



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION**

**Initial report of States parties due in 1999**

**BOSNIA AND HERZEGOVINA\***

[14 May 2004]

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\* The annexes and attachments referred to in the document may be consulted in the files of the Secretariat.

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## Introduction

1. Bosnia and Herzegovina (BiH) was recognized as a member of the United Nations on 6 April 1992 as an independent State, continuing its legal personality within the existing, internationally recognized borders.
2. The United Nations Convention on the Rights of the Child has been incorporated into the legal system of Bosnia and Herzegovina, in accordance with the Constitution of Bosnia and Herzegovina (Annex I, Additional Agreement on Human Rights to be applied in BiH). This Convention was ratified by Bosnia and Herzegovina in 1993 and confirmed by the General Framework Agreement for Peace in Bosnia and Herzegovina (the Dayton Agreement), i.e. by Annex 4, Article II, Item 7 (“International Agreements - Bosnia and Herzegovina will remain or become a signatory of international agreements listed in the Annex to this Constitution”). Accordingly, Bosnia and Herzegovina has an obligation to submit a large number of reports, including a report on children’s rights and measures that have been undertaken in realization of these rights.
3. This report has been completed in accordance with the general guidelines on the form and contents of the initial report. Data have been collected on the basis of the first report of the Federation of Bosnia and Herzegovina (FBiH) on the implementation of the Convention on the Rights of the Child for the period 1992-1998, and on the basis of the first report of the Republika Srpska (RS) on the implementation of the Convention on the Rights of the Child, 1992-1998.
4. The report consists of two parts. Part I includes general information about Bosnia and Herzegovina (country, population); Part II covers the requirements of some articles of the Convention. The situation in the Entities and in Bosnia and Herzegovina is presented in detail. Attached to this report are reports by the Entities, where the situation related to the implementation of the Convention on the Rights of the Child in the BiH Entities is presented.

## I. GENERAL INFORMATION

5. According to a census carried out in 1991, Bosnia and Herzegovina had a population of 4,377,033 within 1,537 kilometres of marked border. Cultivated land covers 2,531,000 ha or 49.5 per cent of the total territory, with various possibilities for agriculture and food production in complex and varied climate conditions (ranging from severe continental to mild Mediterranean). Approximately 46 per cent of its territory is covered with various types of forest. The country is famous for its hydro and thermal energy capacities based on water and coal resources. In 1991, BiH reached a satisfactory level in terms of number of households and number of housing units. At that time, there were 1,207,693 housing units in BiH in 6,823 settlements. The average housing unit was 60.45 square metres per household, or 16.68 square metres per resident.
6. In 1991, Bosnia and Herzegovina reached the level of medium industrial development with a national income of approximately US\$ 2,000 per resident. A total of 1.7 million BiH residents (39 per cent of the total population) were living in urban areas. Bosnia and Herzegovina is famous for the variety of nationalities and ethnic minorities living within its territory. According to the 1991 census, Bosniaks were the most numerous (43.4 per cent),

followed by Serbs (31.2 per cent) and Croats (17.3 per cent). An additional 20 ethnic groups and minorities have been integrated within BiH for centuries. The dominant monotheistic religions have also been coexisting in Bosnia and Herzegovina for centuries (Islam, Orthodox Christianity, Catholicism and Judaism), side by side with other religious communities and sects. According to the BiH Constitution, all its citizens enjoy equal rights and freedoms in exercising their religious and other beliefs.

7. The distribution of the total population of BiH in 1991 by age group was as follows: 11.1 per cent of age 0-6; 13 per cent of age 7-17; 8.4 per cent of age 15-19; 61.5 per cent of age 20-64; 6 per cent of age 65 and over. The fertility rate was 52 per cent and the mortality rate 7.4 per 1,000 for men and 6.5 per 1,000 for women (1990 figures).

8. In 1991, 27,475 children, or 8 per cent of the child population, were enrolled in 221 kindergartens and pre-school institutions with 3,321 teachers. There were 2,531 elementary schools with 532,468 pupils, or 98 per cent of school-age children, and 23,644 primary and middle-school teachers. There were 241 secondary schools with 165,807 students and 9,120 professors and junior high-school teachers. In addition, 153 schools and institutions for children with special needs or physical and psychological developmental disabilities were functioning. These schools and institutions had a total of 5,442 students.

9. In 1992-1995, one of the greatest war tragedies in Europe after the Second World War took place in Bosnia and Herzegovina, resulting in numerous victims and war crimes committed against the civilian population, including against a large number of children. The basic rules of international humanitarian law were violated. These events produced more than 1.2 million refugees, 420,000 of whom were children, and 1 million internally displaced persons, 250,000 of whom were children. In 2001, there were still 518,000 displaced persons in BiH, of whom 108,000 were children. Approximately 617,000 refugees from Bosnia and Herzegovina, of whom 130,000 are children, are currently accommodated in more than 100 countries in the world.

10. According to data from the BiH Federation Report, more than 200,000 people were killed, of whom 22,000 were children; more than 240,000 people were wounded, more than 52,000 of whom were children, while 17,000 people are registered as missing. More than 17,600 disabled persons are registered, including 4,000 children. More than 38,000 children lost their parents, including 1,600 children who lost both parents. Many children have experienced concentration camps, and/or exposure to various forms of torture and rape, with lasting traumatic consequences.

11. According to data from the report of Republika Srpska, around 18,000 children were killed, 30,000 were wounded, 3,500 disabled, 10,000 were left without parental care, and around 12,000 children were born as refugees.

12. On the basis of data from the study "Strategy of Spatial Planning of Federation BiH - Phase I", economic damage, including lost earnings, was assessed to be US\$ 50-70 billion. Property damage was assessed by the World Bank at US\$ 15-20 billion. During the war, industrial production was only 5 per cent of the pre-war level.

13. Bosnia and Herzegovina maintains its legal continuity as a State under international law, with its internal structure modified in accordance with the Constitution of Bosnia and Herzegovina and the Dayton Agreement. Bosnia and Herzegovina is defined as a complex democratic State. It is a member of the United Nations with internationally recognized borders, and it consists of two Entities: the Federation of Bosnia and Herzegovina and the Republika Srpska. The Federation of BiH constitutes 51 per cent of the territory and the Republika Srpska 49 per cent. The Federation of BiH is administratively divided into 10 cantons. These cantons are divided into a total of 84 municipalities. Republika Srpska is administratively divided into 63 municipalities. Brčko town is a separate administrative unit, organized as a District.

14. Under the new system, Bosnia and Herzegovina has a Parliamentary Assembly, a three-member Presidency and a Council of Ministers. The equality of peoples is guaranteed by the Dayton Agreement and basic elements of unified authority are established. The following areas fall under the authority of institutions of BiH: foreign affairs, foreign trade and economic relations, civil affairs and communications, monetary policy, the State Treasury, European integration, refugees and protection of human rights.

15. The Federation of Bosnia and Herzegovina is constituted on the basis of the Washington Agreement signed in 1994, and in accordance with the BiH Constitution. Bosniaks and Croats represent its constituent peoples together with others, and are the citizens of the Republic of Bosnia and Herzegovina. The Republika Srpska, according to its Constitution, is the State of the Serb people and all its citizens, within the borders defined by the Dayton Agreement. The Constitutional Court of Bosnia and Herzegovina has issued a decision according to which all three peoples are constituent in the whole territory of Bosnia and Herzegovina; under this decision, the Entities are now obliged to harmonize their Constitutions with the BiH Constitution.

16. When the war ended in December 1995, Bosnia and Herzegovina entered a stage of social and economical transition, comprising two Entities: the Federation of Bosnia and Herzegovina and the Republika Srpska, with their respective legislative and judicial systems. Since this moment, the first steps were taken to create the necessary conditions for reintegration of the entire BiH area. This was done with the assistance of the international community, first of all with assistance of the High Representative for Bosnia and Herzegovina. During this process, governmental and non-governmental humanitarian organizations have played significant roles, and they have improved this process through their efforts and have contributed considerably to the realization of this process.

## **II. GENERAL MEASURES OF APPLICATION (arts. 4, 42 and 44)**

### **Measures taken to harmonize legislation in accordance with the Convention**

17. The United Nations Convention on the Rights of the Child is an integral part of the BiH Constitution (Annex 1) and is incorporated into the legislation of Bosnia and Herzegovina. In this way, the right to full and harmonized development is guaranteed for each child. Accordingly, a basic legal framework exists for the application of all of the Convention's provisions.

18. Under the Constitution of Bosnia and Herzegovina and the Constitutions of the Federation of BiH and Republika Srpska, all rights and freedoms are guaranteed for all BiH citizens, especially for children, regardless of race, colour of skin, sex, language, religion, political or other beliefs, ethnic or social background, property, birth, education, social status or any other characteristics. In the Entity Constitutions, the constitutional regulation of the equality of all people is especially emphasized pursuant to article 2 of the Convention on the Rights of the Child.

19. It is evident that Bosnia and Herzegovina is still in a process of social restoration, above all in a process of economic reconstruction and consolidation. BiH is also in a process of building a new legal framework, which is to be harmonized with European standards and international conventions. The problem of inefficient functioning of authority structures is still present as a result of an uneconomic organization of government - there are five levels of government in the Federation of BiH (FBiH) and four in the Republika Srpska (RS).

20. Due to the length of the war in Bosnia and Herzegovina and the social and economic situation in the post-war period, serious challenges still exist for families and competent Entity institutions, especially in health, educational and social welfare institutions, in implementing the provisions on the best interest of the child to the extent possible (in accordance with article 3 of the Convention). This is equally true for the right to life, survival and development (in accordance with article 6 of the Convention) and respect for the child's opinions (in accordance with article 12 of the Convention).

21. Since this is the first report on the rights of the child in Bosnia and Herzegovina, the attention of the Committee on the Rights of the Child needs to be drawn to the difficult position of both Entities regarding the realization of the rights and status of children, especially of the basic rights to life, survival and development.

22. Despite all efforts by authorities, services, individuals and families to fulfil these rights in the most appropriate way, pursuant to the Convention on the Rights of the Child, the children of Bosnia and Herzegovina have for a long time been in a disadvantaged position compared to children in other States parties to the Convention on the Rights of the Child. It can be claimed with certainty that the war and the post-war economic situation have negatively affected the children of Bosnia and Herzegovina over the last 10 years, in particular their prospects for development. There can be no doubt that this report could have been considerably different were the situation in the country normal, or had the country been given the chance, at least after signing the Convention, to develop normally and to create preconditions for its own successful development. Had BiH been given this chance, it could have provided conditions for development and progress in the field of children's rights and development in every other respect.

23. The process of creating a legal framework has not yet been completed. Currently, Entity Constitutions are being harmonized with the BiH Constitution in accordance with the Constituent Peoples' Decision of the Constitutional Court of Bosnia and Herzegovina. It is expected that the assistance of the international community will enable a successful continuation



of the efforts to speed up the implementation and development of measures for consistent respect of the Constitution and the law and, naturally, of the conventions incorporated within the highest legal act of the country. Activities for the harmonization of existing laws and the adoption of new laws are also continuous, with the purpose of a final policy determination concerning families and children and better and more efficient protection of their rights.

24. New institutions in the legal system of BiH that are important for the protection of rights and freedoms, and by extension the protection of children's rights, are the institutions of the BiH Ombudsman, the F BiH and RS Ombudsmen, the Federation Court for Human Rights and the RS Council for Human Rights.

25. So far, no working groups or mechanisms for implementation and monitoring of the Convention's application have been established at the State level. However, it is encouraging that the Ministry for Human Rights has been established in the BiH Council of Ministers. In this way the necessary structures are finally being established for coordination and follow-up at the highest level of all activities that are important for the application and the monitoring of the application of this and other conventions.

26. The implementation of the Convention and the supervision of its application is presently being carried out by relevant Entity ministries and cantonal ministries (ministries for health, labour and social policy, education, culture, justice and administration, etc.). Given the way the State is organized, particular portfolios influence the application of regulations and the development of measures for the protection of children. In the period to come, better coordination and unification of the process of the Convention's application should be established.

27. Unfortunately, at the Entity level, specialized institutions dealing with children's issues that would offer maximum protection for children in civil and criminal proceedings either do not exist or are merely in the process of being established.

28. A child who has not acquired full legal competency is legally liable to the extent that his/her legal competency is recognized. Otherwise, the child will be represented in court by a legal representative. This can be one of the parents, a guardian or an adopter. If in court proceedings the interests of the child and those of the parent who is representing the child by law diverge, the guardianship authority will appoint a special guardian to represent the child's interests.

29. The law also takes care of the interests of the child in cases of extension of parental rights, which happens in cases when the child cannot take care of himself/herself and his/her rights and interests (although he/she is of age).

30. The best interest of the child in the field of education is reflected in the fact that the law guarantees compulsory and free elementary education for all children under equal conditions. The law also guarantees free access to secondary education, which is basically free in public schools, and education at faculties and two-year post-secondary schools based on achievements in previous education and results of qualifying exams.

31. With the assistance of targeted projects and activities of non-governmental organizations (NGOs), different social activities are organized for further promotion of the Convention. Among other things, different brochures and posters have been printed in the languages of BiH peoples whose contents aim to inform adults and children about the principles of the Convention; its provisions and requirements; education of teachers, social welfare workers and the police, etc. A basic criticism of such activities would be their non-coordinated character, which has resulted in limited achievements so far.

32. The most important obstacle to wider and more coordinated action which should be mentioned here is the limited financial resources of the State and the Entities, which at present are directed towards meeting the basic social needs of the entire population. Even this aim is not fully achieved and there is very little room for planning and implementation of assistance activities that target children directly.

### **III. DEFINITION OF THE CHILD (art. 1)**

33. In the legal system of Bosnia and Herzegovina, a person under the age of 14 has the legal status of a child. Up to the age of 18, a person has the status of a minor. A person who has reached the age of 18 becomes an adult and acquires full legal competency. According to the provisions of the Family Law, on that date the right of a legal representative (parents, adopter or guardian) to represent the child ceases.

34. A physical person acquires legal competency at birth, in other words at separation from the mother's womb if born alive. According to legal provisions on inheritance, a conceived child is to be considered a born child at the moment of opening inheritance documents, under the condition that the child is born alive later on. A conceived child may have an appointed guardian who will take care of the child's rights if the interests of the parents are in conflict with the interests of the unborn child. Otherwise, one of the parents takes care of the child's rights.

35. Parents have the primary obligation to support minors and in fulfilling this obligation, they have to use all their capabilities. If the child attends regular school, parents are obliged to provide him or her with means of living according to their capabilities, even after the child has become an adult. The longest period of this support is up to the age of 26 years, if regular education is not finished during that period due to warranted reasons. In instances where the child is of age but is incapable of working due to illness or physical or psychological disadvantages and does not have sufficient means for living, or these means cannot be provided from the child's property, the parents are obliged to support the child as long as this incapacity lasts.

36. Minors may possess property acquired through work, by inheritance, as a gift or on some other legal basis. The property, except for property the minor has acquired through work, will be managed by the parents of the minor in his/her interest until he/she becomes an adult. Parents may use income obtained on the basis of a minor's property primarily for the child's support, upbringing and education.

37. According to the provisions of Family Law, a person may not enter into marriage before the age of 18. However, if reasons justify it, a court may in a special procedure allow a minor older than 16 to enter into marriage if it finds that this person (regardless of sex) is physically and psychologically capable of carrying out the rights and duties resulting from marriage. In this case, the opinion of the parents of the minor, of the guardianship authority and of health organizations will be heard during the court procedure. The concerned minor, rather than his/her legal representative, will submit the request to enter into marriage to the court.

38. There are several other cases when a minor may act in his/her name without agreement of his/her legal representative. These include name changes, accepting to be adopted, recognizing paternity and drafting a will. According to current legal regulations, all children are obliged to attend elementary school for eight years.

39. The right to vote is (under the applicable legislation) obtained at the age of 18. BiH criminal legislation does not foresee the death sentence for any citizen and, accordingly, not for children either. Criminal legislation foresees the institution of juvenile judges.

40. Punitive measures cannot be imposed on a minor who has not reached the age of 14 (i.e. a child). Minors who were between 14 and 16 years of age at the time when the criminal act was committed may receive only corrective measures. The purpose of educational measures and juvenile prison sentences is to ensure, through protection and assistance provided to juvenile perpetrators of offences, their upbringing, re-education and proper development, by making them professionally capable and by developing their basic sense of responsibility.

41. Juvenile offenders will, as a rule, serve a prison sentence separated from adults. In instances of long-term detention of a juvenile, the court may decide to place the juvenile together with adults who do not exercise a negative influence on him/her. If a juvenile offender attends school, he/she will be provided with the opportunity to attend school regularly during the time of serving the sentence, to read educational literature, to do homework, etc.

42. BiH criminal legislation prohibits serving alcohol to children or minors under the age of 16 or providing them with access to gambling houses.

43. In the legal system of the FBiH, a child is a person under the age of 14 and punitive measures cannot be applied to him/her. Minor status lasts until the age of 18 is reached. After that, the status of adult is obtained, as well as full legal competency.

44. The legal status of children and minors in the Republika Srpska is clearly defined in criminal, substantive and procedural law. There are two categories: children or minors in the narrow sense, defined as persons under the age of 14, and persons from the age of 14 to the age of 18 years. There are two age groups defined within the category of minor: younger minors - between the age of 14 and 16, and older minors from 16 to 18 years.

45. All children are entitled to social and health insurance until the age of 15; if they attend regular school this insurance is provided until their education is completed. There are difficulties with the realization of this right because this insurance is provided under the condition that the

child's parents are regular financial insurance contributors. Regrettably, a large number of parents are without employment, and their contributions, as a rule, are not paid to the funds, which means that they do not obtain free protection for their children.

46. Minors are allowed to work only when they reach the age of 15, but they are not allowed to work in dangerous occupations, or in occupations with difficult conditions. Minors cannot be drafted or mobilized as conscripts before the age of 18.

47. Bosnia and Herzegovina is a signatory to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

#### **IV. GENERAL PRINCIPLES**

##### **A. Non-discrimination (art. 2)**

48. According to the Constitutions of the Federation of Bosnia and Herzegovina and the Republika Srpska, one of the fundamental principles is the prohibition of any discrimination on the basis of race, colour of skin, sex, language, religion, political or other beliefs, ethnic or social background.

49. In both Entities, constitutional principles are protected by appropriate criminal laws. First of all, these laws include the right to life, survival and development, respect for the personality and opinion of the child and his/her best interest.

50. Children born out of wedlock have the same rights as children born within a marriage. However, if a child is born out of wedlock it is necessary to initiate a procedure for paternity to be confirmed. As for a child older than 16, his/her agreement is needed for recognition of paternity.

51. There are cases of violations of children's rights that may be considered discrimination of certain groups of children on ground of ethnicity or religion; this is naturally a result of the recent war. The most frequent cases are related to preventing children from access to school facilities that were previously used for the education of children and the imposition of religious instruction classes on children born in mixed marriages, etc.

##### **B. The best interests of the child (art. 6)**

52. This principle existed previously in the legislation of Bosnia and Herzegovina and has continuously been respected in the various aspects of life, especially in court decisions and in administrative proceedings. During adoption procedures the interest of the child is a priority consideration. The majority of laws in FBiH and RS are guided by the best interests of the child. The only limiting factor for the application of regulations is the limited financial resources of society, and the resulting limited control over the application of regulations and laws in proceedings before the authorities.

53. Within the context of childcare, family planning, comprehensive upbringing and development of children, the Entities are in agreement in their intention to create special conditions for providing advice to parents regarding all important issues related to parental rights and duties. The intention of local and Entity authorities to improve the situation in this regard is encouraging.

### **C. Right to life, survival and development (art. 6, para. 1)**

54. One of the basic principles guaranteed by the Constitutions is the principle of the right to life. During the war in Bosnia and Herzegovina, contrary to all provisions and laws, this was the very principle that was most violated, and not even children were spared.

55. According to applicable laws in the Entities, physical harassment and punishment of children is forbidden. Such acts are punishable under the existing laws, but the system of detection and prevention of such acts is not sufficiently developed.

56. Children who are mentally and physically neglected are entitled to special protection and care. Children are neither to be offered a job contrary to the law nor to be forced to perform work that could be harmful to their development.

57. There are basic elements of protecting the proclaimed rights, but the social status of the family in Bosnia and Herzegovina (with a large number of poor and impoverished families) is the most serious problem at this moment. The number of children neglected with regard to education has evidently increased, as has the number of children inclined to delinquency. The police bodies have initiated activities to achieve better social care, especially in educational institutions, through the introduction of measures to prevent juvenile delinquency.

58. Some Entity authorities have registered different acts that point to violations of children's rights. However, data at State level on the number of minor and child victims of criminal offences are presently incomplete. In the period to come, it will be necessary to launch unified monitoring of such data, which should be done within the Bosnia and Herzegovina Agency for Statistics.

### **D. Respect for the views of the child (art. 12)**

59. The Constitution of BiH and the Entity Constitutions guarantee freedom of opinion and expression for every child, as well as for all citizens. This principle is particularly applied in the case of parental divorce: the opinion of the child is respected concerning which parent the child wants to live with if he/she is capable of expressing this wish. As previously mentioned, the wish of a minor is also respected concerning recognition of paternity when the minor reaches the age of 16.

60. A person above the age of 16 is allowed to write a will if he/she is capable of exercising due judgement. The opinion of a child above 10 is important in cases of adoption. In the educational process, progress is evident in increased possibilities for children to express their opinion about education, allowing them to exercise more influence over it.

## V. CIVIL RIGHTS AND FREEDOMS

61. The freedoms and rights of citizens defined by the Constitution of Bosnia and Herzegovina and the Constitutions of its Entities are based on standards recognized by the United Nations. They are of a universal nature, and clear references are made to children's rights in the chapters. This means that the largest number of legal provisions defining particular rights of the child are based on provisions enshrined in the Convention on the Rights of the Child. This primarily refers to the right to life; the right to identity, nationality, name and family relations; the right to freedom of expression; the right to express opinions on all issues related to the child; the right to freedom of association; the right to education; the right to cultural identity, the right to religion; the right to use one's own language; the right to special protection in cases of temporary or permanent separation from the family; the right to legal and other forms of assistance; and the right to dignity and privacy.

62. Many rights and freedoms of the children of Bosnia and Herzegovina are regulated by legal provisions based on the Convention on the Rights of the Child, and in some cases they even go beyond the Convention. Both Entities, depending on their conditions, have regulated the rights of children, starting from the right to health care, the right to education, the right to parental care, the right to participate in cultural life and art, the right to be protected from economic exploitation, the right to be free from any work which could be harmful to the child's physical, psychological, moral or social development. This includes issues related to the rights of a child separated from one or both parents, as well as to the rights of disabled and handicapped children and the care they are entitled to. The identity and the name of a child are protected, as is the right not to be abused or subjected to cruel or inhuman treatment.

63. Bosnia and Herzegovina is a signatory to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

64. The level of public information is not satisfactory in Bosnia and Herzegovina, in particular targeted actions to bring information closer and present it to children. No efficient mechanisms have yet been introduced to defend children from the harmful influence of the media (violence, pornography), and organized activities to protect children in this regard have just begun. Some initiatives have been launched by the media, but the necessary common measures have not been developed or proposed with regard to this issue at the Entity or State level.

### A. Name and citizenship (art. 7)

65. Each person has the right to a name; correspondingly, each person is obliged to use his/her name. A personal name is acquired by registration in the birth register, and it consists of a personal name and a family name. A child's personal name is given by his/her parents within the deadline prescribed by the law (60 days). In case the parents do not agree on a child's name, the name will be given by a relevant guardianship authority.

66. A child receives the family name of one or both of his/her parents. Should a change in the status of the child occur (recognition of paternity, establishment or denial of paternity or

maternity), a new name may be given within two years of the change of the status. However, should a new name be given to a child older than 10, it is necessary to get his/her consent. The same applies in the case of adoption, should there be a change of family name.

67. The birth register records the child's first name and family name, gender, exact place of birth, citizenship, and details about his/her parents.

68. The obligation to register the birth of a child depends on the place of birth. If a child is born in a medical institution, this institution is obliged to register the birth within 15 days. If a child is born outside a medical institution, the birth is registered by the child's father, or by the mother if she is able to do it, or by a person authorized by the parents. If a child is stillborn, the obligation to register the birth is still valid. This clause protects the child's identity.

### **B. Preservation of identity (art. 8)**

69. This principle is protected in the criminal legislation of BiH by sanctions, should any change of the family status of a child occur.

70. With the aim of preserving the child's identity, the Family Law stipulates that the procedure of adoption is closed to the public and the data contained in the protocol on adoption are confidential and accessible only to the adopter and the adoptee, if he/she has reached the age of 16.

71. There are flaws in the medical legal regulations, which exclude the establishment of paternity for a child conceived artificially. These children are, at the very beginning of their lives, unable to have their full identity established, but this issue enters the sphere of ethics and morality.

### **C. Freedom of expression (art. 13)**

72. Freedom of expression and thought is guaranteed by the Constitution of BiH. Freedom of expression and thought can be restricted only in the case of protecting the freedom and the rights of others, and in the case of protecting the legal order and public morality and health. The criminal law thus foresees sanctions for the revelation of State and military secrets, and for the purpose of protecting the vital interests of the State (political, economic and military).

### **D. Freedom of thought, conscience and religion (art. 14)**

73. Under the Constitution of Bosnia and Herzegovina, all citizens have equal rights and freedoms regardless of their religion. The Constitution guarantees freedom of thought, expression and thinking, i.e. freedom of conscience and religion, and freedom of private and public practice of religious or other beliefs. Not all children in BiH have the freedom to practise their religion, nor do all have a possibility to speak or study in their mother tongue.

74. In Bosnia and Herzegovina, the major monotheistic religions - Islam, Catholicism, Orthodoxy, Judaism - as well as other smaller religious communities and sects have been present for centuries. These religions have developed a spirit of religious tolerance and coexistence,

which is best proved in the case of Sarajevo, where the places of worship of all these religions are located within 500 metres of one another. They have existed and functioned for centuries: the Islamic Bey's mosque, the Catholic cathedral, the Orthodox church and the Jewish synagogue. There were similar examples in many cities in BiH before 1992.

75. During crisis periods through history, especially during wartime, religion has been abused for political purposes and has been one of the factors of nationalist euphoria, intolerance, human tragedies, and a cause of suffering of children only because they were of a different religious affiliation. This was also the case in the last war.

76. The Constitution of the Federation of BiH grants the right to the cantons to pass and implement laws. This means that they are authorized to pass curricula and programmes. However, even though the majority of cantons have passed their own laws on elementary and secondary schools, almost all still apply the curriculum and programme for elementary schools which was adopted by a decision of the Ministry of Education, Science, Culture and Sports in the Federation on 15 July 1994. In the section "Structure of Educational Activity", this curriculum envisages an optional subject called religious instruction. The curriculum for religious instruction has been adopted by the religious communities, was approved by the Federation Minister of Education, Science, Culture and Sports, and is implemented by schools in the same way as for any other subject. Students can voluntarily select this subject, and once they have selected it, they are obliged to attend it. Students get marks for this subject and those marks, except the fail mark, are entered into the students' registers and certificates. The marks obtained for religious instruction do not have any influence on the overall success of students at school. The same rules apply within the curriculum for secondary schools.

77. In Una-Sana and Sarajevo cantons, under the Elementary School Law, religious instruction is a compulsory subject for all students.

78. In accordance with the Constitution and the law, parents have a special role and importance in the upbringing of their children, and they are free to choose their child's religious affiliation and upbringing (religious or atheistic), i.e. they take the decision whether or not their child will attend religious instruction.

79. Because of the enormous devastation of religious sites during the war, many believers, including children, are not able to fully practise their religion.

#### **E. Freedom of association and peaceful assembly (art. 15)**

80. In the Constitution of Bosnia and Herzegovina (art. II. 3.i), all citizens are guaranteed the right to freedom of association and peaceful assembly, which also applies to children. The establishment and work of civil associations is closely elaborated in the Law on Civil Associations and in the Law on Humanitarian Activities and Humanitarian Organizations, which regulates the work of children's organizations and associations.

81. Children's organizations and associations, and organizations providing help to children by addressing their various needs and interests, can be divided into local (the most numerous group, organized at the level of school, local community, municipality), regional (within the cantons) and federal. Grouped by their programmes, the cultural-educational,



sports-recreational, humanitarian, and entertainment associations are the most numerous. There are various clubs in schools for fine arts, literature, drama, folklore, music; sports societies for football, basketball, volleyball, karate, athletics, mountaineering, rifle shooting; clubs for technology, computers, foreign languages; child forums, learning about democracy and the rights of the child, and others.

82. Annual competitions of children in various fields of creative work are organized at the level of municipalities, cantons and the Federation, in which children's organizations and associations participate actively. The most popular are those in mathematics, physics, computers, technology, various sports, fine arts exhibitions, excursions, summer camps, visits to other children in the country and abroad, studying the basics of democracy and the rights of the child, etc.

83. Basic problems in the work of children's organizations are education of people who work with children in the use of modern methods, equipment and financing. For the time being, donors and sponsors are not encouraged to support the activities of these organizations and associations, due to the lack of an adequate taxation policy, which should be changed.

#### **F. Protection of privacy (art. 16)**

84. The principle of privacy, one of the fundamental democratic principles, is regulated by the criminal law, which prescribes sanctions for any violation of the non-violability of the privacy of the household and for unlawful search. Concerning protection of privacy with the aim of maintaining the integrity of a child's personality, family legislation stipulates that adoption procedures, as well as procedures for the establishment or denial of paternity or maternity, are closed to the public.

#### **G. Access to appropriate information (art. 17)**

85. According to the Constitution of BiH and the Dayton Agreement, legal regulation in the domain of information falls under the authority of the cantons. According to information available so far, certain cantons (Sarajevo, Tuzla-Podrinje, Una-Sana) have already adopted laws on media/laws on public information. Other cantons are in the process of drafting such laws, whereas the Federation of BiH still uses as its framework the Law on Mass Media adopted in 1990. The passing of a new Law on Public Information (Law on Media) at the Federation level presumes the transition of authority from a canton to the Federation, which is probable and a desirable model.

86. The public media register lists only two radio stations exclusively intended for children and youth, and 35 youth newspapers and magazines. Radio stations in BiH have shows or blocks of broadcasts of an educational and entertaining character intended for children and youth within their programmes, which greatly contribute to the upbringing and education of children.

## **VI. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

87. The provisions of the Entity Constitutions, as well as the relevant legal acts in this field, proceed exclusively from the interests of the child. They regulate the position of children in society and the obligations of the State, Entities and family with regard to children. Through legal acts, the Entities create material, educational, social, cultural and other preconditions for children to lead a dignified life and for parents to provide the attention and care required to allow their children a full and harmonious life.

88. The applicable legal provisions in this field oblige the competent institutions and the family to provide protection for all children, both healthy and disabled (mentally or physically handicapped), including those that are socially neglected and those without parents or without parental care and guardianship.

89. The regulations stress the obligations, rights and responsibilities of parents. Parents have to take care of the rights of their children, their life and health, their upbringing and education and all other interests. The realization of these rights and obligations, particularly regarding minor children, is made possible through proper upbringing and education. In this way, the child becomes capable of satisfying his/her needs him/herself in most cases, and by consequence supervision and care by parents of their child will be minimized.

90. According to the family laws in both Entities, parents exercise their parental rights by consent, regardless of whether the children are born in wedlock, out of wedlock, or are adopted.

91. The Family Law provides for a measure to remove a child from parents who are negligent in raising their child, especially in cases when the upbringing of the child has become dysfunctional. According to the Law, in situations in which parents do not exercise their parental right, this right will be exercised by the guardianship authority.

92. In principle, a child's protection and upbringing is in the first place entrusted to the parents, because protection, upbringing and support of the child is not only a duty, but also a privilege of parents. This is why the children are not to be entrusted to a third person or to an institution if this is not warranted.

93. The family is irreplaceable in the childcare system. Parents are obliged to raise and support their minor children, to send them to school and set them on the right track, so that the child receives a successful and independent start in life. It is regulated by law that, apart from biological parents, stepfathers and stepmothers are also obliged to support minor children if these children do not have parents or if the parents are unable to do it.

94. Society, for its part, helps and encourages the family to raise and educate the child. This is done first of all through guaranteeing certain rights such as the parental right to child allowance for support of children; the organization of kindergartens and pre-schools; provision of foreign language education; organization of cultural events, etc. Special care is provided for children without parents, for children of single parents and for children with developmental disabilities. For children with developmental disabilities society provides special conditions and experts who will take care of their psychological and physical development.

95. Even though conditions were very difficult both during and after the war, the relevant data suggest that around 98 per cent of children born in BiH are registered in birth registries up to the age of 5 (Study: Examination of progress in the achievement of goals of the World Summit for Children through multiple indicators for FBiH and RS). Data also indicate that no significant differences exist with regard to sex, age, area (urban or rural), or parents' education.

96. For living conditions of children without parental care, data indicate that in total 93 per cent of BiH children live with both of their parents from birth up to the age of 14, while children who do not live with their biological parents constitute less than 1 per cent. Almost 5 per cent of children below the age of 14 do not have both parents.

97. Less than 1 per cent of children between 5 and 14 are engaged in paid work; 6 per cent of them are engaged in some form of unpaid work for a person outside the family household. Some 55 per cent of all children are engaged in housework, for example, working in the kitchen, fetching water, taking care of younger brothers and sisters. Almost no children do difficult work for more than four hours a day.

98. The first reports from FBiH and RS, which are signatories to the Agreement on Human Rights, state that the highest levels of internationally recognized human rights and basic freedoms are ensured throughout their jurisdiction. This refers first of all to the preservation of identity, name and citizenship, freedom of expression, freedom of opinion, conscience and religion, freedom of association and peaceful assembly, protection of privacy, protection from torture, abuse and other cruelties, and protection from inhuman and humiliating treatment or punishment.

#### **A. Parental guidance (art. 5)**

99. According to the clauses of the Family Law, parental rights are exercised by parents, primarily in the interest of children. These rights and responsibilities are personal and absolute. Parental rights consist of the following: protecting their children and taking care of their life and health; supporting their children in the manner prescribed by the law; taking care of their education; representing their children; maintaining personal contacts with the children who are not living with the given parent; and determining the personal names of their children. These rights and responsibilities are exercised by parents with a view to building the capacity of the child to satisfy his/her physiological, hygienic, health and social needs, in a manner so that parental supervision and care are gradually reduced.

100. In the interest of family planning and in order to enable children to receive a comprehensive education, the State creates conditions for providing counsel to parents about all important issues pertaining to their parental rights and responsibilities. The Law on Social Welfare stipulates that a Centre for Social Work may organize the operation of a counselling office for issues of marriage, family and upbringing of minors.

#### **B. Parental responsibility (art. 18, paras. 1-2)**

101. Raising a child and satisfying his/her fundamental needs is above all the responsibility of the parents. According to the Family Law, parental rights are exercised by parents by consent and together, regardless of whether the children were born in wedlock, out of wedlock, or were

adopted. Parental rights are exercised in the interest of children from the moment of conception of a child to adulthood, and the law stipulates that parental rights can be extended into the child's adulthood if the child, due to physical or mental impairments, is not capable of taking care of himself/herself or his/her rights and interests.

102. Parental rights belong to one parent only and are performed by this parent in cases when the other parent dies or is pronounced dead, or if he/she is unable to perform his/her parental rights, if he/she disappeared or his/her residence is unknown, or if, by a court decision in extrajudiciary proceedings his/her parental right has been revoked.

103. Parents cannot waive their parental rights, but the rights may be revoked under certain conditions regulated in the law.

104. Regardless of whether the parents are married or not, if they live separately, they will agree on where the child is to remain for care and upbringing. If they cannot agree, or if their agreement does not follow the best interest of the child, a decision on this matter will be taken by the relevant guardian authority. When taking a decision, the guardianship authority will examine all circumstances of both parents, and will find the most favourable solution regardless of any agreement between the parents. The guardian authority, before taking a decision, is also obliged to take into account the wishes of the child if the child is capable of expressing them.

105. By entrusting a child to care and upbringing with one parent, the parental right of the other parent does not terminate. He/she will reserve his/her parental right and he/she has the right and responsibility to support the child and maintain personal contacts with him/her. He/she also has a possibility, personally or through the guardianship authority, to influence the actions and measures taken by the parent with whom the child resides.

106. Children must be primarily entrusted for care and upbringing to the parents, since taking care of the protection, upbringing and raising of a child is not only a responsibility but also a right of the parents. Therefore, these rights cannot be entrusted to a third person or an institution without warranted reasons.

107. BiH has established a system of rendering assistance to parents in the exercise of their responsibilities in raising a child.

108. The Law on Employment Relations stipulates that during pregnancy and delivery, a female employee has the right to maternity leave of up to one continuous year. The draft Law on Labour stipulates that for twins, the third and every next child, a woman has the right to maternity leave for up to 18 continuous months. If a female employee does not use the 28 days of leave before delivery (which she is obliged to take), for reasons beyond her control, she can use these days after delivery.

109. The father of the child can use the remainder of the maternity leave in case of the death of the mother-employee, in case the mother deserts the child, or in case the mother is not able to take care of their child. This right may also be exercised by an adopter, or a person who takes care of the child, in case of the death of both parents, in case the parents desert the child, or in case they are not able to take care of their child.

110. After maternity leave further protection of the child is foreseen for the next three years.
111. One of the parents of a child of up to 1 year of age has the right to work half time upon request. After the child's first birthday, a female employee has the right to work half time until the child is 3 years of age if, according to the opinion of a relevant medical authority, the child's health condition requires special medical care, or in other cases stipulated by law. There is also a possibility to prescribe in a general regulation or collective contract that women may take a leave of absence up to the child's third year of age.
112. According to the draft Labour Law, upon the expiry of maternity leave the mother has the right to work half time; for twins, for her third and for every next child she has the right to work half time up to the child's second birthday. If a woman during this period works full time, the father is entitled to use this right.
113. Should the child need enhanced medical care, one of the parents has the right to work half time up to the child's third year of age. This right is extended to the adopter of the child as well.
114. Thus, the draft Labour Law gives greater rights to parents who have more children than do the present legislative acts.
115. The applicable Employment Law also stipulates that one of the parents of a seriously disabled child has the right to work half time if he/she is a single parent, or if both parents are employed, provided that the child is not given to an institution for social-medical care, and that the recommendation of the relevant commission for disabled persons is obtained.
116. The Law on Basic Employment Rights stipulates that a woman with a child under 2 years of age should not work overtime or at night.
117. A single parent who has a child younger than 7 years of age, or a seriously disabled child, may work overtime or at night only based on his/her written consent.
118. The Law on Social Welfare stipulates rendering assistance (financial support, training for life and work, commitment to social welfare institutions, home care, day-care assistance) to children in need of social protection. This group includes:
- Children deprived of parental care;
  - Children impaired in their physical and psychological development;
  - Children neglected in their upbringing;
  - Children whose development is impaired by family circumstances.

The law calls for assistance to parents who do not have sufficient financial resources for raising their children. However, according to data, it is evident that little has been done regarding this issue due to lack of legislation and financial resources.

119. With the aim of protecting children and assisting the family, the Law on Child Care introduces the right to a one-off financial payment for a newborn's layette. However, due to the lack of financial resources for the realization of this right, as well other rights stipulated by this law, this right is impossible to exercise.

120. Pre-school education is of great educational and social importance, especially in cases where the mother is employed. Due to the underdevelopment of this level of education and a small number of institutions, the priority in enrolment is given to children if both their parents are employed, to children of single parents, and to children of low financial status.

### **C. Separation from parents (art. 9)**

121. The Family Law stipulates that children have the right to live together with their parents. Exceptions to this are foreseen in the best interest of the child. If the interests of the child so require, parents can entrust their child for protection and upbringing to third persons or to an appropriate institution. The third persons can be relatives of the child who can provide upbringing or protection, with or without remuneration, or persons who are related to the child. The interest of the child because of which the child is entrusted to a third person can be better living conditions for a sick child, or proximity to school or a medical institution. Parents can also entrust their child to an institution for social or medical care in order to provide the child with medical or any other care, upbringing or training for work. This is necessary if the child's development is impaired by family circumstances (parents who, due to dysfunctional family relations or for other reasons, are not in a position to provide the child with normal conditions for his/her proper upbringing and physical and psychological development). Entrusting a child for protection, upbringing and education to a third person or a relevant institution is legally effective only if the guardianship authority has granted its approval.

122. In cases where the parental right has been revoked in the interest of the child, the parents are excluded from the possibility of living together with their child. If there is no court ruling on entrusting a child and the parents have neglected their child's upbringing, or if his/her upbringing has become dysfunctional, the guardian authority may remove the child and entrust it for care and upbringing to a third person, or to an appropriate institution. In this case too, in the interest of the child, she/he will be separated from the parents.

123. If the parents live apart and the child is entrusted to one of them, or if one sibling is entrusted to the father and the other to the mother, to a third person or to an institution, or if the parental right of a parent has been revoked, the parent with whom the child does not live has the right and responsibility to maintain personal contacts with his/her child. Parents should agree on the modality of maintaining personal contacts with the child (visits and similar). Should the parents not be able to come to such an agreement, or should it not be in the interest of the child, the guardianship authority will take a decision. Guided by the interests of the child, the guardianship authority may regulate the modality of parents' personal contacts with their children if changed circumstances so require.

124. The right and responsibility of the parent with whom a child does not live to maintain personal contacts with the child are not unlimited. Since the State ensures special care for the purpose of achieving these objectives, maintaining personal contacts between parents and their children may be limited or prohibited with a view to protecting the child's personality or his/her interests.

125. In proceedings against juveniles, the guardianship authority has the rights and responsibilities stipulated by the Law on Criminal Proceedings. In proceedings against juveniles, the guardianship authority has the right and responsibility to be familiarized with the course of the proceedings, and to make proposals and point to facts and evidence during the proceedings that are of importance for reaching an appropriate decision. The Public Prosecutor is obliged to inform the guardianship authority about the institution of any court proceedings against a juvenile.

126. The court may order certain corrective recommendations, corrective measures, or even certain security measures against a juvenile perpetrator of an offence. The court may exceptionally sentence an older juvenile to prison. A juvenile perpetrator of an offence may otherwise be sentenced to corrective measures. Corrective measures can be: personal apology to the injured party; damage compensation for the injured party; regular school attendance; voluntary work for a humanitarian or local community; accepting an appropriate job; placement in another family, home, or in an institution; treatment in an appropriate medical institution; visits to corrective, educational, psychological and other counselling centres; education in the field of traffic regulations; court reprimand: commitment to a disciplinary centre for juveniles; measures of enhanced supervision (by parents, adopter or guardian, or other family, or by a relevant body for social care) or institutional measures (commitment to a corrective institution, correctional facility or other institution for training).

127. In the procedure preceding the ruling on corrective measures, the guardianship authority has significant rights and responsibilities. These rights and responsibilities do not cease upon the ruling on corrective measures against a juvenile perpetrator of an offence. The guardianship authority sees to the enforcement of the corrective measure or any other measure ruled by the court or another relevant authority.

128. The war in Bosnia and Herzegovina caused a problem that previously did not exist, which is the great number of divorces of spouses belonging to different ethnicities. This has the most adverse effects on the children from these marriages. Cases of forced separation from one parent are frequent, as well as violations of court decisions on entrusting a child, which can be defined as a criminal act of child abduction.

#### **D. Family reunion (art. 10)**

129. The Family Law stipulates that the parent with whom a child does not live in a family union has the right and responsibility to maintain personal contacts with the child, which means maintaining personal contacts (visits and similar) even in cases when the parent and the child do not live in the same country.

130. Due to war in BiH, a large number of children from BiH have been exiled to other countries as refugees unaccompanied by parents. In addition, a large number of parentless children have been displaced within BiH.

#### **E. Illicit transfer and non-return (art. 11)**

131. During the war in Bosnia and Herzegovina a mass exodus and exile took place. A result of this was a large number of displaced persons and refugees, especially children. Despite the efforts invested, the authorities in Bosnia and Herzegovina, especially BiH diplomatic-consular offices, have difficulties in obtaining information on the number of children, especially those without parental care and parental supervision, who are refugees in other countries.

132. The greatest problem pertains to the adoption of children of BiH citizens by foreign citizens carried out in other countries contrary to BiH regulations. The relevant authorities in Bosnia and Herzegovina usually learn about these cases when the procedure is coming to an end or when it has been completed, and even this information is only received occasionally. The assumption is that there is a large number of completed adoption procedures of which the relevant authorities in BiH have not been notified.

#### **F. Provision of child maintenance (art. 27, para. 4)**

133. The Family Law stipulates that parents have the right and responsibility to support their children (born in wedlock, out of wedlock or adopted).

134. The issue of raising children as a rule does not come up when the child lives in a family union with his/her parents and when his/her needs are directly met. If the parents live separately, regardless of whether a divorce has been completed, and the child lives with one of them, or with another person, or in an institution, problems often arise concerning the child's maintenance. Supporting a child is a responsibility and a right of the parents that they cannot deny. Parents are in the first place obliged to support their children and in performing this duty they must use all their capacities. A child, or a legal representative or guardian, cannot, on his/her behalf and in his/her name, waive the right to support.

135. For the sake of special childcare, the guardianship authority will try to obtain an agreement on support of the child by the parents, or to enhance their contribution for raising a child when this is requested by the child's increased needs or is made possible by an improved financial situation of the parents.

136. If the parent with whom a child lives and who provides his/her care and upbringing fails, without warranted reasons, to institute court proceedings for support of the child, this can be done on his/her behalf by the guardianship authority. Likewise, if a parent does not ask for the enforcement of the decision on support, the guardianship authority is authorized to file an enforcement writ with the court on behalf of the child.

137. A parent whose parental right has been revoked or a parent from whom the child was removed under a decision of the guardianship authority and entrusted to the other parent, another person or relevant institution, is not exempted from the obligation to support his/her children.



138. Parents are responsible not only for supporting their children but also children who are of age if their parental right has been extended under a court decision in a lawsuit.

139. If the child attends regular school, the responsibility of child support continues after his/her attaining the age of majority, and up to the age of 26 years. Exceptionally, the law stipulates that the parents' obligation to provide child support can last even after the child is 26 years of age, if by then the child has not completed his/her regular education for "warranted reasons".

140. A parent who does not live with the child fulfils the obligation of support through monetary payments and other consumable contributions (food, clothing, footwear, books and similar) to the other parent, or to the person or institution taking care of the child.

141. The Criminal Law of BiH defines as a special criminal offence a person's avoidance of the obligation to provide support for the person he/she is obliged to support. Children born out of wedlock have the same rights as children born in wedlock if paternity is known or has been established. This applies to the right to support as well.

#### **G. Children deprived of their family environment (art. 20)**

142. A harmonious family environment is necessary for proper growth and development of a child. The family is a fundamental cell of society, which enables a child to obtain proper and full personal development. The war in Bosnia and Herzegovina has led to a high level of disruption of family life. A large number of children were deprived of parental care. This is why adequate care and assistance should be given to children and youth. In a situation when a child is deprived of parental care, the Law on Social Welfare offers the possibility of placing the child in an institution for social care, or being cared for in foster care families or through adoption.

143. Childcare is developing in the direction of provision of institutional care and accommodation within foster care families, placement under guardianship, adoption, inclusion in education or social institutions, assistance in kind or other forms of organized assistance.

144. The current Law on Social Care stipulates the right to placement in a social care institution or foster family for a child deprived of parental care, for a child whose development is impaired by parental circumstances, and for children neglected in terms of education and care. Children can be placed in an institution of social care or foster family up to the age of 26 if they are attending regular school.

145. According to the Law on the Basis of Social Protection, Protection of Civilian War Victims and Protection of Families with Children, as well as according to the Law on Institutions, social welfare institutions are organized and perform their activities complying with regulations on institutions. In performing their activities, these institutions must not impose any limitations regarding territorial, ethnic, religious, political or any other background of their beneficiaries (race, skin colour, gender, language and social background).

146. According to the current Law on Social Care, a home for children and youth deprived of parental care provides accommodation, upbringing, education and training of children and youth deprived of parents, and of children and youth whose development is impaired by family circumstances, until the conditions are met for their return to their own families, adoption, inclusion into life outside social care institutions or for application of other appropriate form of care. A home may also organize accommodation for single unemployed pregnant women and mothers with children up to 1 year of age.

147. A home can organize a reception centre for a short stay and supervision of children until the conditions are met for their placement with their parents, adopters, guardians, or their placement in an institution. A home is obliged to ensure that children receive regular education in an adequate educational institution; individual tutorial assistance; support and development of interests; tutorial in forming working, cultural and hygienic habits; creative use of working hours and accommodation of pre-school children in kindergartens. All this should be done in cooperation with kindergartens and schools with a view to socializing children of this age.

148. Placement in social care institutions can be provided for children who need constant care and assistance and whose social care rights and other needs should be met, but who cannot receive these in their own family or in any other way.

149. The decision on placement in an institution is taken by a centre for social work, based on the opinion of an expert team, an executive court decision, a guardianship authority, or based on the decision of an expert commission regarding work capacity, or the findings and opinions of a relevant medical institution.

150. Various needs can be identified in light of the changes in the population of beneficiaries of children's homes: previously the children were from socially vulnerable and destroyed families - now the institutions accommodate children who lost both parents in the war, which requires the creation of other conditions, organization and methods of activity. A problem that requires attention is a large number of beneficiaries accommodated in these institutions who are past the age that warrants further stay in such an institution, but who have nowhere to go and who do not have any job opportunities, and thus are not able to earn a living and leave these homes.

151. Another category of children that emerged as a consequence of the war is the category of children who lost one parent who, under the current Law on Social Care do not belong to the category of social welfare beneficiaries. These are mostly children who lost their father - 19,805 of them (before the war 1,535; during the war 15,775); and children who lost their mother - 3,751 (before the war 697; during the war 1,650). In the majority of cases, these are children of fallen soldiers in Bosnia and Herzegovina. Their total number is 23,556 (according to incomplete statistics). Unofficially, the number of these children is 32,000. The final collection and processing of these data is under way.

152. Incomplete (single-parent) families face problems in exercising their educational and social functions. In a situation where thousands of families have remained without a provider, problems have accumulated, especially for women as single mothers. It has become a serious

issue: in what measure can a woman as a single parent respond to the new social requirements of her family, since she is very often a displaced person or a refugee, without adequate housing, and without employment or any kind of financial aid?

153. Childcare is provided in various forms: according to incomplete statistics, 29,960 children receive child allowance; 4,544 children receive special pension; 3,727 children receive family pension. Occasional financial aid is provided for 866 children and permanent financial aid for 890 children. Care provided by humanitarian organizations includes family packages for 5,236 children and occasional financial aid for 4,500 children.

154. According to the Draft Law on Basics of Social Welfare, Care of War Victims and Care of Families with Children, the right to placement in a foster family can be exercised by children who need constant care and assistance for the purposes of meeting their basic needs, but who cannot enjoy them within their own family or in any other way, up to the time of their return to their own family, or up to 12 months after the completion of their regular education.

155. The centre for social work which has decided to place a child in a foster family exercises supervision over and renders assistance to that family, and maintains contacts with the child in question through regular visits.

156. A foster parent must be mentally and physically healthy and must have social and other prerequisites necessary for providing protection, supervision, care, nourishment and education and for satisfying other needs and interests of the child.

157. For the placement of a child in a foster family it is necessary to have the parents', or the adopter's or guardian's consent. If the child is older than 15, it is also necessary to have his/her consent. Parents' consent is not necessary if the parents are banned from exercising parental duties.

158. The family in which a child is placed cannot undertake, without the parents', adopter's or the guardian's consent, any important measures regarding the child's integrity; in particular, the family cannot hand the child over to any other person for custody or care, interrupt his/her education, change the type of school he/she attends, decide about his/her vocation, or conclude an employment contract on his/her behalf. A child cannot be placed in a foster family in which:

- The parental right of one of the spouses has been revoked;
- Family relations are dysfunctional;
- A member of the family demonstrates socially negative conduct;
- The child's health would be jeopardized by an illness of a family member.

159. In the Federation of BiH, a total of 2,794 children are placed in foster families. This type of placement requires necessary financial incentives for the potential foster families, as well as a high level of supervision by professionals in the centres for social work as the guardianship authorities deciding on the placement of children in foster families.

160. A foster parent has the right to a remuneration, which is established by cantonal regulations. The costs of placement of children in a social care institution or in a foster family will be borne by the beneficiary, parent, adopter, guardian or relative obliged to support the child, in accordance with cantonal law, or any other legal or physical person who undertakes the commitment to cover the costs.

161. Children have been placed in institutions under the current Law on Social Welfare; which means that institutional care has prevailed. However, in the draft Law on the Basics of Social Care for Civilian War Victims, and Care for Families with Children, placement in a foster family is preferred as a more humane and responsible form of care, which accordingly is the preferred strategy of the FBiH for this vulnerable population category.

#### **H. Adoption (art. 21)**

162. Adoption is regulated by the Family Law. Adoption is a special form of care for children deprived of parental care, where the interest of the adoptee is not reduced only to the economic interest, i.e. support. On the contrary, the proper physical, moral and material upbringing of the child is much more important.

163. Adoption creates a relationship of kinship between an adoptee and an adopter and his/her offspring that is similar to the rights and responsibilities that exist between parents and children according to the law if not otherwise stipulated by the law (incomplete adoption); or a relationship of kinship between an adopter and his/her relatives and an adoptee and his/her offspring that is the same as that with a blood relation (complete adoption). The guardianship authority must invite a child older than 10 years to personally participate in the adoption procedure, although his/her parents or a guardian are representing him/her. Should a child older than 10 not give his/her consent for adoption, such an adoption is not legally effective, regardless of the fact that the guardianship authority or the parents believe that adoption would be in the interest of the child.

164. Complete adoption can be effected only if a child is under 5 and if his/her parents are not alive, or if his/her parents are not identified or have abandoned the child and their whereabouts have not been known for over one year, or if his/her parents have agreed before the relevant guardianship authorities that the child can be given over for complete adoption.

165. Based on incomplete statistics gathered so far by the guardianship authorities, in the territory of Bosnia and Herzegovina 282 BiH citizens have applied for adoption of a child. In the period from 1992 until 1997, a total of 336 children were adopted within the territory of the Federation of BiH. These data are incomplete because a great number of centres for social work, as well as guardianship authorities, were destroyed during the war along with the documentation in their possession.

166. Although a large number of children in the territory of FBiH are deprived of parental care, not all children meet the requirements prescribed by the law for adoption. For them, other forms of care have been offered in the country. Most frequently, it is their relatives who provide care for them.

167. According to the provisions of the Family Law, the adopter of a child who is a citizen of BiH can as a rule only be a citizen of Bosnia and Herzegovina. Exceptionally, if specially warranted reasons exist, the adopter may be a foreign citizen. This type of adoption can be effected only with the permission of the Ministry of Social Welfare, which is issued together with an opinion obtained from the Ministry of the Interior. Specially warranted reasons for international adoption are established in each particular case.

168. The Family Law and the Law on Resolving Conflicts of Law with Regulations of Other Countries in terms of certain relations stipulate that the adoption procedures are under the authority of a relevant body in the BiH (the guardianship authority in the municipality that is selected in accordance with the place of permanent or temporary residence of the child).

169. Throughout the war, and especially in the post-war period, many foreign nationals, international organizations, and even foreign States approached and are still approaching the local authorities with questions about the possibility of adopting children who are BiH citizens. However, since the number of children who meet the requirements for adoption prescribed by the law is less than the number of requests received from citizens of BiH, the requests of BiH citizens are accommodated first.

### **I. Abuse and neglect (art. 19)**

170. In case a parent abuses his/her parental rights or abandons his/her child, or demonstrates through his/her behaviour that he/she is not taking care of the child, or grossly neglects his/her duties, the court will revoke his/her parental right in an extrajudiciary procedure and the child will be placed under guardianship, or will be assigned a guardian. The abuse of parental rights means such behaviour of the parents that is contrary to the interests of the child. Thus, instead of protecting their child and taking care of the child's life and health, supporting and upbringing him/her, representing him/her and taking care of his/her property, parents expose their child to difficult physical chores which cause the child to fall ill; they punish him/her seriously or do not support him/her; they force the child into prostitution; cause the child's addiction to alcohol or drugs; force him/her to commit offences, or they commit criminal acts against their child.

171. If a parent abuses his/her child or grossly neglects parental duties in raising the child, which results in the neglect of the child of whom he/she is obliged to take care, under the Criminal Law he/she is committing a criminal act of abuse and neglect of a child.

172. The measure of revocation of parental rights may last until the child reaches the age of 18, or until she/he enters into marriage if this occurs before the child's eighteenth birthday. Prior to this, the court can return the parental right to a parent if the reason for which the parent was deprived of this right no longer exists.

173. The procedure for returning the parental right is initiated at the proposal of a parent, i.e. a guardian who has the parental right, or the guardianship authority, or at the proposal of a parent whose right has been revoked.

## **J. Periodic reviews of treatment (art. 25)**

174. The exercise of a guardian's duty is under constant control by the State, i.e. the guardianship authority, since guardianship provides special care for a child. Control by the guardianship authorities over the work of a guardian is exercised, inter alia, through the guardian's duty to report to them on his/her work. A guardian submits regular, extraordinary and final reports and accounts. A guardian submits regular reports and accounts of his/her work every year. The Family Law prescribes that a report must contain details on the management and handling of the minor's property and all the incomes and expenditures over the past year.

175. A guardian submits extraordinary reports and accounts whenever the guardianship authority requests this. The guardianship authority will ask for such a report and account when it learns that there is negligence or other omissions in the guardian's work. The reasons for requesting extraordinary reports and accounts can also be information received from educational, medical or other institutions in which a minor is temporarily accommodated; a complaint by the minor or a third person; or the wish of the guardian himself/herself.

176. If the guardianship authority performs the duty of guardianship directly, reports and accounts should be submitted by the employee of the guardianship authority who performed the duties of guardianship towards a certain minor, or a person who, on behalf of the guardianship authorities, is performing the duties of guardianship.

177. A report by a guardian on his/her work consists of two parts: details about the personal development of the minor and details of the management of the minor's property. The section of the report that is related to the minor's personality must contain all the relevant details about the minor's physical, intellectual and moral development, especially his/her health, upbringing and education. The section of the report related to the minor's property must be accompanied by the following documents: contracts, invoices, receipts, acts by relevant authorities specifying legal obligations of the minor, and other public or private documents from which one can establish how well the guardian managed and handled the minor's property.

178. The guardianship authority is obliged to thoroughly consider any report submitted by the guardian or by a professional exercising the duties of guardianship. In addition to the submission of reports on work and accounts, control of the guardian's work is exercised through personal and direct oversight by the authorized employee of the guardianship authority. However, according to incomplete information, once a child is placed in a foster family or family of relatives or in an institution of social protection, the guardianship authorities/centres for social work, as local services for social care in each concrete case, do not fulfil their obligations stipulated by the provisions of the Family Law in terms of regular visits, rendering assistance and monitoring the child's development. The reason for this can be found, in the first place, in the very poor financial and staffing situation in the local services for social care. This, however, does not free them from their responsibility as the guardianship authorities.

179. When adopting a decision on the return of the parental rights, the court will take into account the wishes of the child, if she/he is capable of expressing them. In the Federation of BiH, in 10 cantons, according to incomplete statistics, there are 20 children of parents who were deprived of their parental rights.

## VII. BASIC HEALTH AND WELFARE

### A. Survival and development (art. 6, para. 2)

180. The BiH population went through serious demographic changes between 1992 and 1995, which caused the population policy to face complex tasks, especially with regard to the health-care system. The impact of the following factors on the survival and development of the child's lifestyles and habits have to be mentioned: the level of health education, tradition, religion, and social and economic development of the community.

181. Improving and preserving children's health, as well as ensuring healthy generations and favourable demographic trends is an important political and economic segment of the health policy and strategy of every country. This is why great attention was devoted to this issue in the reports of both BiH Entities. The assessment was made that only through coordinated, planned and strategic approaches to this issue is it possible to achieve social and economic development of society.

182. Multidisciplinary programmes whose basic task is the preservation and improvement of children's health are currently being prepared and developed in both Entities.

183. According to data from 1991, the most frequent causes of death in BiH were the following: conditions stemming from the perinatal period; congenital anomalies; symptoms and signs of insufficiently defined conditions; diseases of the nervous system and the hearing organs; diseases of the respiratory system, etc. According to 1998 data from Republika Srpska, major causes of death of children and youth in the age group 1-24 were the following: heart diseases resulting from lung problems; diseases of blood vessels of the brain; ischemic heart diseases; injuries, burns and poisoning.

184. In the area which is now FBiH, the mortality rate was 6.8 per 1,000 just before the war, and during this period it was decreasing. Depending on age, the rate varied between 4.1 per 1,000 and 11.0 per 1,000. By 1996, the mortality rate had returned approximately to the pre-war figures.

185. It is important to emphasize that there is an evident linkage between the leading causes of death and the perinatal period (pregnancy and delivery); this should be a clear indication that more attention needs to be paid to the improvement of perinatal care. Since the reports of the Entities do not provide joint indicators for the reference period, the data presented in the statistical bulletin of the BiH Agency for Statistics are offered below:

#### Children live born, by age of mother

|      | In total | Mother's age |       |        |        |       |       |       |       |         |         |
|------|----------|--------------|-------|--------|--------|-------|-------|-------|-------|---------|---------|
|      |          | Below 15     | 15-19 | 20-24  | 25-29  | 30-34 | 35-39 | 40-44 | 45-49 | 50 plus | Unknown |
| 1996 | 46 594   | 10           | 3 751 | 13 769 | 13 760 | 9 292 | 4 316 | 724   | 47    | 5       | 920     |
| 1997 | 48 397   | 13           | 4 403 | 15 681 | 13 217 | 8 609 | 3 609 | 733   | 51    | 4       | 2 077   |
| 1998 | 45 007   | 2            | 3 191 | 14 515 | 12 937 | 7 971 | 3 577 | 756   | 53    | 4       | 2 001   |

**Structure (in per cent)**

|      | In total | Mother's age |       |       |       |       |       |       |       |         |         |
|------|----------|--------------|-------|-------|-------|-------|-------|-------|-------|---------|---------|
|      |          | Below 15     | 15-19 | 20-24 | 25-29 | 30-34 | 35-39 | 40-44 | 45-49 | 50 plus | Unknown |
| 1996 | 100      | 0.0          | 8.1   | 29.6  | 29.5  | 19.9  | 9.3   | 1.6   | 0.1   | 0.0     | 2.0     |
| 1997 | 100      | 0.0          | 9.1   | 32.4  | 27.3  | 17.8  | 7.5   | 1.5   | 0.1   | 0.0     | 4.3     |
| 1998 | 100      | 0.0          | 7.1   | 32.3  | 28.7  | 17.7  | 7.9   | 1.7   | 0.1   | 0.0     | 4.4     |

**Specific fertility rates**

|      | In total | Mother's age |       |       |       |       |       |       |       |         |  |
|------|----------|--------------|-------|-------|-------|-------|-------|-------|-------|---------|--|
|      |          | Below 15     | 15-19 | 20-24 | 25-29 | 30-34 | 35-39 | 40-44 | 45-49 | 50 plus |  |
| 1996 | 31.2     | 0.1          | 30.7  | 107.6 | 96.9  | 59.9  | 28.4  | 5.3   | 0.5   | 0.0     |  |
| 1997 | 32.4     | 0.1          | 36.1  | 122.5 | 93.1  | 55.5  | 23.7  | 5.4   | 0.5   | 0.0     |  |
| 1998 | 30.1     | 0.0          | 26.2  | 113.4 | 91.1  | 51.4  | 23.5  | 5.5   | 0.5   | 0.0     |  |

186. The birth rate in 1996 was 13.2 per 1,000 in FBiH and 8.8 per 1,000 in RS; in 1997 it was 9.8 per 1,000, and in 1998 9.4 per 1,000. Having in mind that the birth rate in BiH in 1991 was 14.9 per 1,000, it can be concluded that the drop of this rate during 1992-1998 is a result of the large number of deaths among the population, which led to reproduction rates that cannot be statistically projected. To illustrate this, the following data are offered:

Percentage of missing and killed persons 6.3

Percentage of displaced persons 29.8

Percentage of refugees 28.4

**Population - mid-year assessment and natural trend**

|      | Population mid-year, in thousands | Born      |        |            | Dead     |        |         |      | Natural growth | Marriages |          |
|------|-----------------------------------|-----------|--------|------------|----------|--------|---------|------|----------------|-----------|----------|
|      |                                   | Born live |        | Still-born | In total |        | Infants |      |                | Married   | Divorced |
|      |                                   | Total     | Male   |            | Total    | Male   | Total   | Male |                |           |          |
| 1996 | 3 645                             | 46 594    | 24 398 | 271        | 25 152   | 13 952 | 653     | 360  | 21 442         | 21 107    | -        |
| 1997 | 3 738                             | 48 397    | 25 297 | 240        | 27 875   | 15 184 | 601     | 369  | 20 522         | 23 220    | 1 835    |
| 1998 | 3 653                             | 45 007    | 23 425 | 202        | 28 679   | 15 303 | 494     | 302  | 16 328         | 22 398    | 1 964    |

**Rates of natural population trend**

|      | Per 1 000 inhabitants |        |                | Deaths of infants per 1 000 born live | Marriages per 1,000 inhabitants | Divorces per 1,000 inhabitants |
|------|-----------------------|--------|----------------|---------------------------------------|---------------------------------|--------------------------------|
|      | Live births           | Deaths | Natural growth |                                       |                                 |                                |
| 1996 | 12.8                  | 6.9    | 5.9            | 14.0                                  | 5.0                             |                                |
| 1997 | 12.9                  | 7.5    | 5.5            | 12.4                                  | 6.2                             | 79.0                           |
| 1998 | 12.3                  | 7.9    | 4.5            | 11.0                                  | 6.1                             | 87.7                           |



## Natural population trend in BiH

### Previous data

| Month            | Live births | Deaths | Natural growth | Deaths of infants | Marriages | Divorces | Vital index |
|------------------|-------------|--------|----------------|-------------------|-----------|----------|-------------|
| January 1999     | 2 851       | 2 196  | 655            | 23                | 1 642     | 84       | 1.30        |
| February 1999    | 3 057       | 2 552  | 505            | 38                | 1 174     | 75       | 1.20        |
| March 1999       | 3 375       | 2 972  | 403            | 31                | 996       | 90       | 1.14        |
| April 1999       | 3 201       | 2 499  | 702            | 26                | 1 873     | 110      | 1.28        |
| May 1999         | 3 333       | 2 199  | 1 134          | 53                | 2 009     | 125      | 1.52        |
| June 1999        | 3 576       | 2 170  | 1 406          | 38                | 1 559     | 79       | 1.65        |
| July 1999        | 3 925       | 2 104  | 1 821          | 22                | 2 321     | 102      | 1.87        |
| August 1999      | 4 147       | 2 310  | 1 837          | 48                | 2 616     | 105      | 1.80        |
| September 1999   | 4 116       | 2 353  | 1 763          | 30                | 2 125     | 126      | 1.75        |
| October 1999     | 3 834       | 2 067  | 1 767          | 24                | 2 268     | 121      | 1.85        |
| November 1999    | 3 525       | 2 228  | 1 297          | 29                | 1 982     | 140      | 1.58        |
| December 1999    | 3 387       | 2 544  | 843            | 32                | 1 883     | 129      | 1.33        |
| 1 December 1999  | 42 327      | 28 194 | 14 133         | 394               | 22 448    | 1 286    | 1.50        |
| January 2000     | 2 626       | 2 433  | 193            | 23                | 1 361     | 77       | 1.08        |
| February 2000    | 3 269       | 3 296  | -27            | 38                | 1 134     | 105      | 0.99        |
| March 2000       | 3 118       | 2 644  | 474            | 20                | 1 338     | 124      | 1.18        |
| April 2000       | 3 016       | 3 302  | 714            | 35                | 1 661     | 104      | 1.31        |
| May 2000         | 3 247       | 2 616  | 631            | 38                | 1 702     | 140      | 1.24        |
| June 2000        | 3 294       | 2 200  | 1 094          | 38                | 1 627     | 150      | 1.50        |
| July 2000        | 3 377       | 2 157  | 1 220          | 21                | 2 114     | 130      | 1.57        |
| August 2000      | 3 950       | 2 233  | 1 717          | 41                | 2 488     | 125      | 1.77        |
| September 2000   | 3 380       | 2 173  | 1 207          | 25                | 2 069     | 120      | 1.56        |
| 1 September 2000 | 29 277      | 22 054 | 7 223          | 279               | 15 494    | 1 075    | 1.33        |

187. An increase from 6.0 per cent to 12.0 per cent in the share of the age group 65 and over in the total population is also evident, as well as a decrease in the age group 0-6 from 11.1 per cent to 7.75 per cent. This is seen as a result of living conditions created by the war, of forced migration, a decrease in the birth rate and natural growth, and a large number of violent deaths, especially among the active population. The almost two-fold increase in the share of those aged 65 and over is not the result of an extension of life span, but rather of a decrease in the share of younger people in the total population of Bosnia and Herzegovina. The average life span in BiH in 1991 was 74 years.

188. The share of the male population in BiH in 1991 was 49.5-50 per cent, the female share 50-50.5 per cent.

189. In 1998, the mortality rate was 6.8 per 1,000 in FBiH and 10.41 per 1,000 in RS. By that year the mortality rate had returned to the level of 1991, which constituted a big improvement from the war years. The 1998 infant mortality rate was 14.7 per 1,000 newborns in FBiH. In RS, it was 14.6 per 1,000 in 1996 and decreased to 9.7 per 1,000 in 1998.

190. During 1992 and 1993, an increase in the mortality rate of infants was observed resulting from migration, changed living conditions, lack of access to adequate prenatal care, psychogenic illnesses resulting from exposure to traumatic events, inadequate nutrition of pregnant women, as well as incomplete immunization of the population. The infant mortality rate in 1994 and 1995

was 4.5 per cent, while the infant mortality rate in relation to the overall mortality rate was 2.7 per cent. Mortinatalità is defined as the ratio of the number of stillborn babies per 1,000 live births. During the war a decrease in the mortinatalità rate was observed because the value of this rate was influenced by the value of the overall mortality rate. (In 1991, the rate was 4.9 per 1,000; in 1992, 4.8 per 1,000; in 1993, 3.1 per 1,000; in 1994, 5.6 per 1,000; and in 1995 it was 4.9 per 1,000.)

191. The share of the 0-18 age group in the overall population was 33 per cent during the war. However, a decrease to 29 per cent was registered in 1998 due to migration, a decrease in birth rate and war activities.

192. Women's health care in general and the health care of women of reproductive age specifically require a series of elements such as: an educational system, the emancipation of women, implementation of fundamental human rights, increased health awareness among women, humanization of relations between the two sexes, family planning (it is very important to emphasize the adverse effects on women's health of abortions as a form of contraception), supervision and control of pregnancy and puerperium according to a minimum and an optimum programme, as well as professional assistance at delivery. Efforts should also be made towards prevention of premature deliveries, anaemia and hereditary diseases.

193. Active supervision of women's health should be intensified for the early detection of malign genital diseases. Concurrently, this would constitute a basis for satisfactory health of future generations.

194. In 1998, the infant mortality rate in BiH was 11 per 1,000. Among children up to 5 years of age the mortality rate was 13 per 1,000 children born live. In addition, the following data were registered:

3 per cent of newborns have a low birth weight - below 2,500 grams;

3 per cent of children have retarded development;

3 per cent of children up to 5 years of age lose weight;

13 per cent of children up to age 5 are classified as obese.

195. It should be underlined that health care is guaranteed by the BiH constitutional system, with a particular emphasis on the right of the mother and child to benefit from special health care. This care is provided through the health system in both Entities (RS Law on Health Care; RS Law on Child Care; FBiH Law on Social Care, whose provisions are elaborated through cantonal legislation). Health care for mother and child forms part of a system of comprehensive health care and social protection that links all phases of reproduction and development of children, from the prenatal, perinatal and postnatal periods up to adulthood. This care should ensure the achievement of a decrease in the mortality rate and morbidity rate of mothers and children, as well as giving each child an opportunity to be born as a wanted child.

196. According to 1996 data, there were 545,343 schoolchildren in the total population in FBiH. As for RS, 128,422 students were attending school in the school year 1998/99.
197. Health care in BiH can be divided into three levels: primary, secondary and tertiary.
198. The organized supervision of childcare is part of the primary health care provided by paediatricians working in health centres. According to 1996 data, the number of paediatricians in FBiH was 144, while in RS it was 20. The number of senior nurses in FBiH was 3, and the number of junior nurses with a secondary school degree was 217. In 1995, 20,034 systematic check-ups were carried out in FBiH. As for RS, there were 19,364 medical check-ups, which are compulsory according to the law.
199. It is important to emphasize that children/infants are treated as a special group. For this group, supervision is organized until the age of 1 once a month, or at a minimum four times a year. For this age group, it is important to note the role of community nurses who are entrusted with these activities. For children up to 5 years of age, active medical supervision is organized twice a year.
200. The health of children and young people should be improved in a way that provides them with the prospect of growing up and fully developing their physical and mental/psychological potential.
201. In 1996, the three leading diseases among children of pre-school age (0-6) were the following: acute infections of the upper respiratory tract; acute bronchitis and bronchiolitis; non-infectious enteritis; and colitis. Among younger schoolchildren, the most frequent diagnoses are the following: acute infections of the upper respiratory tract; acute bronchitis and bronchitis; skin infections and infections of the subcutaneous tissue. Among older schoolchildren, the order of frequency is the following: acute infections of the upper respiratory tract; acute bronchitis and bronchitis; and anaemia caused by lack of iron.
202. Since 1995, health-care reform has been ongoing in the territory of Bosnia and Herzegovina. While health service is nominally free for poor and vulnerable population categories, payment for medicines and medical treatment constitutes a huge financial burden for other families. Because of this, a project for basic medicines is being introduced in BiH. A programme for integrated detection and treatment of childhood diseases is also being implemented in BiH by the United Nations Children's Fund (UNICEF) and the World Health Organization (WHO). Diseases included in the programme are: acute infections of the upper respiratory tract, diarrhoea, dehydration, measles and malnourishment. Malaria is exempted from this programme since measures relating to malaria are not carried out in the territory of BiH.
203. A decrease in immunization rates has been registered in BiH and the level is presently at one third of the pre-war rate. Under a WHO immunization programme adopted in 1997, three quarters of the total number of children up to 18 months received the recommended doses of vaccines. Minority children, especially Roma children and children living in collective centres, are not sufficiently covered by the immunization programme.

**B. Children with psychological and physical developmental disabilities (art. 23)**

204. According to the provisions of the Law on Social Protection, a minor person with psychological and physical developmental disabilities is a person suffering from hearing impairment or vision impairment, a person with speech or voice disorders, with physical disabilities, a mentally retarded person (mild, moderate, serious or severe retardation) or a person with combined disabilities.

205. In 1997, the number of children with psychophysical developmental disabilities in FBiH was 14,202, 33 per cent of whom received social assistance. In RS, the number of children with psychophysical developmental disabilities is 6,454, of whom 1,300 are mentally retarded. Behavioural disorders were registered in 1,092 children. Blindness, deafness, paraplegia, dystrophy or other physical disabilities were registered among 590 individuals in total. Two thousand six hundred and sixty-four individuals reside in a dysfunctional family environment, while 465 children are accommodated in social welfare institutions.

206. The 2000 data are as follows:

In FBiH, the share of children with psychophysical developmental disabilities in the total population is as follows:

|  |             |
|--|-------------|
| Children with physical developmental disability      | 14 per cent |
| Children with psychological developmental disability | 50 per cent |
| Children with combined disabilities                  | 18 per cent |
| Children with hearing impairment                     | 6 per cent  |
| Children with vision impairment                      | 6 per cent  |
| Children with speech impediments                     | 6 per cent  |

207. The following are social care institutions for disabled children:

- In RS: Centre “Zaštita” (Protection) - Banja Luka; Institute for Blind Persons “Budućnost” (Future) - Derventa; Institute for Dystrophics - Banja Luka; Centre for Education, Upbringing and Rehabilitation of Hearing - Banja Luka; Child Home “Rada Vranješević” - Banja Luka; Institute for Treatment, Rehabilitation and Social Protection of Mental Patients “Jakeš” - Modriča. These institutions accommodate 477 children;
- In FBiH there are two institutions for mentally retarded children: Institute for Protection of Children and Youth - Pazarić and Institute for Mentally Disabled Persons - Fojnica. These institutions accommodate 116 children/beneficiaries of social protection.

208. Disabled children are guaranteed special social protection by the BiH Constitution, by both Entity Constitutions and by legal regulations at the same level dealing with social welfare issues; the goal is to reintegrate them into normal life according to their preferences and remaining capabilities. A special problem is employment of children with developmental disabilities after they complete school, since the economy of BiH is devastated.

209. One thousand eight hundred and thirty-one children are registered in FBiH as persons with disabilities ranging from 20 per cent to 100 per cent, 784 children with a physical disability of 60 per cent to 100 per cent and 1,047 children with a physical disability of 20 per cent to 60 per cent.

210. In RS, the number of children up to 1 year of age wounded during the war constituted 2.4 per cent of the total population, while the number of wounded children up to 2 years of age constituted 2.1 per cent. Three thousand five hundred children were seriously disabled (23.4 per cent of them sustained head injuries).

211. In FBiH, the following local and international organizations provided their assistance in reconstruction and equipment for special schools and institutes, as well as other forms of aid for children with psychophysical developmental disabilities: Refugee Trust - Ireland; Schuler Helfen Leben; Solidarities; "Želimo da povono hodamoo" (We wish to walk again); Équilibre; Bereket, Terra, Norwegian People's Aid, Deutsch-Bosnische Kriegskinder Direkthilfe, Komitee Cap Anamur, Médecins du Monde, Mission Locale de Strasbourg, Sans Limites, Islamic Relief, Hope 87, Mallorca Solidaria, Brucke nach BiH, ICA CABR, Saudi High Commission relief for BiH, Landmine Survivors Network, "Nasa Djeca" Sarajevo.

### **C. Social structure, services and facilities for childcare (arts. 26 and 18)**

212. The elements, scope and responsibilities for the realization of children's rights in social and child welfare are identified by the FBiH Law on the Bases of Social Welfare, as well as by the RS Law on Social Welfare and Law on Child Care. Following the entry into force of the Dayton Agreement, and pursuant to provisions of the FBiH Constitution, social policy is exercised as a shared competence between cantons and the Federation authority. In the development of legal regulations in this field, the provisions of the Convention on the Rights of the Child were taken into consideration.

213. Institutions of social welfare are operating in the territory of FBiH as legal Entities. There are 79 local services of social welfare in the 10 cantons of FBiH with 622 employees. The total number of staff employed in six institutions caring for children without parental care is 203. These institutions are operating in the following regions: Sarajevo - one; Tuzla - one; Zenica - two; Mostar - one; Međugorje - one. Institutions accommodating children with special needs are located in "Pazarić" and in Fojnica. They employ 179 staff.

214. Child allowance is a special form of welfare provided for children in accordance with the law. Children up to the age of 15 are entitled to this allowance. If they go to school, they are entitled to this allowance until they reach the age of 26. It should be stressed that disabled children are also entitled to this allowance if the disability occurred before they reached the age of 15, or before the age of 26 years if the child is attending regular school.

215. The child allowance is increased by a certain percentage for children without one or both parents, for children with physical and psychological developmental disabilities, and for children suffering from diabetes. In 1998, 46,775 requests for child allowance were registered in FBiH. It should be noted that it is only in Sarajevo Canton that child allowances are actually paid, at an average of 16 KM per child for 22,526 children. This right is not realized in the other nine cantons, due to lack of budget means.

216. Childcare in RS is organized as a system of rights of parents and children, and implemented through organized activities of institutions, services and the Child Care Public Fund. The law stipulates the rights and responsibilities of parents pertaining to the upbringing and education of their children, as well as the particular responsibility of the State to provide living conditions for children that ensure a proper psychophysical development.

217. On the basis of these facts, it can be concluded that childcare is of special interest to society.

218. Rights arising from childcare belong to children and their parents and are not transferable; in this way the purpose of these rights is achieved. These rights are of a special protective nature and are primarily intended for families living in difficult conditions, as well as for children with special needs. The difficult economic situation in BiH is a reason for the lack of real social opportunities to obtain fulfilment of these rights and to provide social welfare and rehabilitation for the above categories of children.

219. One problem is related to the inability to continue with social welfare and assistance for children completing elementary and secondary education who do not have the opportunity to continue with their education or find employment. This is also a problem for children with developmental disabilities and for those who were accommodated in certain institutions during their education, because these categories of children (orphans who were in childcare institutions) are more prone to committing juvenile offences.

220. In RS centres for social work are organized. There are also social welfare services to help children without parental care, to ensure their placement in institutions for neglected children and, to find foster families and guardians or adopters. A total of 219 children are accommodated in four childcare institutions which seek to provide them with optimal care and protection. Accommodation in foster families has been ensured for 580 children. Different forms of care and protection for children are provided in kindergartens and day-care centres, as well as through club activities. There are 40 centres for social work operating in RS, as well as 19 services for social and preventive care. Along with regular activities, they provide counselling for families related to childcare and protection. The scope of these activities has been increased because of a lower family income, lack of employment opportunities, and post-traumatic stress. During the war and in the post-war years, these institutions were financed primarily through humanitarian aid. The situation is now considerably different since humanitarian aid has been discontinued and local administrations are not able to fulfil their obligations towards the institutions. In RS, there are 80 pre-school institutions with 6,000 children. According to the RS Law on Child Care, the right to compensation for pre-school expenses is stipulated for the third and fourth child (we note that this right is exercised only in municipalities with a negative natural growth).

221. Assistance coming from humanitarian programmes of international organizations and institutions should primarily be carried out within programmes that strengthen the capacities of families and children to take care of their own security and future.

#### **D. Health and health-care services (art. 24)**

222. The following are the principles of health care: comprehensiveness, continuity and accessibility. Health professionals and their associates provide health care and follow the achievements in the development of medical science. Health-care activities are organized and implemented as primary, specialist/consultative and hospital health care.

223. Primary health care includes visits by a family doctor, assistance provided by a general practitioner, by a dentist, a specialist gynaecologist or a specialist paediatrician, as well as by a specialist in general medical practice and industrial medicine. Psychologists, speech therapists and social workers also contribute to achieving the goals of primary health care.

224. The following components are included in health-care measures: health-care measures for children of pre-school age, care and improvement of their health and improvement of their psychophysical capabilities; prevention measures related to natural feeding of infants/breastfeeding; health care for pregnant women, health care during and after delivery; measures of health care and improvement of the health condition of pupils, students and young athletes; evaluation of their capabilities for education and work; and health-care measures provided for children with developmental disabilities.

225. According to the Law on Health Insurance, the different categories of health insurance are: compulsory, extended and voluntary health insurance. In FBiH, compulsory health care is based on the principles of mutuality and solidarity within a canton or within two or more cantons. It includes health care and reimbursement of travel expenses related to the use of health care. As family members of insurance beneficiaries, children born in wedlock are also insured, as well as children born out of wedlock, adopted children and stepchildren up to the age of 15, or up to the age of 26 if they attend regular school.

226. If a child whose regular schooling has been interrupted because of illness or injury is the child of an insurance beneficiary, she/he is entitled to health insurance during the illness or injury. In this case, as well as in the case of interruption of schooling due to military service, the right to compulsory health care is prolonged for the duration of the interruption of regular schooling.

227. If the child of a beneficiary becomes permanently disabled before reaching the age of 15, he/she is entitled to health insurance during this disability. Children without both parents are entitled to health insurance if the beneficiary has accepted to support them. Supported children with one or two parents are also entitled to the same right if their parents cannot take care of them due to their health condition or for another reason.

228. A child who has reached the age of 15, regardless of whether she/he has completed primary school, who has not found employment will acquire the status of an insuree if he/she reports to the Employment Bureau within 30 days from the date of reaching the age of 15.

Students who attend secondary school, two-year post-secondary school or university and who are not medically insured are entitled to health care as members of a beneficiary's family in the same way as other members of the beneficiary's family. The payment of contributions for this category of child is the responsibility of the authorized body of the canton.

229. Among other rights, the insuree is entitled to salary compensation during sick leave as part of the health insurance. This compensation may not be less than 80 per cent of the officially calculated basis for compensation and is paid from the funds of the cantonal insurance bureau.

230. The most relevant indicators of the health condition and health care of children are the following: infant mortality rate, mortality rate of children up to 14, and infant and child morbidity rate. Requests for the termination of pregnancy of a minor pregnant woman must be submitted by one of the parents or the guardian on her behalf if she has not reached the age of 16 or does not earn a living through work.

231. Despite a request by parents, the termination of pregnancy of a person who has reached the age of 14 cannot be carried out without her own consent. An abortion may be performed if the pregnancy has not advanced beyond 10 weeks and provided that the abortion will not endanger the life of the woman. Requests to terminate a pregnancy after the tenth week will be decided by a commission of the health institution consisting of two doctors and one social worker. The commission will approve an abortion in the case of a minor for the following reasons: if the continuation of the pregnancy may endanger the life and health of the woman; if it is expected, based on medical examinations, that the child will be born with difficult physical or psychophysical disabilities; if the pregnancy is the result of the criminal act of rape or statutory rape; or if the pregnancy is the result of incest. Termination of pregnancy advanced beyond 20 weeks is not to be approved under any circumstances.

232. The body parts of a minor may not be used for transplantation, except in those cases when a part of the body of a dead minor is to be used for purposes of medical treatment, with the consent of parents. It is explicitly determined by law that this consent can be granted only by a mentally healthy adult person.

233. According to the law on limited use of tobacco products in FBiH, which aims to protect children (because tobacco causes suffering of both active and second-hand smokers), smoking is forbidden in educational institutions, in facilities for the accommodation of children and students, as well as in pastry shops and milk bars. There is a ban on promoting and selling tobacco products in facilities that are less than 100 m away from pre-school and school facilities, as well as on selling these products in coin-operated machines. It is also forbidden to sell cigarettes to persons under the age of 15.

234. The law on protection of the population from infectious diseases endangering the whole country has defined the organization and implementation of measures for the prevention and control of infectious diseases. General and special measures include provision of clean drinking water, food safe for consumption, and sanitary, technical and hygienic conditions for the production and circulation of safe food and water; disinfection; pest control; compulsory immunization; prophylaxis; and health awareness campaigns.



235. Access to pure drinking water is ensured for 98 per cent of the population, with minor differences between rural and urban populations, while 90 per cent of the population live in households with sanitary installations (in some isolated areas, hepatitis has been registered but there are no registered cases of poliomyelitis). A low level of vaccination against measles is registered - 25 per cent of children up to the age of 1 year. This percentage is a result of a standard immunization calendar different from the standards of WHO.

236. Immunization against tuberculosis, diphtheria, tetanus, pertussis, poliomyelitis, rubeola, mumps and varicella is mandatory for children. Immunization is carried out under an order issued for every calendar year, which defines the programme and method of immunization, as well as the responsibility of health institutions in implementing this programme. The BCG vaccine has been received by 95 per cent of children up to the age of 12 months; 93 per cent have received the first dose of DiTePer (diphtheria-tetanus-pertussis) by the age of 12 months, whereas the percentage of those receiving the second dose of the DiTePer vaccine decreases to 91 per cent, and the third dose to 88 per cent. The OPV vaccine, the first dose against poliomyelitis, has been received by 93 per cent of children up to the age of 12 months, while 90 per cent of children received the second dose and 87 per cent received the third dose of this vaccine.

237. AIDS is among the infectious diseases whose prevention and control is in the interest of BiH. Within the FBiH and RS Ministries of Health, coordinators of the UNAIDS Committee for Prevention of HIV/AIDS have been appointed. It is important to emphasize that the HIV virus is not a priority problem in BiH (0.04 patients per 100,000 inhabitants were registered in FBiH in 1998 as HIV-positive while 25 cases were registered in RS). It is suggested that these infections were caused by the transit of goods and people through BiH, as well as by questionable sexual contacts.

238. Also with a view to protecting children's health, working with sources of ionizing radiation is forbidden for children under the age of 18, for pregnant women and for mothers breastfeeding their children.

239. The issuance of poison to children under 18 is forbidden.

240. A total of 4,371 persons are victims of landmines. This is based on the indicators presented by the International Committee of the Red Cross as of and including August 2000.

| Period/year             | Number of victims | Monthly average |
|-------------------------|-------------------|-----------------|
| 1992-1995               | 3 146             | 66              |
| 1996                    | 626               | 52              |
| 1997                    | 286               | 24              |
| 1998                    | 149               | 12              |
| 1999                    | 95                | 8               |
| 2000 (including August) | 69                | 9               |
| In total                | 4 371             |                 |

**Number of victims per age group at time of incident  
(period 1996-August 2000)**

| Age               | 0-5 | 6-10 | 11-18 | 19-25 | 26-35 | 36-45 | 46-60 | Over 60 | Unknown | Total |
|-------------------|-----|------|-------|-------|-------|-------|-------|---------|---------|-------|
| Number of victims | 12  | 43   | 213   | 162   | 238   | 203   | 198   | 90      | 66      | 1 225 |

241. It is important to mention the activities of the following organizations in Bosnia and Herzegovina:

(a) “Baby Friendly Hospital Initiative” - a committee for support and protection of breastfeeding established in 1997. World Breastfeeding Week is marked in BiH every year. In addition, the International Code of Marketing of Breast Milk Substitutes has been implemented.

(b) The following programmes are ongoing in RS: “Breastfeeding in the Republika Srpska”, “School for pregnant women in Republika Srpska”, “Prevention of nutritive anaemia in children aged 0-6 in Republika Srpska”; “Determining iodine prophylaxis of the goitrous condition in children aged 7 to 14 in Republika Srpska”; and “Acute respiratory infections and acute diarrhoea syndrome in children aged 0-6 in Republika Srpska”.

242. Iron and iodine deficits in children have been registered in the territory of BiH, causing nutritive anaemia with the rate increasing from 4 per cent in 1991 to 6 per cent in 1997. In total, 8 per cent of the child population up to four months of age in BiH are exclusively breastfed. Apart from causing goitre, iodine deficit adversely affects the physical and psychological development of children. A 1953 law made iodization of salt with 5 mg per 1 kg of salt compulsory. A WHO/UNICEF programme for iodization of salt is implemented at a level of 20-30 mg of iodine per 1 kg of salt because the population of BiH in areas such as Srebrenica used un-iodized salt during the war.

### **E. Standard of living (art. 27)**

243. The standard of living of a large number of children is threatened by the enormous consequences of the war and the slow restoration of the economy, a high unemployment rate, and a decreased national income. Limited financial resources in the Entities have a restricting effect on the implementation of actions that would improve the standard of living of children and other vulnerable population categories.

244. During the post-war period, the best results have been achieved in the area of care of children without parental care, in renovation of schools, and in improvement of children’s health. In addition, 99 per cent of all women in BiH are included in pre-natal health care provided by health professionals, while in 2000 medical assistance during delivery was provided in 100 per cent of cases.

### **F. Education, leisure and cultural activities (art. 28)**

245. One of the basic constitutional principles of a modern, democratic society is that every child has the right to a full and harmonious development of his/her capabilities. In this sense, in the first instance parents have the full responsibility, followed by society as a whole. Parents are

obliged to raise, support and educate their children and have the right to freely and independently decide on these matters. Growth and development in a family environment is of primary interest to the child. This is why the family is under special protection of the State - this is also a constitutional provision. In order for both the child and the family to exercise their interests and freely play their roles, society in general has an important role to play.

### **Specific characteristics of BiH education**

246. An attempt to establish a unified but realistic picture of the situation in BiH education is as valuable as the current efforts to rebuild the war-torn and divided country as a single, modern and democratic State of Bosnia and Herzegovina in accordance with international standards, principles and practices of modern society. To understand the existing situation, it is necessary to keep in mind several facts. Bosnia and Herzegovina is an internationally recognized State which emerged from the dissolution of the former Socialist Federal Republic of Yugoslavia (SFRY). The consequences of the war are still evident in BiH in almost all fields and spheres of society, including in the field of education. Specific characteristics of the internal organization are directly reflected in the system, or rather systems of education.

247. Children and young people in Bosnia and Herzegovina, who before the war were included in a single educational system, are today educated according to a "tripartite" pattern, depending on the area in which they live and the ethnicity they belong to. In other words, instead of one, there are three educational systems in BiH. In FBiH, where Bosniaks constitute the majority population, the pre-war educational system has been continued with the most necessary changes and modifications. In the area where Croats are the majority, the curriculum and textbooks from the neighbouring Republic of Croatia are used based upon a decision of the local authorities. In RS, school patterns and textbooks from the Republic of Serbia have been adopted and are used in practise, with some modifications in the programme.

248. In FBiH, powers in the field of education have been delegated to the cantons. Cantons are authorized to repeal laws and to pass new educational laws and regulations and fully develop and implement educational policy. In RS, education is the responsibility of the Entity government.

249. The Ministries of Education of FBiH and RS, together with representatives of the international community, have launched an initiative to develop a common educational base for the whole State of BiH with full respect of ethnic, cultural and religious characteristics of all constituent peoples in BiH. This is one of the obligations arising from the provisions of the Dayton Agreement that have not been implemented as yet. There is still no common educational programme.

250. The educational system is going through a process of transition to a new system that will respect the changes and needs that have emerged. Basic characteristics of the changes in the educational system are reflected in its decentralization, the passing and implementation of new laws for all levels of education, the legal regulation of the establishment of private schools, religious instruction issues, the establishment of a system to finance education, development of appropriate plans and programmes, printing of new textbooks, education of teaching staff, etc.

251. The previous educational system contained an ideological package in which the specific characteristics of some of BiH's constituent nations were inadequately represented, especially in terms of the subjects reflecting national identity: history, literature, geography, art. In education as well as in the current linguistic practice, three official languages are in use: Bosnian, Serbian and Croatian. The standard language of literature in BiH in the pre-war period was named Serbo-Croatian or Croato-Serbian, which in practice and in grammar and orthography respected two language variants: the eastern and the western variant.

252. During the democratic process in BiH the language issue has been "touched upon", and it has been opened up for suggestions for a new formulation of BiH linguistic practice and tradition, based above all on the respect for specific ethnic and cultural characteristics of the BiH peoples.

#### *Pre-school education*

253. Pre-school education is of great importance both in an educational and a social sense. In addition to creating preconditions for the child's participation in the regular school process, this form of education plays an important role in helping employed mothers. However, pre-school education in BiH is still underdeveloped and is carried out in a small number of institutions; the need to increase these opportunities is obvious. Some pre-school institutions were destroyed or devastated during the war.

254. International humanitarian organizations provide important assistance by repairing and equipping schools and by helping staff to adopt modern methods in work with children. According to 1996 data, there were 67 pre-school institutions in FBiH with 6,184 children and 744 teachers, while in RS 40 kindergartens were active.

255. Children with physical and mental disabilities are educated in special schools and institutes, with special care and attention provided by society and in accordance with the law. During the war, a special education faculty was established in FBiH for the education of necessary teaching staff. There are problems with financing these schools due to the inclusion of children from the whole of BiH.

#### *Elementary education*

256. This type of education is obligatory, free and available under the same conditions for all children. The largest number of elementary schools in BiH are State owned. Following the Dayton Agreement, several private elementary schools were opened in BiH. However, this type of elementary school is still in its inception phase of development and is available to some social categories only.

257. Basic elementary education is provided in elementary schools, in special elementary schools for children with disabilities, and in special schools intended for additional education of adults (especially present in BiH before the war).

258. Elementary education lasts eight years (4+4). It is possible to receive elementary art education (music and ballet) in parallel. Classes in grades I-IV in elementary school are taught by teachers who have completed teacher training colleges or teacher faculties. Pupils in these

grades have 4 classes per day, i.e. 20 classes a week. In grades V-VIII, classes are taught by teachers or professors who have completed teacher training colleges or teaching faculties. Pupils in these grades have 5 or more classes per day, i.e. 25 classes a week. The total number of classes in all grades can be increased by a maximum of five classes per week of other educational activities. The educational curriculum is implemented over 36 weeks, and for pupils of grade VIII over 34 weeks. Educational work is organized in two semesters with two school breaks (winter and summer). According to the existing standards, classes of one and the same grade have up to 30, or exceptionally up to 34 pupils. There are also combined classes of two grades that may have 15 pupils.

259. The curriculum is taught in the three official languages of BiH: Bosnian, Serbian and Croatian. The official alphabets are Latin and Cyrillic. The school can organize special forms of education for pupils who are not in a position to participate in regular classes due to long medical treatment, either at home or in the hospital.

260. According to available data, there are 1,147 elementary schools within the territory of BiH. In 1997 in the Federation of BiH, 266,918 pupils attended elementary school and 12,382 teachers were teaching them. At the time no data on the number of children not included in elementary education were available. In RS, there were 196 registered schools in the academic year 1998/99; 128,422 pupils attended elementary school and 98.9 per cent of pupils completed elementary school.

#### *Secondary education*

261. Secondary education forms part of the overall educational system and is available under the same conditions to all pupils who have completed elementary school. For pupils with disabilities special education is provided. Several changes have occurred in secondary education compared to the pre-war period: the previous vocationally oriented education has been replaced with several groups and types of secondary schools - general programme secondary schools, technical schools, art schools, pedagogical schools and religious schools.

262. Today not only municipalities and cities but also private or legal persons from BiH or from abroad, as well as religious communities, can establish a secondary school (for example, the following schools have been established: *Bošnjačka gimnazija* - Bosniak general programme secondary school; Catholic School Centre, Turkish College, Danish Technical School). The approval for establishing such schools is granted by the competent ministries at the Entity level. According to statistical data for 1997, there were 184 secondary schools with 128,422 pupils in FBiH. In RS, 88 secondary schools were registered and 54,215 pupils attended classes in the academic year 1998/99.

263. The educational profiles offered in existing types of school range from general education that is obtained in general programme secondary schools to technical vocational training. Specialized education for professional work lasts one year after secondary education, which itself lasts three or four years depending on the type of school. Art school lasts four years and provides secondary education for work or further education. The same applies to religious schools.

264. Two-year post-secondary education and university education is provided at two-year post-secondary schools, faculties and art academies according to an admission quota. This quota is determined by the universities with the approval of the cantonal governments in FBiH, while in RS the Government defines the admission plan upon a proposal by the Ministry of Education.

265. Pupils' and students' standards of living are an integral part of the education field. In this context, funds are allocated for scholarships and student loans, for subsidized accommodation in dormitories and food in restaurants and reduced fares for transportation. Textbook publication is co-financed in order to improve the financial condition of the beneficiaries. However, the above measures are not sufficient and still do not provide equality and quality in education. The material status of the pupil and student population is just one of the consequences of the current economic and political situation in BiH.

266. A lack of professional teaching staff has also been observed. Concerning the gender structure of teaching staff, no cases of discrimination have been recorded at any level of education; female teachers are even dominant, especially in elementary and secondary education.

267. Research shows that social expenditures for education are decreasing and the burden of education increasingly falls on the family. In BiH, the family merely survives. The current situation does not provide a future or prospects for prosperity for the majority of young people. A serious problem in the whole of BiH is thus the increasingly large number of young people who leave the country.

### **Most frequent violations of children's rights in the field of education**

268. A large number of children and pupils are refugees and cannot return from abroad to their pre-war homes and schools. The same is true for displaced children within the territory of BiH. Some efforts are made by the competent authorities and schools to help returnee children to reintegrate as easily and painlessly as possible into the educational process and return to normal life.

269. A high number of children have a limited radius of movement and their life and health are in danger in many areas where mines have not been cleared. According to some assessments, there are about 1 million mines in BiH with a lifetime of 50 years. Data from the International Committee of the Red Cross (ICRC) suggest that every month, 50 children in BiH suffer the consequences. The largest number of mines is found around Sarajevo, Tuzla, Banja Luka, Zenica, Mostar, Doboje, Brčko, etc. Although mine clearance activities are being implemented, results are still unsatisfactory. Mine clearance proceeds slowly and dangers are present in many places. International humanitarian organizations, especially UNICEF and ICRC, work together with schools on educating children about dangers of mines. However, news of child suffering, with discouraging epilogues, are frequent.

270. Factors influencing relations in the family and the environment in which the child grows up include: educational neglect, neglect and insufficient care by parents, physical punishment, unemployment of a large number of parents, and serious social problems of many families.

271. A number of children, especially refugees, are not included in the educational process, and there is an increasing danger that the number of illiterate persons among the young in BiH will increase. The causes are varied: an insufficient number of schools and devastation of existing ones, great distances between school and home, difficult financial conditions, conservatism of some parents regarding education of female children, children's early marriage, children's participation in housework, etc.

272. The situation of children who belong to national minorities (opportunity to receive education in the mother tongue, recognition in the school curriculum of the specific characteristics of all peoples, cultures and religions within BiH) is a serious problem for which best solutions are still being sought and which are directly connected to the general political situation in BiH. In this context, the BiH Council of Ministers has raised the issue of the necessity of passing a State law on national minorities. This law is currently being drafted, and will serve as a basis for improving the situation of this population group.

273. The financial condition of education is difficult due to the severe consequences of war and a slow recovery of the economy. Salaries of teachers are low and irregular. There is a lack of equipment, teaching aides and financial funds for overhead expenses in schools. The many years of depressive conditions in the field of education are a demotivating factor for the teaching staff and for improving the quality of education.

274. The general education of teachers is implemented through the teachers' colleges and faculties, while teachers for vocational and technical schools are trained in other faculties. Due to the lack of teaching staff in FBiH, the work of teacher-training schools has been resumed.

275. An expert team of the Federation Ministry of Education, Science, Culture and Sport, together with professors from Pittsburgh University (in the United States), has prepared a study entitled "Strategic planning of the renewal of education for teaching staff in BiH". Seminars for teachers are organized in which participants get acquainted with modern learning methods and transfer of knowledge, with education in democracy and child rights according to the Convention on the Rights of the Child and with other topics.

276. Regardless of the difficulties which BiH society has faced in the post-war period, the quality of education of young people in Bosnia and Herzegovina is not questionable, especially if the results that our pupils and students achieve in local and world competitions are taken into account. Education is not lagging behind other countries to any greater extent, even though their technological and economic advantages are greater. The problem of Bosnia and Herzegovina is not a deficit of professional staff but general disorientation and inability to use these professionals adequately. As they feel that they are not needed in their country, a large number of educated young people decide to look for their future outside the borders of BiH.

### **1. Aims of education (art. 29)**

277. In the current laws on elementary and secondary school and pre-school institutions, educational aims are defined, however not to the extent necessary. This is especially true in terms of respect for human rights and freedoms, rights and duties of children and learning about building a democratic society. The universal goals of education contained in the Charter of the United Nations, the Convention on the Rights of the Child and other international legal

documents state that children should be raised and educated for a responsible life in a free society based on the principles of peace, mutual understanding, tolerance, gender equality, and friendship among peoples and ethnic, religious and national communities. These goals have not been incorporated, and should be recognized in new laws.

278. The curricula and programmes at all educational levels include content on general values of civilization and its achievements, adapted to the child's age. The curricula and programmes determine goals and tasks, the elements, the volume and the various forms of educational work.

## **2. Leisure, recreation and cultural activities (art. 31)**

279. The Child Care Law defines children's rights in more detail. The State has the obligation to create living conditions conducive to proper psychophysical development of the child. The essence of society's care for children, apart from education and preventive health care, lies in creating preconditions for adequate rest and recreation, such as cultural activities, sports activities and creative activities for children. Partial subsidies of the expenses of children's education in pre-school institutions is an obligation of the local community. Additionally, the Law defines conditions for exercising children's right to rest and recreation in recreational centres, and these expenses are subsidized depending on the financial condition of the family.

280. In elementary and secondary schools free activities are organized for pupils in order to develop and strengthen their creative capabilities, allowing them to acquire positive habits and skills. Free activities for pupils are implemented through clubs, associations, groups, pupils' cooperatives and other forms of organizations, based on the principle of voluntary participation. A large number of schools have child choirs, art and/or music groups, folk groups, drama associations, sports associations, etc. As a component of extracurricular activities, pupils' competitions in various disciplines are organized. There are also schools with active and successful debate clubs where pupils are taught communication skills, conflict resolution, and decision-making. Parts of such activities are accessible to wider audiences thanks to special television broadcasts of pupils' debate competitions that gather schools and pupils from various parts of BiH.

281. Concerning human rights education, including children's rights and their representation in the curriculum, it can be noted that they are included to a certain degree. There are still no special school subjects or programmes that address human rights. The same is true for sex education, which is represented in schools only through some subjects (biology).

282. Health services and advice are partially available to pupils and students, which is directly related to the general financial and social conditions in both education and other spheres of society.

283. Many non-governmental local and foreign humanitarian organizations that gave considerable support to children during the war and continue to do so today participate in organizing children's free time, supporting children's creativity and talent, promoting children's rights, and cultural, art and sports activities.



284. The Law on Child Care defines the rights of children in more detail. The RS government is obliged to create living conditions conducive to the child's proper psychophysical development.

285. Besides education and preventive health care, the essence of society's care for children also lies in "nourishment, rest and recreation, cultural, sport and creative activities of children". The local administration has an obligation to subsidize children's education in pre-school institutions. The law specifies conditions for the exercise of children's right to rest and recreation in rest centres. The costs of pre-school children's and school age children's education are subsidized depending on the economic situation of the family.

286. Pre-school education encompasses a very small number of children aged 3-6 (around 5 per cent), which means that this right is not being fulfilled, especially in small places and rural areas.<sup>1</sup>

287. The Law on Direct Child Protection and the Law on Elementary Education define the sport and recreational elements of a child's education, which are implemented through the organization of active recreation, recovery in a better climate and outdoor classes. Due to lack of material resources in local communities and school institutions, many of these rights of children are not being fulfilled.

288. The elementary school work programme foresees creative work competitions: fine arts, literary and music competitions (choirs and orchestras). Competitions are organized from school level to the level of the Entity and the best groups and individuals receive awards.

289. As a component of extracurricular activities, sports competitions are organized, such as basketball competitions, football competitions and handball competitions, as well as competitions in chess - also from school level to the Entity level.

290. Elementary school pupils are included in the work of scout groups, which organize creative camps for children. In this way children's needs for rest and recreation are met.

291. Similar to the event in the former Republic of Yugoslavia, Children's Week is organized in the first week of October. During this week children participate in cultural, educational and recreational events. During Children's Week, fund-raising is organized through the sale of postal stamps and proceeds from theatre and cinema shows and other cultural and sports events. The funds collected are used for further development of this event and for funding of humanitarian activities to help children.

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<sup>1</sup> In 1997 and 1998, in cooperation with USAID and the humanitarian agency Save the Children, the Ministry of Education and the Banja Luka-based Republican Pedagogical Institute developed an alternative programme for pre-school children. In 1997, this programme was implemented in 122 groups with around 3,000 children, and in 1998 in 105 groups with around 2,620 children. The intention is to ensure self-sufficiency of the playgroups and to implement this alternative programme within the context of the implementation of the Convention on the Rights of the Child.

292. A special law regulates the right of children and youth (up to 25 years of age) to subsidized public transportation. Groups consisting of a minimum of 15 children pay 20-30 per cent of the standard price when travelling for school purposes. This also applies to academic school excursions, travel in connection with health-care programmes, rest and recreation, as well as travel for advancement of amateur and recreational sports within the institutions promoting physical culture. The subsidies are provided from the budget of the Republic.

293. With the aim of actively engaging children in fine arts and to promote the Convention on the Rights of the Child, a fine arts competition dedicated to the rights of the child has been organized. Several thousand pupils aged 7-15 have participated in the competition.

294. Creative workshops are organized in schools, camps and during recreational classes. These workshops are coordinated by experts in working with children. Participation in the workshops is voluntary, and they have proven to be very creative and stimulating for children.

295. For four years now, in the month of May, the Republic Pedagogical Institute organizes a children's song festival, as well as folk dance, choir and orchestra competitions for elementary and secondary schools.

296. In the present situation of extreme economic crisis, difficulties have been encountered with regard to the full implementation of article 31 of the Convention on the Rights of the Child. The programmes of school institutions and of organizations arranging activities for children complement the efforts to minimize the consequences of war and the post-war crisis for children's recreation, rest, cultural activities and normal development.

297. Schools in the Republika Srpska are working under very complex conditions. Apart from educational tasks, schools and staff working with children also have to develop activities in which the development of children's inner world is a priority. In addition, the school should be a place of relaxation; a place where, through studies, social activities and play, the consequences of the war will be forgotten or at least alleviated as soon as possible.

298. Children are innocent, vulnerable, dependent, curious, active and hopeful. Their lives should be filled with joy and peace, play, learning and growing up. Their future should be built in an atmosphere of harmony and cooperation. These words of the World Declaration on Survival, Protection and Development of Children are a warning and a reminder of the mistakes adults make concerning children. By investing in the development of education and by creating premises for the versatile development of young people, we invest in the future of the world.

299. In FBiH, informal activities of students are organized in elementary and secondary schools with the aim of developing and enhancing creative capabilities and positive habits and skills. Students have informal activities in clubs, associations, groups, students' cooperatives, and other forms of organizations based on the principle of voluntary participation. A large number of schools have children's choirs, fine arts sections, musical sections, drama sections, folklore, sports societies and similar.

300. The following international humanitarian organizations have assisted in the implementation of creativity programmes for children: SOS Kinderdorf International, UMCOR, War Child, Solidarities, and others. The following local humanitarian organizations have assisted in these programmes: Naša djeca BiH - the publishing of two books by children and literary and artistic competitions; Pozorišna scena - children's theatre and children's radio programme; Palčići - children's choir; Naša djeca Tuzla - participation in a musical competition in Paris - Prva dječija ambasada Medaši - project "Children create", and others.

301. The following international organizations have assisted in implementation of programmes of cultural activities: War Child - the Pavarotti music centre; CRACH - cultural exchange; Open Society Institute - support to cultural societies and cultural events; Equilibre - a cultural programme in Sarajevo; La Notte della Cometa - cultural activities, publishing, fine arts exhibitions; Hilfe für Kinder in Not - support to cultural events in Zenica; Bridge of Peace - support to cultural activities; Human Relief International - a cultural centre in Breka; Aid Committee Kuwait - assistance to cultural, academic and religious events; and others. The following local humanitarian organizations have assisted in implementation of cultural programmes: Feniks - shows for children; Higia - picture books for the elementary school "Osman Hadžić"; Medoka - travelling theatre; La Benevolencija - cultural activities for children, and others.

302. The following international organizations have assisted in implementation of sport activities programmes: American Refugee Committee - construction of 1,000 playgrounds for children and reconstruction of gyms; Sprofondo - provision of equipment for sport clubs; Schüler Helfen Leben - provision of sport equipment for clubs, organization of city competition in badminton; Dalla Parte degli Ultimi - reconstruction of gyms; Diakonisches Werk der Evangelischen Kirche in Deutschland - reconstruction of playgrounds for children, schools and outpatient clinics. Assistance has also been extended by the following local humanitarian organizations: Asocijacija studenata fizičke kulture - sport activities, participation in sport competitions; Djelujmo kroz sport, MHS - support to students' competitions; Škola fudbala "Bubamara"; and others. The most important cultural and art events for children in schools are held during State and religious holidays, on International Children's Day and during Children's Week.

303. Several local and international NGOs contributed greatly to children's development during the war, organizing their free time, encouraging children's creativity and talents, promoting the rights of the child and organizing cultural, artistic and sports activities, and continue to do so today.

304. The following international humanitarian organizations assisted in organizing children's free time: UMCOR, Association DIA, Catholic Relief Services, Saudi High Commission for BiH, Al Haramain, Convoy of Mercy, Médecins sans Frontières Holland, Ministry Resource Network, Professionals International, and others. The following local humanitarian organizations provided assistance: Naša djeca BiH Zenica, Tuzla, Sarajevo, Centar za samopoudanje, Reth, Budi moj prijatelj, Djelujmo kroz sport and others.

305. The following international humanitarian organizations assisted in organizing summer camps (vacations) for children: Consorzio Italiano di Solidarietà, 1000 Enfants,

Volkshilfe Österreich, Prometee, Qatar Charitable Society, SOS, Injustice International, and others, as well as the following local humanitarian organizations: Naša djeca BiH Zenica, Tuzla, Sarajevo, IKRE, Obrazovanje gradi BiH, Fond otvoreno društvo BiH and others.

306. Links and cooperation between our country and other countries are being established in the domain of education and cultural activities. Study visits for education experts from the Federation of BiH to friendly countries and vice versa are being organized with the purpose of transferring knowledge and experience. Cultural, artistic and sports groups and teams of mathematicians and physicians are participating in competitions, festivals and summer camps, establishing friendly relations between our children and children from other countries.

307. The following international organizations have assisted in promoting the rights of the child stipulated by the Convention on the Rights of the Child by organizing seminars, publishing the Convention and promotion material, and constructing playgrounds: Save the Children Denmark in cooperation with Save the Children UK; Save the Children US and Save the Children Sweden - a seminar for NGOs in Neum; Save the Children Denmark and Save the Children US through playgrounds for children and work on introducing children to the Convention on the Rights of the Child; Civitas (US), in cooperation with the Federation Ministry of Education, Science, Sports and Culture - the project "The basics of democracy" in elementary and secondary schools, which so far has included 50,000 students and teachers.

308. The Social and Child Care Bureau of the Federation Ministry for Social Welfare, Displaced Persons and Refugees, with the financial support of the UNICEF BiH Office, has produced posters of "The UN Convention on the Rights of the Child" and "Children, learn about your rights", in 3,000 copies each. The posters are intended for children and adults (professionals in the fields of culture, social work, education, law, health and others). The posters contain the 42 most important articles of the Convention and will be distributed throughout the territory of the Federation of BiH, in all 10 cantons, especially to kindergartens, elementary and secondary schools, institutions of social and childcare, outpatient clinics, child clinics, judicial and police organs, political parties and government authorities.

309. The following local humanitarian organizations are engaged in the promotion, protection and implementation of the rights of the child: Naša djeca BiH Tuzla, Zenica and Sarajevo base all its work on the Convention on the Rights of the Child. The Centre for Protection of the Rights of the Child is a part of this organization. It has published a popular book for children entitled *First Human Rights Reader* and a collection of poems entitled *In the World of Children's Justice*. They have organized a round table on "Implementation of the UN Convention on the Rights of the Child in Bosnia and Herzegovina". Seminars for educators on the Convention have been organized in five cantonal centres. A theatre play, entitled "I have my rights" has been performed in Zenica. A Children's Rights Forum also operates in Tuzla.

310. Soros Open Society Institute BiH as part of its civil society programmes has supported the Human Rights Bureau, the Helsinki Committee for Human Rights and the Serb Civic Council of Bosnia and Herzegovina. DJL CIPOS is implementing the following programmes: search for missing and exiled persons and protection of human rights, SOS telephone, the round tables "The position of women in society" and "Current issues, problems and perspectives of families in BiH", a programme on ethnic minorities, a programme on ethnic conflicts, and a programme on ethnic history and culture.

311. Budi moj prijatelj (“Be my friend”), within its project “Playground”, organized a knowledge quiz about the Convention on the Rights of the Child. A competition organized by Civitas was broadcast by NTV 99, TV Hayat, radio Glas Nade, radio and TV BiH, and published in the newspaper *Večernje novine*. Prva dječija ambasada - Medasi works on the implementation of the following projects started during the war: “Children create”, return of refugee children, a children’s village on the island of Lastovo, a club called “Humanity Olympics”, and others.

312. UNICEF is the umbrella organization that supports the work of NGOs for children in Bosnia and Herzegovina, especially in activities on promoting the Convention on the Rights of the Child.

## IX. SPECIAL PROTECTION MEASURES

313. The most vulnerable categories of children in BiH are refugee children, especially children living in collective and reception centres, child war victims and wounded children, children without one or both parents, and abused children.

### A. Refugee children (art. 22)

314. Large population movements in Bosnia and Herzegovina created a large exiled and displaced population. It is believed that out of the total number of displaced persons in BiH 250,000 are children. It is stated in the reports of the BiH Entities that refugee children are taken care of within the governments’ possibilities and with the assistance of the international community. They have a right to health care and to education.

315. With the assistance of international humanitarian agencies and public health institutes, research and several programmes have been initiated in order to help the most vulnerable children. However, no comprehensive programme has been initiated yet which would result in a significant improvement of children’s conditions in the sense of increased care. The majority of the population in BiH live in difficult economic and social conditions, without employment, income, and/or deprived of their property and their homes, which, as a rule, affects the family and the children the most.

316. The 1996 census showed that in the territory of the Republika Srpska there were 97,126 displaced children, specifically:

| Age   | Number of displaced children |
|-------|------------------------------|
| 0-5   | 30 318                       |
| 7-14  | 47 817                       |
| 15-18 | 18 991                       |
| Total | 97 126                       |

To this figure, the number of children living as refugees in more than 100 countries all over the world should be added. The number varies depending on the implementation of property laws in both Entities. The current estimate is that in the RS 20 per cent of the displaced population are children.

317. Recognizing all the specific aspects of the legal status of this category of persons, a special law - The Law on Displaced Persons, Refugees and Returnees in the RS ("Official Gazette of the RS", No. 33/98) - regulates the status, rights and duties of displaced persons, refugees and returnees; their return and reintegration in society; bodies and organizations in charge of the enforcement of the Law; as well as other issues of importance for the protection of these persons in the Republika Srpska. Provisions of this law are fully harmonized with international codes and conventions, and should in the first place provide temporary accommodation, nourishment, financial support, and establish the right to social adaptation, the right to education, and other rights set forth in the Convention relating to the Status of Refugees, annex 7 and the international documents attached to annexes 4 and 6 of the Dayton Agreement. It needs to be underlined that refugees and returnees will enjoy the rights and freedoms stipulated by the international and domestic legislation equally with other citizens of the Republika Srpska.

318. The funds for care of displaced persons, refugees and returnees are provided depending on the RS budget resources. The funds for implementation of the rights of displaced persons, refugees and returnees can also be provided through assistance by countries receiving BiH refugees, by the Office of the United Nations High Commissioner for Refugees (UNHCR) and by other relevant international agencies, as well as by donations or credits from international financial institutions and through other sources.

319. All children with the status of a refugee or displaced person are covered regarding compulsory education, and the right to financial support depending on their needs and on the financial capacity of the Republika Srpska or the capacity of municipalities as the main implementers of social protection of refugees and displaced persons (article 24 of the Law).

320. Health care of refugee, returnee and displaced children is provided in the manner determined in the Law (art. 10, item 12). The Law stipulates that both refugees and displaced persons are covered by compulsory insurance, unless they are insured on a different basis (article 53 of the Law obliges the Ministry for Refugees and Displaced Persons to pay the contribution for persons referred to in article 10, item 12, of the Health Insurance Law).

### **Children in collective centres**

321. From the perspective of humanitarian law, the swift dismantlement of collective centres in both Entities constitutes a specific problem. In addition to adults, these centres accommodate a great number of children. Currently, 1,174 children live in collective centres in the Republika Srpska.

| Age          | Number of children in collective centres |
|--------------|--|
| 0-1          | 30                                       |
| 1-7          | 258                                      |
| 7-16         | 684                                      |
| 16-18        | 202                                      |
| <b>Total</b> | <b>1 174</b>                             |

322. The RS National Assembly has introduced a programme of dismantlement of collective centres, and the Government of the Republika Srpska has developed a financial plan and operational measures for implementation of the programme. However, due to belated transfer of funds, the programme will not be implemented at the planned pace.

323. Children's living standards in the collective centres is very low. This is illustrated by the following facts:

- Most collective centres are buildings that before the war were schools, workers' quarters, hotels, hospitals, kindergartens or military barracks, and as they have been used as collective centres for a long time, they are now uninhabitable due to inadequate maintenance;
- The number and structure of groups accommodated in collective centres is inappropriate. Collective centres often accommodate not only children but also chronically ill persons (see the overview on chronically ill persons by collective centres), due to lack of space;
- Despite the programme for dismantlement of collective centres adopted by the National Assembly, the dismantlement is being carried out slowly due to lack of funds.

324. The highest concentration of persons in collective centres is in Višegrad, where there are 14 collective centres accommodating 1,909 refugees and displaced people. In other collective centres as well, the number of persons is large. Collective centres are partly supported from the Republika Srpska budget. However, without international donors - in the first place UNHCR, the World Food Programme (WFP), the Humanitarian Aid Office of the European Commission (ECHO), USAID, ICRC and others - living in collective centres would be impossible.

325. The monthly food budget is KM 13.59 per capita, which is the minimum average consumer's basket of foods. Nourishment of elderly people and people with poor health (diabetics, persons suffering from stomach problems), i.e. all persons needing special nourishment, constitute a specific problem. Concerning children, the problem becomes more complex, because no international or RS agency distributes or supplies food to this category of persons. (See the overview of age structure of children in RS.) Problems related to nourishment of people accommodated in collective centres are further complicated by the termination of the contract on food and maintenance concluded between UNHCR and Action Contre la Faim (ACF) in March 2000. It is certain only that Catholic Refugee Service (CRS) and USAID will be extending continuous assistance to collective centres until the end of 2000. Time will tell whether these funds and the funds from the RS budget will be sufficient.

326. The number of displaced children and youth who temporarily live in the Federation of BiH is around 200,000. This includes children who lived in the Federation of BiH before the war but who still do not have an opportunity to return to their pre-war homes, as well as children who lived in municipalities in the territory of today's Republika Srpska.

327. The status of refugee gives children abroad the right to adequate temporary accommodation, food, financial assistance, social adaptation and psychological support, health care, education, and the fulfilment of other basic needs.

328. Due to the situation in BiH during and after the war, the rights of refugee children are more adequately fulfilled than the rights of displaced children. This is primarily due to better financial conditions abroad, and to the higher level of development of the judiciary in host countries.

329. All refugee children are included in compulsory education, and assistance includes the provision of school material, clothing, footwear, housing, food, and other forms of assistance.

330. The fulfilment of the rights of displaced children is limited and depends on financial conditions, which vary in the Federation of BiH from canton to canton. Not a single child is exempt from the right to education, health care and minimum material assistance. Meeting greater needs is not dependent on legislation but on material conditions and the necessary financial resources, which are secured from the budgets intended for these purposes. The existing Law on Displaced Persons and Refugees of the Federation regulates these issues, along with a new law that is currently being passed; this law does not regulate this matter in a different manner, but upholds the existing rights.

331. It should be emphasized that children without both or one parent regularly receive - financial resources permitting - certain additional financial assistance from earmarked funds under special programmes provided by many international and local organizations.

#### **B. Children in armed conflict (art. 38)**

332. The obligations that were accepted by the State as a signatory to the Convention on the Rights of the Child, especially article 38, are respected in Bosnia and Herzegovina. According to this law persons that are under 15 years may not be recruited into the armed forces to participate in armed conflicts. Bosnia and Herzegovina is a signatory to the Optional Protocol of the Convention on the Rights of the Child on the involvement of children in armed conflict.

333. According to the Defence Laws of FBiH and RS, conscientious objection is allowed for conscripts who do not wish to carry out military duties. Those persons are obliged to carry out other, civil service duties determined by the law. The difference is that these persons do not carry weapons and do not apply any force against others.

334. The Federation Defence Law regulates the institution of military service. Military service includes conscription, the actual military service, and reserve service. Conscript service begins at the commencement of the calendar year in which a citizen reaches 18 years of age, and lasts until the beginning of his military service. A conscript can be conscripted at his request in the calendar year in which he reaches 17 years. In case of immediate war threat or state of war, the members of the Presidency of the Federation of BiH may issue an order for conscription of persons who are 16 years of age.



335. The Defence Law of the Federation of BiH fully recognizes the commitments the State of Bosnia and Herzegovina assumed as a signatory to the Convention on the Rights of the Child, especially its article 38. According to this law, it is impossible to draft persons who are 15 years of age or younger and include them in armed conflict as members of the armed forces of the Federation of BiH.

336. Article 81 of the Defence Law of FBiH allows conscientious objection by a military conscript who, due to his religious or moral beliefs, is not ready to participate in carrying out his military duties in the army of FBiH. These persons are obliged to fulfil other duties of civil service as stipulated by law. During his service a civil service conscript enjoys the same rights as a soldier in military service, except that he does not carry weapons and does not apply force against other people.

### **C. Administration of juvenile justice (art. 40)**

#### **Definition of juvenile offence**

337. The term “juvenile offence” is applied here in its narrow sense, signifying only juvenile behaviour that includes violations of criminal provisions. Juvenile misdemeanour or similar is in this context regarded as less important. Though criminal acts committed by juveniles in most cases do not have severe consequences, juvenile criminal behaviour is of importance. The reason is that adult offenders are most frequently recruited among juvenile offenders. In addition, by studying the scope, structure and dynamics of juvenile offence the level of success of society’s care of youth in general can be established.

338. Juvenile offence has a range of characteristics in common with adult delinquency. Due to many specific qualities, especially the criminal and sociological aspects, it is considered a special category and requires special treatment in criminal law. In order to sentence a minor additional information is necessary relating to the minor’s personality, mental development, psychological characteristics, health condition, living environment, etc. Establishing such facts is the main activity of all authorities that participate in criminal procedures for minors.

339. According to the provisions of criminal law, persons under 14 are considered children and no punitive sanctions can be applied against them. When it is determined in the procedure that a minor at the time of the execution of a punishable act was under 14, the criminal procedure is suspended and the guardianship authority is informed.

340. The following can be ordered against a minor who commits a criminal offence: disciplinary measures (court reprimand or commitment to a disciplinary centre for minors); measures of increased supervision (by parents, adopter or guardian, in another family or by the competent authority of social welfare); institutional measures (commitment to an educational institution, correctional facility or other institution for training); as well as measures of protective supervision with a conditional sentence (medical treatment in an appropriate health institution, abstention from use of alcohol or narcotics, visiting certain health clinics or counselling offices, etc.).

341. The implementation of educational measures is difficult in both BiH Entities. This is due to the fact that many of the facilities necessary to carry out these measures in a professional and qualified way have been devastated due to the war, or were used for military or other purposes and have not yet been rehabilitated.

342. In exceptional cases, juvenile perpetrators of offences can be sentenced to prison. A prison sentence can be ordered for an older juvenile who committed an offence for which the law calls for a sentence of less than five years in cases where grave consequences of the act and a high level of criminal responsibility warrant more than a corrective measure.

343. Special juvenile courts do not exist; however, all courts in the territory of FBiH have councils for juveniles and, in first-instance courts, judges for juveniles (these are permanent judges of the court with the specific task to fulfil this obligation). A juvenile panel in the first-instance procedure consists of three members: a judge for juveniles and two jury-judges, who should be professors, teachers, psychologists, youth counsellors or similar, with experience in educating young people. In the second instance the panel consists of two judges and three jury-judges.

344. A juvenile cannot be sentenced in absentia. When acting in the presence of a juvenile, the bodies participating in the proceedings are obliged to act carefully, taking into account the juvenile's mental development, sensitivity and personal characteristics. If it is necessary to establish a juvenile's health condition, his/her level of psychological development and profile, medical doctors, pedagogues, and psychiatrists examine him/her to give their opinion. This can be carried out in a health institution or other institution. Trials against juveniles are never open to the public.

345. A criminal proceeding against a juvenile is instituted for an offence only at the request of a public prosecutor. The guardianship authority is notified of any proceedings instituted.

346. Only a lawyer can defend a juvenile and no one can be exempt from the duty of testimony for assessment of a juvenile's mental development and personality and the circumstances under which he/she lives.

347. A juvenile is summoned to appear in court through parents or legal representatives.

348. Without the court's permission, the court proceedings, or rulings made in these proceedings may not be publicized.

349. Juveniles serve juvenile prison sentences in special punitive-correctional facilities or in special departments for juveniles in punitive-correctional facilities in which they can reside until they reach 23 years of age. If the sentence has not been completed by that time, they are sent to a punitive-correctional facility where adult persons serve their prison sentence.

350. In punitive-correctional facilities for juveniles, or punitive-correctional facilities with special departments for juveniles, elementary schools for adults and secondary schools are established. Alternatively, elementary and secondary education of convicted juveniles is

provided in cooperation with other educational organizations. If a punitive-correctional facility has no such school, the juvenile convict can, under the supervision of his/her guardians, exceptionally attend such school outside the institution for the purpose of completing his/her education. Juvenile convicts in punitive-correctional facilities are provided the opportunity for physical exercise. Their correspondence with their parents and other close relatives may not be restricted. Juveniles can be granted leave twice a year at a maximum, and each time it can last for 14 days.

351. During the period of correctional measures, the institution or social welfare body where the measure is being served is obliged to record observations of the juvenile's behaviour, methods of enforcement of the measures, and the relationship between a juvenile and his/her parents, adopter, or guardian.

352. In an educational-correctional facility a juvenile is entitled to three meals a day, and he/she will be allowed to purchase food, personal hygiene items, newspapers and other necessary items for everyday life from his/her own money in the canteen of the institution.

353. In case of a serious disease, the educational-correctional institution sends him/her for medical treatment and informs the juvenile judge, parents, adopter, or guardian. If the educational-correctional institution is not equipped with medical treatment for the disease, the juvenile is sent to a clinic, to a special hospital department of a punitive-correctional home, or, in case of emergency, to the closest medical facility.

354. The Federation of BiH has no single institution in which a juvenile perpetrator of an offence can serve a sentence in an educational-correctional facility. (Before the war in Bosnia and Herzegovina, the institutional measure of committing a juvenile to an educational-correctional facility was carried out in the educational-correctional facility for male juveniles in Banja Luka, which now belongs to the other Entity.)

355. According to information obtained from the courts in the territory of the Federation of BiH, offences in which children are the perpetrators are dramatically increasing. During the period 1992-1996, a total of 2,675 cases were registered, in which 3,743 juvenile perpetrators participated in offences. The most numerous offences are offences against property and crimes against life and body in which older and younger juveniles participated equally. It is worrying that the group of juvenile perpetrators of offences includes a large number of recidivists. This creates a permanent habit and inclination to perform criminal acts and is an increased threat to society.

356. Due to difficulties in implementing the measures of committing juveniles to educational-correctional institutions, the courts have avoided pronouncing such measures in the past four-year period. Only around 30 measures have been ordered and none of them has been enforced, which is the reason for an increasing tendency of recidivism among juvenile perpetrators. If the conditions contributing to juvenile delinquency (war, loss of parents) are added, it can be concluded that the situation in this field is very unsatisfactory.

357. Due to all the facts presented, and in an attempt to stop this unsatisfactory trend of increased juvenile delinquency, it would be necessary, along with other measures, to establish an Institute for the Re-education of Juveniles in the Federation of BiH.

358. The educational measure of “commitment to an education institution” is not being implemented either. Before the war in Bosnia and Herzegovina this measure was implemented for male juveniles in the Institute for Education at Hum, Sarajevo, and for female juveniles in the Institute for Education in Ljubuški. The necessary conditions for this measure have not been created yet since these facilities were either devastated or were used for military purposes.

### **Special provisions on juveniles in the RS legislation**

359. Juvenile offence has a series of characteristics in common with crimes committed by adults. However, due to its many particular features, it has been singled out, especially in criminal sociology, as a separate category. The peculiar nature of juvenile offence is reflected primarily in the personal characteristics of juvenile offenders; secondly in the phenomenology and etiology of juvenile crime in criminal policy, with a prevailing application of educational-correctional measures in the process of resocialization and an exceptional application of repression and juvenile prison; thirdly in the preventive measures taken by the local administration with the aim of eradicating the causes of juvenile offence. As a result of these efforts and societal care of young people, there are separate chapters of the criminal law (substantive and procedural law) on juvenile offenders with the purpose “to, by extending protection and assistance to juvenile offenders, by supervising them and providing professional training and working to develop their personal responsibility, ensure their upbringing and proper development” (article 74 of the Criminal Code of the Republika Srpska), as well as to influence them and other juveniles not to commit offences in the future.

360. The Criminal Code of the Republika Srpska distinguishes between several categories of juveniles, depending on their age. The criminal proceedings against a juvenile who at the time of committing a criminal act had not reached the age of 14 are suspended, but the guardianship authority is informed of the committed offence. Only correctional/disciplinary measures (reprimand or commitment to a juvenile disciplinary centre), measures of increased supervision (by parents or guardians, another family member or by the guardianship authority) or institutional measures (commitment to an educational institution, a correctional facility or an institution for juveniles) can be imposed on younger juveniles (from 14 to 16 years of age). Correctional measures, and, exceptionally, a juvenile prison sentence of not less than 1 or more than 10 years, and not longer than the punishment foreseen for the criminal act, can be ordered for older juveniles (from 16 to 18 years of age).

361. When choosing the correctional measure the court considers the age of the juvenile; the level of his/her mental development; his/her psychological characteristics; his/her inclinations; the motives which made him/her commit the criminal act; previous education; his/her environment and living circumstances so far; severity of the criminal act; whether a corrective measure or punishment has been ordered previously against him/her; and all other circumstances that may influence the ordering of the measure that will achieve the purpose of correction most appropriately.

### **Disciplinary measures**

362. It emerges from the nature of correctional measures of a disciplinary character, as well as from the legal provisions for their imposition that these measures should apply to those juvenile offenders whose illegal action is not a result of a high level of educational neglect. These are juveniles whose offences are, as a rule, committed as a result of a lack of sense of personal responsibility for their acts, and whose sense for social discipline is not developed. The committed criminal act is thus rather a result of hastiness and recklessness than of educational neglect. The application of these educational measures also operates according to the assumption that the juvenile offender lives in a social environment that ensures his/her proper development, so that separation from his/her environment is not necessary.

363. A judicial reprimand is ordered if considered sufficient for the committed offence. Once the measure is ordered, the juvenile will be warned of the harmfulness of his/her act and he/she will be informed that a different measure will be ordered should repetition occur.

364. Commitment to a juvenile disciplinary centre is ordered when it is necessary to exert influence on the juvenile's personality and conduct through appropriate short-term measures. He/she can be sent to the centre:

- A certain number of hours on holidays (four holidays in a row at most);
- A certain number of hours during the day (for a month at most); or
- For a continuous stay for a set number of days (20 days at most).

### **Measures of increased supervision**

365. Increased supervision measures are most appropriate for juvenile offenders in case of a high level of educational neglect due to insufficient care and supervision, and when the committed offence is a result of such neglect. Such measures are enforced out of institutions, and they suppose that the family and social environment in which the juvenile lives is suitable for his/her education and proper development. These measures include:

- Increased supervision by parents, adopter or guardian, ordered if the parents, adopter or guardian have failed to exercise supervision over the juvenile and are capable of exercising such supervision. The court may order certain duties with regard to educational measures, treatment and elimination of conditions harmful to him/her;
- Increased supervision in another family, ordered if the parents, guardian or adopter are not able to exercise supervision over the juvenile or if they cannot be expected to do so. The juvenile is then handed over to another family willing to accept him/her and to exercise increased supervision over him/her. The measure will be suspended when parents, guardians or adopters are able to exercise supervision over him/her or when the results of the measure are such that the need for increased supervision has ceased;

- Increased supervision by the social welfare authorities, ordered if parents, adopter or guardian are not able to exercise increased supervision over the juvenile, and conditions for handing the juvenile over to another family are not in place. The juvenile will then be placed under the supervision of the social welfare authority. The court will subsequently decide on the cessation of the measure, which cannot last less than one or more than three years. In the course of carrying out the measure, the juvenile stays with his/her family, and the increased supervision over him/her is exercised by the person authorized by the social welfare centre, who takes care of the education of the juvenile, his/her employment, his/her separation from an environment that has a harmful influence on him/her, treatment needed and improving his/her living circumstances.

366. When pronouncing some of the correctional measures for increased supervision, the court can assign the juvenile one or several separate duties such as: apology to the damaged party; payment for the damage within the limits of his/her possibilities; regular school attendance; and abstention from alcohol or narcotics consumption.

### **Institutional measures**

367. Institutional educational measures include placement of a juvenile offender in an appropriate institution for a relatively long period of time, where he/she is subject to appropriate educational and correctional treatment. Two circumstances are decisive for the application of institutional correctional measures: the degree of educational neglect of the juvenile offender and the situation in the community where he/she lives. The application of these measures should be considered for juvenile offenders who are neglected to the extent that their condition cannot be improved by increased supervision measures, and more lasting measures of education, correction and medical treatment are called for.

368. These measures are carried out in the appropriate institutions and by professional staff:

- Commitment of a juvenile to an educational institution - the court will send a juvenile for whom it is necessary to provide constant supervision by professional counsellors to a correctional institution for juveniles;
- The juvenile stays in the educational institution for a period of time not shorter than six months and not longer than three years. When ordering this measure, the court will not determine its duration; the duration is decided upon by the court subsequently depending on results achieved;
- Commitment of a juvenile to a correctional institution - a measure for juvenile offenders who, because of a higher level of neglect, are in need of more permanent and systematic education and correction, and who, because of the negative influence of their environment, need to be separated from the environment in which they live. The grounds for a decision to send a juvenile to a correctional institution are a serious offence by a juvenile who is neglected to a large extent, and especially if correctional

measures or juvenile prison have been ordered against him/her earlier. This measure lasts for a minimum of one year and a maximum of five years. When ordering this measure the court does not determine its duration in advance. On the basis of the reports of the institution where the measure is implemented, it subsequently decides on the cessation of the measure or its substitution with some other correctional measure;

- Commitment of a juvenile to a training institution - this is a special institutional measure ordered against juvenile offenders with physical or mental developmental disabilities. This measure is ordered only if conditions are identical to those by which a juvenile is sentenced to a correctional institution.

### **Juvenile prison**

369. Juvenile prison is a special sentence of deprivation of freedom. By some of its characteristics, it is similar to the sentence of imprisonment ordered for adult offenders. This sentence may be ordered if the following three conditions have been met:

- The offender is an older juvenile, i.e. a person who at the time of committing the offence had reached the age of 16, but not the age of 18;
- The older juvenile has committed an offence for which the prescribed sentence is more than five years of imprisonment;
- The offender is criminally accountable.

370. Older juveniles serve juvenile prison sentences in special correctional facilities where they can stay until their twenty-third birthday. If they have not served their sentence by this time, they will be sent to a correctional facility for adults to serve the remainder of their sentence. This sentence is ordered for a period that cannot be shorter than 1 or longer than 10 years.

371. There is a need to revise the position of juveniles in the criminal legislation. The reasons for this are found above all in the increase and change in the structure of juvenile offences in our region. Furthermore, domestic arrangements should comply with modern legislative trends and be harmonized with international documents.

372. The reform of juvenile criminal law has to be an integral part of a clearly designed criminal policy towards juveniles, as a set of preventive and repressive measures which society applies in an effort to combat crime. Such a reform should correspond to the degree of society's development; it should be based on defined academic principles; and it should represent a coherent totality with clearly defined aims, if possible for a relatively long period of time.

373. The Criminal Code of the Republika Srpska has stipulated a wide range of corrective measures to be ordered against juvenile offenders. However, besides the court reprimand as a disciplinary measure and some measures of increased supervision, other corrective measures almost never occur in practice. The reasons for this are to be found in the lack of institutions such as disciplinary centres and especially in the lack of correctional facilities.

374. Certain privileges are stipulated for adults who have committed an offence at the time when they were younger juveniles and had not reached the age of 21 at the time of the trial. Such persons can be tried only for offences for which the prescribed sentence is longer than five years of imprisonment and only a corresponding institutional corrective measure can be ordered against them.

375. The authorities participating in the proceedings against juveniles “are obliged to act carefully, taking into consideration the juvenile’s mental development, sensitivity and personal characteristics, ensuring that the criminal proceedings do not have a harmful effect on the development of the juvenile” (article 454 of the Law on Criminal Procedure). A juvenile cannot be tried in absentia, can have a lawyer from the beginning of the criminal procedure, and has to have a lawyer if she/he is tried for an offence for which the prescribed sentence of imprisonment is longer than five years, or if the juvenile judge decides that the juvenile needs a lawyer.

376. Juveniles are tried by special juvenile panels. At first and second instance courts, except in the Supreme Court of the Republika Srpska, panels consist of juvenile judges and two jury-judges selected among professors, teachers, counsellors and others with experience in education of youth. Penal action against juveniles can be initiated only at the request of the public prosecutor. If a criminal act is prosecuted under a private lawsuit, the damaged party has to submit a proposal to the public prosecutor for institution of proceedings. For minor offences for which the prescribed sentence is imprisonment of up to three years, the public prosecutor can decide not to request that proceedings be instituted if she/he considers that it would not be purposeful (the principle of opportunity). She/he takes into account the nature of the offence, the circumstances under which the criminal act was committed and the personal characteristics of the juvenile. For personal characteristics she/he can request necessary information from the parents or guardian of the juvenile, or from other persons and institutions. If the public prosecutor fails to file a request to institute criminal proceedings, the damaged party or the guardianship authority can request that the juvenile panel do so.

377. The guardianship authority has the right to follow the entire course of the proceedings, to submit proposals and to bring to the attention of the court facts and evidence of importance for a just decision. The preliminary proceedings include examination of circumstances necessary to evaluate the level of mental development of the juvenile, his/her environment and his/her living circumstances; if necessary, relevant experts will be consulted (physicians, psychologists, pedagogues or competent persons from medical and other institutions). Juveniles will be detained only exceptionally, when reasons for this exist under the law, and as a rule, juveniles serve detention separated from adults. Juvenile trials are not public. However, if the court does not reach a decision in a panel session, the parents of the juvenile, the guardian or a representative of the guardianship authority are invited to the main trial. The court may also allow for the trial to be attended by persons working on protection and education of juveniles and combating juvenile crime, as well as academics.

378. The proceedings against a juvenile are urgent, and an extension of the foreseen time frame is possible only in exceptional cases upon approval by the court president. A verdict is reached when a punishment of a juvenile is ordered, while in other cases (when the procedure is suspended or a corrective measure is ordered) a decision is issued. The decision indicates the measure that is ordered, but the juvenile is not declared guilty of the act she/he is charged with. Persons authorized to lodge an appeal can do this on behalf of the juvenile even against his/her



will. Extraordinary legal remedies can be used (a request for protection of legality or a request for a retrial) against a legally effective court decision, and when a sentence of juvenile imprisonment has been ordered, a request for extraordinary re-examination of the legally effective verdict can be filed.

379. Corrective measures are enforced under the supervision of the court. The management of the institution where the measure is being carried out is obliged to submit a report on the conduct of the juvenile to the court every six months, and the juvenile may receive visits by a juvenile judge. Supervision over enforcement of other corrective measures is exercised through juvenile judges, who obtain information on the enforcement of the measures through the guardianship authorities or court professionals. One of the reasons why this is necessary is that under certain conditions stipulated in the law the court is authorized to suspend the enforcement of a corrective measure, replace it with a different measure or make other changes. The court may even decide not to enforce a corrective measure if a certain time has passed since it was ordered and its enforcement has not yet started.

380. The Criminal Code of the Republika Srpska has only defined general rules related to juvenile offenders, and they are elaborated in the Special Section of the Criminal Code of the Republika Srpska (provisions on corrective measures and punishment for juveniles). The criminal proceedings against juveniles are fully regulated in the Law on Criminal Procedure, and provisions on enforcement of criminal sanctions are contained in the Law on Enforcement of Criminal Sanctions.

### **1. Children in conflict with the law (arts. 37 and 40)**

381. In the Criminal Procedure Law a special procedure is stipulated for minors who have committed a criminal offence and who were under 21 at the time the criminal procedure was initiated.

382. According to the FBiH report on juvenile offence, an increase has been observed in the number of children who commit offences. The most frequent offences are related to property (robbery, aggravated theft, burglary, etc.). In 1997, one case of murder by a minor was registered. The RS report for 1995-1998 indicates a decrease in offences for the age group under 18, while in 1998 the tendency was again upwards. Republika Srpska gives approximate data for general delinquency in its report for the period from 1995 to 1998: the average share of juvenile offences in overall crime is 3 per cent (by years: 1995 - 4.63 per cent; 1996 - 2.48 per cent; 1997 - 1.98 per cent and 1998 - 2.92 per cent). The Federation of BiH gave the following data for the period from 1992 to 1997: 4,702 was the total number of reported offences by minors; for 1997, it was 1,343 or 14.7 per cent.

### **2. Physical and psychological recovery and social reintegration (art. 39)**

383. A large number of wounded and disabled children who lost either parents or close family members during the war, who were expelled from their homes and towns, who were tortured in concentration camps or raped, etc. suffered difficult psychological and health consequences. Many international organizations and local humanitarian organizations have worked on mental care through psychosocial projects in the form of counselling offices and clubs for children and young people that contribute to children's reintegration.

#### **D. Economic exploitation of children, including child labour (art. 32)**

384. According to the provisions of the Law on Basic Employment Rights, a person under the age of 18 and who is generally in good health can be employed, but the lower age limit for employment is 15 years of age. In the Employment Law it is stipulated that the annual vacation for a worker under 18 is increased by 7 days so that it cannot be shorter than 25 working days.

385. According to existing rules, a worker who is under 18 is not allowed to perform difficult physical labour, labour underground or under water, nor other activities that could have harmful effects or pose an increased risk to health and life of a worker under 18 due to his/her psychophysical characteristics. According to the legislation in BiH, a worker under 18 cannot be requested to work more than full time. Furthermore, a worker who is under 18 and works in the areas of industry, civil engineering or transportation cannot work at night between 22.00 and 06.00 hours unless it is required in the general interest, due to difficult circumstances and under strictly determined conditions that are, for the other workers, determined by the Law on Protection at Work.

##### **1. Drug addiction (art. 33)**

386. The situation regarding abuse of various pharmaceuticals among the young population is disturbing. Many become drug addicted, first to soft drugs and when they get older, usually before reaching the age of 30, they become permanently addicted to hard drugs. The causes for this lie in a lack of broader social action for prevention, lack of professional staff, lack of care on the part of parents and schools, etc.

387. In FBiH, activities are under way for the preparation of working materials for the passage of a Federation law on the production and dealing of narcotics.

388. In the period 1992-1998, the Federal Ministry for the Interior registered 263 persons suspected of criminal offences related to drugs (unauthorized production and dealing in narcotics and facilitating the use of narcotics). Only four minors were among these persons.

389. In the report from the Republika Srpska it is stated that police and health workers are the ones most involved in the prevention of narcotics use. For the time being no data exist on the number of consumers since consumers are still not addicts and statistics reflect only the number of the latter. The statistics even registered a decrease in drug addiction. It is considered that prevention is the basic and appropriate medicine against the disease of drug addiction.

##### **2. Sexual exploitation and abuse (art. 34)**

390. According to the current criminal legislation, the following is considered abuse: abuse of position, rape, procuring or coercion to prostitution, marriage with a minor person, incest, statutory rape, indecent acts and showing pornographic material. In the Entity report there are still no data on sexual exploitation of minors, nor are there any data on prevention that would successfully control prostitution, sexual exploitation and abuse of minors. Bosnia and Herzegovina has signed the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

### **E. Minority children (art. 30)**

391. Article II.4. of the Constitution of Bosnia and Herzegovina concerning non-discrimination underlines that enjoyment of the rights and freedoms stipulated in this article or in the international treaties listed in annex I to the Constitution is ensured for all persons in Bosnia and Herzegovina, without discrimination on any ground such as sex, race, colour, language, religion, political or other belief, ethnic or social background, connection with a national minority, property, birth or any other status. The adoption of a law on protection of national minorities in Bosnia and Herzegovina is under way and will create the necessary legal framework for the exercise of their rights.

392. Since no census has been carried out in Bosnia and Herzegovina after the war there are no certain indicators of the number of individuals belonging to national minorities, but in pre-war law the following were mentioned: Albanians, Montenegrins, Czechs, Italians, Jews, Hungarians, Macedonians, Germans, Poles, Roma, Romanians, Russians, Ruthenians, Slovaks, Slovenians, Turks, and Ukrainians.

393. The Entity laws concerning elementary and secondary schools allow members of a national minority to receive classes in their mother tongue, provided there are at least 20 pupils speaking the language of that minority. In elementary and secondary schools in which pupils of just one nationality are educated, all classes are taught in the language of that nationality, with the obligatory mastering of the language in which the classes are taught.

### **F. Statistics in the Republika Srpska**

394. Data on juvenile offenders are not reliable. Though both substantive and procedural criminal law have reached an enviable level of development, statistical data show that practice does not follow the efforts of the legislators. Comparative updated data in this field are difficult to collect in the Republika Srpska.

395. There are only two sources of data showing the scope, dynamics and structure of offences in the Republika Srpska. On the basis of incomplete statistical reports from the Ministry of Internal Affairs and the Public Prosecutor's Office, some indications of juvenile offence can be provided for a shorter period of time. As a narrow territorial framework for this analysis the urban area of Banja Luka has been chosen because it is realistic to presume that the highest concentration of juvenile offence is to be found there. It is generally known that urban areas, due to their specific characteristics, are areas where crime is more frequent than in other communities, because of the "appeal" of urban areas as well as the presence of different elements of social disorganization that are conducive to the manifestation of different forms of deviant behaviour. The aim is to illustrate manifestations of criminal behaviour in an urban community, which, through its specific influence, also contributes to the occurrence of undesirable behaviour in young persons.

396. In order to show the scope of crime in a population of offenders, it is necessary to establish its proportional share of crime. The scope of crime among juveniles with a specific criminal status can be shown by establishing its proportional share in the total number of

registered criminal offenders over a certain period of time and in a certain territory. A relatively comprehensive, but incomplete picture of the scope of juvenile offence is gathered in this way. Another factor contributing to a certain incompleteness of the statistical data on juvenile offence is the fact that minor property crimes or similar negative behaviour, often committed in school or even in the family, often remain unreported or not officially registered. Given these specific aspects of the registration and monitoring of juvenile offence, the related statistical data should rather be used as an orientation than a definite indicator of the situation in the observed field.

397. In order to determine the scope of juvenile offence, the proportional share of juvenile offenders in relation to the total number of registered criminal offenders in the Republika Srpska for the period 1995 to 1998 will be presented below.

398. The data show that juveniles' share of general crime is 3 per cent on average (in 1995 - 4.63 per cent; in 1996 - 2.48 per cent; and in 1998 - 2.92 per cent). Juveniles formerly had a much larger share in the overall crime in other republics on the territory of the former Yugoslavia. By comparing these data, it can be concluded that in the Republika Srpska the share of juveniles in the overall crime rate has decreased considerably, though it has to be borne in mind that using different statistics can result in discrepancies regarding the scope of the observed phenomenon. Though the share of juvenile offenders is expected to be considerably less than the share of adults, the presented data do not suggest that less attention should be devoted to this type of offence. It has to be taken into consideration that this is the youngest population of offenders (with the exception of children), and that an early manifestation of negative behaviour can be a prognosis for potential relapse at an older age.

399. If crime trends in the under-18 age group for the period 1995-1998 are analysed, a declining trend is noticeable. This is especially evident if the situation in 1995 (281 juvenile offenders out of a total number of 6,064 criminal offenders) is compared with the trend in 1998 (171 out of 5,843). The trend of juvenile offence for the observed period in the territory of the Republika Srpska shows a decline in the period 1995-1997 and signs of increase in 1998.

400. The causes of the trends in juvenile offence up to 1997 are difficult to explain in detail. The decrease in the level of offence in this age category may be conditioned by various circumstances. For example, it may be a result of an increase in the number of unidentified offenders who belong to this age group (increase in the "hidden figures" of crime), which would automatically contribute to a decrease in the number of offenders in the statistical records. However, the above tendency may be the result of enhanced achievements of the authorities in combating crime committed by this category of person, but it may also be the result of certain social changes contributing to the disappearance or decrease of factors conducive to the manifestation of undesirable conduct in juveniles.

401. In 1998, there was an increase in offences within this age group. But a longer period of time would be needed to draw more reliable conclusions about whether this is a trend or an accidental oscillation in one year, an exception to the general trend.

402. The structure of criminal offences committed by juveniles can be one of the indicators of the gravity of negative conduct by youth up to the age of 18. Though this kind of assessment

requires taking into account other circumstances as well, and especially the social environment and the personality of the juvenile offender, it is important to examine whether the offences committed by persons up to 18 years of age can be described as “innocent”, “typically childish”, or whether the nature of the offences points to a certain severity and gravity. The research in this area conducted so far has shown that juvenile offences, as a rule, are limited to property-related offences, but the results diverge in terms of the type of property-related criminal acts.

403. According to available data, aggravated theft is most prominent in the structure of juvenile offence. Observed over a four-year period, in the territory of the Public Security Centre of Banja Luka the average share of this offence was somewhat above 68 per cent of the total number of offences committed by juveniles. The average proportional share of the criminal offence of theft is considerably lower (about 16 per cent), while the average share of robbery, fraud, cover-up and other criminal acts in the total number of offences committed is small.

404. The above data confirm that property-related offences occupy a significant place in the structure of juvenile offence. On average, more than 92 per cent of all offences committed by the population younger than 18 are property-related offences, and among them the offence of aggravated theft and theft is prominent. As the largest number of juveniles are convicted for property-related offences, this may be linked to a decline in living standards. Offences against body and life - homicide and serious bodily harm - according to this data make up only somewhat more than 1 per cent. Other offences against life and body committed by juveniles make up 1.4 per cent, which means that on the whole this group of offences has no major criminal importance among persons up to 18 years of age, which is quite understandable if one takes into consideration their age.

405. Regarding other groups of offences committed by juveniles, the most frequent are offences against the general security of people and property, which on the average account for slightly more than 1.6 per cent in relation to the total number of juvenile offences in the reference period.

406. Drug addiction is one of the most serious and most complex forms of alienation in the modern world, and therefore it constitutes a significant social problem in most modern societies. The scope and severity of this social problem is not measured only by the number of persons who are addicted to drugs, but also by its manifestations and morphological forms and harmful health, sociopathological, sociocultural, economic and other consequences affecting individuals, society and social groups - in the first place the family. It is known that there are many more drug addicts than the number that have been identified and treated. Therefore, the number of registered drug addicts is only an indication of the scope of the problem in this field. The existing disagreements over the level of drug addiction do not call into question the existence of this phenomenon in society. Knowledge of some social processes and conditions that are relevant to, conducive to and/or in correlation with drug addiction point to the fact that this is a long-lasting and complex social phenomenon that is not only a matter of fashion or a phenomenon imported from other developed societies. Therefore, the societal attitude towards a phenomenon that, due to its causes, prevalence, and especially due to its consequences, has the character of a social problem is of special importance.

407. The attitude of society towards this social problem calls for long-term planned activities and actions of various types - in the first place activities and actions of health care, education and social welfare, by humanitarian agencies and specialized voluntary organizations and the local administration. It is of importance for future activities in the prevention of drug abuse that this problem is insufficiently known and insufficiently and only occasionally monitored, and long-term studies of the specific aspects of the phenomenon and its causes are lacking. It is therefore necessary to provide conditions for the systematic monitoring and study of drug abuse. It is not necessary to repeat that this requires an interdisciplinary and team approach encompassing sociologists, psychologists, social workers and other professionals. Just as timely detection of each case of drug abuse is a precondition for timely and successful protection and rehabilitation of the addict, the systematic monitoring and study of drug abuse is a precondition for the planning of proper and successful activities of social institutions and others in preventing drug abuse. The attempt to introduce compulsory registration of drug addicts is only one of the possibilities of systematic monitoring.

## **List of annexes to the report**

### **Laws of Bosnia and Herzegovina**

- Constitution of Bosnia and Herzegovina
- Law on citizenship of Bosnia and Herzegovina
- Law on immigration and asylum
- Law on refugees from Bosnia and Herzegovina and displaced persons in BiH

### **Entity Laws (1996-2000)**

#### **Laws of the Federation of Bosnia and Herzegovina**

- Constitution of the Federation of Bosnia and Herzegovina
- Amendments II-XXIV to the Constitution of BiH Federation
- Law on civil procedure
- Criminal Code
- Law on criminal procedure
- Law on citizenship in the Federation of Bosnia and Herzegovina
- Law on bases of social welfare, protection of civil war victims and protection of families with children
- Law on labour
- Law on displaced persons/exiles and refugees/returnees in the Federation of Bosnia and Herzegovina
- Law on obligations
- Law on marriage and family relations
- Law on health insurance
- Law on health care
- Law on restricted use of tobacco products
- Law on Ombudsmen of the Federation of Bosnia and Herzegovina
- Law on elementary education

- Law on secondary education
- Law on conditions and procedure for termination of pregnancy
- Law on protection of population from infectious diseases

**Laws of Republika Srpska**

- Constitution of Republika Srpska
- Law on civil procedure
- Criminal Code
- Law on criminal procedure
- Law on citizenship in the Republika Srpska
- Law on employment relations
- Law on labour
- Law on social care
- Law on health care
- Law on health insurance
- Law on registers
- Law on refugees and displaced persons
- Law on obligations
- Law on rights of war veterans, disabled war veterans and families of fallen soldiers
- Law on Ombudsmen of the Republika Srpska
- Law on personal name
- Law on employment
- Law on elementary education
- Law on secondary education

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