relations and safety at work) which are under the competence of the labour inspection. They are conducted by one inspector during one inspection, up to a certain level of expertise. In the period from January to December 2011 there were 604 integrated inspections conducted in total. From the total number of inspections conducted, in 52% of cases inspectors found irregularities (317 inspections with irregularities), and they issued 294 decisions ordering that irregularities are rectified, 3 decisions suspending the work, 87 fines in misdemeanour proceedings and they filed 13 misdemeanour charges.

Article 8 – Trade union rights

Reply to the issues raised in paragraph 12 of the list of issues

174. The Constitution of Bosnia and Herzegovina, entity constitutions and the Statute of the Brčko District guarantee freedom of peaceful assembly and freedom of association, i.e. the individual right to come together with other individuals, so freedom of association is a constitutional right of all persons in BiH.

175. The Constitution of BiH and FBiH Constitution do not impose limitations in exercising the right to peaceful assembly. The competent authority shall prohibit any public gathering which is aimed at violent change of the constitutionally established order, violation of the territorial integrity of Bosnia and Herzegovina, violation of constitutionally guaranteed rights and freedoms of man and citizen, instigation and incitement of national, racial and religious hatred and intolerance. The competent authority can prohibit the public gathering in order to prevent disruption of public traffic, endangering health, public morals or safety of people and property. A public meeting cannot be convened by an individual on whom the court has imposed a security measure prohibiting public appearance nor can she/he address the public at any event.

176. This matter is regulated in the Law on Peaceful Assembly of Citizens both at the state level and at the level of both entities and the Brčko District, which treats assembly of citizens as free and democratic, if it is carried out in compliance with the legislation. Assembly of citizens, according to the law in force, is convening and holding meetings at the appropriate space.

177. The Law on Freedom of Religion and Legal Position of Churches and Religious Communities in Bosnia and Herzegovina provides that freedom of religion or belief includes means the right of any person or church or religious community to be able to perform religious rituals in their own or leased buildings or facilities which meet the requirements for gathering of a large number of persons, in the open spaces of religious buildings, cemeteries and homes and estates of its believers. Also, they are free to organize public religious celebrations and other religious and cultural gatherings in public places in accordance with the law governing the assembly of citizens.

178. Article 5 of the Law on the Protection of National Minorities reads: “Members of national minorities shall have right to organise and gather in order to express and protect

their cultural, religious, educational, social, economic and political freedoms, rights, interests, needs and identities.”

179. Establishment, registration, internal organization and dissolution of associations and foundations in BiH are governed by the Law on Associations and Foundations of Bosnia and Herzegovina which does not apply to political organizations, religious groups, trade unions and sports organizations. Associations are established by mutual agreement of three or more natural or legal persons, who voluntarily associate in order to achieve a common goal, which is not related to the acquisition of profit, while a foundation is a legal entity that does not have its membership and whose aim is to manage certain property in public interest or for charitable purposes.

180. Pursuant to the Law on Associations and Foundations of Bosnia and Herzegovina, a registration in the registers of associations or foundations shall be denied if their activities are found to be aimed at political purposes. An association or foundation shall cease from operation by virtue of law (*ex lege*) when the program and activities of the association or foundation contravene the constitutional system of Bosnia and Herzegovina or are directed at its violent destruction, inflaming of ethnic, racial or religious hatred, or when the purpose defined in the Article of Association is profit making.

181. The BiH and Entity Ministries of Justice are authorized to register associations and foundations. The registration of associations and foundations is essential for obtaining the status of a legal person and opportunities to get involved in legal transactions. An association may carry out an activity provided for in the Articles of Association without being registered. All provisions that apply to local associations and foundations also apply to the registration of foreign and international associations and foundations that are established and operate in Bosnia and Herzegovina.

(a) Unionization

182. This type of organization of workers is guaranteed by the constitutions of the Entities and further regulated in labour laws which were passed in the Entities and Brčko District. Although the wording defining the matter is quite general, there is no doubt that workers have the right to organize a union. Provisions on the right to organize a union are far more specific and more detailed in the branch and general collective agreements.

(b) The right to strike

183. Constitutions, laws and collective agreements in Bosnia and Herzegovina, the Entities and Brčko District guarantee the right to strike. This right is regulated by the Law on Strikes that was enacted at all levels of government. The Law provides for the right of workers to strike, the right of trade unions to call a strike, an employer's right to terminate worker's employment contract and governs other issues related to the strike. A union has the right to call a strike and organize a strike action for the protection and exercise of economic and social rights and interests of its members. A strike can be organized only in accordance with applicable legislation, union rules on strike and collective agreements. Workers freely decide on their participation in the strike.

184. In the past period Bosnia and Herzegovina saw a number of strikes and social unrest, especially because of the global economic crisis and its evident consequences. Nationwide protests were organized against employers and local, state and Entity governments. Different groups were involved in strikes and demonstrations: pensioners, teachers, doctors, miners, industrial workers, farmers, disabled veterans, families of the killed and missing, civil servants (tax administration, inspection services ...), etc. The most frequent reasons for the strike were low or, even more often, unpaid salaries. The protests frequently included demands for the dismissal of employers or resignation of public office holders. Many of the

employers had not paid salaries for several dozen months. The usual reason for protests was irregularities in the privatization that had led a lot of companies to complete destruction and rendered their workers jobless and without any prospects to get jobs. In most cases, the new owners of the company had had no intention to revive operation of the company, so that the workers from the very beginning were condemned to be laid off and lost jobs eventually. When we add and consider the discrimination of citizens of Bosnia and Herzegovina in employment on ethnic grounds and nepotism and corruption, it can be said that in Bosnia and Herzegovina the right to work is one of the most vulnerable of human rights.

Article 9 – The right to social security

Reply to the issues raised in paragraphs 13–15 of the list of issues

185. In BiH entitlements under the social welfare scheme are exercised at the municipal level (depending on the budget of the municipality), which is in charge of the Municipal Centres for Social Work (CSW) or relevant departments within municipal authorities in FBiH, RS and BD. The Centres for Social Work, funded by the municipal authorities, mostly face the problem of inadequate capacity due to inadequate staffing with qualified staff and a lack of funds.

186. According to the laws that govern social welfare in the Entities, entitlements under the social welfare scheme can be exercised by citizens and families that may be in need permanently or temporarily. The Law on Social Protection of the Entities and BD govern bases of social protection of citizens and their families, basic entitlements in the field of social protection and recipients of social security benefits; establishment and work of social protection institutions and disability associations, funding and other issues important exercise their right to social protection. The aforementioned law establishes basic concepts, categories of persons under the protection and types of income.

187. Beneficiaries under the social welfare scheme are by default the poorest and most vulnerable members of society. The beneficiaries are persons who, in the course of a single year use certain forms and measures of social protection and social services on one or more occasions.

188. The BiH legislation guarantees to BiH nationals the following social security entitlements are: allowances (financial assistance and other material assistance), work and living skills training, placement in social care institutions, placement in foster family, home care and assistance rendered in the house, social workers' and other professional services, health insurance and housing.

189. Financial and other material assistance is one of the entitlements under the social welfare scheme and includes: allowance, attendance allowance and other material assistance. In FBiH these entitlements are clearly set forth in the cantonal laws with different levels of financial assistance and various amounts of income as means test. In RS, the responsibility is shared between the Entity and local levels and the exercise of entitlements also include a loss of working ability and a means test.

190. It is estimated that 350,000 people are below the poverty threshold do not receive social assistance. One reason is the legal framework in the Federation that defines the inability to work as the main criteria for assistance. Formally, these people are capable of working, but the inability to find employment renders them needy, while at the same time the system fails to recognize them as beneficiaries of social assistance. In RS, the legislation does not link social assistance to work disability. According to the World Bank, the social assistance covers only one-fifth of the poor and needy (only 17% people in need of assistance is included in the social assistance scheme).

191. The basic problem of social protection in BiH is its inefficiency, a lack of focus on the real needs of beneficiaries and very little impact on poverty reduction. The amounts in the social welfare scheme are not satisfactory because of severe consequences of the war, the transition process and a lack of economic development.

192. The social welfare scheme in BiH is in great difficulties as it faced a huge increase in demand of various types of social assistance, which continues to grow. The functioning of this system is complicated by inadequate laws that provide for a much broader range of social protection than the budget available is able to cover. This problem is further complicated by the separation of responsibilities between levels of government, whereby the FBiH prescribes the amount of social assistance while the cantons are required to provide funds for it.

193. An additional difficulty is the lack of updated and complete data on social protection.

(a) Institutional framework

194. Social welfare services that fully meet social and other needs of the beneficiaries are provided by social welfare institutions and they are:

- There are 117 Centres for social work/Social Welfare Centres in BiH, including 72 centres and 28 municipal offices of social welfare and child protection in the FBiH and 45 Centres and 20 municipal offices in charge of social welfare in the RS, while BD does not have any centres but a health sub-department of BD Department instead)
- Institutions for children, including: institutions for children without parental care, institutions for neglected children, institutions for children with difficulties in their physical and mental development
- Institution for adults and elderly people
- Institution for social and health care of people with disabilities and other people institutions
- Day care centres for social protection beneficiaries

195. In BiH there are 37 social welfare institutions (care institutions) (governmental and non-governmental sector), including 27 ones in the FBiH and 10 ones in the RS.

196. Establishing and operation of the institutions in the Federation are governed in cantonal legislation and establishing and operation of the institutions of interest for the Federation are governed in Federation regulations.

197. Social welfare institutions (care institutions) that house children in the FBiH are: Institutions for children without parental care, institutions for neglected children, institutions for children with physical or mental disabilities, day care centres.

198. Social welfare institutions (care institutions) that house children in the RS are: Home for Children and Youth, Home for Children and Youth with Special Needs, Home for physically disabled children and young people with intact mental faculties, Home for Children and Youth Rearing, reception centres, service centres and day care.

199. BD does not have facilities to house beneficiaries under the social welfare scheme and uses services of the Entities.

(b) Social protection and employment: RS

200. According to the Law on Social Protection, disabled persons are persons who have suffered, as a result of injury, disease or birth defects, a loss or limitation of ability to perform activities necessary for daily life in the extent and in the manner that is considered normal for people of the same age, gender, culture and education. For the purpose of this Law, social protection entitlements are: allowance, attendance allowance, support of the equalization of opportunities of children and youth with disabilities, placement in an institution, placement in a foster family, home help and home care, day care, one-time cash assistance and counselling.

201. According to 2010 data the total number of persons with disabilities under the social welfare scheme is 12,077. Of this total number, there are 3,084 minors with disabilities, while the total number of adults with disabilities is 8,993. According to 2011 data the total number of persons who had a decision (rješenje) on needs assessment and inclusion of children and youth with disabilities in the social security system is 6742. Of this total number 2648 persons were of minors and the total number of adult persons was 4094. The total number of beneficiaries of attendance allowance granted by decision was 2643. The total number of beneficiaries of attendance allowance was 15059. The total number of persons who were subject to needs assessments and inclusion in 2011 was 867, while the total number of persons who were subject to capability assessment in the process of exercise of social protection entitlements in 2011 was 3017.

202. According to 2010 data, the total number of beneficiaries of allowance was 5,727, the total number of beneficiaries of attendance allowance was 15,124, the total number of beneficiaries of work and living skills training was 267, the total number of beneficiaries placed in social care institutions or other institutions was 1,012, the total number of beneficiaries placed in foster family was 352, the total number of beneficiaries of home care and assistance rendered in the house 294, the total number of beneficiaries of health insurance was 4,192 and the total number of beneficiaries of one-time cash assistance was 10,327. According to 2011 data the total number of beneficiaries of allowance was 5451, the total number of beneficiaries of support of the equalization of opportunities of children and youth with disabilities was 270, the total number of beneficiaries placed in a social care institution or another institution was 997, the total number of beneficiaries placed in foster family was 372, the total number of beneficiaries of home help was 285, the total number of beneficiaries of health care services was 3572 and the total number of beneficiaries of one-time cash assistance was 10317.

203. The Rulebook on the Classification of Persons Arrested in Physical and Mental Development⁴ determines the method of detection and procedure of evaluation of abilities, classification of children, adolescents and adults with congenital, developmental or acquired disabilities, recording of persons with disabilities, the composition and operation of expert commission, the content of findings and opinions and forms used by the commission. Persons with disabilities are identified by their parents or guardians, family members, health care services, social and child protection institutions, educational institutions and other public, private and non-governmental organizations and individuals.

204. In RS for many years now the “Child Socialization of RS” project has been implemented to target inter alia children with physical and mental disabilities. Objectives of this project are socialization, integration, promotion of physical and mental development of children beneficiaries, affirmation, rehabilitation and training.

⁴ Social protection and employment in BFiH.

205. The “Quality Social Protection for the quality of life of vulnerable children” project produced minimum standards of a day care centre for children with developmental disabilities and minimum standards for the early detection of children with developmental disabilities.

206. The 2010–2014 SSNESP project plans to recruit 6 people with disabilities who have lost their entitlement to the benefit and to spend an amount of BAM 13,200.00 for this purpose. There is no information about when these funds will be available.

207. The number of persons with disabilities who are beneficiaries under the old Law on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children⁵ is 103,000, out of which 16,500 beneficiaries – holders of final decisions have not received benefits due to a lack of funds in the Federation Budget (unpaid balance of funds as of 31 May 2011). It is necessary to provide approximately BAM 49,000,000.00 for the payment of recognized benefits. The Law provides that the funds for the exercise of this entitlement shall be provided in the FBiH budget and that the entitlement shall be recognized as of 1 January 2005, for which funds were not planned and it was a check for the Law enforcement at the beginning.

208. Given the fact that the cantons have diverted their funding obligations towards this group to the Federation level, the FBiH budget, there has been a shift of obligations from the sectors of veterans, pension and disability insurance and other sectors onto the social welfare assistance sector, with the necessary funding not being provided at the same time.

209. According to the Federation Ministry of Labour and Social Policy, 10,904 beneficiaries from the group of civilian wartime victims and their families enjoyed their entitlements in 2010. For this purpose, the Federation Budget provided BAM 100,955,166.60 in the period 2005–2010 and provided the necessary funds every year.

210. According to the Department for Review and Appellate Proceedings of the Federation Ministry of Labour and Social Policy for the period 2005–2010, they received more than 105,000 applications under the old law, while 42,000 beneficiaries were confirmed as people with disabilities occurred in peacetime after the passage of amendments to the 2009 Law. As this Law abolished the right to cash benefits to people with disabilities under 90% of disability and owing to a lack of funds for the payment of outstanding benefits of beneficiaries under the old law with 60 to 80% of disability, numerous complaints and lawsuits were lodged. In the reporting period, 37,474 appeals against decisions on disability assessment and resulting reduction of the degree of disability and over breaches of time limits for payment of overdue benefits were lodged. 1,110 administrative disputes were instituted and 3,554 forced sale cases for collection of funds lacking for timely payment of benefits.

211. In the Brčko District of Bosnia and Herzegovina, there is no strategic document which deals only with the issue of protection of persons with disabilities on the principle of non-discrimination grounded on the cause of disability.

212. The matter of social protection of persons with disabilities is regulated by the Law on Social Protection of the Brčko District of Bosnia and Herzegovina⁶.

213. The Rulebook on the Requirements for and Manner of Providing Housing to Beneficiaries of Permanent Allowance and People in Need⁷ is determines “health and

⁵ FBiH Official Gazette 54/04.

⁶ BD BiH Official Gazette 1/03, 4/04

⁷ BD BiH Official Gazette 15/03

disability” element (severe disability and severe chronic diseases) to be a criterion for eligibility.

214. No special records segregated by groups of beneficiary is kept in pursuance of the Law on Social Protection of BD of BiH.

215. According to the Law on Child Protection⁸ a child or a family whose one or both parents are disabled and classified in one group from I to VI is entitled to child allowance increased by 50% regardless of a means test. According to the 2011 September beneficiaries’ list in Brčko District, 1,890 children received an increased child allowance, while the total number of children beneficiaries coming from families with disabled members was 632.

Reply to the issues raised in paragraph 16 of the list of issues

(a) Pension policy

216. Due to the extreme importance of pension policies for the overall quality of life of the elderly, although belonging to the social security system and although it is defined at the entity level, it is necessary to mention it at this point, especially as part of the overall requirements for the reforms that are in the process of adequate human rights and the EU accession set for BiH. According to the GFPA (BiH Constitution), the pension and disability insurance is the responsibility of the entity (organization, implementation and exercise of rights, etc.) and covers the risk of old age, disability and death of the insured person. All four risks are covered through a single payment of contributions. At the state level, there is no single policy or organization of the pension and disability insurance. The only role at the state level is a coordinating role of the Ministry of Civil Affairs (Department of Pension and Disability Insurance within Ministry of Civil Affairs) in the execution of tasks within the field of social policy and co-ordination of efforts with competent entity bodies on drafting bilateral agreements on pension insurance. Regulations relevant to the field of pension and disability insurance are the responsibility of the Entities, unless they are international agreements concluded by BiH with other states to regulate mutual rights and obligations concerning pension and disability insurance. Given that the state level has a coordinating role solely, the legal and institutional framework for health and social care of the elderly and the pension policy in BiH will be discussed in the framework of situation analyses of FBiH, RS and BD.

(b) Entitlements derived from the pension and disability insurance

217. According to the Constitution of Bosnia and Herzegovina, the system of pension and disability insurance is the responsibility of the Entities, i.e. the Federation of Bosnia and Herzegovina and the Republika Srpska, so there are two different systems of pension and disability insurance. A system of pension and disability insurance has been established in pursuance of the Law on Pension and Disability Insurance (“Official Gazette of the Federation of BiH”, no. 29/98, 49/00, 31/01, 73/05, 59/06, 4/09 and 55/12).

218. This legal framework is based on the principles and standards of the European Convention on Human Rights and Fundamental Freedoms with a view to equalizing rights of all insured persons, i.e. prescribing identical conditions for exercising rights by women and men, foreigners, all persons regardless of race, sex, religion, and so on.

219. However, the European Court of Human Rights and competent courts in Bosnia and Herzegovina have found violations of European human rights standards in certain cases of

⁸ BD BiH Official Gazette 1/03, 4/04, 21/05

inter-entity payment of pensions and disability benefits. The Court ordered the Federation of Bosnia and Herzegovina to pay pensions earned in the Socialist Republic of Bosnia and Herzegovina until April 1992 through the Social Fund for Pension and Disability Insurance of Bosnia and Herzegovina, Sarajevo, which was the only fund of its kind in the SR Bosnia and Herzegovina, while, after the war 1992–1995, three funds were established for such purposes.

220. The reorganization of pension and disability insurance in the Federation of Bosnia and Herzegovina resulted in a merge of two funds into one, so now in Bosnia and Herzegovina there are two entity funds.

221. In order to implement the general measures for the enforcement of judgments of the European Court of Human Rights (“Karanovic against Bosnia and Herzegovina” and “Šekerović and Pasalic against Bosnia and Herzegovina”) and other cases involving 19 retirees considered and adjudicated by the Human Rights Chamber and the Constitutional Court of Bosnia and Herzegovina and to prevent and eliminate discrimination cases, the Federation of Bosnia and Herzegovina passed the Law on Amendments to the Law on Pension and Disability Insurance (“Official Gazette of BiH”, No. 55/12). In Article 4 the Law states that returnees from the Republika Srpska to the Federation of BiH, who were pensioners who earned their pensions through the Social Fund for Pension and Disability Insurance of Bosnia and Herzegovina-Sarajevo and who received pensions in the territory of the Federation of Bosnia and Herzegovina until 30 April 1992, are entitled to draw pensions from the insurance carrier in the Federation of Bosnia and Herzegovina from the date of application.

222. On the basis of the above legislation the Federation Institute for Pension and Disability Insurance enacted the Rulebook on the exercise of this right that was approved by the Government of the Federation of Bosnia and Herzegovina.

223. Further, the 1157th meeting of the Committee of Ministers of the Council of Europe, held on 6 December 2012 discussed the enforcement of judgments of the European Court of Human Rights in “Karanovic against Bosnia and Herzegovina” (judgment of 20 November 2007) and “Šekerović and Pasalic against Bosnia and Herzegovina” (judgment of 8 March 2011). After the submitted report by the Office of Agent of the Council of Ministers before the European Court of Human Rights, the Committee of Ministers of the Council of Europe found that the individual and legislative measures taken by the authorities of the Federation of Bosnia and Herzegovina to eliminate discrimination in pension legislation were completed and adopted Resolution CM/Res DH (2012) 148, which terminates consideration of these cases.

224. At the 69th meeting held on 18 December 2012 the Federation of Bosnia and Herzegovina took a position that the general measures set forth in the above-mentioned judgments were carried out and that there was no need to amend the Agreement on Mutual Rights and Responsibilities in the Implementation of Pension and Disability Insurance between the insurance carriers (“Official Gazette of BiH”, No. 24/00). The position of the Government of the Federation is that a claim of the Republika Srpska that the Federation Institute for Pension and Disability Insurance pay pensions to all persons who earned pensions until 30 April 1992 is unacceptable, but that they should be paid only to returnees to the Federation of Bosnia and Herzegovina, as described in the Law. On the same occasion the Government of the Federation of Bosnia and Herzegovina expressed its willingness to establish a single pension and disability insurance fund in Bosnia and Herzegovina which would ensure equal exercise of the right to pension of all pensioners in Bosnia and Herzegovina.

(c) Pensions

225. In 2010 the Federation Government designed the Pension Scheme Reform Strategy of the Federation. The Economic and Social Council of the Federation has failed to take a united stance on the proposed text, so it was not adopted. The Draft Strategy enumerates the following goals: to prevent vulnerability of the elderly, to ensure steady income for all age groups – poverty reduction; to ensure long-term sustainability, financial market development, greater involvement of the insured and coverage by the pension scheme.

226. Pension and disability insurance in FBiH is governed by the Law on Pension and Disability Insurance which is based on the principles of mutuality, generational solidarity and obligatory nature of pension and disability insurance. Risks covered by this insurance are: old age, disability or survivor's pension and financial compensation for work-related physical disability. According to the method of funding that has a variety of forms, the beneficiaries are divided into three groups: beneficiaries receiving benefits from contributions, beneficiaries receiving benefits in accordance with Article 126 of the Law on Pension and Disability Insurance and beneficiaries receiving benefits from the budget. FBiH has about 343,000 pensioners whose pensions are mostly below or at the poverty threshold, while the rest of the elderly are covered by the social security, if they meet statutory requirements. The number of pensioners is increasing rapidly as a result of bad legislation. Therefore, there are attempts to resolve the difficult situation with reforms of the pension and disability insurance, health insurance and social welfare so that the elderly and pensioners can live decently. More than 80% of the elderly are retired, some 10% of them receive benefits as disabled veterans.

Article 10 – Protection of the family, mothers and children**Reply to the issues raised in paragraph 17 of the list of issues**

227. In 2012 a questionnaire was distributed to the Social Welfare authorities in 33 BiH municipalities in which significant number of Roma is officially registered. 23 municipal Social Welfare Authorities, 14 from the Federation of Bosnia and Herzegovina, 8 from Republika Srpska and the Social Welfare Authority of Brčko District BiH provided responses.

228. Furthermore, these Guidelines contain results of the Multiple Indicators Cluster Survey about Roma in BiH for 2011–2012 – Monitoring status of children and women.

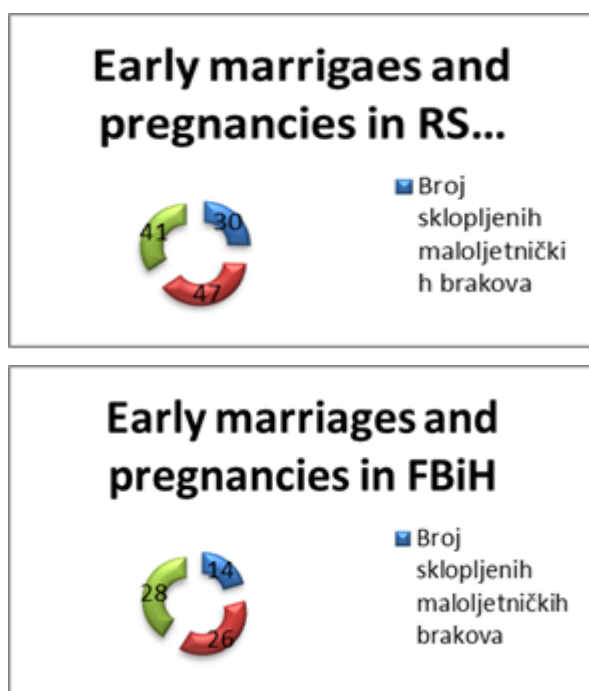
229. The 2011–2012 Multiple Indicators Cluster Survey (MICS) about Roma in Bosnia and Herzegovina was conducted by the BiH Ministry of Human Rights and Refugees in cooperation with the BiH Agency for Statistics. Financial and expert support was provided by UNICEF, and additional financial support was provided by UNFPA and UNHCR. The survey was conducted as a part of the fourth global cycle of MICS survey (MICS4). The field work was conducted in the period from 9 November 2011–30 March 2012. The sample consisted of 1,791 households. The response rate was 86%. The sample of women in the age between 15 and 49 was 1,380. The sample of women in the age between 15 and 49 was 1,456. There were 748 questionnaires containing data about children below five years of age. Therefore, these Guidelines are primarily intended to serve the social protection authorities in creating a comprehensive and systematic approach to recognise and address the causes and consequences of the social exclusion of Roma children.

230. The most common and specific form of child trafficking is exploitation of children for early marriages or partnerships.

231. The right to “free and full” consent to marriage is recognised by the Universal Declaration of Human Rights which provides that the consent cannot be considered “free

and full” if one of the parties is not mature enough to be able to make an informed decision about his/her life partner. Marriage with minors represents violation of human rights, it may endanger the health of girls, it results in social isolation, and ultimately promotes gender-based nature of poverty.

232. There are many reasons why young women and girls are trafficked for the purpose of forced marriages. In very poor areas, girls or young women may be considered a burden to the family and marrying older men is observed as a survival strategy. Also, immigrants prefer to marry girls from their country of origin, thus contributing to child trafficking for the purpose of forced marriages. The following graphs created on the basis of the collected data show number of early marriages and pregnancies in Roma population in BiH.



The text in the graph: Number of early marriages

Indicators of the MICS research

Early marriages – before 18 years of age

Five out of ten Roma women in the age between 20 and 24 and two out of ten Roma men married before the age of 18 [48% / 21%].

	Women	Men
Roma	48% (5 out of 10)	21% (2 out of 10)
Total population (BiH)	10% (1 out of 10)	0,6% (almost none)

Reply to the issues raised in paragraph 18 of the list of issues

233. In addition to the issue of institutional care for children, other issues related to the protection of the rights of the child in Bosnia and Herzegovina are also important for us to act upon. Therefore, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina identified in the Action Plan for the Children of Bosnia and Herzegovina the issues of social inclusion of children and activities related to the most important needs for

children in the fields of social and health protection, education, special forms of protection, as well as non-discrimination and ensuring fundamental human rights of children.

234. A particularly important among these issues is non-discrimination, notably the prohibition of corporal punishment at home and in institutions, where a stronger public sensitization is required. Also, specific activities are foreseen in terms of reporting and monitoring in order to ensure adequate response to violence against children and their abuse, including domestic violence.

235. Aiming to implement the recommendations of this Committee, and in particular the recommendations given by the Council of Europe Commissioner for Human Rights, the authorities of Bosnia and Herzegovina took action to fulfil this obligation in due time.

236. Namely, at its 14th session held on 20 June 2007 the Council of Ministers adopted the National Strategy to Combat Violence against Children 2007–2010, while the activities to draft and adopt a new Strategy for period until 2015 are in progress.

237. Given that the Ministry of Human Rights and Refugees is in charge of implementing the activities on drafting the Strategy, the Ministry also set up a special team tasked with presenting the Strategy to all levels of government in Bosnia and Herzegovina identified in the Strategy as those responsible for implementing activities and reporting regularly to the Council of Ministers, as well as other levels of government in Bosnia and Herzegovina.

238. The new Strategy identifies specific problems and recent trends in violence against children in Bosnia and Herzegovina, the deficiencies of existing legislation in this area and proposals for their harmonization and improvement, as well as specific goals and measures required for preventive action and general reduction of occurrence of violence against children in BiH society.

239. The implementation of the National Strategy to Combat Violence against Children in Bosnia and Herzegovina was important in many ways: presenting the obligations of those responsible for various activities, educating and sensitizing the wider public, which also resulted in establishing partnership with NGOs.

240. Aimed at establishing a common methodology to monitor the problem of violence against children in Bosnia and Herzegovina, the formation of coalitions of NGOs was an activity that was carried out in the course of 2011 and 2012. It is important to mention the coalition of NGOs which, in collaboration with the Ministry, NGO Vesta from Tuzla and UNICEF, continued designing the methodology for monitoring the problem of violence against children by NGOs in Bosnia and Herzegovina.

(a) Psychiatric institutions – Forensic Psychiatric Hospital of Sokolac

241. Pursuant to Article 43 of the Health Care Law (“Official Gazette of RS” 106/09), Articles 3 and 5 of the Law on the Public Service System (“Official Gazette of RS” 68/07) and Article 43, Paragraph 3 of the Law on the Republika Srpska Government (“Official Gazette of RS 118/08), the Republika Srpska Government issued the Decision on the Establishment of the Sokolac Institute for Forensic Psychiatry, based in Sokolac.

242. In accordance with the Decision on the Establishment of the Sokolac Institute for Forensic Psychiatry (“Official Gazette of RS” 07/10), in accordance with the Law, the Sokolac Basic Court rendered the decision on registration of the Public Institution of “Sokolac Institute for Forensic Psychiatry” based in Sokolac in the court register.

243. As this is a unique institution of this kind in Bosnia and Herzegovina the Agreement on Placement and Reimbursement of Costs for the Execution of Detention Orders Imposed in Criminal Proceedings and Other Proceedings in Which An Order for Medical Treatment is Given (“Official Gazette” No. 89/09) was signed. The signatories to this Agreement are

the Council of Ministers, the Government of the Federation, the Republika Srpska Government and the Government of the Brčko District. The agreement provides for housing and treating of patients from all over Bosnia and Herzegovina under equal conditions.

244. Thanks to the Government of the Confederation of Switzerland, which provided CHF 2,800,000 through the State Secretariat for Economic Affairs, it was possible to rehabilitate and reconstruct the buildings built for that purpose, which will house the Sokolac Institute for Forensic Psychiatry.

245. PIU for the rehabilitation of the building of the Institute, appointed by the Council of Ministers conducted an open public procurement procedure (international tender) and selected contractors to award a contract for the repair, renovation and reconstruction of the building, according to the original restoration project. Works on repairing, renovation and reconstruction of the building are at the final stage.

246. The next necessary step to create the conditions for the start of the Institute is fund raising and procurement procedure and installation of necessary medical and nonmedical equipment. A design envisaging the basic equipment was prepared, the amount of about BAM 2,100,000.00 being necessary for its procurement.

247. After completion of all planned rehabilitation, renovation and reconstruction works, an amount of BAM 500,000.00 is predicted to remain and it will be directed to the procurement of equipment, which means that it is necessary to provide another BAM 1.6 million for equipment and some funds necessary for starting the Institute, such as funds for property appraisal, the payment of taxes on real property transfer, fees for obtaining necessary permits, training of staff, procurement of food for patients, hygiene stuffs, fuel and electrical energy etc.

248. Drafting of a by-law required for the Institute to begin work, such as the Rule Book on Organizational Structure and Job Descriptions adjusting the organizational structure and working hours to the needs of patients, is in progress.

249. As a new health care facility is being set up to be greatly beneficial to the justice system of Bosnia and Herzegovina, the Republika Srpska and the Federation, where great attention will be paid to meeting relevant standards and to give a full contribution to the implementation and compliance with the European Convention on Human Rights, the Ministry of Health and Social Protection of the Republika Srpska considers it necessary to as soon as possible provide the lacking funds and initiate the procedure of public procurement of medical and nonmedical equipment.

250. Bearing in mind that it is a project important for Bosnia and Herzegovina, the significance of the project and the need for urgent beginning of this institution's operation, the Ministry of Health and Social Welfare of RS addressed the Council of Ministers for support and help to ensure the lacking funds in the total amount of BAM 1,600,000.00, which is necessary to buy medical and nonmedical equipment as designed and facilitate the beginning of this institution's operation.

251. In accordance with the Law on Ministerial and Government Appointments ("Official Gazette of the Republika Srpska" No. 41/03) the Republika Srpska Government appointed the Director of the Sokolac Institute of Forensic Psychiatrics.

(b) Visit to Forensic Psychiatric Hospital of Sokolac

252. On 5 and 6 April 2011, the European Committee for the Prevention of Torture (CPT) visited the Psychiatric Clinic in Sokolac.

253. Sokolac Psychiatric Clinic has taken necessary measures to improve living conditions in the Male Acute Unit and the Forensic Psychiatric Unit and they are:

- Current number of patients in the Male Acute Unit is 20 and in the Forensic Psychiatric Unit (FPU) there are 20 patients and in the Forensic Rehabilitation Unit there are 30 patients, which means that there is at least approximately 4m² of living space per patient
- Bedrooms and living rooms in the units have been equipped with new furniture (wardrobes, bedside cabinets). Decorations of wards and day rooms in wards are adapted to the structure of patients in the respective wards
- Patients of the Male Acute Unit and the Forensic Psychiatric Unit use the walking area outside the wards for a 2 hours' walk on a daily basis and for physical exercises. The physical activity of patients is directly related to their actual physical and mental condition. Both these wards have no shelter in case of bad weather and we note that, due to the soon-to-open Institute for Forensic Psychiatry, we avoid parallel spending of funds (space for recreation and physical activity of patients in the Institute meet European standards)
- In the period from 2009 to 2011, the institution gave priority to the strengthening of staff who take care of patients, so 9 new nurses were employed
- The Male Acute Unit, the Forensic Psychiatric Unit and the Forensic Rehabilitation Unit have plans for individual treatment of each patient and their medical records contain the plan forms filled, psychosocial rehabilitation record forms filled, including programs for prevention of recidivism in the Forensic Psychiatric Unit
- No autopsy of patients has been performed so far, but in future we plan to perform an autopsy of patients who died after having been involuntarily placed in the hospital
- Any natural death of patients in our clinic is established by a doctor during working hours or while on standby
- In case of violent death of patient, the appropriate police station and the prosecutor on standby are informed
- Guidelines concerning the use of means of restraint and they are followed in the acute wards and the Forensic Acute Unit
- The procedure of involuntary hospitalization, which is regulated by the Law on Protection of Persons with Mental Disorders, is fully respected and relevant forms are filled in
- It is not the responsibility of the institution to influence the courts making a decision on involuntary psychiatric treatment and psychiatric expertise, although at the request of the patient, this institution gives them copies of all court decisions and psychiatric expertise
- The Sokolac Psychiatric Clinic clearly and fully respects the legal provisions of involuntary psychiatric treatment
- Upon admission, every patient in Sokolac Psychiatric Clinic gets information on the manner and course of treatment and so do their relatives, guardians and representatives of institutions who care about their treatment (Centres for Social Work and Mental Health Centres)
- A brochure on the rights of patients intended for patients and their families is in process of being designed

- The Commission for Protection of Persons with Mental Disorders is under the Ministry of Health and Social Welfare of RS
- The Head nurse of the Clinic is included in a cycle of train-the-trainer courses for the training of nurses, technicians in the field of mental health, managed by the Ministry of Health and Social Welfare of RS and the Swiss Agency for Development and Cooperation (SDC)

254. The Head nurse of the Clinic has made a plan of training courses at the level of the Clinic regarding the operation of our facilities, which will include all medical practitioners of the Clinic.

(c) Forensic Psychiatric Annex in Zenica Prison

255. In May 2009 the Forensic Psychiatric Ward was transferred from the high security ward into a newly renovated building that is located outside the prison wall. New living conditions are certainly an improvement for patients who had spent ten years in Pavilion IV of Zenica Prison in very poor accommodation.

256. The approach taken in treatment of these patients is still the use of restraints, with few individual liberties, no plans for individual treatment and a lack of any psychological and occupational therapy. The main changes compared to the previous situation is the fact that patients now have access to a spacious courtyard during the day and that each room has a TV set.

257. The competent social welfare centres and the courts were requested to make a formal request for a review of treatment of all patients to ensure that patients who can be safely placed elsewhere do not stay in the forensic ward for longer than necessary.

Reply to the issues raised in paragraph 19 of the list of issues

258. The Law on Civil Service, Labour and Salaries in BiH institutions, the labour laws of the Entities and BD regulate the protection of women and motherhood and provide that women are entitled to maternity leave for a period of twelve (12) continuous months during pregnancy, childbirth and child care, which is applicable to the employees of the joint institutions of Bosnia and Herzegovina.

259. In the Federation of BiH, the issue of maternity benefits is not regulated in a satisfactory manner. Specifically, entity law governing this area is a framework law, and a determination of the amount of benefits is the responsibility of the cantons. Although the Law on Principles of Social Protection, Protection of Civilian Victims of War and Protection of Families with Children, which was adopted in 1999, stipulates that cantons, in order to implement this law, were required to adopt appropriate regulations and general document within its competency (Article 103) within three months from the date of entry into force of the Law, yet all cantons have not adopted regulations regarding protection of families with children. The amount of benefits is different depending on the canton, as the statutory rate of benefits provided for by cantonal regulations, ranges from 50–90% of the average salary. These benefits are paid from the budgets of the cantons.

Table 1: The amount of maternity benefits in the Federation of BiH; period 2005–2009

Canton	YEAR			
	2005	2006	2007	2008
UNA-SANA	50% of salary of woman-mother	No data	50% of salary of woman-mother, amounting to	50% of salary of woman-mother, amounting to

Canton	YEAR			
	2005	2006	2007	2008
POSAVINA	No regulations	No regulations	251.00-977.00	150.00-1,355.00
TUZLA	60% of salary of woman-mother 55% of average salary in Canton	No data	No regulations 55% of salary of woman-mother 90% of salary of woman-mother, amounting to 280.00-1,369.00	No regulations 55% of salary of woman-mother 90% of average salary in Canton, amounting to 280,00-1,340.00
ZENICA-DOBOJ	80% of salary of woman-mother	No data	80% of salary of woman-mother, amounting to 150.00-588.00	80% of salary of woman-mother, amounting to 200.00-639.00
BOSNIAN PODRINJE	80% of salary of woman-mother	No data	80% of salary of woman-mother, amounting to 261.00-888.00	80% of salary of woman-mother, amounting to 359.00
CENTRAL BOSNIA	50% of salary of woman-mother	No data	50% of salary of woman-mother, amounting to 230.00	50% of salary of woman-mother, amounting to 250.00-300.00
HERZEGOVINA-NERETVA	No regulations	No regulations	No regulations	No regulations
WEST HERZEGOVINA	70% of salary of woman-mother	No data	70% of salary of woman-mother, amounting to 119.00-1,757.00	70% of salary of woman-mother, amounting to 119.00-1,757.00
SARAJEVO	60% of average salary in Canton, amounting to 342.00	No data	60% of average salary in Canton, amounting to 342.00	60% of average salary in Canton, amounting to 360.00
CANTON 10	80% of salary of woman-mother	No data	80% of salary of woman-mother, amounting to 249.00-1.671.00	80% of salary of woman-mother, amounting to 216.00-781.00

Source: Federation Ministry for Labour and Social Policies

260. In RS, the Labour Law⁹ regulates the issue of realising women's rights to maternity leave, while the Law on Child Protection¹⁰ regulates the manner in which net paid salaries are refunded to employers for women who use maternity leave and the period in which such salaries are paid by the employer or by the Public Fund for Child Protection. Article 79, paragraph 1 of the Labour Law provides that during pregnancy, childbirth and child care, a woman has the right to maternity leave for one year without interruption, for twins and every third and subsequent child, for a period of 18 months continuously. The paragraph 3 of this Article stipulates that the child's parents may agree that after expiration of 60 days from the date of child birth, maternity leave is used by father instead of mother.

⁹ Official Gazette of RS, 04/02 – consolidated text, 55/07.

¹⁰ Official Gazette of RS, 04/02 – consolidated text, 17/08, 01/09.

Table: The amount of maternity benefits in the Republika Srpska; period 2005–2009

Rights under the Law on Child Protection	2005		2006		2007		2008		2009	
	Average number of beneficiari es	Amount in BAM	Average number of beneficiari es	Amount in BAM	Average number of beneficiari es	Amount in BAM	Average number of beneficiari es	Amount in BAM	Average number of beneficiari es	Amount in BAM
Remuneration paid to mothers	1,985	4,015,569	2,355	4,924,122	2,662	6,615,187	3,678	13,724,747	3,736	26,070,686
Remuneration : number of payments = average	12,031:12 = 1,002		14,053:12 = 1,171		16,219:12 = 1,351		21,415:12 = 1,784		22,469:12 = 1,872	
Working ½ working hours	28	55,518.00	32	74,913.00	44	116,023.00	55	255,673.00	60	232,885.00

Source of data: Public Fund for Child Protection of RS

261. Maternity benefits paid during maternity leave in 99.9% of the cases is used by mothers, whereas it is used by fathers mainly in cases when mother dies or abandons the child or is unable to take care of the child for other reasons.

262. Women who are not employed exercise their statutory rights only to a limited extent. Although the law stipulates that the right to this type of benefit is realised in duration of one year after childbirth, this right was only partially realised and it depends on the economic power of the individual cantons or municipalities. For example, a lump sum for the layette, food for a child up to 6 months of age and supplementary nutrition for mothers during breast-feeding, placement of children in preschool institutions with providing nutrition, providing a meal in primary school, are not realised and are related to the economic situation of the cantons and municipalities.

Reply to the issues raised in paragraph 20 of the list of issues

263. Regarding the implementation of Annex 7 to the General Framework Peace Accords detailed answers are given in Section 23.

Reply to the issues raised in paragraph 21 of the list of issues

Analysis of the implementation of the National Action Plan 2008–2012

(a) Systems of support

264. Within the first strategic objective from the National Action Plan to Combat Trafficking in Bosnia and Herzegovina for the period 2008–2012 (hereinafter: NAP), related to improvement of systems of support to combating trafficking in Bosnia and Herzegovina, certain activities that may be given positive assessment have been implemented. The following is the overview of the achievements.

Analysis of achievements

265. The improvement of legal framework is the initial part of the system of support to combating trafficking in Bosnia and Herzegovina. General purpose of this part of the NAP is ensuring equal treatment of trafficking in the criminal code. In that regard, two objectives were set to ensure adequate compliance of the national criminal legislation with the appropriate legal sources of the Council of Europe and European Union, and in the following phase to ensure adequate harmonisation of the criminal legislation within Bosnia and Herzegovina. In the present moment, it can be stated that the first objective has been

achieved at satisfactory level, while the implementation of the activities in order to achieve the second strategic objective in the area of internal harmonisation of criminal legislation at the level of state, entities and Brčko District that should equally treat the existence of the criminal offense of trafficking and that will ensure an equal approach to criminal prosecution of traffickers and their punishment and equal access and level of protection and assistance to victims of trafficking and witnesses, is still delayed. Thus, it can be stated that the planned measure of development and adoption of amendments to the criminal codes has been partially achieved. This statement is based on the fact that in 2010, amendments to the Criminal Code of Bosnia and Herzegovina were adopted including that within the criminal offense "Trafficking" (Article 186) compliance with the relevant international standards was made. It is reflected in the new provision of this Article where the term of trafficking was redefined and prescribed was a series of aggravating circumstances of the perpetration of this criminal offense, as well as forms of complicity, and under certain conditions, incriminated use of services of victims of trafficking. It is important to note that a new provision contains a basis for seizure of items and transport vehicles used for perpetration of the criminal offense trafficking, i.e. stipulates the possibility of temporary or permanent closure of establishments used for the purpose of trafficking. Harmonisation of criminal codes of the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District of Bosnia and Herzegovina with a new provision in the Criminal Code of Bosnia and Herzegovina has not been done yet. Regarding the second planned measure that envisages the development and adoption of amendments to the Law on Health Care and Insurance, the amendments of which would, in accordance with reference international sources, ensure mechanisms of recognition of victims of trafficking as users of free health insurance, it can be stated that this measure has not been implemented at all. It is a big impediment to the overall implementation of NAP because no adequate standards of free health care for victims of trafficking have been ensured in primary, secondary or even tertiary health care. Thus, the victims of trafficking, if they have no health insurance, are not allowed to use the system of health care, by which the existing scope of this form of care is exhausted in emergency ambulance medical care provided with the engagement of safe houses and non-government associations specialised for this type of assistance, which is, of course, insufficient for a complete health care of this vulnerable category of groups. The same conclusion is applicable to the implementation of the third planned measure that envisages the development and adoption of amendments to the Laws on Social Protection and Labour in order that they in accordance with international standards recognize victims of trafficking as users of social protection assistance. Given the results in practice, this assessment of the implementation of the last two measures is the direct consequence of the lack of coordination amongst the relevant state institutions, i.e. Ministry of Civil Affairs of Bosnia and Herzegovina as an executive agency responsible for the implementation of these two strategic measures with entity and Brčko District institutions that were supposed to be partners in the implementation. It is worth noting that, as these are areas under competence of the entity authorities, they have greatest responsibility for improvement of the situation. Responsible state Ministry performs coordination of these policies and it is important that in the following period necessary cooperation is realised so that the important issues are appropriately resolved. Victims of trafficking in Bosnia and Herzegovina for sure deserve and need more support from the public institutions, including free health care and social assistance which is only one part of the effort. In the existing constitutional-legal set up of Bosnia and Herzegovina, institutional coordination has an important role in the building of the system of support in combating trafficking. In that regard, NAP envisages four specific measures the implementation of which would improve coordination of activities of the responsible institutions at state, entity, cantonal and Brčko District level as well as the coordination with civil society organisations and international organisations. Analysis of practice and achievements in the area of institutional coordination indicates that the measure including reorganisation of the Ministry of Security

by establishment of the Department providing professional, administrative and technical support to the national group and all other stakeholders in the implementation of the NAP, was completely implemented in 2009. Newly established Department for trafficking is an organisational unit of the Sector for International Cooperation and European Integration of the Ministry of Security and provides full support to relevant units participating in NAP implementation. However, there are still two out of three envisaged positions vacant in the job systematisation. In addition to lack of human resources, the Department has no resources for implementation of programme activities. Regarding the measure that envisages establishment of the Department for Cyber Crime Combating within police departments and agencies at the level of Bosnia and Herzegovina, it should be noted that only few police agencies have this type of capacity to combat trafficking in the area of prevention of cyber-crime. Thus, it can be stated that the implementation of this strategic measure until now has been partial. However, in that context certain advances have been made in the implementation of this measure. They are primarily related to the fact that in the period 2008 – 2010, in cooperation with representatives of other relevant ministries or institutions, the following activities were implemented:

- Analysis of the system of protection of children against pornography and paedophilic content in Bosnia and Herzegovina and recommendations provided for its improvement
- Hardware and software forensic equipment purchased for police officers working in ministries of interior of FBiH, RS, BD
- Study visit for 14 government, prosecutor's office, police and INTERPOL officials in Italian Department for combating pornography and paedophilic behaviour
- Police officers, prosecutors and judges underwent a series of training events
- First National Action Plan adopted for improvement of system of protection of children against sexual violence and cyber (IT) abuse of children

266. Cooperation was established with the International forum of solidarity, Emmaus, in relation to establishment of Centre for safe internet within which a hot line was set for reporting abuse of children through Internet, educational web sites for children, teenagers, and parents. A line for assistance and support and web page for IT teachers will soon be set. This hotline has become a member of In Hope International, the biggest global organisation of SOS hotline service which enables access of Bosnia and Herzegovina to their database, which is a valuable resource. In addition, ratification of the CE Convention on Protection of Children against Sexual Exploitation and Sexual Abuse is strongly advocated for as well as the adoption of the proposal for amendment of the criminal codes in Bosnia and Herzegovina addressing their mutual harmonisation. The measure related to extension of the national group for combating trafficking, with representatives of the Ministry of Civil Affairs (one from Department for Health, Labour and Social Protection), Gender Agency, State Investigation and Protection Agency, was not implemented. In addition, the national group with its four subgroups, which is the main mechanism for policy making at state level, has not been functional for three years.

267. The measure aimed at institutional establishing of regional working groups for the purpose of coordination, monitoring and implementation of activities for combating trafficking at local level has been fully implemented. Regional monitoring groups were established through the implementation of SUSTAIN Project.

268. All their members have been nominated and trained. Guidelines for actions of the teams have been provided. Teams have been formed according to SIPA structure and their regional offices in Sarajevo, Mostar, Tuzla and Banja Luka. Analysis of practice showed that in certain parts of Bosnia and Herzegovina, regardless of establishment of the new

regional monitoring teams, there are cases of regional coordination mechanisms established by NGOs whose work so far, as a rule, was positively assessed. Capacity building is a necessary precondition for ensuring efficient system of support in combating trafficking. It is evident in NAP within the objective that envisages institutionalisation and standardisation of training of professionals involved in activities of combating of trafficking in the responsible institutions. It is evident that training of professionals from different sectors has an important role in the overall NAP structure which is shown by four planned measures for which certain activities were undertaken. Actually, the first among planned measures implying development of new and/or adaptation of existing training material and manuals and their inclusion in the existing training programme, in the police, cannot be reliably assessed. Training of police authorities is implemented at different levels, where several different institutions, with their own police officers training standards, participate (police academies in entities, agency for schooling and vocational training). Given the content of training curricula, it can be stated that they to a certain extent refer to the area of police action in relation to criminal offenses of trafficking. However, NAP envisages standardisation of teaching material for this purpose, specialisation of teaching topics (e.g. method of interviews with victims), as well as an higher number of trained police officers, especially those who are specialised in this issue, which was not addressed in the previous period. Also, NAP contains the measure with the same objective and it implies that new training material and manuals should be developed and the existing ones should be adapted to be included in the training programme for prosecutors and judges. If taken into account results of analysis of practice, it can be concluded that within the implementing agencies, i.e. entity centres for education of judges and prosecutors, activities were undertaken in which trafficking was addressed in annual programme of education of judges and prosecutors. Also, for the need of education in the area of trafficking, CEST FBiH in cooperation with IOM developed a manual used at seminars and other forms of education of this category of professionals. Therefore, certain activities were undertaken to implement the analysed strategic measure. The remaining two measures within this strategic objective relating to education of professionals in the area of combating trafficking were targeted to other categories of professional public. It is primarily the measure envisaging development of new and adaptation of existing education material and manuals for training of staff of centres for social work. According to results of the field work, this measure was implemented in 2009 in cooperation of the Ministry of Security – Department for combating trafficking and Catholic Relief Service (CRS), by developing needed manuals for dealing with victims, social workers trained, etc.

269. The status of the last strategic measure within this objective is similar. It was targeted to completely different professionals. Namely, it was supposed to include training in the area of trafficking within the existing training curricula for teachers. According to official reports of responsible institutions, a significant number of teachers were trained in primary and secondary schools. They are supposed to transfer knowledge to their students, while the subject of trafficking was introduced in curricula in six cantons and Brčko District. In order that the activities are implemented comprehensively, teacher manuals and student training material were developed and delivered in all schools. All this show that education and training of professionals is one of the positive examples of success in NAP implementation, and based on gained experience in this area, specific strategic measures for the following period should be programmed. In order to be able to make adequate, timely and precise strategic decisions, information management plays an important role in the system of support. In that sense, NAP envisages development of national system for information management that will ensure management, collection, processing, protection and use of data on trafficking in general and specially on registered traffickers and identified victims.

270. In order to ensure complete implementation of this strategic objective, NAP contains three specific measures that were implemented in the previous period with different dynamics. The first of those measures relates to collection and distribution of information on trafficking in regular time intervals of which there exist reliable indications of successful implementation. Office of national coordinator regularly develops and distributes annual report on status of trafficking and NAP implementation and updates its web page with relevant information. Another specific measure relates to establishment of data base on perpetrators of criminal offenses of trafficking, which is a regular activity of the Department of combating trafficking in the State Investigation and Protection Agency. Finally, the last of these measures relates to establishment of data base on victims of trafficking, of which positive implementation indications were provided.

271. Also, analysis of practice showed that the data base of final decisions in cases of trafficking made before the Court of BiH is also kept at the Ministry of Justice BiH, which may serve as an additional source of information on combating trafficking. However, negative side of this achievement definitely exists and relates to unequal participation of all institutions (especially certain police bodies) in data delivery, based on which individual data bases on trafficking should be updated. In that context, newly established institutions, responsible for coordination of activities of police bodies, are expected to respond to this challenge and mediate in exchange of needed data on trafficking in the next period.

272. In order that the system of support be self-sustainable, it is necessary to ensure financing of activities planned within NAP. Financiers were supposed to be the state, entities and local communities, and ultimate goal is prevention of trafficking and providing assistance to victims. Therefore, within this objective, it is planned to target the first strategic measure to determination of the detailed plan of necessary resources (financial, human, technical, etc.), and plan of their collection, which was not tackled in the previous period. A major cause for that is the fact that there is a problem to recognize the problem of trafficking, especially at the level of local communities that do not allocate financial resources for planned purposes. Thus, financing of planned activities is mainly done by the state and entity level that do not have sufficient capacity for comprehensive financing of all programmed measures.

273. In order to overcome evident problems with persistent lack of financial resources in public budgets, NAP encourages international donors to provide resources for its implementation. Specifically, for implementation of this objective, a measure was planned to develop projects for further implementation of the national action plan and application for funds from international donors.

274. During the NAP implementation, several internationally funded projects were implemented. The funds were significant in financing the implementation of certain strategic activities. Planning of financing of measures and activities in the future period will remain a challenge because of the obvious existence of aggravating circumstances primarily related to general socioeconomic status in the country that will affect future collection of additional resources in public budgets for financing strategic activities in the area of prevention of trafficking.

275. Finally, efficient functioning of the system of support is directly reliant on establishment of monitoring mechanisms and evaluation of implementation of planned measures and activities from NAP and its ad hoc upgrade. In order to be able to realise this objective, it was necessary to establish appropriate capacity, i.e. NAP implementation monitoring team and to formulate precise indicators and criteria based on which achievement of activities will be evaluated. Unfortunately, in present moment no necessary preconditions exist to start adequate monitoring and evaluation of NAP implementation, except for publication of annual reports of the Office of national coordinator which may serve as a good starting point for development of criteria of achievement and providing

recommendation for improvement. If this process were open for participation of more participants from government sector and civil society organisations, good achievement of this strategic objective can be objectively expected.

276. Within monitoring and evaluation, there is an additional objective to ensure that activities of combating trafficking are undertaken according to acceptable standards (victims receive adequate assistance, legal procedures are not unnecessarily lengthy, punishment against perpetrators of trafficking are sufficiently strict, court orders are enforced, etc.). One of the important activities implemented in the previous period in the area of monitoring related to establishment and operation of regional monitoring teams whose role consisted of evaluation of providing individual assistance to victims of trafficking. As the work of regional monitoring teams was in principle positively evaluated, it can be stated that this is an indicator of good practice.

(b) Prevention

277. Preventive activities play a crucial role in efforts of institutions of formal social control to reduce the level and scope of trafficking in Bosnia and Herzegovina. Thus, NAP in this strategic chapter contains several specific objectives and measures to achieve those objectives. Theme wise, they are related to protection of particularly vulnerable groups, providing support to related strategic efforts in the area of prevention of domestic violence and violence against children, protection of Roma minority and improvement of general socioeconomic status in the country, and awareness raising of general and professional public regarding the issue of trafficking.

Analysis of implementation shows that the planned measures were unevenly implemented. This is confirmed by a detailed overview of implementation of individual measures

Analysis of achievements

278. Within this strategic objective, in the domain of prevention of trafficking in Bosnia and Herzegovina, it was planned to reduce risk of trafficking amongst vulnerable categories. In order to completely implement this objective, it was planned to acquire certain knowledge through conducting research about the aetiology of this phenomenon and factors increasing risk of trafficking in Bosnia and Herzegovina. Unfortunately, such research was not conducted in the previous period, which made the preventive programmes that were supposed to be adjusted to actual situation in the field, being mere unreliable conclusions on causes of the discussed phenomenon.

279. The following strategic measure within this objective was focused on children exposed to risk of street begging. In that sense, NAP envisages development of multidisciplinary/multi-sectoral approach to support to children working in the street and their inclusion in education system in order to reduce risk that these children, under particular risk as they do not attend school, become victims of trafficking and to ensure more certain future for them.

280. The fact that children beg in the streets of most of the towns in Bosnia and Herzegovina is a social and pathological issue at stake that need to be addressed carefully and strategically. In the area of prevention of trafficking and begging, the issue was taken care of through establishment of certain capacities in the form of daily centres for children working in the street. However, major problem faced in undertaking these activities is the fact that these are incomplete, ad hoc activities undertaken only by one party and unevenly. Their self-sustainability is directly dependant on readiness of international donors (Save the Children, etc.) to finance its work.

281. Specifically, there are 5 active daily centres for children who live and work in the street and children under risk to end up working in the street. The centres are located in Tuzla, Sarajevo, Banja Luka, Zenica and Mostar.

282. Based on positive experience from Tuzla, within daily centre run by “Zemlja djece”, support was provided to children who live and work in the street and are potential victims of trafficking. This model was recognized by “Save the Children” as efficient compared to repressive model. Thus, a partnership with “Zemlja djece” was established to strengthen this model and its liaising with local institutions in order to truly create a place where, through interdisciplinary cooperation, any right will be ensured for children. Following that, based on this model, a daily centre was opened in Sarajevo which, in only three year of operation, provided support to more than 350 children.

283. Speaking of the other strategic objective in the area of prevention of trafficking, its purpose is to support and encourage implementation of the Strategy of Combating Domestic Violence, Gender Action Plan, Strategy of Combating Violence against Children, Strategy for Improvement of Roma Position, Displaced Persons and Refugees and other activities directly affecting prevention of trafficking and socioeconomic strengthening of vulnerable groups of population.

284. It is a rather abstractly set objective the achievement of which is almost non-measurable. The only possible way of assessment of achievement of this strategic objective is to demonstrate the purpose of each of the five planned measures and to assess to which extent each of them has been implemented so far. The first such measure relates to holding coordination meetings for the purpose of harmonisation of joint activities with bodies responsible for application of the aforementioned documents. According to existing information, these meetings are not held regularly. Instead, they are held only for the purpose of activities undertaken jointly in the given time.

285. The next measure is focused on completion of activities regarding the introduction of the subject of combating trafficking in the curricula of primary and secondary schools, as a systematic and continuous part of education.

286. As already underlined, the activities were completed in cooperation with international partners in six cantons and Brčko District. The next measure involves the development of manual on prevention of trafficking for students to be used in schools, and for children who do not attend school. Available data show that it is a joint project of the Department for prevention of trafficking of the Ministry of Security and CRS within Sustain Project, successfully implemented in the previous period.

287. The last two measures within this strategic objective mainly focus on Roma population, as a group that is under particular risk of trafficking in its all forms. These measures relate to development of programme that will ensure education on prevention of trafficking amongst children who do not attend school and communities under particular risk, such as Roma communities, and implementation of programme of registering, especially registering of children in the registry of births. Certain activities of census and registering of Roma children in the registries of births are already being undertaken as organised by the Ministry for Human Rights and Refugees and international partners. The Ministry keeps detailed records on number of children registered in the registries of births. As regards the education programmes for children who do not attend school and Roma children that should include topics on trafficking, it is still not possible to reliably assess the level of implementation of this strategic measure.

288. The last objective in a series of preventive objectives in this part of NAP is focused on reduction of demand of sex services from victims of trafficking. It is a complex measure requiring significant engagement in the area of awareness-raising on adverse consequences of trafficking amongst general population. Presently, in addition to incrimination of these

offenses in the Criminal Code of BiH certain awareness-raising campaigns are conducted amongst this population, which to some extent contributes to the implementation of the aforementioned strategic measure.

(c) Protection of victims and witnesses

289. Ensuring efficient mechanisms of reliable identification of victims of trafficking is undoubtedly one of the most sensitive aspects of the overall combating against this phenomenon. Namely, in reality a number of problems arise related to identification of victims of trafficking. Differentiated are the categories of damaged persons from victims of similar phenomena such as smuggling migrants, prostitution, etc. In that context, NAP draws special attention to this issue through programming specific measures directed to improvement of procedures of identification of victims of trafficking, including both BiH nationals and foreign citizens.

290. Within this NAP chapter, there are measures ensuring timely and adequate assistance to victims and witnesses of victims of trafficking and adequate rehabilitation and reintegration of victims of trafficking. In order to judge the level of implementation of this NAP chapter, the most important results and measures not yet undertaken will be presented.

Analysis of achievements

291. With respect of the first planned measure directed to development of standards for identification, for professionals who could meet victims of trafficking in performing their regular assignments, it can be stated that the measure was implemented in cooperation with CRS in a way that the guidelines for centres for social work and regional monitoring teams were developed. As for the other measure, within this strategic objective which envisaged permanent distribution of information on new trends to professionals who may meet victims of trafficking, it can be stated that it was partly realised through awareness raising events organised with centres for social work and regional monitoring teams. According to set indicators of implementation of this measure, more activities should be undertaken in order to continuously improve the procedure of identification of victims of trafficking. In that sense, a need to introduce proactive techniques of identification of victims of trafficking is underlined. The other component of this strategic chapter is related to ensuring timely and adequate assistance to the victim and witness – victim of trafficking, which is a separate strategic objective. For the purpose of its implementation, two specific measures were programmed. One of them is focused on development of templates providing information to victims of trafficking on their rights and support and access to it. This measure was implemented in cooperation with CRS through Sustain Project. The other planned measure is focused on development of minimum standards for providing assistance to victims of trafficking (accommodation, psychological and social assistance, health care, education, vocational training, job seeking, etc.). The measure itself demonstrates that these are *post festum* actions to protect victims of trafficking, for which a number of mutually adjusted activities need to be undertaken by a number of responsible institutions. Unfortunately, this may be underdeveloped area of activity, which is, of course, a hindrance that should be immediately removed. In present circumstances, victims of trafficking are provided with necessary assistance through safe houses. However, more important is assistance after completion of administrative and court procedures which should be directed to complete rehabilitation, re-socialisation and social integration of victims of trafficking.

292. The public has high expectations from all responsible institutions in Bosnia and Herzegovina to start resolving this issue. The present NAP does envisage a separate objective the implementation of which should ensure adequate rehabilitation and reintegration of victims of trafficking through two programmed measures. The first relates to the development of the system that should ensure financing of a wide spectrum of

services for victims of trafficking – emergency admission centre, psychological and social counselling, free health care, vocational training, continuous education and job seeking assistance at local, entity and state level.

293. Given its definition and purpose, this measure is well planned, however insufficiently implemented.

294. The other planned measure is targeted to particularly vulnerable categories of victims of trafficking, especially drug addicts. The measure aims at developing a system to ensure treatment/curing for victims who are drug addicts. Available data show that no significant activities have been undertaken to implement this strategic measure, which is a major impediment to functioning of the system of protection and assistance to victims of trafficking, which is directly related to issues regarding the implementation of the Strategy of Bosnia and Herzegovina related to drugs.

295. Finally, it should be underlined that in the area of repatriation and transnational mechanisms of directing, it is planned within NAP to improve procedures of repatriation of victims of trafficking. In that context, the first planned measure relates to development of legal regulations and guidelines (standards) for victims from other countries repatriated to Bosnia and Herzegovina, which was implemented with CRS through Sustain Project. Such conclusion is based on fact that written guidelines were developed and are compatible with transnational reference mechanism in the Region. As for the other planned measure within this strategic objective, the implementation of which should develop legal regulations and guidelines (standards) for repatriation of foreign victims of trafficking from Bosnia and Herzegovina to their countries of origin, this measure has been implemented according to the same model like the previous measure. Thus, in the area of repatriation and transnational mechanisms, good results have been achieved based on which this strategic area should be further developed in future.

(d) Criminal prosecution

296. Efficient criminal prosecution of perpetrators of trafficking is a crucial component of repressive action of the relevant institutions in Bosnia and Herzegovina aimed at controlling this phenomenon. In that sense, NAP contains four strategic objectives aimed at introducing more strict punishment for criminal offenses of trafficking, seizure of material gain obtained by commission of these criminal offenses, establishment of the system of indemnity for victims of trafficking and improvement of law on protection of witnesses. The following is an overview of the level of implementation of the four listed strategic objectives.

Analysis of achievements

297. In order that the first strategic objective in the domain of criminal prosecution, aimed at better efficiency of judicial institutions and more strict punishment for offenses of trafficking, is feasible, NAP provides for four specific measures. The first one relates to amendments to criminal procedure code thus ensuring application of special investigative actions in investigation of trafficking. This measure was implemented end of 2009 when „contested” provisions of the criminal procedure code in BiH were amended, so that application of special investigative actions in investigations of trafficking is now possible. As for the other planned measure, its implementation is supposed to continue intensive work on investigation and criminal prosecution of offenders of trafficking not only in relation with sexual exploitation but also in relation to labour slavery, organised forced begging, contract marriages, etc. In context of this measure, special attention should be directed to those offenders who are directly or indirectly related to trafficking in connection with paedophilic behaviour and children pornography.

298. Reliable data on number of investigations for such offenses, number of indictments issued and confirmed number of convictions are needed for assessment of achievement of this strategic measure. Data from court practice indicate reduced scope of prosecutions of trafficking which is definitely not supportive of positive assessment of the implementation of the measure. It is in nature imperative and requires continued prosecution of offenders. In that context, such strategic measure should be incorporated in future strategic plans in the domain of prevention of trafficking.

299. The next strategic measure is focused on improvement of quality of evidence collected during investigation of criminal offenses related to trafficking. Although its formulation may be abstract, it should be borne in mind that implementation of this measure may be regarded as integral part of strategic measures related to education and training of professionals from police and judicial authorities in the domain of studying of modern investigation methods and techniques in investigations of trafficking. These areas are directly proportionate, which indicated permanent importance of education and training in this domain.

300. Finally, this strategic objective ends with a specific measure aimed at overcoming all issues of secondary victimisation of victims of trafficking that act in the capacity of witnesses in criminal cases for such offenses before court. According to NAP, implementation of this measure aims at increasing frequency of use of alternative forms of testifying by victims (video link, protected identity, etc.). Since this is a procedural issue resolved on case to case basis according to law, this measure is formulated as a recommendation that should be taken into account by acting courts in criminal cases of trafficking.

301. The other strategic objective within this chapter relates to improvement of measures for seizure of material gain obtained by commission of criminal offenses of trafficking. The programmed measure is aimed at simplifying and improving of provisions of application of this institute in cases when material gain is obtained by commission of the given criminal offenses. It should be noted that the legislator in the amended criminal code from 2009 introduced the institute of so called „extended seizure” of material gain obtained by commission for certain groups of criminal offenses including trafficking. These amendments were later introduced in criminal codes of Federation BiH and Brčko District, while Republika Srpska has *lex specialis* in that area, i.e. Law on Seizure of Illegally Obtained Property and in Federation BiH, activities of adoption of the Law on Seizure of Material Gain Obtained by Commission of Criminal Offenses and Misdemeanour Offenses. Therefore, at least at legislative level, this measure has been implemented to a certain extent.

302. It remains to be seen to which extent the competent courts will order measure of seizure of material gain obtained by commission of trafficking. The other strategic measure within this objective relies on this. It focuses on the need to more frequent use of measure for seizure of property from traffickers. Presently no reliable data exist on number of cases of seizure such material gain, its value, etc. A particular problem is the fact that no sufficient capacity has been established for management of temporarily seized property at all levels of government in BiH, which hinders the implementation of this strategic measure.

303. The third strategic measure in the area of criminal prosecution is related to improvement of efficiency of the system of indemnity of victims of trafficking. The programmed measure aims at increasing of frequency of use of measures for indemnity of victims of trafficking in the criminal procedure. According to relevant regulations in Bosnia and Herzegovina, seized property is, based on final court decisions, allocated to budget, while indemnified persons are referred to submit property claim in litigation procedure.

Therefore, no elementary legislative preconditions exist for direct indemnity of victims of trafficking in Bosnia and Herzegovina.

304. The last strategic objective within this chapter relates to improvement of implementation of the Law on Protection of Witnesses. The first measure relates to ensuring of funds for operation of the SIPA Department for Protection of Witnesses. It is a pragmatic question about the capacity of the SIPA specialised department for efficient providing of legally based protection of victims of trafficking. So far, protection within the competence of the Department has been smoothly provided.

305. The other measure from this chapter aims at improving of international bilateral cooperation with other countries on admission of victims of trafficking who are protected witnesses. Presently, Bosnia and Herzegovina has concluded agreements with few countries that envisage various forms of cooperation in the area of combating all forms of organized crime and corruption, including trafficking.

(e) International cooperation

306. Comprehensive combating against trafficking necessarily includes participation in different forms of international cooperation of legislative and police authorities from Bosnia and Herzegovina with international counterparts. This is usually exchange of information about perpetrators and victims of trafficking in addition to other forms of multilateral and bilateral cooperation.

Analysis of achievements

307. In the context of the foregoing, NAP contains specific strategic objective the implementation of which aims at strengthening of cooperation of Bosnia and Herzegovina with other countries and organisations participating in combating trafficking. In order to implement it, it is planned to undertake three measures of which the first one relates to conclusion and execution of the relevant multilateral and bilateral agreements. It is a specific activity of the relevant institutions of Bosnia and Herzegovina undertaken to create adequate normative prerequisites for efficient international cooperation through various forms of information exchange, activities, ensuring of criminal proceedings, joint investigation, etc. The other measure is focused on development of the system of cooperation with destination countries of BiH citizens who are victims of trafficking and countries of origin of foreign victims of trafficking identified in BiH, for the purpose of organisation and execution of humane and efficient repatriation.

308. Given the fact that through the regional Project Establishment of Transnational Reference Mechanism for Victims of Trafficking in South-Eastern Europe implemented by ICMPD, some activities were undertaken to achieve this strategic measure, cooperation in this area is at satisfactory level. Finally, the measure aimed at improving of mechanisms of mutual provision of legal assistance between destination countries of BiH citizens who are victims of trafficking and countries of origin of foreign victims of trafficking identified in BiH, for the purpose of exchange of data and evidence material for investigations and criminal prosecution, was implemented through adoption of the Law on International Legal Assistance in Criminal Matters from 2009. The Law should be fully implemented in practice of prosecution of cases of trafficking of transnational character.

(f) Training

(i) 2008

309. Within activities conducted in the first quarter of 2008, two seminars for professionals were organised (staff of law enforcement agencies, prosecutors, centres for

social work, media, etc.) in order to provide education on standardized procedures. The seminar in Sarajevo was conducted on 12–14 March 2008. The representatives of centres for social work, local medical centres and centres for mental health, ministries of interior, SIPA, Department for foreigners, primary schools, prosecutor offices and NGOs (46 participants participated in the seminar). The media representatives did not respond to the invitation to participate in this seminar. The seminar in Banja Luka was conducted on 19 – 21 March 2008. 55 participants from the Ministry of interior RS, field offices of the Department for foreigners, SIPA, border police, medical centres, social work centres and primary schools from Banja Luka and its outskirts and NGOs participated in the seminar.

(ii) 2009

310. In 2009, representatives of OSCE Mission to Bosnia and Herzegovina, based on earlier agreement with national coordinator held a lecture on trafficking. The first lecture was held in January 2009 for representatives of BiH who were sent to Democratic Republic of Congo within UN. The purpose of the lecture was raising awareness on trafficking amongst members of the armed forces. The lecture focused on the role of international staff in peace operations and prevention of trafficking in war and post-war time.

311. In April 2009, during seminar on code of conduct in military-political aspects of security of OSCE Mission to Bosnia and Herzegovina, another lecture on trafficking in peace missions was held for representatives of Ministry of security, Ministry of defence, and law enforcement agencies. Attention was drawn to requirements of all relevant international documents related to the role of peace forces and their responsibility to prevent and punish perpetrators of sexual exploitation, taking into consideration the issue that was recognized where members of peace forces actually demand such sexual services. Responsibility of countries that are members of peace missions is underlined with respect to providing appropriate training on trafficking and its influence on violation of human rights, destabilisation and threat to security.

(iii) 2011

312. Education of teachers in secondary schools In 2011, through implementation of the USAID-funded SUSTAIN Project that was implemented by CRS in cooperation with pedagogical institutes and ministries of education organized 16 training workshops for capacity building for teachers of secondary schools. A total of 255 teachers from 95 secondary schools were trained to teach students about prevention of trafficking. Following the training, all teachers who attended training were provided with manuals and certificates of training.

313. Introduction of a content related to prevention of trafficking in curricula of secondary schools. In all cantons where teachers, advisors of pedagogical institutes, education ministries and representatives of association for cooperation of teachers and schools underwent training, they started developing a strategy for introduction of education on prevention of trafficking in curricula of secondary schools.

314. During 2011, six education ministries approved introduction of education on prevention of trafficking in curricula of secondary schools: Ministry of education of Una-Sana Canton, Ministry of education of West Herzegovina Canton, Ministry of education of Hercegovina-Neretva Canton and Ministry of education of Sarajevo Canton, Ministry of education of Posavina Canton, Ministry of education of Tuzla Canton and Brčko District.

315. Additional activities for primary schools In addition to teacher training, in 2011, 14 training events were held for strengthening capacity of pedagogues in primary schools regarding the prevention of trafficking. Training was held in all 10 cantons and Republika Srpska. Altogether, 188 pedagogues completed education and strengthened capacity for

education of students in primary schools regarding prevention of trafficking. Also, in 2011, the manual was developed for students of primary and secondary schools on prevention of trafficking. "Požuri polako" (Haste slowly). The manual was developed by representatives of pedagogical institutes and education ministries and distributed to all primary and secondary schools in BiH.

(g) Capacity strengthening for protection of victims: education of social workers

316. In order to ensure implementation of mechanisms for protection of victims of trafficking and services of reintegration for domestic victims of trafficking, education of social workers was continued with SUSTAIN Project in 2011. In 2011, two training workshops were held for strengthening capacity of social workers from 18 centres for social work from eastern part of Republika Srpska, West Herzegovina Canton and Hercegovina-Neretva Canton.

317. Two additional training events were organized in Sarajevo and Banja Luka for selected 30 social workers from both entities. The purpose of the training was additional education on protection of victims of trafficking and analysis of application of guidelines for centres for social work developed in 2010. All participants received certificates on completed training. There was capacity building for labour inspectors in BiH to be able to recognize and report potential cases of trafficking aimed at labour exploitation. In 2011, a total of four two-day training events were organized for a total of 79 labour inspectors in the Federation BiH, Republika Srpska and District Brčko. The training included the following topics:

- Term and definition of trafficking, international standards and legislative framework in BiH, institutional framework in BiH
- Labour exploitation as an element of trafficking, definition and forms, legal and institutional framework of combating trafficking for the purpose of labour exploitation
- Protection of victims of trafficking with special focus on national reference mechanism and identification of victims of trafficking
- Supervision and control of application of regulations on labour – inspection of labour in legal system;
- International and national standards related to elimination of labour exploitation: dignified work, freedom of work, equal opportunities and treatment, *in favorem laboratoris*
- Forced labour, illegal recruiting, migrant workers, trafficking aimed at labour exploiting

318. As regards the data relative to number of police officers who were persecuted and convicted of criminal offenses of trafficking, please note that there are no data available in the reporting period.

Article 11 – The right to an adequate standard of living

Reply to the issues raised in paragraph 22 of the list of issues

319. The BiH legislation guarantees to BiH nationals the following social security entitlements are: allowances (financial assistance and other material assistance), work and living skills training, placement in social care institutions, placement in foster family/household, home care and assistance rendered in the house, social workers' and other professional services, health insurance and housing.

320. Financial and other material assistance is one of the entitlements under the social welfare scheme and includes: allowance, attendance allowance and other material assistance. In FBiH these entitlements are clearly set forth in the cantonal laws with different levels of financial assistance and various amounts of income as means test. In RS, the responsibility is shared between the Entity and local levels and the exercise of entitlements also include a loss of working ability and a means test.

321. It is estimated that 350,000 people are below the poverty threshold do not receive social assistance. One reason is the legal framework in the Federation that defines the inability to work as the main criteria for assistance. Formally, these people are capable of working, but the inability to find employment renders them needy, while at the same time the system fails to recognize them as beneficiaries of social assistance. In RS, the legislation does not link social assistance to work disability. According to the World Bank, the social assistance covers only one-fifth of the poor and needy (only 17% people in need of assistance is included in the social assistance scheme).

322. The basic problem of social protection in BiH is its inefficiency, a lack of focus on the real needs of beneficiaries and very little impact on poverty reduction. The amounts in the social welfare scheme are not satisfactory because severe consequences of the war, the transition process and a lack of economic development.

323. The social welfare scheme in BiH is in great difficulties as it face a huge increase in demand of various types of social assistance, which continues to grow. The functioning of this system is complicated by inadequate laws that provide for a much broader range of social protection than the budget available is able to cover. This problem is further complicated by the separation of responsibilities between levels of government, whereby the FBiH prescribes the amount of social assistance while the cantons are required to provide funds for it.

324. An additional difficulty is the lack of updated and complete data on social protection.

(a) Institutional framework

325. Social welfare services that fully meet social and other needs of the beneficiaries are provided by social welfare institutions and they are:

- There are 117 Centres for social work/Social Welfare Centres in BiH, including 72 centres and 28 municipal offices of social welfare and child protection in the FBiH and 45 Centres and 20 municipal offices in charge of social welfare in the RS , while BD does not have any centres but a health sub-department of BD Department instead)
- Institutions for children, including: institutions for children without parental care, institutions for neglected children, institutions for children with difficulties in their physical and mental development
- Institution for adults and elderly people
- Institution for social and health care of people with disabilities and other people institutions
- Day care centres for social protection beneficiaries

326. In BiH there are 37 social welfare institutions (care institutions) (governmental and non-governmental sector), including 27 ones in the FBiH and 10 ones in the RS.

327. Establishing and operation of the institutions in the Federation are governed in cantonal legislation and establishing and operation of the institutions of interest for the Federation are governed in Federation regulations.

328. Social welfare institutions (care institutions) that house children in the FBiH are: Institutions for children without parental care, institutions for neglected children, institutions for children with physical or mental disabilities, day care centres.

329. Social welfare institutions (care institutions) that house children in the RS are: Home for Children and Youth, Home for Children and Youth with Special Needs, Home for physically disabled children and young people with intact mental faculties, Home for Children and Youth Rearing, reception centres, service centres and day care.

330. BD does not have facilities to house beneficiaries under the social welfare scheme and uses services of the Entities.

Number of Social Welfare Centres in BiH

	FBiH	RS	DB	BiH
2008	72	45	-	117
2009	72	45	-	117
2010	72	45	-	117
2011	72	45	-	117

Source: BiH Statistics Agency

(b) Statistics

331. Total spending on cash benefits under various social security programs in Bosnia and Herzegovina is estimated at 4% of GDP, BiH being among the countries with extremely high levels of welfare spending. From neighbouring countries only Croatia has slightly higher spending (around 4.3% of GDP), while the OECD average is 2.5% of GDP.¹¹

332. Total spending on cash benefits in the social welfare scheme are quite high. While in the last few years the RS appropriated around 14% for this purpose, the FBiH budget appropriated between 35% and 43% of the total available funds.

333. The number of social welfare beneficiaries registered in the local social welfare offices, who exercise their rights under the Laws on Social Protection in BiH is constantly growing.

Minor beneficiaries of social welfare services in BiH

	2008	2009	2010	2011
Total	162.303	162.648	170.594	173.791
Male	84.521	85.876	90.092	92.635
Female	77.782	76.772	80.502	81.156

¹¹ World Bank (2009). Social welfare benefits in BiH.

Source: BiH Statistics Agency

Adults beneficiaries of social welfare services in BiH

	2008	2009	2010	2011
Total	489.169	483.590	498.828	482.228
Male	240.085	228.684	234.661	230.326
Female	249.084	254.906	264.167	251.902

Source: BiH Statistics Agency

334. In FBiH, cantonal legislation defined the amount of cash and other benefits, policies and procedures for these benefits. Based on data collected, the permanent financial assistance in the Federation ranges from BAM 50.00 in Canton 10 to BAM 170.00 in Sarajevo Canton for a one-person household (BAM 114.00 plus BAM 50.00 for utilities bill and BAM 11.00 for each additional member of the household).

335. In the Republika Srpska base for determining the level of financial aid in the current year is the average salary earned in the Republika Srpska in the previous year and it is determined depending on the number of family members. For one individual, it is 15% of the base, for a two-member family: 20%, for a three-member family: 24%, for a four-member family: 27% and for a family with five and more members: 30%. In the Republika Srpska, funds are provided for all beneficiaries of this entitlement in the manner that 50% comes from the RS budget and 50% comes from the budget of the local community.

336. Nearly one fifth (18.6%) of the BiH population is below the poverty line and about 30% is just above the poverty line.

337. It is believed that half the population lives in some form of social exclusion.

(c) Social exclusion (poverty) reduction

338. Bosnia and Herzegovina, along with 189 UN member states, adopted the Millennium Declaration with seven global development goals and the first of these goals is the eradication of extreme poverty and hunger.

339. BH has no officially determined poverty line and by definition poor individuals or families whose property and income are so low as to exclude them from the minimum acceptable way of life.

340. To depict an image of poverty we can use two measures: relative and absolute poverty. Absolute poverty is defined as the level of consumption expenditures that are lower than a certain threshold, depending on the price of a consumer package. The relative poverty line compares a standard population group with others in the same society and is based on a percentage of monthly income or expenditure in the country. Calculating the absolute poverty, a threshold, i.e. general and extreme poverty line are determined. The differences between these two lines are that the extreme line is observed only from the point of individual nutritional needs, based on the minimum caloric requirements of the individual, which in Bosnia and Herzegovina amounted to 1005.68 in 2007, while the general poverty line was BAM 2857.31, including both food and non-food of an individual. The most recent poverty data are from 2007 based on a sample of 9,274 households in BiH.

341. The first serious study of poverty in BiH was carried out by the World Bank (2001) based on consumption data. The results of the survey showed that the following persons are at risk of poverty: families with two or more children where the risk of poverty increasing with every next children in the household, the elderly, the long-term unemployed, people

with low education, people unable to work, working people with inadequate incomes to cover of the minimum costs of living and households where the household head has no or only primary level of education.

An overview: Population and poverty index in BiH – by entity and by gender, 2007

	<i>Population</i>			<i>Poverty rate</i>		
	Total	Women	Male	Total	Women	Male
BiH	3,447,156	1,762,908	1,684,248	18,56	15,78	19,32
FBiH	2,213,783	1,133,785	1,079,998	17,39	14,04	18,30
RS	1,166,173	595,124	571,049	20,23	18,93	20,60
BD	67,200	33,999	33,201	25,03	13,19	28,10

342. From the overview above, it is evident that 18.56% of the 3.4 million inhabitants is below the general poverty line and 639,781 inhabitants of BiH are poor. Women make up 51.5% of the population and the rate of poverty among women is estimated at 15.78% in 2007.

343. The Household Budget Survey (APD) in BiH, 2007, shows that the poverty rate varies depending on the head of a household. Observing all age groups, the rate of poverty rate is most frequent in the following age groups: 35–49 (29.6%), 50–64 (32%) and over 64 (30.4%). The highest poverty rate (21.28%) is in the group of young adults 25–34 (particularly in the Federation where the rate is 23.8%) and the oldest group (particularly in the RS, with a rate of 24.01%).

Reply to the issues raised in paragraph 23 of the list of issues

344. Armed conflict in the region left huge consequences on demographic and housing picture in Bosnia and Herzegovina.

345. In the period 1992–1995 approximately 2.2 million people left their homes what is more than half of the pre-war domicile population. Out of that number 1.2 million persons asked for refugee status in more than 100 countries around the world and countries in the region accepted around 40% out of overall number of the refugees from BiH. At the same time almost million persons were internally displaced across BiH.

346. Apart from demographic devastation, around 460,000 housing units or half of all housing units from 1991 in Bosnia and Herzegovina was partially or completely destroyed. Out of that number 80% of the housing units were completely destroyed or heavily damaged.

347. Return to BiH started right after ending of the conflict. Up to date more than million returnees in BiH were registered, out of which more than half so called “minority return”. Out of total 1,050,000 registered returnees, around 600,000 or 67% refer to the return of displaced persons and remaining 450,000 or 43% to the return of the refugees.

348. Around 220,000 occupied properties were returned to pre-war owners and holders of the occupancy rights, what makes a rate of 99.9% of the implementation of the property laws.

349. 330,000 housing units were rebuilt or built again. In the last decade, when those competences were transferred to BiH authorities, almost billion KM was allocated to the BiH return sector, out of which KM 400 million were invested into houses reconstruction, and more than KM 500 million were invested into complementary measures of sustainability. Domestic budget allocations exceed international financing and they are in

permanent increase with participation of domestic institutions up to 80% and international donors around 20%.

350. Assistance through different projects is primarily designed to support sustainability of the return process through reconstruction of the individual houses and buildings, reconstruction of the utility and social infrastructure. Most funds for the need of sustainable return were allocated to the utility infrastructure like roads, bridges, water supply pipeline, sewage systems and etc. Significant funds were allocated for electrification of the returnee settlements at the areas where return process was implemented. Remaining funds were invested into reconstruction of the social infrastructure (religious buildings, education institutions, medical centres, sport yards, cultural institutions, and etc.) and employment for the purpose of return.

351. Today, almost two decades after signing of the Peace Agreement, around half, out of estimated number of returnees and displaced persons in BiH, is still out of their pre-war homes and numerous challenges still remain in ensuring access to the rights guaranteed by the Annex VII of the DPA:

- Majority of the refugee and displaced persons still cannot return because their pre-war houses are not reconstructed or because their places of return are still not free of mines, there is no basic infrastructure including poor opportunities for employment and etc.
- Most individuals who didn't possess any property before the war haven't had opportunity to apply for the projects which can enable them and their family to find permanent solutions through reconstruction, sustainability measures and etc.
- At the same time, most returnees are faced with difficult social situation what endangers possibility of their existence in the places of return
- Economic conditions are still very poor, missing infrastructure, including electricity supply, and their access to the rights and services like health protection, education, social protection and pension is still limited due to different reasons
- In some cases, a basic obstacle to the return represents changed social environment for the returnees and displaced persons, in particular young people seeking higher education and employment. In particular, inability to keep rights acquired in the countries of temporary stay which cannot be transfer when they are returned represents additional difficulty for returnees

352. In order to respond to all challenges, Ministry of Human Rights and Refugees initiated revision of the Strategy of Bosnia and Herzegovina for the Implementation of Annex VII of the Dayton Peace Agreement through consultative process that included almost 150 representatives from different domestic organizations and institutions at all levels of authority including public enterprises, non-governmental sector and civil society as well as representatives of the concerned international organizations in BiH.

353. Upon detailed analysis of the situation done by 10 working groups, problems were identified and recommendations developed to eliminate the basic obstacles aiming to complete longstanding displacement, together with measures to improve legal and real status of the refugees and displaced persons with full respect of their individual rights to freely return to their places of origin and to be compensated for the property that cannot be return. Also, the right to free choice of other place of residence should also be respected.

(a) Current status

354. Efforts undertaken by BiH authorities at all levels, with the support of the international community, brought concrete and significant results.

355. However, as the real needs of the refugees, displaced persons and returnees in BiH exceed available funds, that huge disproportion still remains as one of the significant problems in planning and implementing of the goals set forth in Annex VII of the DPA.

356. In Revised Strategy of Bosnia and Herzegovina for the Implementation of Annex VII of the Dayton Peace Agreement, adopted by the Parliamentary Assembly by the end of the 2010, apart from strategic directions for the reform of the legal framework which enable access to all rights from Annex 7 of the DPA, as the separate appendix Framework Return Program for the Return of the Refugees and Displaced persons to BiH and Concept Note for Addressing the Issue of Damage Compensation for the property that cannot be return to refugees and displaced persons in the frame of the rights they are entitled to according to Annex VII of the Dayton Peace Agreement were adopted as well.

357. Total cost for the reconstruction only, in accordance with Framework Return Program amounts to approximately KM 1.2 billion and authority at all levels are obliged to ensure missing funds for substantial completion of the return process by 2014 in compliances with Revised Strategy.

358. In these terms, the key strategic goal is to ensure funds for reconstruction of destroyed and/or inappropriate housing units in line with prescribed minimum housing conditions for all who fulfils conditions for getting assistance for reconstruction giving priority to the most vulnerable persons and categories.

359. In order to achieve set goals regarding reconstruction and improvement of the access to the rights set forth in Annex VII of the DPA, Parliamentary Assembly of BiH discussed those issues twice: Once when the Law on Census of Population, Households and Dwellings in BiH was adopted and second when Revised Strategy of Bosnia and Herzegovina for the Implementation of Annex VII of the Dayton Peace Agreement was adopted. Taking into consideration a great imbalance between available funds and real needs to achieve a goal in terms of real budget capabilities, it was concluded that Bosnia and Herzegovina will take a loan for the subject purposes in amount of KM 400-500 million.

360. In terms of solving the issue of damage compensation for the property that cannot be return to refugees and displaced persons in the light of the right set forth in Annex VII, in accordance with recommendations from the Revised Strategy, new draft legislative foresees a new form of compensation for the property that cannot be returned, in the scope which ensures right to home to displaced persons and refugees as the model for the solving housing issues exclusively to those who, from objective reasons, cannot return to their previous places of residence and who up to date didn't solve their housing problem in another way. The Law on Refugees from BiH, Displaced Persons and Returnees is under procedure and its adoption will provide appropriate guidelines for exploring needs and development of bylaws in particular for the issues of damage compensation for the property that cannot be returned to displaced persons and returnees and, related to that, development of the concrete financial action plan which will include needed funds, dynamic and sources.

(b) Future steps

361. The vital issue of implementation of the Revised Annex 7 DPA Implementation Strategy demands an inclusive, consultative approach of all domestic and international stakeholders. In order to achieve this, the Ministry for Human Rights and Refugees will lead the Implementation Working Group. Activities on the formation of the working group are already underway. This Implementation Working Group will include all stakeholders, especially the relevant entity ministries for refugees and displaced persons, as well as the civil sector representatives, in order to ensure a participative inclusion of refugees and displaced persons, together with international agencies and periodic donor participation.

362. Financing of integrated and comprehensive projects has not received adequate attention so far, and no structured approach — including the defining of relations between the state, cantons, entities and municipal services responsible for access to rights — has been developed and there can be no doubt that, along with durable housing solutions, assistance with employment is of special importance for subsistence, as well as provision of access to education, healthcare, pension and social benefits.

(c) The planning framework

363. Estimated needs for durable housing solutions by type of solution and category

According to the estimates made by the BiH Ministry for Human Rights and Refugees, more than 41000 households, a total of roughly 160000 refugees and displaced persons require access to rights stemming from Annex 7 of DPA, namely:

- 35000 households, i.e. 110000 displaced persons
- 6.500 households, i.e. 23000 displaced persons from BiH with current residence outside BiH and have submitted claims for property reconstruction with the aim of repatriation

364. Total estimated funds for durable housing solutions amount to about 1.2 billion BAM, which calculates to approximately 30000 BAM per household/housing solution, with an important note that this only covers the accommodation needs of refugees and displaced persons, which do not include obligations for financial compensation claims.

Overview of necessities by type of solution and category

Type of solution / category		Displaced persons	Refugees from BiH	Total	Average according to type of solution per household	Total estimated funds
RETURN	Total	27600	6.500	34100	25255	861 200 000
	House reconstruction - construction	23500	5.500	29000	25000	725 000 000
	Apartment reconstruction - construction	1400	400	1800	39000	70 200 000
	House reconstruction - extension	2700	600	3300	20000	66 000 000
	Total	7100		7150	163000	360 800 000
LOCAL INTEGRATION	House construction – extension	2000		2000	25000	50 000 000
	Social housing	4600		4600	58000	266 800 000
	Accommodation in social welfare facilities	500	50	550	80000	44 000 000
	Households					
TOTAL		34700	6500	41250	29624	1 222 000 000
Persons		135000	23000	158000		

(d) Current initiatives

365. The Ministry for Human Rights and Refugees is leading a number of activities aimed at provision of funds still missing for implementation of the Revised Strategy for

Implementation of Annex 7 of DPA, in accordance with the relevant conclusions of BiH Parliamentary Assembly.

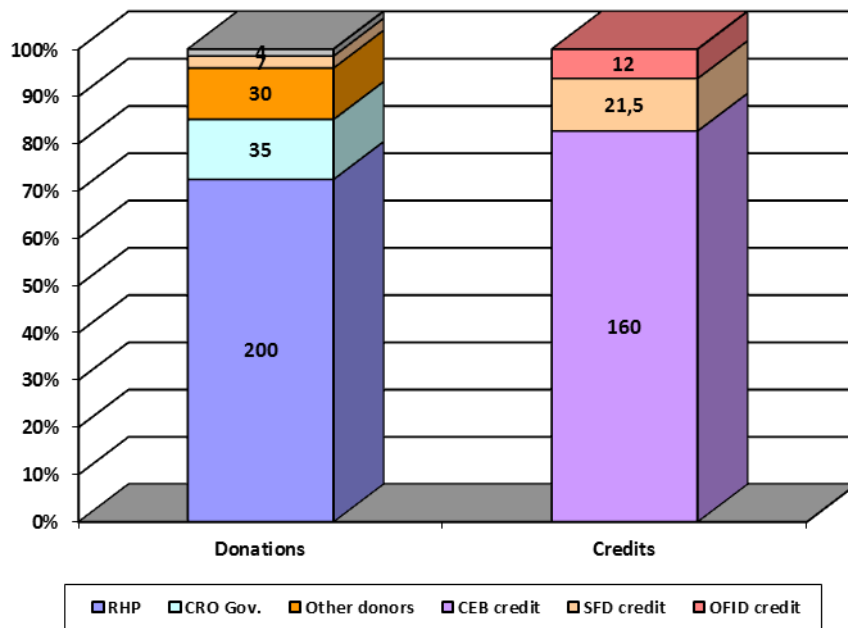
366. Close to 10000 permanent housing solutions for a population of roughly 35000 refugees and displaced persons will be secured from International Community donations combined with credit funds in the upcoming period of five years. Total funds amount to about 458.5 million BAM, out of which 256 million donated funds, which is 58%, whereas the remainder of 193.5 million or 42% comes from credit funds.

367. Bearing in mind that the current initiatives tackle the most vulnerable categories as a priority, including those for whom there have been no suitable solutions to this point, as well as a part of permanent solutions for refugees and displaced persons through local integration, closure of collective centres, social housing and accommodation in social welfare facilities, all of which requires significant funds, average costs for these categories are nearly 40% higher than the average states in the overview of necessities and add up to almost 50000 per household.

Overview of current initiatives and sources of financing by donors and creditors

<i>Type of solution / category</i>	<i>Donors</i>				<i>Creditors</i>		<i>TOTAL current initiatives</i>
	Regional housing programme	Croatian Government Program	Other donor's current programmes	Council of Europe Development Bank (CEB)	Saudi Fund for Development (SFD)	OPEC fund for International Development (OFID)	
Total	3830	1400	200		800	500	6730
House reconstruction - construction	3500	1400	200		800	500	6400
Apartment reconstruction - construction	330						330
House reconstruction - extension							
Total	970		300	1800			3070
House construction – extension	250						250
Social housing	420		300	1600			2.320
Accommodation in social welfare facilities	300			200			500
Households	4800	1400	500	1800	800	500	9800
Millions of BAM	200	35	30	160	21.5	12	458.5

Funds allocated for durable solutions within current initiatives (donations and credits)

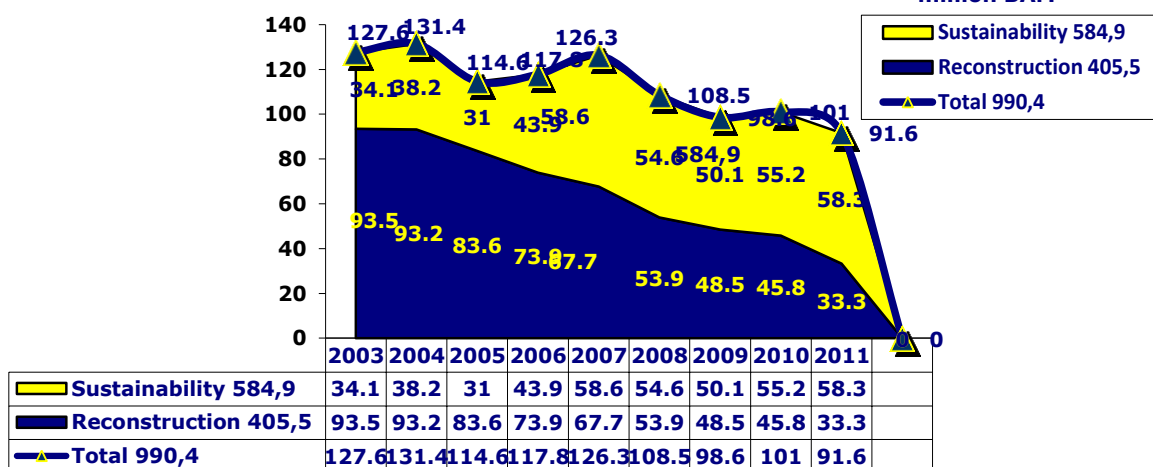


Overview of investments and planned budget expenditures

368. In the period following the transfer of competencies for the implementation of Annex 7 of DPA from the international to domestic institutions (beginning of 2003) there has been around 80 million BAM a year invested on all levels of authority in BiH aimed at sustainable return, with an almost equal housing reconstruction to sustainability ratio. An annual average of 3000 persons has been enabled to return to their homes. These investments focussed primarily on reconstruction of privately-owned houses, with very limited investments into reconstruction of apartments in multi-household buildings.

369. Furthermore, the analysis shows that investments in sustainability have a growing trend every year, whereas those related to reconstruction are dropping. For example, 25 million BAM more has been invested in sustainability than housing reconstruction in the previous year of 2011. The reasons for this are clearly in the fact that housing reconstruction or construction alone is not sufficient for a durable solution of problems related to people's displacement.

Overview of investments in reconstruction and sustainability of return in the 2003 -2011 period

Aggregate investments in
million BAM

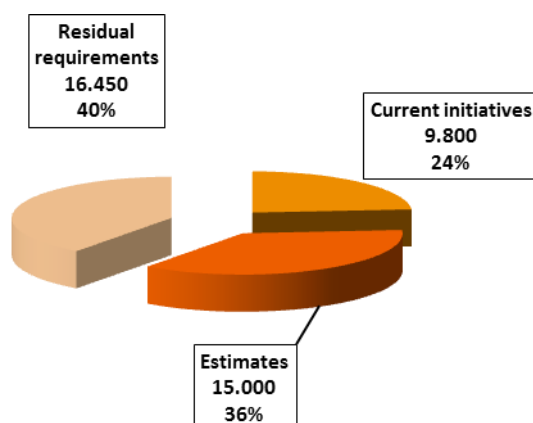
370. If the current trend of investments carried on, reconstruction of additional 15,000 housing units for returnees could be expected over a 5-year period. Taking into account the current initiatives started, led, or coordinated by the Ministry for Human Rights and Refugees, which encompass about 7000 durable solutions for refugees and displaced persons, this would cover approximately 2/3 of total estimated requirement for investment in pre-war housing.

371. Local integration expenditures, including war damage compensations for property that cannot be returned to refugees and displaced persons, in relation to the rights stemming from Annex 7 of the DPA have not been covered by the budget on BiH level, apart for a few isolated acute cases. This being said, the current initiatives foresee durable solutions for about 1,700 families, leaving an estimated 4,000 families in need of housing through social welfare and assistance in house reconstruction in place of displacement, as a means of compensation proportional to the right of reconstruction of property in place of pre-war residence.

372. This amount does not include claims for financial compensation for total damage on refugees' and displaced persons' property, since, in accordance with provisions of DPA, this responsibility falls on the entities.

5-year budget investment forecast

2013-2017		Budget investment forecast		Estimated No. of durable solutions
Source	Annual expenditures	5-year plan		Total
BiH	40.000.000	200.000.000		7.500
FBiH	22.000.000	110.000.000		4.125
RS	8.000.000	40.000.000		1.500
Brčko	4.000.000	20.000.000		750
Cantons and municipalities	6.000.000	30.000.000		1.125
Total	80.000.000	400.000.000		15.000



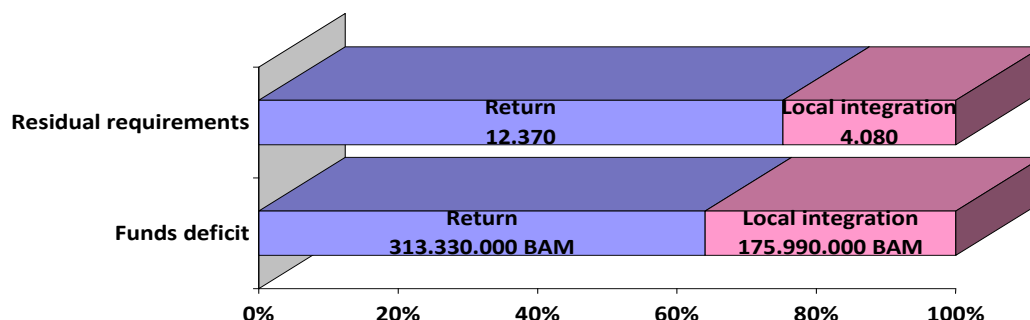
373. The table and chart represent forecasts based on previous budget expenditures. However, considering the budgetary constraints all BiH institutions face, it is fairly certain that the investment trends of the past will not continue as planned, i.e. actual future investments in the field will be significantly smaller than this forecast suggests.

374. With this in consideration, the action plan will be undergoing periodic revisions that will introduce necessary harmonization based on achieved goals and planned investments, thereby correcting the amounts of lacking funds according to the remaining needs.

Estimated lacking funds for purposes of Annex 7 DPA Implementation

Type of durable solution	Number of households	Average per type of solution per household	Total estimated required funds	Current initiatives	Budgetary provisions for Durable solutions forecast	Remaining needs	Estimated lacking funds for remaining needs
RETURN	34.100	25.255	861.200.000	6.730	15.000	12.370	313.330.000
House reconstruction - construction	29.000	25.000	725.000.000	6.400	15.000	7.600	190.000.000
Apartment reconstruction - construction	1.800	39.000	70.200.000	330		1.470	57.330.000
House reconstruction - extension	3.300	20.000	66.000.000	0		3.300	66.000.000
LOCAL INTEGRATION	7.150	163.000	360.800.000	3.070	n/a	4.080	175.990.000
House construction - extension	2.000	25.000	50.000.000	250		1.750	43.750.000
Social housing	4.600	58.000	266.800.000	2.320		2.280	132.240.000
Accommodation in social welfare facilities	550	80.000	44.000.000	500		50	4.000.000
TOTAL	41.250	29.624	1.222.000.000	9.800	15.000	16.450	489.320.000

Overview of residual requirements (number of durable solutions) and lacking funds



Reply to the issues raised in paragraph 24 of the list of issues

375. In December 2011 the Parliament of the Federation of Bosnia and Herzegovina adopted the Water Management Strategy of the Federation of BiH, containing the water management strategic and operational goals until 2022 and the measures for reaching those goals.

376. The framework plan for the development of the water resources in Republika Srpska was adopted in 2006, as an interim solution until Strategy of Integrated Water Management is adopted. This Strategy is in the procedure of public discussions and it is soon to be adopted by the National Assembly of Republika Srpska.

377. The key goals of these documents are grouped into the following categories: Framework for legislative, institutional and economic activities.

378. Strategic goals:

- Legislative and institutional reform of the water management sector, which derives from the need to adapt to the social circumstances and harmonise with the EU in the area of the water management, as a part of the EU stabilisation and association process
- Adequate integration of the water management sector into the comprehensive system of economy, with higher prevalence of the economic instruments in the water management
- Improving efficiency, transparency and accountability in the water management
- Ensuring financial sustainability of the water management, conducting reform of water price and progressively introducing economic price of water

(a) Use of water

379. Two strategic goals:

- Increasing the number of users and improving the public system of water supply; and
- Ensuring conditions for sustainable use of water in the areas whose development depends on market interests.

(b) Water protection

380. Goals: Achieving and maintaining good quality of the surface water and groundwater for the purpose of providing protection to the aquatic flora and fauna and protection of the needs of the water users. This includes achieving the following strategic goal: “Reducing risks of the extreme hydrological phenomena” and implementing measures for achieving operational goals:

- Reconstructing and rehabilitating the existing protective facilities and constructing and maintaining protective facilities in order to increasing the level of security in terms of flood control
- Developing and adopting plans for protection from harmful effects of water
- Reducing erosion
- Adopting programme for combating drought
- Improving prevention and preparedness in the events of disasters, such as dam collapse or overflow.

Article 12 – The right to physical and mental health**Reply to the issues raised in paragraphs 25 and 26 of the list of issues**

381. The Rulebook on the Safety of Drinking Water (BiH Official Gazette 40/10 and 30/12) provides for drinking water standards and requirements, maximum values of the parameters of safety, methods of laboratory testing and measures applied in monitoring the safety of drinking water. The aim of this Rulebook is to provide protection of health of people from adverse effects of any contamination of drinking water by ensuring its safety. The Food Safety Agency of Bosnia and Herzegovina has initiated, drafted and proposed this Rulebook in cooperation with competent entity and Brčko District BiH bodies. The Rulebook is harmonised with the EC Council Directive 98/83/EC of 3 November 1998.

382. Drinking water safety standards. The Agency, in cooperation with competent bodies, determines the values applicable to drinking water.

383. Verification of the safety of drinking water that is in use by the public water supply is conducted by the competent inspectorates of the entities and Brčko District BiH, i.e. their public health institutes.

384. Monitoring. The competent inspectorates of the entities and Brčko District BiH are taking all measures necessary for conducting regular monitoring of the safety of drinking water, in order to verify that water in use by public meets requirements provided for in the Rulebook. The competent bodies are taking all measures to verify efficiency of the applied disinfection procedures in cases when disinfection represents integral part of a treatment or distribution of drinking water, and in order to reduce to the lowest possible level all contaminations resulting from the by-products of disinfection and at the same time not adversely affecting disinfection itself. The Agency, in cooperation with the Ministry of Health and Social Protection of RS, the Federation Ministry of Health and the Department of Public Health of Brčko District BiH, are developing annual monitoring plans for all types of drinking water.

III. Answers relating to specific provisions of the Covenant

Articles 13 and 14 – The right to education

Reply to the issues raised in paragraph 27 of the list of issues

385. Updated information on the steps taken to eliminate the practice, two schools under one roof“

386. The Federation Ministry of Education and Science, acting within their scope of responsibility, has been working to discontinue any form of segregation or discrimination in education and provide equal conditions for education of all students in the Federation of Bosnia and Herzegovina. The Federation Ministry of Education and Science perform its coordinating and advisory role through mechanism of Coordination of Ministers of Education and Science in the Federation of Bosnia and Herzegovina, which is chaired by the Federation Minister of Education and Science of Bosnia and Herzegovina. At the constituting session of this mechanism that was held on May 30, 2011, a protocol of cooperation in the field of education and science was signed by the Federation Minister of Education and six responsible cantonal ministers.

387. Signatories to the Protocol agreed to join their forces to de-politicize education administration, harmonize conditions in education and provide preconditions for science and research to become developmental resources of the Federation of Bosnia and Herzegovina. The Protocol also foresees development of cooperation aimed to improve pre-primary, primary, secondary, higher education and science in the Federation of Bosnia and Herzegovina and, particularly in the area of textbook policy, discontinue discrimination in education, develop normative framework for external graduation exam and implement external graduation exam in primary and secondary schools in the Federation of Bosnia and Herzegovina.

388. This Coordination has a key role in the process of agreeing and ensuring effective coordination in education and science in the Federation of Bosnia and Herzegovina and successful implementation of policies agreed at the level of Bosnia and Herzegovina.

389. In their work to date, on proposal by the Federation Minister of Education and Science, this body adopted series of conclusions and decision aimed at depoliticization of education and elimination of discriminatory and segregationist practices in educational institutions in the Federation of Bosnia and Herzegovina, among which we select the following:

390. At the 14th session of the Coordination of Ministers of Education and Science that was held on August 7, 2013, the participants adopted document titled “Recommendations aimed at discontinuation of segregated or divided structures in educational institutions in FBiH” that was drafted by the Federation Ministry of Education and Science. This document identifies necessary steps for elimination of segregated or divided structures in schools:

- Administrative and legal unification of divided educational institutions
- Ensuring equal access to education and fair conditions for all students
- Full integration of divided schools – establishing multi-ethnic classes

391. Recommendations concern the process of unification and elimination of parallel structures in educational institutions that effectively work as “two schools under one roof”, which is a phenomenon that remained in existence in Central Bosnia and Herzegovina-Neretva cantons. The purpose of said recommendations is to help the responsible education

authorities to discontinue the practice of “two schools under one roof”. The document proposes specific measures and activities to overcome this arrangement that violates basic human rights guaranteed under Constitution and laws and slows down the further reform of education in general and thus represents a serious obstacle to Bosnia and Herzegovina in meeting its international obligations.

392. This document was sent to all cantonal ministries of education and international organizations involved in education reform process in Bosnia and Herzegovina on August 30, 2012.

393. During 2012, for the purpose of providing support to process and projects of unification of educational institutions operating under “two schools under one roof” arrangement, the Federation Ministry of Education and Science organized a competition for best literary work on the topic “Future that I want in Bosnia and Herzegovina – One Roof for All of Us”. This competition called for participation of primary and secondary school students from schools in the Federation of Bosnia and Herzegovina, and 17 primary and secondary school students whose papers were found the best received monetary awards.

394. Information on steps taken in the field of education for the purpose of preventing discrimination against returnees and minority people

395. Entity minister of education and the nine cantonal ministers of education signed and accepted obligations identified in the Provisional Agreement on Meeting Special Needs and Rights of Returnee Children Implementation Plan. This Plan was not signed by the line ministry of Canton 10 because of change of government (the then-Assistant Minister Mr. Filip Zrno had no authority to sign the Implementation Plan).

396. In spite of definite progress that was achieved in enabling enrolment of children in schools in their school catchment area, some parents still continue sending their children to other schools that are further away; therefore, educational authorities at all level need to engage in resolving this issue. When identifying school catchment area the applicable legislation should be fully complied with so that the composition of school boards accurately reflects ethnic composition of population in that area.

397. All ministries of education need to pass rulebooks/instructions on implementation of Criteria on Names and Symbols of Schools as a prerequisite for establishing positive environment for all students. In this context, all the schools whose names or symbols do not comply with the Criteria need to change their names, remove objectionable symbols and harmonize the celebration of school events with the Criteria.

398. The Foundation of Local Democracy published in 2008 an Analysis of implementation of the criteria for school names and symbols that, inter alia, shows the results of monitoring conducted on 2088 primary and secondary schools in Bosnia and Herzegovina. Out of this sample, 1183 schools were from the Federation of Bosnia and Herzegovina, or more precisely from 8 cantons, since two cantons (West Herzegovina and Canton 10) had refused to cooperate. It was found that out of 1183 observed schools in the Federation of BiH, 205 schools or 17% were not in compliance with the Criteria for school symbols. The criteria were not complied with by 104 out of 383 observed primary schools, 69 of 615 observed satellite primary schools and 32 of 185 observed secondary schools.

399. What needs to be especially emphasized is that symbols and marks are not the only way the returnee children or children from other constituent peoples or national minorities that are minority on the given area are put in less favourable position in education compared to the children who belong to majority population. There is still prevailing practice of assimilation, where the minority children are forced to accept to the one-ethnic curriculum, learning in the language of majority, as well as some other particularities of single-ethnic curricula. This contravenes the principle of inclusion and also the provisions

of articles 6, 7, 8, 9 and 10 of the Framework Law on Primary and Secondary Education in Bosnia and Herzegovina ("Official Gazette of BiH" number 18/03).

Reply to the issues raised in paragraph 28 of the list of issues

400. The Programme of Distributing Funds for Financing Education, which is implemented by the Federation Ministry of Education and Science for a number of years, contains an item entitled Support to Education of Roma Children and other National Minorities and Socially Vulnerable Categories. On the basis of a public call, funds are allocated through this Programme to primary and secondary schools, professional associations and municipalities which implement projects that enable and promote education of Roma children. This Programme is also used to support individuals/Roma children who successfully complete a school year.

401. In the past three years, the Federation Ministry of Education and Science had budgeted approximately BAM 300,000.00 annually for the Programme of Support to Roma Children and other National Minorities and Socially Vulnerable Categories.

402. In addition, the Federation Ministry of Education and Science has budgeted in 2013 BAM 600,000.00 for implementing the project of procuring free text books for socially vulnerable pupils who attend the nine-year primary school programme in the Federation of Bosnia and Herzegovina in the 2013/2014 academic year. The project was implemented in ten cantons in the Federation of Bosnia and Herzegovina in cooperation with the competent ministries.

403. In order to preserve and promote Romani language, culture and history, in 2010, the Federation Ministry of Education and Science published the Bosnian-Romani/Romani-Bosnian Dictionary of the author Hedina Tahirović Sijerčić which was printed in 2,000 copies.

Education of Roma children

404. For Roma people, education is the only way out of the vicious circle of marginalization and social isolation.

405. With Bosnia and Herzegovina acceding the Decade of Roma Inclusion (2005–2015), it was found that the adopted Action Plan on educational needs of the Roma and other ethnic minorities in BiH (2004) needed to be revised in the segment that concerns Roma with the aim of finding solution to the problem that relates to a better and more responsible access to right to education of the Roma children as the most numerous minority in Bosnia and Herzegovina.

406. The revised Action Plan of Bosnia and Herzegovina on educational needs of Roma was developed in line with recommendations and proposals agreed on the 16th meeting of the International Steering Committee of the Decade of Roma Inclusion. This document identifies four objectives and 47 measures aimed at ensuring to this marginalized group of children equality and access to good education in order for them to acquire necessary knowledge to become fully integrated in society. Consequently, when it comes to access to good quality education, equality becomes particularly important for the Roma children and youth. A Task Team was established at national level to monitor implementation of this Action Plan that produced a report in 2011.

407. General finding of this report was that 2011 was marked with increased enrolment of Roma children in primary, secondary and, very importantly, tertiary education too. It has become evident that fewer children have dropped out of primary and secondary education. The responsible educational ministries are paying more attention to meetings with parents of Roma children in an effort to inform them that primary education is, among other things,

legal obligation, and to meetings with Roma communities and activists in order to inform them about importance of early development programs for children by offering information and thematic lectures to parents in Roma communities.

408. In addition, the said report states that the total number of Roma children participating in regular primary education in school year 2011/2012 was 3,024 or 76.30%.

409. In the first semester of the school year 2011/2012, 49 students or 1.6% dropped out of primary education.

410. 225 students participated in the system of extraordinary primary education in 6 schools, and they were provided with opportunity to take exams free of charge.

411. Total number of Roma students in secondary schools in school year 2011/2012 was 243. Number of students newly enrolled in secondary school in the same period was 122. Total number of students who had dropped out of secondary education was 43 or 2.37%. 34 students left the first grade of secondary education, or 28% of total number of enrolled first-graders. As for the reasons for leaving secondary education they stated material conditions, arbitrary decision, moving to another residence, parental objections and marriage.

412. Total number of tertiary students is 17, and 6 scholarships have been provided for Roma students.

413. 64 Roma children have received some form of stipend to help them complete primary and secondary education.

414. Around 80% of Roma children received some form of assistance in primary education: procurement of textbooks, school materials, transport or lunch.

415. What remains a matter of concern is that 23.70% of Roma children are not covered by compulsory primary education. There is no cooperation between the municipal registries, centres for social work or Roma associations with the schools so the schools have no information on children that should be enrolled in first grade of primary education.

416. Universal access to primary education and completion of primary education by children in whole world is one of primary goals of the Program "World to the Measure of the Child" and the Millennium Development Goals. Education is an essential prerequisite for fighting poverty, strengthening position of women, protecting children against dangerous or exploiting work and sexual abuse, promoting human rights and democracy, protecting environment, and it has significant influence on population growth.

Article 15 – Cultural rights

Reply to the issues raised in paragraph 29 of the list of issues

417. BiH is a multinational, multi-religious and thus a multicultural community and as such it is committed to keep its multicultural character, respecting the principle of parliamentary democracy and strengthening multicultural dialogue as the fundamental tool for linking diversities and tolerance in the society.

418. BiH is home (according to the Constitution of Bosnia and Herzegovina) of the three constituent peoples (Bosniacs, Serbs and Croats) and (according to the Law on Protection of National Minorities' Rights) 17 national minorities, the fact that itself indicates the diversity of cultural heritage as a national treasure of the state of Bosnia and Herzegovina.

419. The Commission to Preserve National Monuments of Bosnia and Herzegovina was established under Annex 8 of the General Framework Agreement for Peace in Bosnia and Herzegovina. In order to monitor cases of threatened national monuments and to take

measures to protect them, it institutes criminal proceedings in the competent courts in accordance with the Criminal Procedure Code (illegal construction, inexpert reconstruction, lack of maintenance and other forms of destruction). Decisions to designate national monuments are enforced in accordance with the Law on the Enforcement of Decisions of the Commission for the Protection of National Monuments and the responsibility for their enforcement lies with the Entity governments and ministries responsible for spatial planning.

420. In accordance with provisions of the Framework Peace Agreement for Bosnia and Herzegovina, the field of culture is the responsibility of the Entities. Bosnia and Herzegovina is a full member of the World Intellectual Property Organization.

421. Thanks to funds provided by the MDG-F-funded Culture for Development Programme that is jointly implemented in BiH by three United Nations agencies: United Nations Educational, Scientific and Cultural Organization (UNESCO), UNDP and UNICEF, together with the Ministry of Civil Affairs, the Federation Ministry of Culture and Sports and the RS Ministry of Education and Culture, it was possible to print a compilation of translations of all conventions relating to the protection of cultural heritage.

422. Bearing in mind the importance of cultural and historical heritage, Bosnia and Herzegovina, including both Entities, has criminalized acts of destruction or damage of the cultural heritage of Bosnia and Herzegovina (the Criminal Code of Bosnia and, the Criminal Code of the Federation of Bosnia and Herzegovina, the Criminal Code of Republika Srpska, the Criminal Code of Brčko District.

423. Achievements and progress BiH TV and radio stations regularly broadcast thematic shows about minority communities, their culture, customs and characteristics and about activities carried out by NGOs that bring together national minorities for the preservation of ethnic and cultural heritage (“Czech Beseda” — Association of Czechs in the Republika Srpska, “Taras Shevchenko” — Association of Ukrainians in the Republika Srpska, the “Lira” Cultural Society of Jews etc.).

424. In Sarajevo, in July last year, a film festival which was sponsored by “La Benevolencija”, a Jewish cultural and humanitarian association, was held to screen films depicting the Jewish life in this region.

425. The Interreligious Council of Bosnia and Herzegovina operates in Bosnia and Herzegovina and it has printed the Glossary of Religious Terms in order to improve the understanding of cohabitation and linking of cultural diversities in Bosnia and Herzegovina.

426. Bosnia and Herzegovina is a country of four great monotheistic religions (Sarajevo, the capital of Bosnia and Herzegovina, is a city where the Cathedral, the Orthodox Church, the Bey Mosque and the Synagogue are located only 500 meters apart).

427. Unfortunately, during the tragic conflict in the period from 1992 to 1995 BiH lost a number of cultural and religious buildings that testified to the millennium-long tradition of Bosnian-Herzegovinian state as a multicultural community of its peoples.

428. With signing the Dayton Peace Agreement in Bosnia and Herzegovina, peace was restored and the country hit the road to rapid recovery by strengthening tolerance and respect for and appreciation of diversities through the development of a modern democratic state, which shows the tendency towards soon inclusion into European integration processes.

429. Old Bridge in Mostar has been reconstructed, the cornerstone for the reconstruction of Ferhadija Mosque in Banja Luka has been laid, Žitomislići Monastery and Plehan Convent have been reconstructed and Bašćaršija — the old town of Sarajevo — has been renovated, while the famous “Bridge on the Drina,” the bridge about which Nobel Prize

winner Ivo Andrić wrote and which was an endowment by Mehmed-Pasha Sokolović, has been nominated for the World Heritage listing. The renovation of the Serbian Orthodox church in Mostar has been planned. In Sarajevo, numerous museums ranging from the National Museum (which was founded by Hermann Costa with the help of Ciro Truhelka) to the Museum of Sarajevo, whose collections of exhibits include both pre-historic era and the rule of the Ottoman Empire in these parts, the arrival of the Austro-Hungarian troops, the memory of “Sarajevo assassination” which triggered the World War I (characteristic tombstones of Bogomils, so-called *stećci*, are exhibited in the museum’s front garden, while the largest necropolis is at Radimlja near Stolac), Historical Museum, Jews’ Museum, the Museum of Literature and Theatre, Olympic Museum that was opened after the 14th Winter Olympic Games, *Svrzina kuća* (the *Svrz*’s house) (which depicts life of Bosnian Muslims at that time) and recently renovated *Despića kuća* (the *Despić*’ house) (which shows how the Serbian town family lived in late 19th century — it is interesting to note that mini-plays used to be performed in the *Despić*’ house), the house in Travnik where Ivo Andrić was born are open to the public.

430. It is important to emphasize that the National Museum in Sarajevo carefully keeps the Holy Book of Jews — *Haggadah* which the citizens of Bosnia and Herzegovina saved from the destruction or alienation, not only during the last war but also during the German occupation in World War II when, notoriously, Nazis alienated national treasure of temporarily occupied countries.

431. In Bosnia and Herzegovina there are a few festivals and events of international importance and they are: MESS International Theatre Festival, International Festival Sarajevo “Sarajevo Winter”, a series of cultural events called “*Bašćaršija Nights*”, Sarajevo Film Festival.

432. Every year in Bosnia and Herzegovina the following literary meetings are held: The Letter of Bitterness in Stolac, to commemorate a great poet from Bosnia and Herzegovina, Mak Dizdar, Days of Poetry in Sarajevo and the European Literary Encounters in Sarajevo, Cum Grano Salis and Begić Literary Days in Tuzla, Literary Meetings in Gradačac, Days of Šop Poetry in Jajce, Skender Days in Bosanski Petrovac, Šimić Meeting in Grude, Hum Poetry Evenings and Santic Poetry Readings and Poetry Readings in Mostar, Ducić Evenings in Trebinje and Literary Meetings in Kozara Mt.

433. In Jajce the International Art Colony “Through History to the World Heritage of UNESCO” was organized while the International Art Colony named “Herzegovina – Počitelj” started on 15 June and lasted until 22 June last year, bringing together a number of internationally recognized artists.

434. During the Sarajevo Winter Festival DUPLEX/Gallery 10m2 of French Cultural Centre Andre Malraux was opened on 10 February 2009.

435. The BD Government has funded the reconstruction of devastated rural community centres, the construction of new ones (e.g. for Roma) and cultural projects: “Sava” International Arts Colony, Theatre Festival of BiH, Days of Spiritual Music, Festival of Urban and Rural Amateur Creativity etc.

436. Through the connection of the cultural diversity of the community of Bosnia and Herzegovina (which as such has been existing for a thousand years), conditions for the strengthening of an open democratic society are created, distinguishable by its intercultural dialogue which respects the diversity in a unity, gaining its international character.

437. The Art Gallery of Bosnia and Herzegovina is among seven cultural institutions of national significance and the remaining six are the National Museum, the Film Library of Bosnia and Herzegovina, the Museum of Literature and Theatre of Bosnia and Herzegovina, Historical Museum, the National and University Library and the Library for

the Blind and Visually Impaired Persons. These institutions have an unresolved legal status and a lawsuit to address this issue is pending. Owing to a lack of funds and support, the Art Gallery of Bosnia and Herzegovina closed its doors on 11 September 2011 after 65 years of extensive and continuous operation. At the end of last year, the National Museum in Sarajevo closed its doors because of the unresolved legal status and a lack of funds. The survival of the “ARS AEVI”, the most relevant international project in the field of contemporary art in Europe and the world, is questionable. In this connection, a complaint has been lodged with the Court of BiH to review the status of the National Museum and the National and University Library of Bosnia and Herzegovina. In fact, since the time of the Austro-Hungarian rule in the region (an edict of Franz Joseph the Emperor on the National Museum in Sarajevo), through the time of the Kingdom of SHS and the Kingdom of Yugoslavia, Federal Peoples Republic of Yugoslavia and Socialist Federal Republic of Yugoslavia, these institutions have always been under state protection. Bearing this in mind, Bosnia and Herzegovina is the legal successor under whose jurisdiction these institutions should fall.
