



**International Covenant on
Civil and Political Rights**

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**Consideration of reports submitted by States
parties under article 40 of the Covenant**

Bosnia and Herzegovina*

**Further information received from Bosnia and Herzegovina
on the implementation of the concluding observations of the
Human Rights Committee (CCPR/C/BIH/CO/1)**

[26 January 2010]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

I. INTRODUCTION

1. After reviewing the initial report of Bosnia and Herzegovina on the implementation of the International Covenant on Civil and Political Rights for the period 1994-2004, the Committee for Civil and Political Rights adopted concluding observations/recommendations at its 35th session, held in Geneva, 18 and 19 October 2006, in accordance with established procedure. The above recommendations stipulate that Bosnia and Herzegovina should submit to the Committee its periodic report by 1 November 2010. In accordance with article 71, paragraph 5, of the Rules of Procedure of the Committee it was requested that Bosnia and Herzegovina submit within one year information on the activities undertaken in connection with the state of human rights as per paragraphs 8, 14, 19 and 23. Information relating to the above paragraphs was submitted in December 2007. The Committee indicated that the answers in the submitted information were incomplete.

2. In January 2008 the Special Rapporteur requested additional information on progress related to the given topics to date. During the 94th session of the Committee, held in Geneva in October 2008, the Special Rapporteur met with representatives of the Permanent Mission of Bosnia and Herzegovina to the United Nations in Geneva to discuss and clarify a number of disagreements related to the aforementioned paragraphs.

3. On 1 November 2008 and 4 March 2009 additional information on the paragraphs that are the subject of information and answers to the Committee were submitted. On the 95th session held in March 2009 in New York, the Committee stressed that the submitted information was still incomplete.

4. In connection with the above mentioned, please find herein answers to the questions made by the special rapporteur of Committee for Civil and Political Rights, regarding paragraphs 8, 14, 19 and 23 referring to final considerations/recommendations on the initial report of Bosnia and Herzegovina.

II. Answers to questions from paragraph 8 of the concluding observations of the Committee for Civil and Political Rights:

5. In terms of paragraph 8 of the concluding observations of the Committee on Civil and Political Rights on the initial report of Bosnia and Herzegovina the following questions were made:

(a) The constitutional changes with a view to amend provisions that exclude the “other” (people who do not belong to any national party as members of the “constituent peoples”) to be elected to the House of Peoples or the tripartite presidency, given the changes to the Election Law of the State parties are not associated with these bodies (paragraph 8).

6. The issue of inclusion of “others” when choosing a representative in the House of Peoples and the tripartite presidency of Bosnia and Herzegovina is closely related to constitutional changes that have been launched in Bosnia and Herzegovina.

7. In fact, on several occasions, the so-called “Butmir negotiations” have been carried out about the constitutional amendments in Bosnia and Herzegovina, in which the representatives of the ruling and opposition political parties in Bosnia and Herzegovina

participated. The Butmir negotiations have been also attended by the representatives of the international community. The outcome of negotiations between the authorities in Bosnia and Herzegovina, including the constitutional category of “others” in the election process to the position of the House of Peoples and a three-member Presidency of Bosnia and Herzegovina, shall determine our actual response because the category “others” which consists of 17 national minorities is a current constitutional solution and it must be respected until the constitutional changes have been carried out in that field as well.

8. The previous reply concerning paragraph 8 included the progress that relates to adoption of the Law on Amendments to the Bosnia and Herzegovina Election Law. These amendments are based upon the decision of the Constitutional Court of Bosnia and Herzegovina and they amend the Election Law of Bosnia and Herzegovina (*Official Gazette of Bosnia and Herzegovina*, No. 37/08) at the level of municipalities and cities in Bosnia and Herzegovina with regard to the right of ethnic minorities to be represented in legislative bodies. These minorities are designated as “others” by the Constitution of Bosnia and Herzegovina.

9. The representatives of Bosniaks, Serbs and Croats as constituent peoples shall be elected until it comes to constitutional amendments to the election of delegates to the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina and the Bosnia and Herzegovina Presidency members (members of the IV and V Constitution of Bosnia and Herzegovina), the Bosnia and Herzegovina Presidency and the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina. The way of inclusion of “others” in the above-mentioned institutions can be realized only on the basis of constitutional changes.

10. In these answers we shall not be able either to give a fuller response on the level and scope of negotiations related to the constitutional amendments and possible inclusion of “others” in election process for the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina and the Bosnia and Herzegovina Presidency, not until the amendments to the Constitution have been adopted (articles IV and V).

III. Answers to questions from paragraph 14 of the Concluding observations of the UN Committee on Civil and Political Rights:

11. The following questions were set forth in terms of the paragraph 14 of the concluding observations of the Committee on Civil and Political Rights on the initial report of Bosnia and Herzegovina,:

- (a) The current functioning of the Missing Persons Institute of Bosnia and Herzegovina*
- (b) Establishment of the unique database of missing persons and*
- (c) Resources to assist families of missing persons (paragraph 14)*

12. We give the following answers to these questions:

- (a) The issue of missing persons in Bosnia and Herzegovina is one of the priority issues for the Bosnia and Herzegovina authorities, since according to official data there is still search going on for approximately 11,500 missing persons in Bosnia and Herzegovina.

The Institute for Missing Persons of Bosnia and Herzegovina as earlier noted, was established on the basis of the Law on Missing Persons of Bosnia and Herzegovina (*Official Gazette of Bosnia and Herzegovina*, No. 50/04), and it operates in full capacity.

13. The Institute of Missing Persons of Bosnia and Herzegovina has an obligation: to find missing persons without discrimination and establish the central database of missing persons and thus restores the dignity of the victims; to give responses to their families; to contribute to spreading awareness about the human dimension of the tragedy of missing persons, their families and achieving reconciliation process in Bosnia and Herzegovina.

14. The Institute is responsible for collecting information and studying locations of individual and mass graves, participating in the exhumations of bodies of victims, conducting identification of the exhumed bodies and establishing true and verified records of missing persons.

15. The Institute receives information about the existence of graves from the very families seeking their missing relatives, associations of missing persons' families, other witnesses, prosecutors, the police, SIPA, OSCE, but mostly based on personal research of investigators at the Institute. It turned out so far that only a third of information supplied was credible. Large resources, efforts and large field capacities are required to check information on the existence of graves.

16. The field data verification is officially forwarded to the Prosecutor's Office of Bosnia and Herzegovina, which forwards the case to the Court of Bosnia and Herzegovina where individual judges issue a warrant for exhumations and identification of exhumed bodies. The Court of Bosnia and Herzegovina delegates the district or cantonal prosecutor's offices, appoints the forensic experts, the authorized representatives of the Ministry of Interior, utility, anthropologist, the place to keep the body for autopsy, taking of bone samples for DNA, determines who conducts identification, determines the place of storage of personal items of the exhumed and other material evidence.

17. The central database is a verified list of all missing persons in Bosnia and Herzegovina. By use of methodology and through formation of these records complete authenticity of the data on missing persons is achieved, and thereby it prevents any kind of politicization and abuse of the fate of the missing.

18. The Institute for Missing Persons has established the Advisory Committee in which the families of missing persons institutionalized their presence in the process of searching for missing persons.

19. The Institute is an opportunity for truth and reconciliation in Bosnia and Herzegovina and by its approach, methodology and mode of action is a unique institution in Bosnia and Herzegovina, contributing to research and overcoming the painful past of the peoples in Bosnia and Herzegovina and it provides the institutional meeting of justice and law.

20. The Institute regulations on internal organization and systematization provide for 55 employees but currently there are 50 employees at the Institute for Missing Persons, including three members of the Board of Directors.

21. In seven months of 2009, with regard to exhumation and identification, the Missing Persons Institute performed the following activities:

- It made 320 field outings, pre-visits;
- It exhumed 265 bodies / cases;
- It re-exhumed/took bone samples for DNA analysis from 143 bodies;
- It identified 883 persons of which 434 from the area of Srebrenica;
- This number is currently perhaps greater because excavations are in progress in Koricanske rocks and around Srebrenica, as well as in the Radaca pit near Mostar, in eastern Bosnia and Posavina.
- It also plans to organize the excavation in the area of Jajce, etc..
- The Board of Directors will adopt the design of INO web page.

(b) Establishment of a unique database on missing persons

- **On 8 September 2009 the official handover of the Expert Group for exhumations and identification of a database on missing persons in Bosnia and Herzegovina was made by ICMP to the Missing Persons Institute of Bosnia and Herzegovina;**
- The Council of Ministers gave its approval to the Regulation on the establishment of the Central Registry of Missing Persons of Bosnia and Herzegovina (*Official Gazette of Bosnia and Herzegovina*, No. 80/09);
- From 10 to 12 August ICMP organized in Sarajevo and Tuzla the training of staff of the Institute for Missing Persons of Bosnia and Herzegovina and the Central Database related to data entry in the database;
- The Rules of Procedure of the Verification Commission were made, in a way to simplify and speed up the verification procedures in the central database on the one hand, and to achieve true and accurate verification, on the other hand;
- After the training of staff of the Institute for Missing Persons and members of the central database for data entry, the Board of Directors will adopt at its first next session the Rules of Procedure of the Verification Commission/Instructions, Guidelines for verification or for the work of the Verification Commission;
- It is planned to provide by the end of the year, information in the central database of around 8,000–10,000 missing persons who have been verified, and the whole process of establishing the central database will be completed by the end of 2010;
- The tender to provide facilities for members of the Central Database, as well as for the Missing Persons Institute of Bosnia and Herzegovina is underway;
- The tender has been published for video surveillance, alarm, entrance in the Institute of missing by a card, etc., the total value of which will amount to about 10,000 KM.

(c) Resources to assist families of missing persons

22. Article 15 of the Law on Missing Persons of Bosnia and Herzegovina (*Official Gazette of Bosnia and Herzegovina*, No. 50/04) envisages the establishment of the Fund to assist missing persons, which has been partially realized by making the Decision on the

establishment of the Fund to assist families of missing persons in Bosnia and Herzegovina (*Official Gazette of Bosnia and Herzegovina*, No. 96/06), but the Decision has not provided for **full operation of the Fund** so that the above law sets forth that the Council of Ministers, Federation of Bosnia and Herzegovina, the Republic of Srpska and Brcko District shall regulate, by a special agreement, issues related to the seat, the method of financing, management as well as other issues related to the work of the Fund.

23. The above-mentioned law established the right to financial assistance for family members of missing persons in Bosnia and Herzegovina, as well as possibilities for the realization of the rights of other family members of missing persons (health care, education, marking the burial site and excavation of missing persons, assistance to associations).

24. Decisions of the Constitutional Court's determined obligations of **the Council of Ministers, Federation of Bosnia and Herzegovina, the Republic of Srpska and Brcko District** in regard of ensuring the functioning of the institutions established under the Law on Missing Persons of Bosnia and Herzegovina, i.e. (*Missing Persons Institute of Bosnia and Herzegovina, the Fund for assistance to families of the missing and the central database of missing persons in Bosnia and Herzegovina, which is established within the Institute*), or as set forth in the decisions "the Bosnia and Herzegovina Constitutional Court ordered to the Council of Ministers, the Government of the Federation of Bosnia and Herzegovina, the Republika Srpska and Brcko District of Bosnia and Herzegovina to ensure without delay the operational functioning of the Fund for assistance to families of the missing persons in Bosnia and Herzegovina and the Central Registry of Missing Persons in Bosnia and Herzegovina, which are established in accordance with the Law on Missing Persons of Bosnia and Herzegovina."

25. The Missing Persons Institute of Bosnia and Herzegovina and the Bosnia and Herzegovina Prosecutor's Office were requested to supply information on activities relating to implementation of decision of the Constitutional Court of Bosnia and Herzegovina, the part concerning the establishment of the central database of the missing persons.

26. The Law on Missing Persons of Bosnia and Herzegovina that came into force on **18 November 2004** (*Official Gazette Bosnia and Herzegovina*, No. 50/04) created the assumptions to approach the process of searching for missing persons in the equal manner and without discrimination and to eliminate the political obstacles to this process, and in particular to determine the official records of the missing persons in Bosnia and Herzegovina.

27. The Institute for Missing Persons has practically established the basic conditions and began incorporating data into the Central database on missing persons of Bosnia and Herzegovina.

28. After implementation of these activities, the last obstacles to the exercise of the rights of family members of missing persons from the Law on Missing Persons of Bosnia and Herzegovina were effectively removed.

29. The remaining activities in connection to obligation of establishment of the Fund for Assistance to Missing Persons of Bosnia and Herzegovina are governed by the Amendments to the Law on Missing Persons of Bosnia and Herzegovina, which is already in parliamentary procedure in the Parliament of Bosnia and Herzegovina. It provides legal

solutions that will make the fund operational and actually establish the Fund for assistance to families of missing persons in Bosnia and Herzegovina.

30. Upon completion of these activities the decision **AP-228/04 of 27 May 2006** shall be fully implemented as well as similar decisions that are also identical and related to the earlier decisions of the Constitutional Court of Bosnia and Herzegovina.

31. In order to **achieve equal rights** of family members of missing persons, it was necessary to establish a new body (the Fund) to implement the award procedure for financial assistance and activities related to exercise of rights to other forms of assistance to families of missing persons, **within a single administrative procedure** as established by this law and by the above-mentioned decision of the Council of Ministers of Bosnia and Herzegovina.

32. **The current text of the law provides for ensuring equal financial support for all family members of missing persons, regardless of where they live.** This law establishes the unique basis for the height of the compensation since the basis for the calculation of the monthly cash assistance benefit **is the amount of 25% of paid average salary in Bosnia and Herzegovina** for the previous quarter, which is calculated separately for each user. In practice, this means that if the average salary paid in Bosnia and Herzegovina in the second quarter of 2009 amounts to approximately 790 KM, the basis for support to families of missing persons amounts to 197.50 KM.

33. The law provides that families choose the exercise of this right, which means that the family may be entitled to realize this right in accordance with state or entity regulation, **the choice of a more favourable right**, i.e. if you already realize this right by another law in one of the entities (as a civilian war victim or as the family of a missing person in the veteran fund) **you can decide to receive only one aspect of social cash benefits because both entities and Brcko District have the same source of funding for this right.**

34. The Fund is planned as a restrictive Fund (generally entitles persons who would otherwise be supported by the missing person if alive), because it does not ensure this right to users on the basis for pension insurance **for people who receive more than the minimum pension** since this concerns an additional social right.

35. **The Fund is established as an independent administrative organization that makes decisions on establishing rights for all family members of missing persons in Bosnia and Herzegovina.**

36. For purpose of the Fund establishment, it is necessary to provide the necessary funding for the establishment of the Technical Service of the Fund for assistance to families of missing persons at the level of Bosnia and Herzegovina, in which, besides the director of the Fund, there exists economically organized Technical service of the Fund which may employ up to 10 employees, including the Director of the Fund, who will mainly carry out administrative and legal assistance affairs, as well as cooperation with associations of missing persons.

37. Also, it is necessary to emphasize that the adoption of the Amendments to the Law

on Missing Persons of Bosnia and Herzegovina would resolve existing problems with fulfilling the equivalent obligations established by several decisions of the Constitutional Court of Bosnia and Herzegovina.

38. Given that the said law is in the parliamentary procedure in the Bosnia and Herzegovina Parliament, which was done upon the initiative of associations of families of missing persons, the Ministry for Human Rights and Refugees and the Joint Committee on Human Rights, Rights of the Child, Youth, Immigration, Refugees, Asylum and Ethics of the Parliamentary Assembly of Bosnia and Herzegovina, we expect its final adoption and the provision of a unique solution.

39. This fund for assistance to missing persons does not diminish the authority of the entity institutions because the Fund has the role of administrative institution in respect of the application of uniform legal framework on the basis of the Law on Missing Persons of Bosnia and Herzegovina. This law establishes the equal way of exercise of the right to financial support for families of missing persons in Bosnia and Herzegovina and prevents current discrimination in respect of the equal exercise of cash benefit for families of missing persons in Bosnia and Herzegovina, regardless of where they live.

IV - Answers to questions from paragraph 19 of the concluding observations of the Committee on Civil and Political Rights:

40. The following questions were made in terms of the paragraph 19 of the concluding observations of the Committee on Civil and Political Rights on the initial report of Bosnia and Herzegovina:

- (a) Results of improved measures in the entity police forces and prisons,*
- (b) Progress made in relation to construction of new facilities,*
- (c) Whether the State party intends to improve conditions in the Psychiatric Clinic in Sokolac and Psychiatric Department in Zenica prison and*
- (d) Training and employment of qualified workers (paragraph 19).*

41. Answers to these questions:

(a) The amendments were made at the state level to the Bosnia and Herzegovina Law on Execution of Criminal Sanctions, Detention and Other Measures (*Official Gazette of Bosnia and Herzegovina*, No. 37/09), which entered into force in May 2009. The above law implements the European Prison Rules from Recommendation No. (2006)-2. of the Committee of Ministers to member states of the Council of Europe and other international standards in the area of the prison system such as the Declaration of Malta - World Association of doctors in relation to the ethical treatment of doctors with the persons deprived of their liberty who hunger strike from 2006, and the recommendations: R 98.7 in connection with the ethical and organizational aspects of health care in prisons, Recommendation (2003)-22. of the Committee of Ministers to member states of the Council of Europe on conditional release, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the European Convention for the Protection of Human Rights and Fundamental Freedoms and the jurisprudence of the European Court of Human Rights in Strasbourg in the area of the prison system.

42. These amendments to the Bosnia and Herzegovina law specifically govern the conditions for admission of institution officers - clerks to the service, new powers of inspectors and their new role in cooperation, coordination with inspectors in entities and Brcko District of Bosnia and Herzegovina, especially in regard to enjoyment of human rights from the Constitution of Bosnia and Herzegovina, the formation of the Independent Commission which will be appointed by the Parliamentary Assembly of Bosnia and Herzegovina and which will follow up the conditions of stay in institutions as well as treatment and enjoyment of human rights by persons serving a prison sentence or other measures. They also provide under what circumstances the mentioned Commission will have powers of inspector, which is also implementation of **the paragraph 93 of the European prison rules**. They also regulate the voting rights for persons deprived of their liberty, pay special attention to women needs, actions of the institution in the case of rejection of food by the detainees or prisoners (hunger strike), implementation of the Declaration of Malta-the world associations of doctors regarding the ethical treatment of doctors with detainees who hunger strike from 2006, the testing of infectious disease or psychoactive media-implementation of Recommendation no. R (98) 7, in connection with the ethical and organizational aspects of health care in prisons, risk assessment of the risk of prisoners fugitives, control measures, prohibitions and limitations for prisoners while using the facilities, restrictions on granting benefits, the mandatory parole by the manager, resolving conflicts of jurisdiction in respect of applications for parole of prisoners sentenced by the entity court who serve sentence in the institution of the other entity, report of the institution about the need for assistance after serving a prison sentence or conditional discharge as well as accommodation of a minor in the institution of other entity on the basis of decisions of the Minister of Justice of Bosnia and Herzegovina.

43. In the previous period the significant advances have been achieved regarding increasing the prison and detention accommodation capacities which are within the competence of the entities. It is important to note that the Entity Ministries of Justice undertake certain activities with regard to increasing the prison and detention accommodation capacities, and so certain activities have been undertaken to upgrade the capacity of the existing correctional institutions in the Republika Srpska.

44. Activities on the construction of the Department with maximum security and intensive treatment programs in penitentiary institution (hereinafter 'prison') in Foca, of capacity of 38 people, took place throughout 2008, which resulted in completion of the second phase of construction, while the third phase of activities concerning furnishing and installing devices and equipment is carried over into this year and it is expected that the facility will be completed by the end of the year depending on the provided funds. In the Prison in Foca, the works on furnishing the Department with intensified surveillance of capacity of 10 seats were completed, rooms were adapted for another prison group and the works on reconstruction and building of the Institution reception desk and fence wall were finalized as well. All this greatly improved security in the institution.

45. At the same time in the Doboj District Prison, the conditions for serving the sentence and detention measures were significantly improved. Renovation, painting and equipping of the premises were completed thus creating much better conditions for life and work of convicted and detained persons. The preparations for the upgrade of the existing floor space are in progress and the start of the works which will last several months is planned for autumn 2009. In this way the District Prison in Doboj will significantly increase its prison accommodation.

46. The Ministry of Justice of the Republika Srpska intends to provide during 2009 a non-economical military facility in the municipality of Bijeljina, in order to build a new prison facility with capacity up to 150 people, and so the District prison in Bijeljina is in the course of activities to arrange the space in the former barracks "Patkovaca" to expand existing accommodation facilities and create conditions for the new use of current facilities and space as jail premises.

47. During 2008, the Trebinje District Prison made procurement and installation of a PVC opening on the facility storey, the general overhaul of the heating station was carried out and it is planned to reconstruct the entire floor depending on the provision of financial resources.

48. Eviction of a number of institutions that were located in rented premises in East Sarajevo Prison, opened the possibility of extending the accommodation capacity for convicted and detained persons. Work on the adaptation of these facilities have already been partially completed and significantly increased the capacity of the Institute.

49. The juvenile correctional home was opened in Banja Luka, of capacity of about 40 persons (2007) and the Department for execution of the sentence of juvenile prison was opened in East Sarajevo Prison of capacity of about 40 people.

50. In 2009, in other correctional institutions throughout the Republika Srpska activities continued to expand the prison accommodation and to improve the conditions for life and work of convicted and detained persons, so that 8 new cells in Prison in Banja Luka intended to accommodate high-risk and dangerous prisoners are under construction.

51. Measures taken in the Federation of Bosnia and Herzegovina in order to increase the prison and detention accommodation can be represented through the following activities:

- In Busovaca Prison a new facility was built of capacity up to 60 people;
- In semi-open prison in Tuzla, Department in Orasje, the works on the construction of the facility of increased spatial capacity for 54 places were completed (4 m²/person) and are awaiting receipt of the prison staff;
- The semi-open prison in Tuzla put in operation an office building on Kozlovac, with increased capacity of 150 places. Also, on 7 May 2009, the semi-open prison in Tuzla formed the Department for enforcement of measures of sending to correctional home of male and female juvenile persons;
- In semi-open prison in Mostar, activities are being currently conducted to expand capacity by an additional 18 places, having already put into operation the accommodation capacity of 25 places;
- In the closed prison in Zenica, a modern built pavilion was put into operation for the separation of convicts for safety reasons for 28 people, and the doctor's room was built and equipped with patient clinic and the dental office was equipped. The works on the construction of the pavilion IV are underway. Its construction will expand capacity for over 50 places and it will isolate prisoners with high risk in terms of criminal needs.

52. Significant progress has been made in approving additional funds amounting to KM 15,000,000.00 for prisons in the Federation and the Government of the Federation of Bosnia and Herzegovina gave approval to hire 160 new prison officers, as a necessary means to maintain the basic existential condition of the convicted and detained persons. In this regard, the Federal Ministry of Justice launched the activities for introduction of electronic monitoring as an alternative way of serving sentence, as well as the activities of insuring conditions for the imposition of alternative measures, especially measures of “work for the common good in freedom”, in cooperation with the cantonal governments. Besides above, the possibility is considered to use abandoned military barracks in Delijas for the construction of the Sarajevo Prison Department with accommodation for 200 convicts.

53. It should be also noted that the Federal Ministry of Justice passed the Rules on amendments to the Rules on criteria for sending convicts to serve their sentences (*Official Gazette of Bosnia and Herzegovina*, No. 37 / 09) in order to overcome difficulties related to making a legally convicted persons to serve a prison sentence. Article 4 of the Rules provides that if the court finds that in the Prison, to which the convicted person was sent to serve a legal sentence, there is no free accommodation, it will ask from the Federal Ministry of Justice the data on the available appropriate type of prison which has free accommodation capacities. After obtaining the data on prisons with free accommodation capacities, the court shall refer the convicted person to the prison which is required to comply with a written act of the Federal Ministry of Justice and to accept convicted persons according to the court writ.

54. In the period from 2006 until 2009, the Ministries of Justice of the Federation and the Republika Srpska have undertaken the above mentioned measures to increase the prison accommodation. So, by the end of 2009, the accommodation capacities in the Federation of Bosnia and Herzegovina increased by around 317 places, especially having in mind the expansion of Prison Busovaca, Orasje, Zenica, Mostar and Kozlovac within the prison in Tuzla.

55. In the Republika Srpska the capacities increased by 56 seats to serve sentences (Prison-Foca-48 places and Prison - Banja Luka-8 places), followed by 40 places to serve sentences in juvenile prisons in the Prison in East Sarajevo, as well as 40 places in the correctional home for minors in Banja Luka, which means that in the observed period the Republika Srpska increased institutional capacity by 136 places in total.

56. Thus, in the period from 2006 until 2009, in the Federation of Bosnia and Herzegovina and the Republika Srpska the total of the expanded prison capacity amounts to 453 places with the real possibility of extending the Zenica Prison by 50 new places and Mostar Prison by 18 new places, which means that the prison capacity in the coming period will be increased, due to the activities of these ministries, by 521 places.

57. On 6 October 2009, the Ministry of Justice made the final information on the situation in connection with the untimely sending of legally convicted persons to serve their prison sentences due to insufficient capacity of institutions for prison sentences and security measures, which was addressed to the Parliamentary Assembly of Bosnia and Herzegovina for consideration. The information contains possible suggestions for further treatment in order to secure new accommodation capacities in the entity institutions for a total of 1,091

persons according to proposals given in the CARDS - Project and programme of technical support to Bosnia and Herzegovina by the European Commission managed by a professional team of the Federal Ministry of Justice of the Republic of Austria. The Project showed that one of its main goals was a current review of prison capacities in Bosnia and Herzegovina, assessment of the building and technical state of the institutions along with financial assessment for future investment needs and reconstruction of existing prison facilities in Bosnia and Herzegovina, in order to retain in the future all the necessary internal conditions for a stay of detainees and prisoners in accordance with European standards in the area of the prison system.

58. The above report demonstrated that the entity institutions can accommodate 2,658 people and the common room area per one person is 2.80 m², which is below the minimum of European standards of 4 m² per one person for every room. If the European standards were applied then the prison capacity in the entity institutions could receive about 2,000 convicted and detained persons.

(b) Progress made in relation to construction of new buildings

59. In terms of building the state prison, we note that the activities to ensure financial resources are in progress, as a condition for taking further actions and the start of construction of state prisons and in this regard we inform you about all the activities undertaken so far to build a state prison, the final estimate of the total cost of building of the state prison, time possibilities for undertaking activities for the tender procedure and the construction itself, as follows:

60. The state prison construction project within the Ministry of Justice of Bosnia and Herzegovina is managed by a special organizational unit “**Detention Unit and Institute in construction at the state level**”, which undertakes all the activities related to the implementation of the above project, so we inform you about the latest activities that the said unit supplied as follows:

61. In 2008 and 2009, activities on the implementation of the State Prison Construction Project (hereinafter ‘the Project’) took place in accordance with established work plan for each year.

In accordance with the approved budget funds for 2007 and 2008 in the amount of 6,000,000.00 KM in line with the Law on Public Procurement of Bosnia and Herzegovina (*Official Gazette of Bosnia and Herzegovina*, No. 49/04, 19/05, 52/05, 8 / 06, 24/06 and 70/06), the open tender procedure was carried out for selection of the best bidder to perform interior works (levelling) of soil and construction of concrete fence wall on the designated location.

In order to collect funding and close the financial structure for the State prison construction the loan was requested from the Council of Europe Development Bank.

The presented paper pointed out that some existing design solutions were not harmonized with European standards so the Mission found that the existing project was to be reviewed.

62. Starting from this assessment the Mission recommended the suspension of further work which caused a halt in the planned schedule of works.

To continue the work and close the financial construction for the building of the Institute, according to the latest estimates there should be approximately €20,000,000.00 needed. In order to ensure donor funds to encompass the total investment, a draft letter was prepared to embassies as potential donors as well as the draft Memorandum of Understanding to provide financial support to building of the Institute for Execution of Criminal Sanctions of Bosnia and Herzegovina, which will be offered to donors for consideration and signature.

The final estimate of the total amount of funds necessary to build a state prison is €39.600,000,00. The plan for further activities was made by stages: feasibility studies, preliminary project until November 2009, the main project until June 2010, the tender procedure by October 2010 and the construction of the said Institute by April 2012.

63. The evaluation of investments in entity institutes shows that the entity prison system needed investments in the amount of € 25.466.000.00, where the donor funds are not indicated, and they are planned for renovation and reconstruction of special facilities for forensic psychiatry in Sokolac in the amount of CHF 2,850,000.00. An additional amount of € 1,750,000.00 for interior decoration of this institution assessed by the professional team of the Federal Ministry of Justice of the Republic of Austria has been neither included in the above amount.

64. According to the report of the expert team of the Republic of Austria on multi-year financial plan for investment in the prisons in Bosnia and Herzegovina, i.e. for the period from 2008 to 2011, the required financial funds are indicated as below:

- Zenica prison €1,350,000.00,
- Tuzla prison €440,000.00,
- Mostar prison €1,123,000.00,
- Tomislavgrad prison, Busovaca department €310,000.00,
- Doboj district prison €500,000.00,
- Trebinje district jail €185,000.00,
- Bijeljina district prison €1,200,000.00,
- Sarajevo prison €725,000.00,
- Tuzla prison, Orasje department €450,000.00,
- Bihac district jail €370,000.00,
- Foca Prison €1,400,000.00,
- Banja Luka prison €575,000.00,
- Prison in East Sarajevo €265,000.00,
- Psychiatric Clinic "Sokolac" €1.750,000,00.

65. Necessary funds for the entity institutes in the period from 2008 to 2011 are estimated in the amount of €25,466,000.00, with the possible dynamics of investment in 2008 amounting to €6,801,000.00, in 2009 to €7,740,000.00, in 2010 to €6,955,000.00 and in 2011 to €3,970,000.00.

66. The prison system in Bosnia and Herzegovina is confronted with five basic challenges in terms of architectural dimension, namely: adaptation to European standards,

overcrowding, optimizing prison utilization, changes in the structure of the prisoners after the 1995 and improvement of cooperation between different levels of government.

67. In this regard the expert team for the said project proposed and gave the priorities of the future adaptation and reconstruction as well as the final phase, which would give the new 1,091 prison places:

- Establishment of specific organizational units in ministries of justice responsible for building and coordination of civil and architectural projects;
- Reduction of prison overcrowding through construction of the state prison while carefully considering construction of new prisons at the entity level, i.e. less construction of new prisons and investment activities of major renovation and increase of capacity in existing prisons since the latter option requires less financial resources. The practice of some countries of the European Union has shown that such a combination with a greater participation in renovation, adaptation and expansion of existing prison gave adequate results;
- Greater cooperation in the utilization of total capacities in different prisons because it was observed that in certain periods there is overcrowding in prisons of one of the entities while there is free capacity in the prisons of another entity, or the possibility of accommodating prisoners from entities in the future state prison, and
- Equipping prisons with modern technical, safety equipment.

68. The priority assessment of reconstruction, adaptation and construction of additional or new facilities is shown in three stages as a possible plan for solving the overcrowding of prison facilities in Bosnia and Herzegovina, as follows:

69. If the listed priorities would be accepted and implemented there would be increase in prison capacity by 1,091 places, which would be sufficient for future prison system in Bosnia and Herzegovina and is in line with European standards to increase prison capacities. After final realization of priorities it would look as follows: Bosnia and Herzegovina prison, with a capacity of 350 places; Mostar Prison with a capacity of 30 places and the Detention Unit as an additional capacity with 16 places; Prison in Sarajevo with 50 places; Foca Prison with 88 places; Banja Luka Prison with a capacity of 18 places; East Sarajevo with capacity of 14 places; Zenica Prison with 100 places; Prison in Tuzla with 75 places; Bijeljina with 80 places; Bihac with 30 places, which represent the priorities of 1a and 1b. Prison Orasje with building of a new facility with capacity of 60 places, semi-open Mostar prison, Sarajevo with 60 places and Sarajevo with 40 places, which is a priority number 3.

The total amount of capacity is 1,091 places.

70. For the above reasons, we deliver you the answers to additional questions, with longer explanation that would provide better understanding of the current situation of the prison system in Bosnia and Herzegovina.

(c) Conditions in the Psychiatric Clinic in Sokolac and Psychiatric Department in Zenica prison

71. According to the conclusions of the Council of Ministers adopted at the 52nd session, held in June 2008, the Ministry of Justice was responsible for making the final version of the text of the Draft Agreement on accommodation and compensation costs for

the enforcement of security measures imposed in criminal proceedings and other proceedings in which the measure of treatment is ordered. The proposal of the Agreement was adopted by Contracting Parties, i.e. the Council of Ministers, the Clinical Centre of Eastern Sarajevo, the Government of the Republika Srpska, the Government of Brcko District and the Government of the Federation of Bosnia and Herzegovina with the additional approval of the Ministry of Health and Social Welfare of the Republika Srpska of 04 September 2009 which is considered the date that the Agreement was finally approved and adopted. By adoption of the said Agreement the funds donated by Swiss Confederation in the amount of CHF 2,800,000.00 for renovation and reconstruction of the Special Hospital for forensic psychiatry - Sokolac have become operational and the main coordinator of the Project Implementation Unit of the Council of Ministers was enabled to accede to further adaptation and reconstruction activities of the building, i.e. to take actions to call an international public tender and other activities for the purpose of adaptation and reconstruction of the said medical facility. Thus, Bosnia and Herzegovina would have in use a modern forensic institution with European standards, which would provide services to all courts and other competent authorities from Bosnia and Herzegovina and it would resolve the important question of the future adequate accommodation of forensic patients in Bosnia and Herzegovina.

72. The Agreement was signed on accommodation and compensation costs for the enforcement of security measures imposed in criminal proceedings and in other proceedings ordering treatment and the signing of the said Agreement means the establishment of the Special hospital for forensic psychiatry in Sokolac, which will provide services to all courts or other authorities in Bosnia and Herzegovina. It will represent a unique institution for the reception of forensic persons for entire Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republika Srpska and Brcko District. There are currently activities going on for adaptation and reconstruction of this special hospital, as well as the publication of the concluded Agreement in the Official Gazettes of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republika Srpska and Brcko District.

(d) Training and employment of qualified workers

73. In terms of continuing professional training of staff in institutions for the execution of criminal sanctions we inform you that the Ministry of Justice prepared the Regulation on the conditions, method and programme of taking the professional examination of the prison staff in institutions for the execution of criminal sanctions (*Official Gazette of Bosnia and Herzegovina*, No: 56 / 05) and made a special program of professional examination of the prison officials (*Official Gazette of Bosnia and Herzegovina*, No. 56/05), which also represents the legal support for continuous professional education and training for prison staff since besides special psychophysical and health conditions to do their job they are also required to pass a professional examination which includes additional subjects to those that are laid for a professional administrative exam, including additional knowledge of the system of execution of criminal sanctions, the basic of criminal law, criminal procedure, the basic of penology and andragogy as well as personality psychology with the basics of psychopathology. Each year there is also, at the level of the ministries, a training program for the prison staff. Internal systematization of jobs provides a position, **“the expert adviser for training of the prison officers”** whose work will require special support in the future. In addition, the training program during the period from 2005 to 2009 was under constant guidance of the expert team of the Council of Europe and some individual projects by the European Commission. Currently there is a joint programme of the European Commission and the Council of Europe implemented called **“Effective management of the institutes in Bosnia and Herzegovina”**, which contains twenty-two (22) most actual

thematic topics of the prison system including vocational training for prison staff for the period 2009–2011. All this indicates that the Ministry of Justice is aware of the importance of education of the prison staff and that in the coming period it will make preparations for undertaking major activities and obligations in the above areas and for gradual transfer of the said training from the Office of the Council of Europe onto domestic legal and penology experts, where the special role and importance shall be borne by the Expert advisor for training of the prison officers.

74. When receiving prison staff at the state level, the care is taken of the article 7 of the Law on Administration of Bosnia and Herzegovina, which indicates that the administrative bodies of Bosnia and Herzegovina, provide adequate representation of national civil servants and prisoners against national structure of the population. The care is also taken about the quality of selected personnel, with a remark that in line with the Council of Europe recommendations concerning the prison system and getting the expert staff, the Ministry of Justice according to new amendments to Bosnia and Herzegovina Law on Execution of Criminal Sanctions, Detention and Other Measures (*Official Gazette Bosnia and Herzegovina*, No. 37/09) has envisaged six (6) new articles of the law which regulate the possibility of engaging “**prison officers-trainees**” under special recruiting conditions (physical and mental, health and the upper age limit), engagement against the public notice, practical training, courses, seminars and other forms of education. The special training in legal and penology issues is envisaged after the practical training. Accordingly, the cumulative requirement for trainees to stay in permanent employment relationship is the fact that they successfully passed the practical training and professional examination required for the acquisition of the title of prison official. In this view, there is a plan for 2010 to amend the Rules on the official titles and marks of the official positions which will enable promotion in service and one of the main conditions to be fulfilled along with the formal conditions required for professional title (technical knowledge, education), will be also the work of such officials in the practice of the Institute.

75. In addition to the above questions of the Special Rapporteur, we want to inform you about the activities undertaken by Bosnia and Herzegovina in terms of introducing new alternative criminal sanctions and what further regulations were adopted that enable their implementation and development.

76. At the level of Bosnia and Herzegovina, the Criminal Code of Bosnia and Herzegovina was passed (*Official Gazette of BiH*, No. 3/03), which envisages in the system of criminal sanctions a new alternative criminal sanction “**work for the public good in freedom**”, which is regulated by Article 43 of the above law. Specifically, in case the court measures and pronounces a prison sentence of up to six months it can at the same time decide that the pronounced penalty can be replaced with the work for the public good in freedom, with the consent of the accused. The system of enforcement of criminal sanctions, which is embedded in the Criminal Code of Bosnia and Herzegovina during drafting of the Bosnia and Herzegovina Law on Execution of Criminal Sanctions, Detention and Other Measures (*Official Gazette of Bosnia and Herzegovina*, No. 13/05) contains the articles 184 and 185 that provide for the execution of work for the public good in freedom. It also contains general provisions and indicates that the required by-laws on work assignment, type and conditions of work, and secondary legislation will be enacted by the Ministry of Justice of Bosnia and Herzegovina. In order to enable the execution of criminal sanction “work for the public good in freedom”, this Ministry has drafted four (4) by-laws which entirely regulate, from the aspect of normative-legal authority, the area of enforcement of these sanctions, i.e. the type and conditions for the execution of this criminal sanction, the criteria for determining the compensation for commissioners within enforcement of the

sanction, the rules on selection, training and records of commissioners as well as instruction on register book and personal log of the convict serving the specified criminal sanction.

77. The Ministry of Justice of the Republika Srpska made amendments to the Law on Execution of Criminal and police sanctions (*Official Gazette of RS*, No. 68/07), where the new paragraphs 4, 5, 6 and 7 were added to the Article 209, setting forth the possibility of execution of criminal sanction “**work for the public good in freedom**”, so there are no normative obstacles to execute this alternative criminal sanction in the Republika Srpska. **However, at the level of the Federation of Bosnia and Herzegovina, the Law on Execution of Criminal Sanctions of the Federation of BiH, has had no amendments that would provide for execution of this alternative criminal sanction, so it is necessary to further harmonize the law of the Federation of BiH with the Law of Bosnia and Herzegovina.** That is why in the Federation of BiH there are no normative prerequisites to apply this sanction and there is a need for active involvement of the Ministries of Justice of the Cantons in the Federation of BiH.

Accordingly, all normative actions at the level of Bosnia and Herzegovina have been carried out for execution of this criminal sanction and there is possibility of legal comparison for the entities in the legal regulation of this sanction, whose implementation is realistic to expect at the municipal and cantonal and district courts, due to their real jurisdiction, i.e. the actual type and severity of crimes that are under the jurisdiction of the courts of the entity.

78. Secondary regulations in terms of treatment of persons deprived of their liberty hunger striking have been made and they fully implement the principles of the World Association of doctors from 2006 in relation to the ethical treatment of doctors with the persons deprived of their liberty hunger striking. In connection with this, the Instruction at the level of Bosnia and Herzegovina has been made on principles regarding the ethical treatment of doctors with the persons deprived of their liberty hunger striking (*Official Gazette of Bosnia and Herzegovina*, No. 28/08)

79. In terms of improving supervision of the prison institutions, except inspectors as officials with special powers to supervise, this Ministry envisaged by new amendments to the law of 2009 the establishment of the **Independent Commission of the Parliament of Bosnia and Herzegovina**, which would monitor the conditions of stay, treatment and human rights of persons being charged with criminal sanction or other measures in order to ensure the higher level of human rights in prisons, professional conduct of prison officers, application of new professional knowledge and methods in the process of resocialization, which is the additional independent mechanism that will allow the future achievement of the highest level and standards of human rights in prisons in Bosnia and Herzegovina.

80. Regardless of the existence and jurisdiction of the Human Rights Ombudsman of Bosnia and Herzegovina, the Ministry of Justice of Bosnia and Herzegovina has accepted the recommendation from the European Prison Rules adopted 11 January 2006, namely the paragraphs 93.1. and 93.2. recommending to member states of the Council of Europe to integrate into their prison rules, “**independent monitoring**” by an independent body in terms of conditions of imprisonment and treatment of prisoners regarding respect for their human rights. This institute is built through the Article 41.-a of the Law on Amendments to the Bosnia and Herzegovina Law on Execution of Criminal Sanctions, Detention and other measures, which was adopted in April 2009 by both Houses of Parliament (*Official Gazette of Bosnia and Herzegovina*, No. 37/09), and which entered into force on 20 May 2009. The

Parliamentary Assembly of Bosnia and Herzegovina has undertaken activities and initiated the procedure for the establishment of the Independent Commission.

81. **The recommendation (2006) 2 of the Committee of Ministers to member states in connection with the prison rules adopted at its session held on 11 January 2006 suggests the Council of Europe member states to integrate into their legislation and regulations "Independent monitoring" from provisions of the articles 93.1. and 93.2. of the recommendation which is embedded in the Bosnia and Herzegovina Law on Execution of Criminal Sanctions.** The aim of this recommendation is to form and appoint the Independent committee to monitor the development of these standards in addition to inspections carried out in the institutes by the competent authority of the Ministry or a person with special powers in order to achieve the higher standards in terms of human rights, treatment of persons and the conditions of their stay in institutions.

82. The above committee has the authority to perform independently the external monitoring of the Institute or together with the inspectors of the Ministry of Justice of Bosnia and Herzegovina or other supervisory authorities and it has in this capacity the authority belonging to authorized persons, inspectors from Article 40 and 42 of this law. For the above reasons, the Committee is authorized to make its report and submit it to the competent Ministries of Justice and prison administrator. Moreover, the said article proscribes the manner of appointment and dissolution as well as the number of Committee members, their mandate, professional qualifications and adoption of the Rules of procedure for their work and the annual report, which will be very important to raise the standards of respect for the prisoners and detainees' rights, high level of treatment by prison officials, their continuous training, education and acquiring new prison skills that represent the latest European practice in the field of prison rules.

83. In addition, the specific conditions of residence, state of prison, especially the adequacy of appropriate room, standards of accommodation with all the supporting facilities in the institutes will indicate the need for harmonization of these conditions in accordance with minimum European standards and regulations.

84. **The work of the Independent Committee will allow a faster and more efficient way to provide necessary funds for the rehabilitation, reparation, extension or construction of new facilities within the prison system reform, which should follow the reform of the judiciary and the prosecution, and its content is compatible with the new criminal sanctions, standards and new methods of execution of criminal sanctions.**

85. In cases of possible unrest, riots or strikes in the prisons, supervision of the Independent Committee will contribute to more objective informing of the public and the competent authorities on such occurrences, their causes and ways of solving them, which will prevent unfounded pressures of the prison population in search of their rights that are contrary to law or indirect political interference in the work of the prison system.

86. **Conclusion on establishment of interim Joint Committee of both Houses of the Bosnia and Herzegovina Parliamentary Assembly to carry out obligations under Article 41-a. of the Law on Amendments to the Bosnia and Herzegovina Law on Execution of Criminal Sanctions, Detention and Other Measures ("Official Gazette of Bosnia and Herzegovina", No. 37/09), which refers to the selection and appointment of**

the Independent Committee authorized by law to monitor the conditions of stay in institutions and treatment of human rights of persons under criminal sanctions and other measures pronounced in criminal proceedings by the court, foreign courts for offences prescribed by the Criminal Code of Bosnia and Herzegovina or international treaties signed by Bosnia and Herzegovina, or other court in accordance with the law of Bosnia and Herzegovina. **The conclusion was passed on 59th session of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, in September 2009 and at the 35th session of the House of Peoples ("Official Gazette of Bosnia and Herzegovina", no. 75/09).** This conclusion was adopted as part of undertaking additional activities in the implementation of Article 41-a and implementation of the Law on Amendments to the Bosnia and Herzegovina Law on Execution of Criminal Sanctions, Detention and Other Measures ("Official Gazette of Bosnia and Herzegovina ", No. 37/09).

Juveniles sentenced to prison

87. Regarding measures taken to allow **juveniles sentenced** to juvenile prison sentence in a juvenile prison, regardless of the current state of institutions in the entities that have jurisdiction over the treatment of juvenile perpetrators of criminal acts, it is as follows:

88. Execution of criminal sanctions against minors is the responsibility of the entities because the juvenile prison sentence is executed in a separate institution in the entity in which the minor resides or stays, to thereby achieve a higher standard in the process of resocialization of this population allowing them to have closer contact with their families and other relatives, or attending education and other penology treatment applied to this specific population.

89. The current situation in Bosnia and Herzegovina is the fact that the Federation does not have a special institute in which minors could serve a prison sentence. The particular department that was placed in Prison in Zenica was burdened with adult convicted persons due to lack of prison capacity and so the juveniles had no adequate conditions to serve their prison sentence and could not be separated from adults or other convicted persons, and prevented to contact with persons convicted of serious crimes. **Due to negative impact caused by this legal situation, the Ministry of Justice of Bosnia and Herzegovina has built a special legal standard which enabled the Minister of Justice of Bosnia and Herzegovina to make a decision in such situation upon which the minor could be sent to serve the sentence in the appropriate institution or a special department for the juvenile in the institution of another entity (*Official Gazette of Bosnia and Herzegovina*, No. 37/09).** This fully contributed to the rule of law and this legal standard made it impossible in practice to have a legal situation of failure to send a minor to serve a prison sentence due to lack of prison capacity in a given entity. That is why we show this standard and the reasons and objectives for its enactment, which are separately given in the reasoning of the said legal standard.

90. Positive legal regulations in Bosnia and Herzegovina determine that a minor serves juvenile prison sentence in a special juvenile prison or in a separate department for the juvenile in the institution in the entity in which the imprisoned person has residence or temporary residence. In addition, the law specifically states that persons serving a juvenile prison sentence must have separate rooms for stay from other prisoners if they are in a special department, as well as the possibility of applying modern methods of treatment in terms of re-education, education, school or professional training, all in order to have successful return and integration into the living conditions of freedom and fulfil the duties of citizens in accordance with the law.

91. **Currently the Federation of Bosnia and Herzegovina has no special institutes for execution of the sentence of a juvenile prison, but there is a special department in Zenica Prison of closed type, which also accommodates adults serving prison sentence due to overcrowded existing capacity.** This situation violates the basic penology principle of separate accommodation for minors from adults, and that is why it is considered that the organization of treatment can not be successfully carried out as well as all other professional and regular activities in the process of resocialization and re-education of minors as the basic goal of penalties that may be pronounced against above mentioned people.

92. **In the Republika Srpska, on the location of semi-open Prison in East Sarajevo the special building was built for accommodation of minors to serve juvenile prison sentence.** Currently three (3) minors are serving a sentence and facility was built for admission to 40 (forty) minors and meets all penology conditions regarding treatment required by the law.

93. **Due to these reasons, difficulties may arise in practice about sending to serve the sentence from the area of the Federation of BiH, and the possible long stay of such persons in liberty because of summoning to serve the sentence. This would be contrary to the principles of justice related to punishment with regard to general and special prevention and especially satisfying justice to the families of victims.**

94. That is why the public opened this issue and suggestions were given that the Ministry of Justice of BiH should act on the basis of its authority in these legal situations, so that in the event that a suitable accommodation of a minor is not possible in one entity or Brcko District of BiH there is possibility to accommodate such persons in particular Institute of another entity.

95. Based on the proposed legal standard, the Ministry of Justice of BiH would have the authority in such legal situations to make decision that such a minor serves a sentence in the appropriate institution of the other entity. Application under paragraph (1) of this Article is submitted by the court in the place of residence or temporary residence, through the Ministries of Justice of entities or Judicial Commission of Brcko District of BiH, which had previously given written consent for the requested accommodation in another entity, with respect to the procedures of jurisdiction of bodies of entities and Brcko District.

96. Based on the decision of the Ministry of Justice of BiH, the Court in the place of residence or temporary residence sends the minor to serve a prison sentence in the institution of another entity.

97. The costs are borne by the Ministry of Justice or the Judicial Commission of Brcko District, according to the seat of the court which has jurisdiction to send such minors to serve the sentence of a juvenile prison.

98. **The proposed legal standard prevents to have in the practice the problem of failure of accommodation and service of the sentence of convicted minors, thus compromising the principles of justice, the implementation of resocialization and purpose of punishment, the relationship to the victim and society as organized community capable of influencing and taking measures not to commit criminal acts**

and it influences upon the consciousness of citizens about the just punishment for perpetrators of crimes.

V - Answer to questions from paragraph 23 of the concluding observations of the Committee on Civil and Political Rights:

99. In terms of paragraph 23 of the concluding observations of the Committee on Civil and Political Rights on the initial report of Bosnia and Herzegovina the following questions were made:

(a) Access of the Roma community members to regular and extraordinary legal remedies (including the provision of legal aid and advice)

(b) Movement and progress related to alternative housing for Roma families from Butmir village (paragraph 23)

100. Answers to these questions:

(a) Access of the members of the Roma community to regular and extraordinary remedies, including the provision of legal aid and advice, are provided by regular legal remedies through the right to appeal or by any of the extraordinary remedies in case of litigation for all damaged families of the Roma community who were transferred from the water protected zone in Butmir. The previous responses to the same question above listed the laws which establish the rights to ordinary and extraordinary legal remedies. Provisions of the Constitution of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and Sarajevo Canton set forth the right to provide an adequate remedy. In addition to these domestic instruments, the European Convention on Human Rights, which is an integral part of the Constitution of Bosnia and Herzegovina, has priority of application over the domestic law and it also provides for filing a complaint with the Court in Strasbourg after all domestic remedies have been exhausted.

101. Municipalities and centres for social work are competent of providing assistance and advice to Roma families in order to maintain the progress that has been reached in regard to alternative accommodation for all Roma residents transferred from Roma settlement in Butmir to five municipalities, namely: Hadzici (village Osenik - Pazarić), Ilidza (village Nadosjek) Ilijas (Mrakovo village), Novi grad (village Reljevo-Rajlovac) and Vogosca (village Poturovici - Semizovac). This includes giving instructions to members of the Roma families and associations on access to regular and extraordinary legal remedies, including providing legal aid and advice.

(b) With respect to issues related to movement of Roma families from the water-protected zone in Butmir, this process has been completed successfully owing to the Ministry of housing affairs of the Sarajevo Canton and the Municipality of Ilidza. In 2007 the protocol was signed on the co-financing of the project on displacement of Roma settlements from Butmir location whose inhabitants lived in inadequate hygienic-sanitary conditions in the water-protected zone, to new locations. After that, the Swedish International Development Agency (SIDA) joined the implementation of these activities, with the guarantee to provide funds for the construction of solid objects for the relocation of families from the locality Butmir, in a way to build at least one building with four residential units in each of the municipalities. SIDA has provided funds for the construction of 8 brand new buildings with 33 residential units. The Ministry of Housing Affairs ensured funds for locations and

enabled their infrastructure equipping. The municipalities of Ilijas, Novi Grad, Vogosca, Hadzici and Ilidza issued construction licences for buildings with four residential units as follows: The municipality of Ilijas for two buildings with 8 residential units, the municipality of Novi Grad for one building with 4 residential units, the municipality of Vogosca for one building with 4 housing units, the municipality of Hadzici for two buildings with 8 housing units and Ilidza for two buildings with 9 residential units. The listed buildings have been fully built, with the necessary infrastructure. The apartments were equipped with very good furniture and equipment by HO Caritas from Switzerland who gave them as a donation under a contract signed with users of flats.

102. The equipped apartments were handed over to the Roma families to use. Municipalities, which are the owners of buildings for accommodation of the above-mentioned families, signed contracts on use of flats with the users, precisely defining rights and obligations of owners of flats as well as the rights and obligations of flats users.

103. Thus, most of the apartments were overtaken by the users on 03 June 2009.

104. It should be noted that the Ministry of housing policy of the Canton of Sarajevo envisaged the budget in 2009 for co-financing the displacement and taking care of the Roma population, if the Roma representatives appear with the new requirements.

105. On this occasion, we also indicate the phenomenon that some family users of the flats, in some municipalities after taking possession of the flats began to sell furniture and equipment from the apartment. After that, they destroyed the furniture that they could not sell and disabled flats for living and moved to unknown places according to municipality data. For example, according to data of the Municipality of Ilijas, the mentioned actions of flat users were carried out in two residential buildings with four apartments in the settlement Mrakovo.

106. According to initial findings about the above actions the municipal authorities have repeatedly intervened on the spot and informed the competent police authorities.

107. Although the users of apartments have signed contracts to use them and were familiar with the provisions of articles 12-14 of the Agreement on the use of flat by notification (warning) which was shown on the doors of the apartments and the community bulletin board. Each family was familiar with the contractual obligations of use, taking care and maintenance of apartments and the consequences if users behave contrary to those provisions. All families also know that if you do not want to use the allocated flats, it should be reported to the local municipal office in order to sign the agreement on termination of the contract. No family responded to the invitation and none of them returned to use the apartments.

108. After the above-mentioned events the municipal authorities of the Canton of Sarajevo Attorney's Office requested an opinion on the denunciation of the use of housing for persons who were located in the municipality of Ilijas. After obtaining the opinion of Attorney's Office, the municipal authorities shall act in accordance with the received opinion. If there is a termination of the agreement to use the flats they will be rehabilitated and assigned to other families of the Roma population.