



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

Distr.: General
11 March 2019

English only

Committee against Torture

Sixty-sixth session

23 April–17 May 2019

Item 4 of the provisional agenda

**Consideration of reports submitted by States parties
under article 19 of the Convention**

**Concluding observations on the sixth periodic report of
Bosnia and Herzegovina**

Addendum

**Information received from Bosnia and Herzegovina on
follow-up to the concluding observations***

[Date received: 5 March 2019]

* The present document is being issued without formal editing.

GE.19-03979(E)



* 1 9 0 3 9 7 9 *

Please recycle The recycling symbol, consisting of three chasing arrows forming a triangle.



Information paper on the follow-up to recommendations 13, 19 and 21 (b) by committee against torture given in the concluding observations on the sixth periodic report of Bosnia and Herzegovina on the implementation of the convention against torture and other cruel, inhuman or degrading treatment or punishment

1. The Committee against Torture (hereinafter: the Committee) considered the sixth periodic report of Bosnia and Herzegovina (CAT/C/BIH/6) at its 1578th and 1581st meetings, held on 10 and 13 November 2017 and adopted the following concluding observations at its 1602nd meeting (CAT/C/SR.1602), held on 28 November 2017.
2. In the concluding observations, the Committee requests the State party to provide, by 6 December 2018, information on follow-up to the Committee's recommendations contained in paragraphs 13, 19 and 21(b).
3. In that context, the State party is invited to inform the Committee about its plans for implementing, in the coming reporting period, some or all of the remaining recommendations given in the concluding observations. Authorities of Bosnia and Herzegovina are obliged to submit its seventh periodic report by 6 December 2021.
4. The BiH Council of Ministers acknowledged the Information Paper on the Concluding Observations on the Sixth Periodic Report of Bosnia and Herzegovina on the Implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment at its 137th meeting held on 28 March 2018.
5. In accordance with the conclusion of the BiH Council of Ministers issued at the 137th session held on 28 March 2018, the Ministry of Human Rights and Refugees forwarded the concluding observations of the Committee against Torture to the relevant institutions in BiH and published them on the website of the Ministry of Human Rights and Refugees. At the same time, a meeting was held with the members of the Interdepartmental Working Group, which was responsible for the preparation of the sixth periodic report of Bosnia and Herzegovina.
6. The Ministry of Human Rights and Refugees has drafted an Action Plan for implementing the remaining recommendations contained in the concluding observations of the Committee against Torture, but the implementation schedule of the recommendations have not yet been drafted, as it depends on the adoption of the 2019 programme activities of the relevant institutions that are obliged to address the remaining recommendations and inform the Committee against Torture.
7. We would like to inform you that the Action Plan for implementing of the remaining recommendations given in the concluding observations of the Committee against Torture is based on the adopted Human Rights Reporting Methodology, a document enacted by the Minister of the Ministry of Human Rights and Refugees of Bosnia and Herzegovina. Namely, in accordance with Article 12 of the Law on Ministries and Other Bodies of the Administration of Bosnia and Herzegovina, the Ministry of Human Rights and Refugees is in charge of and coordinates activities with the institutions in Bosnia and Herzegovina in drafting of human rights documents.
8. We deem that the Methodology will contribute to efficient and effective organization of reporting efforts and an increase in the usability of all human rights reports, since reporting on the implementation of international human rights standards takes a central position in the human rights system in Bosnia and Herzegovina.
9. The Ministry will make the Human Rights Reporting Methodology available to all legislative, judicial and executive authorities in Bosnia and Herzegovina, as well as civil society organizations in Bosnia and Herzegovina.
10. Information on follow-up to recommendations 13, 19 and 21 (b) of the Committee against Torture was requested from the Ministry of the Interior and the Ministry of Economic Relations and Regional Cooperation of the Republika Srpska, the Ministry of Labour and Social Policy of the Federation of BiH and the Ministry of Labour, Disability

and Veterans Protection of the Republika Srpska, while the Ministry of Human Rights and Refugees of BiH has replied to the questions of recommendations 19 (a) and (b) and 21 (b), since the matters are within its competence.

Recommendation 13 reads as follows

Ill-treatment by the police

11. While taking note of the information provided by the State party during the dialogue, the Committee is seriously concerned at the findings of the report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to the State party in 2015 indicating that detainees were routinely ill-treated or even tortured at police holding facilities and that such practice of repeated slaps, punches, kicks and blows with a truncheon in order to extort a confession was even considered as normal. It is gravely concerned at reports that some detainees were threatened with a pistol in their mouths and subjected to a mock execution. It regrets that this dire situation has not changed since the previous visits by the CPT in 2011 and 2012 (arts. 12 and 13).

13. The Committee urges the State party to take all the necessary measures to:

- (a) Send a clear message from the highest possible office that torture and ill-treatment is unacceptable and that perpetrators will be held criminally responsible for their acts;**
- (b) Ensure that all the allegations of torture or ill-treatment by law enforcement officials are promptly, thoroughly and impartially investigated by an independent body, and that perpetrators are duly prosecuted, and if found guilty, convicted with penalties that are commensurate with the grave nature of their crimes;**
- (c) Develop training modules for the police on non-coercive interview and investigation techniques with a view to reducing the reliance on confession to secure convictions;**
- (d) Ensure the installation of video recording equipment in all rooms used for police interrogations, except in cases in which the rights of detainees to privacy or to confidential communication with their lawyer or doctor may be violated. Independent monitoring of video recording of police interrogations should be conducted on a regular basis, and recordings made available to victims of torture or ill-treatment and their lawyers and accepted in court proceedings.**

12. The Ministry of the Interior of the Republika Srpska sent a submission on recommendation 13 of the Committee against Torture on activities undertaken after ill-treatment found in police holding facilities of the Republika Srpska.

13. The Ministry of the Interior points to the fact that the Committee's reports contain findings that are of a general nature, which are not substantiated at all or are insufficiently substantiated. Thus, for example, on page 4 of concluding observations of the UN Committee Against Torture, adopted during the 62nd session (6 November–6 December 2017), paragraph 14, "Impunity for acts of torture and ill-treatment" states that "the Committee is concerned at reports that the authorities fail to undertake investigations into allegations of ill-treatment and at the extremely low number of resolved cases; only 2 cases were resolved formally out of 269 complaints filed between 2010 and 2013 in the Republika Srpska". Further, the request under number and date referred to above, on page 2, after point 13, states: "that the aforementioned recommendation of the Committee is contained in the report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to the State party from 29 September to 9 October 2015 indicating that detainees were routinely ill-treated or even tortured at the Republika Srpska police holding facilities".

14. In this connection, we note that the reply of the Republika Srpska Ministry of the Interior in the Report was as follows: "After examining the records kept by the Professional

Standards Unit, it has been established that in the period from 1 January 2010 to 30 September 2013, the Unit, i.e. the Inspectorate for Internal Audit, conducted internal proceedings to resolve 269 citizens' petitions concerning alleged ill-treatment and inhumane acts of police officers. Out of that number, 88 petitions were filed in 2010, 85 in 2011, 57 in 2012, and 39 petitions were filed in the first nine months of 2013, so it can be concluded that the number of these petitions declined in the reporting period".

15. Following the completion of the internal proceedings, the petitions were resolved and the following outcomes were approved by the Complaints and Petitions Office:

- 33 petitions were found well-grounded, after which disciplinary proceedings for determining disciplinary responsibility were instituted against 81 police officers;
- 5 petition allegations were found unconfirmed (established facts indicate that allegations of conduct and actions of officers were accurate, but the procedures were lawful, justified or in accordance with regulations);
- 150 petitions were assessed as unresolved (the investigation found that not enough facts were found on the basis of which the allegations/charges against officers could be confirmed or dismissed or they were assessed as unresolved until the end of investigations by the competent prosecutor's office);
- 60 petitions were found unfounded (established facts indicated that allegations of improper conduct of offices were untrue or that actions did not represent unlawful actions or misbehaviour);
- 2 petitions were informally resolved (the petitioner withdrew the allegations after interview and clarification by the police officer who received the petition);
- 19 petitions were not processed at all (due to the statute of limitations, or they did not involve any police officer, or that the allegations from the petition do not involve acts representing unlawful or unprofessional conduct or behaviour of police officer, etc.).

16. After establishing that 33 petitions were found well-grounded, disciplinary proceedings were initiated against 81 police officers. Out of that number, disciplinary proceedings involving 63 police officers were completed, while disciplinary proceedings involving 18 police officers are still pending.

17. Reviewing the outcomes of disciplinary proceedings against 63 police officers, the following disciplinary measures were imposed:

- Disciplinary measure of termination of employment was imposed on 1 police officer;
- Disciplinary measure of reduction of 30% of salary in duration of 3 months was imposed on 1 police officer;
- Disciplinary measure of reduction of 30% of salary in duration of 2 months was imposed on 3 police officers;
- Disciplinary measure of reduction of 30% of salary in duration of 1 month was imposed on 2 police officers;
- 40 police officers were released from disciplinary responsibility;
- Disciplinary proceedings against 11 police officers were suspended due to the statute of limitations for disciplinary processing;
- Disciplinary proceedings against five police officers were suspended due to dismissal of cases by the disciplinary prosecutor.

18. Bearing in mind the previously quoted reply of the Ministry of the Interior of the Republika Srpska, it is quite clear that the findings of the Committee do not arise from a real factual situation. In its first finding, it is obvious that there is a misunderstanding or misinterpretation of the concept of formally decided cases (situations where, before an investigation is conducted, police officers' conduct in the case in question is explained and arguments in their favour are given). In the second finding it is a statement that is

completely contrary to the statistical indicators of the Ministry (comparing the number of recorded petitions for alleged ill-treatment and the number of detainees/persons deprived of their liberty). In particular, we should add the fact that, during the investigation, allegations of ill-treatment have been found ill-grounded even in a majority of cases registered/reported.

19. Regarding the information on follow-up to recommendations contained in the concluding observations of the UN Committee against Torture (CAT) on the Sixth Periodic Report of BiH on the Implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, we inform you of the following.

Recommendation 13 (a)

20. The Minister of the Interior and the Director of the Police sent several instructions in the form of memoranda and dispatches pointing out that police torture and ill-treatment of the persons deprived of their liberty would not be tolerated, that it is necessary to rectify the situation in the premises holding persons deprived of their liberty in accordance with possibilities, that it is necessary to remove all articles that could be misused or cause a sense of vulnerability to the person deprived of liberty, that perpetrators – police officers and managers alike – would be held criminally responsible for their acts, that instructional checks would be carried out in all organizational units of the Ministry and the premises used to detain persons deprived of liberty, etc. In addition, at regular meetings, the Director of the Police, as well as other top officials of the Ministry, and the heads of lower police units continuously point to the need to comply with all laws and by-laws respecting police treatment of persons deprived of liberty and to the prohibition of abuse, torture or other forms of inhuman or degrading treatment by police officers.

Recommendation 13 (b)

21. The Service for Protection of Integrity and Legality of Police Work/organizational units of the Ministry responsible for dealing with specific cases receive and process cases or complaints alleging abuse, torture and other inhuman and degrading treatment by police officers, and this kind of cases are processed in cooperation with the competent prosecutor's office and in accordance with the Instructions by the Prosecutor's Office of the Republika Srpska, which regulates the organization and the manner in which prosecutors act in reported criminal offenses of abuse perpetrated by authorized and other police officials while discharging their tasks. The aforementioned Instructions were issued following the report of the European Committee for the Prevention of Torture, Inhuman and Degrading Treatment and Punishment for BiH dated 22 March 2013, and recommendations for the implementation of the European Convention for the Prevention of Torture and Degrading Treatment. Thus, in 2015, 58 cases were registered, processed and followed up, in 2016, there were 35 cases, and in 2017, there were 29 cases.

Recommendation 13 (c)

22. In 2016/2017, during the Council of Europe project titled Strengthening mechanisms for the protection of human rights of detainees and prisoners in BiH, the Guidelines for the treatment of persons deprived of liberty in prisons were prepared. On this occasion, the Council of Europe offered to conduct a training cycle in the Guidelines with the aim of accrediting the trainers, which offer was accepted and the training was held in 2017/2018, and a police officer of the Ministry of the Interior of the Republika Srpska was accredited. The Project Steering Board also approved an additional cycle of round tables with elements of training on human rights standards for the treatment of persons deprived of liberty in detention, as contained in the Guidelines, with the aim of further harmonization of operational procedures followed by police officers in BiH treating persons deprived of their liberty pursuant to the Guidelines. In this regard, in 2018 and early 2019, four courses of training will be held in Teslic, Banja Luka, Doboje and Zenica.

23. In order to harmonize the Guidelines on Treatment of Apprehended, Brought, Detained and Persons Deprived of Liberty as of 12 March 2015, based on the Guidelines, a Working Group was appointed to carry out the aforementioned task, and the Instructions for Treatment of Persons Deprived of Liberty were released on 22 June 2018.

24. Bearing in mind that the primary objective of the Project currently being implemented is the treatment of persons deprived of liberty and respect for European and international standards, and that the Guidelines, as a result of the work on the Project, are of a general character, after meeting with the project manager, the Ministry submitted a proposal for future cooperation to continue through a new project.

25. In order to achieve the greatest progress possible in this area, reviewing individual cases in the previous period, the competent service of the Ministry of the Interior did case studies and presented them to the police administrations. The presentations of particular cases was also a chance for both police officers and managers to conduct a common and comprehensive review and exchange experience in handling the particular cases. Bearing in mind that this is an activity that, due to its interactive character, has proved to be fully justified, it will continue more intensely in the forthcoming period.

26. Further, during police training and professional training at the Police Academy of the Ministry of the Interior of the Republika Srpska, the cadets have a course of Human Rights and Police Ethics, where they acquire necessary knowledge and create positive attitudes about respecting human rights in general, as well as the rights of persons deprived of their liberty. Further, cadets are trained to undertake police actions in accordance with principles of ethical conduct, and the following topics are covered in teaching units: Rights of Detained Persons and Persons Deprived of Liberty, the Code of Police Ethics, the European Police Code and Police Liability for Violations of Human Rights. There is module Police Powers and the Use of Force, where the cadets are trained to exercise police powers in accordance with laws and delegated legislation, while respecting the rights of detained persons and persons deprived of their liberty. The following topics are covered in teaching units: Principles of the Use of Force, Restrictions on the Use of Force, Reporting and Control of the Use of Force, Instructions for Treatment of Persons Deprived of Liberty, International Standards on the Use of Force by the Police, Instructions on Treatment of Apprehended, Brought, Detained and Persons Deprived of Liberty.

27. In addition, through various forms of professional development and during regular training, the mentioned matters are also addressed at seminars: Ethics of Police Officers, the Use of Force, Filing of Petitions and Conducting Interviews, Operational and Tactical Measures and Actions and Investigative Actions, Human Rights and Police Ethics, Policing Aspects and Criminalistics Aspects of Police Powers and the Tactics of Interrogation of Suspects.

28. In addition, in 2014, the Ministry organized a workshop on “Prevention of Torture and Inhuman Treatment of Persons Deprived of Liberty”, whose aim was to strengthen capacities and intensify activities to overcome the challenges identified in the BiH Progress Report and the Report of the European Committee for the Prevention of Torture.

Recommendation 13 (d)

29. In accordance with the Procurement Plan, the Ministry of the Interior of the Republika Srpska conducts procurement and installation of video surveillance in and on the facilities of the Ministry, and thereby in the rooms where individuals are detained. Further, the Video Surveillance Policy was adopted in Minister’s decision, providing for mandatory installation of video cameras in the rooms where individuals are detained. At the moment, there are some rooms of the Ministry intended for interrogation/examination of minors and they are equipped with appropriate equipment for image and sound transmission, while other premises in which police interrogations are conducted will be equipped depending on the financial situation of the Ministry.

Recommendation 19

19. **The Committee, recalling its general comment No. 3 (2013) on the implementation of article 14 by States parties, urges the State party to take all the necessary measures to enable victims of torture and ill-treatment, including victims of wartime sexual violence, to exercise their right to redress. In particular, it should take steps to:**
- (a) **Establish an effective reparation scheme at a national level to provide all forms of redress to victims of war crimes, including sexual violence, particularly by expediting the adoption of the Draft National Strategy on Transitional Justice and the Programme for Survivors of Conflict-related Sexual Violence;**
 - (b) **Develop and adopt a framework law that clearly defines criteria for obtaining the status of victims of war crimes, including sexual violence, and provides a set of specific rights and entitlements guaranteed to victims throughout the State party;**
 - (c) **Ensure that authorities at the entity level remove restrictive and discriminatory provisions in their legislation and policies relating to redress for civilian victims of war, including survivors of wartime sexual violence;**
 - (d) **Compile data, disaggregated by age, sex and ethnicity, on the number of victims in order to fully assess their needs, and to provide holistic rehabilitation services to victims without discrimination on account of their place of residence.**

Recommendation 19 (a)

30. Reparation/compensation for all victims of war torture in Bosnia and Herzegovina is governed by the 2017 Draft Law on the Rights of Victims of Torture of BiH covering camp prisoners, victims of sexual abuse and family of missing persons.

31. Since 2006, appointed working groups coordinated by the Ministry of Human Rights and Refugees of Bosnia and Herzegovina have drafted three versions of the Law on the Rights of Victims of Torture in Bosnia and Herzegovina, which sought to resolve the issue of reparation for all victims of war torture in a uniform manner.

32. The Draft Laws did not get necessary positive opinions in the procedure of gathering opinions according to the Rules of Procedure of the Council of Ministers of Bosnia and Herzegovina, for which reason they were not sent for consideration and determination of the proposal for the Law by the Council of Ministers of Bosnia and Herzegovina.

33. The last Draft Law on the Rights of Victims of Torture in Bosnia and Herzegovina was compiled in accordance with the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

34. The draft Law on the Rights of Victims of Torture in Bosnia and Herzegovina provides for the following rights to victims of torture: an explicit prohibition of discrimination against victims of torture, equal principles of treatment of victims of torture, recognition of status under equal conditions, protection in judicial and administrative proceedings, the right of victims of torture to just and impartial proceedings, the right to compensation under equal conditions, health rehabilitation and social support, public support to victims, guarantees of non-repetition, marking the place of sufferings, complete records of victims of torture and support to associations of victims of torture. These rights should reflect the severity of the injury and the damage suffered by the victims of torture.

35. The draft Law on the Rights of Victims of Torture in Bosnia and Herzegovina includes monetary compensation for pecuniary and non-pecuniary damage as well as other measures aimed at facilitating restitution, rehabilitation, satisfaction, restoration of dignity and reputation, and guarantees of non-repetition.

36. Further information on the fate of the Draft Law on the Rights of Victims of Torture is in the continuation of this Information under item (b).

37. The text of the Draft Transitional Justice Strategy (2013–2016) and the Action Plan for its implementation were drafted by the Ministry of Justice of Bosnia and Herzegovina. The information on the updated final working text of the Draft Transitional Justice Strategy was prepared, which has not yet been included on the agenda of the Council of Ministers of Bosnia and Herzegovina, according to the latest information from the Ministry of Justice of Bosnia and Herzegovina.

38. In the sixth periodic report of the authorities of Bosnia and Herzegovina, the Committee Against Torture was informed about a Proposal for the Programme for Survivors of Conflict-related Sexual Violence, Sexual Abuse and Torture and Their Families in Bosnia and Herzegovina (2013–2016), which was not adopted because it was not endorsed at all levels of government in Bosnia and Herzegovina. There is no update regarding revision or adoption of the Programme.

Recommendation 19 (b)

39. A recommendation on drafting the Law on the Rights of Victims of Torture in Bosnia and Herzegovina was also contained in the Committee's 19 November 2010 concluding observations (following the presentation of the periodic report by authorities of Bosnia and Herzegovina on fulfilment of obligations under UN Convention against Torture in October 2010).

40. The need for drafting the Law on the Rights of Victims of Torture in Bosnia and Herzegovina was also identified in the European Commission Progress Reports for BiH, 2014–2015 and 2016.

41. In accordance with the 2017 programme activities of the Council of Ministers of Bosnia and Herzegovina, the Ministry of Human Rights and Refugees has initiated activities to draft a Law on the Rights of Victims of Torture in Bosnia and Herzegovina in close cooperation with the Joint Commission on Human Rights of the Parliamentary Assembly of Bosnia and Herzegovina.

42. The Draft Law on the Rights of Victims of Torture was drafted by the Working Group appointed by the Decision of the Council of Ministers of Bosnia and Herzegovina at the 78th meeting held on 24 October 2016 and it was completed in September 2017. Representatives of the Republika Srpska did not participate in the Interdepartmental Working Group.

43. The Law on the Rights of Victims of Torture in Bosnia and Herzegovina was published on 20 November 2010, on the website of the Ministry of Human Rights and Refugees in order to have public consultations.

44. On 7 December 2017 the Law was sent to the Entity governments, the Brčko District of Bosnia and Herzegovina, the Legislative Office of the Council of Ministers of Bosnia and Herzegovina and the relevant ministries of the Council of Ministers of Bosnia and Herzegovina for opinion.

45. Positive opinions were given by: the Agency for Gender Equality of Bosnia and Herzegovina, the Directorate for European Integration of Bosnia and Herzegovina, the Agency for Personal Data Protection of Bosnia and Herzegovina, the Legislative Office of the BiH Council of Ministers, the Ministry of Justice of Bosnia and Herzegovina and the Government of the Federation of Bosnia and Herzegovina.

46. The Ministry of Human Rights and Refugees has also received an opinion from the Office of the Council of Europe, the Department for Combating Crime of the Directorate General for Human Rights and Rule of Law.

47. In an opinion of the Draft Law on the Rights of Victims of Torture in Bosnia and Herzegovina sent, the Ministry of Finance and Treasury of Bosnia and Herzegovina "points to the fact that the funds needed for the implementation of the law in question exceed the overall budgetary framework of the institutions of Bosnia and Herzegovina and that the Law was not endorsed by lower level authorities in Bosnia and Herzegovina, which are also required by the Law on Victims of Torture in Bosnia and Herzegovina to secure the necessary financial resources". For these reasons, the Ministry of Finance and Treasury of

Bosnia and Herzegovina cannot endorse the financial aspect of the Draft Law on the Rights of Victims of Torture in Bosnia and Herzegovina.

48. The Brčko District of Bosnia and Herzegovina did not give an opinion of the Draft Law on the Rights of Victims of Torture in Bosnia and Herzegovina.

49. The Ministry of Labour, Disability and Veterans Protection of the Republika Srpska gave a negative opinion.

50. In accordance with the Rules of Procedure of the Council of Ministers of Bosnia and Herzegovina, due to the negative opinions, the Draft Law on the Rights of Victims of Torture of Bosnia and Herzegovina was not sent to the Council of Ministers of Bosnia and Herzegovina for consideration and adoption as a Bill.

51. Information on follow-up to recommendation 19 (c) and (d) was submitted by the Ministry of Labour and Social Policy of the Federation of Bosnia and Herzegovina and the Ministry of Labour, Disability and Veterans Protection of the Republika Srpska.

52. In the Federation of Bosnia and Herzegovina, benefits paid to civilian victims of war, which can be considered as a type of compensation to victims, are governed by the Law on the Principles of Social Protection, Protection of Civilian Victims of War and Families with Children (“Official Gazette of the Federation of BiH” Nos. 36/99, 54/04, 39/06, 14/09, 45/16 and 40/18), (hereinafter: the Law). Bearing in mind that, according to the Constitution of the Federation of Bosnia and Herzegovina, social protection is a joint responsibility of the Federation and the Cantons, the 1999 Law prescribed the fundamental rights of civilian victims of war, which were to be funded from the cantonal budget. Given a lot of cantons failed to fulfil this obligation, under the pretext that they did not have the funds, the Federation of Bosnia and Herzegovina adopted amendments to the Law in 2006, which provides that the basic rights of civilian victims of war are funded participatory in a way that the Federation and the cantons provide 70% and 30% of necessary funds, respectively. In this way, discrimination has been overcome and equal opportunities has been provided in exercising the rights of civilian victims of war throughout the Federation of Bosnia and Herzegovina.

53. The amendments have established a new group of beneficiaries called “Special category of civilian victims of war”, which included victims who survived sexual abuse and rape during the war in Bosnia and Herzegovina. For this group of civilian victims of war, the right to a benefit is called “monthly personal cash receipt (personal allowance)”. The amount of compensation paid to this group of beneficiaries is equal to the amount of compensation paid to civilian victims of war of the first group (100% impairment of body function).

54. Considering that in practice it has been shown that the procedure for determining someone’s special category of civilian victims of war status cannot be the same as for other civilian victims of war, for which bodily impairment as a consequence of sufferings in the war and the circumstances surrounding the war is determined in a medical assessment, new amendments to the Law, which established a special Commission as an independent expert body, were passed in 2016. The Commission finds facts in administrative proceedings and, on the basis of the facts, gives an opinion on whether the applicant was a victim of sexual abuse and rape. Efforts were made to ensure in this way that victims of sexual abuse and rape get the status and rights in an appropriate, simplified procedure without unnecessary retraumatization.

55. We can conclude that with the amendments to the Law and establishing an appropriate practice of its implementation, discrimination in exercising the rights of civilian victims of war in the Federation of Bosnia and Herzegovina has been overcome and a sensitive approach to the protection of victims of sexual abuse and rape has been ensured.

56. The Federation Ministry of Labour and Social Policy has SOTAC database, which also includes data on civilian victims of war who have exercised some of benefits under the Law. The database makes it possible to generate information by gender, age, place of residence and type of benefits. However, until now we have not kept data on the ethnicity of civilian victims of war, because such data was not considered necessary in the implementation of our protection and support programmes for this group of citizens. The

recommendation of the Committee concerning the collection and management of data by ethnicity will be taken into account in our future improvements in approaches and practices in this field.

57. The Ministry of Labour, Disability and Veterans Protection of the Republika Srpska has delivered information about issues of civilian victims of war or victims of war torture in the Republika Srpska.

58. The Republika Srpska regulated the area of victims of war-related torture by a special law – the Law on the Protection of Victims of War Torture (“Official Gazette of the Republika Srpska” No. 90/18), which came into force on 5 October 2018. The law provides a definition of the victim of war torture, defines term torture in accordance with relevant international documents, establishes conditions and procedure for recognition of status and rights, and regulates other issues of importance for recognition of the status and rights of victims of torture.

59. Before the entry into force, the Law underwent constitutional and legal control before the Constitutional Court of the Republika Srpska since, after the adoption of the Law in the National Assembly of the Republika Srpska on 21 June 2018, the Bosniak Caucus at the House of Peoples of the Republika Srpska initiated proceedings for the protection of vital national interest that were completed before the Constitutional Court of the Republika Srpska in the manner that amendments to the Law were not accepted, which means the possibility of the Law containing discriminatory and restrictive provisions was excluded. Therefore, the provisions of the Law on the Protection of Victims of War Torture do not contain national determinations and apply equally to every citizen of the Republika Srpska and ensure the equal status of all applicants for the status of victims of war torture and rights deriving from that status.

60. In accordance with the Law, the adoption of delegated legislation – the Rulebook on the Unique Registration of the Beneficiaries of the Rights, on the basis of which a register of victims having a decision of the competent body on the status of victim will be established, on the basis of which register the data will be segregated by age, sex and ethnicity.

61. As for the adoption of a “framework” law at the level of BiH, there is no constitutional grounds provided for by the BiH Constitution, since the competence for passing a law governing the area of civilian victims of war is not established by the Constitution of BiH. Article III of the Constitution of Bosnia and Herzegovina defines competences of the institutions of BiH and the Entities and the relations between the institutions of BiH and the Entities and specifically enumerates competences of the institutions of BiH that do not include the area of victims of torture or civilian victims of war.

62. Regarding the development of a transitional justice strategy that aims to ensure reparations to victims of torture, among other issues, we note that the Republika Srpska has achieved this goal through the adoption of a special law on victims of war torture – the Law on the Protection of Victims of War Torture.

Recommendation 21 (b)

The State party should take all the necessary measures to:

- (b) Ensure that (i) the Ombudsman has sufficient financial and human resources to fully carry out its mandate in an effective and independent manner, in full conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), (ii) the recommendations by the Office of the Ombudsman are effectively implemented, and (iii) a national preventive mechanism is promptly established.**

63. The Ministry of Human Rights and Refugees coordinated activities on drafting the Law on Amendments to the Law on Ombudsman for Human Rights of Bosnia and Herzegovina, adopted by the Council of Ministers of Bosnia and Herzegovina on 5

September 2017 as a Bill. Public consultations and amendments to the Law were published on the website of the Ministry of Human Rights and Refugees on 16 August 2017. During the public consultations there were no objections, suggestions or comments to the published Law.

64. The amendments to the Law on Ombudsman for Human Bosnia and Herzegovina included an amendment concerning the role of the Ombudsperson in the promotion of human rights, the mandate of the Ombudsman was extended with a role of national preventive mechanism, the financial independence of the Ombudsman was ensured. The amendments to the Law enabled the strengthening of the cooperation of the Ombudsman institution with the civil society, the academic community and international organizations in and outside of Bosnia and Herzegovina.

65. Amendments to the Law on the Ombudsman for Human Rights were brought in line with the Paris Principles and recommendations of the Venice Commission

66. The Law on Amendments to the Law on Ombudsman for Human Rights of Bosnia and Herzegovina received positive opinions from the Legislative and Legal Department of the Secretariat of the Parliamentary Assembly of Bosnia and Herzegovina and the Constitutional and Legal Commission of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina.

67. At the session of the House of Representatives of the Parliamentary Assembly of BiH held on 17 January 2017, the first reading of the amendments to the Law on Ombudsman for Human Rights of Bosnia and Herzegovina was completed. The amendment phase of the Draft Law on Amendments to the Law on Ombudsman for Human Rights of Bosnia and Herzegovina is underway.

68. In light of the above, we propose that, after considering the information on the implementation of Recommendations 13–19 and 21 (b) of the concluding observations of the UN Committee Against Torture (CAT) on the Sixth Periodic Report of Bosnia and Herzegovina on the Implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Council of Ministers of Bosnia and Herzegovina should adopt the following.

Conclusions

69. This Information Paper on the implementation of Recommendations 13, 19 and 21 (b) of the concluding observations of the UN Committee Against Torture (CAT) on the Sixth Periodic Report of Bosnia and Herzegovina on the Implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has been adopted.

70. The Ministry of Human Rights and Refugees of Bosnia and Herzegovina is obliged to inform the Committee against Torture about its implementation plans of some or all of the recommendations from the concluding observations in the forthcoming reporting period.

71. The Ministry of Human Rights and Refugees of Bosnia and Herzegovina is responsible for providing information on the implementation of Recommendations 13, 19 and 21 (b) of the concluding observations of the UN Committee Against Torture (CAT) on the Sixth Periodic Report of Bosnia and Herzegovina on the Implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the Committee against Torture.
