



Convention on the Rights of the Child

Committee on the Rights of the Child

Consideration of reports submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Initial reports of States parties due in 2004

Bosnia and Herzegovina * , **

[20 August 2008]

Contents

Paragraphs Page

I. Introduction	15
II. Preparation of the report	2–75
III. Application of the general principles of the Convention on the Rights of the Child	8–696
A. Prohibition of discrimination	8–176
B. The right to life, survival and development	18–207
C. Best interests of the child	21–258
D. Respect for the views of the child	26–359
E. Measures taken to implement the Convention on the Rights of the Child and the Optional Protocol	36–3710
F. Definition of a child from international treaties of which Bosnia and Herzegovina is a party	38–3910
G. Definition of a child in the laws of Bosnia and Herzegovina	40–5311
H. International child abduction	54–5513
I. Adoption of children	56–5713
J. Protection of children from exploitation: progress and problems	58–6914
IV. Data	70–9316
V. General measures of implementation	94–24520
A. Criminal Code of Bosnia and Herzegovina	102–10322
B. Entity Criminal Codes and the Code of the Brčko District of Bosnia and Herzegovina	104–10724
C. Penal policy	108–11126
D. The link between human trafficking in other international agreements and cyber crime	112–11527
E. Coordination at the level of Bosnia and Herzegovina	116–15028
F. Case law	151–15434
G. Institutional mechanisms	155–21735
H. Dissemination of the Optional Protocol	218–22044
I. Data collection and evaluation	22145

J.Financing22245

K.Planning223–23345

L.Contribution of civil society234–24148

M.The role of the ombudsman for children242–24549

VI.Prevention (art. 9, paras. 1 and 2)246–29249

A.Significant laws in Bosnia and Herzegovina that contain preventive measures246–26049

B.Programmes and policies of prevention261–26552

C.Campaigns and other prevention activities266–27253

D.Educational institutions273–27554

E.Campaigns and other measures to raise awareness implemented by non-governmental organizations276–28454

F.Children who are living or working in the streets28555

G.Role of the media286–29256

VII.Prohibition and related issues (arts. 3, 4, paras. 2; 3, 5, 6 and 7)293–34757

A.Prohibitions established in the laws of Bosnia and Herzegovina293–29957

B.Penal policy towards children and adults300–30558

C.Criminal responsibility306–30859

D.Responsibility of legal subjects309–31360

E.Bilateral and multilateral agreements314–31561

F.Child abduction316–32161

G.Protection of children in the media322–33364

H.Extraterritorial competence334–34766

VIII.Protection of victims' rights (arts. 8 and 9, paras. 3 and 4)348–47770

Article 6. The right to life, survival and development34970

Article 2. Non-discrimination35070

Article 3. Protection of the best interests of the child35170

Article 12. Right to participation35270

A.Other professional standards in the protection of the child applied in Bosnia and Herzegovina353–37871

B.Protection of children of foreign citizens379–39374

C.Role of educational institutions394–41878

D.Role of the centres for social work419–44081

E.Role of health institutions441–47283

F.Role of other services and non-governmental organizations473–47787

IX.International legal aid and cooperation478–48087

X.Other legal provisions (art. 11)481–57188

A.Civil protection of the child491–50990

B.Indemnification510–51592

C.Citizenship of children51693

D.Freedom of movement517–54493

E.Placing children in a shelter545–54697

F.Appointment of a temporary guardian547–54898

G.Conduct of the procedures549–55198

H.Return of the child55298

I.Prevention of discrimination553–55498

J.Family protection555–57199

List of laws572102

Note105

I.Introduction

1.In accordance with article 12 paragraph 1 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (“Official Gazette of Bosnia and Herzegovina-International Agreements”, No. 5/02), at the proposal of the Ministry of Human Rights and Refugees, the Council of Ministers of Bosnia and Herzegovina at its 54th session on 3 July 2008, adopted the following report.

II.Preparation of the report

Description of the process of preparation of the report

2.Bosnia and Herzegovina has become a party to this Optional Protocol based on the Decision on ratification of Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography 2002 (“Official Gazette of Bosnia and Herzegovina-International agreements”, No. 5/02), based on which Bosnia and Herzegovina signed the ratification document on 4 September 2002. In terms of standards established in this Optional Protocol, Bosnia and Herzegovina set no reservations.

3.The competence to prepare the report under article 12 paragraph 1 of the Optional Protocol in accordance with the system of the structure of authorities in Bosnia and Herzegovina, (referring to HRI CORE/1/Add./89/Rev.1) rests with the Ministry of Human Rights and Refugees of Bosnia and Herzegovina as one of 9 ministries organized at the level of Bosnia and Herzegovina in accordance with the Law on the Council of Ministers of Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina” No. 30/03, 42/03, 81/06, 76/07, 81/07, 94/07 and 24/08).

4.The Ministry of Human Rights and Refugees of Bosnia and Herzegovina included in the process of preparation of the report on the implementation of the Optional Protocol representatives of the following ministries: Ministry of Justice of Bosnia and Herzegovina, Ministry of Interior of the Republika Srpska, the Federation of Bosnia and Herzegovina and the Brčko District of Bosnia and Herzegovina, the Prosecutor’s Office of Bosnia and Herzegovina and the Prosecutor’s Offices of the Entities. Activities on the preparation of the report were realized in two stages.

5.In the first stage of the preparation of the present report representatives of relevant institutions from Bosnia and Herzegovina participated, tasked with the issues of the protection of the child, organized in an inter-sectoral expert group to submit and prepare the data and responses on the Optional Protocol implementation in the capacity of expert teams and based on available reports and the data in institutions from which they were nominated, while using the text of the Revised Guidelines of the Committee on the Rights of the Child. Representatives of the Ministry of Human Rights and Refugees consolidated the submitted data in the document entitled “Draft Report of Bosnia and Herzegovina on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography”.

6.In the second stage, the draft report of Bosnia and Herzegovina was presented to a broader number of representatives of Government institutions, non-governmental and international organizations, who had the opportunity after the presentation of this document, to make remarks and proposals in a public debate and to submit them in writing. These remarks and proposals were analyzed by the expert group and depending on the justification of proposals, included them in the proposal of the report.

7.During the preparation of the draft report the starting point, as mentioned above, was the Revised Guidelines of the Committee for the Rights of the Child regarding initial reports to be submitted by States parties under article 12, paragraph 1, of the Optional Protocol, followed by the data of relevant institutions and research conducted by the non-governmental sector, and in particular all relevant national legislative sources that are applied in Bosnia and Herzegovina in connection with the standards and principles set forth in the Optional Protocol.

III.Application of the general principles of the Convention on the Rights of the Child

A.Prohibition of discrimination

8.Bosnia and Herzegovina has included the Convention on the Rights of the Child as a relevant international legal source in the text of the Constitution of Bosnia and Herzegovina (annex I of this Constitution). The Convention on the Rights of the Child among 16 international documents listed in annex I, under number 12. In terms of the legal power of national legislation and the existing structure

of government in Bosnia and Herzegovina, the relevant legislation can be presented in the following order: the Constitution of Bosnia and Herzegovina, Constitutions of the Entities (the Federation of Bosnia and Herzegovina and the Republika Srpska) and the Statute of the Brčko District of Bosnia and Herzegovina, Constitutions of the Cantons, Laws (State, Entity, Cantonal and of the Brčko District of Bosnia and Herzegovina), bylaws and other general legal documents. In Bosnia and Herzegovina, it is common legal practice that most of the laws, as well as the other legal sources, include as the general legal norm, the general prohibition of discrimination, which includes the general prohibition of discrimination against children in any shape or form.

9. The Constitution of Bosnia and Herzegovina is prescribed by annex 4 of the General Framework Peace Agreement for Bosnia and Herzegovina signed in 1995 in Dayton (hereinafter: the Dayton Agreement).

10. Article II of the Constitution of Bosnia and Herzegovina, entitled: "Human Rights and Fundamental Freedoms", in paragraph 2 "International Standards", prescribes that the rights and freedoms guaranteed under the European Convention on Human Rights and Fundamental Freedoms and in its Protocols, shall be directly applied in Bosnia and Herzegovina. These documents have priority over all other laws. Paragraph 3 of this article lists all the rights and fundamental freedoms and it is applicable to all persons, including children.

11. Within paragraph 7 "International Agreements", it is prescribed that Bosnia and Herzegovina shall remain or become a party signatory to international agreements listed in the Annex I of this Constitution. Among 16 international documents listed in annex I of the Constitution of Bosnia and Herzegovina, under number 12, there is the 1989 Convention on the Rights of the Child.

12. Annex 6 of the Dayton Agreement entitled the Agreement on Human Rights, in addition to guaranteeing respect of human rights, and thus the rights of the child, as well as fundamental freedoms, foresees the instruments for the protection of these rights and freedoms, which include the following: the Committee for Human Rights, Ombudsman for Human Rights of Bosnia and Herzegovina and the Human Rights Chamber, and now the newly-established Committee for Human Rights at the Constitutional Court of Bosnia and Herzegovina, i.e. the Constitutional Court of Bosnia and Herzegovina. Annex VII of the Dayton Agreement on Refugees and Displaced People created a legal framework for the fulfilment of human rights and fundamental freedoms to these people (including children).

13. Article III of the Constitution of Bosnia and Herzegovina prescribes that all governmental functions and powers that are not expressly assigned in the Constitution to the institutions of Bosnia and Herzegovina, shall be those of the Entities, the Federation of Bosnia and Herzegovina and the Republika Srpska, and a small part of the territory of the town of Brčko has the status of Brčko District of Bosnia and Herzegovina.

Constitution of the Federation of Bosnia and Herzegovina

14. The Constitution of the Federation of Bosnia and Herzegovina in its Chapter II – Human Rights and Fundamental Freedoms, in article 1 prescribes that the principles, rights and freedoms set forth in article II of the Constitution Bosnia and Herzegovina are applied within the entire territory of Bosnia and Herzegovina. In article II A.2 of the Constitution it is prescribed that the Federation of Bosnia and Herzegovina shall ensure the application of the acknowledged rights and freedoms set forth in the documents listed in the Annex of this Constitution. It is stated that all the persons within the territory of the Federation enjoy the aforementioned rights, of which we would emphasize some that are particularly related to children: the right to life, the right to protection of the family and the child, the right to property, the right to education, the right to social and health care, and the right to food and shelter (paragraph 1, items (a), (j), (k), (m), (n), (o), (p) and (r)). In the annex of the Constitution of the Federation of Bosnia and Herzegovina there are 22 international documents including the Convention on the Rights of the Child. All these international documents have constitutional power.

Constitution of the Republika Srpska

15. In Chapter II of the Constitution of the Republika Srpska, which, as in the Constitution of the Federation of Bosnia and Herzegovina, carries the title Human Rights and Freedoms, in articles 10–49 regulates the issues of human rights and freedoms. The Amendment LVII (57) to the Constitution of the Republika Srpska prescribes that provisions on human rights and freedoms shall be exercised in accordance with article 8–11 of the European Convention on Human Rights and Fundamental Freedoms.

16. The Statute of the Brčko District of Bosnia and Herzegovina, constitutions of the cantons and other laws of Bosnia and Herzegovina, also include the general principle ensuring a general prohibition of discrimination. This principle is also included in all the laws in Bosnia and Herzegovina that are related to ensuring the rights of the child, and it is especially pronounced within the laws prohibiting any form of violence against children such as the Criminal Codes or the Family Law.

17. In other laws, such as the Law on Social and Health Protection, the laws that regulate the education and upbringing of children, gender equality, the Law on the Protection of the Rights of Ethnic Minorities of Bosnia and Herzegovina, the Law on Main Record Books, etc. and in the laws and bylaws referenced in this Report, any form of discrimination against the child is also prohibited. Thus, in Bosnia and Herzegovina, in terms of the legal prohibition, there is a general prohibition of discrimination against the child on the basis of race, gender, language, religion, political and other opinion, ethnic and social origin, connection with an ethnic minority, ownership, birth or other status.

B. The right to life, survival and development

18. The right to life of the child is also guaranteed in the highest legislative documents. The right to life is the basic constitutional right which, within the law and the legal practice of Bosnia and Herzegovina, is observed through the securing of the right of the child to adequate development and protection. This right is provided for children within the family, that can be a parental, guardian or a foster family, and in exceptional cases within the institutions for accommodation of children. All these issues are regulated in Entity Laws,

including the Laws on Social, Child and Family Protection and the Family Laws enacted in the Entities, the Federation of Bosnia and Herzegovina, the Republika Srpska, and the Brčko District of Bosnia and Herzegovina.

19. Jeopardizing the right to life is certainly punishable in Criminal Codes that are in force in Bosnia and Herzegovina, with no exception. The death penalty (annulled in the Federation of Bosnia and Herzegovina) had never been applied against children.

20. The Laws such as the Law on Protection from Domestic Violence, the Family Law, the Law on Social Protection, the Gender Equality Law, the Law on Pre-school Education and Upbringing and the Law on Primary and Secondary Education of Bosnia and Herzegovina, ensure special forms of protection, upbringing and education of the child, with an aim of ensuring the optimum development of the child in a family or an institution. In Bosnia and Herzegovina these Laws define, in practical terms, the obligations of parents toward children, the obligations of institutions, parental or guardian oversight and other issues related to the protection of the child, as well as the measures taken when this right of the child is violated.

C. Best interests of the child

21. The criminal legislation in Bosnia and Herzegovina (hereinafter: the Criminal Code) prescribes different criminal responsibility for children, depending on the age of the child:

Definition of a child — Article 1, paragraph 8, of the Criminal Code — “A child, as referred to in this Code, is a person who has not reached fourteen years of age”

Article 8, of the Criminal Code — Exclusion of Applying Criminal Legislation of Bosnia and Herzegovina to Children — “Criminal legislation of Bosnia and Herzegovina shall not be applied to a child who, at the time of perpetrating a criminal offence, had not reached fourteen years of age”

Article 9 of the Criminal Code of Bosnia and Herzegovina – Applicability of Criminal Legislation of Bosnia and Herzegovina to Juveniles “The criminal legislation of Bosnia and Herzegovina shall be applied to juveniles pursuant to Chapter X (Rules Relating to Educational Recommendations, Educational Measures and Punishing Juveniles) of this Code and other laws of Bosnia and Herzegovina”

22. The penal policy, in this subject matter, differs with respect to adults and juveniles.

23. With regard to the perpetrator of a criminal offence—a juvenile, the criminal proceedings may not be conducted against a juvenile younger than 14 years of age. For this reason, the Law on Criminal Procedure of Bosnia and Herzegovina (hereinafter: the Criminal Procedure Code) in its provisions does not use the term “child”, but a “juvenile”, therefore a person who has not come of age, but older than 14 years of age. An adequate treatment of a juvenile, as a perpetrator of a criminal offence, is prescribed in the provisions of the Criminal Procedure Code, including the presence of guardianship organs during proceedings, impossibility to have a trial in absentia, mandatory defence-free legal aid, professional evaluation of social development of a juvenile, urgency of the proceedings, exclusion of the public, etc.

24. With reference to a child being a victim or a child being a witness, the protection of the child shall be ensured under the Law on Protection of Witnesses under Threat and Vulnerable Witnesses of Bosnia and Herzegovina, and these same laws are applicable in the entities and in the Brčko District of Bosnia and Herzegovina, which grants the child witnesses the status of a threatened witness, and according to the need the status of a protected witness. The relevant prosecutor office and police are obligated to take all necessary steps to ensure the protection of the child, and the centres for social work as institutions supervising the status of the child in the family or in an institution, are mandatorily involved in the process of the protection of the child.

25. These laws fall under the purview of the entities and the Brčko District of Bosnia and Herzegovina. The aforementioned laws include the possibility for a child to present his/her views at an appropriate age; this view of the child is mandatorily considered when rendering decisions that are in the interest of the child.

D. Respect for the views of the child

26. The child who is a victim or a witness has the possibility to express and convey his/her views if he/she is at least 10 years of age, with a mandatory assistance of a child psychologist who conducts a discussion with a child, and the statement of the child and the statement of the professional are taken as equal sources of information on a specific case. In practice a statement of a child younger than 10 years of age can be considered, if the expert finding confirmed that the child understands and can understand the situation he/she is in.

27. The basic method used to determine the views of a child is contained in the legal obligation of social workers to participate as professional people in all proceedings in which children are involved, either when it comes to their social status or a case in which a child is the victim or a witness victim to ensure appropriate professional help by other experts.

28. Social workers have the possibility in accordance with the laws of Bosnia and Herzegovina that regulate social and health protection to use expert assistance of child psychologists when it comes to all the children and especially children of a younger age, in order to determine child views and use them for the best interest of the child. The views collected professionally (findings and the expert opinion of a psychologist) are mandatorily contained in the recommendations of social workers, even when they contravene the positions of parents, guardians, foster parent, etc.

29. In the case law, when an interview is conducted with a child, the judges, prosecutors, policemen, and investigators must ensure the presence of a social worker and a psychologist. Bosnia and Herzegovina enacted a bylaw on the protection of local and foreign victims of trafficking – instructions to conduct interviews with children. Similar instructions exist on internal level in the centres for

social work.

30. Also, in Bosnia and Herzegovina most of the laws that were passed after 2000, are being harmonized with the standards enshrined in the Convention on the Rights of the Child and the Optional Protocol. This process is still ongoing and more efficient mechanisms and procedure are tried to be ensured so that the children-victims would be provided with adequate and objective information, adjusted to their age and origin.

31. In Bosnia and Herzegovina there is an attempt to develop standardized practices for police/prosecutor offices with a detailed and discreet clarification of all perceived circumstances, needs and the conduct of the child and the family of the child, so that in any situation appropriate contacts of all participants in these processes would be established.

32. The police shall immediately, in accordance with their competence, assess the physical safety of the child and together with the centre for social work pass a decision on urgent placement of the child.

33. In accordance with the laws that are applied in Bosnia and Herzegovina, a child or a juvenile shall always be considered as threatened, and can obtain the status of a protected or threatened witness, and this also applies to his/her family should there be a need.

34. The legal status of children as a rule shall not differ according to their age. With reference to the age in terms of decision to testify or take part in proceedings, very important is the decision of parents or guardians as to whether such a course of action is in the interest of the child. When the child does not have an adequate guardianship protection, a temporary guardian shall be appointed (ensuring the best interests for the child in case of the absence of parents or guardians or in case there is a conflict of interest between the child who is the victim and parents or guardians).

35. The opinion of the child is very important and the centres for social work in Bosnia and Herzegovina in their practice take into consideration that the child of 10 years of age and older can express a relevant opinion which is taken into consideration in all proceedings, in addition to expert opinion.

E. Measures taken to implement the Convention on the Rights of the Child and the Optional Protocol

36. Implementation of standards of child protection in accordance with the Convention on the Rights of the Child in Bosnia and Herzegovina over the past few years has been significantly improved with the passage of the Action Plan for Children of Bosnia and Herzegovina 2002–2010 and several very important plans and strategic documents that give priority to measures to improve the implementation of the Convention on the Rights of the Child and the Optional Protocol. In practice, problems in the efficient implementation of standards remain, mostly caused by the economic and political situation in Bosnia and Herzegovina, which significantly encumber the application of all needed standards for the protection of children against poverty and the lack of means.

37. In order to present the overall situation in Bosnia and Herzegovina, in accordance with the recommendations of the Committee on the Rights of the Child, it is necessary to provide more information on specific issues.

F. Definition of a child from international treaties of which Bosnia and Herzegovina is a party

38. The starting point in understanding the laws and policies in Bosnia and Herzegovina is the status of the definition of the child, which we identify in several laws that are applied in Bosnia and Herzegovina. In some situations, we identify the definition of a child as taken directly from the Convention on the Rights of the Child or as a complex, indirect definition that describes the status of the child with respect to the fulfilment of a particular right of the child.

39. The starting point to analyze the definition of a child, is the definition set forth in article 1 of the Convention on the Rights of the Child:

“... a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier ...”; followed by

a definition from the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in article 3 (d) emphasizes:

“Child” shall mean any person under eighteen years of age, and

the definition from The Hague Convention on the Civil Aspects of International Child Abduction, within article 4 indirectly specifies decision of a child, which reads:

“The Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights. The Convention shall cease to apply when the child attained the age of 16 years.” and

the definition from the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and which fully takes over the decision of the child from the Convention Law on the rights of the Child and identifies particularly vulnerable groups of children, immediately in the preamble, where it is stated:

“that girls are exposed to a greater risk”.

G. Definition of a child in the laws of Bosnia and Herzegovina

40. Laws in Bosnia and Herzegovina define the child in a different manner in terms of his/her age, the ability to discern, responsibility, exercising or attaining of rights, identifying the obligations and with respect to the right to education, social, health, civil and other rights.

41. When it comes to criminal and legal protection within the Criminal Code of Bosnia and Herzegovina in article 1, items 8 and 9 the following is emphasized:

“a child, as referred to in this Code, is a person who has not reached fourteen years of age, and a juvenile, as referred to in this Code, is a person who has not reached eighteen years of age”.

42. With respect to the protection of a child as a witness, Law on Protection of Witnesses under Threat and Vulnerable Witnesses of Bosnia and Herzegovina takes, within its article 3, paragraph 3, the definition from the Criminal Code:

“A vulnerable witness is a witness who has been severely physically or mentally traumatized by the events of the offence or otherwise suffers from a serious mental condition rendering him unusually sensitive, and a child and a juvenile.”

43. When it comes to social protection of a child the definitions are much more complex and indirect. The Law on Child Protection of the Republika Srpska does not have a definition of a child, but in article 20 of this Law in terms of the rights to child allowance, there is a reference to the age of the child up to 15 years of age, and in article 23, there is a reference to children with difficulties in their development: “...up to 19 years of life,” or “... child after attaining 19 year of life ...” as a person without the capacity to exercise rights.

44. Within the Law on the Basics of Social Protection, Protection of Civil War Victims and Protection of Families with Children from the Federation of Bosnia and Herzegovina, in article 6, a child is considered to be a person younger than 18 years. Exceptionally — in accordance with the aforementioned article 6 — a child is considered to be a person older than 18 years and younger than 27 years, in order to exercise the right to allowance for children and scholarship or a stipend.

45. Concerning the civil status of a child the Family Law of the Federation of Bosnia and Herzegovina sets forth the definitions for the right of the child in terms of the right to enter into marriage as in article 15, which states the following:

(a) A person who has not attained 16 years of age cannot enter into marriage;

(b) Exceptionally the “court in a non-litigation proceedings may allow a marriage to a person who has not attained 16 years of age, if it finds that there are justified reasons that this person is physically and mentally capable of exercising the rights and duties stemming from the marriage and that the marriage is in the interest of that person.

46. This Law also specifies the definitions that concern the capacity to exercise rights in article 157, which reads as follows:

“The capacity to exercise rights shall be acquired when the person becomes an adult or enters into marriage before becoming an adult.

A person who attains 18 years of age becomes an adult.

The capacity to exercise rights may be acquired by a juvenile older than 16 years of age who has become a parent.

In non-litigation proceedings the court shall decide on the acquiring of capacity to exercise certain rights, in the manner specified in paragraph 3 of this article, at the request of juvenile person, taking into consideration the mental maturity of this person.

A juvenile who attains 14 years of age acquires a limited capacity to exercise rights.”

In addition to this definition, the same law specifies the situation when the guardianship is extended over an adult child. The Family Law of the Republika Srpska contains the same provisions.

With respect to the right of the child to labour, the Law on Labour of the Federation of Bosnia and Herzegovina, article 12, states the following:

“Employment contract cannot be signed with a person that has not attained 15 years of age. A person between 15 and 18 years (a juvenile) may be employed provided that he/she obtains from a competent doctor or a relevant health institution a certification proving that he/she has the general health competence to perform these tasks.”

47. The same provision is applied in the Republika Srpska.

48. With respect to the health protection of children within the Law on Health Protection of the Federation Bosnia and Herzegovina the right to health protection is entitled to “children who have attained 15 years of age, and have not completed primary school or have not entered into employment after the completion of primary education, if they report with the Employment Bureau within 30 days upon attaining 15 years of age, or from the day when they complete the school year”.

49. Health care of children is linked to the right of the parents who are their insurers and the same provision is applied in the Republika Srpska with a note that the right to health care is entitled to regular students.

50. The status and the application of the definition of a child could be a potential problem in ensuring a more efficient protection of children in Bosnia and Herzegovina. As these laws represent the foundation for the fulfilment of the rights of the child, the definition of a child in the different laws which are mentioned above could create situations in which they could more likely become victims. The

age of children in terms of the fulfilment of the right to freedom of movement without escort and to independent decision-making is not unified throughout Bosnia and Herzegovina and in terms of possible consequences could bring children to some risky situations.

51. When it comes to the criminal responsibility, the age also affects the position and the responsibility of the child.

52. Considering the universal and permanent obligation for the action of all institutions in Bosnia and Herzegovina to be in the best interest of the child, toward the persons up to 18 years of age and in accordance with the definition of the Convention on the Rights of the Child, there is an imposing need for a detailed analysis of the effect of the definition of a child, his/her security in terms of the definition, and the overall status of child protection from human trafficking.

53. When it comes to harmonization of the national with international legislation, it is necessary to consider the possibility that should certain situations so require, in the best interest of the child the provisions of national legislation should allow deviation from or derogation of established rules, so as to improve the work of relevant institutions in the protection of the child and enable efficient combating of child trafficking.

H. International child abduction

54. The 1980 Hague Convention on the Civil Aspects of International Child Abduction is valid in Bosnia and Herzegovina based on the Law on the Ratification of the Convention on Civil Aspects of International Child Abduction ("Official Gazette of the Republic of Bosnia and Herzegovina", no. 2/92 and 13/94). Bosnia and Herzegovina, as a country signatory, ensures the most urgent return of unlawfully taken or held children, while trying to provide the right of guardianship and seeing the child under the applicable law in Bosnia and Herzegovina. The key institution for the implementation of measures, in addition to INTERPOL which receives and forwards official information on the search for abducted children, is the Ministry of Justice of Bosnia and Herzegovina which in cooperation with the State Investigation and Protection Agency conducts the search procedure together with entity police services and the services for social protection.

55. Within Criminal Codes of the Federation of Bosnia and Herzegovina (arts. 180 and 217), the Republika Srpska (arts. 165 and 205) and the Brčko District of Bosnia and Herzegovina (arts. 177 and 214) there are two types of criminal offences that are defined as the abduction and as the kidnapping of a child or juvenile.

I. Adoption of children

56. Adoption of children is a strictly controlled procedure which falls under the competence of key agencies in Bosnia and Herzegovina that are the centres for social work. The procedure of adoption is regulated under the Family Law at the level of entities. Bosnia and Herzegovina has only recently, although rarely, started to allow adoptions in cases where the future parents are foreign citizens, i.e. if they are not citizens of Bosnia and Herzegovina or do not live in Bosnia and Herzegovina. The request is filed with the municipal centre for social work which is presumed to be taking care of the child that falls under the basic legal provisions on adoption. The request presupposes submission of all the proofs of suitability for the adoptive parent: the excerpts from the birth registries, certification of citizenship, certification that there are no criminal proceedings, certification that there were no sanctions and the certification on financial situation. The centres for social work also collect the proof that a potential adoptive parent was not previously a parent that the parent right was not taken away and the social and financial situation is also investigated. As regards the foreign citizens, this social anamnesis is sought from the organs of the country from which the adoptive parent comes. The very process of adoption does not have a specific time for duration. If the Centres for Social Work have a child in their registry for adoption, then the entire process runs much faster, but the adoption itself is fully in the competence of the centres for social work, which are active in municipalities. The centres for social work can contact one another at the same time and share information as to whether they in their registry have a child for adoption or a potential adoptive parent. It may happen that they respond right away that they do not have children on the registry for adoption, but in the practice it happens that only rarely would the adoptive parent give up after the first rejection – some are waiting for years.

57. After the collection of the complete analysis, the centre sends the request to the relevant ministry for social care, which in cooperation with the ministry of interior affairs, checks all the data and issues the final consent. The method remains the same even if an interested foreign adoptive parent offers extremely favourable living conditions for the child.

J. Protection of children from exploitation: progress and problems

58. Violence against children, as well as the sexual abuse against children is a particularly pronounced problem in the society of Bosnia and Herzegovina, because there is a significant number of cases of violence against children which remain unreported. Many factors which are characteristic of post-war situations and countries in transition, such as is Bosnia and Herzegovina, contribute to an increasing violence in society, which particularly impacts on children as the most vulnerable category of the population. General poverty, unemployment, social insecurity, corruption and increased rate of crime are just some of the elements that encumber the position of children in the society of Bosnia and Herzegovina.

59. Although the problem of violence against children is being given increasing importance, and there is an attempt to secure a sustainable system of relevant statistical data, there is an ongoing need to develop the system of data collection, which would give a more thorough picture of the prevalence of the problem of prostitution, child pornography and child trafficking.

60. A large number of institutions working to resolve the problems of violence against children do not have necessary human or financial resources, or the working methodology that is fully adjusted to the needs of the child.

61. Child trafficking represents one of the growing problems in Bosnia and Herzegovina, as in the broader region of former Yugoslavia, i.e. south-eastern Europe, until recently the countries in the region have been known as countries of transit and of

destination. Today, they are increasingly becoming the countries of origin for the trafficking, and there is a child trafficking within the state borders.

62. Bosnia and Herzegovina is trying to develop and participate in the regional cooperation, and only through a better cooperation and coordination between different stakeholders working on curbing the violence against children and sexual abuse, could there be a contribution to more efficient resolution of this issue in the countries of the region.

Results achieved so far

- (a) Research on child trafficking in Bosnia and Herzegovina conducted;
- (b) Adopted and published the Initial National Report on Violence against Children in Bosnia and Herzegovina;
- (c) Code of Ethical Conduct for Research Involving Children in Bosnia and Herzegovina adopted and published;
- (d) National Strategy to Combat Violence against Children in Bosnia and Herzegovina 2007–2010 adopted;
- (e) National Strategy to Combat Juvenile Delinquency adopted;
- (f) Strategy to Improve the Status of Roma Population in Bosnia and Herzegovina;
- (g) National Action Plan to Combat Human Trafficking and Illegal Migration in Bosnia and Herzegovina 2008–2012;
- (h) Research on risk factors that lead to child trafficking titled “Children speak out: what influences child trafficking in South-eastern Europe-report from Bosnia and Herzegovina” completed;
- (i) The review and analysis of the national mechanism aimed at prevention of human trafficking in Bosnia and Herzegovina-child trafficking for the purpose of exploitation, completed;
- (j) Review of action of relevant institutions for the protection of children who are the victims of human trafficking-referral mechanism, completed;
- (k) “Handbook for the officers working in police, prosecutor offices, social and health institutions-protection of a child from human trafficking”, developed and promoted;
- (l) Standardized procedures of different professions in the protection and treatment of children who are victims and witnesses of human trafficking in Bosnia and Herzegovina-protection of children in their place of residence and place of stay, developed and promoted;
- (m) Eight training sessions held on how to treat children who are the victims of trafficking and on the application of standardized procedures for more than 200 professionals from Bosnia and Herzegovina;
- (n) In April 2008 has started with the implementation of a three-year long project for the capacity building of institutions for prevention of child pornography.

63. A large number of children were strengthened to adequately face and to protect themselves from violence in the family, sexual exploitation and human trafficking, and there has been an increased level of awareness by children, parents, experts and public on the problem of violence against children and sexual abuse of children, as well as the problem of child trafficking. There is a successful cooperation with a large number of non-governmental organizations which also provides a significant contribution to the building of capacities and to providing direct assistance to child victims and their families.

64. With a primary intent to improve detection and reporting of cases of human trafficking in Bosnia and Herzegovina, in early 2007 the Council of Ministers of Bosnia and Herzegovina, in a decision, adopted the “Rules on the protection of victims and witnesses who are victims of human trafficking, citizens of Bosnia and Herzegovina” (“Official Gazette of Bosnia and Herzegovina”, no. 66/07), which in article 4 paragraph 1 prescribes: “In case when any institution of Bosnia and Herzegovina or an authorized organization have a suspicion or learn that a person is the object of human trafficking, they shall be obliged to promptly inform the State Investigation and Protection Agency of Bosnia and Herzegovina and the Prosecutor Office of Bosnia and Herzegovina thereof. The notification on this suspicion and the information of what was learned can be submitted to the relevant entity prosecutor offices and police and in the Brčko District of Bosnia and Herzegovina.”

65. Further, article 5, paragraph 3 prescribes: “All institutions in Bosnia and Herzegovina, organizations, legal and physical entities who come into contact with the child exposed to some form of exploitation and violence shall be obliged, without delay, to submit to the guardianship organ the notification on the violation of the rights of the child.”

66. Paragraph 4 of the same article prescribes: “The obligation to submit the notification on the violation of the rights of the child to a service or the centre for social work is applicable to the Prosecutor Office of Bosnia and Herzegovina, prosecutor offices of the entities and the Brčko District, police services in Bosnia and Herzegovina and expert professionals in the educational institutions (administration, teachers and the pedagogical service in educational institutions), health institutions, inspection and sanitary services, employment bureaus, main registries, counselling services, agencies for protection of children and young people, institutions accommodating children and young people and children without parental care and any other public or private institution where children are accommodated.”

67. Article 15, paragraph 4 of the Rules prescribes: “A child who is the victim or a victim who is the witness shall be regarded as a child without parental care or as a neglected child regardless of the child family status.”

68. With reference to previously established standards in international and national regulations, it is of particular importance to note that the family laws in Bosnia and Herzegovina have already prescribed a mandatory protection of the child. Thus, the Family Law in the Federation of Bosnia and Herzegovina prescribes that a child is entitled to be protected from all forms of violence, abuse, mistreatment and neglect, and the Family Law of the Republika Srpska emphasizes that the parents have the right and the duty to protect their juvenile children and to take care of their life and health.

69. There is a noticeable progress in Bosnia and Herzegovina in terms of the elimination of the sale of children, child prostitution and child pornography and in ensuring the protection and fulfilment of the rights set forth in the Optional Protocol.

IV. Data

70. Cases of human trafficking are commonly of a cross border nature. Bosnia and Herzegovina in these cases is mostly the transit country or the destination country for victims who come from the countries of Eastern Europe (mostly from Ukraine, Moldavia, Romania). However, over the past couple of years there is a new phenomenon in Bosnia and Herzegovina – trafficking in women and girls who are taken into the circle of human trafficking at the local level with an aim of sexual exploitation in the other parts of the country. While the number of identified foreign victims is constantly dropping, the number of female citizens of Bosnia and Herzegovina who are identified as victims of human trafficking within the borders of Bosnia and Herzegovina is on the constant rise, and this can be seen in the following graphs:

Total number of identified potential victims of human trafficking in Bosnia and Herzegovina in the period 1999– 2006.

Total number of identified potential foreign victims of human trafficking in Bosnia and Herzegovina in the period 1999 – 2006.

Total number of identified potential national victims of human trafficking in Bosnia and Herzegovina in the period 1999 – 2006.

71. A particularly aggravating fact is that of the total number of identified potential victims of human trafficking, about 30 per cent are children, i.e. the persons who have not attained 18 years of age.

72. A vast majority of the victims of human trafficking in Bosnia and Herzegovina are procured and trafficked with an aim of sexual exploitation. Along with the increase of trafficking of female citizens of Bosnia and Herzegovina within the borders of Bosnia and Herzegovina, the law enforcement agencies are faced with new challenges in the area of identification and research of crimes related to human trafficking as they are increasingly perpetrated in a much more concealed manner and at private and secret locations by a smaller groups of perpetrators, unlike the larger groups of organized criminals who participated in these offences in the previous periods, exploiting the victims in a much more open manner in night bars and similar facilities.

73. There were also sporadic registrations of human trafficking for the purpose of forced labour, organized begging for money and marriages of convenience. The issue of exploitation of the labour and begging for money in the past was not treated in an adequate manner in the national strategy. For this reason this problem is still present in Bosnia and Herzegovina, in particular the problem of begging for money which is the side effect of the acute state of poverty in the country. The number of children who are working in the streets is on the constant rise due to a lack of an effective mechanism for protection by the relevant institutions, especially among the Roma population.

74. During 2007, a total of 17 juvenile persons-children (females) victims of exploitation were identified of which:

One was seven years of age.

One was 12 years of age 3–13 years of age and one, 14 years of age, – victims of paedophilia and prostitution.

Four girls were 15 years of age, three, 16 years of age and five girls, 17 years of age and they were identified as victims of human trafficking-child prostitution.

75. In the Brčko District of Bosnia and Herzegovina a verdict was rendered over child exploitation for pornography (art. 208 of the Criminal Code of the Brčko District of Bosnia and Herzegovina) and a pedagogue paedophile was convicted to two years in prison with the obligation to pay the costs of criminal proceedings.

76. During 2006, there was an investigation against two people over the criminal act of Exploitation of Children and Juveniles for Pornography (art. 199 of the Criminal Code of the Republika Srpska). Investigation in this case was finalized in January of 2007 in the cessation of investigation, because in the concrete case it was found that the perpetrator was a 13-year old child.

77. During 2007, two investigations were initiated over the criminal offence of production and display of child pornography in the Republika Srpska and one in the Federation of Bosnia and Herzegovina.

78. In Bosnia and Herzegovina so far there were no registered or detected cases of the sale of child organs.

79. As regards the problem of children who are begging for money — children who are working in the street — this problem is not always related to sexual exploitation — forced labour — begging for money and neglect. This type of abuse most often afflicts children and women of Roma minority in Bosnia and Herzegovina.

80. According to the data from the report of the Federation Ministry of Interior, from the information on the situation of public law and order as of 6 February 2008, there was the following:

During 2007, there were 890 offences of begging (916 people were reported), which is 729 fewer (or 45 per cent) compared to 2006. Begging as a phenomenon is most prevalent on the territory of the Sarajevo Canton – the city of Sarajevo, where for this type of offences there were 73.7 per cent of the total number of requests to initiate minor offence proceedings on the territory of the Federation of Bosnia and Herzegovina. The problem of begging and perpetrating of these offences will be pronounced in the following period, although it has been reduced to a large degree, thanks to the measures taken, compared to 2006.

According to the data available for 2006, which were submitted to the Prosecutor Office of the Federation of Bosnia and Herzegovina and the Brčko District of Bosnia and Herzegovina, 13 persons were identified to have organized begging and appropriate criminal or minor offence proceedings had been conducted against them. During 2007, 15 persons were identified as having been led to begging by others (the data for the Republika Srpska are not included).

The people who are registered as beggars were (406), and a number of people were registered a couple of times, 55 of them were foreign citizens (Macedonia, Serbia and Montenegro).

81. The example of the Sarajevo Canton, which is the biggest city and the capital of Bosnia and Herzegovina, is characteristic. It has at the local level signed an Agreement to Curb begging in the Streets of Sarajevo (the agreement was signed between the Cantonal Center for Social Work and the Ministry of Interior, Ministry of Health and the Ministry of Social Protection of the Sarajevo Canton). The agreement plans for increased measures to patrol the streets, identify children in the street, inform the social workers and put the children under supervision if they are not in the escort of parents or authorized guardian.

82. According to the data which the associates and volunteers of HINA obtained, after one-month research, and with the help of Ministry of Interior of the Republika Srpska, the average monthly salary of a qualified worker in the Republika Srpska, i.e. Banja Luka, amounts to 400 KM, while an organized beggar on the streets of Banja Luka on a daily basis earns 20–40 KM, or 600 KM per month. Thus, begging for money has become a professional activity, in which, according to the same data, about 200 people in Banja Luka are involved. According to the research of the Society for the Threatened People of Bosnia and Herzegovina, the Roma in the Republika Srpska are the most destitute strata of society. A small number of them have the money for medical treatments, their life span is very short, a great majority of them are illiterate, and a negligible number of them are employed. This is the reason why many Roma abandon themselves to begging and small thefts. However, it is believed that the begging in Banja Luka most often involves the Roma coming from Serbia. We are talking about organized groups of women, girls from 10 to 13 years of age and children between four to eight years of age which frequent the facilities of the Clinical Center, religious facilities and the terraces of catering facilities in the centre of the town, especially in the evening hours.

83. In order to make a data comparison, we also present the data that are contained in the research on Children from the Street which was conducted in 2006 by Save the Children Norway. The research included eight areas.

84. Police stations and the centres for social work in eight regions covered by this research were asked the questions about the contacts with children who are living or working in the streets since the beginning of 1999.

85. About half of police stations and administrations reported that in that period they had contacts with children living or working on the street. The total number of offences ascribed to children who are living or working on the street was about 2,600. These figures are to a great extent based on the daily registry of policemen in patrols.

86. It would seem that the number of offences perpetrated by minors is on the rise. However, the data for 1999 and 2000, are only the estimates, and therefore it is difficult to compare the numbers for different years.

87. A significantly higher percentage, about 70 per cent, of the centres for social work reported about the contacts with children who are living or working on the street. The total number of cases varies from approximately 700 to 900 per year in the period between 1999 and 2002. As the centres for social work commonly come into contact with children who are living or working on the streets through the police, this rather equal profile through the time is in direct contradiction with a dramatic increase suggested by police data.

88. The aforementioned observation teams, which were working in each of eight regions covered by this report, noted that they have seen a total of somewhat more than 100 children. Five non-governmental organizations (NGOs) from four different areas reported to have worked with 100 different children. Unless other non-governmental organizations, which are not identified in the initial survey of non-governmental organizations conducted for this report, are significantly working with children who are living or working on the street, then there is a fairly small number of children, living or working on the street, who are taken care of by NGOs.

89. Based on these data, it was possible to conduct an estimation of the number of children who are living or working on the street and who every year come into contact with the relevant organs in eight regions covered in this report. Since the police and the centres for social work reported of about some 1,000 contacts per year, it would seem that it is possible to presume that at least 1,000 children, who are living or working in the street, come into contact with a state organ every year. On the one hand, the number of cases given by the police and the centres for social work can include several contacts with a smaller number of children, but on the other hand certainly there are other contacts who are not identified as contacts with children who are living or working in the street, or were not included in the final statistical data.

90. In Bosnia and Herzegovina there is still no institute to adopt a child through an intermediary.

91. In Bosnia and Herzegovina, with regard to registering the cases of child prostitution, these offences are regarded as procuring for the prostitution and trafficking in human beings since it involves people who have not attained 18 years of age, i.e. Bosnia and Herzegovina is applying the standard set forth in the European Convention on Action Against Trafficking in Human Beings (see previous data in paragraphs 74–78 above).

92. In Bosnia and Herzegovina, the occurrence of sex tourism was not registered and the tourist agencies so far have not promoted sex tourism that involves child prostitution in other countries.

93. Information available in Bosnia and Herzegovina based on the raised indictments and launched investigations, as stated in this report, show that the depicting, distribution and dissemination of child pornography was registered on internet networks and mobile telephony, but the scope of these activities are not worrying. It is also the fact that only recently special departments of police and prosecutor offices are being trained to more successfully combat the spread of child pornography. So far the total shown available data in Bosnia and Herzegovina refer to child trafficking.

V. General measures of implementation

94. The general implementation of measures in accordance with international standards established in the international conventions and Protocols to which Bosnia and Herzegovina is party takes place though a continuing process of harmonization of the applicable laws that protect the child from any form of abuse, especially from any form of sexual exploitation.

95. In Bosnia and Herzegovina, since the establishment, in 2000 of the Ministry of Human Rights and Refugees which monitors the harmonization of the laws with international standards for the protection of human rights, the preparation of the laws always starts from the accepted standard which is contained in the definition of the phenomenon of human trafficking in the international instruments to which Bosnia and Herzegovina has become a party, such as the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

96. The definition of human trafficking is provided in article 3 of the United Nations Convention against Transnational Organized Crime from 2000 and Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children:

(a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) "Child" shall mean any person under eighteen years of age."

97. In other words, each person younger than 18 found in the circumstances described in this provision shall be considered a victim of trafficking, regardless of the manner in which that person has become the subject of trafficking.

98. Bosnia and Herzegovina has become the signatory of the Council of Europe Convention on Action against Trafficking in Human Beings.

99. This European Convention is the latest international document that supplemented the definition from the United Nations Palermo Protocol so that article 4 of the Council of Europe Convention on Action against Trafficking in Human Beings sets forth the following:

(a) Trafficking in human beings "shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of "trafficking in human beings" to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in human beings" even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) "Child" shall mean any person under eighteen years of age;

(e) "Victim" shall mean any natural person who is subject to trafficking in human beings as defined in this article."

100. The content of these definitions was the basis to pass the most important laws that regulate the contents of the criminal offences that have been perpetrated against children.

101. With reference to the process of harmonizing and legal regulations, primarily of human trafficking, but other criminal offences perpetrated against children, we will present the brief contents of the criminal acts that are established under the laws in Bosnia and Herzegovina.

A. Criminal Code of Bosnia and Herzegovina

102. The Criminal Code of Bosnia and Herzegovina was significantly reformed and brings a new reformed legislative framework

which is to the greatest extent harmonized with international standards for the protection of fundamental human rights and freedoms.

103. The Criminal Code of Bosnia and Herzegovina in chapter XVII prescribed criminal offences against humanity and the values protected under international law, among which there are the following criminal offences that relate to trafficking in human beings.

Establishment of slavery and transport of slaves (art. 185)

1. Whoever, in violation of the rules of international law, places another in slavery or in a similar status or keeps him in such a status, buys, sells, hands over to another person or mediates the purchase, sale or handing over of such a person or induces someone else to sell his freedom or the freedom of the person he provides for or takes care of, shall be punished by imprisonment for a term between one and ten years.

2. Whoever, in violation of the rules of international law, buys, sells, hands over to another person or mediates in the purchase, sale or handing over a child or a juvenile for the purpose of adoption, transplantation of organs, exploitation by labour or for other illicit purposes, shall be punished by imprisonment for a term not less than five years.

3. Whoever, in violation of the rules of international law, transports persons who are in a position of slavery or in similar status, shall be punished by imprisonment for a term between six months and five years.

Trafficking in persons (art. 186)

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 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 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 between one and ten years.

2. Whoever recruits, transports, transfers, harbours or receipts a child or a juvenile for the purpose of the exploitation referred to in paragraph 1 of this article, shall be punished by imprisonment for a term not less than five years.

3. Whoever organizes or directs at any level the group of people for the purpose of perpetration of the criminal offences referred to in paragraphs 1 and 2 of this article, shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.

4. The circumstance whether a person consented to the exploitation referred to in paragraph 1 of this article is of no relevance for the existence of a criminal offence of trafficking in persons.

International procuring in prostitution (art. 187)

1. Whoever procures, entices or leads away another person to offer sexual services for profit within a state excluding the one in which such a person has residence or of which he is a citizen, shall be punished by imprisonment for a term between six months and five years.

2. Whoever, by force or threat to use force or deceit, coerces or induces another person to go to the State in which he has no residence or of which he is not a citizen, for the purpose of offering sexual services upon payment, shall be punished by imprisonment for a term between six months and five years.

3. If the criminal offence referred to in paragraphs 1 and 2 of this article is perpetrated against a child or a juvenile, the perpetrator shall be punished by imprisonment for a term between one and ten years.

4. The fact whether the person procured, enticed, led away, forced or deceived into prostitution has already been engaged in prostitution is of no relevance for the existence of a criminal offence.

Unlawful withholding of identity papers (art. 188)

Whoever, with an aim of limiting the freedom of movement or exercising power over a person unlawfully withholds another person's identification or travel paper, shall be punished by imprisonment for a term between six months and five years

Smuggling of persons (art. 189)

1. Whoever, out of gain, transports across the state border one or more persons that do not comply with the requirements for legal entry across the state border, or whoever enables another person to cross the border illegally, shall be punished by imprisonment for a term between six months and five years.

2. Whoever, out of gain, enables a person who is not a citizen or permanent resident of a receiving state to remain in the territory of that state without complying with the requirements for legal stay, shall be punished by a fine or imprisonment for a term not exceeding three years.

3. If, during the perpetration of the criminal offence referred to in paragraph 1 of this article, life or safety of persons transported across the state border was endangered or was likely to be endangered, or they were treated for the purpose of exploitation or in another inhuman or degrading manner, the perpetrator shall be punished by imprisonment for a term between one and eight years.

4. If, during the perpetration of the criminal offence referred to in paragraph 2 of this article, life or safety of persons to whom illegal

stay in the territory of a receiving state was enabled was endangered or was likely to be endangered, or they were treated for the purpose of exploitation or in another inhuman or degrading manner, the perpetrator shall be punished by imprisonment for a term between six months and five years.

5. Whoever organizes or directs at any level a group of people for the purpose of perpetrating the criminal offence referred to in paragraphs 1 and 2 of this article, shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.

B. Entity Criminal Codes and the Code of the Brčko District of Bosnia and Herzegovina

104. In the Entity Criminal Codes and the Code of Brčko District of Bosnia and Herzegovina there are three criminal acts related to trafficking in human beings.

105. The Criminal Code of the Republika Srpska has retained the criminal act.

Article 198 – Trafficking in human beings for the purpose of prostitution

1. Whoever, in order to get financial benefit, entices, incites or lures another into prostitution or whoever, in any way, enables turning a person over to another for the exercise of prostitution or whoever, in any way, takes part in organizing or managing prostitution, shall be punished by imprisonment for a term between six months and five years.

2. Whoever, in order to get financial benefit, forces another into prostitution by employing force or threatening to use the force or by inflicting serious harm or deceiving another into prostitution, shall be punished by imprisonment for a term between one and five years.

3. The punishment referred to in paragraph 2 of this article shall be also applied to anyone who, in order to achieve financial benefit, has forced or incited a person into prostitution in the manner described in paragraph 2 of this article by using the difficult situation the person has been in as a foreigner in the country, or who professionally engages another person to do so.

4. Whoever commits the criminal offence referred to in paragraphs 1 and 3 of this article against a child or a minor, shall be punished by imprisonment for a term between one and twelve years.

5. The history of prostitution of the person who has been enticed, incited, lured or forced into prostitution shall not have any bearing on the criminal offence referred to in this article.

Article 199 – Abuse of a child or juvenile for pornography

1. Whoever photographs or films a child with a view to developing photographs, audio-visual tapes or other pornographic materials or incites such persons to play in pornographic shows, shall be punished by imprisonment for a term between six months and five years.

2. The items referred to in paragraph 1 of this article shall be forfeited.

Article 200 – Production and screening child pornography

1. Whoever sells, shows or renders available through a public display or in any other way writings, pictures, audio-visual and other items containing child pornography or whoever produces, purchase, keeps or screens a child pornographic show for the same reasons, shall be fined or punished by imprisonment for a term not exceeding one year.

2. If the offence referred to in paragraph 1 is committed against a minor who is under 16, the perpetrator shall be punished by imprisonment for a term of up to three years.

3. If the offence referred to in preceding paragraphs is committed through the mass media or internet, the perpetrator shall be punished by imprisonment for a term between six months and five years.

4. Child pornography in terms of this provision shall be understood to mean any pornographic material that visually shows a child or a minor involved in an obvious sexual act and realistic photographs that show a child or a minor involved in an obvious sexual act.

5. The items referred to in paragraphs 1 and 2 of this article shall be forfeited.

106. The Criminal code of the Federation of Bosnia and Herzegovina also prescribes the following criminal offences:

Article 210 – Pandering

1. Whoever, for gain, induces, incites or lures another in offering sexual services or in another way enables turning another over to a third person for offering sexual services, or in any way takes part in organizing or managing of sexual services offering, shall be punished by imprisonment for a term between one and five years.

2. Whoever, for gain, by use of force or by threat to use force or to inflict greater harm, coerces another or by deceit induces another into offering sexual services, shall be punished by imprisonment for a term between one and ten years.

3. The punishment referred to in paragraph 2 of this article shall be imposed on whoever, for gain, in the manner referred to in paragraph 2 of this article, by abusing a difficult situation of a person residing in a foreign country, coerces or induces that person into offering sexual services.

4. Whoever perpetrates the criminal offence referred to in paragraphs 1 and 3 of this article against a child or juvenile shall be

punished by imprisonment for a term between three and fifteen years.

5. The fact whether the person who is induced, incited, lured or coerced has already been engaged in prostitution is of no relevance to the perpetration of criminal offence under this article.

Article 211 – Abuse of a child or juvenile for pornography

1. Whoever photographs or films a child or juvenile with an aim of developing photographs, audio-visual tapes or other pornographic materials, or possesses or imports or sells or deals in or projects such material, or induces such persons to play in pornographic shows, shall be punished by imprisonment for a term between one and five years.

2. Items meant or used for the perpetration of criminal offence referred to in paragraph 1 of this article shall be forfeited and the items produced by the perpetration of criminal offence referred to in paragraph 1 shall be forfeited and destroyed.

Article 212 – Introducing pornography to a child

1. Whoever sells, shows or renders available through a public display or in any other way writings, pictures, audio-visual and other objects containing pornography to a child, or whoever shows him a pornographic show, shall be punished by a fine or imprisonment for a term not exceeding one year.

2. The items referred to paragraph 1 of this article shall be forfeited.

107. The Criminal code of the brčko District of Bosnia and Herzegovina also prescribes the criminal offences with the same content as the entity laws.

Article 207 – Enticing prostitution

1. A person, who entices, induces or persuades another person to engage in prostitution or in some other way facilitates the prostitution of that person for the benefit of another person, or in any other way organizes or manages prostitution, in order to acquire material gain, shall be sentenced from six months to five years of prison.

2. A person who, by use of force or threat to use force or inflict large-scale damage, forces or deceives and induces another person to engage in prostitution in order to acquire material gain, shall be sentenced from one to ten years of prison.

3. The punishment from paragraph 2 of this article shall be imposed on a person who forces or induces another person to engage in prostitution, in the manner referred to in paragraph 2, taking advantage of her/his difficult situation while residing in a foreign country, in order to acquire material gain.

4. A person who commits criminal offence referred to in paragraph 1 through 3 of this article against a child or a minor shall be sentenced from three to fifteen years of prison.

5. The fact of whether a person induced, enticed, persuaded or forced to engage in prostitution was previously engaged in prostitution or not shall not interfere with the criminal offences referred to in this article.

Article 208 – Abuse of a child or a minor for pornographic purposes

1. A person who abuses a child or a minor for taking photographs, audio-visual material or other material with pornographic contents, or possesses, or imports, or sells, or distributes, or presents such material, or induces such persons to take part in a pornographic performance, shall be sentenced to prison from one to five years.

2. Items that were intended to be used or were used in committing the criminal offence referred to in paragraph 1 of this article shall be confiscated, and the items produced as a result of the criminal offence of paragraph 1 of this article shall be confiscated and destroyed.

Article 209 – Showing pornographic material to a child

1. A person who sells, shows, or presents to the public, or in some other way makes available documents, photographs, audio-visual and other pornographic material, or shows a pornographic performance to a child, shall be fined or sentenced up to one year of imprisonment.

2. Items referred to in paragraph 1 of this article shall be confiscated.

C. Penal policy

108. Due to the complexity of the structure of authority in Bosnia and Herzegovina unfortunately there is still a difference in the penal policy for certain crimes i.e. the same criminal offences perpetrated against a child. In order to harmonize penal policy there is still an urgent need to harmonize criminal codes applied in Bosnia and Herzegovina in terms of trafficking in human beings and child pornography.

109. Unlike in earlier definitions, when these criminal offences are perpetrated against a child or juvenile, the Criminal Code of Bosnia and Herzegovina does not differentiate in terms of the age of the child (a child or a juvenile) if the offence is in connection with trafficking in human beings. Taking into account that the prescribed sentence for international procurement is from 1 to 10 years, the

problem in these investigations could be the duration of the minimum prescribed sentence and this situation could significantly result in unequal standards being applied to children who are the victims.

110. The same problem exists among similar criminal offences of human trafficking for prostitution (prescribed sentence of between 1–12 years) in the Law of the Republika Srpska, while the situation is somewhat better in the Criminal Code of the Federation of Bosnia and Herzegovina and the Brčko District of Bosnia and Herzegovina (prescribed sentence of between 3–15 years). This problem also appears in other similar criminal offences that are related to trafficking in human beings.

111. Exploitation of children for pornographic purposes is also linked to trafficking in human beings, because in these criminal offences children are being used and abused, and money is earned through the perpetration of these crimes. This form of child abuse is becoming increasingly prevalent and more and more children are becoming the victims via the internet and other electronic networks.

D. The link between human trafficking in other international agreements and cyber crime

112. In addition to the aforementioned standards, the professionals in Bosnia and Herzegovina are seeking information on international standards such as the Hague Conventions and the Conventions of the International Labour Organization and others. Of particular significance in the protection of children from pornography is in the European Convention on Cybercrime. The Convention on Cybercrime of the Council of Europe is so far the largest, most comprehensive and best European document on this type of crime and it is represented as an international legal instrument which for the first time regulates the problems in connection to the use and transfer of information and data over the information and telecommunication systems.

113. The international and national sex industries achieve financial incomes in the millions, and a significant part is generated through child pornography. This special form of child abuse is increasingly occurring after the arrival and the use of the internet, and research studies say that child pornography on internet pages is on the rise. The Internet is the media through which one can reach child pornography in anonymity, and a means for its publishing and dissemination. Sexual abusers of children, including those who are using the Internet as the means to satisfy their needs, without a doubt, are a category of dangerous criminals prone to recidivism.

114. Therefore, the Convention on Cybercrime (art. 9) particularly emphasized the necessity to place these offences in a separate category of crimes, as had been done in the criminal codes of Bosnia and Herzegovina.

115. The Constitution of Bosnia and Herzegovina and constitutions of entities (the Federation of Bosnia and Herzegovina and the Republika Srpska) include the obligation to apply international standards in accordance with the conventions that Bosnia and Herzegovina has ratified. All laws that are passed in Bosnia and Herzegovina must include the standards established in the above conventions and protocols, including this new one to which we recently became a signatory.

E. Coordination at the level of Bosnia and Herzegovina

Decision on procedures and the method of coordination of activities on the prevention of trafficking in human beings and illegal immigration to Bosnia and Herzegovina and establishment of the office of National Coordinator for Bosnia and Herzegovina

116. This decision established the Office of National Coordinator for the prevention of trafficking in human beings and illegal immigration and also established the method of coordination between the relevant ministries and institutions at the level of Bosnia and Herzegovina. The primary function of the National Coordinator is to coordinate overall activities, collect information on the issue of trafficking in human beings and illegal immigration in Bosnia and Herzegovina, inform the Council of Ministers of Bosnia and Herzegovina about these problems, prepare appropriate recommendations, engage in international and regional cooperation with relevant institutions and non-governmental organizations involved in these activities, prepare and review the National Action Plan, train, and promote activities of the relevant ministries and institutions that are related to activities taken to crack down on trafficking in human beings and illegal immigration.

117. The National coordination includes the appointed coordinators on behalf of the Ministry of Security (2), Ministry for Human Rights and Refugees (1), Ministry of Justice (1), Ministry of Foreign Affairs (1) and the Prosecutor's Office of Bosnia and Herzegovina (1). In total it is seven members including the National Coordinator for prevention of trafficking in human beings and illegal immigration appointed by the Council of Ministers of Bosnia and Herzegovina.

Decision on the establishment of the Task Force to combat human trafficking and organized illegal immigration

118. This decision establishes the Task Force to combat trafficking of human beings and organized illegal immigration to be active on the territory of Bosnia and Herzegovina in accordance with the laws of Bosnia and Herzegovina, the entities and the Brčko District of Bosnia and Herzegovina. The Task Force is established with an aim of establishing and enhancing coordination of activities at the operative level between the State and entity organs, as well as the organs of the Brčko District of Bosnia and Herzegovina. The composition of this group includes representatives of prosecutor offices, Border Police of Bosnia and Herzegovina, State Investigation and Protection Agency of Bosnia and Herzegovina, Ministry of Interior Affairs, Police of the Brčko District of Bosnia and Herzegovina, INTERPOL, financial police, tax administration as well as the other state and entity organs. The Task Force is working under a direct competence of the State Prosecutor as the official manager of the Task Force.

Protection of children in criminal legislation

119. The most important framework for the protection of a child against human trafficking is established within four criminal codes in Bosnia and Herzegovina.

Criminal Code of Bosnia and Herzegovina, Criminal Code of the Federation of Bosnia and Herzegovina, Criminal Code of Republika Srpska and the Criminal Code of the Brčko District

120. Within the applicable criminal codes we differentiate between several types of criminal offences that may be connected to trafficking of human beings, or trafficking of children. In most cases, these crimes are linked and intertwined, so it is difficult within the perpetrated offences to prove just one offence, as a rule there is a congruence of several criminal offences.

121. In order to present the contents of the codes, we describe several forms of crimes in the criminal codes that are applied in Bosnia and Herzegovina.

122. Criminal offences are first classified according to the type and level of violence into several recognizable categories, then by the place of perpetration and finally by the specificity of the perpetrated crime against the child and the victims.

123. Within the applicable criminal codes, we generally differentiate between:

Physical violence (inflicting of minor or severe physical injuries)

Sexual violence – violence against sexual integrity (rape, intercourse with a child, Extortion for the purpose of intercourse; Sexual violence against the child; Sexual intercourse through the abuse of position; Incest)

Psychological/emotional violence (different forms of psychological harassment, sexual harassment, abuse, neglect)

124. Sexual activities are a form of sexual violence, but can be linked to human trafficking:

Satisfying sexual passions in front of another person

Satisfying lust in front of a child or a minor

Use of children and juveniles for pornography

Production and screening of child pornography

125. Domestic violence or violence in family is a particular type of violence that may involve all aforementioned forms of violence, but it is most often in the form of neglect, including:

Violation of familial obligations

Neglect or abuse of a child or a juvenile

Domestic violence

Maintenance evasion

126. Other more specific forms of violence against children are as follows:

Prevention and evasion of measures for the protection of juveniles

Enabling illicit marriage to be pronounced

Extramarital life with a younger juvenile

Taking away of a child or juvenile

Change of family situation.

The criminal procedure codes of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republika Srpska and the Brčko District of Bosnia and Herzegovina

127. A special novelty in these codes is the possibility to use the “special investigative actions” that are prescribed only for the offences for which a three-year prison sentence or a more severe sanction may be imposed.

128. The possibility to use special investigative actions is very important, because the prescribed prison sentence of three years is the minimum prescribed sentence for the criminal offence of trafficking of human beings, perpetrated against children. The police and the prosecutor offices are allowed to use undercover investigators, monitoring or recording and other investigative actions to facilitate the proof that this criminal offence has been perpetrated.

129. In accordance with the Criminal Procedure Code of Bosnia and Herzegovina, the entities, and Brčko District of Bosnia and Herzegovina the prosecutor offices may undertake special investigative actions for the offences of human trafficking because the prescribed sentence is 3 and more years.

130. For criminal offences in connection with leading to prostitution for the purpose of trafficking in human beings, exploitation of children and juveniles for pornography, the production and screening of child pornography, considering the duration of prescribed sentence, special investigative actions cannot be taken.

131. The difference in the procedure exists as between the territory of the Federation of Bosnia and Herzegovina and the Republika Srpska. In the Federation of Bosnia and Herzegovina and the Brčko District of Bosnia and Herzegovina the prescribed sentence is three years and more, and in Republika Srpska the minimum prescribed sentence is less than three years (from 1 to 12 years).

Law on protection of witnesses under threat and vulnerable witnesses of Bosnia and Herzegovina

132. This law establishes the measures that ensure protection of witnesses under threat and vulnerable witnesses in criminal proceedings conducted by the Court of Bosnia and Herzegovina or the Chief Prosecutor of Bosnia and Herzegovina.

133. The law gives the definition of the witness under threat, vulnerable witness and protected witness. The Court decides on the protection of witness.

Measures for witness protection

134. Measures for witness protection are as follows:

Providing psychological, social and professional assistance

Change in the order of examination

Control over the manner in which the witness is being examined by the judge or president of the panel by asking questions directly on behalf of parties and defence counsel

Giving the testimony via technical equipment for the transfer of picture and sound

Removal of the accused

Exception from direct presentation of evidence

Restrictions of the rights to review files and documentation of the accused and his defence counsel

Additional measures to ensure anonymity of witness, temporary or permanent anonymity

The entities and the Brčko District of Bosnia and Herzegovina have the same laws harmonized with the State law

Laws on the protection of witnesses allow special protection to children, considering that article 3, paragraph 3 of Bosnia and Herzegovina law and article 3 of the entity laws prescribed that a juvenile, a child shall be considered as a vulnerable witness which allows appropriate treatment of juveniles in the context of human trafficking.

Victims of human trafficking can be included in the programme of protection of witnesses which as a rule depends, as in the other cases on the decision of the court and explanation of the prosecutor.

The law on enforcement of criminal sanctions in Bosnia and Herzegovina

135. The Law on Enforcement of Criminal Sanctions in Bosnia and Herzegovina in particular regulates the issue of enforcement of criminal sanctions against children. Educational recommendations, educational measures and penalties under the Criminal Code of Bosnia and Herzegovina are applied toward juvenile perpetrators of criminal offences.

136. The purpose of educational recommendations is as follows:

(a) Not to initiate criminal proceedings against a juvenile perpetrator of a criminal offence;

(b) And that through the application of educational measures make an impact on the juvenile not to perpetrate a criminal offence in the future.

Types of educational recommendations

137. The types of recommendations are as follows:

Personal apology to the injured party

Compensation of damages to the injured party

Regular school attendance

Working for humanitarian organizations

Acceptance of appropriate employment

Accommodation to another family, home or institution

Treatment in an appropriate health institution

Visits to correctional, educational, psychological and other counselling services

Purpose of educational measures and sentences of juvenile imprisonment

138. The purpose of educational measures and sentences of juvenile imprisonment is that through the provision of protection and assistance to juvenile perpetrators of criminal offences, supervision over them, their professional development and development of their personal responsibility, ensure their education, re-education and proper development. In addition, the purpose of juvenile imprisonment sentence is a particular influence on the juvenile perpetrator not to commit criminal offences in the future, and also that other juveniles do not perpetrate criminal offences.

Types of correctional measures

(a) Disciplinary measures

139. Disciplinary measures are imposed on a juvenile perpetrator of a criminal offence who does not require more lengthy measures of education and re-education, especially if the criminal offence was done out of ignorance or recklessness.

(b) Measures of increased supervision

140. Measures of increased supervision are imposed on a juvenile perpetrator of a criminal offence who requires more permanent measures of education, re-education or treatment with appropriate supervision, and his full separation from the environment is not needed.

(c) Institutional measures

141. Institutional measures are imposed on a juvenile perpetrator of a criminal offence who needs to be imposed with a more permanent measure of education, re-education or treatment involving his full separation from his usual environment; Institutional measures cannot exceed five years.

142. Sanctioning of older juveniles. A sanction may be imposed only on a criminally responsible older juvenile who perpetrated the criminal offence for which a longer than five years prison sentence is prescribed, and due to difficult consequences of the offence and high level of criminal responsibility it would not be justifiable to impose a correctional measure.

143. Juvenile imprisonment sentence.

1. The sentence of juvenile imprisonment cannot be shorter than one or longer than 10 years, and it is imposed on the duration of full year or half a year.

2. When meeting out the sentence to an older juvenile for the criminal offence the court may not impose a sanction of juvenile imprisonment that exceeds the sentence of imprisonment prescribed for that criminal offence, but the court is not bound to the lowest prescribed measure for this sentence.

Social protection of the child

Laws on social protection in the Entities and the Brčko District of Bosnia and Herzegovina

144. Laws that regulate social protection which can be exercised by the citizens and families in the condition of social need that can be in a permanent or temporary condition of social need.

145. With regard to children, they can be the beneficiaries, if they are:

- (a) Children without parental care;
- (b) Educationally neglected children;
- (c) Educationally uncared for children;
- (d) Children whose development is disturbed due to family circumstances;

and other categories of users:

- (e) People with socially adverse behaviour;
- (f) People with disability and the people with difficulties in physical or mental development;
- (g) People and facilities in the situation of social need, who need a suitable form of social protection due to particular circumstances.

146. In accordance with this law under the term "a person with socially adverse behaviour is considered a person who engages in loitering, wandering, begging, prostitution, alcohol abuse, taking of narcotics and other forms of socially adverse behaviour".

147. The Laws on Social Protection of the Entities and the Brčko District of Bosnia and Herzegovina prescribe the basics of social protection of citizens and their families, defines the basic rights from the area of social protection, users, establishment and the work of institutions for protection and establishment of associations of people with disabilities, types and basis for protection of families with children, financing and other issues important to exercise the basic rights from social protection. The law regulates the basic terms, categories of people under protection and types of rights:

- (a) Financial and other material support;
- (b) Training for life and work;
- (c) Accommodation to another family;
- (d) Services of social and other professional work;
- (e) House care and support in the house.

148. The Family Law of the Federation of Bosnia and Herzegovina and the Republika Srpska which primarily regulates the relations between parents and children, i.e. the rights and duties of parents and children. It is of particular importance to once again stress that parents have the right and the duty to protect their underage children and to take care of their life and health and the children have the right to protection from all forms of violence, abuse, mistreatment and neglect in the family. This law regulates the rights of parents and the issue of guardianship over children.

Laws on child protection of the Brčko District and the Republika Srpska

149. There is no such law in the Federation of Bosnia and Herzegovina because the issue of child protection is regulated in the Family Law and the Law on Social Protection and the protection of Civilian War Victims and Families with Children. The issue of social child protection fall under the competence of cantons and they regulate the fulfilment of this right in cantonal laws so in practice in the cantons in the Federation of Bosnia and Herzegovina there are different solutions and forms for the protection of the child.

150. In the Republika Srpska and the Brčko District of Bosnia and Herzegovina the Law on Child Protection regulate social allocations such as the child allowance, compensation for new mothers, package for the newborns and other social needs of children.

F. Case law

151. In the case law in Bosnia and Herzegovina it is important to explain the role of prosecutor offices, which under the criminal procedure codes have a very important role in conducting the cases, raising of indictments and running the trials at courts.

152. Almost all countries in transition have accepted the solution which prescribes indirect application and even the primacy of international law. Such a provision is contained in the Constitution of Bosnia and Herzegovina, as referenced earlier. This means that in shaping their national criminal legislation, the countries must adhere to the norms and legal standards that represent the generally accepted rules of modern criminal legislation, the rules that represent civilized values, a part of the general legal heritage of civilized nations. We believe that this restricts the scope for arbitrariness of the national legislators in creating internal criminal legislation provisions, both in terms of the general institutes of the criminal legislation and in terms of some incriminations.

153. From the aforementioned, it would stem that in Bosnia and Herzegovina a person may be held criminally responsible, or be sanctioned for the offences which constitute the violation of the prohibitions, such as the sale of children, child prostitution and child pornography, even when they were not prescribed as such criminal offences in national or internal criminal legislation at the time when they were perpetrated.

154. Until present, the Convention on the Rights of the Child and the Optional Protocol has been considered only in one case as the basis to raise the indictment for sexual exploitation of a child. This case is still underway and for the time being we do not have the information about its final outcome.

G. Institutional mechanisms

155. The complexity of the problem of violence against children and reporting on this problem for the purpose of this report, requires the analysis and the role of relevant institutions at all level of government in Bosnia and Herzegovina, as follows.

Level of Bosnia and Herzegovina

(Annex: graph 1. Institutional mechanism at the State level)

156. With an aim of implementing the activities based on the applicable legal obligations, the Council of Ministers of Bosnia and Herzegovina, established several advisory and coordination bodies that are obliged to report to the Council of Ministers, collect the information, coordinate activities between different sectors at all levels of the government and propose implementation of appropriate measures to improve protection of the child.

Advisory and coordination bodies of the Council of Ministers

157. Advisory bodies of the Council of Ministers of Bosnia and Herzegovina have the intersectoral and interdisciplinary character, advisory and coordination role with an aim of establishing more efficient coordination in specific fields and to prepare appropriate measures when specific problems are identified to curb these problems and establish better international and regional cooperation.

National coordinator to combat trafficking in human beings and illegal immigration

158. The National coordination involves the National Coordinator for the prevention of human trafficking and illegal immigration who is appointed by the Council of Ministers of Bosnia and Herzegovina and appointed coordinators on behalf of the Ministry of Security (2), Ministry of Human Rights and Refugees (1), Ministry of Justice (1), Ministry of Foreign Affairs (1) and the Prosecutor Office of

Bosnia and Herzegovina (1).Seven members in total.

Task force to combat trafficking in human beings

159.The decision on the establishment of the Task Force was passed by the Council of Ministers of Bosnia and Herzegovina which was supplemented in 2006. The composition of the Task Force includes: Prosecutor Office of Bosnia and Herzegovina (2), INTERPOL, Tax Administration of the Federation of Bosnia and Herzegovina, Prosecutor Office of Republika Srpska (1), Prosecutor Office of the Federation of Bosnia and Herzegovina (2), Prosecutor Office of the Brčko District of Bosnia and Herzegovina (1), Ministry of Interior of the Federation of Bosnia and Herzegovina (1), Ministry of Interior of Republika Srpska (1), Agency for Information and Protection of Bosnia and Herzegovina (1), Border Police of Bosnia and Herzegovina (2), Police of the Brčko District of Bosnia and Herzegovina (1), Tax Administration of Republika Srpska (1) and Financial Police of the Federation of Bosnia and Herzegovina (1) tasked with working on cases of organized crime that are in connection to the trafficking in human beings in Bosnia and Herzegovina.

Council for children of Bosnia and Herzegovina

160.The Action Plan for children was adopted by the Council of Ministers of Bosnia and Herzegovina in 2002, and in 2003 the decision to establish the Council for Children of Bosnia and Herzegovina was made.

161.The Council for Children of Bosnia and Herzegovina (hereinafter: the Council) is established as an independent body, of an advisory and coordination character. Within its prescribed competence, in accordance with item VIII of the Decision to establish the Council for Children of Bosnia and Herzegovina (hereinafter: the Decision), the Council adopted the Rules of Procedure of the Council for Children of Bosnia and Herzegovina and each year it adopts Operative programmes of work. The composition of the Council for Children of Bosnia and Herzegovina includes representatives appointed from the ministry of Human Rights and Refugees (2), Ministry of Foreign Affairs (1), Ministry of Justice (1), Ministry of Civil Affairs (1), Ministry of Security (1), Federation Ministry of Labor and Social Policy (1), Federation Ministry of Interior Affairs (1), Ministry of Health of Republika Srpska (1), Fund for Child Protection of Republika Srpska (1), Office for Social Protection of Brčko District (1). Also the membership of the Council for Children has the associating members appointed by non-governmental organizations Naša Djeca from Sarajevo and Zdravo da ste from Banja Luka as well as the representatives of international organizations – UNICEF and Save the Children Norway, who are also the partners of the Council for Children of Bosnia and Herzegovina.

Board for the Roma population

162.The Board for the Roma is an advisory body of the Council of Ministers of Bosnia and Herzegovina. It is in charge of promotion of the rights of the Roma as the most numerous ethnic minority living in Bosnia and Herzegovina. The Board for the Roma is composed of representatives from the Roma communities, representatives of the Ministry of Human Rights and Refugees and representatives of the entity ministries. Over the past year, this body prepared the Strategy to improve the position of the Roma population in Bosnia and Herzegovina.

Ministries at the level of Bosnia and Herzegovina

163.The Ministry of Human Rights and Refugees has the competence to monitor and implement international conventions and other documents from the sphere of human rights and fundamental freedoms; promotion and protection of personal and collective human rights and freedoms; monitoring the development and distribution of information on standards, achievements in the sphere of human rights; cooperation with non-governmental sector on the issues from the competence of the ministries.

164.In accordance with the organizational structure within the ministry, there is the Sector for Human Rights – Department for the Protection of Individual and Collective Human Rights dealing with the issues of the protection of child human rights, especially the monitoring and promotion of the rights of the child in accordance with the Convention on the Rights of the Child.

165.The Ministry of Civil Affairs has the competence to: perform the activities and tasks that fall in the competence of Bosnia and Herzegovina and which are related to establishing the basic of activity coordination, harmonizing the plans of entity bodies and defining the strategy at the international plain and in the areas of health and social protection; pensions; science and education; labour and employment; culture and sports.

166.In accordance with the organizational structure these issues are dealt with by the Sector for Labour, Employment, Health and Social Protection and Pensions. In accordance with the Book of Rules, this Sector also has a Department for Social Protection with the following competences:

167.In coordination with the entity organs from this area (entity ministries, centres for social work) activities include development of regulations from the sphere of social insurance, their implementation is monitored, initiatives and proposals for amendments of the regulations in the field of social protection, participation in the development of analyses, gathering of information and reports that cover social protection.

168.The Ministry of Justice has the competence to: engage in international and inter entity judicial cooperation; development of suitable laws and regulations; secure that legislation in Bosnia and Herzegovina and its implementation at all levels be in accordance with obligations of Bosnia and Herzegovina that stem from international agreements.

169.The Ministry of Foreign Affairs has the competence to implement the established policy of Bosnia and Herzegovina and work on the development of international relations in accordance with the positions of the Presidency of Bosnia and Herzegovina, represent Bosnia and Herzegovina in diplomatic relations, monitor the situation in international relations, establish and monitor diplomatic

relations, organization, direction and coordination of the performance of diplomatic and consular offices in u Bosnia and Herzegovina and abroad. Establishing cooperation and joining international organizations, monitor international economic trends, prepare bilateral and international agreements, organize diplomatic visits, perform affairs in connection to the stay and protection of rights and interests of the citizens of Bosnia and Herzegovina on a permanent and temporary stay abroad and the domestic legal entities abroad as well as other activities in the domain of international relations.

170. The Ministry of Security has the competence to: prevent and detect criminal offences of terrorism, trafficking in narcotics, counterfeiting of local and foreign currency and trafficking in human beings and other criminal acts with international or inter-entity element; protect of people and premises; collect and use the data of importance for the security of Bosnia and Herzegovina; organize and harmonize activities of the entity ministries of interior affairs and Brčko District of Bosnia and Herzegovina in the fulfilment of security tasks in the interest of Bosnia and Herzegovina.

171. The Ministry of Security is one of the newly established ministries at the level of Bosnia and Herzegovina, 2003. This Ministry has the competence for the prevention and detection of criminal offences of terrorism, trafficking in narcotics, counterfeiting of local and foreign currency and trafficking in human beings and other criminal acts with international element, implementation of the policy of immigration and asylum and the policy for the movement and stay of foreign citizens in Bosnia and Herzegovina, etc.

172. The Ministry of Security is composed of ten sectors. The following sectors have the competences related to the activities on combating sale of children, child pornography and child prostitution: Sector for International Cooperation, Sector for Immigration, Sector for Asylum, Sector for Fight against terrorism, Organised Crime and Drugs Abuse, Sector for Border and Public Order Protection. Sector for International Cooperation coordinates activities of law enforcement agencies and harmonizes legislation and organisational structure in this field with international standards. The Sector prepares propositions for issuing decisions on ratifying international conventions and monitors their implementation. Sector for Immigration carries out administrative and other activities related to planning and implementing policies in the field of immigration. The Sector for Asylum carries out administrative and other activities related to implementation policies and procedures of asylum. The Sector for Fight against terrorism, Organised Crime and Drugs Abuse monitors, analysis, organizes and harmonizes activities of all competent bodies for the fight against terrorism, organized crime and drugs abuse. Sector for Border and Public Order Protection follow, examine, analyse and evaluate the general situation concerning border and public security as well as coordinates activities of all agencies on protection of border and public peace and order. The Sector follows international conventions and other international legal instruments devoted to efficient protection of all means of border and public peace and order.

173. Within the Ministry there are following agencies having operational autonomy:

State Investigation and Protection Agency

Border Police

Service for Foreigners

National Central Bureau INTERPOL

State Investigation and Protection Agency of Bosnia and Herzegovina (SIPA)

174. SIPA is an administrative organization with the Ministry of Security of Bosnia and Herzegovina, with operative independence, established in order to perform police tasks.

175. In the seat of the Agency, located in Sarajevo in the Department for Criminal Investigations, there is a Section for Criminal Investigations and within this section there is a team to combat trafficking in human beings and sexual delict. This team in the separate segment is involved in the crackdown on trafficking in children and prevention of sexual delict against children. At the same time, the team coordinates the overall activities from the area of curbing the trafficking in human beings and sexual delict over the teams that are in the regional offices in Sarajevo, Banja Luka, Mostar and Brčko (Regional office in Brčko is in the inception stage, however, the seat of this office has not yet been definitely determined). In addition to aforementioned activities, the team in the seat of SIPA has the obligation to monitor and collect all possible modes of smuggling of persons, collection of evidence on perpetrated criminal offences in respect to human trafficking, in particular of children, prevention and curbing of trafficking in human beings and sexual delict, collection of the evidence on traffickers, victims of trafficking and sexual delict, assistance to victims, prevention activities, cooperation with non-governmental and governmental sector, organizing the training of SIPA investigators with respect to combating human trafficking, obligation of implementation of Projects in cooperation with EUPM: Fight and intervention against human trafficking, the Project FIGHT – Flow of documents on the trafficking with people with an aim of creating the habit of permanent renewal of professional knowledge, and within the FIGHT Project – international and state cooperation with respect to SIPA activities to curb trafficking in human beings. “FIGHT Project” means: Fi – fight, G – against, H – human T – trafficking, it is the comprehensive programme of fighting crime in connection to human trafficking. This includes the trafficking in women, men, children, trafficking in human organs (tissues), sexual exploitation of children, exploitation in terms of pornography on the Internet, etc.

176. Within the aforementioned project, special emphasis is placed on the training of police officers to perform interviews (discussions) with children who have not attained 12 years of age and with mentally disabled persons. At the same time, there is a plan to equip rooms where interviews with children who have not attained 12 years of age and mentally disabled persons are conducted, as well as the rooms to conduct interviews with the victims of human trafficking.

Border Police of Bosnia and Herzegovina (BP)

177. The Border Police of Bosnia and Herzegovina is an administrative organization within the Ministry of Security of Bosnia and Herzegovina, established in order to perform police activities within the supervision of the border or control of traffic at the border

crossings, and perform all police affairs in connection to criminal offences that are prosecuted ex officio.

178. The Border Police is organized in the following manner: the Organ is managed by the director, deputy and aids; the Main office; Field offices; Units of border police.

179. In the Main Office there is the Central Investigation Office, and in its composition there is the Department for Investigations that has the investigators to fight against trafficking in human beings, and within this activity is the effort to prevent violence against children in terms of taking the measures and activities for the prevention of child trafficking.

180. Field offices are located in Bijeljina, Višegrad, Sarajevo, Čapljina, Grahovo and Gradiška. Within the Department for Investigations, there are the investigators combating human trafficking. In the line of duty to combat human trafficking, the Border Police investigators are keeping the separate registry and apply special measures when children are the victims of trafficking, i.e. when the issue is the cross-border crime (smuggling) of children.

Service for Foreigners

181. Service for Foreigners is an administrative organization within the Ministry of Security of Bosnia and Herzegovina with operational autonomy for conducting activities and solving issues within its competence. It is established in order to carry out administrative and inspection activities stipulated by the Law on Moving and Stay of Aliens and Asylum. It has the following competences: visa annulment, issuing ID cards and travel documents to aliens, reporting stay of aliens, certification of letters of guarantee and letters of invitation, approving temporary or permanent residence, cancellation of temporary or permanent residence, expulsion of aliens, placing an alien under supervision. The Service is run by the Director, Deputy Director and Director Assistants. The Service is organized through the main Office in Sarajevo and sixteen Field offices throughout Bosnia and Herzegovina and the Center for keeping migrants. Professionals working in the Service are included in different types of trainings on professional and human treatment of aliens, in particular children without escort.

Bureau for cooperation with INTERPOL (the Ncb-National Central Bureau)

182. INTERPOL is definition an international organization of crime police with a primary task to share the data, act upon the request of crime police of other countries members of INTERPOL, sharing of experiences, etc.

183. As Bosnia and Herzegovina is an INTERPOL member, within these tasks through INTERPOL, or the NCB (National Central Bureau) in Sarajevo there is, inter alia, the exchange of data in connection to human trafficking, and also in connection to violence against children. In the organization of the National Central Bureau there are inspectors whose duties include the sphere of human trafficking. All requests of crime police in Bosnia and Herzegovina, regardless of the police agency that are sent to other states, are forwarded through INTERPOL (the NCB) of Bosnia and Herzegovina Sarajevo.

184. At the General Secretariat of the INTERPOL there is a working group specialized in combating crimes against children.

Prosecutor Office of Bosnia and Herzegovina

185. The Prosecutor Office is independent of courts and police and no person has the right to instruct, order or influence the prosecutor office in the performance of its functions. The basic right and the primary duty of the prosecutor is to detect and prosecute perpetrators of criminal offences that fall under the competence of the court in accordance with the Criminal Code of Bosnia and Herzegovina and other laws that regulate criminal responsibility of at the level of Bosnia and Herzegovina. The Prosecutor Office of Bosnia and Herzegovina directs the relevant police in the investigation of criminal offences, including the examinations of suspects and witnesses, searches, seizing of items, detentions and arrests and if necessary, conducts the investigations in accordance with the law. The prosecutor, in the process of investigations of criminal offences and in the process of prosecution of the perpetrators of criminal offences, manages, supervises and if necessary conducts the investigation of criminal offences.

186. Cooperation with other relevant institutions is very important for the performance of this function.

Institutions of the Brčko District of Bosnia and Herzegovina

187. The Brčko District of Bosnia and Herzegovina has the status of the district and it is under the competence of Bosnia and Herzegovina. The District is a territorial unit and has the legislative and executive power. The police service is organized with the Police Administration of Brčko District and has the police authorities for the territory of the Brčko District. As regards the police of Brčko District it is important to note that the sphere of violence against children is carried out mainly by the units of crime police, most often in the competence of one of nine teams – line of duty – tasked with the issues of human trafficking, sexual delict and domestic violence.

188. The Brčko District also has its Prosecutor Office of Brčko District with competences similar to the other prosecutor offices in Bosnia and Herzegovina, the difference is that it is based on the law of Brčko District.

189. The Department for health and other services has an organizational executive unit of the Brčko District that is in charge of performing the affairs in the domain of social and health protection and protection of children.

Institutions of the Federation of Bosnia and Herzegovina and Republika Srpska

(Attachment: graph 2. Institutional mechanism at the level of entities (Federation of Bosnia and Herzegovina and Republika Srpska).)

Ministries at the level of entities

190. The Ministries of labour, social policy and child protection have the competence to: perform administrative, professional and other affairs within the laws that refer to competences in the areas of: social policy (social safety and solidarity, protection of civil war victims, protection of the family, adoption and guardianship, social protection); labour and employment; pension and disability insurance.

191. The Ministries of justice have the competence to: perform administrative, professional and other affairs within the laws that refer to competences in the areas of: judicial institutions and administration, also deals with administrative oversight over the work of judicial administration (in the Federation of Bosnia and Herzegovina and other Federation administration bodies), monitor enforcements of criminal sanctions, especially over the juveniles, develop laws in the sphere of administration, judiciary, criminal and civil law.

192. The Ministries of interior have the competence to: prevent and detect criminal offences of international crime and terrorism, illicit drug trafficking and organized crime; protection of human rights and civil liberties in the sphere of interior affairs.

193. The Ministry of Interior Affairs of Republika Srpska: at the seat of the Ministry within the Administration of Crime Police there is the Department to Combat Organized Crime and the fight against human trafficking falls into its jurisdiction. The Ministry of Interior Affairs of Republika Srpska has five Centers of Public Security (CJB) located in Banja Luka, Doboj, Bijeljina, Istočno Sarajevo and Trebinje, and four Stations of Public Security (SJB) located in Prijedor, Mrkonjić Grad, Zvornik and Foča. At the Centers of Public Security within the Department of Crime Police there are departments to combat organized crime which in their composition have investigators who deal with the issues of trafficking in human beings (the exception is the Centres of Public Security Banja Luka which due to the size has the Sector of Crime Police and the Department to Combat Organized Crime and it has the investigators who deal with the issues of trafficking in human beings, and they have investigators for juvenile delinquency). The Stations of Public Security and their crime police groups tasked with combating organized crime there is an investigator to fight trafficking in human beings. As a part of their duties, the investigators combating organized crime are also cracking down on violence against children. All the exact data in connection to these issues trickle down to the Administration of Crime Police in the seat of the ministry of Interior of Republika Srpska, which is also in charge of cooperation with the non-governmental organizations at the regional level and the entity level and the training of police in the sphere of cracking down on human trafficking.

194. The Ministry of Interior Affairs of the Federation of Bosnia and Herzegovina: in accordance with constitutional order of Bosnia and Herzegovina, which is made of entities of the Federation of Bosnia and Herzegovina and Republika Srpska, and the District of Brčko, interior affairs in the Federation of Bosnia and Herzegovina are in the competence of the Federation Ministry of Interior and 10 cantonal ministries of interior affairs.

195. It is a decentralized organization of police forces in which the Federation Ministry of Interior Affairs has the competence to deal with the acts of terrorism, inter-cantonal crime, putting into circulation of addictive drugs, organized crime, education, professional development and advancement. The competence of the Federation Ministry of Interior also includes the tasks for the citizenship of the Federation of Bosnia and Herzegovina and securing of specific people and buildings in the Federation of Bosnia and Herzegovina.

196. Cantonal ministries of interior affairs are competent to perform other interior affairs individually on the territory of their canton.

197. The statute of the Federation Ministry of Interior Affairs and its internal organizations is established by the Ministry of Interior Affairs with the consent of the Government of the Federation of Bosnia and Herzegovina, and several elements need to be taken into account. In order to achieve efficient performance of affairs and tasks prescribed under the Law on Interior Affairs from the scope of interior affairs, the following activities have been established and prescribed for the Police Administrations.

198. In the Federation Ministry of Interior Affairs there are the following organizational units: the Cabinet of the minister, Sector for Administrative Affairs, Police Academy, Inspectorate for the oversight of the work of the agency for the protection of people and property, Sector for Operational and Financial Affairs, Sector for General and Common Affairs, Department for Professional and Administrative Affairs for the Office for Public Complaints.

199. The Police Administration has the following organizational units: Cabinet of the Director of the Police Administration, Sector for Police Support and Administration, Special Police Unit, Unit for the Protection of People and Facilities, Sector of Crime Police, Centre for Forensics and Support, Unit for Professional Standards, Operative Communication Centre and Department for Control of the Production, Sale and Transportation of Explosive Substances.

200. Within the Sector of Crime Police, there are the following organizational units: Department for Detachment, Department for Intelligence and Crime Affairs (Department for the Collection of Crime and Intelligence Data and Analytics, Department for the work with informants and Department for Operative Surveillance), Department for the Fight Against Terrorism, Department for the Fight Against Drug Abuse, Department for the Fight Against Organized and Inter-cantonal Crime (Division for Property Delict, Division for Blood Delict, Division to Combat Trafficking in Human Beings and Sexual Delict and the Division for War Crimes) and the Department for the Fight Against Economic Crime, Corruption, Money Laundry and Cybercrime (Division for the Fight Against Economic Crime, Division for the Fight Against Corruption, Money Laundry and Cybercrime).

201. In the concrete issue of violence against children and domestic violence the lower organizational units are authorized to act, i.e. the cantonal ministries of interior affairs (there are 10 of them in the Federation of Bosnia and Herzegovina) and they are the Police Administrations. In each cantonal ministry of interior affairs and within the Sector of Crime Police (most often within the Department for Special Purposes) there is at least one authorized police officer – inspector who is authorized to monitor this issue on the territory of that particular canton. At his disposal he has one or several police officers from each police administration, whose main, but not only task, is domestic violence.

202. In the Federation Ministry of Interior Affairs, in most cantonal ministries of interior affairs and in the Police of the Brčko District, there is already a room designated for the purpose to examine the victims of trafficking, i.e. the children and the equipment for these rooms was financed by the British and the Dutch governments. These rooms have already started to be used or their use is just a matter of days.

203. The Ministries of Health have competence for administrative, professional and other affairs prescribed under the law in the area of health and they are mostly in connection to the organizational structure of the health care system.

204. The system of health insurance and health protection in the Federation of Bosnia and Herzegovina is established in accordance with the provisions of the Law on Health Insurance ("Official Gazette of the Federation of Bosnia and Herzegovina," no. 30/97) and the Law on Health Protection ("Official Gazette of the Federation of Bosnia and Herzegovina," no. 29/97) on the basis of divided jurisdiction between the Federation and cantonal government, i.e. it is decentralized.

205. The system of health insurance and health protection in Republika Srpska: the Law on Health Protection ("Official Gazette of Republika Srpska," no. 18/99, 58/01 and 62/02), the Law on Health Insurance ("Official Gazette of Republika Srpska," no. 18/99, 51/01, 70/01 and 57/03).

206. The Ministry of Education has the competence over: administrative, professional and other affairs that are connected to the preschool, primary and secondary education, pedagogical standards and regulations for the space, equipment and teaching tools for the preschool, primary and secondary education and upbringing.

Prosecutor Offices of the entities

207. Prosecutor Offices in the entities have a similar competence as the State Prosecutor Office in terms of launching investigations and they are responsible for the detection and persecution of the perpetrators of criminal offences in accordance with the entity regulations.

Centres for social work – leading institutions for child protection

208. In Bosnia and Herzegovina the role of the leading government agency to resolve violence against children falls under the purview of the centres for social work.

209. The centre for social work is an institution where a child who is the victim of violence can be provided with professional help, appropriate treatment, counselling and therapy service and any other assistance necessary aimed at protecting the child.

210. Centres for social work do not have separate financial means to tackle general forms of violence.

211. Part of the funds that are intended for the implementation of rights from the Law on Social Protection, for the family-legal protection are in part used to finance the issues of domestic violence and violence against children.

212. In the Federation of Bosnia and Herzegovina there are 71 municipal and 10 cantonal centres for social work.

(Annex: diagram 3. Structure of the institutions of social and child protection in the Federation of Bosnia and Herzegovina)

213. In Republika Srpska there are 44 centres for social work and 18 services for social and child protection, which operate as municipal organ of authority.

(Annex: diagram 4. Structure of the institutions of social and child protection in Republika Srpska)

214. In Brčko District there is one centre for social work and three services for social and child protection.

(Annex: diagram 5. Structure of the institutions of social and child protection in the Brčko District)

Social and child protection institutions

In the Federation of Bosnia and Herzegovina

215. The social and child protection institutions are divided into the governmental and non-governmental sector.

216. The governmental sector of social and child protection are the homes for the unprotected children, or for the children without parental care, institutes for the protection of children and young people, institutes for the accommodation of people with special needs and the institutes for education of male children and youth. The non-governmental sector of child protection includes the homes and the centres for the unprotected children, i.e. the children villages and social and pedagogic living communities.

(Annex: diagram – Social and child protection institutions in the Federation of Bosnia and Herzegovina and Republika Srpska)

In Republika Srpska

217. The social and child protection institutions are made up of governmental institutions including the homes for the unprotected children, homes for the children with difficulties in development, institute for the blind people and people with poor sight, institute for female children and youth and the Center for the Rehabilitation of Blind People and People with Disabilities.

H. Dissemination of the Optional Protocol

218. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography is as an international instrument included in the training sessions organized in Bosnia and Herzegovina. Most training sessions were carried out by the Centre for the Training of Judges and Prosecutors, which every year in its training programme includes the issues related to human trafficking and protection of children from other forms of abuse.

219. Special, targeted training sessions were also organized by the Office of the National Coordination for the Fight against Human Trafficking and Illegal Immigration with an aim to train social workers and professional staff in schools and by the Ministry of Human Rights and Refugees and the Council for Children of Bosnia and Herzegovina. For this purpose appropriate manuals were prepared in Bosnia and Herzegovina for multidisciplinary training of different professions for the protection of the child (officers employed in the prosecutor offices, police, and social and health institutions).

220. With an aim of appropriate training of professionals, the materials and professional instructions were prepared for different professionals on the protection and course of action with children who are victims and victims who are witnesses of human trafficking in Bosnia and Herzegovina.

I. Data collection and evaluation

221. The data related to the rights of the child are collected within the Sector for Human Rights in the Ministry of Human Rights and Refugees with an aim to monitor the implementation of the Convention on the Rights of the Child and the supplementing protocols. Specifically, the data are primarily related to human trafficking and thus to the child prostitution and pornography and they are regularly collected within the activities of the National Coordination for the Fight Against Human Trafficking and Illegal Immigration of Bosnia and Herzegovina. It is planned to establish a relevant database within the Ministry of Human Rights to monitor the implementation of the Convention on the Rights of the Child and supplementing protocol so that there would be a more permanent solution for the monitoring and evaluation of the data on implementation of this Optional Protocol in the future.

J. Financing

222. At the State level, funds are being secured to support the activities of the National Coordinator for the Fight Against Human Trafficking and Illegal Immigration of Bosnia and Herzegovina, the activities of the Council for Children of Bosnia and Herzegovina which is active within the Ministry of Human Rights and Refugees, as well as the activities of other security services that are active at the level of Bosnia and Herzegovina (SIPA and INTERPOL) in the budgets of the Ministry of Security. At the lower levels of the government, the funds are provided through direct assistance to children – victims and their families through the centres for social work. The bulk of the funds so far was also secured by the non-governmental organizations that are implementing various programmes of assistance to children who are victims of some form of sexual abuse, and in particular implementing the programmes of prevention and direct support.

K. Planning

National action plan to fight human trafficking

223. Comprehending the gravity of the situation and the necessity to take comprehensive measures with an aim to crack down on human trafficking, the Council of Ministers of Bosnia and Herzegovina adopted the first National Action Plan to Combat Human Trafficking in 2001. The first National Action Plan was based on the assessment of the data available up to that time about the human trafficking and the knowledge and experiences generated up to that time in the fight against human trafficking, and the basic goal was to establish an appropriate legislative framework and institutional capacities needed to combat human trafficking, deploy preventive activities and build proper mechanisms to protect victims of human trafficking. The second National Action Plan adopted by the Council of Ministers in 2005, included the 2005–2007 period. The plan was developed based on a detailed analysis of the implementation of the previous plan and based on the situation assessment and the trends in the phenomenon of human trafficking in Bosnia and Herzegovina. The plan contained broader goals compared to the previous one and, in addition to goals that were not fulfilled from the previous plan, it contained many new goals in the area of support, criminal prosecution of human traffickers, protection of victims and protection of witnesses, prevention and international cooperation. The second Action Plan was based on a generally accepted approach of comprehensive action in these spheres and in development of partnerships between all the players in the fight against human trafficking from the governmental and non-governmental sector and international organizations. The latest third National Action Plan for 2008–2012 period builds upon the same approach and it is also based on a detailed situation assessment and trends in human trafficking in Bosnia and Herzegovina, and it will also include a series of goals aimed at more efficient cooperation of all actors in the region of South-eastern Europe.

224. The implementation of the National Action Plans to Fight Human Trafficking from 2001 and 2005 yielded good results and placed Bosnia and Herzegovina on the list of countries that are making positive trends in the crackdown on human trafficking. Institutional capacities have been markedly raised as well as legal and regulatory framework, a series of preventive activities were implemented, good results are achieved in the sphere of criminal prosecution and development of standards for the protection victims of human trafficking, and finally the channels and mechanisms for international cooperation have been established. However, as in most countries, despite the achieved progress, trafficking in human beings is still present in Bosnia and Herzegovina and it changes its shape and adjusts to new circumstances. There is still the need to continue activities aimed at fighting human trafficking and illegal immigration through institutionalization, to further strengthen structures of coordination, to help the victims, to have a more efficient

criminal prosecution of human traffickers and a more comprehensive approach to the activities aimed at suppressing this phenomenon.

225. Taking into account the progress achieved so far in this field and considering the fact that a longer time period is needed to develop certain activities, it is obvious that there is a need for the new National Action Plan to Combat Human Trafficking (hereinafter: "National Plan") which would additionally expound on the goals in the fight against human trafficking over the next five-year period and clearly define measures to reach these goals in the following areas:

Support systems

Prevention

Protection and support to victims and witnesses

Criminal prosecution

International cooperation

226. The integral part of the National Plan represents the Operative Plan of activities for the 2008–2012 period, which further details the goals of the National Plan and establishes concrete measures to achieve these goals and specifies concrete measures to achieve these goals, also specifies responsible institutions, partners from the government and non-government sector as well as the partner international organizations, timeframe, recognized sources of financing, the need for additional financial means and indicators of success of measures implemented.

National strategy to fight violence against children 2007–2010

227. Bosnia and Herzegovina opted to develop the Strategy to Fight the Violence against Children with the an intent to improve the protection of human rights and freedoms of those who are most vulnerable in the society, or who are the most under threat, and who ,without its assistance, would not enjoy a happy and carefree childhood.

228. The basic starting point is the analysis in connection to the consequences of violence that can be generally divided between primary and secondary consequences. The primary consequences include verbal, physical and sexual violence at the moment when it is committed, while the secondary consequences come about as formal and informal reactions to victimization. When we refer to the types of violence, we perceive that it could have the form of psychological violence, threats of physical violence, physical violence, physical violence with the use of weapons and sexual violence.

229. However, when we talk about the places where violence against children occurs, it can be classified as follows: domestic violence, violence in the street, violence in school, violence at public places and the street and violence in institutions where children are accommodated (homes, institutions for children with special needs, juvenile prisons, etc.)

230. Among the forms of psychological violence we would highlight the following: humiliation and demeaning, isolation, neglect, economic violence, threats and intimidation and the use of privileges. Physical violence we can generally differentiate by the security of the injuries and the use of weapons. We first have the following forms of physical abuse: slap in the face, pushing, pulling hair, beating, mild body injuries, severe body injuries and physical violence causing death as well as physical violence with the use of weapons and without the use of weapons. In addition to these two methods of abuse, an abuser may threaten or perpetrate the third type of violence, the sexual violence which by its consequences contains the elements of both psychological and physical violence.

231. The harm inflicted against the victim or injuries could be as follows: physical, psychological and social. Physical injuries due to which the victims suffer hard include severe bodily injuries causing disability and death. The practice so far proved that in addition to these physical injuries, much more difficult are the psychological injuries of the victim with the outcome in: depression and fear; regressive behaviour and behaviour at one's own detriment (withdrawal or abandoning oneself to drugs and alcohol); cognitive disorders (self-reproach, loss of confidence) and suicide.

232. All victims are exposed to secondary victimization, which they can experience in one of the following relevant state organs (police, service/centre for social work, non-governmental organization, health institution, courts) or in a narrow and broad environment (family, neighbours, colleagues in the workplace, media of public information). In that case, the accused becomes the "victim," and the victim the "accused," while the consequences that are suffered by the victim become unfathomable (e.g. can result in suicide).

233. Based on the summary of our analysis, it can be seen that this Strategy dealt with the problems of primary and secondary victimization of children, and the intent of the state organs is to prevent this victimization or find the measures through which it is possible to act preventively on this type of violence. The text of the Strategy consists of four chapters:

Part One of this document consists of introductory remarks and description of the reasons that prompted development of this strategy. This part contains the explanation of the key definitions and the foundation of the strategy in international and local legislative regulations.

Part Two contains the explanations in connection to problems in identification of all forms of violence against children, identification of violence against children as a social phenomenon in the society of Bosnia and Herzegovina, or the issue of awareness that the violence against children does exist. Particular attention is dedicated to legislative framework and lack of harmony among the laws applicable in Bosnia and Herzegovina, as well as the problems related to professional standards in the work professionals and institutions, as well as the impact of technical and financial resources on the activities.

Part Three contains the description of basic principles of action and basic goals that are related to the following course of action: fight violence against children (activity aimed at repressing this phenomena), protection of children who are the victims of violence and prevention of violence against children. This part also describes measures in connection to the following: health sector, education system, police services, social sector, judicial organs, state services or departments at the local level and the non-governmental sector.

Part Four contains the description of activities that are in connection to the manner of revision of the Strategy and description of the process and procedures of the monitoring and evaluation.

L. Contribution of civil society

234. Non-governmental organizations are still the main carriers of activities to accommodate and rehabilitate victims of violence. At the same time, these organizations are working raising awareness among the population, children and young people, organizing campaigns, training sessions, workshops, discussions, media programmes – Embassy of the local democracy Sarajevo; Žena Bosnia and Herzegovina Mostar; La Strada Mostar; International Forum of Solidarity Gračanica; House of Salvation Bihać; Medica Zenica; Vive žene Tuzla; Your rights - 16 offices.

235. “Medica” Zenica ever since its inception has been working on the educating the children, parents, and professionals working with children. Until 2004, more than 1,000 professionals and volunteers have been trained. At the same time, there are programmes of rehabilitation of children and women who are victims of violence and torture as a consequence of war and victims of domestic violence or other forms of abuse and exploitation of the child. Such support (during 2004) was provided for 148 children, who were the victims of violence. “Medica” Zenica has the longest experience in working with the victims of violence in the Federation of Bosnia and Herzegovina and in a comprehensive manner it is providing support-medical accommodation, shelter, presence during the court procedure, rehabilitation and reintegration into the community. It is necessary that in cases of violence there is the estimation of the degree of risk to the family by the abuser and that a court measure be imposed accordingly. The SOS telephone line for women and children who are victims of violence opened in May 1998 within the activities of “Medica” Zenica and since that time it was active all the time.

236. “Vive žene” Tuzla since the war has been working on the rehabilitation of children who have been direct victims of violence or indirect victims as observers (war trauma). They later continued work with children who are victims of domestic violence. In the beginning the focus was on war trauma and the people who were persecuted. The therapy treatment with pedagogical assistance and support prevailed.

237. NGO “Žena Bosnia and Herzegovina” Mostar in the second half of 2006 started to implement the project “For a better and more pleasant life of children – life without violence” within which the Small Phone was opened for the children victims of violence with the same number for the entire country (1302). The small phone is operated by psychologists, pedagogues, sociologists and social workers that are trained to work on this type of phone.

Safe houses for women and children who are the victims of violence

238. There are no special institutions to protect abused children and there are no conditions for their rehabilitation. The safe houses for women who are victims of violence also house their children.

239. In Republika Srpska, among the nongovernmental organizations, there are four safe houses: Lara from Bijeljina; Budućnost from Modriča; Udružene žene Banja Luka and Ženski centar Trebinje. In the first seven months of 2006, in these safe houses for women there were 17 of their children. NGO Udružene žene from Banja Luka will soon open the first SOS telephone for the children who are victims of violence.

240. In the Federation of Bosnia and Herzegovina, also, among the non-governmental organizations there are three safe houses: Žena Bosnia and Herzegovina Mostar, Foundation of Local Democracy Sarajevo and Žene sa Une Bihać.

Accommodation and protection of foreign victims of human trafficking

241. Amid the lack of state capacities to accommodate and provide protection assistance for people who are the victims of human trafficking, the Ministry of Security in April 2005, signed the Protocol on cooperation and ensuring adequate and safe accommodation and protection of foreign citizens who are victims of human trafficking with five non-governmental organizations, which regulate mutual rights and obligations, and in accordance with the Book of Rules on the Protection of Foreign Citizens who are the Victims of Human Trafficking. These organizations manage six shelters as follows: “International Forum of Solidarity” (Gračanica and Sarajevo), “La Strada” (Mostar), “Medica” (Zenica), “Žena Bosnia and Herzegovina” (Mostar) and “Lara” (Bijeljina).

M. The role of the ombudsman for children

242. The Office of the Ombudsman is an independent institution with goal to protect the legitimate rights and interests of physical and legal entities, in accordance with the Constitution of Bosnia and Herzegovina and international agreements that Bosnia and Herzegovina accepted.

243. Ombudsman is the person tasked with protecting the human rights, and thus the rights and freedoms of the child. It is the obligation of all state organs and servants to cooperate with the Office of the Ombudsman for Bosnia and Herzegovina. The guardianship organs and courts are obliged in the cases they conduct and in which they detect that there are violations of the rights of the child that cannot be resolved in the common practice, to submit a report to the Office of Ombudsman for Human Rights in Bosnia and Herzegovina.

244. The ombudsman is authorized to receive, monitor and research all cases of poor functioning or violation of human rights and freedoms committed by any state organ or civil servant, including the other organizations that perform public affairs. The ombudsman acts upon the submitted report or ex officio.

245. Ombudsmen for human rights in Bosnia and Herzegovina since recently have come together in one institution at the state level, when the Law on Amendments to the Law on Ombudsman for Human Rights for Bosnia and Herzegovina took force. Within this organization, there will be special organizational units to monitor the fulfilment of the rights of the child.

VI. Prevention (art. 9, paras. 1 and 2)

A. Significant laws in Bosnia and Herzegovina that contain preventive measures

Framework law on the basic and secondary education in Bosnia and Herzegovina

246. The right to education is also one of the basic rights of the child. The significance of this law is that within the education process children need to exercise the right to upbringing and education and the information on the basic rights and obligations. In connection to the socially adverse behaviour, especially the problem of child trafficking and exposure of children to violence, for the sake of prevention, it is necessary to include preventive measures against child trafficking in the curricula. The possibility also exists to include certain measures within the bylaws that are passed by schools.

School Statutes and Books of Rules

247. All primary and secondary schools are obligated under the Framework Law on Primary and Secondary Education in Bosnia and Herzegovina to include among their staff pedagogues or psychologists or social workers tasked with implementing activities aimed at protection from violence and abuse of children. They are also obliged ex officio to report any type of violence, and in particular they must inform the relevant social service of this problem. This practice is at the start of its implementation. Financial and professional resources are lacking to prepare and implement appropriate prevention programmes. The issue of house rules is the issue that needs to be regulated in the Book of Rules or the Statute of the school.

248. In Bosnia and Herzegovina there are no separate laws that are linked with the prevention of violence against children, except the Law on Protection from Violence in Family of the Federation of Bosnia and Herzegovina, which contains provisions on obligatory preventive action to protect children from violence.

249. In connection with the prevention of violence, Bosnia and Herzegovina introduced new practices for the prevention in the sphere of protection of children from trafficking, so that:

The Law on the Movement and Stay of Foreign Citizens and Asylum of Bosnia and Herzegovina within the activities on the implementation of this law, established an obligation for the relevant ministries to implement the measures of raising awareness and training among the civil servants and training of civil servants who implement these laws. The relevant ministries and civil servants are obliged to cooperate with non-governmental organizations that implement special programmes of prevention of human trafficking so that the relevant ministries (Ministry of Security) in connection to these activities signed protocols on cooperation with non-governmental organizations that are active on the territory of Bosnia and Herzegovina.

250. The Book of Rules on the Protection of Victims of Human Trafficking defines the implementation of measures for the protection of children and measures concerning the children who are the victims of trafficking, to act and proceed in the best interest of the child.

251. Laws that regulate social protection do not contain explicit provisions that would be related to prevention.

Child health protection

252. Although according to the laws the children are entitled to a free and complete health protection, in practice everything is different. Health protection of children is not fully available even to the children who are regular students. They are asked for the payment of participation from their parents or guardians. Especially difficult is the situation faced by children with special needs. They are mostly left to financial (in)abilities of parents, because there is no systematic protection of children.

Labour of children

253. Laws on labour regulate the issue of work and employment of children. The Law on Labour in the Federation of Bosnia and Herzegovina, in article 15 prescribes the right of children to work, and in article 14 of the Law on Labour of Republika Srpska also prescribes a requirement for entering into an employment contract: an employment contract may not be entered with a person who has not attained 15 years of age.

254. A person between 15 and 18 years may be employed provided that a certification is obtained from a relevant doctor or a relevant health institution that proves that the person has the health ability and to perform these jobs. This article also prohibits the detrimental work of children.

255. With regard to employment of foreign citizens, special requirements are applied that are related to the assessment of the needs for a specific worker profile. In these laws the work of children is not referenced, from which one may conclude that international source is applied and the same provision applicable to children of citizens of Bosnia and Herzegovina can be applied to the children who are foreign citizens.

Special protection measures

256. When it comes to measures of special protection in reference to the problem of child trafficking, the laws that can be considered are the laws that regulate the accommodation of children in Institutions for Abandoned Children and Institutions for Accommodation of Children with Special Needs, in accordance with the Law on Social Protection and the Protection of Civilian War Victims and the Families with Children in the Federation of Bosnia and Herzegovina, and the Law on Social Protection of Republika Srpska and Brčko District of Bosnia and Herzegovina.

Asylum and immigration centres and safe houses in accordance with the Law on the Movement, Stay of Foreign Citizens and Asylum.

Juvenile and educational correctional facilities

257. In accordance with the Law on Enforcement of Criminal Sanctions in Bosnia and Herzegovina, each of these institutions apply special protection measures for children, depending on the type of protection they provide.

Protection of particularly vulnerable children

258. Identification of particularly vulnerable children is a complex process involving the participation of institutions, organizations and individuals from different systems (social protection, education, health, police, judiciary, etc.) – all who are working with children and families. Efficient and coordinated cooperation of all who participate in this process is necessary.

259. The centres for social work, as the basic service for social protection in a local community, assume the central and coordinating role in the risk assessment to identify particularly vulnerable children, i.e. the children from the groups most at risk (children from incomplete families; neglected children; children from poor families coupled with domestic violence, addiction disorders, health conditions, crime; children who left school; Roma children, etc.). When a report is received and during the deliberation of admissibility of the report, there is an initial assessment and the first step is to establish contact with the child and the family and assess the risk facing the child.

260. Description of the role of the centres for social work is already referenced as well as their coordination with the education and health institutions and police and judicial structures.

B. Programmes and policies of prevention

261. Bosnia and Herzegovina as a post-war country and a country in transition is faced with problems of poverty, unemployment and many other issues that to a significant degree affect the growth and development of children and young people.

262. A significant document drawn up by the government of Bosnia and Herzegovina in cooperation with the IMF and the World Bank was the Bosnia and Herzegovina Mid-Term Development Strategy for the 2004–2007 period. Along with the recommendations for economic development, the Strategy covers the areas of relevance for the rights of the child, such as education, health protection and social protection and provides recommendations to achieve progress. The Council of Ministers of Bosnia and Herzegovina in 2004, established the Economic Planning and Policy Unit and the implementation of the Mid-Term Development Strategy, which is administratively linked to the Office of the Chairman of the Council of Ministers of Bosnia and Herzegovina.

263. The revision of this Strategy was made in 2006, in order to restructure sector priorities and provide more details for the original, much broader-based Strategy. The revised Strategy, however, did not include the information on the monitoring of goals and relevant progress. The Parliament of Bosnia and Herzegovina in 2006 approved the transformation of the Economic Planning and Policy Unit into a Directorate for Economic Planning, which became a permanent government body with a stronger mandate for policy formulation and monitoring. The development of the new National Development Plan and the Strategy for Social Inclusion is at the final stage, and it will cover the period from 2008 to 2012.

264. In early 2008, the Ministry of Human Rights and Refugees in Bosnia and Herzegovina initiated support from foreign donors to the projects of local NGOs involved in the issues of children and young people which are linked to the opening of the centres for children and young people under risk. In this year about ten such centres will be opened throughout Bosnia and Herzegovina.

265. Enrolment of Roma children in schools and their further education is most closely linked to the lack of appropriate identification documents, as the Roma parents often do not report the birth of their child. The registration into the main birth record books for the Roma parents in Bosnia and Herzegovina is faced with many problems. Therefore, during 2004, there was an information campaign to raise the level of awareness regarding all relevant aspects of the problem of the lack of identification documents among the Roma population and thus increase the number of Roma children registered in the main birth record books, and thus enable a better approach to the right to education.

C. Campaigns and other prevention activities

266. The Council for Children of Bosnia and Herzegovina, as an advisory and coordination body of the Council of Ministers of Bosnia and Herzegovina, and whose goal is the full implementation of the Convention on the Rights of the Child, initiated a series of activities for the purpose of prevention among which the most important are as follows.

267. In 2006, the Council organized an International Conference on Violence Against Children, and one of the roundtable discussions (held within the conference) was titled “Violence in the community – Child Exploitation,” which deliberated on the following subjects: Factors of risk and resistance for trafficking and exploitation of children; child pornography and the role of INTERPOL in cracking

down on it; Prostitution is not a choice; System of child protection from human trafficking and referral mechanisms in Bosnia and Herzegovina; Children in the prevention of trafficking and abuse of children.

268. The organizer submitted the conclusions and recommendations of this roundtable to all participants as well as to all relevant state and entity governments and information media.

269. Also in 2006, the Council held a conference that discussed Strengthening the System of Social Protection for Children in Bosnia and Herzegovina. The work of this conference proceeded in six sessions: the Context of Social Protection of Children; the Right of the Child to Non-discrimination and Development; Social protection; Education – Equality and Approach – Roles and Functional Challenges; Health; Monitoring the Status of Children – Social Mapping by the Community. The conferences also yielded recommendations for the future projects and programmes of activities, in both this area and in the other areas of importance for development of social policy and child protection and child rights in Bosnia and Herzegovina.

270. The Council also warned that children required protection from the abuse that they are exposed on the Internet, and in June 2006, it sent the Regulatory Communications Agency of Bosnia and Herzegovina an invitation to inform the Internet Service Providers in Bosnia and Herzegovina of the existence of the Software for the detection of child pornography (PERKEO 1.17) with recommendations how to use it. The Software has been submitted via INTERPOL Sarajevo to the relevant police services cracking down on child pornography and cybercrime.

271. The Council participated in a series of educational seminars that gave prominence to family accommodation, stressing that a long-term accommodation in institutions does not provide the child with an environment the child needs, not just for survival, but for the psychological, mental, spiritual, moral and social development, highlighting that girls without parental care are more exposed to sexual exploitation, early marriage and limited access to education.

272. The National Group for the Prevention of Human Trafficking and Illegal Immigration in cooperation with the IOM, prepared the Manual for the teachers of primary and secondary schools on the topic of prevention of child trafficking.

D. Educational institutions

273. Starting from the fact that the school is not just an “educational institution,” but also the social and upbringing institution, a microcosm of society, the place for the life of children and adults where almost all problems we face in political and social reality can be found, in primary schools in Bosnia and Herzegovina (as well as in the secondary schools) the upbringing aspect of the child education is present at the homeroom classes. The aspects of child upbringing are implemented at 34 or 35 classes per year, and these classes also include the issues of child prostitution and pornography.

274. An important role in this process are the programmes which are in accordance with the ministries of education and which are implemented in schools by the local and international NGOs (already referenced in the Report), and they are involved in the fight against trafficking in human beings and implement prevention and educational programmes with students, their parents and teachers with an aim of raising awareness of the extent of this phenomenon, its detrimental consequences, risk factors and ways of recruitment into the trafficking chain.

275. Formal education has the obligation to overcome marginalization and strengthen inclusion into society. In that context, it is important to mention that Roma children are an important element of inclusion of marginalized group into the education system of Bosnia and Herzegovina. Therefore, it is the most responsible for the education of the Roma child population. Because of that, in February 2004, the Action Plan on education needs of the Roma and other ethnic minorities was signed. In July 2005, the Council of Ministers adopted the Strategy of Bosnia and Herzegovina for resolving the issues of the Roma population. (Excerpt from the manual “Standardized procedures of different professions in the protection and course of action with children who are the victims and victims who are witnesses of human trafficking in Bosnia and Herzegovina – protection of children in the place of their residence or where they stay” which was prepared by the Office of the National Coordinator for the Prevention of Human Trafficking and Illegal Immigration of Bosnia and Herzegovina and Save the Children Norway.)

E. Campaigns and other measures to raise awareness implemented by non-governmental organizations

276. With an aim of strengthening capacities for the protection of women and children the Reference group was established – the association of non-governmental organizations in the area of Tuzla canton which since 2001, continually work on the media campaign, strengthening capacities of the centres for social work, direct provision of support to the victims of violence, organizing training for professionals working with the victims of family violence, awakening the awareness of the problem of domestic violence, improvement of legal regulations and preventive action through education institutions.

277. In 2004, non-governmental organizations implemented a series of activities: advocacy (“Relationship between the victim and the prosecutor”), research of public campaigns, raising awareness, prevention, rehabilitation, treatment of victims, provision of services, holding a roundtable titled: “Child trafficking in Bosnia and Herzegovina,” Second International Conference — Europe Fit for Children — a document titled “Sarajevo commitments,” were adopted.

278. The Center for the Rights of the Child from Konjic and the Association of Citizens Budućnost from Modriča since 2004, with the support of Save the Children Norway, Regional Office for South-eastern Europe are working on the prevention of trafficking and child abuse through a school theatre performance “Osloni se na mene” (Rely on me). The performance was prepared by the children, the activists from the project from Konjic and Modriča, and it is performed in primary schools of the Herzegovina-Neretva Canton and the region of Dobož. In addition to this component, both organizations are working on sensitizing representatives of local authorities and institutions on the problem of trafficking and abuse of children and the need to strengthen cooperation between them

so that this problem would be cracked down on as much as possible.

279. "La strada" Mostar within its regular activities, organizes seminars, conferences, workshops and roundtable discussions for professionals that in their work come across the problem of trafficking in human beings. Particularly important is the training of the so called risk groups – students of secondary schools, students, returnees from minority ethnic groups that are the most vulnerable population category, especially in the economically underdeveloped areas. For risk groups the educational material is prepared so that they are informed of possible dangers in connection with going abroad for the sake of "better future".

280. Foundation of local democracy Sarajevo is involved in the prevention and protection of victims of human trafficking, and at the local level it has educated adolescents on the violence and trafficking in human beings. They have an open telephone line – green line to obtain information on the rights of the victims based on gender, and a permanent campaign through the BH radio on the life without violence and human trafficking.

281. The association for support to children and women who are victims of domestic violence "Ženski centar" Trebinje is involved in the training of teenagers in the sphere of human trafficking, and on the media campaign for the rights of the victims of trafficking and their socialization in the society.

282. Women organization "Lara" Bijeljina is assisting victims of human trafficking, with an aim of prevention, raising awareness of the public via media campaigns, representing victims in the court.

283. Udružene Žene from Banja Luka are involved long-term in the development and implementation of activities to raise public awareness of the problem of human trafficking in Bosnia and Herzegovina, especially women and children, as the most vulnerable population group exposed to the influence of criminal networks of human traffickers in the country.

284. In late 2005, an OSCE working group started operations in the fight against human trafficking in the area of Banja Luka, and its goal is the implementation of a long-term strategy for the prevention and fight against human trafficking, based on efficient partnership of all relevant stakeholders in the struggle against human trafficking in the region.

Budučnost Modrića

F.Children who are living or working in the streets

285. The problem of labour abuse of children is very prevalent in the society of Bosnia and Herzegovina, and it most affects children from the Roma population. A study report titled "Children speak out: what affects child trafficking in South-eastern Europe – report from Bosnia and Herzegovina" (Save the Children Norway Regional Office for South-eastern Europe) pointed at the main problems which lead to children being forced or coerced into work. The research found that about one quarter of children working in the street are not Roma and that the main reason behind the increasing problem of work – which is mostly performed in begging, washing of windscreens, collection of refuse and similar – is the social exclusion of families, which develop the survival strategy by involving children in work. Comparing the situation in the Roma families where some family members are employed, it was found that the children in these households do not work, but attend school, which demolishes the stereotype that all the Roma children are beggars. Therefore, begging is directly linked to poverty and social exclusion. Further, the research pointed at the problem of not going to school due to the work on the street, which exposes the children to additional perils such as abuse and trafficking, and the information on the methods of protection are not available to them because these children are not included in the prevention programmes. The only organization dealing with the issue of children who are living or working on the street is the Association of Citizens Zemlja djece from Tuzla which in its project of teenager young centre Telex is trying to gather together all the children, provide them with at least one hot meal a day, and make them literate, include them in the regular school system with instruction classes and provide them with some craft training based on which they will later overcome the problem of finding a regular employment.

G.Role of the media

286. The media can significantly influence that the issue of child trafficking, child prostitution and pornography be publicly discussed, and they also play a positive role in raising awareness on this problem and sensitizing high risk groups of possible dangers, they can also influence the reduction of tolerance on the part of public toward the crime and violation of human rights, and in raising the voice against the silent acceptance of using the children for exploitation and profit.

287. On the other hand, human trafficking is occasionally misrepresented in the media. Media may sensationalize the problem by placing the exaggerated focus on the exciting aspect of the story and with that kind of reporting unsuspectingly promote negative stereotypes such as the suggestions that some population groups are more prone to "selling their children" and thus being less human. As such, the media can have a negative influence, creating and disseminating misinformation, which sometimes as a consequence brings negative or erroneous positions in the public about the victims. By using this sensationalistic approach on the issues of child trafficking, the media are directly inflicting damage to children who are the victims.

288. When the criminal, socio-pathological events, and sometimes the sexual aspects are presented to public in an attractive manner, which means sensationalist-like and with a certain flare to draw attention at any cost (depending on the frequency of events, gender, age and other elements – family environment, social group, customs or norms), the children and young people are, without doubt, suffering negative consequences.

289. The print media can also influence and exacerbate the problems faced by children and young people that do not only relate to moral consciousness, but to the development and the mindset of the person. These would include the elements of pornographic nature and incitement to violence in all forms.

290. Also important is the treatment of educational institutions as risk factors and prevention of socially unacceptable behaviour,

protection and fight against domestic violence, against children in families, and children as objects of trafficking for the purpose of sexual exploitation. This includes print media as an open book and the school for responsible parenthood. (Excerpt from the manual "Standardized procedures of different professions in the protection and course of action with children who are the victims and victims who are witnesses of human trafficking in Bosnia and Herzegovina – protection of children in the place of their residence or where they stay" which was prepared by the Office of the National Coordinator for the Prevention of Human Trafficking and Illegal Immigration of Bosnia and Herzegovina and Save the Children Norway).

291. Bosnia and Herzegovina, as already stated, has taken all preventive, legal, court administrative and programme measures, especially those measures targeted at children belonging to groups most at risk. Raising public awareness, involving the experts who are working with children, politicians, parents, children themselves and all the others and a broad inclusion of all actors has a decisive significance for the progress in the prevention of the sale of children, child prostitution and child pornography.

292. However, in the steps that should follow, the research and scientific work needs to be initiated, a National Program for the Prevention of Sale of Children, Child Pornography and Prostitution needs to be developed as well as a more efficient system of services and courses of action in such situations, and develop brochures for children and parents as well as manuals for parents and educators.

VII. Prohibition and related issues (arts. 3, 4, para. 2; 3 5, 6 and 7)

A. Prohibitions established in the laws of Bosnia and Herzegovina

293. The previous part of the report of Bosnia and Herzegovina listed, and described in detail the criminal offences connection with the sale of children, child prostitution and pornography. The Criminal Code of Bosnia and Herzegovina has undergone significant changes which have brought about a new reformed legal framework which is to the largest degree harmonized with international standards of protection of basic human rights and freedoms. The Criminal Code of Bosnia and Herzegovina in Chapter XVII prescribed criminal offences against humanity and the values protected under the international law and lists the following criminal offences in connection to trafficking in human beings:

- (a) Establishment of Slavery and Transport of Slaves (art. 185);
- (b) Trafficking in Persons (art. 186);
- (c) International Procuring in Prostitution (art. 187);
- (d) Unlawful Withholding of Identity Papers (art. 188);
- (e) Smuggling of Persons (art. 189);
- (f) Torture and Other Cruel, Inhuman or Degrading Treatment (art. 190).

294. The sentences for criminal offences from the Criminal Code of Bosnia and Herzegovina: Article 185, paragraph 2 – prison sentence is at least five years; Article 186, paragraph 2 in connection to paragraph 1 – prison sentence is at least five years; Article 187, paragraph 3 in connection to paragraphs 1 and 2 – prison sentence is from between one to ten years; Article 188 - Unlawful Withholding of Identity Papers – prison sentence is from between six months to five years; Article 189 - Smuggling of Persons – depending on the paragraph – sentences vary between a fine to a long term imprisonment; Article 190 – Torture and Other Cruel, Inhuman or Degrading Treatment – prison sentence is from between one to ten years.

295. It is stressed that a previous involvement in prostitution by the victims does not prejudice the existence of criminal offence.

296. Mitigating and aggravating circumstances: legal basis – the level of criminal responsibility, reason why the offence was perpetrated, the severity of the injury or damage to the protected entity, circumstances under which the act was perpetrated, previous conduct of the perpetrator, his personal circumstances and his demeanour after the perpetration.

297. The legal basis to mitigate the sentence: going beyond defence out of necessity, going beyond extreme necessity, attempt, inappropriate attempt, voluntary abandonment of the attempt, significantly reduced mental capacity/except the one that is self-perpetrated/, mistake of fact and mistake of law under certain circumstances, age of the juvenile. In practice – difficult financial situation, previous non-conviction, severe disorder, repentance, family status/this can also be an aggravating circumstance depending on a case/ articles 24-29 of the Criminal Code of Bosnia and Herzegovina and articles 37, 38 and 48 of the Criminal Code of Bosnia and Herzegovina.

298. Aggravating circumstances in practice include: repeated criminal offence, previous conviction, persistence, callousness, heinousness, etc. during the perpetration of the offence, the offence perpetrated in cold blood.

299. The stature of limitations for criminal prosecution is defined in article 14 of the Criminal Code of Bosnia and Herzegovina.

“Unless it is stipulated otherwise in this Code, criminal prosecution shall not be instituted when the following time periods have elapsed since the perpetration of a criminal offence:

Thirty-five years in the case of a criminal offence for which a punishment of long-term imprisonment is prescribed;

Twenty years in the case of a criminal offence for which the punishment of imprisonment for a term exceeding ten years is prescribed;

Fifteen years in the case of a criminal offence for which the punishment of imprisonment for a term exceeding five years is prescribed;

Ten years in the case of a criminal offence for which the punishment of imprisonment for a term exceeding three years is prescribed;

Five years in the case of a criminal offence for which the punishment of imprisonment for a term exceeding one year is prescribed;

Three years in the case of a criminal offence for which the punishment of imprisonment for a term not exceeding one year or a fine is prescribed.

If several punishments are prescribed for a single criminal offence, the period of limitation shall be determined according to the most severe punishment prescribed.”

Running and Interruption of the Period Set by Statute of Limitation Regarding the Institution of Criminal Prosecution – set forth in article 15 of the Code.

Attempt – Attempt to perpetrate a criminal offence is punishable if for that particular offence the prescribed sentence is three years or a more severe sentence.

Complicity – Each of the accomplices will be individually sentenced with a sentence prescribed for these criminal offences. ”

B. Penal policy towards children and adults

300. When it comes to different approaches in the penal policy toward children and adults, it is important to take into consideration the applicable definition of a child — Article 1, paragraph 8 of the Criminal Code of Bosnia and Herzegovina — which reads “A child, as referred to in this Code, is a person who has not reached fourteen years of age.”

301. Article 8 of the Criminal Code of Bosnia and Herzegovina — Exclusion of Applying Criminal Legislation of Bosnia and Herzegovina to Children — “Criminal legislation of Bosnia and Herzegovina shall not be applied to a child who, at the time of perpetrating a criminal offence, had not reached fourteen years of age.”

302. Article 9 of the Criminal Code of Bosnia and Herzegovina — Applicability of Criminal Legislation of Bosnia and Herzegovina to Juveniles — “The criminal legislation of Bosnia and Herzegovina shall be applied to juveniles pursuant to Chapter X (Rules Relating to Educational Recommendations, Educational Measures and Punishing Juveniles) of this Code and other laws of Bosnia and Herzegovina.”

303. Penal policy in this subject matter is different toward adults and juveniles.

304. With reference to the perpetrator of criminal offence – a juvenile, the criminal proceedings cannot be conducted against a minor who has not attained 14 years of age. For this reason, the Criminal Procedure Code, through its provisions does not use the term a “child”, but a “juvenile”, therefore a person who has not attained the age of adulthood, but is older than 14 years. Adequate treatment toward a juvenile, as a perpetrator or criminal offences, is prescribed in provisions of the Criminal procedure Code/presence of guardianship organs during the proceedings, inability to try in absentia, mandatory defence – free legal aid, professional assessment of mental development of the juvenile, urgency of proceedings, exclusion of public, etc.

305. However, it must be made clear that these people, in practice, are provided with a very low level of psychosocial and psychological support. The reasons include both the lack of education of the professional staff and the lack of motivation.

C. Criminal responsibility

306. With reference to penal policy and responsibility for criminal offences.

Criminal Code of the Federation of Bosnia and Herzegovina

For the criminal offence from article 210 – Pandering, a stricter penalty is prescribed:

If the criminal offence was perpetrated against adults the sentence is between 1–5 years

If the criminal offence was perpetrated against children the sentence is between 3–15 years

For the criminal offence from article 211 – Abuse of a Child or Juvenile for Pornography: shall be punished by imprisonment for a term between one and five years.

For the criminal offence from article 212 – Introducing Pornography to a Child: shall be punished by a fine or imprisonment for a term not exceeding one year.

307. The criminal code of the Brčko District of Bosnia and Herzegovina also prescribes criminal offences of the same group as the entity codes:

Article 207 – Enticing prostitution

If the criminal offence was perpetrated against adults the sentence is between one to 10 years.

If the criminal offence was perpetrated against child or juvenile, the sentence is between 3–15 years.

Article 208 – Abuse of a Child or a Minor for Pornographic Purposes

Whoever perpetrates this offence against a child or juvenile, shall be punished with a prison sentence of one to five years.

Article 209 – Showing Pornographic Material to a Child

Whoever perpetrates this offence against a child or juvenile, shall be punished with a fine or prison sentence of up to one year.

The criminal code of Republika Srpska also prescribes these criminal offences:

Article 198 – Trafficking in Human Beings for the Purpose of Prostitution

If the criminal offence was perpetrated against adults the sentence is between one to five years.

If the criminal offence was perpetrated against child or juvenile, the sentence is between 1 to 12 years.

Article 199 – Abuse of a Child or Juvenile for Pornography

If the criminal offence was perpetrated against child or juvenile, the sentence is between six months to five years.

Article 200 – Production and Screening Child Pornography

Whoever perpetrates this offence against a child, shall be punished with a fine or prison sentence of up to one year.

If the offence from paragraph 1 was perpetrated against a person who has not attained 16 years, the perpetrator shall be punished with a prison sentence of up to three years.

308. The applicable laws are not an obstacle to apply the Optional Protocol and under the current provisions activities in the fight against sale of children, child prostitution and pornography can be successfully implemented. A greater problem in practice is posed by securing of sufficient funds and professional capacity building.

D. Responsibility of legal subjects

309. With respect to the definition of legal entity – Article 1, paragraph 10 of the Criminal Code of Bosnia and Herzegovina is applied to legal entities in accordance with Chapter XIV of the Code and other laws in Bosnia and Herzegovina/Article 10 of the Code.

310. Legal entities are responsible for criminal offences that a perpetrator committed in the name of, for the account of, or for the benefit of the legal entity, while Bosnia and Herzegovina, Federation of Bosnia and Herzegovina, Republika Srpska and the Brčko District of Bosnia and Herzegovina, canton, town, municipality and local community are exempted from responsibility.

311. A national and foreign legal entity responsible for the offences perpetrated on the territory of Bosnia and Herzegovina and outside the territory of Bosnia and Herzegovina against the national or foreign citizens /Article 122–145 of the Code.

312. The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and its Protocol on Mutual Assistance in Criminal Matters between Member States are implemented in the Criminal Code of Bosnia and Herzegovina in the part regulating seizure of property gained through a crime. Thus, article 74 of the Code prescribes a possibility of forfeiture of items that were used for the perpetration or which are the result of the perpetration of a crime, while article 110 of the Code prescribes a mandatory confiscation of material gain acquired through a crime. For the crimes perpetrated by a legal entity, seizure of property is prescribed /Article 133 of the Code, and the dissolution of the legal entity, if the activity of the legal entity was completely or primarily aimed at perpetration of crimes/Article 134 of the Code.

313. Closure of premises where these offences were perpetrated is not specifically stated, but the practice shows that these premises are closed, at least temporarily.

E. Bilateral and multilateral agreements

314. Bosnia and Herzegovina is not a signatory to bilateral and multilateral agreements regulating international child adoption and only now the possibilities of Bosnia and Herzegovina to join the European Convention no. 058 on child adoption are being deliberated. In the context of these new processes, legal and other measures will be worked out – that will be taken with an aim of preventing the intermediaries from convincing mothers or pregnant women to give up their children for adoption and preventing unauthorized persons or agencies from advertising services in connection with adoption.

315. So far in Bosnia and Herzegovina there have been no registered cases of reporting the intermediaries and Bosnia and Herzegovina does not have regulations to issue licenses to the agencies and individuals that act as intermediaries in the adoption, as well as the legal practice that was so far identified. Bosnia and Herzegovina is now in the transition process and in the reform of social services and development of the system which will control procedures for child adoption, because the current system does not guarantee that the adoption procedures will be appropriate in terms of the protection of the best interest of the child. For children without parental care, there is an attempt to find the best solutions within Bosnia and Herzegovina and the procedures of international adoption are approached with great caution. The reason for this policy is also lies in a lower natural population increase and initiation of adoption and fostering in the families that are appropriate for development, raising and education of children.

F. Child abduction

316.As regards the legal and administrative measures taken with an aim of preventing the stealing of children, including the applicable criminal sanctions, there are two situations which are regulated in Criminal Code of the Federation of Bosnia and Herzegovina (arts. 180 and 217), of the Republika Srpska (arts. 165 and 205) and of the Brčko District of Bosnia and Herzegovina (arts. 177 and 214) as two types of criminal offences – kidnapping and abduction of a child or juvenile.

Criminal Code of the Federation of Bosnia and Herzegovina

Article 180 – Kidnapping

1. Whoever unlawfully imprisons another person, keeps him imprisoned or otherwise restricts his freedom of movement in order to force him or somebody else to do, not to do or to bear something shall be punished by imprisonment for a term between six months and five years.
2. Whoever perpetrates the criminal offence referred to in paragraph 1 of this article against a child or juvenile, or whoever in order to meet the goal of kidnapping referred to in paragraph 1 of this article threatens to kill or inflict a serious bodily harm upon the hostage, or if the criminal offence was perpetrated in a group of people or organized group of people, the perpetrator shall be punished by imprisonment for a term between one and ten years.
3. The perpetrator of the criminal offence referred to in paragraphs 1 and 2 of this article, who voluntarily releases the hostage before his demand for which he had perpetrated the kidnapping was fulfilled, may be released from punishment.

Article 217 – Abduction of a Child or Juvenile

1. Whoever unlawfully takes a child or juvenile away from a parent, adoptive parent, guardian or a person to whom he has been entrusted; or whoever holds or prevents him from being with an entitled person; or whoever prevents the execution of an enforceable decision on a guardianship for a child or juvenile, shall be punished by imprisonment for a term not exceeding three years.
2. If by the criminal offence referred to in paragraph 1 of this Article a child or juvenile has left the territory of the Federation or the territory of Bosnia and Herzegovina, the perpetrator shall be punished by imprisonment for a term between three months and five years.
3. The perpetrator, who voluntarily surrenders the child or juvenile, may be released from punishment.

Criminal Code of the Brčko District Bosnia and Herzegovina

Article 214 – Abduction of a child or a juvenile

1. A person who unlawfully abducts a child or a juvenile from a parent, adoptive parent, guardian, or from a person whom the juvenile is entrusted to, or a person who unlawfully keeps the juvenile away or prevents the juvenile from being with the person entitled to it, or a person who hinders the execution of the decision entrusting the child or juvenile to a certain person, shall be sentenced up to three years of prison.
2. The perpetrator who voluntarily hands over the child or the juvenile may be released from punishment by the court.

Article 215 – Change of family status

A person who changes the child's family status by substitution, exchange or in some other way shall be sentenced to prison from three months to three years

Article 177 – Kidnapping

1. A person who unlawfully imprisons another person, keeps him imprisoned or otherwise deprives him of or restricts his freedom of movement with the aim to make that person or another person to do something, or to abstain from any activity, or to suffer, shall be sentenced to imprisonment for a term of six months to five years.
2. A person who commits a criminal offence referred to in paragraph 1 of this article against a child or juvenile, or a person who threatens to deprive the kidnapped person of his life or to injure him severely in order to achieve the objective of the kidnapping referred to in paragraph 1 of this article, or if the criminal offence has been committed by a group or organized group of individuals, the perpetrator shall be sentenced to imprisonment for a term of one to ten years.
3. The perpetrator of a criminal offence referred to in paragraphs 1 and 2 of this article who willingly releases the kidnapped person before his request is fulfilled for which he kidnapped the person, may be released from punishment.

Criminal Code of Republika Srpska

317. Legislative measures that are taken and consistently implemented and which are connected to the prevention of the stealing of small children are implemented by the Ministry of Interior of Republika Srpska through legal provisions from the articles of Criminal Code which is closely regulating this issue.

318. This issue is regulated in Articles of the Criminal Code of Republika Srpska, including article 165 – Abduction; article 166 – Unlawful deprivation of freedom; article 205 – Abduction of a Child or a Minor; article 206 – Change of the Family Status; article

207 – Neglecting and Abusing a Minor; article 209 - Breach of Family Obligations.

319. We would once again note that Bosnia and Herzegovina became a member of the 1980 Hague Convention 28 on the Civil Aspects of International Child Abduction in accordance with which activities related to resolving the cases of international child abduction are implemented.

320. The relevant police services submitted the information of several cases of child abduction, or kidnapping of a child or juvenile.

321. What follows are the examples of cases in which the return of children to parents, i.e. the mother, was successfully carried out, and the child or children were taken by the biological father:

1. After N.N. (father) took from the mother as the legal guardian N.I. from Sarajevo on October 27, 2006 the children – the son and the daughter and brought them to his mother to another municipality, the police officers of the Department Fighting Human Trafficking and Sexual Delicts returned children to their mother on 24 November 2006.

2. After Z.Z. on 30 October 2006 violently took their child (a five-year old son) from mother Z.A and brought took him to his parents, in coordinated measures and action with the Ministry of Interior from the other entity, the police officers of the Department Fighting Human Trafficking and Sexual Delicts took part in the return of the child to the mother on 11 January 2007 and the mother Z.A filed a criminal report with the relevant prosecutor office.

3. After D.I.L. from Italy, during a temporary stay in Bosnia and Herzegovina, took their child (11-month old daughter), from mother A.I.L. from Sarajevo, with the intent to take her to Italy, the police officers of the Department Fighting Human Trafficking and Sexual Delicts returned them to their mother on 10 January 2007. With an aim of submitting the report on the criminal offence and the perpetrator of the criminal offence "Kidnapping of child or juvenile" from article 217 paragraph 3 of the Criminal Code of the Federation of Bosnia and Herzegovina, consultations with the relevant prosecutor were conducted and the prosecutor presented the opinion that "one cannot kidnap his child, regardless of the marriage being divorced. In order for the criminal offence to exist, in addition to divorce, it is necessary to have the child awarded to another parent by the competent organ," because of this the report was not filed.

G. Protection of children in the media

322. The Communications Regulatory Agency of Bosnia and Herzegovina is fully independent when rendering decisions. The Agency performs its work at the state level and in accordance with the general principles of legality, objectivity, transparency and non-discrimination. The Communications Regulatory Agency promotes the development of information society in Bosnia and Herzegovina. The Agency encourages the establishment of a competitive market oriented sector of communications, works for the benefit of all citizens in Bosnia and Herzegovina, stimulates the creation of conditions for continuing development of media freedoms, thus promoting the establishment of a civil society, supports participation of citizens in contributing to promotion of a professional and responsible media sector, protects the interests of all users and operators of telecommunication services in Bosnia and Herzegovina,, in the sense of non-discriminatory approach, quality and the cost of services, promotes the introduction of new technologies and services in accordance with the needs of users, issues permits for broadcasting and telecommunications in an open and fair manner, thus enhancing the highest levels of professionalism and business sustainability of communities of electronic media and telecommunication operators.

323. The Agency has the authority to withdraw broadcast licenses or penalize print and other electronic media if they violate the code of conduct and the law on communications of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina," No. 31/03 and 75/06), and the council of the communications regulatory agency will pass a decision thereof.

324. The Broadcasting Code of Practice for Radio and Television Programme passed in January 2008 in article 1 prescribes:

1. This Code sets basic standards for the content of radio and television broadcasting in Bosnia and Herzegovina in accordance with the Law on Communications of Bosnia and Herzegovina, European Convention on Trans-frontier Television, United Nations Convention on the Rights of the Child and Children's Rights, and other positive domestic and international legal documents.

2. This Code is intended to conform with the right to freedom of expression as provided by the European Convention on Human Rights and Fundamental Freedoms and other instruments incorporated in the Constitution of Bosnia and Herzegovina, while respecting generally accepted standards of decency, non-discrimination, fairness, accuracy, protection of minors and protection of privacy.

On its page the Agency published an explanation as to how to lodge a complaint as follows:

325. The activities of the Communications Regulatory Agency are based on a serious, objective, unbiased, professional and responsible approach to the sector of communications, in both telecommunications and broadcasting of programmes. The Agency also establishes a regulatory framework for the operations of radio and television stations in Bosnia and Herzegovina. The Agency introduces the highest media standards for the programmes broadcast by the outlets in Bosnia and Herzegovina. Within its mandate, the Communications Regulatory Agency offers a possibility for the citizens to file a complaint against the programming. Such a joint effort paves the way to creating high quality programmes and their permanent content and technical improvement.

Lodging a complaint

Can that be shown or said on television?

Can that be aired on the radio?

In that respect, what can you do? First-contact the station

326.If you are concerned of have a complaint against the content of a radio or television programme, you should first contact the station that broadcast that programme. The best method is to phone the station, and then formalize the complaint in a letter. Most complaints are resolved in this manner. You give the station sufficient time to deliberate upon the complaint and to respond to you. After that, if you are not satisfied with their response, send the complaint to us, in a letter, fax or e-mail. Our contact information are on the back of this brochure. The Communications Regulatory Agency will thereupon deliberate the case further.

A complaint needs to contain:

327.The name of the television or radio station and the programme you watched or listened.

Date and time of the broadcast

Exact nature of your complaint, comment or query

Or, in case of an advertisement, the name of the advertised product

What is the deadline to lodging the complaint?

328.Regulations of the Communications Regulatory Agency require the stations to keep recordings of their programmes in the period of 14 days, if otherwise is not requested. Therefore please make sure that your complaint reaches us within 14 days after the day of the broadcast. If you wait too long to lodge the complaint, the Communications Regulatory Agency and the station might not be in a position to fully respond to you.

What happens with the complaint?

The Sector for Broadcasts will note the receipt of the complaint.

The Communications Regulatory Agency will review the complaint and discuss taking of appropriate steps.

The Communications Regulatory Agency will decide whether or not the station complied with the codes.

The Communications Regulatory Agency will send you a copy of the decision.

All decisions of the Communications Regulatory Agency are available in public and in case that within the Communications Regulatory Agency a decision is made on the complaint, it will be published in a press release or at our web page. If the Communications Regulatory Agency decides that the station complied with the standards regulated in the codes, the Communications Regulatory Agency will explain why such decision was made.

Who can lodge a complaint?

A complaint may be lodged by any person or organization.

What the communications regulatory agency can and cannot do?

329.The Communications Regulatory Agency will examine all complaints, including the contacting of the referenced station, if there is a need. The Communications Regulatory Agency may require changes that will prevent repetition. For serious and repeated violations of our codes, there are numerous sanctions.

330.The Communications Regulatory Agency is not a censorship body. The Communications Regulatory Agency will not decide what the stations should broadcast, or instruct them to give time in their programming to certain individuals or groups. However, if a station decides to cover an issue that has a public interest, the station must ensure that the issue is presented to public from all aspects and that the programme complies with the requirements from the Communications Regulatory Agency Code regulating the radio and television programming. Here is an example of a reaction.

Daily newspaper avaz reports:

331.Ever since the first showing of the “Niko kao ja” (Nobody like I), show programme, broadcast on TV OBN, complaints to the address of the Communications Regulatory Agency are coming from the whole Bosnia and Herzegovina.

332.The Communications Regulatory Agency received 14 complaints. In each complaint, citizens of Bosnia and Herzegovina express their concern over the content of the show. For example, the parents pointed to snippets broadcast in 20:00 hours, absolutely inappropriate for children. Many complaints concern insulting behaviour toward women in one of the snippets of the show.

What does the code say?

333.The Communications Regulatory Agency told AVAZ that the Agency acted in accordance with the applicable procedures:

TV OBN was informed that the case is opened and it was required that the station submits recordings of this programme, to ascertain violation of Code of Broadcasting for RTV stations, so the case was reviewed by the Communications Regulatory Agency

H.Extraterritorial competence

334.With respect to extraterritorial competence the applicable laws prescribe that it is possible to try for the offences perpetrated

outside the territory of Bosnia and Herzegovina.

The criminal code of Bosnia and Herzegovina in article 12-applicability of the criminal legislation of Bosnia and Herzegovina to offences perpetrated outside the territory of Bosnia and Herzegovina prescribes:

1. The criminal legislation of Bosnia and Herzegovina shall apply to anyone who, outside of its territory, perpetrates:

(a) Any criminal offence against the integrity of Bosnia and Herzegovina prescribed in Chapter Sixteen (Criminal Offences against The Integrity of Bosnia and Herzegovina) of this Code;

(b) The criminal offence of counterfeiting of money or of counterfeiting of securities of Bosnia and Herzegovina, the criminal offence of counterfeiting of instruments of value or of forgery of trademarks, measures and weights issued on the basis of regulations made by the institutions of Bosnia and Herzegovina, as defined in articles 205 through 208 of this Code;

(c) A criminal offence which Bosnia and Herzegovina is bound to punish according to the provisions of international law and international treaties or intergovernmental agreements;

(d) A criminal offence against an official or responsible person in the institutions of Bosnia and Herzegovina, related to his duty.

2. The criminal legislation of Bosnia and Herzegovina shall be applied to a citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates a criminal offence other than those specified in paragraph 1 of this article.

3. The criminal legislation of Bosnia and Herzegovina shall be applied to a non-citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates a criminal offence against Bosnia and Herzegovina or its citizens that is not specified in paragraph 1 of this article.

4. The criminal legislation of Bosnia and Herzegovina shall be applied to a non-citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates against a foreign state or non-citizen of Bosnia and Herzegovina a criminal offence for which, under the law in force in the place of perpetration of a criminal offence, a punishment of imprisonment for a term of five years or a more severe punishment may be imposed.

5. In the cases referred to in paragraphs 2 and 3 of this article, the criminal legislation of Bosnia and Herzegovina shall be applied only if the perpetrator of the criminal offence is found within the territory of Bosnia and Herzegovina, or has been extradited to it, while in the case referred to in paragraph 4 of this article, only if the perpetrator is found within the territory of Bosnia and Herzegovina and is not extradited to another State.

335. With reference to these criminal offences, taking into account the prescribed sentence, they are extraditable by both the international and internal regulations. Bosnia and Herzegovina certainly takes the position that amid the lacking bilateral agreement, the basis for extradition is this protocol, as well as the European Convention on Extradition. In addition, the Criminal Procedure Code of Bosnia and Herzegovina provides the foundation to establish a jurisdiction of Bosnia and Herzegovina for these offences/extradition of the perpetrators of these criminal offences at the request of Bosnia and Herzegovina.

336. With reference to article 4 of the Protocol, possibly changes of the Criminal Code of Bosnia and Herzegovina are needed in terms of requirements for extradition – Article 415, paragraph 1, item c.

337. According to the information of the Ministry of Justice of Bosnia and Herzegovina, so far they did not have requirements for extradition in the spirit of the Protocol.

338. Bilateral agreements that treat the issues of providing the international legal aid, enforcement of criminal sanctions, extradition, transfer of convicted persons, transfer of criminal proceedings, etc., which Bosnia and Herzegovina concluded with several countries – all countries in the region / except Croatia and Serbia when it comes to extradition, European countries and some non-European countries. Agreements on cooperation in the fight against organized crime were signed with several countries.

Multilateral conventions – the European Convention on providing of international legal aid (supplemental Protocol in the ratification process), the European Convention on Extradition with two supplemental Protocols, European Convention on the Transfer of Sentenced Persons and the European Convention on the Transfer of Proceedings, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment with two supplemental protocols, Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders, European Convention on the Compensation of Victims of Violent Crimes, United Nations Convention on Offences and Certain other acts Committed on Board Aircraft, United Nations Convention Against Transnational Organized Crime, with two supplemental protocols, and in particular the Convention on the Civil Aspects of International Child Abduction and the Convention on the Recovery Abroad of Maintenance, the Convention of Cybercrime which prevent the spreading of sale and exploitation of children

Forfeiture of objects destined for use in the perpetration of a criminal offence

339. The Criminal Code of Bosnia and Herzegovina prescribes such a possibility in article 74, Forfeiture:

1. Forfeiture shall be ordered with regard to objects used or destined for use in the perpetration of a criminal offence, or to those that resulted from the perpetration of a criminal offence, when there is a danger that those objects will be used again for the perpetration of a criminal offence or when the purpose of protecting the public safety or moral reasons make the forfeiture seem absolutely necessary, if those objects are owned by the perpetrator.

2. Objects referred to in paragraph 1 of this article may be forfeited even if not owned by the perpetrator when consideration of public safety or moral reasons so require, but such forfeiture does not affect the rights of third parties to obtain damage compensation from the perpetrator.

3. The law may provide for mandatory forfeiture in the case of paragraph 2 of this article.

This measure shall be applied in most cases either as forfeiture of evidentiary material or as a measure of confiscation of illicitly acquired property.

340. This code in Chapter twelve – Confiscation of material gain acquired through perpetration of a criminal offence and legal consequences incident to conviction - in article 110 prescribes the Basis of the Confiscation of Material Gain:

1. Nobody is allowed to retain material gain acquired by the perpetration of a criminal offence.

2. The gain referred to in paragraph 1 of this article shall be confiscated by the court decision, which established the perpetration of a criminal offence, under the terms set forth under this Code.

3. The court may also confiscate the gain referred to in paragraph 1 of this article in a separate proceeding if there is a probable cause to believe that the gain derives from a criminal offence and the owner or possessor is not able to give evidence that the gain was acquired legally.

341. Furthermore in article 111 – Ways of confiscating material gain:

1. All the money, valuable objects and every other material gain acquired by the perpetration of a criminal offence shall be confiscated from the perpetrator, and in case the confiscation is not feasible – the perpetrator shall be obliged to pay an amount of money which corresponds to the acquired material gain. Material gain acquired by perpetration of a criminal offence may be confiscated from persons to whom it has been transferred without compensation or with a compensation which does not correspond to the real value, if the persons knew or should have known that the material gain had been acquired by the perpetration of a criminal offence.

2. If proceeds of a criminal offence have been intermingled with property acquired from legitimate sources, such property shall be liable to confiscation not exceeding the assessed value of the intermingled proceeds.

3. Income or other benefits derived from the proceeds of a criminal offence, from property into which proceeds of criminal offence have been converted, or from property with which proceeds of criminal offence have been intermingled shall also be liable to the measures referred to in this article, in the same manner and extent as the proceeds of the criminal offence.

342. In accordance with these possibilities, so far this option was used twice. We present one example.

343. Based on the verdict of the Court of Bosnia and Herzegovina, no: K-71/05 of April 25, 2006 against ČUPINA NERMIN for the perpetration of continued criminal offence “Human Trafficking” from article 186 paragraph 2 as read in paragraph 1 of the Criminal Code of Bosnia and Herzegovina in connection to article 54 of the same Code, this person was convicted to a prison sentence of 11 years and 6 months and the property gained through the perpetration of criminal offence was confiscated, including: apartment at the roof terrace of the collective housing facility in Braće Fejić street no. 58, area 82 m², built with the funds in the amount of 61,481.55 KM as a part of property gained through the perpetration of a criminal offence, with his obligation to pay the amount of 45,000 KM for property gain obtained through the perpetration of a criminal offence, this verdict is taken as the case law, the relevant prosecutor with the assistance of police officers in accordance with article 110 of the Criminal Code of Bosnia and Herzegovina: “Basis for the confiscation of material gain, acquired by the perpetration of a criminal offence,” in addition to criminal investigations also conducts the financial investigation. According to the opinion of financial experts, financial investigation should be conducted in the area of organized and commercial crime, human trafficking, trafficking in narcotics and weapons, terrorism, tax and custom frauds, abuse of public funds and frauds in Bosnia and Herzegovina and the EU.

344. Dujković Borislav, expert for financial investigations, as a member of the Task Force fighting human trafficking and organized illegal immigration, made and submitted for the needs of the task Force to all members the materials entitled: “Financial investigation and confiscation of illegally acquired gain in Bosnia and Herzegovina” and “Identifying illicitly acquired property”.

345. Confiscation of property gain obtained through the perpetration of a criminal offence is regulated in Chapter VII of the Criminal Procedure Code of Republika Srpska, in provisions of articles 94, 95, 96. These provisions regulate the basis, the method of confiscation of property gain and protection of the injured party (compensation from the confiscated gain).

346. In the Criminal Procedure Code of Republika Srpska, the provisions of article 137 regulate temporary confiscation of illegally acquired property. The motion is filed by the prosecutor and the court imposes the temporary measure. In the verdicts it is stated that preventive measures of confiscation of property, impounding and seizure are not disproportionate, taking into account the significance of the fight against organized crime. Concerning the criminal offences from article 199 of the Criminal Code of Republika Srpska – exploitation of children and juveniles for pornography, paragraph 2 prescribes seizure of items and means, as well as the criminal offences from article 200 paragraph 5 – production and screening of child pornography.

347. Chapter V of the Criminal Code of Republika Srpska prescribes the security measures, and notable measures for this type of crimes are the prohibition to perform certain occupations, activities or duties in article 60 of the Criminal Code of Republika Srpska and Confiscation of Items from article 60 of the Criminal Code of Republika Srpska. The same provisions are found in the codes of the Federation of Bosnia and Herzegovina and the Brčko District of Bosnia and Herzegovina.

VIII. Protection of victims’ rights (arts. 8 and 9, paras. 3 and 4)

348. In terms of the legal system for the protection of children who are victims, which is applied in Bosnia and Herzegovina, it is important to stress that an efficient protection of children from trafficking in human beings is unimaginable without the compliance with four basic rights of the child. The importance of these rights/principles is in the fact that these rights are used as the basis for the interpretation of all the rights that stem from the Convention on the Rights of the Child, which in particular comes to the fore in cases where there is a conflict among the priorities of two or more rights. In Bosnia and Herzegovina, we are trying to affirm and fully apply the standards prescribed in articles 6, 2, 3, and 12 of this Convention.

Article 6 – The right to life, survival and development

349. The right to life, survival and development of the child is to the largest degree the concern and the obligation of the state to ensure these rights to a child, and most often it is related to undeveloped and war-afflicted countries that do not have sufficient economic resources to ensure the protection of the child, while in transitional countries such as Bosnia and Herzegovina this right may take the form of appropriate health protection and treatment, basic food or protection of children from the most severe forms of exploitation.

Article 2 – Non-discrimination

350. Equal treatment of children, or the principle of equality of people and along with it the children independent of origin, gender, religion, property or health condition, or any other affiliation is actually the general condition for the enjoyment of all rights and in principle it is included in all the laws applied in Bosnia and Herzegovina, but it is also a fact that professionals in practice still need training and development of their professional skills in the work with children in Bosnia and Herzegovina, so that they would more successfully recognize discriminatory practices.

Article 3 – Protection of the best interests of the child

351. All proceedings that affect the child shall be taken in accordance with the best interests of the child. The state shall ensure appropriate care of the child in cases when the parents and the guardians do not. This approach is the essence of any decision, at any level, and it affects children and directs the choice of the solution that suits the best the development needs of the child. The planning of the protection procedures is an attempt to ensure, on a long term basis and in the best interest of the child and their families, the appropriate protection, which in Bosnia and Herzegovina is sometimes linked to the availability of funds that are secured for the children who are the victims of violence.

Article 12 – Right to participation

352. A child has the right to freedom of expression of his/her own opinion and the right to have this opinion considered in all matters and procedures affecting the child. As children as the subjects, i.e. the carriers of their rights, in cases when decisions that affect them are made, children are entitled to have a voice, i.e. the children are asked for their opinion and they are allowed to take part in making of decisions. Children know, in the manner appropriate to their development phase, to express what is best for them. A child is a subject that possesses an identity and full personal integrity; this is the starting point in the work of all professionals in Bosnia and Herzegovina.

A. Other professional standards in the protection of the child applied in Bosnia and Herzegovina

(a) Data confidentiality and protection of identity of the child and their families.

353. This type of protection of a child who is the victim is more of a professional standard. Data confidentiality refers to ensuring the confidence of the client and the confidentiality of the data that are collected through the work of certain services.

354. This type of protection must not be to the detriment of obtaining necessary information for those services and organs that need to pass relevant decisions in the process of protection of children who are the victims. The obligation to report has the priority over the duty to keep professional secret.

(b) The right to privacy, the right to protection of honour and reputation is the integral part of professional work of any professional and in all stages of the proceedings the data confidentiality needs to be safeguarded as much as possible and inform the child and the families in time of the situations when it is possible that this principle – due to provision of some form of necessary protection – may only be partly complied with, so that the child and the family would be prepared in time for such a situation.

(c) Mandatory intervention.

355. The provision or implementation of a mandatory intervention most often has a repressive character, which infringes upon the rights of parents, family integrity or in another way coerces a parent or a person abusing the child, the interventions are based on the authority of the government and on the legal decisions of relevant organs. Appropriate court protection is provided in all these disputed situations.

356. In all situations, it is necessary to stress the basic and other standards of operations that we present in the following pages of this report. We are promoting standardized procedures that must be adhered to by all the professionals involved in the problem of human trafficking, so that they would have a greater success in the fight against the organized groups of criminals who are exploiting children, most often the girls, and more recently the boys as well, with increasing frequency.

357. All professionals who have the knowledge that a child has been a victim of human trafficking are obliged to keep professional secret. With unauthorized disclosure of such information, damage is inflicted upon the child who is the victim of human trafficking, and the procedure for indemnification against the person disclosing such information may be initiated.

358. A professional is exempted from the responsibility of keeping the professional secret, if he discloses a secret aimed at protecting the interests of the child because the duty of reporting has precedence over the obligation to keep a professional secret.

359. Based on the information briefly presented previously, those most often involved in the protection of children, victims of human trafficking, are different professionals, from the following sectors: justice and police, education, health protection, social protection, other public institutions and services, including the professionals from non-governmental organizations.

360. In the practice, there are developments that professional standards do not always result in cooperation of the child who is the victim, particularly victims of sexual violence. There are cases when the victims refuse to testify or to participate in the criminal proceedings, especially when the perpetrator of such offence is a family member.

Role of the police and judiciary

361. The role of police and prosecutors in cases of any form of violence against children, and especially the criminal offences of sexual harassment and exploitation is to detect and identify the offences and perpetrators.

362. It is important to note that in Bosnia and Herzegovina, in accordance with applicable laws, all citizens, institutions, services and professionals are in the position to report their indirect knowledge to duty-shift police services and prosecutor offices. In order to detect the cases and identify the perpetrators, the police apply different actions and techniques, which by their role have the operative-technical nature.

363. The basic standard which is important in terms of protection of children in situations when the police and prosecutor office have the first knowledge of the child who is the victim, is the obligation of the police to immediately inform the centre for social work of the existence of child victim so that these two key services would agree on the steps in the investigation and examination that would follow.

364. This situation also presumes the readiness of police to share the information and some confidential data with the representatives of the centre for social work.

What is necessary to do when the report is accepted?

365. When the report is accepted, regardless of the source from which it was submitted, the admissibility of the report is deliberated by the police and the centre for social work, to perform an additional check with the report submitter and assess the need to contact the family of the child or a person which had the child, in order to verify whether the discussion with the family or a person that has the child will not increase the risk of even a greater injury to the child.

366. The police/prosecutor office, discreetly and in detail, clarify perceived circumstances, needs and conduct of the child and the family of the child, if there be any, and if an appropriate contact can be established with the family. The police shall immediately, in accordance with their competence, assess the physical security of the child and together with the centres for social work, pass a decision on urgent accommodation for the child.

367. A child or a juvenile shall always be considered vulnerable, and they can also get the status of a protected witness.

368. The basic criteria required to open a case is the existence of information that a certain "event or a situation" has happened, and which are covered by the professional and legal regulations defined in criminal codes of Bosnia and Herzegovina. At this stage of intervention, both the police and the centre for social work designate the case leader which co-operate in the conduct of the proceedings, each according to their competence.

369. The professionals who are leading the case, the policemen and the social worker cooperate closely, and each within his scope of competence, together or separately as they deem appropriate, collect or share the information on the following:

Established contact with the child and the family if there is any

Assessment of the injuries inflicted upon the child and the family

Assessment of the risk of new injury

Securing of the evidence on abuse (most often this part falls under the police competence)

Securing the urgent protection services

Identification of the resources that are available for the protection of the child

Preparation for the decision on taking the child from the family or other environment (competence of the centre, if there is a need)

Finding appropriate accommodation (competence of the centre)

Securing the feedback information to other relevant persons or institutions

Reporting on the results of the examination and assessment, whether the case will be opened and taking care that the child is informed about everything and if necessary, the family of the child

Avoiding taking a short statement or the first informative discussion, but it may be done on a preliminary basis, as it the practice that the interview with the child be carefully prepared and performed only once when the circumstances of the case allow

In order to perform investigative-forensic interview the groundwork is prepared carefully

370. The Centre for social work prepares general data and interviews the child who is the victim, non-violent parents and other persons of importance with respect to the current situation and the environment of the child (discussions may be in respect to the recent events, but not focused on pinpointing the latest experiences of the child). This collection of the evidence falls under the competence of experts – forensics or child psychologists, etc.

371. At the same time, the police also collect general information, interview a non-violent parent or another person responsible for the safety of the child or interview the perpetrator, collect other statements that may provide relevant information and continue with implementation and the use of all investigation techniques available. The police consult the prosecutor on the investigation strategy and takes actions from its competence with an aim of initiative criminal proceedings.

372. A good practice is that the prosecutor in cooperation with the centre for social work helps in the preparation of the investigative-forensic interview with the child, with the prior psychological assessment of the child and non-violent parent, if that is necessary.

373. The timelines to prepare interviews sometimes can be very tight, but at any rate it is necessary that required medical examinations be performed immediately (this part of activities is conducted by the centre for social work in cooperation with the prosecutor/police – medical examinations and specialist examinations, paediatric, gynaecological, orthopaedic, x-ray examinations, etc.).

374. At this stage, all who are taking part in the process should be informed of the interpretation of the medical findings.

375. An interview with the child is planned. All services do not have the possibility to ensure that the interview be recorded, so there is an attempt to ensure that the child testifies in such a manner that would not expose him/her to additional trauma.

376. In the manner described above, a system of communication is built between the services and the professionals and overlapping is avoided. This procedure is most often involves a joint interview with the child, and its preparation requires the sharing and evaluation of current information and agreement among the members of the multidisciplinary team as to the people who should attend the interview, who will be conducting the interview, where it will be conducted, etc.

377. This interview maximizes the efforts of the centres for social work, police/prosecutor office and other services with an aim of obtaining precise and complete data, reducing the possibility of a secondary trauma and the repetition of the interviewing procedure by different services (the interview can be realized in several time intervals, under a questioning strategy agreed beforehand and if possible in a natural environment – avoidance of police stations).

378. In this interview, the goal is to obtain information that is relevant for the criminal proceedings and their presentation in the court.

B. Protection of children of foreign citizens

379. Institutions that have the competence to act with the child who is a foreign citizen and victim of human trafficking or of some other form of abuse include:

Sector for immigration, Ministry of Security of Bosnia and Herzegovina

Field Centre for Foreign Citizens, Services for Affairs with Foreign Citizens

Shelter – safe house

Centre for social work

Other organs or institutions that come into contact with a child foreign citizen

380. All these institutions that come into contact with the child for which there are grounds for suspicion are obligated to forward this information to the relevant field centre for foreign citizens which without delay inform in writing the field centre, services for the affairs with foreign citizens, with an aim of securing the accommodation.

381. If the age of a foreign citizen cannot be precisely ascertained, and there are reasons to believe that he/she is a child, this foreign citizen shall be treated as a child, all special prescribed measures shall be taken to protect the best interest of the child and the territorially competent municipal organ for the affairs of social protection shall be informed in order to ensure guardianship.

How the sector for immigration ensures protection of children who are foreign citizens?

382. The Sector for immigration is obligated to do the following:

Establish and maintain the registry of personal data of children of foreigners which are harmonized with the laws and other regulations on the protection of personal data

Allow data access to the people authorized to use these data

Upon the receipt of the request to approve temporary stay for humanitarian reasons, a child who is a foreign citizen is issued a certification of submitted request

In case there is a need, the request of the submitter of the motion to approve temporary stay for humanitarian reasons is completed, in part that concerns the assessment of the organs that conduct the proceedings

Approves a temporary stay for humanitarian reasons to a child who is a foreign citizen (which can be extended)

Ensures that a child who is a foreign citizen enjoys his rights (both the rights guaranteed to victims of human trafficking, and the special rights that the child is entitled to in accordance with the laws of Bosnia and Herzegovina and the international Convention on the Rights of the Child)

Gives consent to accommodate a child who is a foreign citizen to a shelter/safe house

Collects information sent from the administration of the shelter on the receipt of the child who is a foreign citizen

In cooperation with the guardian and other relevant organs, commences the process of obtaining the documentation and information from the country of origin of the child or the usual place of residence, in order to perform the risk and security assessment, after which a decision is made as to whether to reunite the child with the family and/or return the child to the country of origin

In cooperation with the field centre for foreign citizens and administration of the shelter, and through the Ministry of Foreign Affairs, prepares and implements the procedure of return, or repatriation of the child who is a foreign citizen

How field centres for foreign citizens protect the children who are foreign citizens?

383. The field centres for foreign citizens are obliged, should they come into contact with a child who is a foreign citizen to do the following:

Place in a shelter the child who is a foreign citizen without delay

Inform the organ of administration in charge of social protection affairs thereof (in the place where the shelter is located), in order to designate a guardian who will represent the interests of the child who is a foreign citizen in the process

Inform the guardian of all the issues of the interest for the child who is a foreign citizen

Inform the guardian of the right of a child who is a foreign citizen to a temporary stay in Bosnia and Herzegovina for humanitarian reasons and his role in the initiation and running of that procedure

Inform the guardian of the right of a child who is a foreign citizen to independent legal aid

Draw attention that all activities must be conducted in the best interest of the child who is a foreign citizen, with the highest level of urgency and efficiency, with the highest possible respect of the privacy and identity of the child who is a foreign citizen

Mediate in finding the best solution for the child who is a foreign citizen

Mediate, together with the Ministry of Security and guardian, in obtaining the information on the country of origin or a usual place of residence in order to assess the risk and security for the return of the child who is a foreign citizen

Mediate in obtaining the documentation required for the return of the child who is a foreign citizen (travel document or travel sheet for a child who is a foreign citizen)

Submit appropriate information to the relevant prosecutor office while ensuring the confidentiality of the source

Participate in the process of return, i.e. the repatriation of the child who is a foreign citizen

How the administration of shelter/safe house protects the child who is a foreign citizen?

Administration of the shelter/safe house is obliged, if it comes into the contact with a child who is a foreign citizen to do the following:

Inform immediately the relevant field centre for foreign citizens

Upon the warrant of the field centre for foreign citizens, place the child who is a foreign citizen in a shelter (if it is possible the accommodation will be provided in a special premises purpose-made for the accommodation of children)

Immediately upon the accommodation submit the information to the Sector for immigration that the child who is a foreign citizen was placed in the shelter

Allow the child who is a foreign citizen to enjoy all the rights entitled to other victims of human trafficking, as well as the special rights that any child is entitled to

Implement all activities with a maximum respect of privacy and the identity of the child who is a foreign citizen

Maintain a proper registry

Cooperate with the field centre for foreign citizens, Sector for immigration and guardian

384. If the child is placed in a shelter by the field centre for foreign citizens, the administration of the shelter is obliged to do the following:

Ensure undisturbed placement of child who is a foreign citizen in a shelter (if it is possible the accommodation will be provided in a special premises purpose-made for the accommodation of children)

Allow the child who is a foreign citizen to enjoy all the rights entitled to other victims of human trafficking, as well as the special rights that any child is entitled to

Implement all activities with a maximum respect of privacy and the identity of the child who is a foreign citizen

Maintain a registry

Cooperate with the field centre for foreign citizens, Sector for immigration and the guardian

Procedure of the centres for social work in protection of the child who is a foreign citizen?

385. Should a centre come into contact with the child who is a foreign citizen, it is obliged to perform the following:

At the request of the field centre for foreign citizens, undertake activities in accordance with the applicable regulations and designate a guardian to the child

Get informed of all the issues that are of the interest for the child who is a foreign citizen

Get informed on the procedures in connection to the fulfilment of the right to a temporary stay in Bosnia and Herzegovina for humanitarian reasons, for the child who is a foreign citizen, and its role in initiation and running of that procedure

Submits the request to grant temporary stay in Bosnia and Herzegovina, for humanitarian reasons, on behalf of the child who is a foreign citizen

Inform the child who is a foreign citizen of the right to independent legal aid

Make sure that all activities are conducted in the best interest of the child who is a foreign citizen, with the highest level of urgency and efficiently with the highest respect of the privacy and identity of the victim

Participate in the finding of the best solution for with the highest possible respect of the privacy and identity of the child who is a foreign citizen

Participate, together with the Ministry of Security and the shelter, in obtaining the information on the country of origin or the usual place of stay in order to assess the risk and security for the return, or the repatriation of the child

Take other activities in accordance with the applicable regulations

How the other bodies or institutions act in the protection of the child who is a foreign citizen?

386. If the bodies or the institutions that do not have the competence over the protection of the child who is a foreign citizen, come into a contact with the child, they are obliged to, without delay, inform the relevant body to take action, and ensure a necessary minimum of protection of the child who is a foreign citizen until, in accordance with the applicable legal provisions, the body that has the competence takes the care of the child.

387. The relevant field centre is obliged to take the child who is a foreign citizen immediately upon the receipt of this information.

How the competent bodies cooperate in activities with the child who is a foreign citizen?

388. The Ministry of Security, with an aim of providing assistance and protection to foreign citizens who are the victims of human trafficking, children in particular, signed the protocols on cooperation with non-governmental organizations that have the capacities to ensure accommodation and protection of all categories of foreign citizens.

389. At the same time, the Ministry of Security signed a protocol on cooperation with Association *Vaša prava* (Your rights) aimed at providing free legal aid to the victims of human trafficking. The Protocol with the International Organization for Migrations (IOM) aimed at implementing the procedure for repatriation of victims of human trafficking was also signed.

Victims of human trafficking – asylum-seekers in Bosnia and Herzegovina

What is the procedure with the child who is a foreign citizen who files a request for asylum in Bosnia and Herzegovina?

390. In case when a foreign citizen who is the victim of trafficking in human beings files a request for asylum (the age of the request submitter is of no relevance for asylum) or if it is found in the course of procedure upon the request for asylum by the relevant organ that the foreign citizen is a victim of human trafficking, the authorized official person of the Sector for asylum will be conducting the request for asylum in the centre for the placement of victims of human trafficking.

391. Guarantees in the proceedings that are applied to all asylum-seekers, are also applied to the victims of human trafficking seeking asylum in Bosnia and Herzegovina, including the approach to personal documents.

392. During the entire proceedings, upon the request for asylum, the Sector for asylum will try to resolve as a matter of priority, among other categories of asylum-seekers in Bosnia and Herzegovina, the requests coming from:

(a) Victims of violence, torture or trauma;

(b) Persons, women in particular, who are exposed to risk, torture or trauma;

- (c) Elderly people or disabled people;
- (d) Separated children;
- (e) Those who are in need of urgent medical assistance.

393. An asylum-seeker is obliged in the course of the entire proceedings to actively participate with the relevant organ. The asylum-seeker is obliged to submit all available documents and evidence that substantiate the request for asylum, such as for example: identification documents, membership cards of political and other organizations, court and administrative decisions or court summons, photographs, travelling cards, medical reports, etc. For the children who are asylum-seekers, it is necessary to name a guardian who represents the interests of the child.

C. Role of educational institutions

What is the role of schools and educational institutions in the protection of children who are the victims of human trafficking?

394. Taking into account the time the children spend in school and educational institutions, the education system has the highest potential of sectors of protection in the prevention and early detection of child trafficking.

395. The training and awareness-raising among the children, parents, teachers and other professional staff in schools and other educational institutions enables a more successful fight against the phenomenon of human trafficking.

396. Prevention activities in schools and other educational institutions are implemented through the organization of suitable workshops, lectures on the topic of human trafficking, roundtable discussions, debates, development and distribution of promotional materials, etc.

397. Neglect, lack of care, traces of violence among children and frequent absence from school classes are the most frequent risk factors and their proper identification could be linked to the phenomenon of human trafficking.

How schools and other educational institutions can help in data gathering?

398. Schools and educational institutions, or the relevant staff (pedagogue, director, psychologist, teacher and other staff) cannot assume the role of investigator upon themselves, but they can collect and register the information that is significant in the detection of child victimization.

What are the basic steps in detecting child trafficking?

399. Detection includes the recognition of the phenomenon, conducting discussions and carrying out the process of consultations.

400. Recognition is the perception of certain outside signs, specific behaviour of the child (psychophysical condition). Detection can follow based on a confidential discussion with the child, discussion with a third person, a peer or a parent.

401. In case there is a suspicion, the professional shall undertake consultations, which may be:

Inside school

With a colleague who has more experience in the work

With a person who is trained on the protection of children from abuse

With school psychologist and/or director

Outside school

With the centre for social work (which is obliged to inform the relevant police and prosecutor office)

With the service of the local health institution

402. Consultations are performed with an aim of clarifying the circumstances. During the consultations inside and outside the school, it is mandatory to respect the principle of confidentiality and the principle of protection of the best interest of the child.

What is to be taken after the action of detention and performed consultations?

403. A professional worker, upon suspecting that a child is the victim of human trafficking, shall report the case to the relevant centre for social work.

404. In urgent cases, when the child needs medical intervention, the professional shall inform the relevant health institution. The centres for social work and the relevant health institutions, who received the report, are obliged to submit the feedback information.

405. Should the aforementioned situation arise, it is necessary to explain to the child that the next steps will be to inform the social protection service and the relevant police services and prosecutor offices. It is important for the child to understand that his/her security is primary and that the other services are to be included in order to provide security and appropriate protection.

What is the course of action if the child confides alone?

406.Children most often start talking about these problems with their peers, they confide in certain teachers, and sometimes the pedagogues or other professionals in educational institutions. Considering this fact, it is necessary to sensitize professionals, with an aim of gaining the trust of the child. Children know rather well when it is safe to talk with adults. A child needs to feel that he/she is believed, before he/she mentions new details from life.

407.It is very important, that during the discussion, the child is constantly told that what he/she is saying is believed in what. In this situation it is important to do the following:

Not to condemn the child regardless of the circumstances

Understand/comprehend that it is difficult for the child to speak about it

Express joy that the child has confided

Express compassion for what has happened to the child

Emphasize that nobody has the right to abuse children

408.It is important to convince the child that everything the child says is understood seriously and that they help themselves by providing such explanations.

The course of action with a child known to be a victim of human trafficking?

409.All professionals that have the knowledge that a child was a victim of human trafficking are obliged to keep this a professional secret. With unauthorized disclosure of such information, damage is inflicted upon the child who is the victim of human trafficking, and the procedure for indemnification against the person disclosing such information may be initiated.

410.A professional is exempted from the responsibility of keeping the professional secret if he discloses a secret aimed at protecting the interests of the child because the duty of reporting takes precedence over the obligation to keep professional secrets.

411.It is necessary to take all measures to ensure that as few professionals as possible could have the information that a child is the victim of human trafficking. These professionals are obliged to implement all activities with an aim of providing an adequate assistance to the child and prevent the stigmatization of the child who is the victim of human trafficking.

412.When this information is available to a broader range of people, or public, it is necessary to demonstrate the understanding for the situation the child is facing. The child needs to be helped to get involved and continue to engage in school activities, the child needs to be allowed to achieve his/her potentials, the child to be stimulated and the school environment should be influenced so to reduce the stigmatization of the child who is the victim of human trafficking. Cooperation between the schools, educational institutions and centres for social work is a necessity in this process.

Reporting

413.The duty to report applies to all situations in which the experts/professionals in the education sector receive information that would suggest that a child is the victim of human trafficking. That implies that there is a general obligation that any person must report any knowledge of a child being the victim of human trafficking to the relevant centre for social work and/or the police.

How to protect and respect the principles of confidentiality and the best interest of the child?

414.Reporting represents the violation of confidentiality in the interest of the child. However, the best way of reporting is that the child is informed of the possibility of acquainting with the relevant services and the persons who will help him/her, if the situation of the child is dangerous and threatening. This can be achieved by ensuring the child that everything he/she says is confidential, but that their story is not kept as joint secret, because another professional needs to be informed with confidential information to ensure protection for the child and the professionals who file the report.

415.Experts/professions in the education sector, although not directly involved in providing protection from abuse, have the duty and the obligation to protect and promote the well being of the child:

Concern for the child may be conveyed to institutions and organizations in charge of protection-the centre for social work, police, health institution

They have the obligation to participate and provide information on the child and the family

Participation in the assessments, giving of expert assessment, participation in the planning and ensuring of services and measures for child protection

416.It is necessary to share information with the centre for social work and other relevant institutions that are involved in the protection plan (cooperation with health institutions, prosecutor offices, court, and police).

417.The role of the education sector in the protection of children who are the victims of human trafficking is primarily in the timely forwarding of the knowledge to the relevant services to take necessary action and to support appropriate cooperation and reporting of all relevant organs.

418. From the experts/professionals in the education sector it is expected to aim their work at:

Planning and coordinating activities in the protection of children who are the victims of human trafficking with all relevant institutions (primarily the social and health institutions)

In case when there is a suspicion that there is any element that would point to the fact that the child is the victim of human trafficking, conduct the assessment of the situation and take prescribed measures accordingly

Being led by the best interest of the child in their work, and not the interest of parents, schools or their own interest

D. Role of the centres for social work

What is the course of action of a centre for social work/social worker when there is a suspicion or a report that a child is the victim of human trafficking or the victim who is the witness?

419. The report or the information can be submitted in a verbal, written, phone and electronic manner.

420. The centre for social work/social worker will carry out an assessment of all the information and reports where there is a suspicion that a child is the victim of human trafficking. This assessment is made by the social worker in cooperation with the relevant police officer, to whom he is obliged to submit the information that he received.

421. The obligation of the social worker is to perform the assessment of the environment in which the child who is the victim of human trafficking lives. This assessment is made ex officio, in order to collect all the information on the child who is the victim (information as to whether the child attends school, the community where he lives, the neighbourhood), trying to attract as little attention as possible, in order to prevent the security of the child being threatened and to avoid warning other people involved in human trafficking.

422. When the suspicion is confirmed that a child is the victim of human trafficking, the guardianship organ ex officio takes all measures necessary to protect the rights and the interests of the child. The measures assume a safe placement of the child (safe house, foster family or any other available placement) and pronouncement of supervisory measures over the exercising of parental rights, and, when necessary, the initiation of a non-litigation proceeding to issue a measure of stripping the parental rights.

423. The centre for social work is obliged to inform the report submitter as to the competences of the centre and also of the procedures that will be initiated upon the submission of the complaint.

When is the centre for social work/social worker obliged to inform the victim of its legal rights and possibilities for support?

424. The centre for social work is obliged to inform the child who is the victim of human trafficking and the child legal representative or guardian of the legal rights, especially of the rights of the child to protection.

425. The centre for social work is obliged to provide security to the child who is the victim. In addition to appropriate placement (into a foster family, institution of social care, shelter or safe house) the Centre is obliged to help and mediate in the exercising of the right to free legal aid and the right to indemnification, to mediate in the exercising of the right to health support, to refer the child who is the victim to an adequate counselling unit and to ensure a safe continuation of education.

426. In contact with the victim of human trafficking, the employees of the centre for social work are obliged to treat the victim with a particular sensitivity and understanding.

How to enable the child who is the victim of human trafficking to present the relevant facts?

427. The centre for social work needs to allow the victim to smoothly and without fear present all the facts that are important to the conduct of the proceedings. The social worker who is in touch with the child who is the victim must not assume the role of an investigator, but undertake different measures – from the observation of the situation in the environment of the child to filing a report with the relevant prosecutor office.

428. A social worker who conducts the case is obliged to secure professional psychological support to the child so that the child will be prepared to take the stand in the court. A social worker is mandatorily present when taking the statement from the child who is the victim with an aim of ensuring the best interests of the child and to forestall the child from coming into contact with the person or people who trafficked the child.

When should the emergency measures be taken?

429. The centre for social work is obligated, in all cases when there is an indirect danger for the life and health of the child who is the victim of human trafficking, to ex officio pass a verbal decision to immediately protect the child.

430. The decision must be enforced without delay. The record needs to be made thereof. After the verbal decision is made, the centre for social work is obligated to pass a decision in a written form and submit it to the parent, guardian and relevant institutions.

431. In cases where the child was the victim of human trafficking, the centre for social work shall without delay impose appropriate measures of legal family protection. It will carefully supervise the enforcement of the measures and achieved results, and it is obligated to make appropriate reports or official note thereof.

432. If there is a need, the centre shall, should the imposed measure fail to yield results, replace it with another measure, and when imposing another measure it will take into account the concrete circumstances and the needs.

433. During the evaluation of results of the imposed measure, all relevant facts and the circumstances in which child became a victim of human trafficking will be taken into account and assistance from professional services and institutions will be sought.

434. The professional staff of the centres for social work is obliged to make an official note, report or the record of any action taken in the case involving a victim of human trafficking.

435. The social worker is obliged to fill out the form for the information of the victim of human trafficking, created to gather the information of the victims of human trafficking. The copy of the form must be kept in the archives of the institution.

How is the cooperation of the centre for social work and other relevant institutions established?

436. The centre for social work at the request of the judge, prosecutor or police is obliged to immediately submit all the documentation of importance for the deliberation and evidence (for example, the report of the social worker, report from the leader of supervision measures, opinion of the psychologist, etc.).

437. The worker of the centre for social work who conducted the case of a child victim of trafficking, shall be obliged to come at the summon of police for an immediate placement of the child victim of trafficking and attend the official interview conducted in the police station with the person who was the victim of the trafficking.

438. The centre for social work may seek to postpone interview with the child who is the victim, if the experts are of the opinion that the child victim is not capable of giving an interview.

439. With an aim of preventing further victimization of the child, the relevant institutions must make sure that the statement of the child can be recorded as taken only once.

440. In exceptional circumstances, when some new circumstances arise in the course of investigation, and which were not included in the statement of the child, the prosecutor may seek from the court to have a further the interview with the child victim.

E. Role of health institutions

Reporting

441. So long as the trafficking of the child or the suspicion of the trafficking of the child remains a secret between the doctor and his patient, the child cannot be helped.

442. This is the fact which all health professionals must be deeply aware of – those who are faced with a dilemma whether or not to report a suspicion that there is trafficking of a child. When a health or non-health worker, employed in a health institution (psychologists, social workers) learns that there could be a trafficking of a child for the purpose of labour or sexual exploitation, they are often faced with a dilemma whether to breach the state of established confidentiality and confidential relations between the child and the health/non-health workers and the desire, (i.e. the obligation) to report this suspicion.

443. The pressure of reporting is particularly high among health workers (doctors) over the fact that they are bound by the Hippocratic Oath.

“I will respect the secrets which are confided to me” is a famous sentence from the Hippocratic Oath taken by the doctors before assuming their duty, and causes perplexity in their mind.

444. It is precisely the doctors who are most often the first to have the contact with the trafficked children, especially if the trafficking is accompanied by the physical coercion.

445. Sometimes it takes exceptional knowledge and skills to establish a confidential relationship with the child, due to the fact that the child is intimidated by the threats to him/herself or to members of the family, or due to a prevailing strong sense of shame if trafficking of a child for sexual exploitation is involved.

446. Once a confidential relationship is established and the child confides the secret to the doctor, the doctor develops a strong sense that the trust must not be broken, justifying this with a quotation from the Hippocratic Oath. However, the result may be, even if we neglect the obligation to report, very negative on the health of the child, since it would be a missed chance to really help the child.

Who reports the trafficking/suspicion of the child trafficking?

447. Each professional, including the doctors and other health or non-health workers who are employed in the health sector have the obligation to report trafficking in children, if such information reached them in the course of their work. This also applies to a suspicion of child trafficking.

448. If a health professional, social worker, psychologist and others do not report human trafficking it is a criminal offence, and if it is assessed that in the course of their work such information had reached them, they can be sanctioned according to the Criminal Code of Bosnia and Herzegovina with a fine or a prison sentence of up to 3 years (Criminal Code of Bosnia and Herzegovina, article 230 “Official Gazette of Bosnia and Herzegovina”, no. 3/03), and the same offence is prescribed in the entity criminal codes and the Criminal Code of the Brčko District of Bosnia and Herzegovina.

Does reporting violate the obligation to safeguard confidential information?

449. Safeguarding of confidential information is the obligation of every health professional, according to the European Declaration on

the rights of the patients (ICP/HLE 121, 28 June 1994). Reporting based on a suspicion of trafficking in human beings most often brings at odds the safeguarding of confidential information and the obligation to report.

450. Confidential information can be conveyed to another person/people only with an explicit consent of the patient. However, in this situation, the law is explicit and gives the advantage to reporting, because a failure to report is punishable under the law. Naturally, this situation obligates the doctor or another health or non-health professional to carefully talk with the child. It needs to be explained to the child, in accordance with his/her age, that everything said in the talk between the two of them is confidential. However, should an adult and responsible person learn that a child is in a situation that imperils the child's life or health, the adult is obliged to report such information to the relevant institution.

When the suspicion of human (child) trafficking should be reported?

451. The report shall always be filed when based on a physical examination of the child or on the patient's health history, there is a suspicion that a case of child trafficking is involved. We need to keep in mind that all our actions must be in tune with the best interests of the child.

452. When taking the anamnesis (data from the history of disease or injury) information could be obtained or facts established that give rise to suspicion that there is a case of child trafficking, in particular if there is violence. In a similar manner during the physical examination of the child, some facts could be observed that could point to such a situation (the size and type of injury does not correspond to the given description as to how it happened, and (the child) was brought by an adult to whom the child is not related). Such a person resists or reluctantly leaves the room when asked to leave so that the doctor could be left alone with the child. In such a situation it is necessary to stress once again that the mere suspicion of human trafficking is sufficient to call for a report.

453. Health and non-health professionals need to be particularly advised that they are not investigators or judges. They must assume such a role for themselves, because an indiscretion of any kind could serve as a tip off to a person involved in human trafficking and dealing with child trafficking, to remove the evidence, and most often to completely remove the trafficked child from that area and transfer the child somewhere else.

454. This will be most ruinous for any opportunity for the child to really receive help. If there is a suspicion, it is sufficient to report it to the relevant institution, while the child should be provided with the best possible medical assistance. By doing so the health and non-health professionals have fulfilled their obligation, and it is the obligation of all other professionals to verify this suspicion in an adequate manner (social protection services, police, and prosecutor offices).

To whom the report should be filed?

455. As it was mentioned above, in case there is a suspicion of child trafficking, the institution that has the competence needs to be informed immediately.

456. What are the institutions that have the competence in this case? They are the centres for social work, the closest police station or the prosecutor office.

457. If there is a social worker in the health institution, the reporting can be made through this social worker to the closest centre for social work, or if a centre is not found, to the municipal service that in charge of social protection. Here it must be stressed that grounds for suspicion do not need to be established for this criminal offence in the sense of criminal procedure, because the mere facts that raise suspicion of trafficking in human beings (children) are sufficient to justify reporting.

458. A doctor or another health or non-health professional in the health sector must not take upon himself/herself the role of an investigator.

459. The Centre or the social protection service can take different measures: from observing the situation in the environment of the child to filing the report with the relevant prosecutor office. A doctor or another health or non-health professional employed in the health sector can file the report with the closest prosecutor office, regardless of its competence. Namely, if the prosecutor office that received the report does not have the competence in the concrete case, it will reject such a report and declare that it does not have the competence, but it is obliged to forward the case to the competent prosecutor office through official channels.

What could be the outcome of reporting?

460. In case a report is filed with the centre for social work or a municipal service in charge of social protection, these institutions can take measures aimed at protecting the child, and which measures exactly they will take will depend on the established state of facts.

461. Based on the report, if the child is not placed with the parents, the child can be temporarily placed in an institution intended for the children without parental care, while the investigation of facts and circumstances will continue with the inclusion of members of the Ministry of Interior if needed, and the relevant prosecutor office will still be contacted. If the report was filed to the police, members of the Ministry of Interior shall further contact the centre of the social protection service and take further actions until a report is filed with the relevant prosecutor office.

When is the report filed with the closest prosecutor office?

462. If there are grounds for suspicion that a criminal offence of trafficking in human beings has occurred, the relevant prosecutor office that received such a report, orders an investigation to be conducted.

463. When in the course of the investigation, the prosecutor finds sufficient evidence to support the grounds for suspicion that the suspect committed a criminal offence, an indictment will be raised.

464. Otherwise, there is a possibility to terminate the investigation as prescribed in the aforementioned criminal codes, or if, from the report and the accompanying case files, it is obvious that the reported act is not a criminal offence, or if there is no grounded suspicion that the reported person perpetrated a criminal offence or if there are other circumstances that exclude criminal prosecution, the relevant prosecutor shall pass the order not to conduct an investigation.

465. In any case, the relevant institution to which the reporting was made is obliged to submit the notification of the outcome of the report to the person who filed the report.

466. If the report is accepted, and based upon it an investigative procedure initiated, the person who filed the report needs to know that he/she could be summoned to the court in the capacity of a witness. In the investigative procedure it is the duty of this person to respond to the summons of the court (prosecutor), and to truly and professionally present the facts established in the course of the work with the child.

467. For this reason, it is extremely important that during regular procedure/examination of the child in the medical ordination/hospital, all established circumstances be carefully noted, as well as all observed situations, considering that they could be of key importance to establish the truth in the court. For that purpose, a form will be prepared, the copy of which each health or non-health professional must keep in his registry.

How to file a report and what to state in the report?

468. A short answer to this question is: only the facts and the circumstances that you have established during the examination. The following should be stated: Identification data available to you concerning the child (first and last name, age, sex, year of birth, place of birth) and the person that escorts the child, and describe the circumstances under which the child was brought and only those things that raised your suspicion of human trafficking (which include violence, mental state of the child, presence of a condition or a disorder that can be linked with sexual exploitation, description of the place or different things that raise suspicion of injection of psycho-active substances, or other signs that give a reason for suspicion that the child was exposed to illicit psycho-active substances). Some people (children) who were trafficked for the purpose of sexual exploitation or participation in the development of pornographic material (child pornography) are previously exposed to the effect of illegal psycho-active substances (narcotics), to prevent their resistance.

469. At this point it would be good if you are in a position to consult the psychologist if there is one in youth institution. The lack of appropriate profile of an expert with whom you wanted to conduct consultations must not be the reason to delay the reporting.

470. For the same reasons, as already referenced above, it is necessary to carefully note all established facts during the examination. Also, if you have informed a social worker in your institution who will further establish a link with the centre or the service for social protection, it is considered that you have made the reporting. In any case, a health worker files a part of the form that concerns the health condition, while the rest is filled out by the social worker in your institution.

Can those who submit the report experience certain unpleasant things? Can a lawsuit be initiated against those who file a report?

471. Unfortunately, the answer to this question is also affirmative. Namely, any person, according to our law, can file a criminal report against a health worker, and this does not only relate to the concrete case. Fortunately, a health worker through reporting performed only the duty that the law obliges him/her to do, and in practice there will not be any further unpleasantness, because based on such a report there will not be an order to conduct investigation, unless it is about false reporting.

472. On the other hand, a doctor or another health/non-health professional in the health sector, reports the suspicion of trafficking or leads the trafficked person (child) to give the statement that they were trafficked. This means that they do not establish whether or not there were the elements of the criminal offence (trafficking). The health/non-health professional staff must confine themselves to establishing the facts or the circumstances and file the report, not conducting any investigative actions (another reason why they must not assume the position of investigative organs), leaving it up to the court to find whether or not the criminal offence was perpetrated.

F. Role of other services and non-governmental organizations

473. All public institutions and the government, non-governmental and international organizations may come into contact with the child who is reasonably believed to be a victim of human trafficking.

474. In situations when the institution and organizations come into contact with children through official work, or through the provision of some kind of assistance to children such as the workshops, seminars, researches, organizing various types of competition and events (sports, fashion, acting, dancing and singing, etc.) and all other forms of work with children, it is necessary that they develop a standardized approach toward children, which includes the following:

That the children cannot be involved in any of the aforementioned activities without the prior consent of parents or guardians

Check all adult people who will be in contact and work with children

Check the organizations that finance these activities

Mandatorily involve relevant ministries in order to assist and check necessary information

As regards the individual or an organized travel abroad, the closest embassy or a consulate of Bosnia and Herzegovina must be informed

475. All facilities providing an accommodation service (hotels, motels and similar facilities), if they suspect that there is a child who is the victim of human trafficking, must, before registering, perform an additional check when an accommodation is sought from a juvenile person with escort or without escort. In these situations, the recommendation is to have the juvenile present an identification document containing his/her photograph, or, if they do not have such a document, to show another document that has the unique main identification number. With reference to foreign citizens, they are obliged to present for the people who are not of adult age a document with a photograph (a passport). In case there is such a suspicion, the obtained information must be submitted to the closest police service.

476. All non-governmental and international organizations, as well as the associations of citizens who involve children in their activities, if they encounter a situation requiring that they check the child or that causes them to suspect that the child is the victim of human trafficking, are obliged to support the child, inform the child of his rights and inform the relevant centre for social work.

477. If the child accepts assistance, a meeting with an official from the centre for social work or with the police can be arranged in an environment where the child feels safe.

IX. International legal aid and cooperation

478. All multilateral, regional and bilateral agreements for the prevention, detection and research, criminal prosecution and punishment of people responsible for these criminal offences, and whose development was assisted, negotiated, signed or participated by Bosnia and Herzegovina.

479. The complexity of the problem in the cases of sexual and other forms of severe abuse of juveniles, perceived omissions in the system of protection as well as the experiences that have been gained through all these years, justified the need to propose and adopt a new framework protocol in Catalonia. In 1999 the first protocol was signed in Barcelona, with participation of all linked institutions that were coordinated from the office of Ombudsmen from Catalonia. Many state organs and institutions took part in the development of this document (Ministry of Interior of Republika Srpska, Ministry of Interior of the Federation of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina Ministry of Health, Ministry of Health and Social Protection of Republika Srpska, Ministry of Education and Culture of Republika Srpska, Ministry of Justice of Republika Srpska, Ministry of Justice of Bosnia and Herzegovina, Ombudsman, Ministry of Human Rights and Refugees, etc.

480. Elements of international cooperation include:

Extradition – from the organs in countries it is sought to speed up the procedure of extradition and simplify the requests for evidence

Mutual legal aid – even without a prior request, the organs in the countries can convey the information that concern the issues of crime to the competent authority of the body in some other state, should they consider that such information can be of help in the proceedings

Joint investigations – organs in the countries are encouraged to deliberate signing of agreements on establishing of joint investigative organs related to the issues that are the subject of investigation, criminal prosecution or court proceedings in one or several states. Even in the case that such agreements do not exist, such joint investigation is feasible and through the signing of individual agreements on a case by case basis

Transfer of criminal proceedings – it is justified in order to prevent that a whole array of proceedings be conducted in different countries, and each in connection to some elements of the trafficking chain

X. Other legal provisions (art. 11)

481. In addition to main forms of protection that is ensured within the criminal legal protection, other important laws need to be mentioned.

Administrative and minor offence protection

The law on protection from violence in family (domestic violence) of the federation of Bosnia and Herzegovina and Republika Srpska

482. The Federation of Bosnia and Herzegovina passed a Law on Protection from the Violence in Family which regulates: protection from violence in the family; the notion of violence in the family; people who are considered to be members of the family in the sense of this law; method of protection of members of the family; and the type and the purpose of offence sanctions for the perpetrators of violent actions.

483. The Law on Protection from Violence in the Family prescribes the procedure for complaints with respect to violence against children that happens in the family. According to the aforementioned law, the members of the family, health and social workers, teachers, educators, medical, educational and other institutions and organs, as well as the non-governmental organizations, which perform their duties as soon as they learn of violence in the family, they are obliged to immediately report this case of domestic violence to the relevant police administration. The person that fails to report domestic violence, commits an offence.

Laws on inspection

484. The Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District regulate the inspection oversight through the Law on Inspections. These laws prescribe performance of inspection oversight in the entities and the Brčko district in order to ensure

the enforcement of the law and other regulations and general acts, organization of organs for inspections and management of these organs, scope of inspections, rights, obligations and responsibilities of inspectors, mutual relations between the inspections.

485. The subject of the inspection oversight includes:

- (a) Undertaking of inspection activities to establish actions on determining the situation and enforcement of regulations among the legal and other entities and citizens who are obliged to act according to these regulations in the performance of their activity;
- (b) Determining the administrative measures to prevent and redress the irregularities in the enforcement of these regulations; and
- (c) Taking of other legal measures and actions specified under these laws and other regulations.

486. The Inspection oversight ensures the legality and protection of public and private interest in accordance with the law. The role of inspection oversight is to act and work preventively on the encouragement of social discipline in the enforcement of obligations as stipulated by the regulations.

487. The inspections of labour are organized along several different spheres. Within this issue for us the most important are the competences of inspections in the field of labour: the sanitation and health inspection, the pharmaceutical inspection and the market and tourist inspection.

Laws on public law and order

488. The Laws on Public Law on Order of Republika Srpska and Brčko District and the laws that are passed in the Federation of Bosnia and Herzegovina at the level of cantons prescribe as the offence the prostitution in public places and begging in public places, and these sanctions are imposed only on adult people.

489. In the Law on Public Law on Order of Republika Srpska it is prescribed as follows:

in article 12

A person that engages in begging, loitering, or in an unbecoming, uncouth and crass behaviour disturbs the peace of citizens or disturbs the public law and order – shall be fined in the amount of up to 700 new dinars or a prison sentence of up to 30 days

A person that organizes begging or who is found to be begging in a group – shall be fined with up to 1.000 new dinars or a prison sentence of up to 60 days

in article 14

A person that engages in prostitution or provides premises for the purpose of prostitution – shall be sanctioned with a prison sentence of up to 30 days

A person that gives a juvenile person the premises for the purpose of prostitution – shall be sanctioned with a prison sentence of up to 60 days

490. The same offences are also regulated in the laws of the Federation of Bosnia and Herzegovina and the Brčko District.

A. Civil protection of the child

Registration in the main birth records

491. The Laws on Main Books that are applied in the Federation of Bosnia and Herzegovina and Republika Srpska, which regulate the reporting and the entry into the main books, prescribe a unified text in article 6 of both laws: “The birth of a child shall be reported verbally or in writing in order for the registration in the main birth record, to the main record officer in charge of the area where the child was born.”

492. Article 8 of the Federation Law on main Books and article 7 of the same law applied in Republika Srpska, prescribe the obligation of the health institutions to report the birth of a child, while the father is obliged to report the birth of a child outside a health institution, or another member of the household, a person in whose apartment the baby was born, midwife, doctor and finally the person that has learned of the birth of the child.

493. The people who are giving the name to the child are the child parents, adoptive parents, i.e. the child guardians.

494. The registration of the birth of the child is made within 15 days; the registration of the child's name is performed two months after the birth of the child, at the latest. The registration of a name performed after 30 days from the day of birth is performed by the main record officer based on the decision of Police Administration in charge of the area for those main books, and the same applies to any other belated registration.

495. In Bosnia and Herzegovina, in particular among the Roma minority, there is a phenomenon that not all the children who are born are registered into the Main Birth Records. Several research studies were undertaken on this matter by the OSCE and Ombudsmen show that a large number of Roma families have not registered their children. This phenomenon is now already much smaller because the official local authorities have implemented concrete actions to facilitate and speed up the registration into the Main Birth Records, in particular of Roma children and inclusion of these children in the system of primary education.

496. The laws on the personal name that are applied in both entities (Official Gazette of Bosnia and Herzegovina no. 35/71; 38/86,

37/88 and 33/90), (there is only one canton in the Federation that has passed its own regulation) and was inherited from the former Yugoslavia in article 3 prescribes that “The name of the child is decided by the parents consensually.”

497. Article 1 of the Amendments to the Law on Personal Name (Official Gazette of the Social Republic of Bosnia and Herzegovina no. 38/86) prescribes that: “If the parents failed to reach consent about the name of the child, the name of the child will be decided by the guardianship organ.”

498. Criminal provisions of the Law on Main Books that are applied in the Federation of Bosnia and Herzegovina, prescribe fines and other sanctions for all who: “within the prescribed time fail to report the child or fail to decide or report the name of the child.” However, this provision cannot be implemented in practice for two reasons. These regulations are not cantonal, or of the Federation of Bosnia and Herzegovina, and so the cantonal, i.e. the Federation of Bosnia and Herzegovina minor offence courts are not applying them. However, even if they could apply them, the value of the (former) fines practically cannot be determined today.

499. Taking into consideration that there is a new Law on Main Books in Republika Srpska (Official Gazette of Republika Srpska 18/99) the provision on the penalties against the person who was obliged but failed to report the birth of the child in the prescribed time or failed to determine or report the name of the child, is much more applicable in the Republika Srpska compared to the Federation of Bosnia and Herzegovina (where the fine is inadequate and prescribed in the currency that used to be valid in the former state and it is impossible to recalculate it now) and it amounts to 50 KM. For a legal entity the fine is 100 KM, and for the responsible person in the legal entity – 50 KM.

500. The Criminal Code of the Federation of Bosnia and Herzegovina does not prescribe a criminal offence for omissions such as these, although these failures could be classified under the “Lack of Commitment in Office,” which is regulated in article 387 of the Criminal Code of the Federation of Bosnia and Herzegovina. The Criminal Code of Republika Srpska also prescribes an offence “Careless Performance of Official Duties” sanctioned in article 354, but it is not known whether this penal policy was ever applied in practice.

501. We would also emphasize that the Family Law of the Federation of Bosnia and Herzegovina, in article 97 and the Family Law of Republika Srpska in article 94, prescribe almost identical provisions under which the guardianship organ is obliged to take measures necessary to protect the personal and property rights of the child. The right to a name is certainly the personal right of the child. These laws do not have penal provisions.

502. In addition to the above, it is necessary to stress the following: both these laws in the chapter on the rights and duties of the parents and children prescribe the duty of the parents to secure the education of their children. If the children are not registered in the Main Books, they lose the possibility for their education.

503. The Law on Unique Main Number regulates the method of determining the unique personal identification number. The law specifies the designation, allocation, registration, storage and the use of a unique personal identification number (hereinafter: PIN) of the citizens of Bosnia and Herzegovina and foreign citizens in Bosnia and Herzegovina. The data processing in accordance with this law is made in accordance with the Law on the Protection of Personal Data of Bosnia and Herzegovina and the Law on the Citizen Identification Protection System of Bosnia and Herzegovina (CIPS).

504. The issuance, revocation and replacement of the unique personal identification number within the competence of the Federation of Bosnia and Herzegovina is conducted at police stations in cantonal Ministry of Interior Affairs, and in Republika Srpska in the station of public security at the Ministry of Interior Affairs of Republika Srpska and in the Brčko District of Bosnia and Herzegovina, at the competent organ, which functionally acts as a state institution. The unique personal identification number for the citizens born in Bosnia and Herzegovina is allocated by the competent organs in the place of birth where the person was registered in the Main Birth Registry of Bosnia and Herzegovina.

505. The relevant organ ex officio assigns the unique personal identification number to citizens born in Bosnia and Herzegovina during the registration into the Main Birth Record in Bosnia and Herzegovina.

506. The relevant organ is obliged to allocate a child with a unique personal identification number within 15 days from the day of registration in the Main Birth Record.

507. A citizen of Bosnia and Herzegovina born abroad is allocated with the unique personal identification number by the competent organ in the last place of residence of parents in Bosnia and Herzegovina. If only one parent had residence in Bosnia and Herzegovina, the relevant organ in that place allocates the unique personal identification number to that citizen.

508. If the parents had different places of residence in Bosnia and Herzegovina, a person can be allotted with the unique personal identification number from either place of residence. If the parents never had a residence in Bosnia and Herzegovina, that person will be registered by the relevant organ in the place in Bosnia and Herzegovina where one or both parents can establish an effective relationship.

509. The unique personal identification number is allocated by gender. The unique personal identification number can be changed at request. The unique personal identification number is a very important element for identification because it allows a very fast data verification in CIPS database in case there is a need.

B. Indemnification

510. The Law on Obligation Relations in the Federation of Bosnia and Herzegovina and the Law on Obligation Relations of Republika Srpska were taken from the Law on Obligation Relations of former Yugoslavia in both the Federation of Bosnia and Herzegovina and Republika Srpska.

511. The Law on Obligation Relations that was taken over in chapter V – Compensation of *non-material damage* (arts. 199–205) prescribes the right to seek compensation of non-material damages.

512. According to this law, the victims are entitled to be indemnified for the non-material damage for the physical or mental pain suffered, due to reduced living activity, injury of reputation, honour, freedom or personal right, death of a close person and for the suffered fear. This right can be claimed from the person responsible for the inflicted damages. It is a general right that can be linked to different situations.

513. When it comes to the restitution for the victims of trafficking, this system of protection very inefficiently exercises their rights in terms of the right to non-material damage. The claims for the compensation of non-material damage are resolved in a civil litigation so the victims in these proceedings are exposed to a new victimization.

514. Here it is necessary to perceive a difference between exercising the right to non-material damages and the right of the victim to indemnification, which is by its nature a much broader right.

515. The applicable Law on Obligation Relations in article 377 specifies that restitution claim for non-material damages caused in a criminal offence falls under the statute of limitations when the time prescribing the statute of limitations for the criminal prosecution expires. An intermission in the statute of limitations draws the intermission of statute of limitations for the restitution of damages and the same applies for the stay of statute of limitations.

C. Citizenship of children

516. The Law on Citizenship of Bosnia and Herzegovina and the laws on the citizenship of the entities regulate the issues of citizenship of children and it is, as a rule, linked to the citizenship of the parents or the legally designated adoptive parent or guardian. Until the time of adulthood (up to the age of 18) the children receive and exercise the right to citizenship based on the status of parents. Exceptionally the place of birth of the child can be a requirement to exercise citizenship, independent of the citizenship of the child, but for such a situation the consent of the parents is needed.

D. Freedom of movement

517. The freedom of movement is guaranteed by the Constitution of Bosnia and Herzegovina and includes the freedom to choose the place of residence. The freedom of the place of residence for children is limited and it is the responsibility of the parents or guardians. Children are allowed to travel with appropriate escort and only in certain situations can be entrusted to be guarded by educators, teaching staff, sports trainers, members of the family, while the parents or the guardians strictly adhere to the checking procedure. This issue is regulated in family laws. The age linked to the freedom of movement is a free assessment of parents for the children older than 15 years, taking into account that children older than 15 years can obtain the identification card (personal identification card) and it is not always required that they be escorted by an adult.

The law on personal identification card of Bosnia and Herzegovina

518. The purpose of this Law is to establish the identification of citizens of Bosnia and Herzegovina and to issue personal identification cards to each citizen.

519. All provisions of this Law apply equally to all the citizens of Bosnia and Herzegovina, unless otherwise prescribed in separate provisions in chapter VIII of this law.

520. The personal identification card is unified for all citizens and it is valid on the entire territory of Bosnia and Herzegovina.

521. Within this Law, article 8 prescribes that the personal identification card is issued to a citizen who filed a request for the issuance of the personal identification card or in whose name the request was filed by the authorized legal representative at the personal request or at the request of the person's legal representatives.

522. The personal identification card may be issued to a citizen who is older than 15, and younger than 18 and who has the place of residence in Bosnia and Herzegovina at the personal request or at the request of the parent or another authorized legal representative.

Law on travelling documents of Bosnia and Herzegovina

Law on State Border Service of Bosnia and Herzegovina

Law on the Supervision and Control of the Transfer of the State Border of Bosnia and Herzegovina

523. These laws regulate the issue of safeguarding and crossing of the state borders, issuing of travel documents and in particular the methods of work and authorizations of the State Border Service that play a particularly important role in terms of the problem of trafficking in human beings.

The State border of Bosnia and Herzegovina can be crossed only at the designated border crossings, at the time and in the manner appropriate for the purpose of border crossings and with the documents required to cross a state border.

A person crosses or tries to cross the border at the place where there was no border crossing and without a required document, makes an offence punishable by the law.

A person, who for the sake of benefit, transports across the state border one of several people who do not meet the requirements for legal entry across the state border and a person who enables an illegal cross over the border perpetrates the criminal offence of trafficking in human beings – under the Criminal Code of Bosnia and Herzegovina.

Each citizen of Bosnia and Herzegovina, regardless of his years of age, must have his own personal travelling document to cross the border (exception being Croatia and the state community of Serbia and Montenegro where people can go with personal identification document).

To enter the neighbouring Croatia and the state community of Serbia and Montenegro personal identification card is required (a new one issued by the CIPS), and to enter other countries, a required travelling document of Bosnia and Herzegovina is needed, and to enter the countries with which Bosnia and Herzegovina has a visa regime, a visa is also needed.

A personal identification card of Bosnia and Herzegovina, under the applicable law, can be obtained by any citizen of Bosnia and Herzegovina who attained 15 years of age. In order to obtain a personal identification card, it is necessary to file the request to issue personal identification card, provide evidence of identity and citizenship of Bosnia and Herzegovina.

All adult citizens of Bosnia and Herzegovina (who have attained 18 years of age) with their place of residence in Bosnia and Herzegovina, under the applicable law are obliged to have the personal identification card of Bosnia and Herzegovina. An adult citizen of Bosnia and Herzegovina who does not have the personal identification card (does not have it on him/her or did not obtain it with the relevant organ) perpetrates an offence punishable under the law.

524. Any giving of the personal identification card to another person or the use of another person's personal identification card as one's own is punishable as an offence.

525. Children, citizens of Bosnia and Herzegovina, younger than 18 years can obtain a travelling document of Bosnia and Herzegovina with the submission of request and presence of both parents and guardians.

526. A child, citizen of Bosnia and Herzegovina, who has not attained 15 years of age can leave the country, without parents, or guardians if he/she passes a certified power of attorney by the relevant municipal organ or the court certified by signatures by both parents or guardian and at that time the child can travel in the escort of the person stated in the power of attorney.

527. A child, citizen of Bosnia and Herzegovina, older than 15 years of age, in possession of a travel document of Bosnia and Herzegovina and visa (if visa is needed to travel to a certain country) can travel without the escort of parents, legal representative or guardian.

528. For group travels of citizens of Bosnia and Herzegovina abroad for the purpose of excursions, visits, etc it is allowed to take a "joint travel document". A joint travel document is issued to a group of at least five and at the most 50 people, for one trip to one or several specifically designated countries. Each person registered in the joint travel document must meet requirements to obtain an individual travel document prescribed under this law. Citizens registered in the joint travelling document, during the travel must have their personal identification card or another document to prove their identity and the travel guide must have the passport.

529. It is forbidden under the law to give one's travelling document to another person to use it. It is also forbidden to use another person's document as one's own. In both these cases an offence is perpetrated punishable under the law.

530. A Travelling Sheet is issued to a citizen of Bosnia and Herzegovina when he/she stays abroad and being without a travelling document (lost, stolen, etc.) in order to return to Bosnia and Herzegovina. The same Travelling Sheet may be used by the spouse and children of the Travelling Sheet user, if they are registered in the Travelling Sheet in which their photographs were inserted. The Travelling Sheet is issued with the validity date needed to return to Bosnia and Herzegovina, but it cannot exceed 20 days. The Travelling Sheet is issued by a diplomatic or consular office of Bosnia and Herzegovina in the country where a citizen of Bosnia and Herzegovina is located.

531. A loss or a disappearance of travelling document, as well as the finding of someone else's travelling document must be immediately reported to the relevant organ.

532. Citizens of Bosnia and Herzegovina in order to enter stay or cross over the territory of the countries of the European Union and members of the Schengen agreement, in addition to valid travelling document need to have the valid visa issued by the country to which they are travelling. Visas are issued in the diplomatic or consular offices of that country located in Bosnia and Herzegovina.

The law on the movement and stay of foreign citizen and asylum

533. This Law regulates the requirements for the entry and stay of foreign citizens in Bosnia and Herzegovina, the reasons for the refusal of entry and stay of foreign citizens, deportation, obtaining and revoking of the asylum and the issues in connection to the stay of foreign citizens and the asylum.

534. This Law prohibits any form of discrimination and allows freedom of movement. Foreign citizens are obliged to adhere to the regulations and constitutional order of Bosnia and Herzegovina.

535. Foreign citizens are obliged to provide the relevant organs of authority with all the information necessary and present appropriate identification documents and permits for the stay.

536. Crossing of the border must be performed at the designated border crossings.

537. Entry into the country requires the fulfilment of several specific requirements, including:

Possession of valid travel document or another valid document

Possession of valid visa if it is required for the country of origin

Possession of the means for the sustenance and funds for health coverage

If the final destination is some other country, the person needs to have the visa of that country

Not to have the measure of deportation imposed or the cancellation of the stay or the prohibition from entry during the duration of that measure

That the presence of that person does not pose a threat for the national security, law and order for the territory of Bosnia and Herzegovina

Book of rules on the protection of foreign citizens who are victims of human trafficking

538. The rules and standards of the procedure applied to receiving, recovery and return of foreign citizens who are victims of human trafficking are defined under this Book of Rules. The Book of Rules also regulates the following issues:

General principles of the procedure

Indicators in the procedure of identification

Procedures for the receipt and accommodation of the victims of human trafficking

Temporary stay for humanitarian reasons

Support to the victim of human trafficking

Repatriation of the victims of trafficking

Protection of children

539. The Book of Rules regulates the type of support provided to victims of human trafficking:

Legal assistance, information and counselling

Adequate and safe accommodation

Health protection

540. While securing these rights, the relevant organs will take into account the age, gender and the special needs of the victim; in particular they shall pay attention to specific needs of children, including the adequate accommodation, education and care.

541. Assistance to victims of trafficking can be provided by those non-governmental organizations which have signed a protocol on cooperation with the Ministry of Security. This Ministry in cooperation with the Ministry of Foreign Affairs organizes repatriation. The repatriation can be carried out with the help of the IOM, and this will be regulated in a Protocol on cooperation.

542. In the chapter that refers to the protection of children, the rules of conduct with children are based on the action that will be in the best interest of the child, or the procedure that is aimed at finding the final and permanent solution for the protection of the child who is the victim of human trafficking.

543. Special protection of children who are the victims of human trafficking: A child who is not a citizen of Bosnia and Herzegovina enjoys the same rights to care and protection as the children who are the citizens of Bosnia and Herzegovina.

Procedures in which the rights and interests of children are deliberates are considered to be of urgent nature.

544. All children in the sense of the definition from this Book of Rules are entitled to a "special treatment and protection." "Special treatment of the child" presupposes the following:

Placement in a safe place

Respecting the opinion of the child

The right to confidentiality and discretion

The right to information

Efficient conduct of proceedings, assessment of an individual case

Finding and applying the permanent solution

E. Placing children in a shelter

545.Children will be placed in a shelter without delay, and in particular the child – a foreign citizen if the child is:

Without the company of parents or guardians, who does not have valid documents to stay in Bosnia and Herzegovina

Without the company of parents or guardians, who does have valid documents

If there is a grounded suspicion that the child is the victim of human trafficking

546.For accommodation, special departments are used if that is possible and if it is not in opposition to the best interests of the child. A child enjoys all the rights entitled to the victims of human trafficking, as well as the special rights that are entitled to the child, in accordance with the laws of Bosnia and Herzegovina and international Convention on the Rights of the Child. A child shall remain the shelter until a permanent solution is found.

F.Appointment of a temporary guardian

547.At the request of an authorized official of the organizational unit of the Ministry, the temporary guardian is appointed by the organ of administration in charge of the affairs of social protection in the place where the shelter is located.

548.A temporary guardian represents the interests of the child during the procedure until a permanent solution is found. The relevant organs are obliged to inform the appointed guardian of all the issues of interest for the child who is the victim of human trafficking.

G.Conduct of the procedures

549.All activities of the relevant organs must be taken in the best interest of the child, taking into consideration the rights and obligations of his/her parents, guardians, as well as the opinion of the child which is taken in accordance with the age of the child.

550.All actions will be taken with the highest level of urgency, efficiency and maximum protection of privacy and the identity of the child who is the victim of trafficking.

551.If the age of the victim of trafficking cannot be ascertained with certainty, and there are the reasons that would indicate that the victim of trafficking is the child, the procedure will be under the presumption that the victim is the child.

H.Return of the child

552.The organ returning the child must provide the procedure that ensures the child to be received with a relevant organ involved in the protection of the child, and/or parents or guardians.

I.Prevention of discrimination

553.Most laws that were referenced thus far generally prohibit any type of discrimination and exclusion. Notwithstanding this general prohibition of discrimination, one of the most important laws that can be applied more directly to this situation is the Law on Gender Equality in Bosnia and Herzegovina. Regrettably, there is a generally known fact that the victims of trafficking in more than 95 per cent of cases are girls and women.

Law on gender equality of Bosnia and Herzegovina

554.This Law regulates, promotes and protects the equality of gender and guarantees equal opportunities to all citizens, in both the public and the private sphere of society, and prevents direct and indirect discrimination based on gender. This law prohibits sexual harassment and establishes a new definition established in article 4, and concerns the determination of gender, violence based on gender, harassment and sexual harassment.

J.Family protection

The Family Law of the Federation of Bosnia and Herzegovina and Republika Srpska are the more recent laws

555.New Family Law of Republika Srpskawasadopted in July 2002. The third part of this law defines the following — Relationships between parents and children, in the first subchapter — Rights and duties of parents and children: in article 81, it is stated that children have the right and the duty to protect their juvenile children and take care of their life and health, while only in one place this law makes the reference on the rights of children in article 81 paragraph 2, under which juvenile children as a rule live together with their parents, and if justified interests of the child or parents require, the children can live separately from parents.

556.The new Family Law of the Federation Bosnia and Herzegovina brought more changes. In Part III of the Law, the chapter Relationships between the Parents and Children, in head C. Rights and duties of parents and children, subheading 1, starts with provisions that regulate the rights of the child, in articles 124–127 establishes the ten rights of the child, and two duties, which are regulated in article 128.

557.This Law makes a list of the rights of the child, especially the rights of the child to protection from all forms of violence, abuse, and neglect in the family, and provisions of the regulating the duties and the rights of parents have been extended compared to the previous law.

558.One of the novelties is that the parents are obliged to safeguard the child, satisfy the child's needs and protect the child from all

forms of violence, injury, economic exploitation and sexual abuse by other people, while at the same time they are obliged, depending on the age of the child, to control behaviour of the child.

559. With an aim of achieving the best possible child protection, there are also provisions under which the organ of guardianship is obliged to ex officio take the measures necessary to protect the rights and interests of the child based on what they directly learn or notification they receive.

560. All organs and organizations, as well as the physical persons are obliged to submit information on the violation of the child rights to the guardianship organ.

561. Based on such information the organ of guardianship is obliged to take necessary measures ex officio.

562. If the parents are jeopardizing the interests of the child and to a large extent neglect the raising, educating and upbringing of the child, the court shall, in a non-litigation proceeding, take away the right of such parents to live with the child, while the safeguarding and education of the child will be entrusted to another person or institution; this right shall be reinstated when it is in the interest of this child.

563. With the imposition of this measure, other duties, responsibilities and the rights of the parents toward the child do not cease. In addition to the aforementioned measure, the court may place supervision over the exercising of the parental right, and in a non-litigation proceeding, impose the measure of taking away of the parent right in cases of the abuse of the right or a gross neglect of their duties or abandonment of the child or the lack of care for the child with whom they do not live and thus obviously place in danger the security, health and the morals of the child.

564. The law Lists what is considered as the abuse of the rights:

Corporal and mental violence over the child

Sexual exploitation of the child

Inciting the child to engage in socially unacceptable behaviour

565. The gross neglect of duties exists especially in cases as follows:

If the parent does not fulfil the obligation to maintain the child for more than three months

If he/she is not adhering to the previously imposed measures for the protection of the rights and interests of the child

If the child is not prevented from consuming alcoholic beverages, drugs or other narcotic substances

If a child who has not attained 16 years of age is not prevented from late night-outs

566. These provisions are also contained in the Family Law of Republika Srpska.

567. This Law (the Federation of Bosnia and Herzegovina) also prescribed the monthly compensation for the work of guardian, the amount of which depends upon the scope of work and the level of protection of the child rights and interests. It is prescribed by the Federation Minister of Social Policy. The Family Law of the Republika Srpska does not contain such a provision.

568. Unlike the Family Law of Republika Srpska, the Federation law also incorporates the provisions contained in the Law on Civil Procedure, which regulate the procedure in marriage disputes and disputes in the relationships between the parents and children. In addition to these, also incorporated are the provisions of the Law on Non-litigation Procedure that regulate taking away and returning of legal capacities, procedure to issue permit for marriage, procedure to take away and return the parental right to live with the child, and the procedure to gain legal competence of a juvenile who has become a parent.

569. According to the provisions of the enforcement procedure that are incorporated into this law, the enforcement procedure shall be applied to the transfer of the child to the parent with whom the child will be living, enforcement to maintain personal relations and contacts of the parent with the child, and enforcement for the maintenance. Security measures for the purpose of maintenance are also the temporary measures of maintenance. The purpose of these measures is to remove a possibility that the opponent of the maintenance measures prevents or seriously impedes the enforcement of the maintenance.

570. Part Eight of the Family Law regulates the procedure for the protection against the violent behaviour in the family. This protection is the obligation to be provided by: the police, guardianship organs, organs of social protection and the court, and all physical and legal entities are obliged immediately upon learning of a violent behaviour to inform the relevant police administration thereof.

571. Police administration has the obligation to take away a person with violent behaviour and inform the organ of guardianship thereof, which thereupon takes the legally prescribed measures.

List of the laws

The Constitution of Bosnia and Herzegovina and the constitutions of the entities (the Federation of Bosnia and Herzegovina and Republika Srpska) and the Constitution of the Brčko District of Bosnia and Herzegovina

572. In Bosnia and Herzegovina there are the relevant legislative regulations for the implementation of provisions of the Optional

Protocol:

(a) Level of Bosnia and Herzegovina

- (1) Criminal Code of Bosnia and Herzegovina – Criminal Code of Bosnia and Herzegovina / Official Gazette of Bosnia and Herzegovina br.03/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06 and 32/07/.
- (2) Criminal Procedure Code of Bosnia and Herzegovina – Criminal Procedure Code of Bosnia and Herzegovina/ Official Gazette of Bosnia and Herzegovina no. 03/03, 32/03, 36/03, 26/04, 63/04, 13/05, 48/05, 46/06, 76/06, 29/07, 32/07 and 53/07.
- (3) Law on Protection of Witnesses Under Threat and Vulnerable Witnesses /Official Gazette of Bosnia and Herzegovina no. 03/03, 21/03, 61/04 and 55/05.
- (4) Law on the Program of Protection of Witnesses in Bosnia and Herzegovina/Official Gazette of Bosnia and Herzegovina no. 29/04.
- (5) Law on Personal Identification Card of Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina”, no. 32/01).
- (6) Law on travel Documents of Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina”, no. 4/97).
- (7) Law on State Boarder Service of Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina”, no. 50/04).
- (8) Law on Supervision and Control of the Crossing of the State Boarder of Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina”).
- (9) Law on the Movement and Stay of Foreign Citizens and Asylum (“Official Gazette of Bosnia and Herzegovina” no. 29/03 and 4/04).
- (10) Book of Rules on the Protection of Foreign Citizens – Victims of Human Trafficking (“Official Gazette of Bosnia and Herzegovina”, no. 33/04).
- (11) Law on the Movement and Stay of Foreign Citizens and Asylum 29/03.
- (12) Book of Rules on the Protection of Foreign Citizens – Victims of Human Trafficking based on the Law on the Movement and Stay of Foreign Citizens and Asylum 2004.
- (13) Law on Refugees from Bosnia and Herzegovina and displaced people in Bosnia and Herzegovina 23/99.
- (14) Law on Citizenship of Bosnia and Herzegovina 43/01.
- (15) Law on Gender Equality in Bosnia and Herzegovina.
- (16) Law on Protection of the Rights of Minorities in Bosnia and Herzegovina 2004.
- (17) Law on Enforcement of Criminal Sanctions in Bosnia and Herzegovina.
- (18) Framework Law on Primary and Secondary Education in Bosnia and Herzegovina “Official Gazette of Bosnia and Herzegovina”, no. 18/0).
- (19) Law on Unique Personal Identification Number (“Official Gazette of Bosnia and Herzegovina”, no. 32/01).
- (20) Decisions on the procedures and the method of coordination of activities on the prevention of human trafficking and illegal immigration in Bosnia and Herzegovina and establishment of the Office of the national Coordinator for Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina”, no. 24/03).
- (21) Decision on the Establishment of Task Force to Fight Human Trafficking and Organized Illegal Immigration (“Official Gazette of Bosnia and Herzegovina”, no. 3/04).
- (22) Rules on Protection of the Victims and Witness Victims of Human trafficking – Citizens of Bosnia and Herzegovina” (“Official Gazette of Bosnia and Herzegovina”, no. 66/07).
- (23) Law on Citizenship of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina no. 4/97, 13/99, 14/03).

(b) Brčko district of Bosnia and Herzegovina

- Criminal Code of Brčko District of Bosnia and Herzegovina (“Official Gazette of Brčko District”, no. 10/03).
- Criminal Procedure Code of Brčko District Bosnia and Herzegovina (“Official Gazette of Brčko District”, no. 10/03).
- Law on Social Protection of Brčko District (“Official Gazette of Brčko District”, no. 1/03, 4/00 and 4/04).
- Law on Protection of Witnesses under Threat and Vulnerable Witnesses.
- Law on main Books of the Brčko District (Official Gazette of Brčko District of Bosnia and Herzegovina no. 08/05).
- Law on Child Protection of Brčko District (“Official Gazette of Brčko District”, no. 1/03, 4/04 and 21/05).

(c) Level of entities

- (1) Criminal Code of the Federation of Bosnia and Herzegovina ("Official Gazette of Federation of Bosnia and Herzegovina", no. 35/03).
- (2) Criminal Code of Republika Srpska ("Official Gazette of Republika Srpska", no. 49/03).
- (3) Criminal Procedure Code of the Federation of Bosnia and Herzegovina ("Official Gazette of Federation of Bosnia and Herzegovina", no. 35/03).
- (4) Criminal Procedure Code of RS ("Official Gazette of Republika Srpska", no. 49/03).
- (5) Law on Protection of Witnesses under Threat and Vulnerable Witnesses of the Federation of Bosnia and Herzegovina ("Official Gazette of Federation of Bosnia and Herzegovina", no. 7/01).
- (6) Law on Protection of Witnesses under Threat and Vulnerable Witnesses of Republika Srpska.
- (7) Law on Main Books of the Federation of Bosnia and Herzegovina (Official Gazette of Republic of Bosnia and Herzegovina no. 20/92, 13/94).
- (8) Law on Main Books of the RS (Official Gazette of Republika Srpska no. 18/99).
- (9) Law on Enforcement of Criminal Sanctions Federation of Bosnia and Herzegovina.
- (10) Law on the Judicial and Prosecutorial Training Center in F Bosnia and Herzegovina 2002.
- (11) Law on Enforcement of Criminal and Minor Offense Sanctions of Republika Srpska 2001.
- (12) Law on the Judicial and Prosecutorial Training Center in Republika Srpska 2000.
- (13) Law on Public Law and Order of the Federation of Bosnia and Herzegovina.
- (14) Law on Health Protection of the Federation of Bosnia and Herzegovina 1997.
- (15) Law on Minor Offenses of Republika Srpska 2003.
- (16) Law Minor Offenses of the Federation of Bosnia and Herzegovina.
- (17) Law on Public Law and Order of Republika Srpska 2002.
- (18) Law on Child Protection of Republika Srpska 2003.
- (19) Law on Health Protection Republika Srpska 1999.
- (20) Law on Protection from Domestic Violence in the Federation of Bosnia and Herzegovina.
- (21) Law on Basic and Secondary Education in Republika Srpska.
- (22) Law on Basic and Secondary Education in the Federation of Bosnia and Herzegovina.
- (23) Law on Obligatory Relations ("Official Gazette of Socialist federal Republic of Yugoslavia", no. 29/78, 39/85, 45/89 and 57/89).
- (24) ("Official Gazette of Republic of Bosnia and Herzegovina" no. 2/92, 13/93 and 13/94); ("Official Gazette of Republika Srpska", no. 17/93 and 3/96).
- (25) Law on Citizenship of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina 43/01).
- (26) Law on Citizenship of Republika Srpska (Official Gazette of Republika Srpska no. 35/99, 17/00).
- (27) Family Law of the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of Bosnia and Herzegovina", no. 35/05).
- (28) Law on Marriage and Family Relations of Republika Srpska (Official Gazette of Republika Srpska no. 54/02).
- (29) Law on the Basics of Social Protection, Protection of the Civil War Victims and Protection of Families with Children of the Federation Bosnia and Herzegovina ("Official Gazette of the Federation of Bosnia and Herzegovina", no. 36/99 and no. 54/04).
- (30) Law on Social Protection of Republika Srpska ("Official Gazette of Republika Srpska", br.5/93, 15/96 and 110/03).
- (31) Law on Child Protection of Republika Srpska ("Official Gazette of Republika Srpska", no. 4/02).

Note

Proposal of the text of the report for Bosnia and Herzegovina is prepared by the expert group

made up of expert representatives from the following institutions

- (1) Salih Duderija, Ministry of Human Rights and Refugees, working group coordinator.
- (2) Minka Smajević, Ministry of Human Rights and Refugees.
- (3) Milena Jurić, Ministry of Human Rights and Refugees.
- (4) Đanela Zećo, Ministry of Justice of Bosnia and Herzegovina.
- (5) Hidajet Bešo, Ministry of Interior Affairs of the Federation of Bosnia and Herzegovina.
- (6) Bojan Vidaković, Ministry of Interior Affairs of Republika Srpska.
- (7) Svetlana Brković, Prosecutor Office of Republika Srpska.
- (8) Nermina Mutevelić, Prosecutor Office of the Federation Bosnia and Herzegovina.

573. The public debate was organized with an aim of informing a broader social community with the obligations which Bosnia and Herzegovina assumed by ratifying the Protocol, giving final proposals and comments to the draft text of the report, to finalize it and send to the Council of Ministers of Bosnia and Herzegovina for deliberation and decision. The remarks and suggestions presented in the public debate are an integral part of this text. The public debate was attended by the representatives from the following institutions/organizations:

Representatives of government institutions

- (1) Ministry of Human Rights of Bosnia and Herzegovina (as coordinators of activities).
- (2) Ministry of Defense of Bosnia and Herzegovina.
- (3) Ministry of Justice of Bosnia and Herzegovina.
- (4) Ministry of Foreign Affairs of Bosnia and Herzegovina.
- (5) Ministry of Security of Bosnia and Herzegovina.
- (6) Agency for Gender Equality of Bosnia and Herzegovina.
- (7) Office of the National Coordinator on Fighting Human Trafficking and Illegal Immigration of Bosnia and Herzegovina.
- (8) Ombudsmen for Human Rights of Bosnia and Herzegovina.
- (9) Joint Commission for Human Rights, Rights of the Child, Young People, Immigration, Refugees, Asylum and Ethics of the Parliamentary Assembly of Bosnia and Herzegovina.
- (10) Ombudsmen of Republika Srpska.
- (11) Ombudsmen of the Federation of Bosnia and Herzegovina.
- (12) Government of Brčko District of Bosnia and Herzegovina.
- (13) Department for Education of Brčko District of Bosnia and Herzegovina.
- (14) Department for Health of Brčko District of Bosnia and Herzegovina.
- (15) Public Prosecutor Office Brčko District of Bosnia and Herzegovina.
- (16) Ministry of Health and Social Protection of Republika Srpska.
- (17) Ministry of Interior Affairs of Republika Srpska.
- (18) Ministry of Education and Culture of Republika Srpska.
- (19) Ministry of Justice of Republika Srpska.
- (20) Republic Prosecutor Office of Republika Srpska.
- (21) Federation of Bosnia and Herzegovina Ministry of Health.
- (22) Federation of Bosnia and Herzegovina Ministry of Education and Science.
- (23) Federation of Bosnia and Herzegovina Ministry of Labor and Social Policy.
- (24) Federation of Bosnia and Herzegovina Ministry of Interior Affairs.
- (25) Federation of Bosnia and Herzegovina Prosecutor Office.

(26)The University Department of Political Science Sarajevo.

(27)The University Department of Criminal Sciences Sarajevo.

Representatives of non-governmental associations

(28)Vesta Tuzla.

(29)Research and Documentation Center.

(30)Žena BiH Mostar.

(31)Naša djeca Sarajevo.

(32)BiH journalists.

(33)Zemlja djece Tuzla.

(34)Interreligious Council of Bosnia and Herzegovina.

(35)Helsinki Committee of Human Rights of Bosnia and Herzegovina.

(36)Children Pillars of the World Sarajevo.

(37)Budućnost Modriča.

(38)La Strada Mostar.

(39)Lara Bijeljina.

(40)Medica Zanica.

(41)Association of Women BiH Mostar.

(42)Zdravo da ste Banja Luka.

(43)Press Council.

Representatives of international community

(44)Save the Children UK.

(45)International Committee of the Red Cross.

(46)Save the Children Norway.

(47)UNICEF.