



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### **Third periodic report submitted by Bosnia and Herzegovina under articles 16 and 17 of the Covenant, due in 2018<sup>\*</sup>, <sup>\*\*</sup>**

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\* The present document is being issued without formal editing.

\*\* The annexes to the present report are on file with the Secretariat and are available for consultation. They may also be accessed from the web page of the Committee.

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## Introduction

1. In accordance with Article 16 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), Bosnia and Herzegovina is obliged to submit reports to the UN Secretary-General and, accordingly, the third periodical report covering the period between 2013 and 2018 was prepared.
2. In the reporting period, a progress was made especially in the area of alignment of laws and policies with the ICESCR, which includes amendments to the criminal codes, adoption of gender action plans, employment, housing, health care, social protection and education of Roma, measures to reduce “moonlighting”. A progress was made in labour legislation, starting from equal wages for equal work, consistency of regulations related to pregnancy and maternity leave, unionization. Further alignment of legislation in the area of trafficking in human beings was carried out. A water management strategy was adopted to protect drinking water. Achieving a progress continued in training of judges and prosecutors in the field of human rights. A progress was achieved with regard to the incentives for rural women entrepreneurship, the provision of financial incentives for women in the field of rural development, the electoral quota for women of 20% was partially achieved, recommendations for reduction of unemployment of socially disadvantaged groups, marginalized groups, persons with disabilities, older age groups, women over 45 and men over 50, women in rural areas and women victims of violence were implemented through incentive measures. It was determined that the minimum wage was governed by collective agreement signed with the Economic Social Council of both Entities. The Council of Ministers (hereinafter: CoM) adopted a final report on the implementation of the 2014–2018 Action Plan for UN Resolution 1325 Women’s Peace and Security, in RS, the Law on the Protection of Victims of War Torture was passed. The FBiH passed the Law on Amendments to the Law on Principles of Social Protection, Protection of Civilian Victims of War and Families with Children. The Law established a new group of beneficiaries called “Special category of civilian victims of war” and a Commission for granting the status of victims of war torture to victims of war-related sexual violence, which guarantees regular monthly benefits.
3. The BiH Statistics Agency conducted a poverty survey in BiH; the poverty rate was reduced to 23.4%.
4. A project of final closure of collective centres was being implemented at a quick pace. BiH CoM adopted the Culture Development Strategy, the UNESCO Convention was ratified and efforts were made to resolve the issue of the status of 7 institutions of cultural significance.
5. With regard to 30 recommendations given, the relevant institutions reported on the following progress in their implementation, as follows:

### Answer to Recommendation 7

6. The High Judicial and Prosecutorial Council of BiH (hereinafter: BiH HJPC) generates judicial statistics from the Case Management System of the courts (CMS). Cases are recorded in the CMS according to the statutory legal grounds (labour disputes, damages etc.)” Violation of the Covenant on Economic Social and Cultural Rights is not envisaged as specific legal grounds in the CMS, which is why it is not possible to provide statistics on cases in the courts resulting from the direct application of the Covenant.
7. In accordance with the organization of the judiciary, law enforcement agencies and other authorities in BiH, the following institutions have been established to be in charge of human rights training: the BiH Civil Service Agency, the RS Public Administration Agency, the FBiH Civil Service Agency and Judicial and Prosecutorial Training Centres of FBiH and RS.
8. Based on the UN Human Rights Council resolutions 15/11 and 24/15, the Ministry of Human Rights and Refugees of BiH adopted the Guidelines for the Implementation of

the World Program for Human Rights Education in Bosnia and Herzegovina in December 2016.

9. In February 2017, the BiH Council of Ministers of BiH adopted the Action Plan for Human Rights Education for Journalists and Media Professionals in BiH (2016–2019), developed under the World Programme for Human Rights Education, with the aim of improving the implementation of human rights training programmes for journalists and media professionals. In accordance with this Action Plan, the BiH Civil Service Agency, in cooperation with the BiH MHRR, conducted an educational seminar for spokespersons and information officers of BiH institutions in September 2018.

- (Annex No. 1 a) Information of the Civil Service Agency of FBiH about topics which directly or indirectly deal with human rights, and trainings are organized in accordance with the Training Needs Analysis (TNA) carried out and the budget funds available.
- (Annex No. 1 b) Information of the Brcko District Police on Training carried out in the period 2010–2018).
- (Annex No. 1 c) Annex of the Civil Service Agency of Republika Srpska.

10. The 2012–May 2018 training courses of the Judicial and Prosecutorial Training Centre of the Republika Srpska and the Judicial and Prosecutorial Training Centre of the Federation of Bosnia and Herzegovina (hereinafter: the RS JPTC and the FBiH JPTC), relating to human rights, EU law, labour law, commercial law and civil law in the light of the ICSCR are shown in a table (Appendix 2. – Table of RS JPTC and FBiH JPTC).

11. The judicial authority in the Brcko District of Bosnia and Herzegovina (hereinafter: BiH BD) is performed by the Basic Court of the BiH BD and the Court of Appeal of the BiH BD. Courts protect the rights and freedoms guaranteed by the Constitution of BiH, the laws of BiH, the laws and the Statute of the BiH BD. In proceedings conducted under the law, the Courts will protect the rights under the European Convention on Human Rights and Fundamental Freedoms in accordance with the procedures provided for by the laws of the BiH BD. When dealing with cases relating to allegations of violations of these rights and freedoms, the District Courts take into account the case-law of the European Court of Human Rights.

12. The establishment of an expert body for the consistency of case law was recommended by the Structural Dialogue on Justice between the European Union and BiH, in accordance with the opinion of the Venice Commission on Legal Certainty and Independence of the Judiciary in BiH, adopted on 16 June 2012. Since January 2014, under the auspices of the High Judicial and Prosecutorial Council of BiH (hereinafter: BiH HJPC), meetings of the expert body for harmonization of criminal, civil and administrative case law (hereinafter: panels) have been held. The meetings are held with the support of the Council of Europe within the Strengthening BiH Judicial Capacity for the Application of the European Convention for the Protection of Human Rights Project.

13. Judges of the Court of BiH, the FBiH Supreme Court, the RS Supreme Court and the Appellate Court of the BiH BD sit on the panels. The consistency is achieved according to clearly defined rules. The rules of the panels for consistency of case law were adopted on 10 April and published on the website of the HJPC Court Documentation Centre.

14. In cooperation with the Judicial Commission and under supervision of the BiH HJPC, Entity Judicial and Prosecutorial Training Centres in BiH implement annual programmes of induction training and professional development. These programmes include a considerable number of courses of training in this field.

15. The Human Resources Sub-Department is responsible for planning, coordination and monitoring of training of civil servants and non-civil service employees in public administration bodies of the BiH BD. The public administration bodies can identify the need for human rights training in the Special Plan of Professional Development that is adopted on a yearly basis.

16. The Police Training Authority of the RS Ministry of the Interior regularly promotes knowledge and raises awareness in the field of human rights.

17. The study of human rights and police ethics is envisaged in the basic police training of all participants. The programme of the course aims to transfer knowledge about the role of the police in the protection of and respect for human rights, police ethics and a set of ethical standards that define the behaviour of a police officer.

18. The Human Rights and Police course, which aims to refresh learners' previously acquired knowledge, as well as to help them gain new knowledge and attitudes about the role of the police in the protection of and respect for human rights. The seminar is intended for police officers up to the rank of senior inspector in the RS MoI. The programme includes the study of human rights, the mechanisms for guaranteeing and protecting human rights and fundamental freedoms, human rights restrictions, the responsibility of the police for human rights violations and other topics in this field, with mandatory analysis of practical examples.

19. The Department of the Execution of Criminal Sanctions of the FBiH Ministry of Justice also supervises correctional institutions of the FBiH. In the period 2014–2017, in cooperation with the Children International and UNICEF, it conducted training of employees of ministries of the interior, correctional institutions, centres for social work and educational/disciplinary centres of Sarajevo and Tuzla titled Professional Training of All Other Law Enforcement Actors That Work on Juvenile Delinquency and Criminal Justice Protection of Children: Authorized Officials (Police), Social Workers and Staff Employed in Correctional Institutions. The seminars included the following areas: Compliance of BiH legislation with international legal standards with regard to the treatment of juveniles and children in conflict with the law; Specificities of juvenile substantive criminal law; Treatment of children and juveniles by authorized officials and others – An overview of the Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings, Imposition of Correctional Recommendations and Special Obligations on Juveniles with Examples from Practice.

20. The Strengthening the Mechanism for the Protection of Human Rights of Detainees and Prisoners Project meant for prison staff has been implemented since 2016 within the joint programme of the European Union and the Council of Europe. In BiH, it is called the Horizontal Assistance Programme, as a mechanism for cooperation between the European Union and the Council of Europe with the aim of supporting South East Europe and Turkey in aligning standards with EU standards in the field of combating discrimination and protecting the human rights of vulnerable groups.

### **Answer to Recommendation 8**

21. The BiH MHRR has initiated activities related to the elaboration of a human rights programme for combating discrimination in BiH in order to make this process comprehensible and to include all relevant levels of government. Because of the different attitudes, this activity has not been implemented yet.

22. Concerning these attitudes, agreement with all levels of government has not been reached, and in the coming period, a solution for a comprehensive way of monitoring and exercising human rights in Bosnia and Herzegovina will be found out to include all institutions in Bosnia and Herzegovina according to their competences.

### **Answer to Recommendation 9**

23. The Draft Law on Amendments to the Law on Ombudsman for Human Rights of BiH was agreed by the BiH Council of Ministers at the 113th meeting held on 5 September 2017, after which it was sent to the BiH Parliamentary Assembly for consideration under regular legislative procedure.

24. The Law on Amendments to the Law on BiH Ombudsman for Human Rights received positive opinions from the Legislative and Legal Department of the Secretariat of the BiH Parliamentary Assembly and the Constitutional and Legal Commission of the House of Representatives of the BiH Parliamentary Assembly. The House of

Representatives and the House of Peoples of the BiH Parliamentary Assembly adopted the bill in the first reading. The process of aligning the amendments to the text of the draft law by the Joint Commission on Human Rights of the BiH Parliamentary Assembly BiH is in progress.

25. The amendments to the Law on BiH Ombudsman for Human Rights include the national preventive mechanism, the financial independence of the Ombudsman Institution and strengthening the cooperation of the Ombudsman Institution with civil society, academic community and international organizations in and outside of BiH. Amendments to the Law on Ombudsman for Human Rights have been brought in line with the Paris Principles and recommendations of the Venice Commission.

### **Answer to Recommendation 10 (articles 2.2; 9; 12)**

26. When it comes to the implementation of this recommendation, there is no framework document that equalises enjoyment of economic and social rights, especially in social welfare, social services and access to health care. The fact is that the current legal framework determines that these areas are within the competence of the Entities and BD.

27. The competent authorities in BiH carried out several activities aimed at equalizing the approach to exercising the rights of the Covenant.

28. In order to overcome the differences in the social security system and in order to protect social rights of the unemployed established by the conventions of the International Labour Organization and to facilitate the exercise of the right to unemployment benefit, the Agreement is signed between the Employment Service of the RS, the F BiH Employment Agency and the Employment Agency of BiH BD on the exercise of the right to unemployment benefit. The agreement regulates the conditions and procedure for exercising the right to benefit by unemployed persons in BiH whose employment with an employer whose headquarters are in the Entity or BiH BD where the unemployed persons are not residents was terminated. (See Annex No.3 and Annex No.4).

### **Answer to Recommendation 11 (articles 2.2; 6; 9; 10; 11; 12; 13; 14)**

29. When it comes to amendments to the Criminal Code, in order to ensure sustainable return to refugees and internally displaced persons, amendments to the criminal legislation in BiH have been adopted. The Law on Amendments to the **Criminal Code of F BiH** has amended Article 2 of the Criminal Code of F BiH by adding paragraph (11) providing that:

“(11) Hate crime is any offense committed on account of race, colour, religious belief, national or ethnic origin, language, disability, gender, sexual orientation or gender identity of another person. Such motivation shall be taken as an aggravating circumstance unless this Code expressly provides for a more severe punishment for a particular offence motivated by hate”.

30. Refugees, displaced persons and returnees, regardless of their ethnicity, have in the RS access to economic, social and cultural rights on an equal footing as domicile individuals. In the RS, special funds are allocated every year for reconstruction, infrastructure and communal facilities, as well as for assistance in reconstruction of religious and cultural facilities, in order to meet the needs of this group of persons.

31. Returnees do not have any difficulties in property rights that they exercise in administrative proceedings, except for some cases that are adjudicated in court proceedings. Property of refugees and displaced persons in the RS was returned in over 99.5% cases.

32. As of 31 December 2017, 149 families had the status of displaced persons in BiH BD. In addition to the families of displaced persons, there were 3 families in the BiH BD, refugees from the Republic of Croatia who were in alternative accommodation in BiH BD. Regarding the existing accommodation in alternative accommodation located in the settlements covered by the CEB II Project in the BiH BD, there are currently 240 families,

76 families having the status of displaced person, 161 families are in need of social protection services and 3 families are refugees from RH.

33. At present, there are 73 families in the BD BiH with the status of displaced persons not included in the CEB II Project (they are housed with their relatives or children or are tenants etc.). Using appropriated funds in the 2018 Budget of this Department as well as loans, funds pooled together with domestic and international partners and donations of the International Community, the Department for Displaced Persons, Refugees and Housing tries to achieve to the highest extent possible the set of objectives defined in the Department's Activity Program.

34. When it comes to the enjoyment of rights in the field of social protection in the FBiH, all persons and families who have registered residence in the FBiH territory can enjoy rights in the field of social protection if they fulfil the requirements set forth in the Law on the Principles of Social Protection, Protection of Civilian Victims of War and Protection of Families with Children and cantonal regulations respecting social protection.

35. Article 50 of the Law regulates that, while performing the activities, the institutions cannot establish any restrictions regarding the territorial, ethnic, religious, political or any other affiliation of beneficiaries, including the race, colour, gender, language or social origin.

36. Refugees and internally displaced persons, and especially those belonging to ethnic minorities, do not face discrimination that results in difficulties in access to social protection rights. The activity of social protection includes measures and activities for creating the conditions for the protective function of the family, the conditions for independent living and the work of persons in need or for their activation in accordance with their abilities, provision of means of subsistence to indigent and for work unable persons and other citizens in need, as well as providing other forms of social protection. Rights under this Law are afforded to persons who meet the statutory requirements, regardless of race, colour, sex, language, political, national or religious affiliation, social and economic origin, place of birth, disability or any other status. Social protection institutions provide equality in access to and exercise of the rights contained in this Law and, in their actions, they prevent any form of discrimination, either direct or indirect, on any grounds. Natural and legal persons applying this Law are obliged to respect dignity and personality of the beneficiaries and to take care of their interests.

37. The RS has also adopted the 2017–2022 Culture Development Strategy. All people have equal access to cultural rights, so have minorities and returnees. The goal is to promote the creativity of national minorities. The Ministry of Education and Culture has also adopted the RS Rulebook on the Co-funding of Cultural Creativity of National Minorities and allocates funds for these purposes each year.

### **Answer to Recommendation 12 (articles 2.2; 6; 9; 11; 12)**

38. Since 2009, in accordance with the BiH Action Plan for Addressing Roma Issues in Employment, Housing and Health Care, the Employment Service of the Republika Srpska has been implementing projects for employment of Roma funded from BiH MHRR grants.

39. In accordance with the RS 2018 Employment Action Plan (paragraph 1.6.1.) aimed at improving employment of the most vulnerable groups of unemployed persons and in accordance with the criteria established by the 20 December 2017 Memorandum of Understanding on the Implementation of the BiH Action Plan for Addressing Roma Issues in Employment, the Employment Service is implementing the *2018 Employment Support Programme for the Roma in the RS*. The aim of the Project is to employ Roma people through incentive funds paid to employers and create conditions for self-employment, equally of men and women, in accordance with the identified needs. The Project should improve the financial position and increase the employability of the Roma population in order to advance economic and social security and integration into the social trends in the RS. The total value of the Programme is BAM 219,380 and is funded from 2017 BiH MHRR grants. The Project plans to co-fund employment of 38 Roma persons, equally of

men and women (29 persons will be employed with employers and 9 persons will be self-employed).

40. In the reporting period, a total of 195 persons were employed through the Roma Employment and Self Employment Programmes, which were implemented by the Employment Service of the Republika Srpska, for which funds were allocated in the amount of BAM 1,341,000.00.

41. The Law on Health Care provides for priority health care which enables access to all levels of health care by vulnerable groups such as: people with disabilities, persons aged 65+, indigent persons, Roma, returnees, displaced persons and refugees, victims of violence, mental patients. The sources of funding are defined by this Law, too. For persons with returnee status, financial resources for this purpose are planned by the ministries responsible for returnees, refugees and displaced persons. After the expiration of returnee status, the conditions for entering the compulsory health insurance system are the same as for all other residents of the FBiH.

42. The decision on exercising the right on hospitalisation by returnees in the RS in health institutions in FBiH was adopted by the FBiH Government in 2007. The enforcement of this decision was funded from the funds of the FBiH Solidarity Fund from 2008 to 2012. Since 2014 funds for this purpose have been appropriated in the FBiH Budget.

43. Roma people registered on the records of the BD Public Employment Service as unemployed are given jobs in accordance with the terms and conditions of the Memorandum of Understanding on the Implementation of the BiH Action Plan for Solving Roma Issues in Employment, which was signed with BiH MHRR. In the period 2012–2017, 15 persons were employed through the programmes of employment or self-employment of Roma, of which 2 persons in 2012, 2 persons in 2013, 4 persons in 2014, 2 persons in 2015, 1 person in 2016 and 4 persons in 2017, and a total of BAM 124,000.00 was spent for this. The Roma Employment and Self-Employment Programme, for which the BD Public Employment Service has appropriated funds totalling to BAM 154,000.00, will continue in 2018.

44. Concerning the Agreement on the Manner and Procedure of Using Health Care Services by Insured Persons in the Territory of BiH, Outside the Territory of the Entity or BD BiH Where the Insured Person Lives, the Conference on Health Care in BiH held its 7th meeting on 20 October 2017 and issued a decision launching an initiative for amendments to the Agreement on the Manner and Procedure of Using Health Care Services by Insured Persons in the Territory of BiH, Outside the Territory of the Entity or BD BiH Where the Insured Person Lives. The Ministry of Civil Affairs of BiH appointed a working group and convened the Working Group to agree on a proposal for amendments to the Agreement.

45. The Working Group noted that the issue of access to health care for displaced persons and returnees was governed by the Law on Refugees from BiH and Displaced Persons in BiH, the Law on Displaced Persons, Returnees and Refugees in the RS and the Law on Displaced Persons and Returnees in the FBiH and Refugees from BiH, and that it was not necessary to amend the Agreement on the Manner and Procedure of Using Health Care Services by Insured Persons in the Territory of BiH, Outside the Territory of the Entity or BD BiH Where the Insured Person Lives.

### **Answer to Recommendation 13 (article 3)**

46. With the aim of strengthening the role of BiH Gender Equality Agency from the perspective of gender mainstreaming of legal documents, the number of documents submitted for opinion to be given by the BiH GEA and Gender Centres has been increasing year by year. Opinions were given by years: 2011 – one, 2012 – five, 2013 – 30, 2014 – 28, 2015 – 32, 2016 and 2017 – 45, and in the first half of 2018, the number is higher compared to the average in that period of the previous two years. In 90% of the cases, suggestions given by BiH GEA, BiH MHRR in the above-mentioned opinions were accepted. In the

reporting period, the recommendations of the RS Gender Centre for gender mainstreaming of legal documents were adopted in about 85% cases on average.

47. Gender institutional mechanisms at the state, entity, cantonal, city and municipal level have been established and a network of appointed contact persons for gender mainstreaming in state-level institutions has been expanded. Gender statistics are expanded in order to generate, analyse and monitor data on gender equality in different segments of the operation of institutions (employment policy, gender representation in commissions and committees, working groups).

48. By proactive approach to international donors, BiH GEA, BiH MHRR seeks to overcome the lack of human capacities and budgetary funds to achieve objectives set by law and policy documents. Implementation of the 2013–2017 BiH Gender Action Plan (BiH GAP) was funded from the Financial Mechanism for the Implementation of the BiH GAP (FIGAP Programme), which was established at the end of 2009 at the initiative of the BiH GEA, BiH MHRR in cooperation with Entity Gender Centres. FIGAP programme was financially supported by a group of international donors. Insufficient human resources constitute an obstacle to a more efficient functioning of the BiH GEA, BiH MHRR, especially given the continuous increase in workload by adopting new sectorial strategies and action plans, such as the Action Plan for the Implementation of the UNSCR 1325 in BiH and the Framework Strategy for the Implementation of the Istanbul Convention in BiH, and a new set of activities in achieving European gender equality standards in the process of BiH's accession to European Union.

49. In 2017, in order to inform the RS Government and the RS National Assembly on the obligation of gender mainstreaming of all laws and delegated legislation, the Gender Centre drafted a special report on alignment of laws and other regulations of the RS with legal gender equality standards adopted by the RS National Assembly. The report contains an overview of domestic and international binding normative and legal gender equality standards, analysis and reviews of the effects of law compliance and other regulations (a quantitative review and a review by areas), as well as the conclusions and recommendations to the proponents, which indicate the obligation to align legal acts with the standards and to monitor the application of regulations and other documents, i.e. their effects on women and men, as well as the use of these findings for the planning and implementation of measures that will influence the elimination of discrimination and inequality.

50. The RS Gender Centre has provided expert support to all RS authorities and organizations and other institutions of the system, as well as to local self-government units and gender equality commissions, in the development and implementation of special temporary programmes and/or measures to improve the position of women and gender equality, including support to local self-government units in the development and implementation of local gender action plans. In order to further improve work on these issues, it is necessary to strengthen the capacities of the RS GC to be able to work on the analysis and alignment of legal documents with the gender equality standards.

51. The FBiH Gender Centre, with FBiH ministries, through programme, project and other activities, has a number of documents that include the principles of gender equality. The FBiH Gender Centre is involved as a partner in drafting of policy priorities and strategic policy framework related to the improvement of gender equality.

52. Programme cooperation was developed with gender equality commissions of both Houses of FBiH Parliament. The FBiH Gender Centre has developed a manual for civil servants as a guide to policy makers to integrate the principles of gender equality and provisions of the BiH Law on Gender Equality in the policies. A gender equality training package for civil servants has been prepared, which is part of the regular training programme of the FBiH Civil Service Agency implemented every year. This process is standardized by the adoption of the 2012 Decree on Rules for Participation of the Public in the Procedure for Preparation of FBiH Regulations and Other Decisions and the 2014 Regulation on the Regulatory Impact Assessment.

53. The FBiH Law on Development Planning and Management prescribes as mandatory the principle of gender mainstreaming in all policies, strategies and other acts at all levels of government in FBiH, which implies effective and efficient respect for gender equality in

establishing the system structure, equal inclusion and treatment of the needs of women and men, equal participation in the consultation process, and gender-responsive monitoring and assessment of the impact of public policy on women and men.

### **Answer to Recommendation 14 (articles 3; 6)**

54. The achievement of the objectives of BiH GAP in the field of economic empowerment of women has contributed to the adoption of significant entity delegated legislation and the introduction of structural policy measures that enable the implementation of specific programmes in the rural entrepreneurship segment, as well as incentives, encouragement and affirmation of women in the field of rural development.

55. Programmes and measures for equal participation of women in the labour market have been implemented, access to economic resources and measures for protection against gender-based discrimination in labour and labour relations have been facilitated. Active employment policies have focused on training, vocational recruitment and training, additional training and retraining, preparation of the unemployed for the labour market and creation of equal opportunities for all to have access to the labour market. Support has been provided to target groups of unemployed people who have been identified in policy documents as hard-to-employ groups, especially young people and women.

56. Projects for economic empowerment of women, aimed at promoting women entrepreneurship, retraining and additional training for employment and self-employment in line with labour market needs, have been supported within the FIGAP. These projects included numerous forms of non-formal education (business start-ups, beekeeping, greenhouse for fruits and vegetables, IT education) in order to build women's skills for participation in the labour market and for starting independent businesses.

57. Although there is a slight progress in this regard, the issue of women's unemployment is even more evident. In 2017, the unemployment rate was 20.5% (18.9% for men and 23.1% for women) and in 2016, it was 25.4% (22.5% for men and 30% for women). According to the same source, the activity and employment rates were 42.6% and 33.9%, while in 2016 they were 43.1% and 32.2%.

58. Gender Disparities in the Exercise of the Rights and Opportunities Offered by Society in BiH (World Bank, 2015) reads that "there are visible gender disparities in hourly rates in favour of men and are noticeable at all levels of education, age groups, occupations and industries".

59. Women participate in the labour market less than men because of their greater responsibility for household, fewer opportunities for work, little motivation to continue education, more difficult to have access to and have assets and the issue is particularly evident for women in rural areas.

60. Women are more often than men employed as experts, technicians and officers, service and sales workers, while men are more often than women employed as qualified manual workers and craftsmen, in military forces and in managerial positions. The percentage of women is the highest in the category of service activities.

61. According to the BiH Statistics Agency, 70% of the total number of employed women in 2018 in BiH is in the activities with the lowest salaries, which are: wholesale and retail trade, processing industry, health care and social protection activities and education.

62. Regarding education, women are a majority in healthcare (pharmacy, dentistry, medicine) and language studies, and only 10% of women are educated in areas such as mechanical engineering and electrical engineering. Such differences in occupational profiling directly affect the labour market situation, and it is necessary to affect changes in the stereotypical understanding of occupations, which would allow equal representation in the labour market.

63. The total illiteracy rate in BiH, according to the 2013 census, is 2.82, and for men it is 0.79, and for women as much as 4.76. According to the data from 2018 *Women and Men*

*in BiH* of the BiH Statistics Agency more women graduate and finish specialist and master's studies, but more men succeed in gaining the title of Doctor of Science.

64. As for the level of computer literacy, it is equal for men and women up to 29 years of age, but it is slightly higher for men than for women in the age group of 30–59.

65. Although an electoral quota of at least 40% of women on candidates' lists has been introduced, women are currently taking part in legislative bodies with around 20%. According to the BiH Civil Service Agency, there are 3789 persons in positions of civil servants, of which 53% are women and 47% are men. Women account for an average of 15% at senior positions in the administration.

66. In BiH, there is a gender gap in the use of paid and unpaid work, where the share of unpaid work for women is far higher. The reasons for such a phenomenon lie in stereotyped gender roles and unequal distribution of family responsibilities, and significant factors are the underdeveloped and not spread care services for children and the elderly, as well as the stability of the gender segregated labour market.

67. According to the World Bank, the participation of women in the grey economy (which is about 30% of GDP in BiH) is larger than the participation of men, which makes the grey economy have strong implications for gender balance in BiH. The grey economy also implies degradation and violation of the rights of workers by the employer since workers are forced to accept poor working conditions and often face additional problems due to their disadvantageous position.

68. The BiH Chamber of Commerce has launched a pilot project for the development of rural tourism, and agreements on cooperation between tourist agencies and rural households have been signed, with the aim of promoting rural tourism, with a special emphasis on inclusion of young people and women. Significant results were achieved through the granting of incentives for the development of women entrepreneurship, and better insight was achieved through the introduction of gender-disaggregated statistics and gender indicators in order to increase the participation of women in projects for incentives. The project is supported by the USAID – FARMA.

69. Continuous promotional activities that are usually intensified within the marking of significant dates such as Women's Day, International Women's Entrepreneurship Day and International Women's Day in Rural Areas, including workshops, round tables, fairs, exhibitions and training are pursued, while trying to focus attention to issues of improvement of knowledge and awareness of the situation of the most vulnerable groups of women, which aims at improving the conditions of their lives.

70. In BiH, "International Girls in ICT Day" is celebrated with the aim of encouraging greater interest and advancement of women in education, innovation, technical, technological and ICT fields.

71. In 2017, the "Effective Rights for Rural Women" campaign started with the aim of improving the position of women in the village that is being carried out throughout the country. The reason for the implementation of this project is the fact that about 80% of employed women in the village do not have pension, disability or health insurance. On the other hand, rural women account for 43% of the workforce in agricultural production, and account for only 1% of the income. Rural women own only 2% of the land. An intention of this campaign is to influence the authorities to amend the Pension and Disability Insurance Law of the FBiH and RS, in order to enable rural women to pay contributions at the minimum pension insurance level.

72. Structural barriers to greater participation by women in decision-making at all levels are of a lasting nature because there are stereotypes and prejudices in understanding gender roles in areas traditionally dominated by men.

73. In the last three years, progress was made in the adoption of gender equality standards in decision-making positions, which is a significant achievement. The proponents of laws and delegated legislation introduced a provision imposing the obligation of equal gender representation in decision-making positions in about 85% of laws and delegated

legislation or accepted the recommendation of the RS Gender Centre to incorporate this standard. (See Annex No. 5).

### **Answer to Recommendation 15 (article 6)**

74. In order to reduce the unemployment of socially vulnerable and marginalized groups, through retraining and tax incentives paid to employers, the following activities have been undertaken:

- The operation and responsibilities of the Public Fund for Vocational Rehabilitation and Employment of People with Disabilities, regulated by the Law on Vocational Rehabilitation, Training and Employment of People with Disabilities, which, *inter alia*, defines the employment of people with disabilities under general and special conditions.

75. In accordance with the aforementioned, competences of the Fund are defined and they include primarily the following:

- Payment of incentives to employers who employ people with disabilities and to people with disabilities who are self-employed under special conditions; payment of refunded disability contributions; funding of economic support for people with disabilities – informal employment; funding the sustainability of employment of people with disabilities. In the period from 2012 to 2018, the Fund has made a total of BAM 23,381,227.60.

76. In 2017, the Fund continued to develop despite the unfavourable circumstances affecting the process of improving professional rehabilitation and employment of people with disabilities.

77. A number of measures and activities were implemented that have contributed to direct financial support for people with disabilities in order for them to retrain, additionally train, train for certain occupations, advance in professional career and in order to ensure the sustainability of employment for them.

78. In 2017, the Fund allocated an amount of BAM 18,745,131.58 to fund benefits, wage subsidies, development programmes, the sustainability of employment and professional rehabilitation, as well as incentives for employment of people with disabilities, while this amount in 2016 was BAM 13,123,653.15. The above data indicate an increase in the Fund's beneficiary-oriented spending in 2017 by 42.83% compared to 2016. (Annex No.6 Increase in number of employed disabled persons by age and increase of funds allocated through the financial incentive for employment of disabled persons for the period 2011–2017, Data of the Fund for Vocational Rehabilitation of the FBiH).

79. The Rulebook on Allocation of Funds for Funding/Co-funding of Programmes of the Sustainability of Employment, Development of Companies for the Employment of People with Disabilities and Sheltered Workshops and Programmes for Professional Rehabilitation of People with Disabilities 01-02-15 21/17 of 2 March 2017, as amended on 27 March 2018, defines professional rehabilitation and vocational training of people with disabilities in accordance with the Law on Vocational Rehabilitation, Training and Employment of People with Disabilities.

80. In the period 2012–2018, the BD Public Employment Service, in cooperation with BD Government, employed 1318 persons through incentives to employers. Special attention was paid to the elderly – women over 45 and men over 50 years of age – and in the reporting period 178 elderly persons were employed through the incentive measures of the BD Public Employment Service.

81. One of the key programming activities that took place in BD BiH is self-employment. Namely, 224 persons started their own business within the self-employment programme and over BAM 2.5 million were spent for this purpose in the reporting period.

82. In the reporting period, the Employment Service conducted training for more than 700 unemployed persons. Training aimed at acquiring new knowledge and skills was

carried out according to the interests of unemployed persons in the field of IT, book keeping, foreign language learning, entrepreneurship, marketing, graphic and web design, in order to raise the overall competencies of the unemployed.

83. Starting from the basic functions and competencies of the Employment Service as a public institution whose efforts are aimed at establishing labour market balance, measures and activities are planned that will be in the function of integrating as many unemployed persons as possible into the labour market. Having in mind the characteristics of the labour market, as well as rapidly reflecting all the changes to the labour market, in accordance with the 2018 RS Employment Action Plan, the Employment Service defines measures of active employment policy as a priority aiming to include as many active job seekers as possible in the work process and increase overall employability.

84. Analysing the unemployment situation in the RS, it can be noted that there has been a significant reduction in the number of unemployed persons, active job seekers. Total economic trends and the state of the economy are key factors that determine the possibilities of new employment and significantly influence the overall unemployment situation in the RS. The impact of active employment policy measures on the trend of reducing total unemployment is noticed. Of course here we should also take into account labour market reforms that require careful planning and gradual implementation of active employment policy measures.

85. The RS 2016–2020 Employment Strategy is the key document defining the basic activities and measures undertaken in the labour market. Based on the key tasks defined by the Strategy, an employment action plan is designed each year. The 2018 Action Plan for Employment defines concrete measures, activities, target groups, performance indicators, timeframe, activities and resources for achieving the goals of the Employment Strategy and in 2018 six programs will be implemented, which mainly refer to hard-to-employ target groups, disabled militaries, women victims of domestic violence, women in rural areas and persons who lack up to 3 years of insurance for obtaining old-age retirement benefits, as well as young people with university degree. These projects are: Support to Employment in Businesses by Paying Incentives in the Amount of Taxes and Contributions Paid, the Programme of Funding Self-employment of Children of Fallen Soldiers, Demobilized Soldiers and VRS Militaries Disabled in Wartime in 2018 titled “Getting Job Together”, the Programme of Employment and Self-employment of Target Groups in Businesses in 2018, the Programme of Employment of Roma in the RS in 2018, the Employment Support Programme for Young People with University Degree as Interns in 2018, the Programme of Training, Additional Training and Retraining in 2018. The programmes envisage the employment of about 4,000 unemployed persons. According to the employment projects implemented by the RS Employment Service in the period 2012–2018, a total of 14,009 persons were employed, for which funds were allocated in the amount of BAM 61,688,464.98.

### **Answer to Recommendation 16 (article 6)**

86. As regards instances of sanctioning persons working in the informal sector, the so-called grey economy, the following protection mechanisms have been established:

87. A high rate of “moonlighting” is recorded in the FBiH. In this regard, the Reform Agenda for BiH for the period 2015–2018 identified the labour market as one of the six priority areas in which action is needed and, in this respect, the discouragement of working in the grey economy. The introduction of new measures has been envisaged for reducing the “moonlighting”, and certainly the retention of the existing ones, including the sanction for unemployed persons that they may not register as unemployed persons if found to be working in the informal sector. The retention of this measure influences the unemployed persons’ awareness of a legitimate work as the only formally recognized form of work.

88. Pursuant to Articles 52 and 54 of the Law on Employment Mediation and Unemployment Rights, an unemployed person is obliged to report to the organizational unit of Employment Service (PES) once every 60 days for information about employment opportunities and the verification of data and conditions for exercising the rights prescribed

by this Law. A person who has applied for registration and who does not actively seek employment is required to report once every six months to the organizational unit of the Employment Service responsible as per his/her place of residence. (1) The PES shall cease to keep an unemployed person in its register, if that person: a) concludes an employment contract, b) cancels his or her registration, c) establishes a company independently or with another person, d) conducts an entrepreneurial activity, e) becomes the owner or co-owner of more than 51% share in a legal entity, f) engages in the registered agricultural activity, g) becomes entitled to old age pension, disability pension or survivors benefits, h) becomes completely incapacitated for work, i) starts serving a prison sentence longer than three months, j) fails to report once in 60 days or 30 days if the recipient of pecuniary compensation without notifying the PES of justified reasons within eight days from the date on which these reasons occurred, k) becomes a regular school or university student, l) declared that in accordance with Article 48 of this Law he or she is in the process of resolving his/her employment, m) reaches 65 years of age, n) without a justified reason, fails to respond to the invitation of the PES or other competent authority for engagement in public works and remediation of the force majeure effects, o) unjustifiably refuses to accept the employment offered in the place of residence or within a distance of up to 50 kilometres from the place of residence, which corresponds to his/her professional qualifications and work capabilities, and p) upon request from the PES, unjustifiably refuses vocational training, upskilling and reskilling for occupation that corresponds to his/her professional qualifications, or if, through fault of his/her own, discontinues or fails to complete his/her education. (2) Persons whom the PES has ceased to keep in its register for the reasons referred to in paragraph 1, item j) of this Article, may re-register with the PES after six months upon their deletion from the register of unemployed persons. 3) Persons whom the PES has ceased to keep in its register for the reasons referred to in paragraph 1, items n), o) and p) of this Article, may re-register with the PES after 12 months upon their deletion from the register of unemployed persons.

89. When it comes to work in the informal sector (grey economy), the competent authority is the RS Inspectorate/Labour Inspection Service, which conducts inspection in regard to compliance with regulations related to employment, labour and labour relations, while the Employment Service sanctions these persons through cessation of their registration.

90. The persons, whom the competent inspection found “moonlighting”, were deleted from the register for a period of 6 months, and on this basis, in 2017, 50 persons were deleted from the register, an increase of 4 persons in comparison with the previous year. In the period 2012–2017, on this basis, 319 persons have been deleted from the register of unemployed persons in accordance with Article 58 of the Law on Employment and Rights during Unemployment, all for the purpose of combating “moonlighting”. (Appendix no. 7 an outline of changes in the BD Employment Services Register of Unemployed Persons).

### **Answer to Recommendation 17 (article 7)**

91. In BiH, the Law on the Prohibition of Discrimination is in force, and its Amendments have been fully aligned with European and international standards. The provisions of this Law prohibit any form of discrimination, including discrimination on the basis of employment. Article 120, paragraph 2 of the Labour Law in the RS provides that employees shall be guaranteed equal pay for the same work or work of equal value that they perform for the employer. Article 120, paragraph 4 of the same Law provides that the provisions of the decision and the agreement of the employer and the employee on the payment of unequal pay shall be null and void. Equal pay for equal work with the same employer is the principle that for the same work the employer must pay the same salary. Equal value work implies not only the work of the same value but also work on different jobs of the same value. Different pay for the work of equal value is not permitted. This principle applies only to the same employer. This does not mean that with various employers the difference in pays for the same jobs should not exist, on the contrary, it should since it is a labour market.

92. Article 8 of the Law on Labour, which has been applicable in the FBiH since 14 April 2016, provides for the prohibition of discrimination of employees and persons seeking employment, inter alia, on the basis of gender identity and sexual orientation, in terms of employment requirements and selection of candidates for the performance of a particular job, working conditions and all labour relations entitlements, education, vocational training and professional development, career advancement and termination of contract of employment. In addition, the Labour Law provides for pay equity, in the sense that the provision of Article 77 prescribes that an employer shall be obliged to pay equal pay for work of equal value to employees irrespective of their national, religious, gender, political and trade union affiliation, as well as other discriminatory grounds referred to in Article 8, paragraph 1 of this Law. For the purposes of the aforementioned provision, work of equal value shall be understood to mean the work that requires the same level of professional qualifications, the same working capability, responsibility, physical and intellectual work, skills, working condition, and work outcomes. The Federal Ministry of Labour and Social Policy does not have any information on unequal pay for work of equal value in relation to gender.

93. BD BiH has a legal framework for the application of this principle, which is Article 4 of the BD BiH Labour Law, which stipulates, inter alia, that persons shall not be discriminated against on the basis of gender in terms of labour relations issues. Labour inspectors in their work so far have not had cases contradicting this provision.

### **Answer to Recommendation 18 (article 7)**

94. To protect employees, and especially pregnant and puerperal women, through the work of competent inspection services the State has undertaken the following activities.

95. The new Labour Law contains a number of provisions that have been envisaged to protect employees in terms of exercising labour relation rights. The employer's obligation is provided to deliver copies of the mandatory insurance registration form to an employee, along with written proof, within 15 days from the day of the conclusion of employment contract, that is, the commencement of work. As regards payment of salary, it is stipulated that the salary shall be paid after the work has been performed, in pay periods that cannot be longer than 30 days. In the case where the salary is not paid within the prescribed timeframe, it is stipulated that the employer shall hand over a payroll slip of the calculated salary to an employee, by the end of month in which the salary payment fell due, for the salary he was obliged to pay out. To shorten the procedure for settling claims related to unpaid salaries, it is stipulated that the delivered calculation shall be considered a writ of execution. Fines, the amount of which shall increase if the offence is repeated, shall be imposed upon an employer who fails to comply with obligations arising from labour relations.

96. As regards termination of employment contract, the Labour Law provides for clear reasons for a regular dismissal (economic, technical or organizational reasons), or for a special termination of employment contract (a serious offence or a serious violation of work duties or a repeated minor offence within six months from the warning). The procedure for termination of employment contract is clearly prescribed, and shall be given in writing, along with justification. Furthermore, in the process of employment contract termination, the employer shall be obliged to enable an employee to make a statement on the elements of liability he/she has been charged with. In addition, it is prescribed that an employee who considers an employer to have violated certain labour relations right may submit a complaint to the employer, and then requests the protection of his rights before the court, within the statutory deadlines.

97. It is strictly forbidden to terminate the employment contract of pregnant women and women on a maternity leave, or women who exercise their right to work part-time following the maternity leave. The Labour Law stipulates that during pregnancy, delivery and care for the baby, a woman shall be entitled to maternity leave of one year without interruption. During maternity leave, a woman shall be entitled to salary compensation in accordance with the separate law, but the Labour Law stipulates the possibility of employer

paying the difference up to the full salary to employee. In addition to the maternity leave entitlement, and with the aim of protecting women, motherhood, that is parenthood, subject to certain conditions, the following shall be provided: right to work part-time, right to leave of absence for breast-feeding, right to maternity leave in case of the loss of a child, as well as well as rights of the parents of children with serious developmental disabilities.

98. The RS Labour Inspectorate is organized and operates within the Labour Inspection Service of the RS Administration for Inspection Activities, and conducts inspection activities in regard to compliance with regulations related to employment, labour and labour relations, safety and health at work and other administrative areas when determined by a special regulation and as established by Article 26 of the Law on Inspections in RS. Thus, the Labour Inspectorate performs inspection of enforcement of the Labour Law, the Law on Safety and Health at Work of the RS, the Law on Strikes, the Law on Employment of Foreign Citizens and Stateless Persons, collective agreements, general acts and employment contracts regulating rights, obligations and responsibilities of the persons employed with the employer.

99. In addition to the law enforcement inspection, the Labour Inspectorate also performs inspection of other regulations on measures and standards of safety and health at work, and technical measures related to safety and health at work. In the observed reporting period, labour inspectors performed different types of inspection that varied in scope, methods, areas and objectives to be achieved through inspection. The main objective of each inspection is the realization and protection of the public interest defined by law, and it is being accomplished by undertaking inspection measures and actions harmonize the status established during inspection in the controlled entity with the regulation. The main objective of the labour inspection is essentially to increase the legality in the area of employment and labour relations in general, to increase the safety and security of employees for work at a specific workplace and thereby reduce accidents at work, occupational diseases and work-related illnesses, and in particular to reduce work-related fatalities; hence, the protection of all labour law principles arising from labour relations, respect of safety and health at work and the provision of work conditions that greatly reduce accidents at work, occupational diseases and work-related illnesses, and which create a prerequisite for the full/good physical, psychological and social status of employees. The labour inspection work in 2017 was primarily aimed at reducing work-related injuries and occupational diseases by minimizing workplace risks in accordance with law and practice of combating “moonlighting”, and at reducing the number of violations of labour law principles in the area of labour relations established by law and employment contracts. In the Inspectorate, labour inspection activities are organized within the Labour Inspection Services. A total of 31 labour inspectors worked in the Inspectorate during 2017: 21 inspectors with a Bachelor of Laws degree, and 10 inspectors with technical qualification in various specialist orientations. Almost all inspectors perform integrated inspections, and while the labour inspectors with law degree mostly engage in the inspection of labour law principles enforcement within labour relations, the inspectors with technical qualifications engage in occupational health and safety. When it comes to gender representation, 17 women and 14 men were employed as labour inspectors. Although the Republic labour inspectors have no territorial restrictions in performing inspection in RS, they are placed into regional departments of the Inspectorate organized by regions. Thus, in the Regional Department of Banja Luka in 2017, 14 inspectors were engaged, 3 inspectors in Prijedor, 3 inspectors in Doboje, 4 inspectors in Bijeljina, 3 in Istočno Sarajevo and 4 labour inspectors in Trebinje. When we look at the material and technical support required for the work of inspectors in the Inspectorate, we can conclude that it is mostly satisfactory. Appropriate office premises, official vehicles, equipment for the work of inspectors and administrative support by technical staff have been provided to the regional departments. A more significant problem is the equipment used by inspectors in their work. Specifically, during the year a large number of inspectors had difficulties in working with laptops and printers due to malfunctions, and this phenomenon is still present. Moreover, newly recruited inspectors could not get the necessary equipment as it was missing, so they could not carry out inspections for a longer period of time after having been assigned the inspector duties. We do need to emphasize here the material status of inspectors as a problem that could gain in significance in the coming period. Inspectors’

salaries are slightly higher in comparison to those of other civil servants at the same level of professional education, but their working conditions are incomparably more difficult than those of other civil servants.

100. The competent inspectors implement measures and carry out activities within their jurisdiction (preventive, corrective and repressive measures) in BD BiH in order to reduce the mentioned non-compliance with legal obligations towards employees. We especially emphasize the fact of the decreasing trend in work-related injuries and accidents in BD BiH.

### **Answer to Recommendation 19 (article 7)**

101. BiH is aware of the fact of differences in minimum personal income at different levels of the organization of government and, in this respect; the following measures have been taken.

102. In accordance with the Labour Law, Collective Agreement and the Rulebook on labour shall define the minimum salary, based on the minimum price of labour. The Labour Law stipulates that the FBiH Government shall harmonize the minimum salary, subject to prior consultation with the FBiH Economic and Social Council, in line with the index of consumer prices, at least once a year. The general collective agreement for the territory of the FBiH established the net minimum wage at BAM 2.31 for 2016, which remained applicable in 2017 and 2018, due to the fact that social partners failed to reach a different agreement.

103. The RS Government shall determine the minimum wage in the RS, at the proposal of the Economic and Social Council in the last quarter of the current year for the next year. If the Economic and Social Council fails to affirm the proposal, the decision on the minimum wage referred to in paragraph 1 of this Article shall be adopted by the RS Government bearing in mind the salary trends, and the growth of production and living standard in the RS. Minimum wage shall be paid for the full-time employment and average employee results achieved in accordance with the employer's acts. The minimum wage shall be paid to an employee only when the amount of the salary, calculated in accordance with this Law, general act or employment contract, falls below the amount of the minimum salary, which was established to be BAM 410 for 2018.

104. Considering the competences of the Entities in the areas that regulate and on which the minimum wage depends, we consider that there are neither requirements nor need to adjust the minimum wage.

### **Answer to Recommendation 20 (article 8)**

105. BiH supports trade union organization of employees for the purpose of protecting their rights. The Labour Law guarantees the freedom of association as it prescribes that employees shall be entitled to organize trade union, and become its members, at their own discretion, in accordance with the statute or the rules of that trade union. Employers are prohibited from interfering with the establishment, functioning or management of the trade union, as well as advocating for or assisting the union with the aim of controlling such trade union. In addition, it is stipulated that the trade union shall ensure appropriate conditions for trade union activities in accordance with the collective agreement. Adequate fines are provided for procedures contrary to the law. On the other hand, it is clearly stipulated that all trade unions shall be entitled to represent their members before their employer in accordance with the rules governing the organization and functioning of trade unions.

106. The matter of trade union and association of employers' organization is regulated by Article 209 of the Labour Law, which reads "(1) Employees shall be entitled to organize trade union, and become its members, at their own discretion, in accordance with the statute and the rules of that trade union. (2) Employers shall be entitled to set up an association of employers and to become its members, at their own discretion, in accordance with the statute and the rules of that association. (3) Trade unions and associations of employers may be established without any prior approval of any governmental authority".

107. Pursuant to the provision of Article 211, paragraph 1 of the Labour Law, employers or association of employers, acting in their own name or through another person, member or agent, shall be prohibited from interfering with the organization and functioning of the trade union or from controlling its work through provision of financial or other support. Labour inspection shall control and sanction the prohibition of the union trade organization with the employer.

108. Article 5 of the Labour Law of the BD BiH stipulates that the employees shall be entitled to freely organize a trade union and join it in accordance with the Constitution and laws of BiH, the Statute of the BD BiH and laws of the BD BiH.

109. Article 6 of the same Law stipulates that employees shall be free to decide on their joining or leaving the trade union operating in the territory of the BD BiH in accordance with the statute of that trade union and that they may not be discriminated against based on their membership or non-membership of the trade union. The BD BiH labour inspectors have not had so far any instances of non-compliance with the aforementioned legal provisions.

### **Answer to Recommendation 21 (article 9)**

110. BiH is aware of the differences in social assistance benefits within the state as well as the fact that the resources allocated cannot provide for an adequate standard of living.

111. In this regard, please refer to the response of the FBiH Ministry of Labour and Social Policy to this Recommendation contained in the Answer to Recommendation 10.

112. It is necessary to take into account the competences of the RS Government, ministries in the RS Government and units of local self-government in the RS when adopting conclusions. Laws and action plans in the area of social protection are under the jurisdiction of the RS. The adoption of the law and the state action plan for the social protection system is not in line with the competences of the RS.

### **Answer to Recommendation 22 (article 9)**

113. To protect the right to social assistance of war veterans, military invalids and civilian victims of war, the following measures have been taken.

114. The Ministry of Labour and Protection of War Veterans and Disabled Veterans of the RS is responsible for the areas of war veterans' protection and protection of civilian victims of war, and within its competence, in accordance with the applicable regulations governing the mentioned areas, disburses monthly allowances (disability benefits) to war military invalids and disabled persons – civilian victims of war. War military veterans receive a higher amount of monthly allowance than civilian victims of war, because the legislator took into account the varying degrees of state responsibility in relation to the above categories, starting from the fact that war military invalids, under threat of sanctions, were mobilized to perform military service under war circumstances, which is the cause of their disability. Civilian victims of war had no such obligation, and were thereby in a more favourable position than soldiers, but the legislator took into account the state responsibility for the war circumstances that caused their disability and pays them a monthly pecuniary compensation on that basis. It should be noted that this approach was inherited from the regulations of the former SFRY and that it is also contained in the regulations of the surrounding states, created by the breakup of the former state – the SFRY.

115. According to the conclusions of the FBiH Government, the Federal Ministry of Labour and Social Policy has drafted the working text of the Law on Uniform Principles and Frameworks of Financial Support for Persons with Disabilities in the FBiH with the deadline for adoption in 2019, which law would equalize the rights on the basis of disability of war military veterans, civilian victims of war, disabled workers and civilians with disabilities in the procedure of adoption.

### **Answer to Recommendation 23 (article 9)**

116. BiH supports the sanctioning of violence against women during the war and, in this respect, within the process of drafting the Action Plan for implementation of the UNSCR 1325 in BiH, it has brought to surface the issue of assisting women-civilian victims of war. Considering the specific needs of women who suffered both physical and sexual violence during the war, the activities planned include housing, the launch of programs for additional qualifications and retraining, as well as psychosocial assistance programs. These programs should be implemented in cooperation between governmental, non-governmental and international institutions and organizations. Draft Action Plan for implementation of the UNSCR 1325 in BiH in the objective no. 6, “Enhanced support and assistance network for women and girls who were victims during the conflict”, provides for the implementation of activities that will help better and more effective support for women-civilian victims of war. The activities pertain to: creating programs for empowerment of women-civilian victims of war within associations dealing with matters that concern women-civilian victims of war, through psychosocial assistance and capacity building; organization of forums and conferences with representatives of CŽR (CVW) associations for the purpose of defining their needs and problems; support for qualifications, retraining and employment (economic empowerment); support for retraumatization workshops (identification of experts in this field who will further educate those who will provide services to end beneficiaries/victims), etc. The Prosecutor’s Office of BiH is continuously working on detection and prosecution of the perpetrators of war crimes, including the criminal offences of sexual violence against women in the armed conflict in BiH. The National Strategy for Processing of War Crimes Cases provides for the necessity to centralize and update the records of all war crimes cases that are before the domestic judiciary, at the level of the Court of BiH and the Prosecutor’s Office of BiH, that is, at state level.

117. On 4 January 2018, the Council of Ministers of BiH adopted the Final Report on the implementation of the Action Plan for the Implementation of UN Resolution 1325 “Women, Peace and Security” in BiH 2014–2017. The Council of Ministers of BiH has mandated all competent institutions to implement the recommendations set out in the Final Report.

118. The Agency for Gender Equality of BiH, MHRR BiH has prepared the Final Report on the Implementation of the Action Plan for the Implementation of UN Resolution 1325 in BiH covering the entire period of implementation: 2014–2017.

119. On 21 June 2018, the National Assembly of Republika Srpska adopted the Bill on Protection of Victims of War Torture. The Bosniak Caucus in the Council of Peoples at the National Assembly of Republika Srpska has raised the issue of vital national interest; therefore, the law did not come into force. Following the prescribed procedures regarding the initiative for protection of the vital national interest, the Constitutional Court of Republika Srpska, at its session held on 13 September 2018, issued a Decision not to accept the motion of the Bosniak Caucus in the Council of Peoples at the National Assembly of Republika Srpska on determining the special national interest, that is, that the said Law did not violate the vital national interest of the Bosniak people. This has provided the prerequisites for publishing the Law in the Official Gazette of Republika Srpska and its entry into force.

120. In addition to the monthly pecuniary benefits, victims of sexual violence shall be entitled to health insurance and exemption from the personal participation costs in the use of healthcare, the right to employment and self-employment under special projects, as well as spa rehabilitation. The Law also defines other rights that are exercised in accordance with regulations from other legal areas: the right to rehabilitation, social protection rights, the right to free legal aid, the right to exemption from court and administrative fees.

121. In 2006, the Federal Ministry of Labour and Social Policy realized that the existing practices and legal solutions leave the victims of war rape outside the scope of protection, as in most cases it is impossible, after so many years, to exercise this right on the basis of an assessment of the bodily impairment resulting from that experience and which the competent medical committee determines in the process of establishing the rights of civilian victims of war. For this reason, the Law on Amendments to the Law on Principles

of Social Protection, Protection of Civilian Victims of War and Families with Children was prepared and adopted, which defines the victims of war rape as “a special category of civilian victims of war” (Article 54). This category of victims is entitled to a financial compensation called “monthly personal cash benefit”, which is 70% of the monthly amount of personal disability benefits of the war military invalids of the first group, that is, equal to the amount that belongs to the civilian victim of the war of the first group. Since the first-instance and second-instance authorities continued to send this group of war victims to the competent institute of medical report, which objectively could not implement this task, in 2016 the Law on Amendments to the Law on Principles of Social Protection, Protection of Civilian Victims of War and Families with Children was passed, establishing the expert commission that, in the administrative procedure and on the basis of available evidence, shall provide an expert opinion on whether the applicant is a special category of civilian victims of war (Article 79 b). This was done in an effort to protect a special category of civilian victims of war as best as possible, to facilitate its exercising of the prescribed substantive rights in as simple procedure as possible and with as little retraumatization as possible.

122. The criminal offence of rape is prescribed under Article 165 of the Criminal Code of the RS which states that:

1. Whoever coerces another person to sexual intercourse or an equivalent sexual act by force or threat of immediate attack upon life and limb, or the life and limb of someone close to that person, shall be punished by imprisonment for a term between three and ten years;
2. If the criminal offence referred to in paragraph 1 of this Article was committed against a minor of over fifteen years of age, or in a particularly cruel or degrading manner, or by a number of perpetrators, or out of hatred, or if the criminal offence has resulted in grievous bodily injury or a serious impairment of health or pregnancy of the raped female, the perpetrator shall be punished by imprisonment for a term between five and fifteen years;
3. If the criminal offences referred to in paragraphs 1 and 2 of this Article have resulted in the death of the person against whom the offence was committed, the perpetrator shall be punished by imprisonment for not less than ten years.

123. The Law on Amendments to the Criminal Code of the FBiH –XIX – CHAPTER NINETEEN, Article 203 Criminal Offence of Rape – increased the punishment of imprisonment for the criminal offence referred to in paragraph (1) of this Article if committed out of hatred towards the victim, and the perpetrator shall be punished by imprisonment for a term between three and fifteen years. (Appendix no. 8 RS Republic Centre for Research of War, War Crimes and Tracing Missing Persons).

### **Answer to Recommendation 24 (article 9)**

124. For the purpose of protecting pension and disability rights, the Agreement on mutual rights and obligations in the implementation of pension and disability insurance (the Agreement), was signed by the pension and disability insurance carriers in BiH on 25 May 2000. Article 2 of the Agreement the issue of the insurance carriers’ obligation in relation to the payment of pensions realized by 30 April 1992, so that the insurance carrier, who paid the pension to the pension beneficiary on the day of entry into force of the Agreement, shall continue to pay the pension irrespective of the beneficiary’s domicile or place of residence. Article 3 stipulates that for the pre-war pension beneficiaries, whose pensions have not been paid in the period from April 1992 until the entry into force of the Agreement, the pension payment shall be made by the insurance carrier in whose territory the address of the beneficiary was in March 1992, regardless of the domicile or place of residence of the pension beneficiary at the time. By regulating pension payments in the above manner, the universal principle of pension and disability insurance that the pension be paid by the insurance carrier in whose area the pension beneficiary was insured and acquired right to pension has been disregarded. Since 2001, the PDI Fund of RS has launched a number of initiatives to amend the Agreement, to adopt a new agreement, and even to terminate the

existing Agreement. The Federal Institute, however, has rejected all proposals of the PDI Fund of RS, so the Agreement in the wording as once signed is still in force. RS requested that the FBiH take over the payment for all those who were beneficiaries of the former Social Fund for PDI BiH until 30 April 1992, and who received pensions in the territory now belonging to the FBiH, including those who have not returned to the FBiH and still live in RS. The FBiH Government rejected this request, at the same time pointing to its readiness to establish a single pension and disability insurance fund for the entire country. The past attempts by the RS Government and the PDI Fund of RS to amend the Agreement have not yielded results due to the explicit refusal of the FBiH representatives to discuss it, and the joint institutions, that is, the BiH ministries have not engaged in the resolution of the problem.

125. As regards the problems from the aspect of exercising rights from pension and disability insurance, there was a problem of so-called inter-entity payment of pensions. On 30 April 1992, BiH had 416,790 pensioners who, during and after the war, depending on the war and post-war place of residence, have become beneficiaries of one of the insurance carriers established during the war (PDI Institute of Mostar, PDI Fund of RS and Social Fund for PDI Sarajevo). In order to regulate the issue of realization of the rights of pre-war insured persons and pensioners, on 27 March 2000, the PDI Institute of Mostar, the PDI Fund in Sarajevo and the PDI Fund of RS concluded the Agreement on mutual rights and obligations in the implementation of pension and disability insurance, according to which it was established that the insurance carrier who, until the entry into force of this Agreement, had paid pensions to pension beneficiaries, would continue to pay the same pensions, regardless of the temporary or permanent place of residence of the beneficiary. The Pension Agreement entered into force on 18 May 2000, and is still applicable as the Agreement on mutual rights and obligations in the implementation of pension and disability insurance between insurance carriers.

126. The Federal Ministry of Health and Health Insurance, please see the Answer to Recommendation 11.

127. The BD BiH Health Insurance Fund complies with the Agreement on the manner and procedure of using healthcare services by insured persons in BiH, outside the Entity/District where the insured persons reside, no. 07-11-102/00 of 5 December 2001.

### **Answer to Recommendation 25 (article 10)**

128. BiH is committed to combating trafficking in human beings. On 30 December 2015, the Council of Ministers of BiH adopted the Action Plan to Combat Trafficking in Human Beings 2016–2019, which is strategically focused on improving the support system for combating trafficking in human beings in BiH, the effective prosecution of trafficking in human beings and related crimes, the prevention of trafficking in human beings by reducing risks and by effective protection of and assistance to victims of human trafficking, and on strengthening the partnership and cooperation between participants involved in countering trafficking in human beings. It is a comprehensive and multidisciplinary plan the implementation of which includes the relevant authorities at the state, entity, cantonal and BD BiH levels. (Appendix no. 9 International human trafficking, the response of the Ministry of Justice of BiH, the Ministry of Justice of RS, the Federal Ministry of Justice and the Judicial Commission of BD).

129. As regards the issue of internal harmonization of criminal legislation at the level of BiH, the Entities and the BD related to human trafficking, it should be noted that, in the course of drafting the new Criminal Code of RS harmonization with international standards in this area (the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime – the so-called Palermo Protocol and the Council of Europe Convention on Action against Trafficking in Human Beings) was performed, as well as harmonization with the Criminal Code of BiH.

130. Regarding the provision of statistical data on the number of cases in which the complaint was filed against police officers involved in trafficking in human beings, and the

penalties thereof, it should be noted that the Ministry of Interior of RS, in cooperation with the UNODC Office in Sarajevo, participates in the implementation of the regional project “Measuring and assessing organized crime in the Western Balkans”. The Ministry has undertaken activities in relation to expansion and improvement of the existing database related to organized crime, modelled on the Europol database, and, in the implementation of this activity, it will take into account this required indicator, i.e. the required statistical data.

131. In the period from 2012 to 2018, the BD BiH Police did not have any complaints against the police officers of this police institution for their involvement in trafficking in human beings.

### **Answer to Recommendation 26 (article 10)**

132. BiH is making efforts to improve the social protection of victims of trafficking in human beings. The Law on Principles of Social Protection, Protection of Civilian Victims of War and Families with Children does not include victims of trafficking in human beings as beneficiaries of social protection rights.

133. The Law on Social Welfare stipulates that the social welfare beneficiary may be a person who is also in the state of social need, both a child and an adult victim of trafficking in human beings, and that the professional workers of the Centre for Social Work shall perform their activities by applying modern professional and scientific knowledge, valid legal and other regulations, using the methods of social and other professional work, as well as that the professional work of the Centre shall be based on the application of teamwork, all of which is prescribed by the Law on Social Welfare. Rights that can be acquired throughout the RS area, in a uniform way, are: financial assistance, allowance for assistance and care of another person, support in equalizing the opportunities for children and youth with developmental disorders, institutional care placement, foster family placement, assistance and care in one’s home, day care, one-off financial assistance and counselling. The Law on Social Welfare enables each local self-government unit to define, by its own decision, additional, extended rights that meet the specific needs of the beneficiaries who live in that local community. Interventions towards beneficiaries of the social protection system are realized through pecuniary benefits, provision of social services and other measures aimed at meeting social needs, prevention and resolution of social problems.

### **Answer to Recommendation 27 (article 10)**

134. To raise the population’s awareness of the risk of early marriage, especially in Roma communities, BiH has carried out the following activities:

- Five out of ten female members of the Roma population, between 20 and 24 years of age, and two out of ten male members of the Roma population under 18 years of age, get married. In order to prevent and draw attention to this phenomenon, the campaign is being conducted through the program of the Institute for Public Health and Roma Mediators, and in 2013 the MHRR BiH also published the “Guidelines for Improving the Position of Roma Children in BiH”.

135. In the last decade, a trend of steady increase in age at the time of the first marriage has been recorded, which means that women and men get married later on.

136. According to the Population, Housing and Dwelling Census in the RS, in 2013, a total of 279 juveniles aged 15 to 18 stated that they live in an informal union with their partner. Out of the total number of respondents, 13 persons were of Roma ethnicity. For minors of up to 15 years of age, data were provided by parents, guardians or adoptive parents, although the question about formal and informal union was not asked as it was legally unacceptable.

137. According to the 2013 Census, partners in the informal union are considered to be persons who have a permanent place of residence in the same household, are not married and have a marriage-like relationship.

**Answer to Recommendation 28 (article 10)**

138. For the purpose of suppressing the phenomenon of domestic violence, on 7 November 2013, BiH became the 6th member State of the Council of Europe which ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence.

139. Pursuant to commitments entered into by the 2013 BiH Parliamentary Assembly's ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence, the Council of Ministers of BiH, at the 16th session held on 23 July 2015, issued the Decision on Adoption of the Framework Strategy for the implementation of the Convention on preventing and combating violence against women and domestic violence in BiH for the period 2015–2018.

140. The Strategy constitutes a comprehensive framework that defines the manner in which the Convention will be implemented in BiH and the way in which the legal and institutional framework will be harmonized with the Convention provisions, the priorities in the field of preventing and combating violence against women and domestic violence, responsible institutions, as well as the framework of monitoring and reporting on the implementation of the Strategy, and thus the Convention. The Strategy contains a set of measures that the authorities in BiH will implement by 2018 in order to achieve four strategic goals, namely: provide comprehensive, effective and inclusive prevention of violence against women and domestic violence, set up a multidisciplinary and coordinated protection system for victims of violence against women and domestic violence in accordance with the Council of Europe Convention, enhance the requirements for sanctioning perpetrators of violence against women and domestic violence and ensure victim's access to justice, and enhance the framework for creation and monitoring of the integrated and gender-sensitive policies for preventing and combating violence against women and domestic violence.

141. At its 32nd meeting held on 3 August 2015, the RS Government issued a Conclusion on non-acceptance of implementation of the adopted Framework Strategy for the implementation of the Convention on preventing and combating violence against women and domestic violence in BiH for the period 2015–2018, as there was no constitutional basis or obligation for the adoption of such document arising from the Council of Europe Convention on preventing and combating violence against women and domestic violence. The Council of Europe Convention on preventing and combating violence against women and domestic violence is being directly implemented in RS. The Government of RS has appointed the RS Gender Centre for the coordinating body to monitor the implementation of programs and measures under the Convention.

142. The sustainability of activities in the area of prevention and treatment of domestic violence cases is guaranteed by the Law on the Protection against Domestic Violence. In accordance with Article 36 of the Law, at its 75th meeting held on 11 March 2013, the FBiH Government adopted the Decision on the adoption of the Strategy for the Prevention of and Combating Domestic Violence (2013–2017) with the aim of reducing domestic violence, establishing a system of action and protection and equal access to services. In accordance with this Decision, the Expert Team for the Preparation and Monitoring of the Implementation of the Strategy for the Prevention and Combating Domestic Violence (2013–2017) prepares annual action plans and reports to ensure continuity of action. The expert team is composed of representatives of the competent institutions, a number of experts and non-governmental sector, and coordination is carried out by the FBiH Gender Centre. Regarding lower levels of government, in accordance with Article 37 of the Law on Protection against Domestic Violence, the cantonal governments are obliged to adopt programs of measures for the prevention, protection and fight against domestic violence, the establishment of coordination bodies, and the cooperation between certain levels of government and professionals in this field. Article 39 of the Law foresees the signing of a protocol on cooperation for one or more municipalities, or the work of multisectorial teams. In this way, horizontal and vertical connection of all actors working on prevention and treatment of domestic violence cases is ensured, and a mechanism for implementation of strategies and policies in this area is ensured. The implementation of the Strategy is aimed

at harmonizing legislation, a system of professional sectorial and multisectorial education has been established, it is aimed at improving the methodology of data collection, work with victims and perpetrators of domestic violence, and promotional and preventive activities are being carried out, and a unique SOS phone service 1265 has been established. Information on implemented activities is contained in the Report on the Implementation of the Five-Year Strategy for the Prevention of and Combating Domestic Violence (2013–2017). Special activities for supporting the work of cantonal coordination bodies and municipal multisectorial teams are carried out through a three-year project entitled “Improving Access to Multisectorial Services for Victims of Gender-Based Violence at Cantonal and Municipal Level” supported by UN WOMEN. The project is being implemented in the area of Central Bosnia Canton, Canton 10 and the West Herzegovina Canton, and in cooperation with the OSCE Mission to BiH, the FBiH Gender Centre is working on supporting cantonal coordination bodies and municipal multisectorial teams in other cantons.

143. The Law on Protection from Domestic Violence of the BD BiH, which entered into force in March 2018, prescribes protection from domestic violence or from violence in the family unit of persons who, for the purposes of this Law, are considered members of the family or family unit, the protection entities and procedures for protection of the victims of domestic violence, offence sanctions imposed on the perpetrators of domestic violence and other matters of importance for protection from domestic violence in the BD BiH. (Appendix no. 10 Tabulation: data of the Judicial Commission of BD statistical data on the number of criminal and minor offence cases of domestic violence, classified by gender (2013–2017 period).

144. GEA BIH, MHRR BIH has been continually working with international partners in order to guide the implementation of international donor projects in the direction of the Framework Strategy implementation. The work of the non-governmental sector on the implementation of the Framework Strategy goals has intensified, under GEA BiH coordination through the Joint Steering Committee of the USAID-SIDA-UN Women projects, wherein the Swedish SIDA allocated over BAM 650 000 in funds to non-governmental organizations for the work on prevention and protection against gender-based violence within the SIDA-UN Women project “Standards and Engagement to Combat Violence Against Women and Domestic Violence in BiH”. GEA BIH, MHRR BIH has awarded grants to non-governmental organizations for the “Support for building a partnership between NGOs and competent authorities for the implementation of the Istanbul Convention” in the total amount of BAM 44,000. The projects were implemented in the first half of 2017 aimed at contributing to more effective prevention and protection of victims of gender-based violence, with particular emphasis on support to vulnerable categories of society.

145. In January 2017, the Implementation Agreement between GEA BIH and USAID on the implementation of the Project “*Strengthening capacities of gender equality institutions in BiH to address gender-based violence*” was concluded, financed by USAID grant funds in the amount of 750,000 dollars, with the overall goal of service improvement and equal access to prevention of and protection from gender-based violence in BiH. The project implementation started in early June 2017 and to date, among other things, five sectorial analyses have been conducted, with recommendations on priority interventions to address the problem of violence against women and domestic violence in BiH.

146. A significant activity on prevention and awareness-raising among the school youth was noted, and the NGO sector was very active in conducting public campaigns to draw attention to the problem of violence against women and the need to report it. Within the campaign “16 Days of Activism” in 2016, the largest number of activities so far has been recorded – 160 public and advocacy activities organized by gender institutional mechanisms and NGO sector, which means, even ten events per day.

147. Within the continuing education of professionals in public administration bodies, police agencies, health and social care institutions, and educational establishments, conducted by gender mechanisms, civil service agencies and sectorial programs for education professionals by competent ministries, more than 60 education sessions were

held, which involved over 1700 individuals. Add to this the training programs implemented by NGOs and international partners, and the trainee number surpasses 2200 professionals.

148. On 17 December 2015, the Gender Equality Agency of BiH signed a Cooperation Agreement with the Safe Network 22, the NGO that brings together all nine safe houses, making progress in establishing a structured and institutionalized partnership with the non-governmental sector.

149. Organized by the entity ministries of health and with the support of UNFPA, healthcare professionals' trainings on the topic of response to gender-based violence have been continuously conducted. "*Resource packages for the response of healthcare service providers to gender-based violence*" were adopted in the FBiH and RS in 2015 and serve as a basis for training of trainers as well as training of healthcare professionals. The trainings are based on international legal sources, and in particular recognize the importance of the Istanbul Convention provisions. Through trainings, professionals from the health sector receive detailed information on the legal framework for gender-based violence in BiH, guidelines for the treatment, an explanation of the roles and steps of an effective response of healthcare professionals and associates to gender-based violence, and an explanation of the referral system for gender-based violence. During the reporting period, some progress has been made as to the work with perpetrators of violence. Problems still exist in terms of insufficient pronouncement of protective measures by the courts, as well as the lack of staff for more successful implementation of preventive and protective measure of work with perpetrators of violence.

150. In order to provide adequate assistance, support and protection to victims of domestic violence, as well as punishment for the perpetrator's acts that may not be qualified as criminal offence of domestic violence or family unit violence, RS adopted the Law on Protection from Domestic Violence, which defines certain acts or forms of manifestation of domestic violence as a minor offence. According to the explicit provision of this Law (Article 2), the main objective of this Law is to protect victims of domestic violence by preventing and fighting against domestic violence, which violates basic human rights and freedoms guaranteed by the Constitution and laws. In terms of this Law, domestic violence shall represent any act of violence of a member of family or family unit, which endangers tranquillity, mental, physical, sexual or economic integrity of another member of family or family unit. (Article 6, paragraph 1). As hereby defined, domestic violence as an offence represents endangering of tranquillity, mental, physical, sexual or economic integrity of another member of family or family unit. All acts of violence leading to the violation of the aforementioned values of a member of the family of family unit constitute a minor offence. Appendix no. 11 Annex a) The Law on Protection from Domestic Violence in Republika Srpska contains a number of provisions that provide for the special protection of victims of gender-based violence.

151. The Law on Protection from Domestic Violence, in addition to urgent protection measures as special measures for the protection of victims, prescribes misdemeanour sanctions for protection from domestic violence that are pronounced by the court in the misdemeanour procedure initiated and implemented in accordance with the provisions of the Law that define the offences (Article 23). The purpose of misdemeanour sanctions is to influence the perpetrator and others so as not to commit the future offence of domestic violence, to ensure to ensure the necessary protection of the health and safety of victims, and to eliminate the circumstances that favour or encourage acts of domestic violence.

152. The Law on Protection from Domestic Violence prescribes that a victim of domestic violence, due to having suffered violence, fear and anxiety, and in order to ensure physical protection and exercise of their rights, as well as to prevent recurrence of violence, shall have the right to submit a request to the competent centre for social work or social welfare service for using a special support measure – temporary care in a safe house (Article 15). The safe house is a special support measure which provides safe accommodation and help to victims of domestic violence, which may be realized by legal entity. The measure of temporary care in a safe house may be determined for the period necessary to achieve the objective of the measure, but may not last longer than six months, and in justified cases, the duration of this measure may be extended for another six months, i.e. until the completion of the proceedings and execution of the decision by which a protective measure is imposed

on the perpetrator. The funds for temporary care and accommodation of victims of domestic violence in safe houses shall be provided from the RS budget in the amount of 70%, and from the budget of the local self-government units in the amount of 30% of the established price for accommodation of the victim (Article 18). Appendix no. 11 Annex b) The Law on Protection from Domestic Violence in Republika Srpska contains a number of provisions that provide for the special protection of victims of gender-based violence.

153. In order to provide effective protection from domestic violence, the Ministers of Family, Youth and Sports, Justice, Internal Affairs, Health and Social Welfare, and Education and Culture signed the General Protocol on treatment in cases of domestic violence in RS. The purpose of the General Protocol on treatment in cases of domestic violence in RS (hereinafter referred to as the Protocol) is to provide a coordinated, efficient and comprehensive work of the signatories for the purpose of immediate assistance, support and protection of victims of domestic violence, suppression and prevention of recurrence of violence. The protocol is binding on all protection entities. The Protocol includes: the manner of treatment by protection entities who, in accordance with the provisions of the Law on Protection from Domestic Violence, provide protection, support and assistance to victims of domestic violence, regardless of whether criminal or misdemeanour proceedings has been initiated against the perpetrator; the forms and manners of cooperation and exchange of necessary data and information between the protection entities, the treatment by the Ministry of Family, Youth and Sports that is the Ministry competent for supervision and monitoring of the enforcement of the Law on Protection from Domestic Violence and the Final Provisions which prescribe the treatment by the protection entities in line with activities of this Protocol, and that provides guidelines to the treatment officials to ensure a systematic, interdisciplinary, professional and comprehensive approach to domestic violence. The application of the Protocol in the daily work of the competent bodies is crucial in the development of the system of protection from domestic violence. Its application provides not only adequate measures in case of domestic violence but also prevention through the development of professional competencies, a better understanding of the phenomenon of domestic violence, breaking stereotypes and biases and building a “zero tolerance” for domestic violence and, consequently, all other types of violence. In addition, the General Protocol on treatment in cases of domestic violence in RS the mechanism for collecting and recording data and reporting on domestic violence.

154. The RS Government has established the Council for the Prevention of Violence in Family and Family Unit as Advisory body to the Government in order to enhance coordinated and effective activity in the area of domestic violence and to monitor and evaluate the implementation of policies and measures for the prevention and suppression of domestic violence. Within its jurisdiction, the Council supervises the implementation and evaluates the policies and measures for preventing and combating domestic violence and, in this regard, provides recommendations and opinions; makes recommendations and opinions to the Ministry in the process of proposing and adopting legislation related to domestic violence; creates and participates in the realization of scientific, expert, research and other projects in the area of domestic violence; participates in the activities of social partners in the work on preventing and combating domestic violence, and considers other matters of importance for the prevention and suppression of domestic violence.

155. The Council has nine members. The Government issues a decision on the appointment of the Council members at the proposal of the Ministry of Family, Youth and Sports. Members of the Council are representatives of competent ministries and other Republic bodies, public institutions and professional services. The Council may, as appropriate, include in its work representatives of institutions, as well as non-governmental organizations, and experts from the academic and research community in areas of relevance to enhance policies in the field of domestic violence.

156. In RS, according to the provisions of the Law on Protection from Domestic Violence, the protection, assistance and support to victims of domestic violence must be provided by members of the Ministry of Internal Affairs, the Prosecutor’s Office, Centres for Social Work, that is, Social Welfare Services, health and educational institutions and the competent Court. Protection entities are obliged to keep records of the actions taken and data on the number of initiated and completed proceedings and other measures taken, and

submit related reports to the Ministry of Family, Youth and Sports. The reports, taking into account the protection of personality and dignity of the victim of domestic violence and the right to privacy protection, particularly indicate the number of victims and the number of perpetrators of domestic violence, gender of victims and perpetrators, age of victims and perpetrators, forms of violence, kinship or other victim-offender relationship, juveniles and persons with disabilities, number of initiated and completed proceedings, type and level, i.e. duration of the sanctions imposed and measures taken. Since 2014, the Ministry of Family, Youth and Sports has been collecting reports on domestic violence from all entities of protection from domestic violence in line with the Law on Protection from Domestic Violence, which include acts of domestic violence as a minor offence, and the Rulebook on the contents of records and reports on domestic violence issued on the basis of this Law. Reports and data are available on the Ministry of Family, Youth and Sports website.

157. The National Assembly of RS adopted the Strategy to Combat Domestic Violence of the RS 2014–2019, which has the following vision: “Adequate assistance, support and protection from domestic violence are provided to the victims of domestic violence in the RS – RS without domestic violence”, and the mission: “By using all available capacities in combating domestic violence, to strengthen the confidence of victims in the rule of law and government institutions at all levels, with the maximum involvement of all segments of society”. The strategy defines four strategic directions and four strategic objectives. Appendix no. 12 The four strategic directions and four strategic objectives of the Strategy to Combat Domestic Violence of the RS 2014–2019 (“Official Gazette of RS”, no. 63/14).

### **Answer to Recommendation 29 (article 11)**

158. BiH endeavours to solve the problem of poverty prevalence, especially among refugees, minority returnees, children without parental care, pensioners, persons with disabilities, Roma and multi-member families; however, in this respect, BiH has no official poverty line nor does it systematically analyse this area. The first serious survey on poverty in BiH was conducted by the World Bank (2001) on the basis of expenditure data. The BiH Agency for Statistics publishes the basic set of indicators of poverty, in line with EU standards, in the Household Budget Survey, which is being published triennially/2004, 2007 and the extended survey was conducted in 2011. Nonetheless, all key indicators of poverty and social exclusion are still not being systematically monitored as per EUROSTAT requirements.

159. Absolute poverty is defined as the expenditure level for consumption that below a certain threshold, depending on the price of a particular consumption bundle. The relative poverty line compares the standard of one category of population with another in the same society and is based on a certain percentage of average income or consumption in a given country. In calculating absolute poverty, the threshold is defined, that is, the general and extreme poverty line.

160. The latest poverty data refer to 2011, and the official relative poverty line for BiH is BAM 416.40 per adult equivalent per month, and the poverty rate is 17.9%, for the FBiH 17.1%. The absolute poverty line for BiH is BAM 238.00 per capita in 2007 prices/healthcare expenditures are not included, and the poverty rate is 23.4%, for the FBiH 22.7%. The BiH Agency for statistics carries out the measurement of poverty in BiH on the basis of expenditures, as opposed to income-based measurement used by Eurostat to measure poverty in the EU.

161. The PDI system, in order to safeguard against poverty and partially retain the concept of solidarity, the minimum pension mechanism in the amount of BAM 337 is being maintained, as well as the guaranteed pension in the amount of BAM 449, which will be further harmonized/increased according to the percentage of increase in the cost of living year-over-year in the FBiH in the previous year, in accordance with the provisions of the Law on Pension and Disability Insurance.

162. Each year, continuously, the FBiH Government allocates significant funds for projects of assistance to this population category, based on the adopted Return Plan,

reconstruction and development of sustainable return. In 2018, BAM 22,600,000.00 were approved through budget transfers for the implementation of the above projects.

163. The RS Institute of Statistics (RSIS) through the Household Budget Survey, conducted in 2004, 2007, 2011 and 2015, published the main indicators of poverty. The latest published data from the Household Budget Survey are from 2015, according to which the official relative poverty line for RS is BAM 362.34 per adult equivalent per month and the poverty rate is 13.9%. (The Household Budget Surveys were conducted by all three statistical institutions in BiH).

164. RSIS calculates the relative poverty rate for RS on the basis of consumption expenditures from the Extended Household Budget Survey, which is being conducted as a multi-annual survey. By introducing the Survey on Income and Living Conditions as a regular survey, the poverty rate will be calculated on the basis of data collected on income from this survey.

### **Answer to Recommendation 30 (article 11)**

165. BiH makes every effort to implement Annex VII of the Dayton Peace Agreement to the fullest extent possible, and to ensure the sustainable return of refugees and displaced persons to their pre-war homes.

166. In BiH, 32,145 families or 96,830 persons have the status of displaced families/persons. Compared to the 2016 data, the number of displaced persons decreased by 1,744 persons. The project "Closure of Collective Centres and Alternative Accommodation through Public Housing Solutions CEB II" foresees the closure of 121 collective centres. The implementation of this project will provide housing for more than 7200 people in 2611 housing units. In 2017, under this project, following statutory procedures, construction/reconstruction in five sub-projects (buildings) was started within which 128 housing units would be provided. In 2018, launching of works in twelve new sub-projects (blocks of apartments) is planned, within which 507 housing units will be provided. Implementers of this Project are line ministries of Entities and BDBiH, and financial realization is done through the Fund for Returns of BiH. BiH MHRR is the coordinator and monitor of the Project.

167. The Republika Srpska makes constant efforts to close the collective centre type of housing that still exist in 4 municipalities in RS, at 6 locations, with a total of 146 families, that is, 297 persons. All families have been included in the housing Project CEB 2 (Council of Europe Development Bank Program). Efforts are also being made to enable the return of refugees and displaced persons through the reconstruction of pre-war homes and infrastructure, as well as providing assistance to sustainable return.

168. The FBiH Ministry implements the CEB II Project "Closure of Collective Centres and Alternative Accommodation through Public Housing Solutions" through loan funds from the Development Bank of the Council of Europe CEB; on the territory of the FBiH about 5000 persons still reside in collective accommodation. The FBiH has available loan funds in the amount to EUR 40,423,203.00 and the contribution of national authorities is additional 20%. It is planned that this Project will build or reconstruct 49 sub-projects, with 1521 residential units, in 29 municipalities, and the beneficiaries will be provided with housing according to the model of non-profit-social housing.

169. Displaced persons in the BD BiH are accommodated exclusively in the individual types of housing, located in the so-called humanitarian settlements. In addition to this type of accommodation, there is a certain number of displaced persons who do not use this type of accommodation, but are accommodated with friends, relatives, as sub-tenants, etc. The BD BiH signed the Memorandum of Understanding with the MHRR BiH, Fund for Return BiH as a financial institution, the Ministry of Refugees and Displaced Persons of RS, and the Federal Ministry of Displaced Persons and Refugees, on the implementation of the Project "Closing the collective centres" – L/D 1789 (2013). In the BD BiH, this project initially included six settlements in which displaced persons and refugees have been accommodated, as well as persons in the state of social need: Prutače, Grbavica, Cerik,

Bukvik, Brka and Ivici. At the moment, in BD BiH, the delay in the implementation of this project, and the main reason for the delay, was the subsequent requirements of CEB Bank that have significantly raised the standards for the construction and fittings of housing units, which means that the available funds are insufficient for the implementation of the Project in all six chosen settlements. The BD Department of Displaced Persons, Refugees and Housing Issues constantly communicates with the Project coordinator at the MHRR BiH, and in the past activities has tried to find a solution for the purpose of implementation.

170. According to the Report on Mine Action in BiH for 2017, the size of the mine hazardous area in BiH is 1,061.32 km<sup>2</sup>, of which about 30 km<sup>2</sup> relates to residential, and about 18 km<sup>2</sup> to infrastructure areas.

171. BH MAC seeks to meet the needs of local communities, affected by mines, when conducting mine action tasks. In 2018, an integrated approach to mine action was planned and has been intensively implemented so far, and it involves fully addressing the mine problem in local communities by undertaking group activities in order to create conditions for the use of certain resources, enable reconstruction and sustainable return.

### **Answer to Recommendation 31 (article 11)**

172. As regards access of the population to drinking water, BiH has taken the necessary measures to implement the provisions of the Covenant. The fact is that there are municipal/urban water supply systems that supply 65% of the population, while about 30% of the population is supplied through the rural systems for which the water quality is not being monitored in accordance with the EU Directive on Drinking Water. The rest is made up of individual water supply systems.

173. In the Progress Reports on the Implementation of the Water Management Strategy sent to the Government of the FBiH, the Federal Ministry of Agriculture, Water Management and Forestry has repeatedly requested the missing financial resources from the FBiH Budget for the implementation of the Strategy, but the requested funds have not been approved. Although water supply and sanitation management is under the exclusive jurisdiction of the local community and the canton, which for these purposes receive 45% of the funds collected from water tariffs in accordance with the Law on Water, the Ministry of Agriculture, Water Management and Forestry has, for the implementation of the EU Directive on Drinking Water, set about establishing the Central Information System that will have the water supply and sanitation component and, in addition to municipal/urban systems, a register of all rural water supply systems with a capacity of 0,1 l/s. After that, the water system operators will be entering all other relevant data.

### **Answer to Recommendation 32 (article 12)**

174. In order to achieve equal access to healthcare for vulnerable and marginalized groups of BiH, at the 6th meeting held on 14 March 2017, the Conference for Healthcare Field in BiH discussed the initiative of amendments to the Agreement on the manner and procedure of using healthcare services by insured persons in BiH, outside the Entity/BD, in order to improve the provision of healthcare to displaced persons and refugees, and the following conclusions were reached:

(a) A Working Group was established consisting of representatives of the Ministry of Civil Affairs of BiH, the Ministry of Health and Social Welfare of RS, the RS Health Insurance Fund, the Federal Ministry of Health, FBiH Institute for Health Insurance and Reinsurance, Department of Health and Other Services of BD BiH, and the Health Insurance Fund of BD BiH. The Working Group held a meeting on 2 October 2017, and noted that the issue of access to healthcare for displaced persons and returnees is regulated by the Law on Refugees from BiH and Displaced Persons in BiH, the Law on Displaced Persons, Returnees and Refugees in RS and the Law on Displaced Persons and Returnees in the FBiH and Refugees from BiH, and that it is not necessary to amend the Agreement on the manner and procedure of using healthcare services by insured persons in BiH, outside the Entity/BD BiH to which the insured persons belong;

(b) As regards the request of the Ministry of Defence of BiH, it was concluded that amendments to the Agreement will commence and the use of healthcare will be provided to insured persons-military personnel who, for the purpose of performing military service, temporarily reside outside the area of the Entity/District to which they belong;

(c) Representatives of the Ministry of Civil Affairs of BiH proposed an amendment to the Agreement with the aim of regulating the rights of all insured persons and the provision of emergency health services in cases of need for their provision in the Entities, BD or Cantons to which insured persons do not belong. No agreement was reached for the said proposal at this meeting, and the opinion of the health insurance funds/institutes will be requested before the final drafting of the Agreement. Having in mind the conclusions adopted, as well as the provisions of Article 12 paragraph 1 of the Agreement, the Ministry of Civil Affairs of BiH will continue to coordinate the work of the Working Group for amendments to the Agreement once the relevant Entity Institutions agree on them.

175. Although all applicable regulations in the field of healthcare and health insurance in the FBiH prohibit discrimination on any ground, in accordance with the Law on Health Protection (“Official Gazette of the FBiH, nos. 46/10 and 75/13), priority health measures have been prescribed providing access to all levels of healthcare to vulnerable groups such as: persons with disabilities, persons over 65 years of age, uninsured persons, Roma, returnees, displaced persons and refugees, victims of violence, mentally ill persons. The sources of financing are defined by the same law.

176. The Law on Health Protection determines that a friendly approach to young people shall be developed at the primary level of healthcare, i.e. at medical centres. Part of the service is also being provided at information centres within non-governmental organizations, offering young people quality, safe, credible information on all matters of healthy lifestyles, recognizing the needs for professional healthcare and, if necessary, referring them to a healthcare team within the medical centre.

177. The project “Providing a friendly approach in offering health care services to young people in the field of family medicine” has enabled healthcare professionals to undergo advanced training for trainers on a friendly approach.

178. In cooperation with the Federal Ministry of Education, extensive work has been done on the Framework Program for primary education and numerous teaching units were approved that will help young people to adopt healthy behaviours in the course of primary education. As regards health education, the curricula are under the jurisdiction of cantonal ministries responsible for education.

179. The returnees in RS are entitled to health insurance in accordance with the Law on Health Insurance, Article 10, point 12 of which states that refugees, displaced persons and returnees shall be compulsorily insured if they are not insured on other grounds. The payer of contributions for health insurance of refugees, displaced persons and returnees in the Ministry of Refugees and Displaced Persons of RS.

180. The Department of Displaced Persons, Refugees and Housing Issues of BD carries out activities in accordance with the Action plan for Addressing Roma Issues in BD BiH 2017–2022, which was adopted by the Government of BD. As regards vulnerable categories of population in BD BiH, in accordance with its competences the Department of Displaced Persons, Refugees and Housing Issues of BD is highly involved in solving the problems of these categories in terms of housing care, through the provision of alternative accommodation, assistance in the rehabilitation and reconstruction of housing units. *Appendix no. 13 Data from the Public Health Institute of the RS in the publication “Health status of the RS population, 2016”*, and data from the Public Health Institute of the FBiH in the publication “Health Statistics Yearbook, 2016”.

### **Answer to Recommendation 33 (articles 13 and 14)**

181. With regret, it can be noted that segregation and discrimination in education in some parts of BiH are still prevailing, especially as a concept of “two schools under one roof”

(Central Bosnia and Herzegovina – Neretva Cantons) of mono-ethnic schools, and denial of language rights.

182. The concept called “two schools under one roof” is not present in Republika Srpska. As regards returnee children, RS has completely resolved their inclusion into primary education. The removal of offensive and inappropriate content from the curricula and textbooks for primary and secondary schools in BiH was completed in the school year 2003/04. The criteria on the names of schools, school symbols and school events have been fully complied with in RS.

183. In 2001, the Assembly of BD BiH adopted a document titled “The Education Plan”, which defined the names of primary schools in BD BiH, as well as their enrolment areas and head offices. The names are defined by Roman numerals from one to fifteen, which is the number of primary schools. Secondary schools have names that are related to the professions in which pupils are educated, except for the general-program secondary school (gymnasium) called – Gimnazija “Vaso Pelagić” of BD BiH. These names as well as the name of the Primary Music School do not constitute an obstacle to the application of principles, norms and standards that ensure the education of students under equal conditions. Appendix no. 14 Department of Education of the BD – Law on Primary and Secondary Education in the Brcko District of BiH.

### **Answer to Recommendation 34 (articles 13 and 14)**

184. According to the Report for the school year 2016/17, the relevant ministries of education have focused on the realization of the right to education of children members of the Roma national minority through inclusion of Roma children in the education system, provision of additional support, textbooks, transportation, etc. The emphasis was put on taking stimulus measures in order to reduce the abandonment of education, which was noted as the biggest problem, especially due to changes in the place of residence of parents and children of the Roma minority, even several times during the school year.

185. For the purpose of compliance with the actual powers of the state as regards education policy in BiH, at the 155th session of the Council of Ministers of BiH held on 25 September 2018, the Framework Action Plan on Educational Needs of Roma (2018–2022) was adopted, and the financial resources for its implementation planned and approved. Based on this Plan, the responsible ministries of education will adopt their Action Plans in 2018/2019, and plan the resources for their implementation.

186. Not much can be said about the high level of Roma children who do not attend compulsory primary education in RS. There is also no significant abandonment of school among this population. The Revised Action Plan on Educational Needs of Roma is being implemented. Free textbooks are provided to all Roma children – for all pupils of the first and second grade, the textbooks are provided by the Ministry of Education and Culture and for other grades by the local community. All children, Roma children included, whose place of residence is four or more kilometres away from school, have a free transportation provided by the Ministry of Education and Culture of RS.

### **Answer to Recommendation 35 (article 15)**

187. BiH advocates for cultural rights in order to promote cultural diversity. The Council of Ministers of BiH adopted the Action Plan for the Implementation of the Cultural Policy Strategy in BiH 2017–2018, and all the relevant Cantonal and Entity Ministries of Culture had previously given their consent. The Action Plan is comprehensive and contains concrete activities in accordance with the Cultural Policy Strategy in BiH that is in force and was adopted by the Council of Ministers of BiH (2008). In addition, on 27 January 2009 BiH ratified the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, the provisions of which are included in the Cultural Policy Strategy in BiH (2008). 2015 marked 10 years since the entry into force of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. In all the media it was emphasized that the preservation and cultivation of

cultural diversity is a prerequisite for the existence of fundamental humanistic values of society and fundamental human rights. The results of the research on the contribution of culture to development in BiH and the report on the conducted consultations on culture and development, held in BiH during 2014, were also presented. The Consultations were structured in six thematic fields: Culture and Poverty Reduction; Culture and Education; Culture, Gender Equality and Women Empowerment; Culture, Sustainable Cities and Urbanisation; Culture, Environment and Climate Change; and Culture, Inclusion and Reconciliation. The Law on Budget of the Institutions BiH and the international commitments of BiH govern the annual planning of resources for the area of culture within the budget of the Ministry of Civil Affairs of BiH in the position of grants; namely, the grant titled “Co-financing of the cultural institutions projects in BiH” in the amount of BAM 3.097.000 and the grant titled “International Cultural Cooperation” (in the amount of BAM 440.000). Funds are awarded through a public call that is published annually. Each year, the Council of Ministers of BiH issues the criteria for the allocation of funds, on the basis of which a public call is published, the commissions that conduct the evaluation procedure and make proposal for the allocation of funds are formed. Final decisions on the allocation of funds are made by the Council of Ministers of BiH. The projects supported within the grants are the ones that contribute to the implementation of the Convention and promote the preservation of cultural diversity. Projects are supported in all parts of BiH, including smaller rural areas, with the aim of providing equal access to culture for all. It is worth pointing out that this is a significant increase in funds for these purposes from the 2016 budget, which enabled the preservation/maintenance of certain cultural institutions as well as the opening of those institutions that were closed (the National Museum).

188. A particularly vulnerable group of cultural institutions are those institutions that do not have their legal status solved (7 institutions: the National Museum of BiH, the National and University Library of BiH, the Library for Blind and Visually Impaired Persons, the Historical Museum of BiH, the Cinematheque BiH, the Museum of Literature and Performing Arts BiH, the National Gallery of BiH). The work of these institutions in the past period was enabled thanks to the very important activity coordinated by the Ministry of Civil Affairs of BiH, and it refers to the signing of the Memorandum of Understanding aiming to support the work of the cultural institutions of common importance and interest for Bosnia and Herzegovina for the period of 2016–2018. The document was signed by 38 institutions (the municipality, several cantonal ministries of culture). The Memorandum is not binding, making it possible for each signatory to withdraw or to change the amount for support, which results in uncertainty and an extremely disadvantageous position in the performance of regular activities of the cultural institutions.

189. It should be emphasized that the aforementioned measures have provided for a somewhat better position of cultural institutions and the opening of institutions that were closed due to financial constraints; however, the legal (and especially important to emphasize – financial) status of the 7 cultural institutions is still UNRESOLVED.

190. In accordance with the constitutional competences in the field of culture, RR has adopted its Culture Development Strategy 2017–2022. In line with financial capabilities, it seeks to ensure the realization of the right to culture to as many individuals as possible. The Ministry of Education and Culture of RS has, among other things, adopted the Rulebook on co-financing public needs in culture and the Rulebook on co-financing cultural creation of national minorities of RS.

### **Answer to Recommendation 36**

191. BiH reports are available to the public at the time of their submission, as they can be found on the MHRR BiH website. These reports are composed in three official languages used in BiH, namely: Bosnian, Serbian and Croatian; and in two official scripts – Latin and Cyrillic, as well as in English as one of the official languages of the UN. During the preparation of the report, an Inter-Departmental Working Group is formed, composed of representatives of the relevant authorities in BiH with reference to the recommendations of the relevant UN Committee, Minority Associations, Non-Governmental Organizations and the report, upon presentation, is submitted to the representatives, along with the concluding

remarks and recommendations of the UN Committee so as to promptly commence implementation of recommendations at all levels in BiH society in order to harmonize legislation, policies and practices with international multilateral agreements. During the preparation of the report, BiH conducts consultations with non-governmental organizations and members of the academia.

192. The BiH CoM adopted the Methodology for the preparation of human rights reports in 2017, which includes the methodology for monitoring the implementation of recommendations. (See Annex No. 15. Appendices).

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