



**International Convention on the  
Protection of the Rights of  
All Migrant Workers and  
Members of Their Families**

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**Committee on the Protection of the Rights of All  
Migrant Workers and Members of Their Families**  
Seventeenth session  
10–14 September 2012

**Consideration of reports submitted by States parties under  
article 73 of the Convention**

**List of issues (CMW/C/BIH/Q/2) to be taken up in connection with the  
consideration of the second periodic report of Bosnia and Herzegovina  
(CMW/C/BIH/2)**

**Addendum**

**Written replies of Bosnia and Herzegovina<sup>\*</sup>**

[16 July 2012]

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<sup>\*</sup> In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited.

## **Introduction**

1. The United Nations High Commissioner for Human Rights (OHCHR) had informed the Ministry of Human Rights and Refugees of Bosnia and Herzegovina that the second periodic report of Bosnia and Herzegovina (CMW/C/BIH/2) on the Convention on the Rights of All Migrant Workers and Members of Their Families, in accordance with Article 73 of said Convention, would be discussed at the seventeenth session of the Committee, to be held at the United Nations Office in Geneva from 10 to 14 September 2012. Consideration of the second report of Bosnia and Herzegovina is scheduled for Tuesday 11 September (15:00 to 18:00) and Wednesday 12 September (10:00 to 13:00). At the request of the Secretary-General, Bosnia and Herzegovina has confirmed its participation in the presentation of its second periodic report as set out above. During consideration of the second periodic report of Bosnia and Herzegovina, which the Committee adopted during its sixteenth session, held from 16 to 27 April 2012, the Committee prepared the list of issues and additional questions to which Bosnia and Herzegovina will reply.

## **Part I**

### **Replies to issues raised in part I, paragraph 1, of the list of issues (CMW/C/BIH/Q/2)**

2. In Bosnia and Herzegovina, there exists the common practice of treaty reporting and it includes the broadest range of participants, ranging from representatives of institutions organized at the entity levels and Brčko District, to the experts employed in institutions at the state level of Bosnia and Herzegovina. During the process of preparation of the reports, significant contribution is given to the NGOs inside of Bosnia and Herzegovina and also to those outside of Bosnia and Herzegovina. In general, the Ministry of Human Rights and Refugees has been open to cooperation with the NGO sector when it comes to the participation of NGOs in preparation of the Second Periodic Report and monitoring of the implementation of the recommendations of the competent United Nations Committee on the issues of human rights of all migrant workers and their families, given after considering the initial report of Bosnia and Herzegovina on this subject and when designing the draft Report. Cooperation is usually realized by organizing the constructive public debates that have contributed to the quality of text reports.

3. The Ombudsman for Human Rights of Bosnia and Herzegovina also participated in the activities of the preparation and implementation of activities for the protection of human rights of migrant workers. The Ombudsman was previously involved in monitoring the implementation of recommendations and gave his recommendations in which he pointed out the violations of the rights of migrant workers - especially seasonal workers from Bosnia and Herzegovina, who perform seasonal jobs in the border areas of Bosnia and Herzegovina. In his regular reporting, the Ombudsman for Human Rights in Bosnia and Herzegovina pointed out the drastic violation of human rights of seasonal workers. He introduced the Ministry of Human Right and Refugees with this reports. Seasonal workers, according to evaluations of the Ombudsman for Human Rights of Bosnia and Herzegovina, are working illegally in unhygienic conditions, low wages, with no social and health insurance, etc., and usually the employer do not pay them for their work.

4. Regarding the Agreement on Cooperation between the Council of Ministers of Bosnia and Herzegovina and the NGO sector in 2007 (CMW/C/BiH/95), the Ministry of Human Rights and Refugees has no numerical indicators on the specific actions that non-

governmental organizations deal with in the process of monitoring the implementation of the Convention. According to these matters, the Ministry of Human Rights and Refugees has no mandate and no practice to interfere and to control the work of NGOs. The fact is that the work of NGOs is autonomous and independent. Otherwise, non-governmental organizations, according to their human and professional capacities, can freely participate and regularly provide valuable technical support and assistance to the government sector, depending on the topics under consideration.

### **Replies to issues raised in part I, paragraph 2, of the list of issues**

5. Concluding recommendations of the UN Committee on the Rights of Migrant Workers and Members of Their Families, after adoption of the Initial Report of Bosnia and Herzegovina on the Rights of All Migrant Workers and Members of Their Families, are discussed at the meeting of the Council of Ministers and then it was submitted to the governments of entities and the Brcko District of Bosnia and Herzegovina and to other relevant institutions and organizations, with an assignment that each institution/organization within its jurisdiction approach to their implementation. Unfortunately, at this time, the Ministry of Human Rights and Refugees has no precise information regarding the organization of workshops, conferences, roundtables and similar events in cooperation with nongovernmental organizations for the implementation of the recommendations. Basically, it turned out good practice the establishment of broad working groups, involving representatives of relevant institutions at different levels of organization and a number of NGOs working through organized meetings, workshops, public hearings, etc., to contribute to the implementation of the mentioned Convention.

### **Replies to the issues raised in part I, paragraph 3, of the list of issues**

6. The State has conducted an assessment of the Strategy on Immigration and Asylum and the Action Plan for the period 2008 – 2011, and has prepared a new Strategy on Migration and Asylum and an Action Plan for the period 2012-2015. At the beginning of 2012 in accordance with Article 31 of the Rules of Procedure of the Council of Ministers these documents were sent for the opinion before the competent institutions. In the process of development of the Strategy were actively involved: the Ministry of Security of Bosnia and Herzegovina - Sector for Immigration and Asylum Sector, Border Police of Bosnia and Herzegovina, Department for Foreigners' Affairs, State Investigation and Protection Agency (SIPA), Ministry of Foreign Affairs and Ministry of Human Rights and Refugees Bosnia and Herzegovina.

7. In the process of consultation on the draft strategy, the opinions and suggestions gave all relevant institutions and international organizations which in its jurisdiction and mandate have the issue of migration and asylum. EU Delegation in Bosnia and Herzegovina and OHR give the positive opinion on the draft of the Strategy.

8. It is planned that the Strategy will be implemented through eight goals. The amount of 20,031,710.00 BAM is necessary funding for the implementation of the Strategy. The proposed Strategy on migration and asylum policy and Action Plan for the period 2012-2015 was submitted to the Council of Ministers for consideration and it was adopted on 26 June 2012.

9. We want to emphasize that by signing of the Stabilisation and Association Agreement and the acceptance of the roadmap for visa liberalization for Bosnia and Herzegovina, our country has, inter alia, undertook to establish a coordinated policy in the field of immigration and asylum, in accordance with EU standards, but also in relation to

the actual migration trends in Bosnia and Herzegovina. Taking over the responsibility for the enforcement of immigration and asylum policy, resulted in the adoption of the 2008-2011 Immigration and Asylum Strategy and Action Plan, which the Council of Ministers of Bosnia and Herzegovina adopted in late 2008. Following the adoption of strategic documents, it is access to the implementation, which included the creation of conditions for establishing a body that is responsible for the coordination of activities of different authorities in the field of migration and asylum, establishment of the mechanisms for cooperation and creation of guidelines for a comprehensive policy in the mentioned field.

10. The Council of Ministers issued a decision on the appointment of the Coordinating Body to Monitor the Implementation of the Strategy on Immigration and Asylum with Action Plan, 2008–2011 (hereinafter referred to as Coordination Body). Members of the Coordinating Body are the representatives of relevant institutions.

11. The Immigration Sector provides all necessary technical support and prepares the organization of meetings of the Coordination Body. Coordinating body reviews progress in relation to activities that are defined by the Action Plan and the Strategy, monitor problems and risks, analysis of the results, problems and risks and creates the proposals on security measures to the minister in the field of immigration policy.

12. The Implementation of the Strategy and Action Plan in the field of immigration and asylum in the four-year period included a total of 160 activities. Out of 160 activities listed in the Action Plan in the field of immigration and asylum policy for the period from 2008 to 2011, 28 activities are planned to end in 2008, 25 activities are planned to end in 2009, 6 activities are planned to end in 2010 and 5 activities are planned for implementation in 2011 while within the Action Plan are implemented a total of 96 activities.

13. A report on the work of the Coordination Body, as of 31 December 2011, is designed to contain information on the activities realized for the entire four-year period, arranged chronologically by the year in which activities are implemented, and thus provides integrated monitoring and review of process of implementing the activities envisaged in the Strategy on Immigration and Asylum with Action Plan, 2008 – 2011. Report of the work of the Coordinating body was adopted at the 7th session of the Council of Ministers of Bosnia and Herzegovina on 10 May 2012.

14. The BiH Migration Profile for the 2011 was adopted at the 7th session of the Council of Ministers of Bosnia and Herzegovina. With a view to introducing and using monitoring mechanisms for migration flows and updating the BiH Migration Profiles on a yearly base, instruments for collection and exchange of statistics have been formalized through a Council of Ministers' decision on its 99th session, dated 24 September 2009 which obliges relevant institutions and agencies to submit data to the Ministry of Security of Bosnia and Herzegovina each year, in accordance with the parameters required for Migration Profiles and monitoring of migration flows in Bosnia and Herzegovina. Drafting the BiH Migration Profile, means fulfilling of obligations in addition to fulfilling the obligations under international instruments (conventions, treaties, protocols, EU Directives etc.) and commitments in the Roadmap for Visa Regime Liberalization, which the European Commission presented to the authorities of Bosnia and Herzegovina in June 2008 and which relates to the "migration management". Details on the Report on work of the Coordination Body to Monitor the Implementation of the Strategy on Immigration and Asylum with Action Plan, 2008 – 2011 (which is enclosed and publicly announced on the official website of the Ministry of Security of Bosnia and Herzegovina: [www.msb.gov.ba](http://www.msb.gov.ba)).

### Replies to the issues raised in part I, paragraph 4, of the list of issues

15. Besides the training centers for judges and prosecutors in the entities listed in the Second Periodic Report of Bosnia and Herzegovina, the essence of the Convention and its application are presented in other operating environments that are more directly concerned with issues of migration movements, such as the Border Police, Department for Foreigners, sectors in the Ministry of Security of Bosnia and Herzegovina, the competent authorities of the Entities and Brcko District of Bosnia and Herzegovina, etc. Training is conducted for staff and officers working on migration issues including social workers, police officers and other employees who work in this field. Continuously are presented the current subjects relating to the exercise of the rights of foreigners in terms of administrative and judicial remedies (appeals, complaints), in accordance with the European regulations and standards with emphasis on the family reunification, education and employment, issues of protection of human rights under the European Convention on Human Rights and Fundamental Freedoms, the themes of domestic legislation on the subject of "labor law", conventions of the ILO, etc.

16. Otherwise, concrete, general and detailed information on their training, the realization of the planned training can be found on the website of the competent institutions of Bosnia and Herzegovina.

### Replies to the issues raised in part I, paragraph 5, of the list of issues

17. Information and data relating to transit migration patterns (type of the transit visa A and B in particular),

#### Visas issued to the DCMS:

<i>Year</i>	<i>TOTAL</i>	<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>
2008	10.139	-	-	-	-
2009	9.284	1	138	8.733	412
2010	9.623	1	27	9.229	366
2011	11.126	0	19	10.702	405

#### Visas issued on the border:

<i>Year</i>	<i>TOTAL</i>	<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>F</i>
2008	684	-	-	276	-	408
2009	345	-	9	336	-	-
2010	327	-	-	327	-	-
2011	248	-	1	247	-	-

Statistics processed in the BiH Migration Profiles, in which are included the data from the ISM system (Information System of Migration) and the Ministry of Foreign Affairs.

### Replies to the issues raised in part I, paragraph 6, of the list of issues

18. According to the available data, in 2010 and 2011, the number of detected illegal crossing at the state border of Bosnia and Herzegovina amounted to 646 persons. In 2010, that number was 322, and in 2011, 324. This means that the number of illegal crossings of

migrants during these two years was almost identical. The most illegal crossings related to the BiH citizens (47%). When it comes to illegal aliens crossing, the largest number came from the neighboring countries of Serbia, Croatia, Montenegro, Afghanistan and Palestine.

19. The Border Police information are showing that the number of illegal crossings (entry and exit) registered outside of the crossing the border is increased. There was a number of illegal crossings at international airports with the passport of another person or with false passports.

20. Indicators presented, as well as comparative analysis contained in the BiH Migration Profile for 2011 point out the good results in this area in the past two years, and it can be concluded that this is the result of the activities of the Border Police of Bosnia and Herzegovina on prevention of illegal immigration.

### **Replies to the issues raised in part I, paragraph 7, of the list of issues**

21. Entry or stay of migrant workers in an irregular way in Bosnia and Herzegovina is considered as misdemeanor offense, while smuggling and trafficking are treated as a criminal offense. In Bosnia and Herzegovina are taken certain measures for discovering the illegal stays. These measures includes: cancellation or temporary residence visa, cancellation of permanent resident, termination or temporary residence visa with expulsion, the decision on expulsion, putting foreigners under surveillance and forced expulsion of foreigners from Bosnia and Herzegovina.

22. According to the latest report of the Border Police of Bosnia and Herzegovina 324 of foreigners are discovered in the illegal crossing of state borders, as well as in attempt to transit (entry and exit). Out of this number 203 persons were discovered during the illegal entry in Bosnia and Herzegovina, while at the illegal exit from Bosnia and Herzegovina were discovered 121 persons. During the 2011 was issued 248 visas on the border crossings.

23. When it comes to trafficking in persons, to the competent prosecutor's office was filed 14 official reports of trafficking of persons for 14 criminal offenses (Art. 189 of CC BiH), by which was reported a total of 31 persons of which 5 (five) of them are foreign nationals.

### **Replies to the issues raised in part I, paragraph 8 of the list of issues**

24. The Ombudsman for Human Rights of Bosnia and Herzegovina is an independent institution that deals with the protection of the rights of individuals and legal entities in accordance with the BiH Constitution, international treaties and the Law on Ombudsman for Human Rights in Bosnia and Herzegovina. Institution consists of three ombudsmen appointed by the Parliamentary Assembly of Bosnia and Herzegovina. In addition to the offices in Sarajevo, this institution has five (5) Offices (Banja Luka, Brcko, Mostar, Sarajevo and Livno), which are located in major cities of Bosnia and Herzegovina.

25. The role of the Ombudsman as an institution is to deal with subjects relating to the operation or the violation of human rights committed by any authority in Bosnia and Herzegovina, its Entities and Brcko District. If the Ombudsman's institution finds a violation of law, then it issues the recommendations to the competent authorities, in order to take measures to redress human rights violations or poor functioning of the administration.

26. Because of the fact that this institution is an independent and autonomous in its work, it seeks to protect any natural or legal person, regardless of area or topic. Of course,

in this case, the subject of activity of the Ombudsman for Human Rights in Bosnia and Herzegovina is related to the migrant workers and their families. It is clear from the report of this institution regarding the implementation of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which indicates a more consistent provision of basic human rights, as provided in Articles 2,3,4,5, 8, 33 and 56 of the Convention. Regarding the issues of implementation of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, this institution has given a statement about the conditions of the immigration center where foreigners are staying under control, with emphasis that they must take additional measures and efforts to improve the overall condition of the users of the Centre in accordance with international standards.

27. Work of the institution of Ombudsman for Human Rights in Bosnia and Herzegovina is financed from the budget of Bosnia and Herzegovina. However, due to increasing need for additional funding, the proposal of the institution, in accordance with human resources, financial needs and legal procedure, we expect the additional financial support from the budget of Bosnia and Herzegovina.

### **Replies to the issues raised in part I, paragraph 9, of the list of issues**

28. Although, with the Articles 76 and 77 the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and paragraph 14 of the relevant UN Committee, Bosnia and Herzegovina was encouraged to consider of making the declaration prescribed in the above mentioned articles of the Convention to declare that it „recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Convention.“ Bosnia and Herzegovina has not yet taken steps to make such declarations.

## **Part II**

### **Replies to the issues raised in part II, paragraph 10, of the list of issues**

29. Law on Prohibition of Discrimination of Bosnia and Herzegovina came into effect in 2009. This Law provides a framework for implementation of equal rights and opportunities to all persons in BiH and defines a system of protection from discrimination. Discrimination, in terms of this Law, is every different treatment including every exclusion, limitation or preference based on real or assumed features towards any person or group of persons on grounds of their race, skin colour, language, religion, ethnic affiliation, national or social origin, connection to a national minority, political or any other persuasion, property, membership in trade union or any other association, education, social status and sex, sexual expression or sexual orientation, and every other circumstance with a purpose or a consequence to disable or endanger recognition, enjoyment or realization, of rights and freedoms in all areas of public life.

30. The law protects the rights of all BiH citizens and persons which on various legal grounds reside and work in Bosnia: labor rights, the rights to education, health and social protection, the right to conduct business and public services, etc. The rights of migrant workers and their families are more fully defined in the Law on Immigration and Asylum, which regulate the conditions and procedure for the entry and stay of aliens in the territory of Bosnia and Herzegovina, and to all persons who reside on different basis and work in BiH provides an equal rights and opportunities and thereby create the conditions for

protection from any form of discrimination. so far we have no information about any kind of discrimination against migrant workers and members of their families.

### **Replies to the issues raised in part II, paragraph 11, of the list of issues**

31. In the reporting period (in 2009) was a total of 239 appeals on the first instance decisions of the Service for Foreigners and Border Police of Bosnia and Herzegovina adopted in accordance with the Law on Movement and Stay of Aliens and Asylum, of which 233 complaints were resolved. Six of them remained unresolved. Out of the total number of received complaints, 78 complaints are relating to proceedings initiated at the request of the parties and 161 are relating to the appeal proceedings initiated *ex officio*. Of the total number of resolved complaints, 72 complaints are relating to the actions initiated at the request of the parties, and 161 relating to the complaints proceedings initiated *ex officio*. Complaints relating to the proceedings initiated at the request of the parties (72) were resolved and 53 appeals were rejected, one complaint was dismissed and 18 complaints were adopted. Complaints relating to proceedings initiated *ex officio* (161) are resolved so that 86 complaints were rejected, four complaints were dismissed, 27 complaints were adopted and 44 complaints relating to the supervision of the completion of official records were resolved.

32. Cases relating to the surveillance are not resolved because of the short term to resolve it (24 hours) and after it comes a period of 24 hours to initiate an administrative dispute before the Court of Bosnia and Herzegovina who is obliged to pass the decision within the next 3 days, so these case are not resolved by the adoption of the administrative act. Due to a lack of resolution of complaints within the legally prescribed period, the party has the right to initiate administrative proceedings as if the complaint is denied, like these complaints (44) in the total sum shown as rejected. Sorted by the way of resolution, 183 complaints were rejected, 45 complaints were adopted and five were dismissed.

#### **According to the first instance decisions, complaints are resolved as follows:**

<i>Complaints</i>	<i>Refused</i>	<i>Adopted</i>	<i>Dismissed</i>	<i>Official note</i>
Deportation	39	14	3	-
Temporary residence	47	15	-	-
Supervision	7	-	1	44
Cancellation of temporary residence	17	8	-	-
Cancellation of residence by deportation	15	1	-	-
Permanent residence	7	3	-	-
Refusal of entry	3	1	-	-
The costs of returning and putting under supervision	1	-	-	-
The conclusion authorizing the execution	1	-	-	-
Suspension of a first instance decision	1	1	-	-
Changing the decision to issue the stickers	-	1	-	-
Returning to the previous condition	1	-	-	-
Incompetence	-	-	1	-
<b>Total :</b>	<b>139</b>	<b>44</b>	<b>5</b>	<b>44</b>



**Sorted by field centres the complaints are resolved as follows:**

<i>Field center</i>	<i>Number of cases</i>
Zenica	43
Tuzla	39
Sarajevo	37
Service for Foreigners' Affairs	35
Mostar	20
Banja Luka	16
Bihać	11
Brčko	11
Travnik	7
Bijeljina	6
Livno	2
Ljubuški	2
Istočno Sarajevo	1
Orašje	1
TOTAL	231
The Border Police of Bosnia and Herzegovina	8
<b>Total:</b>	<b>239</b>

33. As for solving the new proceedings, deciding on the instructions of the Court of Bosnia and Herzegovina it was issued a decision on rejecting the first-instance decision and the case was returned to the new proceeding. It is a continuous activity.

34. Regarding the decision of the Court of Bosnia and Herzegovina, it is important to emphasize that the Court in 2009 issued 29 judgments, of which 22 complaints were rejected, and seven of them were adopted. In relation to the proceedings initiated at the request of the parties, the Court issued a 7 judgments of which three complaints were dismissed and four were adopted. Actions taken in connection to the procedures initiated *ex officio*, the Court rendered 22 judgments (22 claims were rejected). Regarding the requests for reconsideration of the decision, the Court of Bosnia and Herzegovina issued five decisions, of which one is in the process at the request of the parties (the proposal was rejected), and the rest four are in the *ex officio* proceedings (4 proposals were rejected).

35. In the reporting period, at the request of the Court of Bosnia and Herzegovina, it was delivered 35 responses to the complaints by an administrative dispute and six responses to a request for the review of the judicial decision; this is an ongoing activity.

36. In the reporting period, at the request of the Constitutional Court of Bosnia and Herzegovina, three responses to the appeal are given; this is an ongoing activity.

37. Administrative procedures (solution on complaints, responds to the lawsuit to the Court of Bosnia and Herzegovina and answers to the appeal to the Constitutional Court of Bosnia and Herzegovina), in 2010.

38. In the reporting period (in 2010) was a total of 225 appeals on the first instance decisions of the Service for Foreigners and Border Police of Bosnia and Herzegovina adopted in accordance with the Law on Movement and Stay of Aliens and Asylum, of which 223 complaints were resolved. Two of them are still unresolved. Out of the total

number of received complaints 70 complaints are relating to proceedings initiated at the request of the parties, and 155 are complaints relating to proceedings initiated *ex officio*. Out of the total number of resolved complaints, 69 complaints are relating to actions initiated at the request of the parties, and 154 complaints are relating to proceedings initiated *ex officio*.

**According to the legal basis of adopted first instance decisions, the complaints are resolved as follows:**

<i>Complaints</i>	<i>Refused</i>	<i>Adopted</i>	<i>Dismissed</i>	<i>Suspension of proceedings on appeal</i>	<i>Forwarded to the jurisdiction of another body</i>	<b>Σ</b>
Deportation	46	18	-	-	1	65
Temporary residence	41	19	-	1	-	61
Supervision	53	-	1	-	-	54
Cancellation of temporary residence	9	7	-	-	-	16
Cancellation of residence by deportation	5	1	-	-	-	6
Permanent residence	4	-	-	-	-	4
Refusal of entry	6	-	-	-	-	6
The costs of returning and putting under supervision	-	-	-	-	-	-
The conclusion authorizing the execution	1	1	-	-	-	2
Suspension of a first instance decision	3	-	-	-	-	3
Changing the decision to issue the stickers	1	-	-	-	-	1
Returning to the previous condition	-	-	-	-	-	-
Conclusion on correction errors	1	-	-	-	-	1
The cancellation of visa-free stay	1	-	-	-	-	1
Cancellation of permanent residence	2	-	-	-	-	2
Cancellation of visas to deportation	1	-	-	-	-	1
<b>Total:</b>	<b>174</b>	<b>46</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>223</b>

**Sorted by field centres, the complaints are received as follows:**

<i>Field center</i>	<i>Number of cases</i>
Service for Foreigners' Affairs	49
Sarajevo	37
Mostar	33
Tuzla	26

<i>Field center</i>	<i>Number of cases</i>
Zenica	25
Banja Luka	17
Bihać	10
Brčko	10
Travnik	4
Ljubuški	4
Bijeljina	3
Orašje	1
Livno	0
Istočno Sarajevo	0
Total field centres :	219
The Border Police of Bosnia and Herzegovina	6
<b>Total:</b>	<b>225</b>

39. As for solving the new proceedings, deciding on the instructions of the Court of Bosnia and Herzegovina it was issued a decision on rejecting the first-instance decision and the case was returned to the new proceeding. It is a continuous activity.

40. Regarding the decision of the Court it is important to emphasize that the Court in 2010 issued a 71 judgments of which 26 complaints were rejected, 12 complaints had been adopted, and three judgements were dismissed. In relation to the proceedings initiated at the request of the parties, the Court rendered 16 judgments, of which 9 complaints were rejected, and 7 were adopted. Actions taken in connection procedures initiated *ex officio*, the Court rendered 56 judgments (of which, three lawsuits were dismissed, 47 claims were refused, and 5 were adopted). Requests for reconsideration of the Court decision was issued for four decisions, one of which is in the process at the request of the parties (the proposal was rejected), and three in the *ex officio* proceedings (2 proposals were rejected, and one suggestion was accepted).

41. In the reporting period, at the request of the Court, it was delivered 65 responses to the complaints on an administrative dispute, and three responses to the request for review of the court decisions; this is a continuous activity.

42. In the reporting period, at the request of the Constitutional Court, it was delivered 6 responses to the appeal; this is a continuous activity.

43. Administrative procedures (solution on complaints, responds to the lawsuit to the Court of Bosnia and Herzegovina and answers to the appeal to the Constitutional Court of Bosnia and Herzegovina), in 2011.

44. Between 1 January 2011 and 31 December 2011, there were 167 complaints in the procedure of which in 2011 were 165 and two of them were transferred from 2010. All complaints were resolved during the reporting period, and out of this number:

- 40 complaints are relating to actions initiated at the request of the parties,
- 127 complaints are relating to proceedings initiated *ex officio*.

45. Complaints relating to proceedings initiated at the request of the parties (40) are resolved:

- 28 complaints rejected

- one appeal is dismissed and
  - 11 complaints had been adopted.
46. Complaints relating to proceedings initiated *ex officio* (127) are resolved:
- 112 complaints were rejected,
  - one appeal is dismissed and
  - 14 complaints had been adopted.

**According to the legal basis of the first instance decisions, appeals are resolved as follows:**

<i>Complaints</i>	<i>Refused</i>	<i>Adopted</i>	<i>Dismissed</i>	<i>Suspension of proceedings on appeal</i>	<i>Forwarded to the jurisdiction of another body</i>	<b>Σ</b>
Deportation	35	8	-	-	-	43
Temporary residence	24	10	1	-	-	35
Supervision	59	-	1	-	-	60
Cancellation of temporary residence	4	2	-	-	-	6
Cancellation of residence by deportation	7	2	-	-	-	9
Permanent residence	2	1	-	-	-	3
Refusal of entry	-	-	-	-	-	-
The costs of returning and putting under supervision	1	1	-	-	-	2
The conclusion authorizing the execution	1	-	-	-	-	1
Suspension of a first instance decision	1	-	-	-	-	1
Changing the decision to issue the stickers	1	-	-	-	-	1
Returning to the previous condition	-	-	-	-	-	-
Conclusion on correction errors	1	-	-	-	-	1
The cancellation of visa-free stay	2	-	-	-	-	2
Cancellation of permanent residence	2	1	-	-	-	3
Cancellation of visas to deportation	-	-	-	-	-	-
<b>Total :</b>	<b>140</b>	<b>25</b>	<b>2</b>	<b>-</b>	<b>-</b>	<b>167</b>

**Sorted by the field centres:**

<i>Field center</i>	<i>Number of cases</i>
	60
Service for Foreigners' Affairs	37
Sarajevo	13
Mostar	11
Tuzla	17
Zenica	5
Banja Luka	8
Bihać	4
Brčko	2
Travnik	4
Ljubuški	4
Bijeljina	1
Orašje	1
Livno	167
Istočno Sarajevo	-
Total field centres :	167
The Border Police of Bosnia and Herzegovina	-
<b>Total :</b>	<b>167</b>

47. As for solving the new proceedings, deciding on the instructions of the Court of Bosnia and Herzegovina it was issued a decision on rejecting the first-instance decision and the case was returned to the new proceeding. It is a continuous activity.

48. Regarding the decision of the Court it is important to emphasize that the Court in 2011 issued a 75 judgments of which 15 complaints initiated at the request of the parties (of which 11 judgements were refused and 4 were adopted) and 60 judgments, initiated *ex officio*, (of which 54 judgement were refused, two judgements were dismissed and 4 judgements were adopted).

49. In the reporting period, at the request of the Court, it was delivered 48 responses to the complaints on an administrative dispute, and 2 responses to the request for review of the court decisions; this is a continuous activity.

50. In the reporting period, at the request of the Constitutional Court, it was delivered 26 responses to the appeal; this is a continuous activity.

51. Administrative procedures (solution on complaints, responds to the lawsuit to the Court of Bosnia and Herzegovina and answers to the appeal to the Constitutional Court of Bosnia and Herzegovina), from 01 January 2012 to 31 May 2012.

**According to the legal basis the first instance decisions, appeals are resolved as follows:**

<i>Complaints</i>	<i>Refused</i>	<i>Adopted</i>	<i>Dismissed</i>	<i>Forwarded to the jurisdiction of another body</i>	<i>Procedure cancelled</i>	<i>Termination</i>	<i>TOTAL</i>
Deportation	5	0	0		0	0	5
Temporary residence	0	0	0		0	0	0
Supervision	0	0	0		0	0	0
Cancellation of temporary residence	0	0	0		0	0	0
Cancellation of residence by deportation	11	3	0		0	0	14
Permanent residence	19	0	0		0	0	19
Refusal of entry	1	0	0		0	0	1
The costs of returning and putting under supervision	5	2	1		0	0	8
The conclusion authorizing the execution	2	0	0		0	0	2
Suspension of a first instance decision	0	0	0		0	0	0
Changing the decision to issue the stickers	0	0	0		0	0	0
Returning to the previous condition	0	0	0		0	0	0
Conclusion on correction errors	0	0	0		0	0	0
The cancellation of visa-free stay	1	0	0		0	0	1
Cancellation of permanent residence	0	0	0		0	0	0
Cancellation of visas to deportation	0	0	0		0	0	0
Deportation	0	0	0		0	0	0
Temporary residence				0			0
Supervision	1	0	0		0	0	1
Cancellation of temporary residence	0	0	0		0	0	0
<b>Total :</b>	<b>45</b>	<b>5</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>51</b>

**Sorted by the field centers:**

<i>Field center</i>	<i>Transferred</i>	<i>Received</i>	<i>Total</i>	<i>Resolved</i>	<i>U radu</i>
Zenica	0	2	2	2	0
Tuzla	0	4	4	3	1
Sarajevo	0	17	17	17	0
Service for Foreigners' Affairs	0	16	16	16	0
Mostar	0	2	2	2	0
Banja Luka	0	4	4	2	2
Bihać	0	3	3	3	0
Brčko	0	0	0	0	0
Travnik	0	3	3	3	0
Bijeljina	0	0	0	0	0
Livno	0	1	1	1	0
Ljubuški	0	0	0	0	0
Istočno Sarajevo	0	0	0	0	0
Orašje	0	1	1	1	0
Doboj	0	1	1	1	0
Trebinje	0	3	3	0	0
Goražde	0	3	3	0	3
<b>Total:</b>	<b>0</b>	<b>57</b>	<b>57</b>	<b>51</b>	<b>6</b>
Border Police of Bosnia and Herzegovina	0	0	0	0	0
<b>Total:</b>	<b>0</b>	<b>57</b>	<b>57</b>	<b>51</b>	<b>6</b>

**Replies to the issues raised in part II, paragraph 12, of the list of issues**

52. When it comes to migrant complaints about violations of their human rights and freedoms addressed the Ombudsman Human Rights of Bosnia and Herzegovina, their number is not special, but it is regarded as part of the total discrimination of Bosnia and Herzegovina on various grounds.

53. In 2011, the Institution of Human Rights Ombudsman received 191 complaints about discrimination. Apart complaints from 2011 the Department for elimination of all forms of discrimination transferred 81 cases from 2010 and 1 case from 2009 so total of complaints dealt with by the Department in 2011 was 273 cases. In reporting period the Department resolved 88 cases from 2011 and 40 from 2010, deciding to close (102) or issuing recommendation (26), or through restitution of the right during the time of investigation. It is necessary to mention that a certain number of cases resolved during investigation were resolved through mediation, encouraging friendly outcome or mediation between dispute parties, and there were ways that responsible organ correct its action following first addressing by the Ombudsmen. In it also necessary to mention that in Bosnia and Herzegovina increased the number of complaints (41.5%).

54. According to the Ombudsman for Human Rights in BiH in 2009 main number of complaints was related to discrimination based on ethnic ground (53), and in 2010 significant decrease of such complaints occurred (14), and at the same time number of complaints regarding mobbing increased (32). In 2011 trend of increasing of mobbing complaints continued (41), and based on national discrimination complaints only a small number of cases was found the violations of rights and only (4) recommendations were issued. There are also forms of discrimination based on sex, age, education, social origin, place of residence, union membership, political or other opinion, property, etc.

55. Any person, either directly or via the website, without any discrimination, may file an appeal before the Ombudsman institutions. Citizenship, nationality, place of residence, ethnic origin, imprisonment of any kind, and generally speaking, special relationships with some of the government authorities may not restrict the right to appeal before the ombudsman institution. The work of this institution on complaints of persons is free to all persons who turn to them and does not require special assistance counsellor or a lawyer. All the above shows that all migrant workers and their families have every right to address to this institution if they find themselves in the situation of any kind of discrimination.

### **Replies to the issues raised in part II, paragraph 13, of the list of issues**

56. By adopting the 2008 Law on Movement and Stay of Aliens and Asylum, there have been created the conditions for their protection in accordance with Article 16 of the Convention, which through the paragraph 9 specifically calls for the protection of all migrant workers and their families. The Law in accordance with the Article 16 Paragraph 2 of Convention contains provisions on the protection of migrant workers who find themselves in irregular situations in terms of their rights secured by state: effective protection against violence, physical injury, threats and intimidation, whether by public officials or individuals, groups or institutions.

57. The authorities are trying to remove the irregular migrants by the voluntary return with the help of IOM or by their independent return. So, in practice the most commonly is used the voluntary return, because it is more efficient and humane as opposed to forced return. These methods of expulsion of foreigners is easier, faster, more economically, without violence, without physical injury, threats and intimidation, which is also in accordance with Article 16 Paragraph 2 of the Convention. A great contribution to this are the readmission agreements with countries when the alien with irregular residence in Bosnia and Herzegovina returns to his/her native country.

### **Replies to the issues raised in part II, paragraph 14, of the list of issues**

58. On the basis of Article 9 Paragraph 5 and Article 8 Law on Citizenship of BiH and Article 13 Law on Citizenship of the Republika Srpska, large number of naturalized foreign nationals got the citizenship of Bosnia and Herzegovina. After the war, the authorities of Bosnia and Herzegovina, for the purpose of determining the compliance with legal procedures concerning the admission of foreign persons in Bosnia and Herzegovina citizenship in 2006. It was formed the commission to review citizenship given to the foreign entities. The Commission, out of more than 1500 cases, related to the admission to the citizenship of Bosnia and Herzegovina, took 1321 cases to control and based on its findings, revoked the citizenship to 824 persons, because the Commission established that they were illegally acquired the citizenship of Bosnia and Herzegovina. Against the decision of the Commission today are filed 54 lawsuits, but it is assumed that this number is not final, because about the complaints, the competent authority finds out just at the moment when the Court of Bosnia and Herzegovina submits a concrete answer to the



complaint. After a successful lawsuit until today it has been returned 12 nationalities. Answers to the other questions are following below.

### **Replies to the issues raised in part II, paragraph 15, of the list of issues**

59. Putting the aliens under supervision is one of the measure that is based on the provisions stipulated in the Law on Movement and Stay of Aliens and Asylum and the alien is placed in the Immigration Center. These matters are the responsibility of the Service for Foreigners. The first Immigration Center was established in 2008 (initial capacity 40), the new Immigration Center was opened in 2009 with a capacity to accommodate 80 persons and later the capacity was increased to accommodate 120 persons.

60. In 2010, in the Immigration Center was placed 312 of foreigners under the supervision, in 2012, 218 foreigners, so the number decreased of 30.13% over the previous year.

61. According to the Service for Foreigners' Affairs on the basis of readmission agreements, during the 2011 the Immigration Center visited 48 persons, of which three young children with their parents. Accepted were 17 persons from the correctional institute who, after conducting the procedures and checks, were transferred to their countries of origin.

62. Persons placed under the supervision of the Immigration Law Center can exercise all established rights. They have a right to appeal, the right to use the full legal protection (right to appeal, hiring lawyers, help of the stem Embassy, a translator, etc.). The persons in the Immigration Center have full right to appeal if they find that their human rights are violated.

### **Replies to the issues raised in part II, paragraph 16, of the list of issues**

63. We present updated information regarding the migrant workers and members of their families in irregular situations, which are located in the Immigration Center in 2011, and classified according to the nationalities to whom were imposed the measure: Serbia 87, Turkey 37, 23 Afghanistan, Palestine, 15, Jordan 8, Montenegro 5, Cameroon 4, Pakistan 4, 4, Eritrea, Albania, 3, 3 Italy, Macedonia 3, Algeria 3 and other countries 19.

64. According to the for Service for Foreigners' Affairs during the 2011 in the Immigration Center was 220 persons of which 87 were returned by the AVR program in cooperation with IOM, 47 persons have returned voluntarily to their country of origin, 85 persons were handed over to countries of origin on the basis of agreements of Bosnia and Herzegovina and countries of origin. It is the neighboring countries: Serbia (62), Montenegro (12), Croatia (6) and Slovenia (5).

65. According to data from the Service for Foreigners' Affairs, in 2010, 19 foreigners were forcibly returned (12 foreigners were turned away by Field Offices of the Service for Foreigners' Affairs, and 7 were turned away from the Immigration Center). During the 2011, only 8 foreigners were deported from Bosnia and Herzegovina. Based on the 2010 report of the Immigration Center, in 2010, the Immigration Service Center for Foreigners brought under supervision a total of 312 persons. These persons are the citizens of the following countries:

<i>State</i>	<i>Number of persons</i>
Serbia	113
Montenegro	4

<i>State</i>	<i>Number of persons</i>
Albania	99
Slovenia	5
Turkey	17
Bulgaria	1
Macedonia	5
Germany	2
Croatia	8
Moldavia	1
Russia	2
Ukraine	1
Kazakhstan	1
Eritrea	1
Cameroon	1
Pakistan	1
Tunis	4
Algeria	5
Sri Lanka	1
Somalia	1
Romania	2
Libya	1
Afghanistan	10
Ghana	1
Iraq	3
China	2
Canada	1
Haiti	1
Egypt	1
Morocco	1
Syria	1
Uganda	1
Jordan	1
Unknown citizenship	13
<b>Total</b>	<b>312</b>

In the above-mentioned report there is no classification by sex and age structure.

66. According to the same report in 2010, the Department for readmission, reception and accommodation of foreigners exercised the forcible removal of 7 (seven) persons who are accompanied by security officers and escort and returned to the country of origin.

**These persons are the citizens of the following countries:**

<i>Citizenship</i>	<i>Number of persons</i>
Germany	1
Slovenia	2
Serbia	2
Montenegro	2

**Replies to the issues raised in part II, paragraph 17, of the list of issues**

67. The protection of migrant domestic workers who seasonally reside and work in neighboring countries is conducted in accordance with the agreements signed between the governments and the Council of Ministers of Bosnia and Herzegovina. To our knowledge, domestic seasonal workers are exposed to the usual forms of discrimination. They often work unreported, working in harsh conditions without protection at work, they have no health or social security, housing and they are disposed – they live in unsanitary conditions, working for a very low wages and often embedded in the work and they do not receive the agreed compensation.

68. To our knowledge, Bosnia and Herzegovina has not yet acceded to the 2011 ILO Convention on Domestic Workers (No. 189).

69. In the new draft of the Law on Movement and Stay of Aliens and Asylum, which the Council of Ministers of Bosnia and Herzegovina sent to the Parliament for adoption in April 2012, it was proposed that a new paragraph be added after paragraph (1) in Article 84 (Exception from Mandatory Work Permit) of the Law on the Movement of Foreigners and Asylum, which will read as follows "paragraph (2) The group of aliens under paragraph (1) of this Article may work in Bosnia and Herzegovina on the basis of a certificate of employment registration during the validity of a visa, visa-free or previously granted permit of residence.

70. At the request of an alien, the organizational unit of SFA in whose AOR is the employment shall issue the certificate of employment registration. The certificate of employment registration shall be issued on a form prescribed by a by-law. An employer may employ an alien in those jobs for which he was given a certificate of employment registration and must have a copy of such a certificate with him/her at work to produce it in the event of inspection. The way of proving the employment status of the group of aliens under paragraph (1) of this Article for the purpose of issuing a certificate of employment registration shall be prescribed by a by-law under Article 76 of this Law (The By-law on Technical Matters of Residence Permits, Temporary and Permanent Residence of Aliens).

71. This proposed solution will be applied in future to registration of all migrant workers who got seasonal jobs in Bosnia and Herzegovina.

**Replies to the issues raised in part II, paragraph 18, of the list of issues**

72. According to the legislation, migrant workers and their families who are in irregular situation, without discrimination as other citizens of Bosnia and Herzegovina, have the access to emergency medical care in clinics and health centers in accordance with existing legal solutions. In the practice, we had no complaints on this basis, both from the government, and non-governmental institutions or organizations.

**Replies to the issues raised in part II, paragraph 19, of the list of issues**

73. In Bosnia and Herzegovina, in effect the Law on Citizenship of Bosnia and Herzegovina (Official Gazette no. 4/97, 13/97, 41/02, 6/03, 14/09), which incorporated the principles of acquiring citizenship:

(a) *Ius soli* (by birth) of parents who are citizens of Bosnia and Herzegovina or one of the parents is the BiH citizen, if the child was born in the territory of BiH, or one of whose parents was a citizen of BiH at the time of the child's birth, and the child was born abroad if the child would otherwise be stateless; who was born abroad and one of whose parents was a BiH citizen at the time of the child's birth, provided that by the time he or she attains the age of 23; the birth certificate according to the last residence of parents - BH citizens;

(b) *Ius sanguinis* (by descent) both of whose parents were citizens of BiH at the time of the child's birth, regardless of the place of his or her birth; (it is required to formalize MCD entry through the competent diplomatic-consular mission if the child is born abroad);

(c) Naturalization (innately): a foreigner who has submitted a request for acquisition of the citizenship of BiH may acquire it by naturalization if he or she fulfils certain conditions; Citizenship of BiH may be acquired by the foreign spouse of a citizen of BiH. Easy to naturalize usually spouses of citizens of Bosnia and Herzegovina after the statutory deadline provided (after granted temporary residence based on marriage or a permanent settlement approved on the same grounds);

(d) Citizenship may be granted to a person who is considered to be of particular benefit to Bosnia and Herzegovina (in honor) and with the decision of the highest level of authority.

74. A child born in Bosnia and Herzegovina whose parents are unknown, immediately acquires the citizenship of Bosnia and Herzegovina which is in the best interest of a child (UN Convention on the Rights of the Child and Family Law) and in order to prevent that a child does not become a stateless person, which is undesirable phenomenon in international law.

**Replies to the issues raised in part II, paragraph 20, of the list of issues**

75. Issues relating to citizenship and dual nationality citizens of Bosnia and Herzegovina who live abroad and citizens of Bosnia and Herzegovina voting abroad are regulated by the Constitution of Bosnia and Herzegovina, the Law on Citizenship of Bosnia and the Election Law governing exercise of the voting rights of BiH citizens in the country and abroad.

76. During the period of last elections the State taken a series of measures States in order to achieve voting rights in the country. Among other things, potential voters are in time to met with the way the vote pursuant to the Article (1.5) of the Election Law of Bosnia and Herzegovina. a citizen of Bosnia and Herzegovina who is temporarily residing abroad and has the right to vote, shall have the right to register and to vote by mail or in person in the diplomatic and consular representation offices of Bosnia and Herzegovina, for the municipality where the person had a permanent place of residence prior to his or her departure abroad, provided that he or she is registered as a permanent resident in that municipality at the moment of submitting his or her application for out-of-country vote.

77. After this is entered in the voters list. They are required for each election to submit an application to the Central Election Commission of Bosnia and Herzegovina. If they vote by mail, as defined in the Law, the voting lists and mailing fees are free. Considering that

the Election procedures are still complex, which influences the interest in access to voting, the Central Electoral Commission, in the framework of their legal obligation, takes necessary action to inform potential voters about current issues in this field in the pre-election activities, in order to familiarize voters outside of Bosnia and Herzegovina on time, and manner of voting procedures, prepares and sets the appropriate leaflet website, through the Ministry of Foreign Affairs, in DCM they deliver a large quantities of promotional material and for the first time during the 2010 elections the DCM has enabled the voters the voting in person; in some homes there are TV satellite programs with organized programs dedicated to informing and education of voters, etc.

78. According to the data from CEC of Bosnia and Herzegovina there are 27,000 BiH citizens who voted in the previous elections in Bosnia and Herzegovina. This data indicates that each year the interest of the voters of BiH citizens living abroad is less and it points out the conclusion that we have to work more on this issue and find the reasons why is declining the interest of the voters.

### **Replies to the issues raised in part II, paragraph 21, of the list of issues**

79. Assignment of child allowance in both entities and Brcko District shall be regulated by law in accordance with solutions of these organizational units. Thus, it is based on place of residence. Based on the rights of families with children, prescribed by the laws and governing this area, in addition to child allowances (allowance), to the families is given the financial assistance during pregnancy and childbirth to a woman - a mother who is not employed, support for a layette, help in the diet of newborn to six months and additional nutrition breastfeeding mothers, providing a meal for a teachers in the schools of basic education and scholarships to the students.

80. Each organizational structure of state, by the special conditions, methods, procedures regulates the funding of children. Right to an allowance belongs to poor families. The amounts and conditions for acquisition of rights, differs between the entities and Brcko District of Bosnia and Herzegovina and Cantons in the Federation.

81. Foreign nationals and stateless persons who live and work in Bosnia and Herzegovina shall be entitled to child support in accordance with international agreements (Article 92).

### **Replies to the issues raised in part II, paragraph 22, of the list of issues**

82. There are also special categories of migrant workers in Bosnia and Herzegovina who are commonly referred to as seasonal workers. These workers, if they have regulated residence and employment status, enjoy all the rights established by law and without discrimination on any grounds. However, in most cases it is not the case. These workers are also called borderline workers, itinerant workers, workers relating to the project, workers of specific occupations and employment, self-employed workers, etc. this category of temporary employees do not exercise the minimum of working rights that belong to them. They usually work illegally without any protection, they have no health or social security and minimum wages – and sometimes they do not get the salary for their work, they reside and work in unhygienic areas, etc. Although they are informed about their rights and obligations according to the labor legislation of Bosnia and Herzegovina, unfortunately, they do not respect it. This means that seasonal workers would have to take about themselves and about their destiny, they have to show more interest and be more active in order to protect their rights, and labor legislation provided in Bosnia and Herzegovina. Of course, representatives of relevant state bodies and institutions in future should pay more

attention to the protection of the human rights of these categories of workers and also to protect state interests.

83. According to the unofficial estimates, there are 5,000 to 10,000 seasonal workers in the summer and autumn in Bosnia and Herzegovina. Most of them are going to the neighboring countries, Croatia and Montenegro during the tourist season, Serbia, Austria and other European Union countries, when is the season for agricultural, construction and other types of work. Unfortunately, when it comes to the actual number and registration of the migrant workers, there is no established valid database of those who are going from nor those who are come into Bosnia and Herzegovina.

84. The big problem about hiring seasonal workers in neighboring countries bordering with Bosnia and Herzegovina, is that they do not have intended quota for employment of foreign workers, so the workers are forced to work in the "black", and so are exposed to discrimination and negative accompanying phenomena inherent in this field.

85. Otherwise, in the employment services, there is no official data on the numbers of seasonal workers because the seasonal workers are registered as unemployed so as the other persons who were employed at same time, which means that the number of seasonal workers is not reported separately.

86. We note that in the spirit of the Convention in whole, we proposed a new draft of the Law on Movement and Stay of Aliens and Asylum, which the Council of Ministers of BiH addressed the Parliament for adoption in April 2012, was proposed that in the Article 84 of the Law on the Movement of Foreigners and Asylum, prescribing „Exception from the requirement to hold a work permit", after paragraph (1) adds a new paragraph, which prescribes, "paragraph (2) Categories of aliens referred to in paragraph (1) of this Article may work in Bosnia and Herzegovina on the basis of registration certificate during the validity of visa, or previously granted residence.

87. At the request of an alien, the organizational unit of SFA in whose AOR is the employment shall issue the certificate of employment registration. The certificate of employment registration shall be issued on a form prescribed by a by-law. An employer may employ an alien in those jobs for which he was given a certificate of employment registration and must have a copy of such a certificate with him/her at work to produce it in the event of inspection. The way of proving the employment status of the group of aliens under paragraph (1) of this Article for the purpose of issuing a certificate of employment registration shall be prescribed by a by-law under Article 76 of this Law (The By-law on Technical Matters of Residence Permits, Temporary and Permanent Residence of Aliens)".

88. This proposed solution will be applied in the future to the registration of all migrant workers who got seasonal jobs in Bosnia and Herzegovina and all migrant workers who seasonally come to work in Bosnia and Herzegovina.

### **Replies to the issues raised in part II, paragraph 23, of the list of issues**

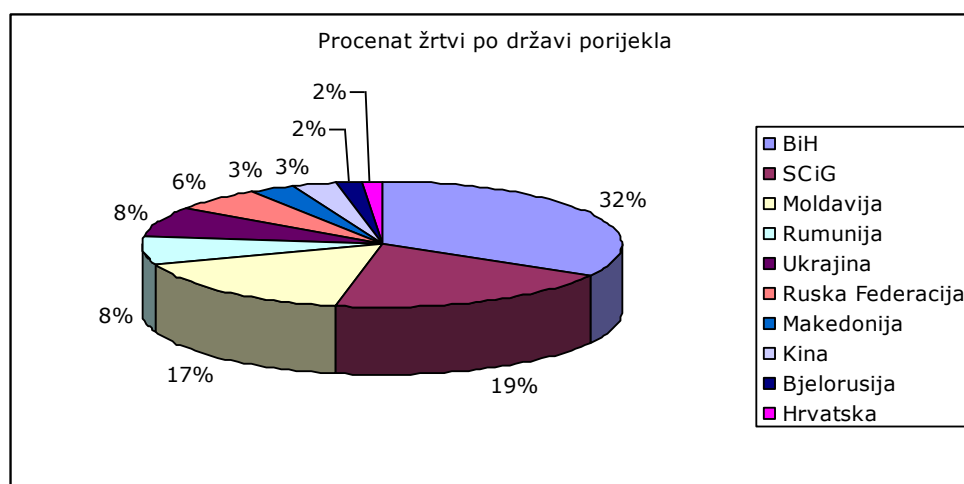
89. In accordance with the entity laws mediation in employment and rights during the unemployment, the employment services in entities and Brčko District have an agreement governing the conditions and manner of exercising the rights of unemployed persons during their stay in the territory of another entity. In this regard, it is in the process the signing of the agreement with which will be regulated location and payment of contributions, or the competence to deal with the application of these persons.

## Replies to the issues raised in part II, paragraph 24, of the list of issues

90. Pursuant to the Article 68 of the Convention on the Rights of All Migrant Workers and Members of Their Families we cite the statistical review of data on victims of human trafficking in Bosnia and Herzegovina for the period 2005 – 2010.

91. In 2005, non-governmental organizations that have signed a Protocol on Cooperation with the Ministry of Security on Protection of Victims of Trafficking and they managed the shelters for these victims. During 2005 it was offered a temporary accommodation, assistance and protection to the 66 potential victims of trafficking.

92. Out of the total number of temporarily placed potential victims in 2005, 22 were citizens of Bosnia and Herzegovina, which represents more than a third of the total number of 66. Besides the citizens of Bosnia and Herzegovina, 13 potential victims have the citizenship of Serbia and Montenegro, Moldova 11, then Romania 5, Ukraine, 5, the Russian Federation 4, Macedonia 2, Chinese 2, Croatian 1 and Belarus 1. Out of the total number 13 or 20% of the victims were minors - children.

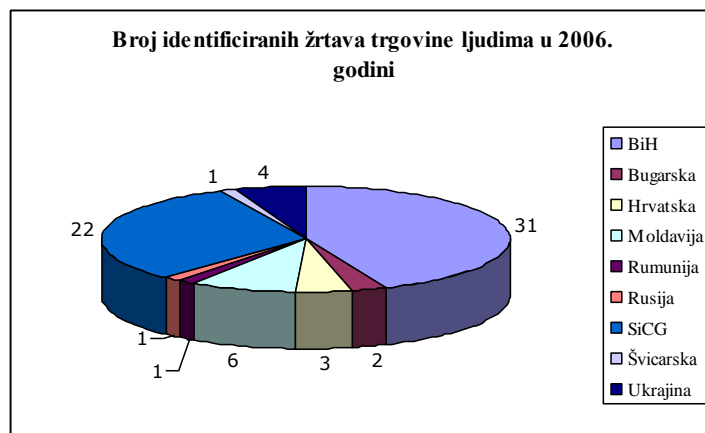


93. In 2006 the NGOs assisted to 83 victims of trafficking. Out of this number, seven of them were children, as an accompaniment to the mothers, and 20 of them were victims who were identified and placed in safe houses in previous years. Thus, the total number of victims assisted by NGOs that have been identified in 2006 is 56.<sup>1</sup>

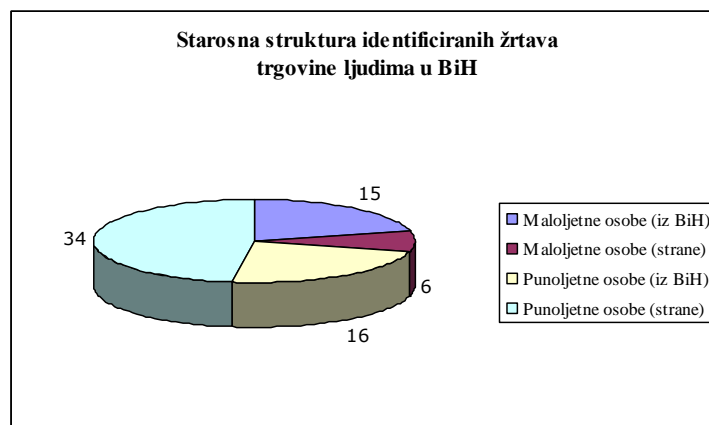
94. By analyzing data collected by the police authorities, it is established that there were 42 identified victims of trafficking, and processed 52 victims (10 processed victims were identified in previous years). Out of 42 victims, 15 of them did not stay in safe houses because they generally received assistance from the Centre for Social Work or they returned to the family. The remaining 27 victims were staying in shelters. From the above mentioned it can be concluded that in 2006 were identified 71 victim of trafficking, 31 from Bosnia and Herzegovina, 22 from Serbia and Montenegro, Moldova 6, 4 from Ukraine, 3

<sup>1</sup> In cooperation with SIDA and USAID and NGOs in 2006, IOM assisted 55 victims of trafficking providing them shelters and assistance (food, clothes etc) health assistance (general health care, psychological help, hospital care, medicals) legal advisory and help when returning (ID documentation) assistance during the reintegration (financial help, making the individual plans for reintegration). 25 victims were returned to their native countries, 1 person was sent to another country, and 29 citizens of Bosnia and Herzegovina was included into the local reintegration.

from Croatia, 2 from Bulgaria and one from Switzerland, Russia and Romania, as is evident from the following chart. Only one victim was male, a juvenile from Serbia and Montenegro.



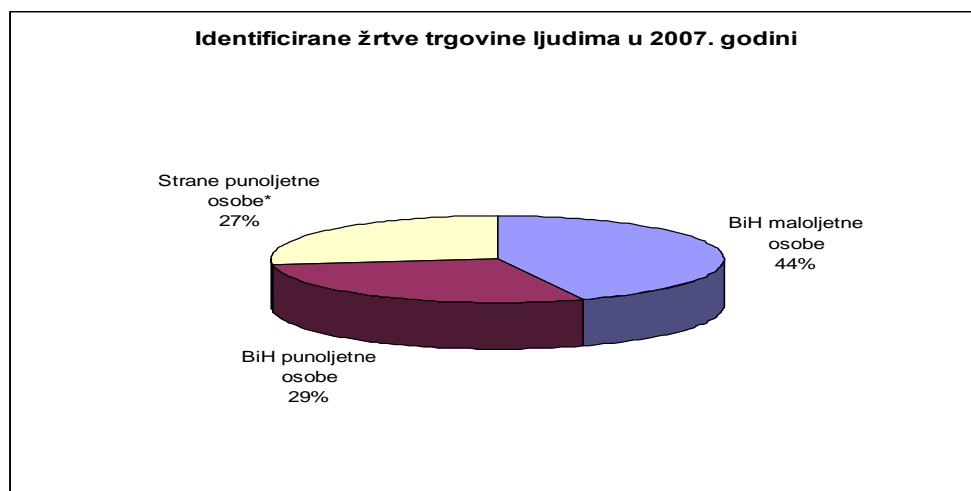
Below are presented identified victims of trafficking by age in 2006:



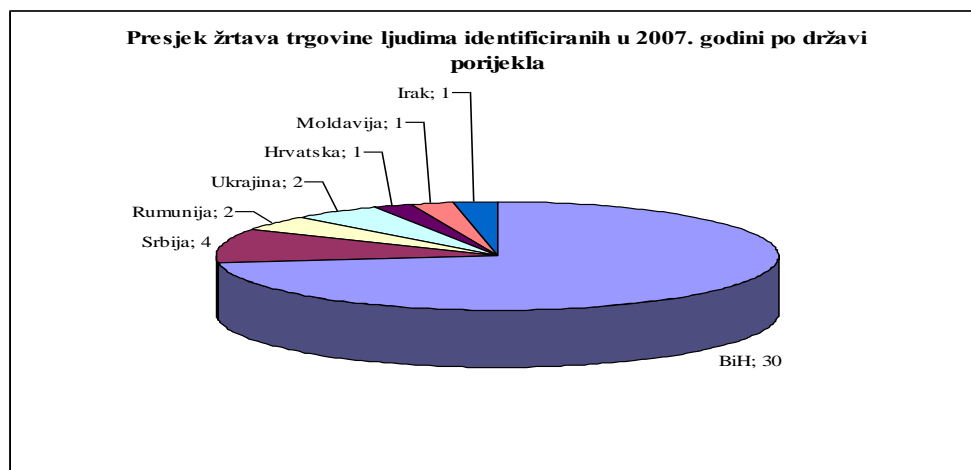
95. In 2007, the non-governmental organizations that provide support and protection to victims of trafficking, assisted more than 50 people. The victims of trafficking were identified in previous years as well as those identified in 2007. By analyzing the data collected from non-governmental organizations, law enforcement agencies and prosecutors, it was found that in 2007, 41 persons are identified as victims of human trafficking/prostitution.

96. Out of this number, 24 persons have accepted accommodation and support shelters. As it is evident from the following chart, the total number of newly identified victims, 73% are the citizens of Bosnia and Herzegovina. Particularly worrying is the fact that the total number of victims identified in 2007 in age 18 or 44% minors, and they are all citizens of Bosnia and Herzegovina. The ratio between domestic and foreign victims of human trafficking is shown in the following chart:





97. Of the 41 persons identified as victims of human trafficking in 2007, 11 are foreign nationals. The largest number of foreign nationals come from Serbia, as is evident from the following chart:



98. For the preparation of the Report on Trafficking in Human Beings in Bosnia and Herzegovina in 2008, State Coordinator has reviewed the collection of data on this phenomenon from all police agencies in Bosnia and Herzegovina, all the prosecutors responsible for handling cases of trafficking, the Ministry of Human Rights and Refugees, centres for social work and non-governmental organizations that provide assistance and support to potential victims trafficking. By analysing the collected data from non-governmental organizations, police agencies and prosecutors' offices and other relevant organizations, found that in 2008 in the area of Bosnia and Herzegovina was identified a total of 59 people as a potential victims of human trafficking or prostitution. In other countries have been identified three victims of trafficking – citizens of Bosnia and Herzegovina who have returned to Bosnia and Herzegovina.

99. Out of the total number of 59 of potentially identified victims, it was found that 26 adults were exploited or involved in an organized mediation in prostitution; 25 minors are exploited by organized mediation in prostitution as a human trafficking in accordance with international conventions; 8 persons were identified as victims of trafficking crimes or international mediation in prostitution.

100. Out of the total number of identified potential victims of trafficking or mediation in prostitution as victims of trafficking can be considered 33 persons, including 28 juveniles and 5 adults. 15 people have accepted the accommodation and support shelters. As it is evident from the following chart, the total number of newly identified victims, 94% are citizens of Bosnia and Herzegovina. Particularly worrying is the fact that the total number of victims identified in 2007, 28 or 85% of minors, and all citizens of Bosnia and Herzegovina. Of the 33 persons identified as victims of trafficking in 2008, two of them are foreign nationals from the Ukraine.

101. According to data collected by the prosecutors, law enforcement services and nongovernmental organizations, which are required for submit the annual report on trafficking situation in Bosnia and Herzegovina, it was found that during 2009 was identified a total of 69 potential victims of human trafficking or prostitution, including 64 females (23 minors and 41 adults) and 5 males (1 adult and 4 minors). With regard to nationality, of the 69 victims of trafficking, 11 were foreign nationals (10 women and 1 man). Countries of origin of these victims were Serbia (6), Croatia (2), Moldova (1), Romania (1) and Bulgaria (1). 58 potential victims of trafficking were citizens of Bosnia and Herzegovina, including 33 adults and 25 minors.

102. With regard to the situation of trafficking in Bosnia and Herzegovina, according to data collected by the prosecutors, law enforcement services, centres for social work and nongovernmental organizations, which are necessary for drawing up annual reports on the situation of trafficking in Bosnia and Herzegovina, it was found that during 2010, the total identified potential victims of trafficking/prostitution/trafficking for begging was 25, including 5 adults and 20 minors.

103. Of the 25 potential victims of trafficking, 21 were female (7 for sexual exploitation, including 2 adults and 5 minors; and 14 for begging, including 13 minors and 1 adult) and 4 were male (3 for begging, including 2 minors and 1 adult; and 1 adult for sexual exploitation). Of the 25 victims, 8 were for sexual exploitation and 17 for begging.

104. Regarding nationality, of the 25 victims of trafficking, 4 were foreign nationals, while the remaining 21 were citizens of Bosnia and Herzegovina. Countries of origin of the victims are Serbia (2: 1 minor and 1 adult), Croatia (1), Germany (1 adult). 21 victims of trafficking were citizens of Bosnia and Herzegovina, including 18 minors and 3 adults.

105. Centres for Social Work assisted in 21 cases (both foreign and domestic citizens). Their assistance in these cases was reflected only in the appointment of temporary guardian, and possibly in monitoring the border if are in case the foreign victims of trafficking and during the implementation process of repatriation.

106. In 2010, there were 5 returns to the country / repatriation:

- 3 repatriations, victims who were assisted in the shelters and the 2009, repatriation of all three procedures were carried out in Serbia (2 minors and one adult)
- 2 were conducted for the repatriation of victims assisted in the shelters in 2010, 1 minor in Serbia and 1 minor in Croatia.

In addition, to five (5) foreign victims of trafficking in 2010, was granted a temporary stay in Bosnia and Herzegovina for humanitarian reasons.

107. According to data collected by the prosecutors, law enforcement services, centers for social work and nongovernmental organizations, which are necessary for drawing up the annual reports on the situation of trafficking in Bosnia and Herzegovina, it was found that during the 2011 were identified a total of 35 potential victims of human trafficking / prostitution and / or sexual exploitation / trafficking / begging / selling "for the purpose of marriage", including 28 females and 7 males. Of the total number of trafficking victims in

2011, there were 16 adults (all women) and 19 juveniles (12 females, 7 males). Of the 28 trafficked women, there were 16 minors (13 for sexual exploitation, 2 for begging, 1 destroyed passport/limited movement). These included 12 minor girls, of which 4 for sexual exploitation, 3 for begging, 5 for sale for the purpose of marriage. There were 7 minor boys, of which 6 for begging and 1 for sexual exploitation. Therefore, of the 35 trafficking victims in 2011, 18 were for sexual exploitation, 11 for begging, 5 for sale for the purpose of marriage, and 1 had a damaged passport / limited movement.

108. With regard to nationality, of the 35 victims of trafficking, 6 were foreign nationals. It is important to note that, in addition to the foreign nationals, two special cases were recorded, namely the case of 1 minor boy who was born in Germany and whose parents are not citizens of Bosnia and Herzegovina, and we do not have information if the check in the records of BiH citizens was carried out; and the second case of one adult woman with recognized refugee status. The remaining 27 victims of trafficking were citizens of Bosnia and Herzegovina. Countries of origin of the foreign victims were Serbia (2), Croatia (1), Macedonia (1), USA (1) and Kosovo (Serbia) (1).

109. During 2011, into the shelters were assisted 22 potential victims of trafficking, while 13 were not assisted as the potential victims in shelters, 1 minor potential victim of trafficking is residing in the "other accommodations".

110. In 2011, there were two returns to the country / repatriation: 1 repatriation to Croatia; and 1 repatriation to Macedonia. It should be noted that there was one return of an adult woman from Croatia to Bosnia and Herzegovina, although she is the citizen of the Republic of Serbia, and on the basis of recognized refugee status in Bosnia and Herzegovina. Also during 2011, was granted a temporary stay for humanitarian reasons to four (4) foreign victims of trafficking in Bosnia and Herzegovina.

## **Replies to the issues raised in part II, paragraph 25, of the list of issues**

111. The Strike Task Force established by BiH authorities in 2004 makes a significant contribution to combating human trafficking and organized illegal immigration. The Strike Task Force in 2009, as in previous years, coordinated the activities of prosecutors and police agencies and tax administration to investigate and prosecute trafficking crimes. According to their information, during the 2009 they received 23 applications on criminal offences related to the trafficking. At the end of the reporting period 22 cases remained pending. In 20 cases, the orders on conducting the investigation are passed, which, with 24 pending investigation of the previous period, makes the total of 44 investigations that were in operation during the reporting period. Under the plea agreement, verdicts were pronounced against 4 persons (2 suspended sentences, 2 sentences of imprisonment). After a trial, the convictions were imposed against 10 people (all prison sentences). Acquittal was made for 5 persons. Against these judgments, 7 appeals were submitted. At the end of the reporting period, the cases before the court stayed a total of 12 pending indictments.

112. The Prosecutor's Office of Bosnia and Herzegovina received a total of 8 applications during the reporting period, while in the previous period, 15 applications remained unresolved, so that makes a total of 23 applications for a criminal offense. In the reporting period, 7 orders for the investigation is issued, with 7 pending investigation of the previous period, makes the total number of 14 investigations. There were no suspended investigations. According to the Prosecutors Office of Bosnia and Herzegovina during the reporting period there were no indictments. In the reporting period 2 persons were adjudicated (one sentence in the plea agreement, one acquittal). Against the judgment of first instance, the acting prosecutor filed a general appeal (there is no information whether it is resolved). In the Federation of Bosnia and Herzegovina, the Cantonal Prosecutor's Office received a total of 11 felony charges for prostitution (Article 210 of the CCFBiH), 7

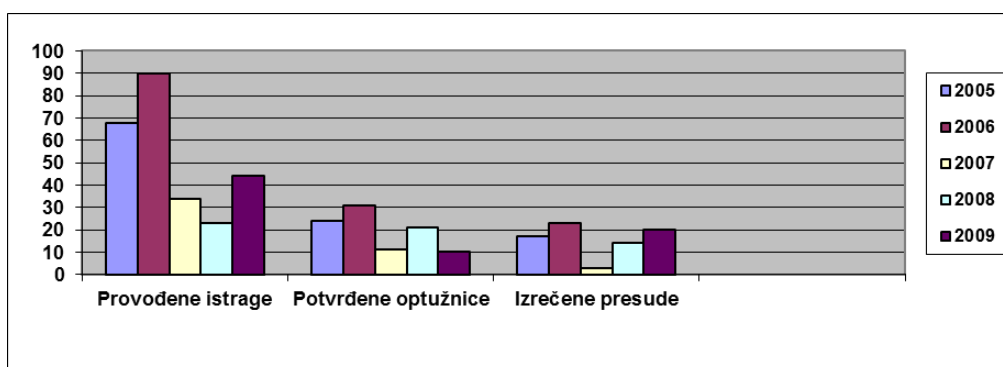
unresolved applications from the previous period shows that in the operation was a total of 18 applications. In the reporting period 9 investigations were ordered (from the previous period, 12 investigation remained pending). Two investigations were halted.

113. At the end of the reporting period, 14 investigations remained pending, 7 charges were confirmed. In the reporting period, the judgement was rendered for 10 persons on the basis of the plea agreement for 2 persons (suspended sentence), the trial verdict pronounced against five persons who were sentenced. To one person was issued a verdict, while 2 persons are released. One procedure was cancelled. Acting against the mentioned judgments the cantonal prosecutors filed three complaints, and the defense submitted 3 complaints. At the end of the reporting period 8 indictments remained pending in court.

114. In the Republika Srpska, the competent district prosecutors' offices received three applications of trafficking for prostitution – (Article 198 CC of RS), with one pending application from the previous period, 4 applications before district prosecutors' offices in the Republika Srpska, 3 decisions to carry out the investigation (and another 5 investigations were from the previous period). Thus, the total was 8 investigations. At the end of the reporting period there were 5 pending investigations so as the three confirmed indictments. 8 persons are adjudicated (one of the plea agreement to a term of imprisonment, and five persons were sentenced to prison after a trial). Two persons were released, 1 final judgment and one person was accused and sentenced.

115. The Public Prosecutor of the Brcko District received only one application for felony solicitation to prostitution under the Article 207 of the CC of BD, in which was issued an order on conducting the investigation (the size of detention). By following of these forms of cases that are related to human trafficking, it was observed that human trafficking and organized prostitution almost exclusively takes place in private homes, through advertisements in print media, for example advertisements for marriages. The disturbing fact is that children as victims of these crimes occur more frequently (under the UN Convention on the Rights of the Child, UN Convention on Cybercrime and many other conventions and protocols person under 18 years old is considered as a child). There is an evident increase in the use of children begging for possession of pornographic material, which indicates that the perpetrators of these crimes and ways of changing methods of trafficking, and in this direction indicates the need for additional activities to be undertaken to identify the crimes and their perpetrators and identification of victims of trafficking.

116. The chart below shows the ratio of the number of guided investigations, indictments and verdicts imposed for offenses of trafficking in the last five years.



## Annex

### Solving the problem of child pornography

1. As part of activities to combat child pornography in Bosnia and Herzegovina during 2009, was the implementation of the project “Comprehensive approach to solving the problem of child pornography in Bosnia and Herzegovina”.
2. The project began in 2008 and focuses on establishing a comprehensive system to protect children from child pornography and other forms of sexual abuse and exploitation of children through the use of information and communication technologies and the strengthening of institutional capacity, and reducing the vulnerability of children at risk of victimization.
3. During the implementation of this project, Save the Children Norway, in 2008, organized a study visit of representatives of institutions of Bosnia and Herzegovina to the police office that deals with the fight against child pornography in fact in the Republic of Italy and NGO (Save the Children Italy), which provides support to the police in terms of prevention and emergency lines and established Internet lines through which they are the receiving the reports of sexual abuse of children via the Internet. It was established an interdisciplinary Working Group whose job was the analysis of capacity, legislative framework and shortcomings in the existing system of protection of children from child pornography and drafted recommendations for the improvement of the system.
4. In 2009, during the implementation, the Project achieved the following:
  - Provided a forensic software and hardware equipment in the amount of 40,000 BAM which is donated to the Police in the Federation, Ministry of Interior of the Republika Srpska and to the Police of the Brcko District.
  - In December 2009, it was developed and adopted the National Action Plan for improving the system of protection of children from child pornography and other forms of sexual abuse and exploitation of children through the use of information and communication technologies.
  - It was held a seminar for NGOs, on prevention and work in the fight against child pornography and other forms of violence on the Internet.
5. Training was held for representatives of the police, the police in the Federation of Bosnia and Herzegovina the RS Ministry of Interior, the police and the Brcko District and the State Investigation and Protection Agency, on the basic Internet search techniques, computer forensics, the use of various software tools to combat cyber crime etc.
  - It was established the cooperation with NGOs and the Associated MFS Emmaus Women Banja Luka, which in 2010 became the partners with the Ministry of Security and Emergency in work to establish an internet and telephone hot lines as well as raising awareness of children, teachers and parents about the problem and how to protect themselves.
6. In 2010, is planning the harmonization of criminal laws in Bosnia and Herzegovina (between entities and harmonization with international legislation) which will ensure the adequate answer to the problem, and the ratification of the Convention on the protection of children against sexual abuse and exploitation of the Council of Europe. Membership in the MFS Emmaus In HOPE international network operator hotlines are dealing with this problem. The project is expanding to the region (Serbia and Bulgaria) which will allow

more intensive cooperation between institutional and non-government sectors among all three countries, and intensify cooperation between governmental, nongovernmental and private sector at the level of the countries.

7. Legal framework – the working group transformed into the Department of Coordination and Protection of Trafficking in the Ministry of Security of Bosnia and Herzegovina.

8. The Council of Ministers of Bosnia and Herzegovina, at the proposal of the Ministry of Justice, in November 2009 established and passed to the adoption before the Parliamentary Assembly, the Law on draft amendments to the Criminal Code of Bosnia Herzegovina. Amendments to the Criminal Code contain a brand new Article 186 of the Criminal Law (Human Trafficking) which is fully compliant with the Council of Europe Convention on Action against Trafficking in Human Beings. The definition of criminal offence is amended, and the penalty for the offense of trafficking is tightened. The proposed amendments are introducing a number of aggravating circumstances for the perpetrators of the criminal offense, it is proposed introduction of punishment of people who use the services of the victims of trafficking, the proposed enhanced mechanisms for the confiscation of the proceeds of this type of crime, and the proposed introduction of protective measures that are closing the space used for the enforcement of this offense.<sup>2</sup>

9. The Article 100 of the proposed changes and amendments of the Criminal Code contains a provision that obliges the competent authorities of the Federation of Bosnia and Herzegovina, Republika Srpska and the Brcko Distric of Bosnia and Herzegovina to harmonize their criminal laws within 90 days of entry into the force of the Criminal Code of Bosnia and Herzegovina. Harmonization of criminal law of the Entities and Brcko

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<sup>2</sup> The new Article 186 Trafficking:

((1) Whoever, by means of use of force or threat of use of force or other forms of coercion, of abduction, of fraud or deception, of the abuse of power or of a position or of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, recruits, transports, transfers, harbours or receipts a person, for the purpose of the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or similar status, servitude or the removal of organs or of the other type of exploitation, shall be punished by imprisonment for a term of three years.

(2) Whoever recruits, states, transports, transfers, harbors or receives persons who have not attained 18 years of age to take advantage mentioned in paragraph (1) of this Article shall be punished by imprisonment for five years.

(3) If the offense referred to in paragraphs (1) and (2) of this Article committed officer in the performance of official duties, shall be punished by imprisonment of at least five years.

(4) Whoever counterfeits, or procures, or issue a travel document or personal uses, reserves, cancelling, changing, damaging, destroying a travel or identity document of another person for the purpose of facilitating human trafficking shall be punished by imprisonment of one to five years.

(5) Whoever organizes or in any way the group of people to commit criminal offenses referred to in paragraphs (1) or (2) of this Article shall be punished by imprisonment for ten years or by imprisonment.

(6) Who uses the services of trafficked persons shall be punished by imprisonment from six months to five years.

(7) If the criminal offenses referred to in paragraphs (1) and (2) of this Article caused severe health impairment, serious bodily injury or death to persons referred to in paragraphs (1) and (2) of this Article, the perpetrator shall be punished by imprisonment of at least five years or by imprisonment.

(8) articles and vehicles used for execution of works will be deducted, and the objects that were used for the purpose of trafficking may be temporarily or permanently closed.

(9) The existence of the crime of human trafficking without affecting the circumstance whether the person is a trafficking victim consented to the exploitation."

District shall in addition be in compliance with the international standards and also in compliance within the criminal legislation of Bosnia and Herzegovina.

## **The regulatory framework**

10. Agency for gender equality of Bosnia and Herzegovina and the Ministry for Human Rights and Refugees have created a Gender Action Plan of Bosnia and Herzegovina, as a strategic document in the field of Gender Equality, which was adopted by the Council of Ministers of Bosnia and Herzegovina.

11. Gender Action Plan of Bosnia and Herzegovina under chapter no. 11 covers the "Domestic violence, sexual violence, harassment, sexual harassment and trafficking" activities that treat issues of prevention and fight against human trafficking, with special emphasis on the economic empowerment of victims of trafficking, as a precondition for the economic independence of victims out of the circle trafficking.

12. Ministry of Human Rights and Refugees, in cooperation with Save the Children Norway has a project entitled "Strengthening the capacity of the Council for Children in Bosnia." As part of this project and commitment to the project it was made the report on the implementation of strategies to combat violence against children, 2007-2010, for the period from June 2007 to December 2008. The report adopted the Council of Ministers of Bosnia and Herzegovina.

13. Also during 2009, it was carried out the procedure and began the process of implementation of prevention strategies to combat domestic violence in Bosnia and Herzegovina for the period 2009-2011. An important segment of the Strategy is to empower victims of domestic violence, which also, when it comes to human trafficking, constitutes the prevention.

14. During the 2009, was made and an action plan for implementation of UN Resolution 1325 "Women, peace and security" in Bosnia and Herzegovina. One of the goals of this Action Plan relates to the prevention and combating trafficking, with special emphasis on activities related to prevention of the exploitation of minors for prostitution and begging.

## **Coordination structures**

15. In April 2009, it was adopted the Regulation on Internal Organization of the Ministry of Security of Bosnia and Herzegovina, within which is a Office of the State Coordinator for Combating Trafficking in Human Beings and Illegal Immigration Department which turned into the Department for the fight against human trafficking as part of the Department for International Cooperation. In this way it was permanently secured funds for financing the activities of the Department for fight against human trafficking within the budget of the Ministry of Security of Bosnia and Herzegovina. Regulations on internal organization of the Ministry of security provided that the Department for Combating Trafficking employs the Head of Department, a professional consultant, one associate and one administrative employee. In 2009 jobs are filled by an associate and by an administrative staff.

16. In accordance with the National Action Plan (2008-2012) in 2009, the activities related to the establishment and capacity building of regional monitoring teams to combat human trafficking were continued. Regional teams (monitoring teams) to combat human trafficking and illegal immigration in Bosnia and Herzegovina, were formed by the principles of the organization of the State Investigation and Protection Agency, which is defined in the Article 22 of the Rules on the protection of trafficking victims and witnesses

of human trafficking which are the are citizens of Bosnia and Herzegovina. This principle also recognizes the diversity and competence of all involved institutions. In accordance with the principle were formed the regional teams are established in Sarajevo, Mostar, Banja Luka and Tuzla.

17. The purpose of establishing of the regional teams is to establish additional capacity to improve the functional relationship between the competent institutions in Bosnia and Herzegovina to participate in the implementation of activities to prevent trafficking. In the work of regional teams are included the representatives from law enforcement agencies, the Service for Foreigners' Affairs, prosecutors, centers for social work, ministries of health, education and non-governmental organizations, in order to ensure better coordination through the direct exchange of information within the regional teams.

18. During 2009 there was a series of meetings with regional teams, in which was agreed a way of exchanging information and activities of all institutions involved in direct assistance to the victims of trafficking. In September, was held a five-day workshop with the participation of representatives of all four regional monitoring team. Topic of the workshop was the development of guidelines for the operation of the regional teams and preparation of the address book of regional teams.

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