



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

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

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

Second periodic reports of States parties

Bosnia and Herzegovina* · **

[12 August 2011]

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** Annexes II and III can be consulted in the files of the Secretariat.

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Abbreviations

BiH	Bosnia and Herzegovina
BD BiH	Brčko District of Bosnia and Herzegovina
FBiH	Federation of Bosnia and Herzegovina
RS	Republika Srpska
MIS	Migration Information System
RoCF (ROS)	Register of Certain Foreigners (Registar odredjenih stranaca)
EU	European Union
CEC (CIK)	Central Election Commission of BiH (Centralna izborna komisija)
ILO	International Labour Organization – Međunarodna organizacija za rad
NVO	non-governmental organisation
BiH PA	Bosnia and Herzegovina Parliamentary Assembly
SIPA	State Investigation and Protection Agency
RS MoI	Republika Srpska Ministry of the Interior
FBiH MoI	Ministry of the Interior of the Federation of BiH
BDP	Police of Brčko District of BiH
UN	United Nations
CMW	Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

I. Introduction

1. The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) considered and adopted the initial report of Bosnia and Herzegovina, 2003-2006, at two meetings held on 23 and 24 April 2009. It adopted concluding observations on the protection of the rights of all migrant workers and members of their families at its 113th meeting, held in late April 2009.

2. While noting the positive actions that, in the opinion of CMW, Bosnia and Herzegovina (hereinafter: BiH) took in the reporting period for betterment of the situation and position of all migrant workers and members of their families, in the concluding observations it also indicated factors and difficulties that BiH should eliminate in the field or bring in line with international instruments by amending its legislation. This assessment has a bearing particularly on the valid legislative framework application in the field.

3. The valid policies on entry, stay and exit of aliens are defined in the 2008-2011 Immigration and Asylum Strategy and Action Plan, which were adopted by the Council of Ministers of BiH in late 2008. The policy paper presents the immigration and asylum system development and the current situation, defines goals, activities, deadlines, the actors responsible to discharge of tasks concerning: visas, borders, immigration, asylum and protection of foreign victims of trafficking in people. In late 2009 the Council of Ministers of BiH appointed the Coordination Body for Strategy Monitoring and Implementation. Apart from the documents above, since 2008, on a yearly base, the Council of Ministers of BiH has been adopting "BiH Migration Profiles" describing in details and monitoring migrations in/from BiH, which are proposed by the Ministry of Security.

4. We will discuss below the legislative, legal and institutional frameworks and give answers to questions asked in the concluding observations of the CMW together with assessments and tabular overviews from the "BiH Migration Profile, 2010" prepared by the Ministry of Security of BiH Immigration Sector.

II. General measures for the implementation of the Convention (arts. 73 and 84)

A. Legislative and legal framework

5. In the period between 2000 and 2008, trying to bring the legal system governing the matter of foreign workers and members of their families in line with the international instruments, Bosnia and Herzegovina passed three laws: the Law on Immigration and Asylum of BiH taking effect as of late 1999 (BiH Official Gazette, no. 23/99); the Law on Movement and Stay of Aliens and Asylum, (BiH Official Gazette no. 29/03, 4/04 and 53/07) which took effect as of late 2003 and made a significant progress in improving the legal framework which governed the movement and stay of aliens in BiH, but the development of the European Union *acquis* raised a need for amending of a significant number of provisions in the Law. All this is with a view to harmonising BiH legislation with EU legislation and the Schengen Agreement, and with an intention to remove deficiencies that emerged in practice as unenforceable and vague defined norms. As a result of the overall activity, in May 2008, the new Law on Movement and Stay of Aliens and Asylum came into force (BiH Official Gazette no. 36/08)).

6. The legal framework in the area of movement of aliens and asylum (which include: visas, border crossings, work and employment of foreigners and asylum and migration in

general), which are included in the Convention is made up of, besides the Constitution of Bosnia and Herzegovina, the Constitutions of the Entities—the Republika Srpska and the Federation of BiH—as well as the Statute of Brcko District and a set of laws and by-laws in BiH.

7. The Laws on Employment of Foreigners and Stateless Persons of Entities and District Brcko of BiH provide that foreign nationals or stateless persons may enter into an employment contract under conditions prescribed by the laws and define the conditions under which foreign citizens and stateless persons may be employed in BiH and be granted a temporary residence permit (up to a year, which can be extended) on that grounds, i.e. on the grounds of employment. Provisions of the Laws prescribe that a foreigner may be employed or work in BiH on the basis of work permit, if he/she meets the general and special conditions laid down by laws and the work permit can be obtained by the employer before a foreigner comes to BiH.

8. So a foreigner, who gets a work permit in advance, through an employer in BiH, may apply for residence on the grounds of employment as soon as he enters BiH, or, if visa requirements apply to him, he can obtain a long stay visa “D” (which is a condition for residence based on employment in BiH) and have a residence permit in BiH in an easier and more simplified way. This practice is taken from the developed countries of EU, Schengen Convention, and mostly from the relevant Convention. The above-mentioned laws at different levels of BiH government are mutually aligned and harmonised with the BiH legislation, so that conditions for obtaining work and residence permits by foreigners on the grounds of employment are the same in the entire territory of BiH, which is significant progress compared to the previous period.

9. The Previous Law on Movement and Stay of Aliens and Asylum (Official Gazette of BiH no. 29/03, 4 / 04 and 53/07) determined requirements and procedure for entry and stay of foreigners in BiH, the reasons for refusal of entry and residence, the reasons for cancellation of residence and expulsion of foreigners from the territory of Bosnia and Herzegovina, the process of applying for asylum, asylum granting and termination of a grant of asylum in BiH, competences of the authorities in the enforcement of this Law, and other issues related to asylum, residence and movement of foreigners in BiH. Namely, some provisions and procedures prescribed by the law were not in line with the Convention and the EU standards or international law and *acquis communautaire* and therefore BiH authorities adopted the new Law on Movement and Stay of Aliens and Asylum (Official Gazette of BiH No. 36/08), which came into force on 14 May 2008. Pursuant to this Law, and for the purposes of proper and clearer enforcement, by-laws have been adopted, of which we highlight the most important in the context of the Convention, as follows:

(a) The Rulebook on Entry and Stay of Foreigners was adopted by the Ministry of Security, under number: 01-02-258/08 on 23 September 2008 and published (BiH Official Gazette No. 81/08);

(b) The Rulebook on Amendments to the Rulebook on Entry and Stay of Foreigners was adopted by the Ministry of Security under number: 06-50-734-68/08 on 15 March 2010 and published (BiH Official Gazette No. 28/10);

(c) The Rulebook on the Surveillance and Removal of the Foreigners from Bosnia and Herzegovina was adopted by the Ministry of Security under number: 01-02-255/08 on 22 September 2008. The Rulebook was published (BiH Official Gazette No. 81/08);

(d) The Rulebook on Protection of Foreigners- Victims of Trafficking was adopted by the Ministry of Security under number: 01-02-282/08 on 20 October 2008. The Rulebook was published (BiH Official Gazette No. 90/08);

(e) The Rulebook on Standards of Operation and Other Issues of Importance for the Work of the Immigration Centre was adopted by the BiH Council of Ministers (CM number 218/08 of 3 December 2008). The Rulebook was published (BiH Official Gazette No. 105/08);

(f) The Rulebook on Covering the Costs of Ordering and Placing Foreigners under the Surveillance was adopted by the BiH Council of Ministers (CM number 215/08 of 3 December 2008). The Rulebook was published (BiH Official Gazette, No 2/09);

(g) The Decision on the Minimum Means of Subsistence of Foreigners During the Intended Stay in BiH was issued by the Council of Ministers (BiH Official Gazette No. 30/10);

(h) The Rulebook on the Central Database of Aliens was adopted by the Ministry of Security under number: 08-50-524/09 on 16 March 2009. The Rulebook was published (BiH Official Gazette No. 25/09);

(i) The Rulebook on International Protection (Asylum) in Bosnia and Herzegovina was adopted by the Ministry of Security under number: 08-02-2-804/09 on 23 April 2009. The Rulebook was published (BiH Official Gazette No. 37/09);

(j) The Rulebook on Standards of Operation and Other Issues of Importance for Asylum Centre (BiH Official Gazette No. 86/09);

(k) The Decision on Visas (BiH Official Gazette no. 100/08);

(l) The Rulebook on the Issuance of Long-stay Visa (visa D) and the Procedure of Issuing Such Visas (BiH Official Gazette number: 104/08);

(m) The Rulebook on Procedure of Issuing Visas in Diplomatic and Consular Offices of BiH and Technical Issues of Conditions for Issuing Airport Transit Visa (Visa A) and a transit visa (Visa B) ((BiH Official Gazette no. 26/09);

(n) The Decision on Definition of Annual Quota of Work Permits for the Employment of Foreigners in Bosnia and Herzegovina in 2010 (BiH Official Gazette, No. 102/09), which is issued each year, by 31 October of the current year for the next year;

(o) The Rulebook on the Manner of Exercising the Right to Education of Persons Granted International Protection in BiH (BiH Official Gazette No. 83/08));

(p) The Rulebook on the Manner of Exercising the Right to Work of Persons Granted International Protection in BiH (BiH Official Gazette, No. 67/08);

(q) The Rulebook on the Manner of Exercising the Right to Social Protection of Persons Granted International Protection in BiH (BiH Official Gazette, No. 3/09);

(r) The Decision on the Obligation of Submitting Statistics on Migrations and International Protection to the Ministry of Security entered into force on the day of adoption by CoM under number 244/09 on 24 September 2009 (BiH Official Gazette No. 83/09).

10. Strategic documents that are relevant to movement, residence, work and employment of foreigners and their rights are as follows:

- Strategy on Immigration and Asylum with Action Plan, 2008–2011 – was adopted on 13 November 2008 at the 66th session of the Council of Ministers, the Department in cooperation with the Service for Foreigners' Affairs drafted the part related to immigrations.

- National Action Plan for Prevention of Trafficking in Bosnia and Herzegovina, 2008 – 2012, as well as Rules on the Protection of Domestic Victims and Witnesses-Victims of Trafficking in Bosnia and Herzegovina.
- BiH Migration Profile, 2008 – the Council of Ministers adopted it on 24 September 2009.
- BiH Migration Profile, 2009 – the Council of Ministers adopted it on 29 April 2010.
- BiH Migration profile, 2010 – currently in the process of adoption.

11. The valid Law on Movement and Stay of Aliens and Asylum (BiH Official Gazette, no. 36/08), which is mandatory in the entire territory of BiH, has introduced some provisions relaxing terms of employment and removing an obligation of foreigners to obtain work permits and prescribing a unique approach to work permits required in the entire territory of Bosnia and Herzegovina. Thus, Article 77 of the Law on the Issuing of Work Permits has resolved the issue of a unique and uniform method of issuing work permits, so that, at the employer's request (legal or natural person), a foreigner is issued a work permit by the competent authority for the employment of foreigners of the Federation of Bosnia and Herzegovina, Republika Srpska and District Brcko of Bosnia and Herzegovina. Article 78 of the Law determines a Work Permits Quota so that the BiH Ministry of Civil Affairs, on the basis of the needs for employment of foreigners identified by the Entity Bodies and Brcko District Bodies, refers a proposal to the BiH Council of Ministers for final decision-making. Article 79 of the Law defines groups of foreigners and Work Permits Which Are Not Included in the Quota, so a work permit can be issued to foreigners in the following cases independently from established quotas:

- (a) Alien with education equivalent to high/university education, completed post graduate studies/master's degree or PhD in Bosnia and Herzegovina;
- (b) Alien working in BiH on the basis of an international agreement;
- (c) Alien performing key functions in a business entity, who is not exempt from requirement to hold work permit on the basis of an international agreement;
- (d) Teachers or educators teaching or assisting in teaching in the educational institutions due to their specific knowledge;
- (e) Professional athletes or sport workers working in BiH on the basis of the valid contract;
- (f) Alien in marriage or in common-law marriage with an alien holding a permanent residence permit in BiH or a child of an alien holding a permanent residence permit in BiH.

12. Furthermore, it is important to underline the provision of Article 84 of the Law on the Movement of Foreigners and Asylum, prescribing an "exception from the requirement to hold a work permit", so that the following groups of foreigners do not need to possess work permits to work in BiH:

- (a) Entity with a seat in BiH established as share company with a majority of shares held by legal entity or natural person, if the appointment does not have characteristics of employment and performing duties in that capacity does not exceed three months a year in total;
- (b) Founders of a company or enterprise with a seat in BiH, performing certain tasks in that company or enterprise, if such tasks do not have characteristics of employment and does not exceed a total of three months a year;

- (c) University professors invited as lecturers by universities in BiH, scientists attending scientific and specialist courses, scientists representing international organizations and scientists participating in implementation of scientific research projects important for BiH;
- (d) Experts, teachers and lecturers from foreign cultural and educational institutions, performing their expert work in BiH within cultural and educational cooperation programs;
- (e) Civil and military officials of other countries' governments working in BiH on the basis of agreements on cooperation with BiH authorities;
- (f) Members of international scientific missions, conducting research in BiH approved by the Council of Ministers;
- (g) Representatives of religious communities registered in BiH while performing duties only with regard to religious service;
- (h) International correspondents accredited in BiH or reporters for international media;
- (i) Artists and technical staff, authors and performers in opera, ballet, drama or other theatrical performances, or concert, visual arts or other cultural performances or authors and performers in the field of music, music and stage, dance and ballet arts, as well as accompanying reporting, organization and technical staff taking part in the cultural workshops, gatherings and colonies, if they do not stay in BiH more than 30 consecutive days or more than three months a year with interruptions;
- (j) Aliens performing, on the basis of agreements with the Council of Ministers, Ministry of Defence BiH, Ministry of Justice BiH, or the Ministry, duties relevant for defence, legal system or state security or attending specializing courses in the mentioned fields;
- (k) Aliens visiting BiH in order to participate in sports and chess events;
- (l) Experts in the field of protection of cultural heritage, library science and archivist science, if they do not stay in BiH more than 30 consecutive days or more than three months a year with interruptions;
- (m) Aliens sent by an international employer, providing education and training for persons employed with natural and legal persons with a seat in BiH, for a period of three months a year;
- (n) Aliens holding a temporary residence permit for the purposes of acquiring expert education and training, in case that the mentioned training does not exceed 3 months a year;
- (o) Aliens performing delivery works, as well as installation and servicing of machinery and equipment, if their work in BiH does not exceed 30 consecutive days or more than three months a year with interruptions;
- (p) Aliens taking part at organized professional conferences and seminars;
- (q) Aliens participating on fairs or exhibits where their employer is presented;
- (r) Aliens employed in circuses or amusement parks if their stay in BiH does not exceed 3 months;
- (s) Alien who is a spouse or common-law partner of a BiH citizen or a child of a BiH citizen, holding residence permit in BiH;

(t) Aliens holding a regular pupil and student status in BiH when performing temporary work in accordance with regulations relevant to such temporary works;

(u) Aliens with approved international protection or temporary protection status in BiH and aliens with permanent residence permits in BiH, as prescribed under Article 85 (Equal status of aliens with permanent residence permits in BiH or aliens with international protection status in BiH and BiH citizens with regard to work) of this Law.

13. In particular, we would underline the provision of Article 85 of the Law on Movement and Stay of Aliens and Asylum “Equal status of aliens with permanent residence permits in BiH or aliens with international protection status in BiH and BiH citizens with regard to work”, which reads “Aliens holding a permanent residence permit in BiH, aliens with approved international protection in BiH and aliens with approved temporary protection are entitled to work in BiH under same conditions as citizens of BiH.”

14. Practical application of the legal framework (CMW/C/BIH/CO/1, para. 10) is evident in the consistent implementation of the Law and adopted by-laws, which is shown in an analysis of comparative statistics from the BiH Migration Profiles 2008, 2009 and 2010 and in an analysis of reports of the Service for Foreigners’ Affairs, BiH BP, Employment Agencies, Entity Ministries of Labour and Social Security, especially in the performance of second instance bodies (deciding on appeals of foreigners) and judicial protection (adjudicating complaints of foreigners). Mainly, it can be concluded that, in the adoption and practical application of the legislation governing the rights of all migrant workers and their families in BiH, a significant progress has been made since consideration and adoption of the Initial Report on this matter.

1. (In) consistency of laws of BiH, Entities and Brcko District (CMW/C/BIH/CO/1, para. 11)

15. The new, valid Law on Movement and Stay of Aliens and Asylum (BiH Official Gazette, no. 36/08) (e.g. Article 77 – Issuing of Work Permits, Article 78 – Work Permits Quota, Article 85 – Equal status of aliens with permanent residence permits in BiH or aliens with international protection status in BiH and BiH citizens with regard to work and so on) resolves many conflicting regulations in BiH, the Entities and District Brcko. So, provisions of this Law resolve many issues of foreigners in the entire territory of BiH in a uniform manner.

2. Approximation of BiH legislation with the Convention with a view to implementing its provisions (CMW/C/BIH/CO/1, para. 12)

16. Procedural rights guaranteed in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (articles 16–19 of the Convention), included in the Criminal Code of Bosnia and Herzegovina and the Criminal Procedure Codes of Entities and District Brcko, are consistent and apply equally in court proceedings to all parties.

17. In Bosnia and Herzegovina, in recent years, a comprehensive reform of criminal legislation has been made, but the adopting of the laws which will ensure that all human rights prescribed should become a model which individuals, as well as courts and other authorities that protect them, will abide by.

18. Significant efforts have been made and continued to be put in a reform of the entire judicial system, as no adequate protection of human rights and freedoms is possible without professional, independent and impartial judicial system. To this end, the High Judicial and Prosecutorial Council has been established, as an independent body of Bosnia and Herzegovina which is responsible for ensuring independent, impartial, and professional judiciary.

19. A positive fact is that Bosnia and Herzegovina has chosen a path in which, besides overcoming the existing problems in legislation and in judicial practice, and with comprehensive mutual cooperation and efforts at all levels within the country including cooperation with relevant international factors, it wants to successfully go through the transition process in order to establish a unified legal system, which will ensure the rule of law and legal security and to restore confidence of BiH citizens in rule of law and state bodies and institutions.

20. As for the deposition of the BiH declarations, provided for in Articles 76 and 77 of the Convention which recognise the competence of the Committee to receive communications if any of the Member States fails to fulfil obligations under the Convention or violates provisions thereof (CMW/C/BIH/CO/1, para. 13), we underline that BiH has not yet registered any relating case or had the need to file a communication against a member State that violates provisions of the Convention. In future, should such need arise, BiH will send a communication accordingly.

21. With regard to signing bilateral and multilateral treaties with neighbouring and other countries, Bosnia and Herzegovina has concluded, to date, the following bilateral agreements with other countries in the field of social security and pensions:

(a) Austria

(i) Social Security Agreement between BiH and the Republic of Austria, signed in Sarajevo, 1999 (BiH Official Gazette – International Agreements, no. 2/01);

(ii) Protocol on the Implementation of the Social Security Agreement between BiH and the Republic of Austria (BiH Official Gazette – International Agreements, no. 2/01);

(b) Croatia

(i) Social Security Agreement between BiH and the Republic of Croatia, signed in Zagreb, 2000 (BiH Official Gazette – International Agreements, no. 6/01)

(ii) Administrative Agreement on the Implementation of the Social Security Agreement between BiH and the Republic of Croatia (BiH Official Gazette – International Agreements);

(c) Federal Republic of Yugoslavia

(i) Social Security Agreement between BiH and FR Yugoslavia, signed in Belgrade, 2002 (Official Gazette – International Agreements, no. 16/03);

(ii) Administrative Agreement on the Implementation of the Social Security Agreement between BiH and FR Yugoslavia (BiH Official Gazette – International Agreements, no. 13/10) – signed on 20 April 2004;

(iii) Administrative Agreement on Amendments to the Administrative Agreement on the Implementation of the Social Security Agreement between Bosnia and Herzegovina and FR Yugoslavia was signed in Belgrade, on 10 June 2010, and entered into force on 10 June 2010 and has been applied since 1 July 2010 ("Official Gazette - International Agreements, no. 13/10). The Administrative Agreement on Amendments to the Administrative Agreement for the Implementation of the Social Security Agreement between Bosnia and Herzegovina and FR Yugoslavia was signed in Podgorica, on 31 August 2010 and entered into force on the date of signature on 31 August 2010 and has been applied since 1 September 2010 (BiH Official Gazette - International Agreements, no. 13/10);

(d) Turkey

- (i) Social Security Agreement between BiH and the Republic of Turkey, signed in Ankara, 2003. (Official Gazette – International Agreements, no. 16/03);
- (ii) Administrative Agreement for the Implementation of the Social Security Agreement between BiH and the Republic of Turkey (BiH Official Gazette – International Agreements, no. 16/03);
- (e) Former Yugoslav Republic of Macedonia
 - (i) Social Security Agreement between BiH and the Republic of Macedonia, signed in Sarajevo, on 17 February 2005 (BiH Official Gazette – International Agreements, no. 1/06);
 - (ii) Administrative Agreement for the Implementation of the Social Security Agreement between BiH and the Republic of Macedonia (BiH Official Gazette – International Agreements, no. 1/06);
- (f) Slovenia
 - (i) Social Security Agreement between BiH and the Republic of Slovenia was signed on 19 February 2007, in Banjaluka (BiH Official Gazette – International Agreements, no. 8/07 of 20 September 2007);
 - (ii) Administrative Agreement for the Implementation of the Social Security Agreement between BiH and the Republic of Slovenia was signed in Sarajevo on 7 November 2007 (BiH Official Gazette – International Agreements, no. 1/08 of 25 February 2008);
 - (iii) A Corrigendum to the Agreement, which refers to the portion of the text of the Agreement in Article 25(2) where words “or residence” were deleted, was published in Official Gazette - International Agreements, no. 6/08 of 16 July 2008.
 - (iv) Agreement on Amendments to the Social Security Agreement between BiH and Slovenia was signed on 17 December 2010, in Brdo kod Kranja, Republic of Slovenia.
- (g) Belgium
 - (i) Social Security Agreement between BiH and the Kingdom of Belgium was signed on 6 March 2006, in Belgium (BiH Official Gazette - International Agreements, no. 10/07);
 - (ii) Administrative Agreement in connection with the application of the Social Security Agreement between BiH and the Kingdom of Belgium was signed on 4 April 2008, and the Agreement establishing the list of dentures, prosthetic equipment, and other benefits in kind is of great importance;
- (h) Hungary
 - (i) Social Security Agreement between BiH and the Republic of Hungary (BiH Official Gazette - International Agreements, no. 12/08), was signed in Sarajevo, on 12 June 2008;
 - (ii) Administrative Agreement for the Implementation of the Social Security Agreement between Bosnia and Herzegovina and the Republic of Hungary was signed in Sarajevo on 12 June 2008 (BiH Official Gazette - International Agreements, no. 12/08).

22. In the field of labour and employment, negotiations aimed at concluding bilateral agreements between Bosnia and Herzegovina and the following countries have been completed:

(a) Slovenia

(i) The Agreement between the Council of Ministers of Bosnia and Herzegovina and the Republic of Slovenia on Employment of citizens of Bosnia and Herzegovina in the Republic of Slovenia was initialled and signing of the Agreement is expected (the Agreement does not apply to seasonal workers);

(ii) In accordance with this Agreement, migrant workers shall have the same rights in treatment as citizens of host country, particularly regarding the working conditions and including salary and termination of employment contracts, health care and safety at work, freedom of association and organisation in workers and employers' associations, education and professional development.

(b) Serbia

(i) The Agreement between the Council of Ministers of Bosnia and Herzegovina and the government of Serbia on temporary employment of citizens of Bosnia and Herzegovina working in the Republic of Serbia and the citizens of Republic of Serbia working in Bosnia and Herzegovina, was initialled and signing of the Agreement is expected;

(ii) The Agreement provides for the exercise of migrant workers' rights and their families' rights without discrimination on any grounds, while a migrant worker has the same rights, working conditions, safety at work and health care as the citizens of host country.

23. Negotiations aimed at concluding the Agreement between the Council of Ministers and the Government of Qatar regarding employment of BiH workers are under way.

24. We note that such Agreements regulate employment of workers for a fixed period of time, with possible extension.

25. With regard to the recommendation of the Committee relating to the possible overlap and duplication in the planning and coordination of activities and responsibilities related to the rights of migrant workers between ministries and agencies at all levels (CMW/C/BIH/CO/1, para. 35), we inform you of the following.

26. In the field of labour migrations, the Department of Labour, Employment, Social Security and Pensions within the Ministry of Civil Affairs of Bosnia and Herzegovina is responsible for:

(a) Preparing and executing the rules, tasks and duties within competence of Bosnia and Herzegovina which relate to the definition of basic principles of coordination activities, harmonisation of the plans of the Entity authorities and defining International Strategy in the fields of labour, employment, social security and pensions, and in particular, preparation and coordination with the competent authorities of the Entities in preparing the Draft Bilateral Social Security Agreements;

(b) Participating in bilateral talks in order to establish common principles of Social Security Agreements with the Member States;

(c) Participating in the preparations for the adoption of ILO Conventions;

(d) Monitoring the implementation of ratified ILO Conventions and reporting on their implementation,

(e) Coordinating the work of the Entity Bodies in preparing the Report on implementation of International Social Security Agreements;

(f) Coordinating activities with the competent authorities of the Entity in order to meet international obligations.

27. In accordance with the mentioned responsibilities of the Department of Labour, Employment, Social Security and Pensions, the field of labour migrations is an integral part of International Strategy in the fields of labour, employment, social security and pensions, and has been dealt with in preparation of the Draft Bilateral Social Security Agreements and Employment Agreement that Bosnia and Herzegovina concludes with other countries.

28. In the field of labour migrations, the Labour and Employment Agency of Bosnia and Herzegovina is responsible for:

(a) Executing international obligations in the field of employment in coordination with the Ministry of Civil Affairs of Bosnia and Herzegovina (hereinafter: the Ministry), cooperating with the competent Entity Employment Agencies and Employment Institute of Brčko District;

(b) Monitoring the implementation of international standards and policies in employment and, in cooperation with the Entity Employment and Employment Institute of the Brčko District, participating in their implementation;

(c) Initiating the conclusion of international agreements in the field of employment and participating in negotiations for concluding international agreements in the field of social security for unemployment area and monitoring their implementation in cooperation with the employment agencies of entities and Brčko District;

(d) Collecting foreign and domestic requirements and information on supply and demand of domestic and foreign labour and, in cooperation with the Entity Employment Agencies and the Employment Institute of Brčko District, implementing them within the limits of its competence and labour market opportunities in Bosnia and Herzegovina;

(e) Coordinating activities for employment of BiH citizens abroad within the limits of its statutory competence, in cooperation with the Entity Employment Agencies and Employment Institute of Brčko District;

(f) Giving opinions and proposals for the employment of foreigners (quotas) to the Ministry, in cooperation with the Entity Employment Agencies and Employment Institute of Brčko District.

3. Institutional framework

29. Pursuant to Article V, paragraph 3 of the BiH Constitution, **the Presidency of Bosnia and Herzegovina**, inter alia, is responsible for the BiH foreign policy, negotiations on the conclusion of international agreements of Bosnia and Herzegovina, cancellation and ratification of such treaties, with approval by the Parliamentary Assembly, and representation and membership of Bosnia and Herzegovina in international and European organisations and institutions.

30. **The Council of Ministers**, as the supreme executive authority, is responsible for adoption of decisions, conclusions and procedural decisions, drafts and proposals of laws, reviews, briefing papers, policy documents, programs, agreements, protocols and other documents.

31. **The Ministry of Security** designs, ensures and enforces immigration and asylum policy in BiH, it determines procedures and ways of organising the service dealing with movement and residence of foreigners in BiH. This Ministry passes the first instance decisions on applications for international protection in BiH and is responsible for administrative decisions on entry-relating appeals of foreigners, movement and stay of foreigners in BiH, i.e. issues decisions on appeals of the parties against the first instance decisions which are issued by the Service for Foreigners' Affairs and Border Police, in accordance with the Law on Movement and Stay of Aliens and Asylum.

32. **The Border Police of BiH** as a policing authority is responsible for police tasks related to supervision and control of the borders of Bosnia and Herzegovina which includes ensuring the inviolability of state borders, protection of life and health, prevention and detection of crimes and offenses, as well as detecting and finding their perpetrators, prevention of illegal cross-border migration and preventing and detecting other threats to public safety etc. Border Police is within the Ministry of Security. In the area of immigration legislation enforcement it controls movement of foreigners across the border and refuses entry of foreigners in BiH, in accordance with the BiH Law on Movement and Stay of Aliens and Asylum. In cases when foreigners do not meet the requirements for entry into the country, Border Police passes the decision on refusal of entry, according to defined terms. In exceptional cases prescribed by the Law, it issues a visa at the border, cancels or limits the validity of visa etc.

33. **The Service for Foreigners' Affairs** is an administrative organisation that works and operates within the Ministry of Security. It was established in 2006 to perform managerial and inspection tasks concerning the movement and residence of foreigners in Bosnia and Herzegovina, decide on administrative matters upon requests/applications of foreigners as well as other tasks set forth in the Law on Movement and Stay of Aliens and Asylum, and the Law on the Service for Foreigners' Affairs (BiH Official Gazette, no. 54/05 and 36/08) and other laws and regulations governing the rights, obligations and other matters relating to the movement and residence of foreigners.

34. **The State Investigation and Protection Agency (SIPA)** is an administrative organisation within the Ministry of Security, with operational autonomy, established for the performance of police duties. Within its statutory responsibilities, SIPA deals with the prevention, detection and investigation of crimes under jurisdiction of the Court of BiH, with particular regard to organised crime, terrorism, war crimes, human trafficking and other crimes against humanity and values protected by international law.

35. In the immigration legislation enforcement, **Intelligence and Security Agency (OSA)** is responsible for security checks of foreigners in order to determine the reasons for a foreigner representing a threat to the security of BiH.

36. **The Ministry of Human Rights and Refugees** is responsible for the monitoring and enforcement of human rights conventions and other instruments, creation and implementation of activities to meet obligations in respect of Euro-Atlantic integration, particularly with the implementation of United Nations conventions and the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols. The Ministry also takes care inter alia of refugee rights and issues of the return of refugees in Bosnia and Herzegovina, the reconstruction of destroyed buildings and ensuring conditions for sustainable returns and policymaking on the BiH diaspora.

37. With regard to other ministries and institutions at the state level, a visible place in the design and implementation of immigration policy is taken by: the Ministry of Foreign Affairs (preparation of bilateral and multilateral agreements, discharging tasks related to residence and protection of interests of BiH citizens having permanent or temporary residence permits abroad and domestic legal entities abroad, and promotion, development and coordination of cooperation with diaspora in BiH. The Ministry also deals with the implementation of migration policies through the issuing of visas in diplomatic and consular missions of Bosnia and Herzegovina, and the headquarters decide on the extension of visas for short stays due to the statutory exceptional reasons, the Ministry of Justice that is responsible for administrative functions of the judiciary at the state level, inter-entity and international judicial cooperation, ensuring that legislation of BiH and enforcement are in compliance with the obligations of BiH arising from international agreements, etc., the Ministry of Civil Affairs is responsible for nationality-related affairs, citizen registration and records, personal data protection, registering of temporary and permanent place of

residence, identification documents, travel papers, definition of travel documents for aliens in the area of migrations and other duties prescribed by law; the Directorate for European Integration, founded by the Council of Ministers of BiH in 2002, is responsible for inter alia coordinating the harmonization of the legal system of BiH with the EU standards (*acquis communautaire*)

38. Within the institutional framework of BiH discussed above, a significant role is played by courts: the Court of BiH and Constitutional Court of BiH. The Court of BiH has jurisdiction over inter alia immigration legislation enforcement. As an appellate body, it decides on appeals of foreigners against decisions issued by the Ministry of Security in proceedings upon applications for international protection. As determined in the immigration legislation, all decisions of the Ministry of Security are subject to judicial review. The Constitutional Court of BiH is responsible for inter alia determining compliance of laws with the Constitution of Bosnia and Herzegovina, the European Convention on Human Rights and Fundamental Freedoms and its Protocols, or with laws of Bosnia and Herzegovina, or in regard to the existence or scope of a general rule of public international law.

39. In the past, greater powers were given to the state authorities managing migratory flows. Most of the powers were given to the Ministry of Security, i.e. the Service of Foreigners' Affairs under it. The main goal of the establishment of this Service was primarily related to improving efficiency of inspectors for foreigners, improving cooperation and awareness among the inspector for foreigners, entity and state authorities etc.

40. The discussion above does not affect the importance and impact of the entity, BD and cantonal institutions, above all the Ministries of the Interior, while providing in practice a support to relevant governmental authorities managing migrations and, especially when it comes to the Service for Foreigners' Affairs, to the procedures for registration and deregistration of stay of foreigners and, at request of the Service for Foreigners' Affairs, on giving support in cases of forcible removal of aliens from BiH.

41. The current policy with regard to immigration processes in BiH is defined in the Strategy on Immigration and Asylum with Action Plan, 2008 – 2011, which was adopted by the Council of Ministers in late 2008. This document presents the development of immigration and asylum system and the current situation, defines objectives, activities, timelines and responsible actors in the field of visas, borders, immigration, asylum and protection of foreign trafficked victims. In early 2009, the Council of Ministers issued a decision on the appointment of the Coordinating Body to Monitor the Implementation of the Strategy on Immigration and Asylum with Action Plan, 2008 – 2011.

B. Data collection

1. Data collection and importation of databases on the flow of migrants, statistics and transfer of migration statistics (CMW/C/BIH/CO/1, para. 15)

42. Tools in the integration of information include:

(a) Migration Information System (MIS) – An electronic database, which was established in 2008, imported all the databases that had been maintained separately. Now it compiles all modules (electronic database) consisting of four modules and they are: the module of issued visas, border crossing (entry to and exit from BiH), the sticker database – of approved and registered residence in BiH, i.e. a database of approved permanent and temporary residence (including records of registration and deregistration of short stay of aliens in BiH, cancelation of permits, cancelation of permits followed by expulsion of

foreigners and records of measures ordered – Register of Certain Foreigners – RoCF/ROS), and asylum module (seekers of international and subsidiary protection);

(b) Bosnia and Herzegovina Migration Profile (hereafter: BiH Migration Profile).

43. With a view to introducing and using monitoring mechanisms for migration flows (to and from BiH) and updating the BiH Migration Profiles on a yearly base, instruments for collection and exchange of statistics have been formalized through a Council of Ministers' decision No. 244/09 VM dated 24 September 2009 (BiH Official Gazette, No. 83/09) which obliges relevant institutions and agencies to submit data to the Ministry of Security of Bosnia and Herzegovina each year, in accordance with the parameters required for Migration Profiles and monitoring of migration flows in BiH.

44. The BiH Migration Profile was created in 2008 and has been prepared on a yearly base ever since and will be prepared in future, as a result of the need to establish a mechanism for collecting statistics on migration and international protection and a system for migration statistics processing, as well as a system of timely and quality reporting on migration flows in BiH. This document aims to provide the Council of Ministers and other relevant institutions with an insight into key trends in migrations and the Ministry of Security with the ability to design high quality policies and regulations. This document helps international organizations and United Nations committees in charge of migration to have a complete overview of migration trends in BiH.

45. Drafting the BiH Migration Profile, which is updated annually, means fulfilling obligations in addition to fulfilling the obligations under international instruments (conventions, treaties, protocols, EU Directives etc.) and commitments in the *Roadmap for Visa Regime Liberalization*, which was presented to the BiH authorities by the European Commission in June 2008 and dealt with "migration management", stating that BiH should "set up and start to apply a mechanism for the monitoring of migration flows, defining a regularly updated migration profile for Bosnia and Herzegovina, with data both on illegal and legal migration, and establishing bodies responsible for the collection and analysis of data on migration stocks and flows."

46. The first BiH Migration profile, 2008, was adopted at the meeting of the Council of Ministers on 24 September 2009 and it was preceded by "An analysis of the measures necessary to establish mechanisms for the monitoring of migration flows and define the migration profile of Bosnia and Herzegovina" which included an overview of the legislative, institutional and organizational framework for the collection of migration statistics in BiH, as well as an overview of European and international standards and practices in the field of migration statistics.

47. For the purpose of setting up and implementing mechanisms for monitoring of migration flows and the annual update of migration profile of Bosnia and Herzegovina, the instruments for the collection and exchange of statistics were formalized through a Council of Ministers' decision which obliged competent institutions and agencies to submit, in accordance with their responsibilities, 34 tables defined with the parameters needed to make a migration profile and monitor migration flows in BiH. This decision defines the type and structure of statistics on migration and international protection and an obligation of the institutions of Bosnia and Herzegovina, to, within their jurisdiction, collect statistics on migration and international protection and submit the statistics to the Ministry of Security by 31 January for the previous year. Institutions that submitted the statistics in accordance with the Decision above for the BiH Migration Profiles from 2008 to 2010 and the will do it in future are: the Ministry of Foreign Affairs - Department of International Legal and Consular Affairs, the Ministry of Human Rights and Refugees - Department of Emigration, the Ministry of Civil Affairs –Department of Citizenship and Passport, the BiH

Labour and Employment Agency, the Ministry of Security - Department of Immigration, the Ministry of Security - Asylum Department, the Ministry of Security – Service for Foreigners’ Affairs and the Ministry of Security - Border Police.

48. After the data having been submitted each year by 31 December by institutions and agencies, a quantitative and qualitative analysis is made. Annual reports of individual institutions and agencies serve / are used as an additional source of high quality information necessary for the interpretation of migration statistics and trends. Data processing has been carried out quantitatively and qualitatively for the basic migration flows in the period from 2001 to 2010, and the comparative indicators are developed simultaneously for current and previous year, and the last Migration Profile was made for all migrations for the period from 2009 to 2010. Upon completion of processing and analysis of all available data, a BiH Migration Profile for the previous year is put together each year in March of the current year.

49. The Bosnia and Herzegovina Migration Profiles for the years 2008, 2009 and 2010 contain the following data: visas, denial of entry and illegal border crossings, temporary and permanent residence of aliens, illegal migration and measures ordered against aliens, return of irregular migrants, international protection/asylum, work permits issued to aliens, obtaining the citizenship of Bosnia and Herzegovina, emigration from Bosnia and Herzegovina and the legal and institutional framework.

50. All BiH Migration Profiles completed and adopted so far have been publicly presented and made available on the official website of the Ministry of Security (www.msb.gov.ba/dokumenti/strateski/Archive.aspx?template_id=44&pageIndex=1).

2. Integration and unification of the database on foreigners in BiH and submission of data on migration into and transit through Bosnia and Herzegovina

51. An answer to how this recommendation (CMW/C/BIH/CO/1, para. 16) is being implemented is given in the discussion above and statistics on transit migration are an integral part of statistics processed in the BiH Migration Profiles, 2008 to 2010, which are available on the website of the Ministry of Security.

52. Some statistics about transit migrations are shown in tables 1-6.

Table 1

The total number of visas issued from 2001 to 2010

Year	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Visas	23.458	21.978	17.411	15.638	14.801	11.960	12.071	10.139	9.284	9.623

Table 2

Total number of visas issued at the BiH border crossings from 2001 to 2010

Year	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Visas	3.706	4.853	4.327	5.641	2.049	927	735	684	345	327

Table 3

Denied entries at the Borders of Bosnia and Herzegovina from 2001 to 2010

Year	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Denied Entries	9.955	10.527	9.450	10.469	7.758	7.829	6.618	3.102	5.103	3.514

Table 4
Total temporary residence permits issued in BiH from 2001 to 2010

<i>Year</i>	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Temporary Residence	3.756	3.305	4.646	4.897	5.143	5.274	5.513	5.971	7.512	8.131

Table 5
Permanent residence permits issued in BiH from 2001 to 2010

<i>Year</i>	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Permanent Residence	336	309	439	178	196	153	136	215	359	315

Table 6
Number of people who applied for asylum/international protection in Bosnia and Herzegovina from 2001 to 2010

<i>Year</i>	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Number of persons	732	575	739	301	146	69	581	95	71	64

53. For more information, see comparative indicators with explanations in the BiH Migration Profile, which is available on the website of the Ministry of Security.

3. Bosnia and Herzegovina migration profiles

54. As already mentioned, the main purpose of any Migration Profile is the collection of relevant statistics and information necessary for a State to be able to develop and apply its migration policy.

55. The first BiH Migration profile, 2008, was adopted at the meeting of the Council of Ministers on 24 September 2009 and it was preceded by the “Analysis of the measures necessary to establish mechanisms for monitoring of migration flows and define the migration profile of Bosnia and Herzegovina” which included an overview of the legislative, institutional and organizational framework for the collection of migration statistics in BiH, as well as an overview of European and international standards and practices in the field of migration statistics.

56. For the purpose of setting up and implementing mechanisms for monitoring of migration flows and the annual update of migration profile of Bosnia and Herzegovina, the instruments for the collection and exchange of statistics were formalized through a Council of Ministers’ decision which obliged competent institutions and agencies to submit 34 tables defined, in accordance with their responsibilities, with the parameters needed to make a migration profile and monitor migration flows in BiH.

57. On proposal of the Ministry of Security, on 24 September 2009 the Council of Ministers adopted the Decision on an Obligation to Provide Statistics on Migrations and International Protection to the Ministry of Security (BiH Official Gazette no. 83/09). This decision defines the type and structure of statistics on migration and international protection and an obligation of the institutions of Bosnia and Herzegovina, to, within their jurisdiction, collect statistics on migration and international protection and submit the statistics to the Ministry of Security by 31 January for the previous year. Submitted statistics on migration

and international protection are collected, processed and analyzed by the Immigration Department for the purpose of monitoring of migration flows and regular updating of the annual BiH Migration Profile, which includes data on illegal and legal migrations. For more details and data, see the BiH Migration Profiles which are available on the website of the Ministry of Security and we give a summary of the 2010 BiH Migration Profile as annex I to this report.

4. Training in and dissemination of information about the Convention (CMW/C/BIH/CO/1, para. 17)

(a) Presenting and dissemination of information about the Convention during the training of officials dealing with foreigners (Border Police, the Service for Foreigners' Affairs, Department of Immigration and Asylum Department within the Ministry of Security, the competent authorities of entities and Brcko District of BiH, NGOs, civil society etc.)

58. The Training Program in Immigrations and Asylum (2009 – 2011) of the Ministry of Security of BiH, which is available on the website of the Ministry (www.msb.gov.ba/dokumenti/strateski/Archive.aspx?template_id=44&pageIndex=1) envisages several themes in this area including, inter alia, under number 14 “The exercise of the rights of foreigners in terms of administrative and judicial remedies (appeals, complaints) and EU regulations and standards with regard to family reunification, education and labour/employment”.

(b) Presenting and dissemination of information about the Convention during the training of officials dealing with migrations, including social workers, judges and prosecutors

59. The Judicial and Prosecutorial Training Centre of the Federation of BiH- Program of Professional Development and Induction Training Program, which is available on the official website of the JPTC (www.fbih.cest.gov.ba/templates/JavaBean/doc/program2011.pdf), included inter alia the following topics:

(a) “Protection of Human Rights” in the context of the European Convention for the Protection of Human Rights and Fundamental Freedoms;

(b) “Labour Law” in the context of the compatibility of domestic legislation; Application of ILO Conventions, case law of the European Court of Human Rights (regarding workers’ rights) and others.

60. The Judicial and Prosecutorial Training Centre of the Republika Srpska organizes similar courses of training and seminars attended by judges and prosecutors of Bosnia and Herzegovina, Republika Srpska, the Federation of BiH and the Brcko District of BiH.

61. More detailed information on the manner of training, training programs and completed and planned training (CMW/C/BIH/CO/1, para. 18 (a)) can be found on the official web site of the High Judicial and Prosecutorial Council of BiH (www.hjpc.ba/edu/?cid=2370,2,1).

62. As regards foreigner migrant workers’ approach to information (CMW/C/BIH/CO/1, para. 18 (b)), the Ministry of Security of BiH and its administrative organizations: the Service for Foreigners’ Affairs and Border Police have posted on their official web pages “Information for Foreigners – Basic information about the entry, stay and international protection of aliens in Bosnia and Herzegovina“ in the official languages of Bosnia and Herzegovina and in English. The Information for Foreigners is available on the following web sites:

- http://www.msb.gov.ba/inf_za_strance/?id=3068
- <http://www.sps.gov.ba/bosanski/informacija.php>
- <http://www.granpol.gov.ba/info/>

63. All necessary information on movement, conditions of entry and stay of foreigners in BiH, as well as their rights and duties can be found at the above web sites. Also these web sites contain information about how to obtain work permits, information on the group of aliens and occupations that do not require a work permit, as well as information about the conditions of exercising the right of residence on the basis of employment etc.

64. When it comes to the participation of NGOs in protecting the rights of migrant workers and their families, according to the Convention, all necessary information about the conditions of entry, movement and stay of foreigners in BiH are also available to them (CMW/C/BIH/CO/1, para. 18 (c)). In the previous period, the NGO sector in BiH significantly participated in the implementation and organization of various training and seminars with the law enforcement agencies in BiH. Their role is particularly emphasized in these activities, when it comes to issues of protecting the rights of foreigners, migrant workers and their families.

III. General principles (arts. 7 and 83 of the Convention)

A. Non-discrimination

Response to the recommendations raised in the previous concluding observations (CMW/C/BIH/CO/1, paras. 19 and 20)

65. Starting with the Constitution, the constitutions of entities and Brcko District of BiH, the Law on Movement and Stay of Aliens and Asylum and the Anti-Discrimination Law, which was adopted in 2008, BiH created preconditions and prerequisites for the achievement of equal rights and opportunities for protection against discrimination on any grounds for all citizens and all people who live and work in BiH. Articles 1 and 2 of the Anti-Discrimination Law prohibit any form of discrimination. Article 2(2) of this Law defines discrimination as "... bringing into disadvantaged position any person or group in accessing and exercising of guaranteed rights, on any grounds ... by the authorities in BiH, as well as private legal entities and individuals." The adoption of these laws and their implementation in BiH created conditions and legal frameworks to protect the rights of all citizens in BiH, including the rights of migrant workers who reside and work in BiH and their families, including protection from discrimination.

66. With regard to discriminatory treatment of migrant workers and their families in BiH practice, there have been no such cases, nor have any instances been recorded. This means that we are not able to present information that would illustrate how effective the legal framework for the protection of the rights of migrant workers and protection against discrimination is.

B. Right to effective legal remedy

Response to the recommendations raised in the previous concluding observations (paras. 21 and 22)

67. In 2006, Bosnia and Herzegovina established a body – the Citizenship Review Commission, which transformed into the Citizenship Review Section within the Department of Citizenship and Passports in the Ministry of Civil Affairs, which is

responsible for review of citizenship granted in the period from 6 April 1992 to 1 January 2006 in accordance with the Law on Citizenship of BiH. For all naturalized persons who, during the review, were found to have acquired citizenship in an unlawful manner, the above-mentioned BiH authorities revoked their BiH citizenship. Persons stripped of BiH citizenship in pursuance of legal provisions were entitled to judicial review of such decisions. There have been cases where the Court reinstated their BiH citizenship so a number of naturalized persons reacquired BiH citizenship the authorities had revoked.

68. The naturalized persons whose BiH citizenship was revoked in legally binding decisions became foreigners in BiH and to them, then, the Law on Movement and Stay of Aliens and Asylum has been applied. They had the right to stay on one of the grounds for a stay of foreigners in BiH, while some of them who have not achieved legally established grounds for residence of foreigners in BiH in the statutory deadline have remained in irregular status. Upon those foreigners, the measure of expulsion from Bosnia and Herzegovina was imposed and among these persons, according to estimates of the Intelligence and Security Agency of BiH there are persons who are a threat to national security and public order, so they have been placed under surveillance in the immigration centre for foreigners, in order to prepare them for deportation. At all these stages of proceedings, there are statutory effective remedies, which have been fully exhausted by the persons. As an illustration, if the measure of expulsion from Bosnia and Herzegovina is ordered, and then appealed (within eight days), it cannot be enforced until the appellate authority – the Ministry of Security has confirmed it (the deadline for decision is 15 days from the receipt of the appeal), as provided by law. When it comes to putting foreigners under surveillance of the Immigration Centre, in which case the deadlines are even shorter, the appellate authority – the Ministry of Security has to decide on the appeal within 24 hours. Furthermore, after the second instance decisions the foreigners are entitled to recourse to the Court of BiH, which is bound to review the case and issue a decision within three days. At all stages, foreigners are provided with legal aid and are housed in the immigration centre that meets most of the EU and world standards.

69. From the above it is evident that effective remedies are available to foreigners in BiH and that they are treated in the most human way. This matter is fully elaborated in the introduction to this answer and annex I, which describes procedures for involuntary and voluntary removal of a foreigner from BiH.

70. Foreign migrant workers and their families have an effective legal system in place, which provides redress where the deadlines for appeals against refusal of application for residence permit or cancellation of residence permit is a little longer (8-15 days), and in the period of 30 days, until a decision on appeal has been issued, they receive a certificate guaranteeing their legal stay in the country pending the appellate decision of the executive authority. Foreigners have the right to file a complaint against all final decisions of the appropriate authorities, i.e. to institute an administrative dispute before the Court of BiH.

IV. Human rights of all migrant workers and members of their families (arts. 8 – 35 of the Convention)

A. Enjoyment of rights

Response to the recommendations raised in the previous concluding observations (paras. 23 and 24)

71. The introductory section of this report states that the BiH Constitution enshrines all the rights set forth in the third part of the Convention, and in particular emphasizes article 2(2) of the Constitution, which determines that the European Convention for the Protection

of Human Rights and Fundamental Freedoms and its Protocols are an integral part of the Constitution and are self-executing in Bosnia and Herzegovina, and they have priority over all other legislation. Besides this, it is important to emphasize that in 2009 BiH adopted the Anti-Discrimination Law (BiH Official Gazette No. 59/09), which determines the following:

“(1) This Law shall provide a framework for the implementation of equal rights and opportunities to all persons in BiH and shall define a system of protection from discrimination.

“(2) In compliance with the BiH Constitution and international standards related to human rights and fundamental freedoms, this Law defines responsibilities and obligations of legislative, judicial, executive authorities in BiH and legal persons and individuals with public authorities in BiH (hereinafter “competent authorities in BiH”) shall ensure protection, promotion and creation of conditions for equal treatment.”

72. From the above, it is evident that Bosnia and Herzegovina guarantees all rights to all persons, regardless of whether they are BiH citizens or foreigners. In this regard, it is evident that the appropriate authorities in BiH are obliged to provide protection, promote the rights and create conditions for equal treatment of all persons, regardless of whether they are BiH citizens or foreigners.

73. In this context, we underline that BiH has anti-discrimination provisions in other laws prescribing anti-discriminatory treatment as obligatory or mandatory in all its responsibilities. We give, as an example, the provision of Article 8 (Prohibition of discrimination) of the Law on Movement and Stay of Aliens and Asylum, which is directly applicable in proceedings involving foreigners to the exercise of their rights concerning entry, movement and residence in BiH.

B. Immigration centres

Response to the recommendations raised in the previous concluding observations (paras. 25 and 26)

74. Bosnia and Herzegovina has made significant progress in creating a favourable climate for restrictions on movement and placement in the Immigration Reception Centre. It is important to note this fact, because in late 2009, in Lukavica (East Sarajevo) an Immigration Centre for illegal immigrants in Bosnia and Herzegovina, for whose construction and equipping the European Union provided EUR 1.2 million, was opened. The Immigration Centre has a capacity to accommodate 80 persons, arranged in a way that men and women can be accommodated separately, and there are well equipped premises where families (mothers with children) can be accommodated, too. The Immigration Centre was built and equipped to the highest standards to ensure comfortable accommodation of foreigners (high quality food, good sanitation, primary health care, sports and recreational facilities etc. are provided). All of these conditions and rights are prescribed, as already stated, by the Rulebook on Standards of Operation and Other Issues of Importance for the Work of the Immigration Centre - which was adopted by the Council of Ministers (CoM number 218/08 of 3 December 2008). The Rulebook was harmonised with the highest standards and is consistently applied and was published in BiH Official Gazette No. 105/08.

75. Opening of the Immigration Centre rounded up presumptions for an efficient fight against illegal migrations and human trafficking and capacities for migration management in BiH were built. This is the first closed-type reception centre in BiH that allows the authorities to effectively detain persons who are nationals of third countries and illegally stay in Bosnia and Herzegovina. The immigration centre also enables detention or

limitation of movement of the aforementioned foreign nationals in accordance with international and European standards. Currently, the immigration centre has 71 employees who are responsible for providing appropriate conditions for the stay of persons who are found illegally staying in Bosnia and Herzegovina or in conflict with the law or who live in Bosnia and Herzegovina readmitted from third countries. The Centre employees are trained to organize the social life of foreigners placed in that institution, as well as to provide health care and other services, such as food provision, hygiene and other. Also, foreigners who stay in the Immigration Centre have been provided with legal aid and consular services, which means that they are held, having met clear legal criteria and treated fully in accordance with the Convention.

76. As it was previously stated, the Immigration Centre for Foreigners accommodates foreigners by orders of the Service for Foreigners' Affairs in accordance with the Law on Movement and Stay of Foreigners and Asylum, which stipulates strictly defined conditions when a foreigner can be placed in the Centre. During the procedure of accommodation of foreigners in the Immigration Centre they have access to interpreters for the language they understand and legal aid afforded by NGO "Vasa prava" ("Your Rights"), with which the Ministry of Security of BiH has signed an Agreement on Cooperation and Legal Aid, and the NGO Fondacija lokalne demokratije (Foundation for Local Democracy).

C. Misinformation and related abuses

Response to the recommendations raised in the previous concluding observations (paras. 27 and 28)

77. Since, according to some estimates, public employment offices do not provide adequate information to migrant workers and their families, especially when false and inaccurate information is disseminated by intermediaries in the employment of foreign workers, BiH takes adequate measures in this regard. Appropriate authorities, from the Ministry of Security of BiH, through the active work of the Service for Foreigners' Affairs, to Border Police and other appropriate departments, take appropriate measures to combat illegal migration propaganda, consistently applying Article 33 of the Convention and the protection of migrant workers from any possible abuse caused by false informing on the process of migration. It is true that this happens in BiH rarely; the appropriate authorities are always ready to adequately confront the actors providing misinformation to migrant workers because such abuses are in the abusers' own interest, primarily aiming at exploiting the workers for their own purposes.

78. Privately owned agencies, companies and web promoters give contribution to employment of people. In fact, in BiH there are several privately owned agencies, companies and web promoters who mediate in the employment of people and the government agencies endeavour actively to cooperate with them to prevent false informing, disinformation of foreigners or their abuse (victims of human trafficking, slavery etc.).

79. The Strike Task Force established by BiH authorities in 2004 (by the decision of the Council of Ministers, BiH Official Gazette No. 3 / 04) gives a significant contribution to combating human trafficking and organized illegal immigration. The Strike Task Force is a body of the State Coordinator for Combating Trafficking in Human Beings and Illegal Immigration and consists of two prosecutors from the BiH Prosecutor's Office, two from the F BiH Prosecutor's Office, one from the Republika Srpska Prosecutor's Office and one prosecutor from the Prosecutor's Office of Brcko District, two inspectors from SIPA, Border Police, the Ministry of the Interior of the FBiH and the RS Ministry of the Interior each, one from the Police of Brcko District and one representative from the Tax Administration of the FBiH and the RS Tax Administration each, who are appointed by the Ministry of Security. The Strike Task Force is led by the Chief Prosecutor of BiH.

V. Other rights of migrant workers and members of their families who are documented or in a regular situation (arts. 36-56 of the Convention)

Participation of BiH citizens who are temporarily residing abroad in electoral activities

Response to the recommendations raised in the previous concluding observations (paras. 29-32)

80. The Election Law of Bosnia and Herzegovina regulates the election of members and delegates of the Parliamentary Assembly of BiH and BiH Presidency members, and establishes the principles for the elections at all levels of government in BiH (RS, FBiH, cantons in FBiH and Brcko District). Every citizen of BiH of age – 18 years old – is entitled to elect and be elected (voting right) in accordance with the provisions of the Law. Article 1.5 of the Law provided that citizens of BiH, who are temporarily living abroad and have the voting right, have the right to vote personally or by mail for the municipality in which they had permanent residence prior to their going abroad, if in that municipality they have registered permanent residence at the time of registration for absentee voting. Therefore, any BiH citizen who is temporarily residing abroad and has the right to vote is entered in the Central Voters' Register. His/her duty is to file an application to the Central Election Commission for each election. The applications must be received before the deadline established by the Central Election Commission in the period after the elections. With a completed and signed application, the applicant submits a proof of his identity provided for by the Election Law and the information about the full address abroad. These are all statutory actions which workers BiH citizens who live and work abroad must abide by if they want to take part in elections in their country. We should note that these people receive free envelopes, candidate lists and postage stamps from the CEC/CIK by mail on the address they registered abroad.

81. Given that the election procedures are still partly complex and many workers have little interest to participate in the elections, the Central Election Commission took, within its legal obligations, all necessary steps to inform in a timely fashion voters out of the country about all current issues in this regard. Special attention was paid to the motivation of voters, through the following activities of the BiH CEC:

(a) A decision was made in a timely fashion on training and information of voters outside BiH. For the purposes of implementation of these activities, four teams were established to consist of members of the BiH CEC and their activities were related to informing and training of voters in registering to vote outside the country, training of diplomatic personnel, checking the conditions for organizing voting in BiH DCMs abroad. To this end, the following cities were visited: Podgorica (Montenegro), Belgrade and Novi Sad (Serbia), Zagreb and Osijek (Croatia), Ljubljana (Slovenia), Vienna (Austria), Munich, Stuttgart, Frankfurt and Berlin (Germany) Copenhagen (Denmark), Oslo (Norway), Malmoe and Stockholm (Sweden), Chicago, Detroit, St. Louis, and Grand Rapids (United States). These direct actions had outstanding support of BiH citizens who were living and working abroad;

(b) A promotional flyer inviting BiH citizens abroad to register to vote was published. The flyer was posted on the website of BiH CEC;

(c) According to suggestions of BiH citizens abroad, the Central Election Commission produced a video clip and posted it on the website to comprehensively explain

the process of filling in both the voter registration forms and voter registration application forms;

(d) In the regular procedure, in the last election year, the BiH Central Election Commission provided the Ministry of Foreign Affairs with larger quantities of promotional materials for distribution via the BiH DCMs;

(e) In the BiH DCMs, for the first time in 2010, votes were cast abroad in person. It happened in: Austria (Vienna), Germany (Berlin, Stuttgart, Munich, and Frankfurt), Norway (Oslo) and Denmark (Copenhagen). Voters who were not able to vote in DCMs were provided with voting materials on their addresses in a timely fashion in order to exercise their right to vote;

(f) The Central Election Commission also initiated activities and informed the TV companies that had a satellite program about the matter so that they could organise shows that were dedicated to training and informing of voters outside BiH about it and make itself available for these programs;

(g) Within the deadlines, the CEC launched inter alia the following campaigns: "How to Vote" and informative programs for voters outside BiH - TV spots and radio jingles that were broadcast by all public TV stations and most private broadcasters.

82. Through MoFA and DCMs, BiH continuously makes efforts within its financial and material possibilities to establish contacts and provide appropriate assistance to Diaspora associations, country-of-origin clubs and other organizations whose members are BiH citizens living and working abroad. We estimate that this is still insufficient and that in future more should be done in this regard, so that workers would be better informed and helped by the BiH authorities.

83. The Election Law of Bosnia and Herzegovina allows migrant workers, who are BiH citizens and work abroad, to elect and be elected to the highest offices in Bosnia and Herzegovina.

VI. Provisions applicable to particular categories of migrant workers and members of their families (arts. 57-63 of the Convention)

Response to the recommendations raised in the previous concluding observations (paras. 33 and 34)

84. Border Police and the Service for Foreigners' Affairs control the entry, movement and stay of foreigners in BiH, including seasonal workers. In this regard, certain problems were identified related to the position and status of migrant workers, whether they work in Bosnia and Herzegovina or in neighbouring countries or partly in EU (Croatia, Serbia, Montenegro, Slovenia, Austria, Germany, Italy, Netherlands, France etc.). Problems usually include violations of their fundamental labour rights (not being paid fairly in comparison to domestic labour, non-payment of social and health insurance, non-payment of contributions to pension scheme etc.).

85. BiH authorities are making efforts to solve this problem by bilateral agreements in order to protect the basic rights of migrant workers and thus to establish their actual numbers and identify their specific problems. Although the BiH authorities still do not keep records of the number of migrant workers nor have they enacted provisions to define the legal right to seasonal work, the Service for Foreigners' Affairs and BiH BP revoke residence permits and encourage foreigners to voluntary return to the country of origin, if they find them in an irregular situation in BiH.

VII. Promotion of sound, equitable, humane and lawful conditions in connection with the international migration of workers and their family members (arts. 64-71 of the Convention)

A. Coordination and implementation of measures

Response to the recommendations raised in the previous concluding observations (paras. 35 and 36)

86. In the period from 2006-2010 there was a significant progress in the coordination among the Ministry of Civil Affairs of Bosnia and Herzegovina (the Labour and Employment Department), the Labour and Employment Agency of Bosnia and Herzegovina, Entity Employment Institutes and the Labour and Employment Department of Brcko District and the Institute for Statistics of BiH. Their improved coordination and cooperation is reflected in the exchange of information through seminars, periodic reporting and different data exchange, which is publicly presented by means of mass communication and through the official websites of the institutions.

87. It is important to emphasize that during this period, these institutions were jointly involved in preparation and drafting of laws and by-laws which regulate this field in Bosnia and Herzegovina.

B. Human trafficking

Response to the recommendations raised in the previous concluding observations (paras. 37 and 38)

88. In the past years in Bosnia and Herzegovina, human trafficking had a cross-border character. Bosnia and Herzegovina was mainly a country of transit or destination for victims coming from Eastern Europe. However, in recent years the situation has changed. There has been a new phenomenon – trafficking in women and girls who are recruited in the chain of trafficking at local levels, with the purpose of sexual exploitation in other parts of the country. This means that the number of identified foreign victims of trafficking is in a permanent decline and the number of victims of domestic origin on the rise. So the relevant government authorities faced new challenges, especially when it comes to identifying, investigating and fighting the traffickers, in which significant results have been observed.

89. It must be emphasized that, in 2008, Bosnia and Herzegovina ratified the European Convention on Action against Trafficking in Human Beings. Ever since, it has been working intensively on the harmonization of national legislation with international standards. In the Criminal Code which entered into force in May 2010 the wording of the provision criminalizing trafficking in human beings was completely changed, so that the domestic legislation introduced a whole new crime of “organizing a group or an association for the purpose of perpetration of the criminal offences of trafficking in persons or smuggling of migrants” (Article 189a). It is very important that the crimes related to trafficking in the Criminal Code are classified in the chapter of crimes against humanity and values protected by international law. More specifically, the crime of trafficking is regulated by Article 186 Criminal Code of BiH, which is compliant with the Palermo Protocol (Convention against Transnational Organized Crime, which is complemented by three protocols of which one relates to the prevention, suppression and punishment of human trafficking, especially in women and children). At the entity level, there are related criminal offenses, such as Article 210 of FBiH CC – solicitation of prostitution; Article 198

of RS CC – human trafficking for prostitution, and Article 207 of BD CC – solicitation of prostitution.

90. On the proposal of the BiH Council of Ministers, in early 2010, the BiH Parliamentary Assembly adopted the amendments to the Criminal Procedure Code. There was also a change in Article 186 of the Criminal Code of BiH, which is fully compliant with the Council of Europe Convention on Action against Trafficking in Human Beings. The definition of the crime and punishment is tightened. The persons who use the services of trafficked persons are also liable to punishment. The system of confiscation of proceeds of this type of crime has been improved and the revocation of operating license of the establishment that was used in the commission of this offense is provided for. Article 100 of the Law on Amendments to the Criminal Procedure Code makes the competent authorities of the FBiH, RS and BD bound to bring their criminal laws in line with the Criminal Code of BiH, which has been done.

91. In 2008, the Council of Ministers adopted the third National Action Plan to combat human trafficking for the period 2008-2012. The new National Action Plan further elaborates the objectives in the fight against human trafficking and clearly defines measures for the realization of stated objectives: support system, prevention, care and support to victims and witnesses, prosecution and international cooperation. In early 2009, the Ministry of Security Office of State Coordinator for Combating Human Trafficking and Illegal Migration became the Department for Combating Human Trafficking under the Department of International Cooperation.

92. In 2008, the Prosecutorial and Judicial Training Centres in the Entities and BD BiH, in cooperation with the State Coordinator and the International Organization for Migration and with the support of US Agency for International Development (USAID) drafted and published a manual for judges and prosecutors under the title: “Human Trafficking – Prevention and Protection in BiH”. The project included training of judges and prosecutors, with the participation of representatives of police and social welfare services. On that occasion they exchanged experiences in order to find the best solutions in gathering evidence for prosecution of trafficking cases, while providing care and protection to victims.

93. After taking the necessary actions to implement the adopted legislative and legal framework, the total number of identified victims started to stagnate including a small number of foreign victims and a growing number of identified domestic human trafficking victims. This is illustrated by records kept by SIPA, Entity MoIs and Police of BD.

VIII. Information updating and dissemination

A. Implementation of recommendations

Response to the recommendation raised in the previous concluding observations (para. 39)

94. After considering the concluding observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families at the 97th meeting of the Council of Ministers, held on 3 September 2009, the CoM made a conclusion that all relevant institutions and organizations, from the state, entity and cantonal levels to municipal authorities, agencies and organizations should be informed about the recommendations of the CMW. The concluding observations are also posted on the web site of the Ministry for Human Rights and Refugees (www.mhrr.gov.ba/ljudska_prava/?id=8) and are available to all stakeholders. An instructive well-designed cover letter requested from the Entity and BD governments to implement the CMW recommendations consistently and inform about them

members of cabinets, appropriate ministries and legislatures, public authorities and other appropriate authorities at the state and entity levels, in order to consistently consider them and programme activities for their implementation. Also, the content of the recommendations has been transmitted to the non-governmental sector and migrant workers from Bosnia who are abroad and foreign migrant workers who reside in or are passing through Bosnia. An obligation of the BiH authorities to monitor results in practice and to inform the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families about the issues of concern in a timely fashion, as it does in this report. Please note that a large working group took part in the preparation of this report and, in addition to representatives of NGOs, it consisted of representatives of the Ministry of Security of BiH, the Ministry of Justice, the Ministry of Human Rights and Refugees, the Service for Foreigners' Affairs, the Border Police of BiH, the Agency for Labour and Employment of BiH, representatives of Entities' ministries and agencies and relevant departments of the District of Brcko, which indicates across-the-board coordination and promotion in the responsible authorities of BiH.

B. Involvement of civil society

Response to the recommendation raised in the previous concluding observations (para. 40)

95. In addition to the constitutional right of association, this right is fully guaranteed to BiH citizens by adoption of the Law on Associations and Foundations of Bosnia and Herzegovina, whose added value is placing all persons in the territory of BiH in an equal position. This means that in the last 15 years or so the NGO sector has been expanding. Signing of the Agreement on Cooperation between the Council of Ministers and the NGO sector in BiH in May 2007 was also very supportive. Although it is not a legally binding document, its strength rests on an agreement of partners on mutual consultations, discussions and understanding especially when it comes to important issues and topics. The Agreement emphasizes particularly those topics related to NGO cooperation with the lower level of government, because local communities have a number of complementary functions and shared values that this and other agreements will be improving in the future. This is an important issue bearing in mind that a large number of NGOs failed to succeed in most cases, although they received support from international donors they failed in the field. Due to these and other problems in the NGO sector, it is necessary to continue strengthening the ongoing cooperation between governmental and non-governmental sectors, with a special emphasis on strengthening the material base and financial capabilities of NGOs to implement activities and goals they were established to achieve, because, without the sector being independent, there will be no responsible discharge of duties or enhancement of performance.

C. Information dissemination

Response to the recommendation raised in the previous concluding observations (para. 41)

96. In paragraph 94 above, we indicated the manner and quality of informing the relevant authorities in BiH and the general public about the concluding observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families adopted at the 113th meeting of the CMW held on 29 April 2009.

Annexes

Annex I

Assessment and information contained in BiH migration profile for 2010 giving a more clear picture of movement and stay of foreigners in BiH

1. To make a picture of migratory movements and migrant workers and their families in Bosnia full and clear, we will use assessment, attitudes and information that the Ministry of Security - Migration Department published in the BiH Migration Profile for 2010. Among other things, we shall state the following issues: the total number of issued work permits in 2009 and 2010, permanent residence of aliens in BiH, illegal migration and measures taken against irregular residence, cancellation of residence permits of foreigners, decisions on expulsion, placement of foreigners under surveillance, forced removal of foreigners, return of irregular migrants, temporary and permanent residence of aliens; discovered illegal border crossings; refusal of entry and illegal border crossing, independent voluntary return of foreigners from BiH, voluntary return of BiH citizens in BiH with the help of IOM; emigration from BiH.

1. Work permits issued to foreigners

2. According to the data from BiH Migration Profile, 2010, obtained from the Labour and Employment Agency of Bosnia and Herzegovina, and on the basis of data received from the relevant entity services and the Brčko District, 2.592 and 2.325 work permits were issued to foreign nationals in 2009 and 2010 respectively, making a decrease of 10.30%.

3. The majority of foreign nationals with work permits in Bosnia and Herzegovina are nationals of Serbia. They are followed in number by citizens of China, Turkey, Croatia, Russian Federation, Montenegro, Austria, Slovenia, Germany, former Yugoslav Republic of Macedonia and some old member states of the European Union. In 2010, it is visible that there is a decreasing trend for most of the presented countries related to the issuance of work permits in BiH as compared to 2009. Also, it can be noticed that there is an increasing trend of work permits issued to the nationals of Austria, Croatia and Germany.

4. The largest number of work permits was issued for the following field of work in 2010: trade 713, processing industry 450 and other community, social and personal service activities 415, followed by education 301.

2. Permanent residence

5. A permanent residence permit can be issued to an alien provided that he/she: resided in the territory of Bosnia and Herzegovina under a temporary residence permit for at least five years uninterruptedly prior to submitting the application for issuance of permanent residence permit; has sufficient and regular means of subsistence to support himself/herself; and has been provided with an adequate accommodation and health insurance.

6. The analysis of the trend of permanent residence permits (permit stickers) shows that there was a decline in their number from 2001 to 2002, which was the consequence of introducing stickers in May 2002 that were printed, at the time, by the Immigration and Asylum Sector of the Ministry of Human Rights and Refugees of Bosnia and Herzegovina that had supervisory power in the period of 30 days after the date of delivery of the decision

and dossier about the granted temporary residence by the Cantonal Ministries of the Interior of the Federation of Bosnia and Herzegovina, Public Security Centres of the Ministry of Internal Affairs of Republika Srpska, and the Brčko District Police.

7. The number of permanent residence permits issued to aliens in Bosnia and Herzegovina decreased by 12.26% in 2010, as compared to 2009.

8. The largest number of aliens who were granted permanent residence in Bosnia and Herzegovina in 2009 and 2010 had come from China, the former Yugoslav Republic of Macedonia, Croatia and Turkey.

9. According to a 2010 Report of the Service for Foreigners' Affairs, by "analysis of granted permanent residence permits, it is evident that the percentage of granted permanent residence permits for nationals of Serbia is very low, while they present the largest percentage in the number of temporary residence permits and extensions of permits. Namely, the Agreement on Dual Citizenship enables nationals of the Republic of Serbia to acquire grounds for obtaining a citizenship of Bosnia and Herzegovina, more than for the grounds for acquiring permanent residence permits, and that is reasoning for an extremely low percentage of granted permanent residence permits to the nationals of the Republic of Serbia."

3. Temporary residence

10. An alien files an application for residence permit with a DCM of BiH or appropriate organizational unit of the Service for Foreigners' Affairs in person or through a legal representative if the alien is legally incompetent, no later than 15 days before the expiry of a visa for long-term residence or visa-free residence or granted residence permit in the case of extension of temporary residence on the same grounds or permanent residence. An application for a residence permit or an extension of residence is decided on by the Service for Foreigners' Affairs.

11. Pursuant to the Law, which came into force in May 2008, temporary residence can be granted on the following grounds: marriage or common law marriage with a Bosnia and Herzegovina citizen, family reunification, education, scientific research work, artistic work, sport work, or consultant work.

12. An analysis of the presented parameters shows an increase of 8.24% in the number of temporary residence permits issued in 2010 as compared to 2009. In 2010, a total of 9,084 applications for permanent or temporary residence of foreigners in BiH were filed. The temporary residence was granted to 8,131 foreigners. According to data from the Department for Foreigners' Affairs, in 2010, most foreign nationals in BiH were granted temporary residence on the following grounds: marriage to a citizen of BiH, issued work permits, education, family reunification, voluntary work, ownership of immovable property and implementation of projects important for the country.

4. Illegal Migrations and Measures Taken Against Aliens

13. According to the 2010 report from the Service for Foreigners' Affairs, the Service performed regular control of the movement and stay of aliens, both physical and legal entities, who provide the services of accommodation, catering and tourist facilities, educational institutions, companies and institutions where aliens who had been issued work permits are employed, companies founded by foreign nationals, controls of address of residence and change of address of residence. Control actions such as these are some of the basic ways of finding illegal immigrants in Bosnia and Herzegovina, and result in measures being taken against foreign nationals.

14. The measures taken against such foreign nationals include: cancellation of non-visa and temporary residence; cancellation of permanent residence; cancellation of non-visa or temporary residence with an expulsion measure; decisions on expulsions; placing of foreign nationals under surveillance; and forced removal of aliens from Bosnia and Herzegovina.

15. According to the 2010 Report of the Service for Foreigners' Affairs, the number of taken measures in the last two years is a result of "continued operational activities of the inspectors for aliens on collecting information on organizers of illegal transfer and smuggling in human beings, routes of movement of illegal migrants, and timely sharing of information with other security agency for law implementation, which resulted in processing people involved in illegal transfer and smuggling of foreign nationals; therefore, resulted in a decrease in the number of illegal entries to Bosnia and Herzegovina, as well as intensified activities of the agencies for law implementation on the prevention and suppression of illegal migration, as well as processing people involved in the aforementioned crimes, which lead the change of the path and route of illegal migration to avoid the region of Bosnia and Herzegovina; to use the route across Serbia towards Hungary and then countries of the Western Europe."

5. Residence cancellation

16. During 2009, a total of 566 residence permits were cancelled (530 non-visa and temporary residence permits and 36 permanent residence permits).

17. During 2010, a total of 503 residence permits were cancelled (397 non-visa or temporary residence permits and 106 permanent residence permits).

18. The largest number of decisions on residence cancellation was delivered to nationals of Serbia, Croatia, China and Turkey.

19. Generally speaking, the most frequent reasons for residence cancellation were following: "working without a work permit", and "changes in circumstances on grounds of which a residence permit was granted to such extent that they would have excluded any possibility for issuance of a residence permit".

6. Decisions on Expulsion

20. During 2009, a total of 474 decisions on expulsion were reached, while in 2010 the number of decisions on expulsion was 410.

21. In 2010, 73 decisions on cancellation of a non-visa or temporary residence with an expulsion measure were mostly issued to nationals of Serbia (66), followed by Bulgaria (3), Croatia (2), Albania (1), and Turkey (1).

22. According to a 2010 report from the Service for Foreigners' Affairs, most expulsion measures were taken because foreign nationals breached the regulations on crossing the state border, foreign nationals were subject to readmission agreement but do not have granted residence in Bosnia and Herzegovina, for having been legally sentenced for criminal acts, for the reason that the presence of an alien is a threat to public order or security in Bosnia and Herzegovina, and other reasons.

7. Placing of aliens under supervision

23. The Law on Movement and Stay of Aliens and Asylum provides that an alien may be placed under supervision. When an alien is placed under supervision, he/she is placed in the Immigration Centre. The Immigration Centre, with the initial capacity of 40 beds, is located on the premises of the Service for Foreigners' Affairs. This immigration centre began operations on 30 June 2008, when the law of placing aliens under supervision went into effect. The new building of Immigration Centre, with a capacity of 80 beds, was open

on 23 November 2009. Opening of this facility, the accommodation capacity was additionally expanded for 120 people.

24. During 2009, a total number of 191 aliens were placed under supervision. Most of illegal migrants were nationals of: Serbia, then Albania, Turkey, the former Yugoslave Republic of Macedonia, China and Pakistan. During 2010, total number of 312 aliens was placed under supervision in the Immigration Centre. Most of illegal migrants were nationals of: Serbia, then Albania, Turkey, Afghanistan and Croatia, while there were 13 aliens whose identity was not established and the procedure for establishing their nationality is taking place. In addition, 42 aliens were placed under surveillance in their current place of residence.

25. A graphic overview of decisions related to placing of aliens under supervision in the Immigration Centre in 2010, disaggregated by nationalities of aliens against whom the measure was taken is available in BiH Migration Profile, 2010.

26. According to the report made by the Service for Foreigners' Affairs, out of the total number of the admitted beneficiaries of the Immigration Centre "50 persons were admitted based on the Readmission Agreement with the Republic of Croatia and 2 persons based on the Readmission Agreement between the Council of Ministers of Bosnia and Herzegovina and the Government of the Republic of Serbia and 1 person based on the Readmission Agreement between the Council of Ministers of Bosnia and Herzegovina and the Government of the Republic of Slovenia." In addition, according to the report by the Service for Foreigners' Affairs "the total of 101 persons was delivered, out of which 70 persons were delivered pursuant to the Agreement between the Council of Ministers of Bosnia and Herzegovina and the Council of Ministers of Serbia on return and readmission of persons who do not fulfil or cease to fulfil conditions for entry or residence on the territory of other state, 16 based on the Agreement between the Council of Ministers of Bosnia and Herzegovina and the Government of Montenegro on return and readmission of persons who illegally entry or reside on the territory of the other state, and 9 based on the Agreement between the Council of Ministers of Bosnia and Herzegovina and the Republic of Croatia on delivery and readmission of people who illegally reside on the territory of the other state, 5 on the grounds of Agreement between the Council of Ministers of Bosnia and Herzegovina and the Republic of Slovenia on readmission of people who illegally reside on the territory of the other state, and 1 on the grounds of Readmission Agreement between Bosnia and Herzegovina and European Community".

8. Forced removal of aliens from Bosnia and Herzegovina

27. Removal of aliens from Bosnia and Herzegovina is a measure that is undertaken by the Service for Foreigners' Affairs when an alien who has received a valid decision that orders him/her to leave Bosnia and Herzegovina has no intention of leaving the country within the deadline for voluntary return as defined in the decision.

28. According to the report of the Service for Foreigners' Affairs "19 aliens (12 aliens were forcibly removed by the Field Offices of the Service for Foreigners' Affairs, and 7 aliens were forcibly removed from the Immigration Centre) were forcibly removed from the country in 2010, while in 2009 there were 109 cases of the forced removal of aliens from Bosnia and Herzegovina." The reduction of this measure by 82.57% in 2010 as compared to 2009 is a consequence of voluntary decisions made by aliens to self-initiatively leave Bosnia and Herzegovina, or if they had been placed in the Immigration centre to use the assistance of the International Organization for Migration (IOM) to voluntarily leave the country. The aforementioned indicators show that there has been a promotion and a priority use of voluntary return to the countries of origin which is a more humane and efficient procedure as compared to the forced removal procedure. Forced removal of aliens is also easier, quicker, and more efficient when readmission agreements

can be used. Use of readmission agreements requires Bosnia and Herzegovina sign readmission agreements with countries into which aliens are removed and that those agreements subsequently enter into force.

9. Irregular migrant return

29. Data and analyses of trends in irregular migrant returns are presented on the following subjects:

- Voluntary return of citizens of Bosnia and Herzegovina to Bosnia and Herzegovina, with the assistance and support of the IOM
- Voluntary return of aliens from Bosnia and Herzegovina to their countries of origin with the support from IOM
- Acceptance and return on the basis of the readmission agreement with Croatia; and
- Voluntary return of aliens from Bosnia and Herzegovina.¹⁴ BiH Service for Foreigners' Affairs. "1 January 2010 to 31 December 2010 Activity Report" Sarajevo, January 2011., p. 27.

10. Voluntary return of citizens of Bosnia and Herzegovina to Bosnia and Herzegovina, with the assistance and support of the International Organization for Migration

30. Bosnia and Herzegovina participates in programs which voluntarily return citizens of Bosnia and Herzegovina from other countries. Programs that voluntarily return citizens of Bosnia and Herzegovina are largely implemented with the mediation of IOM.

31. According to IOM data, a total of 4,419 citizens of Bosnia and Herzegovina returned voluntarily to Bosnia and Herzegovina from 2001 to 2010 through IOM programs. In 2009 and 2010 a downward trend of BiH citizens who return to BiH in the above mentioned manner was noted, which may be a result of a lack of funds for voluntary return programs, or may indicate that citizens of Bosnia and Herzegovina have solved their status in their respective countries of destination.

11. Discovered illegal crossings of the State borderline

32. An illegal border crossing occurs when a person is caught trying to cross the state border of Bosnia and Herzegovina illegally, regardless of whether the person is entering or leaving the country, both on border crossing points or outside border crossing points, or whether the person is a citizen of Bosnia and Herzegovina, a foreign national or a person with no citizenship.

33. In 2009, a total of 381 persons were caught trying to cross the border of Bosnia and Herzegovina illegally. During 2010, the total number of 322 persons was registered in such attempts. This data indicate a reduction of 15.49% in the number of discovered illegal border crossings.

34. According to available data, most of discovered illegal border crossings are attempted by citizens of Bosnia and Herzegovina. In terms of foreign nationals, the largest number of such attempts was committed by nationals of the neighbouring countries and countries in the region. Out of this number of discovered illegal border crossings attempted by nationals of Serbia, 15 persons were holders of UNMIK documents in 2009, and 15 persons in 2010. An analysis of the available data shows that 41.61% of all illegal crossings that were discovered in 2010 were attempted by citizens of Bosnia and Herzegovina. However, this percentage decreased in comparison to 2009, when 44.36% persons were discovered. There was also a significant fall in the number of discovered illegal crossings of the state border by nationals of other countries where the largest number comes from the

former Yugoslav Republic of Macedonia (71.43%), Croatia (65.00%), Turkey (53.33%), Serbia (27.59%) and Albania (22.45%). According to data from the Activity Report of the Bosnia and Herzegovina Border Police “at border crossing points in 2010 (both entrance and exit) 93 persons were registered (entry 36 + exit 57) in attempt to cross the state border illegally, and 229 person (entry 144 + exit 85) attempted to cross the border outside the border crossing points (border strip), while in 2009 “on the border crossing points (total of entries and exists) 110 persons were registered (entry 46 + exit 64) in an attempt to illegally cross the state border, while 271 persons attempted to cross the border outside the border crossing points (border strip) (entry 142 + exit 129)”.

35. The aforementioned data shows that there is a tendency of illegal border crossing outside the border crossing points.

36. In 2009, illegal exits accounted for 50.65% of the total number of persons caught while attempting to illegally cross the state border (of 381), while this percentage for 2010 was 44.10% (of 322).

37. With regards to the land border, the data obtained from the Bosnia and Herzegovina Border Police indicates that the majority of illegal border crossings (both into and out of the country) were registered outside official border crossing areas. However, there were a certain number of attempted illegal crossings at international airports.

38. An analysis of the data on attempted illegal border crossings into Bosnia and Herzegovina disaggregated by the type of border crossing and neighbouring country clearly shows that there were 307 attempted illegal land border crossings in 2010. This percentage decreased by 15.89% as compared to 2009, when there were 365 attempted illegal land border crossings. There was also approximately the same number of attempted illegal border crossings at international airports in 2010, when there were 15 attempted illegal crossings at international airports, and in 2009 this number was 16.

39. The border of Bosnia and Herzegovina and Croatia is an interesting case for analysis because 54.35% of all attempted illegal crossings out of Bosnia and Herzegovina in the last year were registered along this border. According to the Bosnia and Herzegovina Border Police, 79.58% of all attempted illegal crossings were registered along the border with the Republic of Croatia, indicating a preference by illegal migrants to use this part of the border to try and leave Bosnia and Herzegovina. There was an apparent decreasing trend in all the parameters in 2010, as compared to 2009.

40. The presented indicators and comparative analysis have shown that the good results in this field in 2010 are the result of the implemented activities by the Border Police of Bosnia and Herzegovina in the suppression of illegal migration.

12. Refusal of entry and illegal border crossings

41. Refusal of entry is a measure undertaken by the Bosnia and Herzegovina Border Police, pursuant to the Law when foreign nationals and stateless persons attempt to legally cross the Bosnian and Herzegovina border and enter the country without meeting the entry requirements prescribed by the Law. In the aforementioned case, the Bosnia and Herzegovina Border Police After the refusal of entry, the Bosnia and Herzegovina Border Police issue a decision on the refusal of entry pursuant to the regulations of the Law. A foreign national or a stateless person can file a complaint against this decision to the Ministry of Security, but the lodging of the complaint itself does not give that person the right to enter Bosnia and Herzegovina.

42. An illegal border crossing occurs when a person is caught trying to cross the border of Bosnia and Herzegovina illegally, either entering or leaving the country, regardless of

whether that person is a citizen of Bosnia and Herzegovina, a foreign national or a stateless person.

13. Refusal of entry into Bosnia and Herzegovina

43. A foreign national who does not meet the general requirements for entering Bosnia and Herzegovina pursuant to Article 19 of the Law on Movement and Stay of Aliens and Asylum of Bosnia and Herzegovina, or if he/she is not a subject to the international treaty or decision on entry under special conditions, may be refused entry into Bosnia and Herzegovina.

44. An analysis of data on refused entries at the border crossing points, in the presented period of time, shows that after 2004, when there was a significant increase in the number of refused entries, there was a continuous decreasing trend in the number of these parameters. The significant increase in 2004 followed by a sharp decrease in 2005 was mostly the result of the accession of ten (10) new member countries to the EU on 1 May 2004. Visas for the citizens of nine (9) of the ten (10) countries who previously needed visas for entry into Bosnia and Herzegovina were no longer required in 2005 (21 July 2005). During 2008, the number of refused entries into Bosnia and Herzegovina was more than 50% reduced as compared to 2007; in 2009, the number of refused entries increased for 64.51%, and that number was significantly reduced in 2010 as compared to 2009 by 31.14% and amounted to 3,514 refused entries.

45. There is a significant difference in the number of refused entries in 2010 as compared to 2009, with a 31.14% decrease.

46. The majority of refused entries into Bosnia and Herzegovina refer to the neighbouring countries: Croatia (935), Serbia (864) and Montenegro (213) and account for 57.26% of the total number of refused entries into Bosnia and Herzegovina. Of the presented number of refused entries into Bosnia and Herzegovina for citizens of Serbia, 139 such cases in 2009 and 150 in 2010 were holders of UNMIK passports. It is important to emphasize that in 2010 there was a significant decrease in the number of refused entries for the nationals of Germany (84.68%), the former Yugoslav Republic of Macedonia (75.86%), Italy (46.84%), Russian Federation (46.42%), Croatia (36.39%), Albania (34.40%) and Serbia (26.78%). In 2010, 3,514 foreign nationals were refused entry to Bosnia and Herzegovina, out of which 3,321 on the land border crossing points of Bosnia and Herzegovina, and 193 at the international airports. The reasons for refusal of entry into Bosnia and Herzegovina to foreign nationals were: lack of possession of a valid travel document (58%), lack of possession of a visa for entry, stay, transit in Bosnia and Herzegovina or residence permit pursuant to the Law (22%); lack of sufficient means of subsistence, including means for health care (8%); his/her inability to prove or provide information on the purpose of the intended stay (6%); deliberate provision of false data related to ground for entering Bosnia and Herzegovina (4%) and other reasons(2%).

47. According to information received from the Border Police of Bosnia and Herzegovina, "the majority of refused entries of the state borderline at the international airports is due to false data given in relation to grounds for entering Bosnia and Herzegovina, while on the other border crossing points, the major reason is the lack of possession of a valid travel document and lack of visa."

14. Obtaining citizenship in Bosnia and Herzegovina

48. The Ministry of Civil Affairs, competent for the issuance of agreements for granting citizenship of Bosnia and Herzegovina, requested from the competent entity level ministries to submit statistics on the number of people who were granted BiH citizenship through naturalisation or implementation of the international treaties on dual citizenship. The

Federal Ministry of the Interior and the Ministry of Administration and Local Self-Governance of Republika Srpska submitted the requested data, disaggregated by country of origin, sex and age of the people who obtained citizenship of Bosnia and Herzegovina in 2009 and 2010. The submitted data was analysed and disaggregated by years.

49. The majority of people who were granted the citizenship of Bosnia and Herzegovina in the past two years originate from Serbia and Croatia. 945 persons obtained the citizenship of Bosnia and Herzegovina, with 758 persons obtaining the citizenship on the basis of the Dual Citizenship Agreement between Bosnia and Herzegovina and Serbia during 2009. In 2009, 417 persons obtained citizenship of Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina, out of which 409 persons were on the basis of the Dual Citizenship Agreement between Bosnia and Herzegovina and Serbia; while 528 obtained citizenship of Bosnia and Herzegovina and the Republika Srpska in 2009, out of which 349 were on the basis of the Dual Citizenship Agreement between Bosnia and Herzegovina and Serbia.

50. A total number of 827 aliens, who were granted the citizenship of Bosnia and Herzegovina in 2010, is on a lower scale compared to 2009, out of which 728 were on the basis of the Dual Citizenship Agreement between Bosnia and Herzegovina and Serbia. In 2010, 525 persons obtained citizenship of Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina, out of which 478 persons were on the basis of the Dual Citizenship Agreement between Bosnia and Herzegovina and Serbia; while 302 obtained citizenship of Bosnia and Herzegovina and the Republika Srpska in 2010, out of which 250 were on the basis of the Dual Citizenship Agreement between Bosnia and Herzegovina and Serbia.

51. The analysis of the overall data about the people who obtained the citizenship of Bosnia and Herzegovina disaggregated by their age and sex, shows that most of the persons who obtained the citizenship of Bosnia and Herzegovina are aged 18 to 59 and that there were more women than men obtaining the citizenship of Bosnia and Herzegovina.

15. International protection/asylum

52. Up to 30 June 2004 applications for asylum were received and decided upon by the UNHCR, following UNHCR procedures.

53. Bosnia and Herzegovina authorities took control of the asylum and international protection application process on 1 July 2004. The asylum and international protection process is now governed by Bosnia and Herzegovina laws. The institution of first instance is the Ministry of Security - Sector for Asylum, whereas the Court of Bosnia and Herzegovina represents the institution of second instance, which deliberates complaints and appeals. While deciding whether an applicant will be granted international protection, the principle of "non-refoulement" is also deliberated upon. One of the following Ministry decisions may result:

- (a) The application for international protection is approved and applicant's refugee status in Bosnia and Herzegovina is recognized;
- (b) The application for international protection is approved, refugee status is not recognized, and the right to subsidiary protection is granted;
- (c) The application for international protection is rejected, and the alien is given a deadline by which he/she must leave Bosnia and Herzegovina;
- (d) The international protection process is ceased and the alien is given a deadline by which he/she must leave Bosnia and Herzegovina; or,

(e) The alien is denied the international protection process and the given a deadline by which he/she must leave Bosnia and Herzegovina.

54. An alien who has exhausted all available legal remedies and whose request for international protection/asylum was rejected by a final and binding decision brought in accordance with Article 116 (Decisions upon the application for international protection) Item c) or by a final decision made pursuant to Article 116 Items d) or e), but who nevertheless cannot be removed from the territory of Bosnia and Herzegovina for the reasons prescribed in Article 91 of this Law (the principle of “non-refoulement”) , shall come under the authority of the Service. (2) The Service shall issue to the alien a temporary residence permit on humanitarian grounds pursuant to Article 54 (Temporary residence on humanitarian grounds) paragraph (1) Item d) of this Law. Exceptionally, the Service shall place under supervision any alien who it is determined poses a threat to the public order, legal order, or peace and security of Bosnia and Herzegovina, in accordance with articles 98 through 104 of the Law. The Service for Foreigners’ Affairs, in cooperation with the Ministry of Security, other ministries and the Council of Ministers, shall undertake all measures in necessary under the law and regulations of Bosnia and Herzegovina and international law in regard to resolution of the final status of the alien.

55. In order to identify trends in asylum, data asylum applications, i.e. international protection from 2001 to 2010 is provided. Applications for asylum in Bosnia and Herzegovina were submitted to the UNHCR from 2001 to 30 June 2004.

56. During this period 2,249 individuals applied for asylum in Bosnia and Herzegovina. All applications for asylum were received and decided upon by the UNHCR following UNHCR procedures. From 2001 to 2006, when the procedure for deciding upon submitted applications was completed, the UNHCR recognized the refugee status for 355 persons (2001 – 36 persons, 2002 - 88 persons, 2003 - 20 persons, 2004 - 41 persons, 2005 - 163 persons, and 2006 - 7 persons).

57. From 1 July 2004 to 31 December 2010, the competent authorities of Bosnia and Herzegovina received 445 applications for asylum or international protection in Bosnia and Herzegovina. These 445 applications included 1,124 asylum seekers. During this period, Bosnia and Herzegovina recognized the refugee status of eight individuals.

58. In the past several years, UNHCR has implemented projects moving people to third countries. Taking these UNHCR projects into account, as at the end of 2010, 176 people have been granted refugee status.

59. In 2010 UNHCR assisted nine people with refugee status, originally from Kosovo to move to Canada.

60. In accordance to the transfer of competency, 301 people applied for asylum in 2004. Of those 301 asylum seekers, UNHCR received applications from 203 people and the remaining applications for 98 people were submitted to authorities in Bosnia and Herzegovina.

61. The high degree of variation between years in the number of persons who applied for asylum in Bosnia and Herzegovina is the result of legal changes in the definition of temporary admission that occurred during a massive influx of citizens of Serbia.

62. Looking at the trend in submitted applications, we can see a peak in asylum applications in 2003. This peak the result of the November 2001 adoption of the Decision on Partial Cessation of Application of Instructions on Temporary Admission of Refugees from the Federal Republic of Yugoslavia in Bosnia and Herzegovina (“*Bosnia and Herzegovina Official Gazette no. 28/01*”), which terminated the use of the status of temporary protection for newly arrived persons. A second peak in asylum applications is

evident in 2007. The 2007 peak is the result of the September 2007 cessation of temporary admission of citizens of Serbia originating from Kosovo.

63. In these cases, the individuals who lost their status of temporary protection had the opportunity to submit applications for asylum/international protection in Bosnia and Herzegovina, and they used this opportunity in most of the cases. In 2010, there was a decrease in the number of application for the international protection (asylum) as compared to 2009 by 9.86% and there were 38 applications involving 64 persons.

64. In order to analyze international protection situation in Bosnia and Herzegovina, data on applications for international protection and numbers of people who submitted them in 2009 and 2010 is presented.

65. As can be seen from the presented data, in 2009, 32 applications involving 71 persons were filed, while in 2010, 38 applications involving 64 persons were filed, which was a decrease of 9.86%. The largest number of individuals seeking asylum or international protection was nationals of Serbia (mostly originating from Kosovo) and in 2009, 17 applications involving 55 persons were filed, while in 2010, 12 applications involving 35 persons were filed.

66. From other countries, with the exception of the Islamic Republic of Iran and Cameroon (in 2010), individual applications for international protection were submitted.

67. In 2010, 11 applications for the international protection (asylum) were submitted by people originating from Afghanistan out of which three applications (for three persons) were in the category of unaccompanied minors.

68. For the purpose of a detailed analysis of the current situation regarding international protection in Bosnia and Herzegovina, the presentation of comparative data on submitted requests and decisions reached in 2009 and 2010 by the number of individuals is shown below.

69. According to data from the Ministry of Security – Asylum Sector, a total of 32 applications were submitted for international protection in BiH for 71 persons in 2009. A total of 293 applications were in the process of being decided upon (taking into consideration unresolved cases from the previous years – 222 persons). In 2009, out of the total number of applications, 70 persons applied for international protection for the first time, while a single application for an individual was repeated. During the year, 61 persons revoked their applications. At the end of 2009, 42 applications remained unresolved for 127 persons.

70. In terms of decisions on applications for international protection considered during 2009, Bosnia and Herzegovina recognized the refugee status of a person from Sri Lanka, and five persons from Serbia were granted subsidiary protection or temporary stay on humanitarian grounds because of the principle of “non-refoulement”. All other applications, 56 of them relating to 160 persons, were rejected by a first instance decision or a final and binding decision, or the procedure was suspended by a first instance or a final and binding decision. Most requests were refused to citizens of Serbia- 41 requests for 144 persons, being by far the most number. The reasons for these decisions relate mainly to lack of grounds for international protection.

71. According to data from the Ministry of Security – Asylum Sector, there were 38 applications for international protection (asylum) for 64 persons in total, in BiH in 2010. Ministry of Security – Asylum Sector was processing 80 applications for 191 persons, taking into consideration the cases that had been transferred from the year before (127 persons).

72. Regarding the structure of applications submitted during the previous years, it is important to mention that all of them were related to people who applied for the first time for international protection in BiH. During past year 50 applications for 152 persons were rejected and 14 persons revoked their applications. At the end of the year, there were 32 unresolved cases for 25 persons.

73. The main reason for rejecting an application for international protection (50 requests for 152 persons) is ungroundedness under Article 110, Paragraph 1 of the Law on Movement and Stay of Aliens and Asylum, providing that the request is not based on reasons that are grounds for the recognition of the status of international protection. During the last year a total number of such cases were 44 (88%). Another reason for rejection was the fact that the application was contradictory, unbelievable or inconsistent, and a total number of such cases was 4 (8%), while the two applications (4%) were rejected by applying international protection exclusion clauses.

74. In 2010, processing of 8 requests for 14 persons was suspended for reasons stipulated by the Law on Administrative Procedure.

75. As it was the case with previous years, the largest number of applications for international protection (asylum) in 2010 was submitted by nationals of Serbia – a total of 151 applications for 35 persons, or 151 persons, including cases pending from previous years. During 2010, 5 applications for 11 persons from Serbia were revoked, and at the end of the year, there were 2 cases pending for 2 persons.

16. Visas

76. A visa is a permit that allows an alien to cross the state border and either enables him/her to enter and stay in the country for the period specified in the visa or transit through the country. An alien has the obligation to obtain visa before arriving at a border crossing point, unless he/she is a citizen of a country whose nationals do not need a visa for entering Bosnia and Herzegovina. Visas are issued by the Ministry of Foreign Affairs through its Diplomatic Missions and Consular Offices (hereinafter: BiH DKP). In exceptional cases that are regulated by the Law on Movement and Stay of Aliens and Asylum (hereinafter: the Law) a visa can be issued at the border crossing by the Bosnia and Herzegovina Border Police.

17. Visas issued by diplomatic missions and consular offices of Bosnia and Herzegovina

77. On the basis of the information obtained from the Ministry of Foreign Affairs, we provide both tabulated and graphical overviews of the number of visas issued annually, along with a brief analysis of the visa trends.

78. An analysis of data on the number of visas issued for the reporting period by the BiH DKP shows a continued decrease in the number of visas issued, with a sharp decrease between 2002 and 2003, which was the result of the introduction of visa stickers in May 2002. There was also a significant decrease in visas issued between 2005 and 2006 as the result of accession to EU of the following countries: the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia (1 May 2004). The citizens of the newly admitted EU countries, with the exception of Slovenia, were exempt from obtaining a visa for Bosnia and Herzegovina following the Decision of the Council of Ministers of Bosnia and Herzegovina, which came into force on 21 July 2005. A significant decrease in the number of visas issued in 2008 as compared to 2007 is the result of the accession to the EU of Romania and Bulgaria (1 January 2007), with the citizens of those countries being exempt from obtaining visas for Bosnia and Herzegovina following the Decision of the Council of Ministers of Bosnia and Herzegovina, which came into force on 28 June 2007. The downward trend in visa issuance by the BiH DKP continued in 2009,

which was a result of the Decision by the Council of Ministers on visas which came into force on 24 December 2008. Regarding 2010, a mild increase was observed (3.65%) as compared to the year 2009.

79. In order to define current problems in visa issuing, we present comparative indicators on the number of visas issued during 2009 and 2010 for those countries whose citizens were granted the majority of the visas for Bosnia and Herzegovina, along with a brief analysis of the relevant parameters.

80. An analysis of data on visas issued in the Diplomatic/Consular Representation Offices of Bosnia and Herzegovina in 2010, when compared to 2009 and disaggregated by countries whose citizens were granted greatest number of visas, shows that there is a decrease in the number of visas issued for Albania, whose citizens are exempt from visa regime to enter Bosnia and Herzegovina, as well as some other presented countries such as: Indonesia, South Africa, Serbia (holders of UNMIK passports), China, Côte d'Ivoire, Russian Federation, Sudan and Uganda. This decreasing trend can be attributed to legislative changes in the visa issuance system because the Law, which came into force in May 2008, enabled issuing of short-term visas (Visa-C), allowing an alien to enter and stay in Bosnia and Herzegovina up to 90 days within six months and long-term visas (Visa-D), allowing an alien to enter and stay in Bosnia and Herzegovina for up to six months within a year, commencing from the date of the aliens' first entry and with a possibility of a single or multiple entries into Bosnia and Herzegovina. Significant increase of visas issued in 2010, as compared to 2009, has been noted with the nationals of the Philippines, Belarus, Saudi Arabia, Libya, Jordan, Republic of Moldova, Syrian Arab Republic, Lebanon and Ukraine. According to the data supplied by the Ministry of Foreign Affairs, the number of pending requests transferred from 2009 to 2010 amounted to 26 requests, and the number of received requests in 2010 was 9,994. Last year, 9,623 applications, or 96.04%, were positively resolved while 62 applications, or 0.62%, were negatively resolved, while 335 applications or 3.34%, and were transferred to the following year. Most of the refused applications were related to the nationals of India, Egypt and Libya, the total of 37 requests or 59.68%.

18. Visas issued at border crossings

81. The Law on Movement and Stay of Aliens and Asylum, in exceptional cases, allows the Bosnia and Herzegovina Border Police to issue visas in certain cases (Article 36). Under the previous law a similar possibility existed in the use of the Visa-F category (i.e. visas issued at the border). The new Law, which was adopted in May 2008, does not contain a Visa-F category, and prescribes that the Bosnia and Herzegovina Border Police instead, when issuing visas at border crossings, must adhere to the new categorization of visas and issue only Visas A (i.e. airport transit visa), B (i.e. transit visa) or C (i.e. short-term stay visa for one entry of up to 15 days).

82. From 2004 onwards, an analysis of data on the number of visas issued at the border crossing points shows a significant downward trend which may lead to a conclusion that the objective of reduction of visa issuance in such a manner is being realized. The achieved indicators have resulted from the development of the network of Diplomatic-Consular Representation Offices, development of legislation framework which stipulates that visa issuance at the border crossings shall be issued in exceptional cases stipulated by the Law and in line with the Law implementation by the BiH Border Police.

83. In order to define the current situation related to visa issuing at the border crossings, we are presenting comparative indicators on the number of visas issued in 2008 and 2009, for the countries of nationals who have been most frequently issued visas to enter BiH, with a brief analysis of the parameters and amendments to the legislation, for the purposes of a comprehensive interpretation of data.

84. During 2009, there was a significant decrease of visas issued at the border crossing points (49.56%) as compared to 2008, and the number was 345 visas (Visa B, 9 and Visa C, 336), while in 2010 there was a mild decrease of visas issued at the borderline (5.22%) and that number was 327 visas, and all of those were Visas C. Bearing in mind the general request and the principle that visas issued at border crossing points should be reduced, Bosnia and Herzegovina can report that there has been a continuous decrease of visas issued at border crossing points from 2004 until today. According to the Annual Activity Report of the Border Police of Bosnia and Herzegovina for the year 2010, the majority of visas issued at the border was issued at the Sarajevo Airport (278 or 85.02%).

85. Regarding the most frequent states of origin of aliens who have been issued visas at the border crossing points, the year 2010 showed that the majority of visas were issued to foreign nationals coming from Ukraine, Kazakhstan, Georgia, Ghana, Azerbaijan, Republic of Moldova and Armenia. Regarding sex and age structure, the statistical data in 2010 are quite similar to the year 2009, and show that the more visas were issued to men (74.92%) than women (25.08%), and that in both cases the majority of people are aged between 18 and 59, with almost equal representation of two age groups, the one 18-35 and the other 36-59 which can be clearly seen in a graphic overview in BiH Migration Profile, 2010.

19. Emigration from Bosnia and Herzegovina

86. The Diaspora Sector, under the Ministry for Human Right and Refugees, has prepared an overview and analysis of Bosnia and Herzegovina's Diaspora based on the available data.

General estimation of migration flows

87. Bosnia and Herzegovina is a country of significant migration flows. Only in the last half century it is faced with all types of migration, starting from the external, internal, involuntary, voluntary, legal and illegal, to the migration of highly and lower educated people. According to estimates of the Ministry of Human Rights and Refugees, the total number of people originating from Bosnia and Herzegovina who live outside the borders of Bosnia and Herzegovina is at least 1,350,000. According to the World Bank that number is even higher and amounted to 1,461,000 emigrants, representing 38.9% of total BiH population which puts Bosnia and Herzegovina at the 8th place in Europe and Central Asia in total number of emigrants, or at the 12th place in the world in the number of emigrants in relation to the total number of inhabitants living in the country.

88. If we take into account only the emigration after the Second World War, by the period of migration, three major waves of emigration from Bosnia can be highlighted, as follows:

- The first wave of emigration in the sixties and seventies, which was caused by a bad economic situation, went in the direction of West Europe (Germany, Austria, and Switzerland). During this period mainly low and medium-educated people emigrated.
- The second wave refers to the war period 1992-1995 when, because of the war, low, medium and highly educated people emigrated; the territory of emigration was much wider, ranging from EU countries, North America, to Australia.
- The third wave of emigration has happened in the post-war period, since 1996, and is still running caused by economic and political situation in the country.

89. Although in recent years there has been labour migration, i.e. temporary employment of mainly low and medium skilled workers abroad, the post-war wave of emigration from Bosnia and Herzegovina also includes a significant number of young and

educated people. This is a continuation of the so-called “brain drain” from BiH, which has a tendency to increase.

90. There are no precise data about the outflow of young and educated people of the country. An example may be given in the 2000 data of the World Bank, according to which the percentage of highly educated people who emigrated from BiH was 23.9%, which placed BiH on the second place in Europe and Central Asia, and the percentage of physicians as accomplished professionals who left the country amounted to 12.7%.

91. According to the official website by EUROSTAT it can be established that tens of thousands of citizens of BiH entered the territory of EU countries in the post-war period. Only in the period from 2000 to 2007, 143,985 citizens of Bosnia and Herzegovina entered EU countries, while 69,604 exited from the EU, meaning that the number of people who entered was larger by 74,381 persons than the number of people who exited the EU. What is particularly interesting is the fact that since 2004 in the direction of these countries, over 20,000 persons leave Bosnia and Herzegovina per year and that trend is increasing.

92. It is interesting to note that in the last 4 years Slovenia became the leading receiving country for migrants from BiH, so that 12,910 persons from BiH entered this country in 2009. Given that this figure is male predominant (10,846), it can be concluded that this increased movement of emigrants is mainly related to labour migration.

93. Regarding immigration from Bosnia and Herzegovina to overseas countries, e.g. the United States, there was a large wave of immigrants in the BH period 2000-2005 (on average about 15,000 a year), while the number started to decline thereafter and in 2006 it was 3789.

94. Emigration from Bosnia is increasingly becoming a demographic problem. According to Census data from 1991 the natural increase of population in the territory of Bosnia and Herzegovina amounted to 8.7%, while according to data from the Agency for Statistics of BiH, it fell to 0.6%²⁴ in 2005, and in 2007 it was even negative, which is the first time since 1996 that at the state level natural growth was negative. The process of emigration was, and still is, one of the most pressing post-war socio-economic challenges facing Bosnia and Herzegovina. Solving the problem of exile, in addition to an extremely low natural increase and emigration population, is one of the most important demographic problems faced by the Republika Srpska and Federation of BiH.

95. Bosnia and Herzegovina is following the trend of some other countries in terms of aging population and could be in a position to import the work force in the future. A large part of the economically most active population has emigrated. Thus, the average age of BiH emigrants in the European Union is 41.5 years of age.

96. According to data of the BiH Ministry of Human Rights and Refugees (MHRR) at least 1.35 million emigrants live outside the country, accounting for 35% of the total population in BiH. These data for most states do not include the second and third generation emigrants BiH who were born in the receiving state.

97. According to Ministry of Human Rights and Refugees (MHRR) estimates based on the statistics of EUROSTAT which include the Census of the states where emigrants from Bosnia and Herzegovina live, and other data of the relevant statistical institutions of receiving state, the total number of people of BiH origin, including second and third generation, accounts for at least 1.6 million. It is important to note that even these estimates are not complete, because they do not include data for all of the receiving countries.

98. The largest number of BiH emigrants is living in the European countries, about 800,000 (out of which 240,000 in Germany, 150,000 in Austria, 150,000 in Slovenia, 80,000 in Sweden, 60,000 in Switzerland) then in the United States of America (about 350,000), Canada (60,000) and Australia (60,000).

99. According to World Bank estimates from 2010, the leading countries of destination of BiH emigrants are Croatia, Germany, Austria, United States, Slovenia, Sweden, Switzerland, Canada, Australia and Italy, which fully coincides with the data available to the BiH Ministry for Human Rights and Refugees.

100. Over 95% of BiH emigrants have solved their status through the acquisition of citizenship, permanent or temporary residence permit, or any other statutory basis in the receiving country.

101. Owing to the war and migration in the period 1992-1995 the BiH emigrants are often classified as refugees, displaced persons etc. This is totally wrong because, according to official data of the relevant institutions in most countries, for many years, there is no person of BiH origin with refugee status. The example of Germany, which received most of BiH refugees and in which since 2002 there has been no person of BiH origin with refugee status, may serve as an illustration. It means that the grounds for migration itself does not determine their status and that after a certain period of time the status of BiH emigrants has been changed.

102. Official data of relevant institutions of the receiving states illustrates the status and integration of BiH immigrants. According to data available to MHRR from nine states, so far at least 377,234 BiH emigrants have obtained citizenship of the receiving state, as presented in one of the tables in BiH Migration Profile, 2010.

103. The total number of naturalized citizens of BiH (BiH citizens who have acquired citizenship of the receiving states) is higher when we add data from other countries for which MHRR has no exact data yet.

104. It is important to note that this data does not include the number of BiH citizens who acquired citizenship of Croatia, Serbia and Montenegro (which are, according to some estimates, assumed to be extremely high) and who have dual citizenship (unofficial figure for Croatia is that about 90,000 persons have dual citizenship).

105. Data on the number of BiH citizens who have acquired citizenship of the receiving country are extremely important when talking about the degree of integration of BiH emigrants. In addition, the naturalization of BiH citizens in receiving countries indicates that it is a long-term migration.

106. According to official figures of the BiH Ministry of Civil Affairs, from 1998 until May 2010, 49,632 persons renounced BiH citizenship. Of the total number of persons who renounced the citizenship of Bosnia and Herzegovina, about two thirds are BiH citizens who acquired citizenship of Austria, Germany, Slovenia and Croatia.

107. Although most states do not recognize dual citizenship, data on the number of people of BiH origin who have acquired citizenship of the receiving state and data on the number of persons who have renounced the citizenship of BiH in order to acquire another nationality indicate that the institute of dual citizenship in practice exists, although it is a legal exception for most countries. It is also important to emphasize the fact that a large number of BiH immigrants acquiring the citizenship of other countries use legal options that allow them to retain the citizenship of Bosnia and Herzegovina.