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**ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION
FOR THE PROTECTION OF NATIONAL MINORITIES**

**COMMENTS OF THE GOVERNMENT OF BOSNIA AND HERZEGOVINA ON THE
OPINION OF THE ADVISORY COMMITTEE ON THE IMPLEMENTATION OF
THE FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL
MINORITIES IN BOSNIA AND HERZEGOVINA**

(received on 25 October 2004)

Ministry for Human Rights and Refugees of Bosnia and Herzegovina, as incumbent of activities (or main coordinator of activities) in preparation of the Report of Bosnia and Herzegovina on Implementation of the Framework Convention for the Protection of National Minorities, has studied the "Opinion on Bosnia and Herzegovina" prepared by the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities following its familiarisation with the Report of BiH on legislative and other measures on implementation of principles determined in the Framework Convention for the Protection of National Minorities, monitoring of the Delegation of the Advisory Committee, as well as additional answers of the BM Council of Ministers from 12 May 2004. BiH Ministry for Human Rights and Refugees extends its appreciation for the possibility to present comments, explanations and positions in relation to the Opinion of the Advisory Committee before its final submission to the Council of Europe's Committee of Ministers.

Ministry for Human Rights and Refugees also considers that future communication of the authorities of Bosnia and Herzegovina with the Advisory Committee of the Framework Convention is of particular importance from the point of view of implementation of measures for protection of the rights of rational minorities and practice in application of the Framework Convention for the Protection of National Minorities.

Ministry for Human Rights and Refugees very appreciates understanding which the Advisory Committee has showed as regards specific conditions of post-conflict recovery and building of the institutions of authority in Bil-1, as well as regards respecting the efforts BiH authorities put into recognition of the rights of minorities and their protection.

Authorities in Bosnia and Herzegovina, at all levels of organisation, take seriously into consideration difficulties faced in implementation of legal regulations in the field of education, particularly education in minority languages, informing and broadcast of TV programmes in minority languages, proportional representation of minorities in the civil service, and particularly delay in carrying out binding obligation of setting up the Council of National Minorities at the State and Entity level. Although, considered in total, the greatest attention has been given to Roma Community in Bosnia and Herzegovina, position of Roma changes slowly and difficult. Issue of preparation of national strategy for the improvement of the position of Roma population is one of the pivotal issues which will be nominated in the forthcoming period for consideration at the Council of Ministers and the Parliamentary Assembly of BiH by Ministry for Human Rights and Refugees, in coordination with representatives of Roma communities.

Ministry for Human Rights and Refugees considers that opinion of the Advisory Committee will in future be very useful in planning the measures and undertaking steps in the implementation of the Framework Convention, This particularly refers to the comments in respect of Articles 1 -19, which we understand as the basis of future cooperation with the Advisory Committee of the Framework Convention.

Apart from the above-mentioned, Ministry for Human Rights and Refugees considers that certain assessments of the Advisory Committee nevertheless require additional explanations which will assist the Advisory Committee in more adequate understanding of certain issues, and, possibly, different conclusions.

1. Comment in Item 13 does not reflect the real situation in BiH, since wording "so-called constituent peoples" is not a creation of GFAP, and will not disappear with fulfilling of all regulations of this Agreement, even in future, in possible amendments of the Constitution of BiH. Constituency (in our understanding: nation building and equality) of three peoples and "Others" is a requirement for the existence of Bosnia and Herzegovina and its building as sustainable community in future. The authorities of Bosnia and Herzegovina consider that constitutional frameworks arranging mutual relations in functioning of three constituent peoples are not an obstacle for paying full attention to the protection of individual human rights. On the contrary.
2. Item 14 - The advisory Committee understands the opposition to the census of population, expressed by Bosniak political elite. However, we think that it is not based on rational legal and political arguments. Namely, the census of population determines the situation which is necessary foundation for the planning of economic, social, development and all other plans. It by no means "cement the results of ethnic cleansing", which is alleged argument against the census.
3. Attitudes expressed in Item 24 require further explanation. "Definition" of term rational minority in the Law on the Protection of Rights of Persons Belonging to National Minorities from 2003 has been elaborated in close cooperation with the representatives of OSCE, the Council of Europe and other international representatives in Bosnia and Herzegovina. There have been no objections on it, at least in this part. However, wording of the above remark causes the question: does the Advisory Committee propose that groups of foreign citizens who temporary stay in BiH on various bases (Roma from Kosovo and Metohia, Chinese, Romanians Moldavians, and citizens of the Arabian states) be included into persons belonging to national minorities by erasing regulation on "citizens". The same refers to the Item 25 of the Opinion.
4. In Item 32, apart from useful suggestions as regards future census of population, the Advisory Committee suggests a term "Bosnian" as neutral selfidentification compared to the constituent peoples and national minorities, leaning on experience from the past when a significant number of persons declared themselves "Yugoslavs". We consider it is very necessary to omit this attitude from the Opinion for many reasons. Namely, it is known that certain political circles, domestic and foreign, are trying to overcome problems in international relations through introduction of the option "Bosnian". However, this solution meets absolute rejection by two constituent peoples and provokes political tensions. Although this may be well-intended example, it may cause adverse effect.
5. In Item 37 there is a wrong statement that the deputies belonging to "Others" are excluded from accessing posts of the Chair and Deputy Chair of the House of Representatives of the Parliamentary Assembly of BiH. This could only refer to the House of Peoples, which has limited competencies and specific manner of election determined by the Constitution of BiH.
6. Items 43 and 128 of the Opinion as regards employment emphasise discrimination of the minorities, especially in the Republika Srpska. In the perception of the situation of realisation of the right to employment, BiH Ministry for Human Rights and Refugees has not noticed different practices in the Entities as regards the employment. We do not know on the basis of which facts the Advisory Committee has concluded that the situation in the Republika Srpska in this regard is "special". Our knowledge says the opposite when it is about persons belonging to minority communities, Representation of individuals from minority groups at the important posts in RS is more noticeable than in the Federation of BiH (the Ukrainians, the Czechs, the Slovenians, the

Jews, the Poles, the Macedonians, the Montenegrins, and others occupy important posts in education, health, state administration, culture, science, informing, etc).

7. Statement in Item 45 that before the war Roma used to live mainly in the territory of what is today the Republika Srpska is not true.

8. Item 59 with a reason points to practical problems faced by national minority NGOs as regards the premises for their activities. Unfortunately, Bosnia and Herzegovina has great difficulties in securing working conditions for the State institutions. Therefore, there are attempts to solve this problem through Entity and local organs of authorities. A partial result has been achieved in Bania Luka through allocation of working premises to the Association of National Minorities of the Republika Srpska. The National Minorities Club has recently been opened in them, which means that conditions for work of all registered minority communities in this part of Bosnia and Herzegovina have been secured.

9. Item 67 has pointed to problems of return and exercise of property rights. Ministry for Human Rights and Refugees informs the Advisory Committee that, as per objective indicators and assessment of international organisations participating in this process, repossession of property of refugees and displaced persons would be completed by the end of 2004. Of course, problems of sustainable return, integration and security of returnees still remain in the focus of all relevant actors in this process.

BiH Minis" for Human Rights and Refugees extends its appreciation for submitted opinion and observations of the Advisory Committee, which we believe will find its place in future programme activities of the Bil-1 Council of Ministers, Entity Governments, and especially local communities in which persons belonging to national minorities reside and work.

Appendix 1

List of points for additional information in respect of the report submitted by Bosnia and Herzegovina pursuant to Article 25, paragraph 1, of the Framework Convention for the Protection of National Minorities, received on 20 February 2004

Preparation of the state report

1) The Advisory Committee would like to receive information on the consultation held with national minorities and other sectors of civil society prior to the final preparation of the to state report of Bosnia-Herzegovina (hereinafter referred to as: the state report). Which minorities and which NGOs were consulted, and when? Were they requested to comment on provisional drafts of the report ? Did they make submissions in writing? Were their submissions taken into account in the final drafting ?

2) Similarly, the Advisory Committee would like to know if and how the authorities of the Entities have been involved in the preparation of the state report, and whether consultations with minorities and NGOs were held at the state level or the entity level or both.

Law on Protection of Rights of National Minorities

3) With reference to the comments under Article 4 in the state report which indicate that the Entities have not started to implement the Law on Protection of Rights of National Minorities despite the deadline that expired on 14 November 2003, the Advisory Committee would like to know whether there are now plans by the Government of the Federation and the Government of the Republika Srpska to submit draft legislation to the Entity Parliaments in order to give effect to the said Law, and would also be pleased to receive existing drafts, if any, of the relevant laws or bylaws envisaged at the entity levels for the implementation of the law.

Media

4) With reference to the comments under Article 9 in the state report, the Advisory Committee would appreciate receiving practical information on existing radio and TV programmes (length, periodicity) broadcast in minority languages, both at state level and as Entity level.

Education

5) With reference to the “*Action Plan on the Educational Needs of Roma and Members of Other National Minorities in Bosnia and Herzegovina*” adopted by the Entity and Cantonal Ministers of Education of Bosnia and Herzegovina on 17 February 2004, the Advisory Committee would like to know if there is an authority at state level entrusted with the responsibility of supervising its implementation. Furthermore, the Advisory Committee would welcome any information on concrete steps already taken to give effect to the principles enshrined in this Action Plan.

6) The Advisory Committee has taken note of the entry into force on 4 July 2003 of the Framework Law on Primary and Secondary Education in Bosnia and Herzegovina, Article 8 of which prescribes that “*the language and culture of any significant minority in BiH shall be respected and accommodated within the school to the greatest extent practicable, in accordance with the Framework Convention for the Protection of National Minorities*” and Article 59 of

which assigns a six-month deadline to the authorities of the Entities (as well as to the District of Brcko) to harmonise their legislation with this Framework Law. Consequently, the Advisory Committee would like to know which legislative measures have been taken by the authorities of the Entities (as well as by the District of Brcko) to implement Article 8 of the Framework Law and whether or not the Council of Ministers of Bosnia and Herzegovina has made use of Article 60 of the Framework Law to pass binding interim measures ?

7) With reference to the agreement signed in August 2003 by the Entities, the Cantons of the Federation as well as the Brcko District Government to replace the three ethnically-based education systems with a unified one, the Advisory Committee would appreciate receiving updated information on its state of implementation and the situation in practice: are there still schools operating a strict separation between Croat and Bosniac pupils in the Federation and how has the situation progressed in this respect over the past 6 months, especially in Canton 6 (Central Bosnia) and 7 (Herzegovina-Neretva).

8) Which efforts are being made to include and mainstream national minority issues in school curricula ? Please provide information on efforts made by the Textbook Review Commission and other competent bodies to remove inappropriate material from the national subject textbooks and to ensure a balance coverage of all groups - including national minorities - living in Bosnia and Herzegovina.

Health care and social welfare

9) With reference to the above-mentioned “*Action Plan on the Educational Needs of Roma and Members of Other National Minorities in Bosnia and Herzegovina*” adopted by the Entity and Cantonal Ministers of Education of Bosnia and Herzegovina on 17 February 2004, the Advisory Committee would like to know whether there are plans to develop a similar strategy to coordinate measures taken by the Entities and the Cantons of the Federation as concerns access of Roma to health care and social welfare. Please also describe the distribution of competences concerning allocation of public resources for health care and social welfare. Does the system ensure that the effective enjoyment of welfare rights or benefits are the same throughout the Federation, or does it depend on decisions at cantonal and municipal levels, thus allowing for significant differences in enjoyment of the benefits ?

Return of refugees and displaced persons

10) The Advisory Committee would appreciate receiving further information about the return process of Roma refugees/displaced persons to their original place of residence in Republika Srpska, in particular to Prijedor and Zvornik Municipality (Zvornik town, Kozluk and Skocic village): are there still pending claims from Roma to regain their pre-war properties ? Is there a large number of houses formerly occupied by Roma still uninhabitable and are there legal or practical obstacles to the reconstruction of these houses? How do local authorities encourage Roma returns and how does the local population react to such returns ?

11) The Advisory Committee would welcome further information on both the legal status and the practical situation of Roma refugees/displaced persons currently living in Tuzla Canton: how many are they ? Which proportion of them have legal resident status and for those who have not, how does the lack of legal residence impact on their access to health care as well as the access of their children to education ? What are the causes of their lack of legal residence, and what plans

exist to legalise their presence? Are there any particular difficulties for certain Roma parents to obtain birth certificates for their children ?

Participation

12) Please provide detailed information on the plans currently under consideration to amend the Election Law of Bosnia and Herzegovina with a view to creating a legal basis providing for the election of members of national minorities in municipal bodies before the next local elections due to take place in October 2004.

13) Under the Election Law of Bosnia and Herzegovina currently in force, is the mentioning of the ethnic affiliation of candidates compulsory ? If yes, are there plans to render this mentioning optional ?

14) With reference to the Article 8(4) (the House of Peoples) of the Constitution of the Federation of Bosnia and Herzegovina, whereby Bosniac delegates, Croat delegates and Serb delegates from each Canton shall be elected by their respective representatives, in accordance with the election results in the legislative body, and the election of delegates from among the Others shall be regulated by law: Has such laws already been adopted or is it in preparation – with what actual or intended content ?

15) Are there plans to amend the Constitution of Bosnia and Herzegovina, as well as the Election Law of Bosnia and Herzegovina, with a view to opening certain electoral posts - like the Presidency of Bosnia and Herzegovina or the House of Peoples – to candidates from the category “Others” ?

16) With reference to the comments under Article 4 in the state report indicating that the process of election in the Federation maintains “*discriminatory solutions*” in that certain electoral posts are still reserved for persons belonging to constituent peoples, the Advisory Committee would like to know whether there are plans to amend such constitutional and legal obstacles to the participation of “Others” ?

17) The Advisory Committee would appreciate figures or even rough estimates on the actual proportion of persons belonging to national minorities recruited as civil servants both in the state administration and in the administration of the Entities.

Judicial and non-judicial practice

18) The Advisory Committee would welcome information on case-law - by domestic Courts - pertaining to the rights of persons belonging to national minorities or discrimination against these persons. The Advisory Committee would also appreciate receiving findings of a general nature or any report dealing with national minorities that may have been produced by Ombudsman Offices.

19) The Advisory Committee would also appreciate receiving findings of a general nature or any report dealing specifically with national minorities that may have been produced by Ombudsman Offices, including allegations of problems for displaced Roma or others to return to their former residence and/ or to obtain restitution or compensation for property taken or destroyed.

Appendix 2

COUNCIL OF MINISTERS

REPLIES TO ADDITIONAL QUESTIONS OF THE COUNSELLING COMMITTEE FOR THE FRAMEWORK CONVENTION FOR PROTECTION OF ETHNIC MINORITIES REFERRING TO THE REPORT SUBMITTED BY BOSNIA AND HERZEGOVINA PURSUANT TO ARTICLE 25, PARAGRAPH 1 OF THE FRAMEWORK CONVENTION ON PROTECTION OF ETHNIC MINORITIES

Sarajevo, April 2004

¹COUNCIL OF MINISTERS

**Ministry for Human Rights and Refugees of B&H
Sarajevo, April 2004**

REPLIES TO ADDITIONAL QUESTIONS OF THE COUNSELLING COMMITTEE FOR THE FRAMEWORK CONVENTION FOR PROTECTION OF ETHNIC MINORITIES REFERRING TO THE REPORT SUBMITTED BY BOSNIA AND HERZEGOVINA PURSUANT TO ARTICLE 25, PARAGRAPH 1 OF THE FRAMEWORK CONVENTION¹

PREPARATION OF THE STATE REPORT

1. Considering the procedure for making the Report, hereby we advise the Counselling Committee that the Ministry for Human Rights and Refugees of Bosnia and Herzegovina, has achieved co-operation and communication with all relevant organisations gathering minority communities in Bosnia and Herzegovina. The method of communication has been achieved in such a manner that the Ministry appropriately informed NGO-s of minority communities about the forthcoming preparation of the Report, and invited these organisations to submit their observations and opinions referring to realisation of the principles stipulated in the Framework Convention. Upon this invitation of the Ministry, the minority communities made their replies in different forms. The Union of Ethnic Minorities of RS stated its views in writing regarding the educational needs of ethnic minorities in RS, while some NGO-s of Roma population organised counselling forums (Round Table on Constitutional position of Roma population in Bosnia and Herzegovina “SaE Roma” Tuzla, “Romano-Lil” Zenica) where the representatives of the Ministry took part as well. In preparing the Report the opinion and views collected by the organisations having researched the position of the minorities in Bosnia and Herzegovina were respected to the greatest extent (Access of Roma population to education and health care in Tuzla Canton, Federation of Bosnia and Herzegovina, December 2001, January 2002 from

¹ To prepare the replies to the additional questions the Ministry for Human Rights and Refugees of B&H requested assistance and consultations with the following institutions: Government of Herzegovina-Neretva Canton, Municipality of Prijedor, Ministry of Health and Social Welfare of RS, Municipality of Zvornik, Government of District of Brčko, Ministry of Administration and Self-Government of RS, Government of Republika Srpska, Regulatory Agency for Communications, Ombudsman of F B&H, Ombudsman of B&H, Government of Federation B&H, Ministry of Labour and Social Policy of F B&H, Government of Tuzla Canton, Ministry of Education of F B&H, Government of Zenica-Doboj Canton, Election Commission and Ministry for Civil Affairs of B&H.

Alexandra Raykovic, a consultant of the Council of Europe and Save the Children, about the position of Roma population: NGO “Be My Friend”, about educational needs of Roma population etc.). The opinions of the Council of Roma of B&H, the association gathering the representatives of all NGO-s of Roma population in the Federation of Bosnia and Herzegovina, regarding the position of Roma population, were respected to the greatest possible extent. In making the Report, Ministry also used the positions of Czech Community in B&H, Hungarian Community in B&H, Ukraine Community in B&H, Albanian Community in B&H, Slovenian Community in B&H and Macedonian Community in B&H which they expressed at the round table discussion organised by European Centre for Minority Issues. All these consultations were carried out during 2002 and 2003 and they were the integral part of the activities for preparing the Report. Having formulated the Report, it was presented for possible further comments to the Council of Roma in B&H, Board for Roma, Jewish Community in B&H, Association of Albanians, Association of Slovenians, Association of Macedonians, Association of Czechs, Association of Hungarians and Association of Montenegrins. These organisations failed to submit the written suggestions or comments. Besides NGO-s gathering the minorities, the Report was also presented to the following NGO-s: Helsinki Committee for Human Rights in B&H, Centre for promotion of Civil Society, “Save the Children” UK and Norway Organisation in B&H and “Be My Friend”. The Ministry did not receive the report from these organisations.

2. In its separate letter sent in 2003, the Ministry for Human Rights and Refugees invited the governments of the entities, canton administration and a number of municipalities (40) in which in the census of 1991 significant number of minority communities was registered, to co-operate in preparation of the Report on implementation of the Framework Convention. Majority of the contacted municipalities in which the significant number of minority communities had been registered, submitted their written replies and comments about the position of ethnic minorities in B&H and implementation of the Framework Convention. Their replies clearly showed that the administration had consulted NGOs of minority groups, especially the Roma, while preparing their opinion. Summarising of these opinions was performed at the level of cantons in the Federation of B&H, while the summarised opinion from Republika Srpska was not formulated. Individual appendices were submitted by bigger city centres (Banja Luka, Prijedor, Gradiška, Doboj, Bijeljina, Prnjavor) i.e. the municipalities having registered the NGO-s of the minority communities. Submitted written opinions of NGO-s were used, to the greatest possible extent, in formulating the Report. Consultations with the minority and NGO organisations were carried out at the level of the entities and at the state level as well as at the level of canton and municipality administrations.

LAW ON PROTECTION OF THE RIGHTS OF ETHNIC MINORITIES

3. Regarding the issues of implementation of the Law of Bosnia and Herzegovina on protection of the rights of ethnic minorities, i.e. enacting the corresponding laws of the entities for which the deadline expired on 14.11.2003, hereby we advise the Counselling Committee that both entities, Federation of B&H and Republika Srpska, have prepared the text drafts of the Laws. It is expected that these law projects will be discussed and enacted within the period not longer than 60 days from the date of writing this reply. We have the opportunity to attach the Law Draft of the Federation of B&H to this additional report, while the text draft from Republika Srpska has not been obtained yet.

MEDIA

4. Replying to this question, the Council of Ministers has collected the corresponding data from the Regulatory Agency for Communications. Regulatory Agency for Communications (hereinafter referred to as the “Agency”) is an independent agency at the state level and is in charge of regulating the sector of broadcasting and telecommunications. Regarding regulating the radio and TV stations, this means licensing of the stations, awarding the frequency resources, enacting and implementation of the rules relevant for this sector as well as monitoring the activities of the radio and TV stations in order to ensure observing all relevant regulations and conditions of these licences. It is important to emphasise that the Agency does not have adequate monitoring mechanisms able to cover broadcasting of these stations in B&H, because of insufficient financial assets. However, on this occasion the information collected by the Agency during the process of granting the long-term licences for broadcasting are submitted. Namely, within this process, all radio and TV stations in B&H were obliged to submit the records of their programmes which were thoroughly analysed by the Agency. It should be emphasised that the above information is from the period of 2001 when this process was being implemented noting that since that period the programme schemes of the stations have additionally improved in this segment.

From the above stated information from 2001 it has been found that:

- a great majority of the total number of radio and TV stations (about 95%) stated that they broadcast the programmes dedicated to refugee and displaced persons where also the minority groups are mentioned, mostly Roma population;
- 2 private radio stations in the region of Sarajevo stated that they broadcast a part of information programme in Turkish, Albanian, Roma and Hebrew languages;
- 1 radio station in the region of Kotor Varo { stated that it broadcast a programme for children in Roma language.

The Agency, also, following the regulations of the Framework Convention on protection of ethnic minorities, started the initiative to enable issuing of the licences for non-profit “community” radio stations, where the stress is put on the communities of ethnic minorities in B&H, as well as on the possibility to broadcast the programme in their languages. It should be stated that the Agency, so far, has received not even one request from any of the ethnic minorities. The Agency hopes that similar requests will be submitted to it in near future.

The Council of Ministers of BiH has information that a privately owned Banja Luka-based radio-station "Radio-Uno", since end 2003 has regular programme devoted to life and work of persons belonging to national minorities in Republika Srpska. Similarly, after visit to BiH of Monitoring Team of the Framework Convention for Protection of National Minorities with the Council of Europe, from February 2004 to date, there is a regular half-hour programme once a week dedicated to national minorities in RS, prepared in cooperation with associations of national minorities.

EDUCATION

5. The reply to this question, from the formal-legal aspect, should be - no there is not. However, certain authorisations in the field of education, as to the new Law on Council of Ministers of Bosnia and Herzegovina, are now assigned to the Ministry of Civil Affairs, and the issues of the

position and rights of the minorities have already been under the responsibility of the Ministry for Human Rights and Refugees of Bosnia and Herzegovina. The basic obligations in implementation of the “Action Plan on Educational Needs of Roma Population and Other Ethnic Minorities in Bosnia and Herzegovina” are under the responsibility of the entity ministers of education, and in the Federation of B&H, of Canton Ministries of Education and the institutions subordinated to them, Educational-Pedagogic Centres, bureaux for publishing the text-books and schools. Ministry for Human Rights and Refugees, in co-operation with the OSCE Mission in B&H, in a separate letter (signed also by Ambassador Mr Robert Beecroft, a head of the OSCE Mission in B&H and Mr Mirsad Kebo, Minister for Human Rights and Refugees of B&H) invited all responsible institutions to immediately take measures of implementation of the “Action Plan”. In this letter, Mr Beecroft and Mr. Kebo requested to realise the elements of this document in the next school year which starts in September 2004.

6. High Representative stipulated the deadline until 24.4.2004 by which the Laws on Elementary and Secondary Education in Cantons of the Federation of B&H, Republika Srpska and District of Brčko must be harmonised with the Framework Law on Elementary and Secondary Education in Bosnia and Herzegovina. District of Brčko completed this obligation by enacting the harmonised Law in December 2003. In several Cantons in the Federation of BiH Laws on Primary and Secondary Education have been adopted, which have been harmonised with the Framework Law on Primary and Secondary Education in BiH. Republika Srpska, at the session of the National Assembly held on 30 April 2004, adopted a new Law on Primary and Secondary Education, which has been harmonised with the Framework Law on Primary and Secondary Education in BiH, and harmonised with the Mission of OSCE in BiH.

7. Taking into account the provisions of the Constitution of the Federation of B&H (Chapter III - Division of Responsibilities between Federal and Canton Governments, Article 4, item b) the educational system in the Federation of B&H (education policy, including decisions concerning the regulation and provision of education) stipulates the independent responsible education authorities of the Cantons. In accordance with this, we cannot speak about three educational systems divided among “three ethnic groups” (Constitution of F B&H recognises three constituent peoples living in the territory of F B&H with equal rights and responsibilities and ethnic minorities exercising their rights in accordance with the Constitution) both, in the Federation of Bosnia and Herzegovina, and at the level of Bosnia and Herzegovina.

Harmonisation of the educational systems between Republika Srpska and Cantons of the Federation of Bosnia and Herzegovina, based on mutually agreed principles, has been stipulated by the Framework Law on Elementary and Secondary Education and Breeding in Bosnia and Herzegovina, which was enacted by the Parliament of Bosnia and Herzegovina in July 2003.

Some of the provisions of the Framework Law have been applied in Cantons since September 2003 provided that, after its harmonisation in Cantons it will be applicable in full starting from the next school year.

The first step in harmonisation of the educational systems at the level of Bosnia and Herzegovina, is making and introducing the new curriculum nucleus in all elementary and secondary schools of Republika Srpska and Cantons in the Federation of B&H. This curriculum nucleus enables that, in the territory of Bosnia and Herzegovina, the stipulated curriculum contents of all subjects making the integral part of the curriculum, are studied. This part of the curriculum is the one which is independently determined by each Canton and it makes the entire curriculum according to which the education in elementary and secondary schools is carried out.

Through their organised action, Pedagogic Centres have provided professional support in incorporating these contents into the existing curricula.

In the Federation there are still the schools in which the clear separation of Croatian and Bosniac pupils is done and this situation has not improved during the last six months, especially in the Canton 6 (Middle Bosnia Canton) and Canton 7 (Herzegovina-Neretva Canton). High Representative ordered the Canton Ministers of the Cantons 6 and 7 to resolve this situation as soon as possible and he, also, pronounced the monetary fine against the political party that delegated the responsible ministers (HDZ), but no change has been made.

8. According to the declaration and the Agreement on Education dated 10th May 2000 and the Plan of Implementation of the Interim Agreement dated 5th March 2003 signed by the ministers of the entities as well as by the Canton ministers of education, and the previous agreement that all the text-books in so called "National Group of Subject", before being officially published and printed should be submitted to the Ministry of the other entity for checking and revision. During 2003 the groups were formed in charge of each subject group (language, literature, history, geography, nature and society, religion) which thoroughly went through these books and removed all insulting and unacceptable contents from the books, manuals and other literature used in elementary and secondary schools in Bosnia and Herzegovina, and which may be insulting for the pupils irrespective of their religion or nationality.

We are convinced that the revised text-books have contributed the necessary tolerance, particularly among the school population in entire Bosnia and Herzegovina and they have reduced unnecessary tensions, and also contributed normalisation of the situation in schools as well as the process of reformation that has started in elementary and secondary schools.

HEALTH CARE AND SOCIAL WELFARE

9. Social welfare, as to the Law on Basics of Social Welfare, Protection of Civil Victims of the War and Protection of the Families with Children" (Official Gazette of Federation B&H NR 36/99) is the organised activity in the Federation directed towards ensuring the social security of its citizens and their families being in social need. According to the Article 50 of the mentioned Law, in performing their activities the social institutions may not put any restrictions regarding territorial, ethnic, religious, political or any other ground of the beneficiaries of these institutions (race, colour of the skin, sex, language, social origin etc.)

Therefore, all persons and families, meaning the Romas, too, if they are in social need and fulfil the conditions for exercising the right arising from the right to social welfare as defined by this Law, without any discrimination, are ensured to use the assets of social welfare and certain forms of health care as well as to satisfy their residential and other needs according to the Law.

The Law on Basics of Social Welfare, protection of the Civil Victims of the War and Protection of Families with Children, is formulated on the Constitutional principle, meaning that this Law prescribes the basic rights of social welfare, while the implementation of the stipulated rights are under the responsibility of cantons and municipalities, with the possibility of expanding the rights according to the financial capacity of the Cantons.

The Law on Public Revenue in the Federation of Bosnia and Herzegovina (Official Gazette of F B&H NR 26/96 and 32/98) defines distribution of public revenue between the Federation and cantons. A considerable portion of the revenue is put at the disposal of cantons. Cantons, with

their regulations, ensure the kind and the amount of revenue which they give to municipalities and these funds are used to finance social welfare so that the funds for this purpose are very small and social support is not at the satisfactory level. The fact is that the financial possibilities of the cantons are very bad, and neither do they have a legal mechanism to ensure the support for the categories in need.

Observing the system of health insurance, The Council of Ministers is of the opinion that the example of Tuzla Canton (whose report has been obtained) can help to analyse the situation in the Federation of B&H. Health insurance, as the part of social insurance of the citizens, makes the unique system within which the citizens, by investing the money, and on the principles of solidarity, always at the level of the Canton, ensure exercising of the rights to health care and other forms of insurance in the manner as stipulated by the Law on Social Insurance, other laws and regulations enacted on the basis of this Law (Article 1 of the Law on Health Insurance “Official Gazette of F B&H” NR 30/97 and 7/02).

Compulsory health insurance is implemented by the Canton Administrations as the legal bodies for the territory of each canton in the Federation of Bosnia and Herzegovina. Health Insurance Administration of Tuzla Canton in Tuzla (Hereinafter the “Administration”) is organised in organisational units - subsidiaries in 13 municipalities of Tuzla Canton: Main Office of the Administration is in the seat of the Canton. The Main Office determines the manner of implementation of compulsory health insurance and this is carried out by the subsidiaries.

The rights arising from health insurance are exercised by the citizens of the Federation as to the place of residence. In order to provide that all the persons having the right to health insurance according to the Law on Health Insurance, indeed realise this right it is necessary:

- that they are registered for insurance at the Administration of Health Insurance being in charge as to the place of residence (stated on the prescribed form sheet of application and signed by the authorised applicant according to the Instructions);
- that, according to the Instructions, they have been given a document - health identity card and that it is certified by the Administration on regular basis each month;
- that they regularly pay the contribution for compulsory health insurance according to the laws and the Decision on the amounts and rates, method of calculation and payments of contributions for compulsory health insurance in the territory of Tuzla Canton.

When these three conditions are fulfilled, the insured person may exercise the rights arising from the health insurance and health care and the expenses are borne by the Administration for Health Insurance of Tuzla Canton, only within the scope and in the manner and according to the procedure as stipulated by the law, by-laws and regulations of the Administration.

Article 13 of the Law prescribes the rights arising from compulsory health insurance being insured, and they are as follows:

1. To the Insured persons:
 - a) health care
 - b) salary payment
 - c) travelling costs
2. To the members of the family of the Insured person:
 - a) health care
 - b) travelling costs referring to using health care services.

Article 32 of the Law stipulates which rights arising from health care are insured and paid from the funds of compulsory health insurance. Health care ensured by the Law comprises the following:

- emergency medical aid
- contagious diseases treatment
- treatment of acute, chronic diseases in cases and conditions jeopardising the life
- health care of children until the age of 15
- health care of regular pupils and students
- discovering and treatment of endemic nephropathy
- treatment of malignant diseases and insulin-dependent diabetes
- health care in pregnancy and maternity period
- health care of mental patients who, because of the nature of the disease, may jeopardise their own life and the life of other persons or may damage the property
- health care of the persons diseased from progressive neuro-muscular diseases, paraplegia, quadri-plegia, cerebral paralysis and multiplex sclerosis
- compulsory immunisation against contagious diseases of children
- treatment of injuries at work and professional diseases
- health care of citizens of over 65 years of age provided that the income scale per the member of the family does not exceed the average salary in the territory of the Federation, as recorded in the previous month
- treatment of drug addiction
- blood bank collecting service

The Parliament of the Federation of Bosnia and Herzegovina (hereinafter referred to as the “Parliament”), upon the proposal of the Government of the Federation, determines the “package of health rights” for each year.

Besides the rights arising from the Article 32 of the Law, the insured persons have the right, according to the determined medical indications, to use the orthopaedic and other aids, dental-prosthetic care and dental-prosthetic aids as well as the right to use the medicaments whose sale has been approved by the Minister of Health and are enlisted in the list of medicaments prescribed to the insured persons as the ones whose expenses are borne by the Canton Insurance Administration.

The scope of the rights from the Article 32 (medicaments and orthopaedic and other aids) is stipulated by the Canton regulations.

The insured persons exercise the rights of health care at the health institutions with which the Administration has concluded the Contracts on providing of services according to the levels of health care.

Health care in emergency cases are exercised by the insured persons in the nearest health institution.

Within the Federation, and in order to realise the rights of the insured persons in the territory of other cantons, the Administrations have signed a separate Agreement on Realisation of the Rights Arising from the Compulsory Health Insurance.

The insured persons from the territory of other cantons exercise health care according to the provisions of the mentioned Agreement, and they are as follows:

- a) at the time of temporary stay during the annual vacation or a business trip - only in emergency cases
- b) during schooling - health care of primary level
- c) stationary health care (hospital) on the basis of the approval of the Health Insurance Administration which they belong to.

Pursuant to the provisions of this Agreement, health care is realised according to the valid legal acts and by-laws being applied in the territory of the Canton in which a person exercises the right to health care, except for the medicaments and orthopaedic aids.

Separate by-laws of the Assembly of Tuzla Canton, stipulates the obligation of the insured person to directly participate in the costs of health care, and this Act, a Decision on Direct Participation of Insured Persons in Costs of Health Care in the territory of Tuzla Canton, is applied to all persons who realise their health care in health institutions in the territory of the Canton, irrespective of whether they are the insured persons of this Administration or other Administrations in the territory of the Federation.

For the first time in Bosnia and Herzegovina, in Tuzla Canton there has been introduced the annual premium of insurance and all insured persons who pay the insurance premium are exempted from direct participation in costs of health care. Insurance premium was introduced in 2003. In 2004 the insurance premium was paid by more than 90% of the insured persons. In this way, the insured persons have provided themselves with full health care, i.e. they pay the participation only in exceptional cases stipulated by the Decision.

The subject Agreement is being applied in the Federation.

At the same time, the Agreement on Treatment of Insured Persons outside the entities and District of Brcko is being applied, and it stipulates, in almost identical manner, the right to health care of the insured persons during temporary stay in the territory of Republika Srpska and District of Brcko.

Health Insurance Administration of Tuzla Canton provides all the insured persons recorded for compulsory health insurance and for whom the contributions are regularly paid, with equal conditions for exercising the rights guaranteed by the law on compulsory health insurance.

The applicants i.e. the payers of the contributions, pursuant to Article 86 of the Law on Health Insurance (Official Gazette of F B&H, NR 30/97 and 7/02) are:

1. Companies, other legal and physical entities doing productive and non-productive activities - for the employees and the insured persons equalised to them, for the persons elected and appointed to positions in civil service administration or judicial authorities and administration in the Federation, canton or municipality, for the persons performing the work on the basis of a contract according to the regulations on employment relations, for the persons sent to schooling, professional training, post-graduate or doctoral studies or practical work, for the persons on professional positions in religious and other registered associations, for volunteers, for additional contribution for using health care services abroad;

2. Administration for Pension and Disability Insurance - for beneficiaries of pensions and other rights arising from pension and disability insurance;
 3. Labour Exchange Administration - for persons temporarily unemployed and registered at this administration;
 4. Social Welfare Administration - for persons receiving permanent financial support and for persons accommodated in the social welfare institutions;
 5. Companies and other legal entities i.e. investment holders within which the works are performed - for persons engaged in public and other works;
 6. Persons employed abroad - for the members of their families whose place of residence is in the territory of the Canton, if they are not insured on some other basis;
 7. Responsible body of administration in the Federation, i.e. Canton - for the members of Federal Army, Federal Ministry of Interior and Canton police;
 8. Responsible body of administration - for pupils and students not insured on some other basis, as well as for the pupils and students performing practical work related to education;
 9. Responsible body of Canton administration, i.e. Municipality - for persons in social need not insured on some other basis and for the persons from the Article 19, paragraphs 15 and 16, and the Article 24, paragraphs 1,2 and 3 of this Law;
 10. For foreign citizens and persons without citizenship attending schooling or professional training - paid by the grantor of scholarship if by the Contract on scholarship it has not been stipulated that they bear their own contributions;
 11. Insured person - farmer being the head of the agricultural estate is the payer of the contributions for himself and the members of his family;
 12. Copyright agencies, associations of citizens, other professional associations and sports unions, i.e. organisers of sports and other public events - for the pupils participating in the events i.e. for the members of their associations performing professional or other activities, i.e. through whom the income is earned, as well as for the top sportsmen ranked as such by the Olympic Committee or the association of sportsmen at the level of the Federation.
- It is obvious that there are not legal possibilities that any of the citizens exercises the rights arising from compulsory health insurance under any other conditions except under those stipulated by the Law.

HEALTH CARE OF ROMA POPULATION

Health care of Roma population is insufficient and not satisfactory mostly because of some specific particularities typical for this population.

There are many problems when introducing the citizens of Roma population into the system of health care, because of the following reasons:

Majority of Roma population have not the status of the insuree or the insured person which is the reason for which the conditions are not fulfilled, according to the valid laws on health care, to cover the costs of performed medical services (newly born children are not registered, the adults do not have valid personal documentation, refugees do not register themselves, unemployed do not apply to Labour Exchange Administration, they mostly work “on the black labour market”, the persons in social need are not recorded etc.) More than 60% of Roma population in Tuzla Canton are children and youngsters up to 25 years of age. There is 30% of women in reproductive age (15-55) and a number of them who need health care for pregnancy and delivery belongs to a group between 15-25 years of age. A number of deliveries takes place at home without professional aid or medical service which takes its risk. Very often there is no registration of infants so that is the reason for poor inclusion of children in prevention

programmes performed in the territory of Tuzla Canton, especially regarding inclusion of children into immunisation against contagious diseases. The problem of pathology of adults is non-timely diagnosis and inadequate control of chronic non-contagious diseases which causes bad living quality and the complications are more frequent. Discovery of malignant diseases in late stage disables adequate treatment and the prognosis is always uncertain for the patient, and the costs of medical services increase. Due to bad hygienic and epidemiological situation which is contributed by extremely bad conditions of residence, nutrition, water supply, disposal of wastes, keeping personal and collective hygiene, poor inclusion of children in immunisation, the conditions are created for occurrence and spreading of contagious diseases. Worsened material situation contributes all this.

In order to alleviate the problem of health care of Roma population not being included into the system of compulsory health insurance, Ministry of Health organised examinations of Roma population aimed to improve their health condition.

Public Medical Institution "Health centre" in Tuzla carried out organised health examinations in 2001 and 2002.

"Health Centre" in Tuzla formed medical teams that on 13.07.2001 carried out examinations in the Outpatient Department in Kiseljak.

Medical teams examined over 410 patients of different age, and there were over 90 children, 30 gynaecological patients, an oculist examined 21 patients, a psychiatrist - 28, a specialist for internal diseases examined 30 patients and the others were the patients who addressed to general practitioners. 30 diabetics were subjected to blood tests that day, and the patients with heart diseases were subjected to EKG (30 patients).

The most frequent diseases of the examined patients were found with adults: high blood pressure, diabetes, bronchitis, urinary infections, intestines parasites and ischialgia. Pre-school children most often suffered from diarrhoea, bronchitis and a number of children had intestines parasites. All the patients that came to the examination that day were examined by medical doctors and specialists in certain medical branches and were given necessary medicaments.

Public Health Institution "Health Centre" in Tuzla again organised the examinations at the Outpatient Department in Kiseljak in November 2002.

After the examinations the assumption was confirmed that Roma families have a great number of children because that day, a specialist for paediatrics examined and gave therapy to 150 children. 38 women came to gynaecologist. An ophthalmologist examined 34 patients. Specialist for emergency medical cases examined 35 patients. ORL specialists had 47 patients, and the general practitioner examined 54 patients. The most frequent diseases with children were: bronchitis, inflammation of sinuous, anaemia, conditions followed by high temperatures, diarrhoea, malnutrition and parasites. The adults came for high blood pressure, increase of blood glyucose concentration, bronchitis, rheumatic diseases, bad sight and sinuous inflammation, sore throat, balance loss, while the gynaecological diseases were found in women.

During 2003 we often mediated in resolving the individual cases where providing of health care for this population was needed and a good co-operation with many Associations of citizens of Roma population was achieved.

In practice, it happens that the uninsured persons, among whom are also the Romas, are continually receiving lower level of health services especially at the primary level in the following segments:

- Emergency medical aid for all citizens
- Treatment of tuberculosis and supervision of contacts
- Examination of children before vaccination as well as vaccination according to the valid Programme of Compulsory Vaccination

- Preventive activities against epidemics in Roma settlements carried out by responsible Hygienic Services according to their schedule and in emergency situations as well as in other areas.

The problem of health care of uninsured persons is particularly expressed at higher levels where the medical services, in dependence of the degree of emergency, are always provided for the citizens but the costs of the performed services are always calculated and charged to the citizens.

In regard to the issue of exercising the rights of Roma population for health care the Ministry of Health finds it difficult and therefore proposes as follows:

- To carry out education of adults in Roma communities about:
 - the need to register their members and obtaining the necessary documents which would make exercising of certain rights easier;
 - necessity to include into the system of compulsory health insurance
 - including the children into elementary education, immunisation etc.

- To carry out the programme activity of determining the indices of health and social-economic status with a special attention to female population and population of children being especially endangered.

Ministry of Health of Tuzla Canton is not able to resolve this problem on its own but it is willing to participate in finding the way and possibility of financing health care for the members of Roma population not being registered for health insurance.

As these are the rights of minorities, this right should be stipulated for all members of minorities in the same manner without questioning equality of all other citizens in Bosnia and Herzegovina.

RETURN OF REFUGEES AND DISPLACED PERSONS

10. As to the Report of the Commission for Return, Development and Integration of the Municipality Zvornik, the status in the process of return of Roma population to their previous place of residence is as follows:

- Local Community "Centar" - of 21 families none has returned yet;
- Local Community "Kozluk" - of 15 families, 10 families whose houses are mostly reconstructed have returned
- Local Community "Sko-i}" - Roma families have returned their property into their ownership but they have rented it on the basis of Rent Contracts with other persons.

In Municipality of Zvornik there are not difficulties for Roma parents to obtain the birth certificate for their children.

In the local administration of the Municipality of Zvornik no person belonging to minority ethnic groups is employed as the public servant.

11. In regard to education of ethnic minorities, Ministry of Education and Science of the Federation of Bosnia and Herzegovina has earmarked special funds to support education of ethnic minorities, especially Romas (supply of text-books and the like).

Romas in Sarajevo are gathered in one school where they have additional lessons in Roma language and they also have their own elementary reading book. Romas in Jajce have received funds to procure text-books. Romas of school age in the region of Biha} are mostly included into compulsory education etc.

In Tuzla Canton as well as in the entire territory of Bosnia and Herzegovina there is no discrimination of ethnic minorities. Last year, in Tuzla, the summer school for Romas was organised and it was attended by about 100 Romas of different age (even the adults) and they finished some of the grades of compulsory education, all this in order to enable them to continue their regular education. Presently, there is the ongoing activity by which the efforts are made to register all the Romas mature for regular schooling in Tuzla Canton in order to help them in their inclusion into the system of regular schooling.

The Law Draft on Elementary and Secondary Education in Republika Srpska stipulates that, wherever there are personnel possibilities, the additional lessons in the language of minority ethnic group should be organised. Presently, in the village Li{nje near Prnjavor, the lessons in Ukraine language are organised at the elementary school.

PARTICIPATION

12. Election Commission of Bosnia and Herzegovina has proposed and the Parliamentary Assembly of B&H has adopted the amendments to the Law on Elections in Bosnia and Herzegovina, at the session held in April 2004. These amendments refer to the following:

- The members of all ethnic minorities in Bosnia and Herzegovina have the right to elect their representatives into municipal councils/municipal assemblies;
- The members of all ethnic minorities that participate with 3% or less in the overall number of inhabitants of the municipality are guaranteed at least one mandate in the municipal council/municipal assembly.
- The members of all ethnic minorities that participate in the overall number of inhabitants of the municipality with over 3% are guaranteed at least two (2) mandates in the municipal council/municipal assembly.
- The number of members of ethnic minorities being elected into municipal council/municipal assembly is stipulated by the Statute of the Municipality on the basis of the latest census made by the state of Bosnia and Herzegovina.

- The right to propose the candidates of ethnic minorities for municipal council/municipal assembly belongs to political parties, coalitions, lists of independent candidates and an independent candidate as well as associations of ethnic minorities and a group of at least forty (40) citizens having general election right.
- Only the candidate whose name is on a separate list of candidates of ethnic minorities proposed pursuant to the paragraph 5 of this Article may be elected as a representative of the ethnic minority.
- The candidate that achieves the greatest number of votes from the list of candidates of ethnic minorities shall be elected as the representative of ethnic minority.
- In distribution of mandates, first, the guaranteed mandates are distributed to the members of ethnic minorities and only then the regular mandates are distributed pursuant to the paragraphs 2,3,4 and 7 of this Article.
- If the mandate is not assigned to the member of ethnic minority, it remains vacant.

It is expected that in at least two municipalities in B&H the representatives of ethnic minorities shall have their representatives - deputies.

13. According to the Law on Elections, the candidate in the elections is not obliged to declare himself ethnically. However, this obligation exists in relation to houses in which the ethnic presence of constituent peoples (Bosniacs, Croats and Serbs) is prescribed as well as from the Others, i.e. those that do not belong to constituent peoples.

14. The Law on Elections of Bosnia and Herzegovina stipulates the manner of election of the delegates from the group of Others. Additional amendments of the Law on Elections the conditions of election of the representatives of minorities in municipal councils is precisely stipulated. These additional amendments should reflect on presence of minority representatives in the elections planned for October 2004.

15. The negotiations on amendments of the Constitution of Bosnia and Herzegovina have not been opened as regards to the issues of the manner of election of the members of Presidency of B&H and the delegates in the House of Peoples of the Parliament of Bosnia and Herzegovina.

16. Considering the complex structure of administration in Bosnia and Herzegovina as well as the difficulties in implementation of the entire Dayton Peace Accords, the issue of amendments in the Constitution of Bosnia and Herzegovina has not been opened yet. In implementation of the Framework Convention on protection of Ethnic Minorities there are the ideas that, after establishing the Council of Ethnic Minorities at the Parliamentary Assembly of Bosnia and Herzegovina, the constitutional and law regulations should be analysed, and if there are any discriminatory regulations, they should be eliminated from the legal system.

17. The Council of Ministers of B&H is not in a possession of statistics about the presence of ethnic minorities, i.e. employed persons in the state or entity administrations. By forming the Agency for Civil Service at the level of the state and entities these data will be collected. The estimation is (on the basis of a few samples) that the members of ethnic minorities, except Romas, are adequately represented as the employees at the state and other levels of administration. It can be seen that the number of members of minorities in the administration, if

we exclude the Romas, shows much higher percentage than it is their participation in the number of citizens.

JUDICIAL AND NON-JUDICIAL PRACTICE

18. and 19. In preparation of the reply to this question the Council of Ministers submitted a separate letter to the Ombudsmen for Human Rights in B&H and entities. In their reply the ombudsmen emphasised that, unfortunately, this problem is not monitored statistically on the basis of belonging to minorities or ethnic groups of those who address to that institution, or on the basis of observing the violation of human rights. The same situation is in the judicial authorities and administration authorities. For the needs of monitoring the application of the Framework Convention and local laws on protection of minority rights, the appropriate procedure of monitoring these things will be proposed.