



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

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COMMITTEE ON THE PROTECTION OF THE  
RIGHTS OF ALL MIGRANT WORKERS AND  
MEMBERS OF THEIR FAMILIES  
Tenth session, 20 April-1 May 2009

**WRITTEN REPLIES BY THE GOVERNMENT OF BOSNIA AND HERZEGOVINA  
CONCERNING THE LIST OF ISSUES (CMW/C/BIH/Q/1) RECEIVED BY THE  
COMMITTEE ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT  
WORKERS AND MEMBERS OF THEIR FAMILIES RELATING TO THE  
CONSIDERATION OF THE INITIAL REPORT OF BOSNIA AND HERZEGOVINA  
(CMW/C/BIH/1)\***

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## **Introduction**

1. According to the article 73 of the International convention on the protection of the rights of all migrant workers and members of their families, which obligate the states members to inform the supervising UN Committee in a year about legislative, judicial, administrative and other measures applied for the implementation of the terms of the Convention. Bosnia and Herzegovina is one of the few European countries that ratified this important, international document, and also one of the few countries that, in the agreement period, prepared and submitted to the supervising UN Committee the Initial report on implementation of the terms of the International Convention on the protection of the rights of all migrant workers and members of their families for the period between 2003-2006.
2. At the same way, Bosnia and Herzegovina, according to the notice given by the Office of the United Nations High Commissioner for Human Rights (OHCHR) that the Committee on the rights of the migrant workers would consider on the 23<sup>rd</sup> and 24<sup>th</sup> April 2009 on its tenth session the Initial report on implementation of the terms of the International Convention on the protection of the rights of all migrant workers and members of their families for the period between 2003-2006, started with the preparations of the presentation of the mentioned document.
3. The UN Secretariat (OHCHR) delivered Bosnia and Herzegovina the 30 questions list dealing with the analyzing of the Bosnia and Herzegovina Initial report, made by the Committee for the protection of the rights of all migrant workers and members of their families on its 9<sup>th</sup> session, that took place between the 24<sup>th</sup>-28<sup>th</sup> November 2008.
4. Understanding the seriousness of the topic, Bosnia and Herzegovina prepared answers to the questions of the Committee for the protection of the rights of all migrant workers and members of their families. The team of experts was formed, consisting of the authorities familiar with the matter. After that, according to the received guideline and common practice, Bosnia and Herzegovina delegation was formed of the competent authorities familiar with the matter which would be at the position to present the Initial report and relevant and appropriate answers to the UN Committee.

## **I. GENERAL INFORMATION**

### **Answer to Question 1**

5. By the insight in the data base of the aliens with the approved stay for the purpose of work, it is affirmed that for the previous, 2008 year, 1779 stays were approved on the basis of the issued work permit. Also, 874 requests for the purpose of the family reunifications were approved, where in the most cases we deal with the reunification of the family with the aliens who live in Bosnia and Herzegovina on the basis of the issued work permit.
6. In order to establish the unique system of the data collecting because of estimating, analyses and examinations of the nature of the migrations to/throughout Bosnia and Herzegovina, Ministry of Security of Bosnia and Herzegovina in cooperation with the Ministry of the Foreign Affairs Of Bosnia and Herzegovina, the Aliens Affairs Service, Border Police of Bosnia and Herzegovina, with the financial support of the European Commission EU, the unique electronic base on aliens. In the first phase, the project named "Informatics of the affairs with

aliens” was done, which enabled electronic insight in the affairs related to aliens. The project includes establishing of the electronic network for exchange and forming of the data base where all the data from the moment of the visa applying in some DCR, to the entry, resident application and leaving the country would be registered. The users of the data base named Informational System of Migrations (ISM) are all state and entities authorities dealing by any aspect with the question of aliens.

7. The data about the number of the alien workers migrants (aliens with approved sojourn on the basis of work) on the Bosnia and Herzegovina territory, are mainly managed and updated by the Aliens Affairs Service, according to the Law on Movement and Stay of Aliens and Asylum, and the same approve aliens’ stay in BiH. The system of data collecting, as said above, is managed in the electronic data base - “The base of the issued stickers of the aliens stay”, which would be soon incorporated in the ISM system (new system for data store on aliens - Informational System of Migrations).

8. Concerning the fact that in BiH since 1991 till today the census has not been done, one of the most sensitive aspects in every working sector is the establishing of the unique data collecting system, related to the estimation of the dimension and nature of the migration movements. At the moment BiH is in the phase of preparation of the census, which would offer the official estimations on the number BiH migrant workers and their families abroad including those without regulated status and valid documentation.

9. However, regarding aliens, besides the difficulties, we managed to collect and ensure relevant data, from government sector institutions and non-government, foreign and domestic, organisations, and from certain competent institutions involved, apart from other, in migration. The new ISM system in the following period will ease estimation, prognoses and analyses of the situation/status, as well as movement and stay of the aliens in/throughout BiH.

10. According to the data of the Federal Bureau of Labour in the period from the 1<sup>st</sup> of January to the 31<sup>st</sup> of December 2008 in Federation of BiH were issued 1.650 approvals for work permits to the aliens. Out of this number, most work permits were issued to the aliens from Serbia (410) and Republic Croatia (257). Most of the permits were issued to the aliens with secondary school education (615) and high/university education (599).

## **Answer to Question 2**

11. In the initial report on implementation of the terms of the International Convention on the protection of the rights of all migrant workers and members of their families for the period from 2003 to 2006, we informed you generally about legislative, judicial and administrative measures applied in BiH. To tell the truth, in the time after writing and delivering of this document to the UN Committee in order to apply in the best possible way the terms of the UN Convention on the protection of the rights of all migrant workers and members of their families, we do everything on improvement and upgrading existing documents and making new ones in order to implement the terms of the convention in optimal manner. In the period after the submitting of the Initial report, BiH made numerous new laws and sublaw acts in the area treated by the International Convention, as it can be seen in the following.

12. The New **Law on Movement and Stay of Aliens and Asylum** (“**Official Gazette of BiH, No. 36/08**”) was adopted in April 2008 and in May 2008 it came into effect. The mentioned law regulates: conditions and procedures of the aliens entry in Bosnia and Herzegovina, including the visa and non-visa regime, travel documents for aliens, stay of aliens in BiH, removal of aliens from the country, admission and placement of aliens under supervision, international and temporary protection in case of mass influx of aliens, as well as competency of authorities relevant for the implementation of this law, and other issues related to the stay of aliens in BiH.

13. With the new Law on Movement and Stay of Aliens and Asylum and with its sub-law acts where we point out the **By-law on Entry and Stay of Aliens** (“**Official Gazette of BiH, No. 81/08**”) comparing to the previous Law on Movement and Stay of Aliens and Asylum and to the UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families itself, we elaborated more efficiently the procedures of realisation of the right to stay for the purpose of work, and we defined the categories of aliens which do not have to obtain work permit for BiH. We, also, entered the annual quota for extension of the issued work permits, as well as the annual quota for the new ones, and we defined the cases when work permits can be issued without being registered by quota counting. We emphasize the fact that by the new law resolutions problems related to the family reunification of the BiH aliens and migrant workers families have been solved better.

14. On the proposition of the Ministry of Civil Affairs of BiH, the Council of Ministers in November 2008 made **Resolution on annual quota of aliens work permits in BiH for 2009** (“**Official Gazette of BiH, No. 2/09**”). Making of this resolution is based on implementation of the terms of the International Convention on the protection of the rights of all migrant workers and members of their families.

15. By this resolution we have insight into the total annual quota of the extension and new recruitment work permits for aliens in BiH which is 2580 work permits, 1140 in Federation BiH, 800 in Republic of Srpska, and 640 in Brčko District BiH. The annual quota for extension of the already issued work permits is 1745, 850 in Federation BiH, 400 in Republic of Srpska, 495 in Brčko District BiH.

16. The annual quota for new recruitment work permits in BiH is 835 work permits, as shown below in the table:

Activity	Bosnia and Herzegovina	Federation of Bosnia and Herzegovina	Republic of Srpska	Brčko District BiH
Construction and Building Industry	120	25	60	35
Manufacturing and Processing Industry	85	50	12	23
Health Care and Social Work	90	15	60	15
Culture and Education	247	15	220	12
Informatics	36	10	20	6
Agriculture, Hunting, Forestry	8	-	8	-
Trade	50	50	-	-
Traffic and Communication	20	20	-	-
Financial Intermediation	5	5	-	-
Craftsmanship, services and other activities	174	100	20	54
Total	835	290	400	145

17. Concerning the annual quotas of work permits for seasonal jobs in 2009, having in mind situation on the labour market, it is said that there is no need for making annual quota of seasonal jobs.

18. The competent authority for issuance of work permits to aliens submits once in three months the data of issued work permits to the Labour and Employment Agency of Bosnia and Herzegovina in order to compare it to the Review of the needs for employment of aliens according to the activities and vocation, which is the part of this Resolution. On the basis of collected data on number of extended and issued work permits to aliens in Bosnia and Herzegovina, Labour and Employment Agency submits the report to the Ministry of Civil Affairs of BiH once a month.

19. Apart from the annual quota of work permits for the employment of aliens in Bosnia and Herzegovina defined by this Resolution, work permits can be issued even in the cases regulated by the article 79 of the Law on Movement and Stay of Aliens and Asylum.

20. **The By-law on Long-Term Stay Visa Issuance (Visa D) and procedure for issuance of such visas (“Official Gazette of BiH, No. 104/08)**, regulates situations in which long-term visa can be issued (Visa D) and actions of the Ministry of Foreign Affairs in BiH when issuing such visas. The rights of the underage persons and other persons who are not capable for work are particularly determined in the process of the issuance of the mentioned visas. Visa D enables an alien to enter and stay in BiH for a period of 180 days during a year, commencing with the first day of entry and it is issued for single or multiple entries.

21. Exceptionally, Visa D can be issued for a period longer than 1 (one) year if that is in the interest of BiH, and it should be decided by the Ministry of Foreign Affairs of BiH, after it gets the consent of the Service. The deadline for completing Visa D procedure cannot be longer than 30 days. The time for the request supplement is not included in the mentioned period. Against the resolution on Visa D request appeal is not allowed. Visa D is entered in the passport as a sticker, and it is verified by the signature of the competent authority and by small, round seal of the authority which issues visa. The visa sticker is entered on the first empty page of the passport provided for visa, where a watermark or some other mark must not be present so the machine readable sticker zone should be turned towards the outer edge of the passport.

22. The data collection on requests for visa issuance is registered in the information system - Central data base on aliens, in the way defined by the article 145 of the Law and by other provisions which determine the field of central registers and data exchange. In Diplomatic Consular Representations there is a special data register on issued and cancelled visas.

23. The making of by-law on issuance of visas A, B, and C is in procedure.

24. **The By-law on Standard Functions and Other Questions Relevant for the Work of the Immigration Centres (“Official Gazette of BiH, No. 105/08)** defines the way of managing, financial conditions and standards of functioning of the Immigration Centre, especially the procedure of acceptance, accommodation, stay and movements of aliens in the Centre, who are under supervision, including sanitary and hygienic condition, food, medical help, maintaining work and order discipline, as well as other questions relevant for the Centre’s activities.

25. The Centre is a specialized institution of the Ministry of Security constituent with the Aliens Affairs Service, for acceptance and accommodation of aliens who are decided to be under supervision according to the Law on Movement and Stay of Aliens and Asylum. To the aliens the centre ensures safe and humane accommodation on the following categories: men, women, underage persons and families. The costs of acceptance and accommodation by beneficiaries of the Centre are being refunded according to the provisions of the Law. The Centre beneficiary has right to have legal assistance, as soon as possible, by engaging an attorney on his own cost and to have one free phone call to the Diplomatic Consular Representation of the Country or to the attorney or other organization according to the Law, and to have one private phone call. If the Centre beneficiary does not have financial funds to engage the attorney, the Service will provide free legal assistance, as soon as possible. In the Centre can be accepted and accommodated only persons for whom the competent authority made decision on sending an alien under supervision that is on prolonging the supervision according to the Law.

26. If it is concluded that during acceptance a person is hurt or if he immediately needs medical help, before the acceptance in the Centre, he is insured by an adequate medical treatment in the medical care institution outside the Centre.

27. In the Centre, the competent person is informing the beneficiaries on the rights and obligations related to the stay in the Centre. The Service will make an information sheet which will be available to every beneficiary of the Centre.

28. There is a registry book of the Centre beneficiaries with the alphabetical register for every year. During the stay in the Centre, the beneficiary has right to have medical help. They have right to have visits, to correspond, to do the phone calls with the family, communication with the attorney, receiving money and packages via post or visit. The Centre beneficiary can be visited by religious representatives for satisfying his religious and spiritual needs and his religious ritual (prayer) can be done in the room.

29. **The By-law on Protection of Aliens Victims of Trafficking in Human Beings (“Official Gazette of BiH, No. 90/08)** regulates rules and standards of their treatment as well as of other issues concerning the admission of victims of trafficking of human beings, their rehabilitation and return. The protection of privacy and identity of the victims of trafficking of human beings, protection of the victims of trafficking of human beings, prohibition of discrimination, realizing of the right to temporary residence on humanitarian grounds within the period of six months are regulated too. The special attention and treatment is paid to the protection of children. This by-law is synchronized with the Convention on Transnational Crime and with the two following Protocols on smuggling and trafficking of human beings (Palermo Protocol).

30. **Decision on Visas (“Official Gazette of BiH, No. 100/08)** regulates the exceptions from obligation of getting visas, it also defines visa regime and determinates whose citizens can enter Bosnia and Herzegovina using a document which is not passport.

31. **The By-law on Central Registers of Aliens (“Official Gazette of BiH”, Nos. 61/07 and 45/08)** defines official registers of aliens, purpose and authority over actions, subject and provisions of data processing, use and procedure of use, data protection, saving data periods, and procedures of data deleting.



32. The purpose of this by-law is to elaborate provisions for records processing, use and access to registers in the Central Data Base on Aliens, concerning the resolutions of the Law on Movement and Stay of Aliens and Asylum, Law on the Central Registers and Data Exchange, the Law on the Protection of Personal Data, the Law on the Protection of Secret Data and Convention on Protection of Persons and Additional Protocol regarding the automatic personal data processing related to the competent authorities and data transfer across the border.
33. In order to register and supervise the stay and movement of aliens and persons who requested or being granted the asylum in BiH, Ministry of Security of BiH establishes central database on aliens.
34. The new by-law which is in accordance to the provisions of the new Law on Movement and Stay of Aliens and Asylum is in the procedure of making. This obligation is under the competence of the Ministry of Security. The decision on the minimum amount of funds for sustenance is also in the procedure of making.
35. The Ministry for Human Rights and Refugees of BiH, in cooperation with the Ministry of Civil Affairs of BiH and with the Ministry of Security of BiH made the **By-law on Acquiring the Right to Work of Persons with the Approved International Protection in BiH** (“**Official Gazette of BiH**”, No. 83/08). This sub-law act determines the way of the Law on Movement and Stay of Aliens and Asylum, competent authorities, basic principles and special conditions regarding the insurance of the right to work to the persons who are approved the international protection in BiH. More detailed answer is given in the answer No. 5.
36. **The Law on Unique Master Citizen Number** (“**Official Gazette of BiH**”, No. 32/01) determines definition, assigning, recording saving and using of the unique master citizen number of the BiH citizens and aliens in BiH. To each citizen of BiH and to alien in BiH a unique master citizen number is assigned according to this law.
37. The aliens are persons who do not have BiH citizenship, but fulfil the conditions defined by the article 30 of this Law. In the Section VII, article 30 it is determined that the unique master citizen number is assigned to the aliens who, in accordance with the decision of the competent authority for regulating the status of an alien, he/she possesses: approved permanent stay in BiH; approved refugee status in BiH according to the Law on Immigration and Asylum in BiH and approved status of a person without citizenship in BiH.
38. A Unique Master Citizen Number is assigned to the children whose both parents are aliens and belong to the one of the categories mentioned in the act 1 and 2 of the previous paragraph, if the children were born in BiH. A child born in BiH and who belong to the category of the act 3 of the previous paragraph, the unique master citizen number is assigned on the basis of his BiH citizenship. Unique master citizen number for aliens is determined by the Ministry of the Civil Affairs of BiH.
39. **The By-law on the Way of Determining of the Unique Master Citizen Number for Aliens** (“**Official Gazette of BiH**”, Nos. 32/02, and 2/09), regulates the way of determining of the unique master citizen number for aliens and the way of registering of the unique master citizen numbers assigned to the aliens.

40. According to article 55, paragraph 2 of the mentioned Law, the Ministry of Civil Affairs of BiH made **By-law on Amendments of the By-law on the Way of Determining the Unique Master Citizen Number for Aliens** (“Official Gazette of BiH”, No. 2/09). The by-law was made in order to be synchronized with the new Law on Movement and Stay of Aliens and Asylum.

41. **The By-law on Supervision and Removal of Aliens from BiH** (“Official Gazette of BiH”, No. 81/08): on the proposition of the Aliens Affairs Service, the Ministry of Security in BiH made this by-law. This by-law is more detailed regulated the way, procedure and action of the voluntary return of alien from BiH, placing alien under supervision during the removal procedure, forced removal of alien from BiH, competency of the authorities for supervision and removal of alien from the country and other questions related to the aliens removal from BiH.

42. **By-law on Amendments of the By-law on Issuance of Diplomatic Passports and Visas** **law on Issuance of Diplomatic Passports and Visas** (“Official Gazette of BiH”, No. 90/08), made by the Ministry of Foreign Affairs of BiH: Amendments and addendums of the By-law are based on the Law on travel documents of BiH and By-law on Issuance of Diplomatic Passports and Visas “Official Gazette of BiH”, Nos. 10/02, 1/03, 37/04 and 22/05). In the By-law the article 18 of the page A which was the part of the by-law was amended because it mentions persons who are approved the right to obtain the diplomatic passport.

43. On the proposition of the Ministry of Security of BiH, at the 74<sup>th</sup> conference of the Council of Ministers of BiH, that took place on the 5<sup>th</sup> of February 2009, was made the **By-law on Obligations of Carriers and Tour Operators of the Touristic and Similar Travel**. This by-law determines obligations of the carriers and tour operators of touristic or similar travel regulated by the article 18 of the Law on Movement and Stay of Aliens and Asylum are related to the return of the aliens who do not meet the basic general requirements for entry in BiH and to whom the entry has been denied, then, the deadlines for returning of such persons, delay costs and punishing of the guilty ones for violations related to the obligations of the carriers and tour operators of touristic or similar travel.

44. **The Law on Amendments of the Law on the Aliens Affairs Service** (“Official Gazette of BiH”, Nos. 54/05, 36/08) in article 1 determines that this service executes the aliens removal from the country. Also, in the article 2 it is said that the immigration centres are the organizational units out of the Aliens Affairs Service. The Immigration Centres are specialized institutions for acceptance and accommodation of the aliens who are by the decision of the competent authorities in BiH placed under supervision according to the Law on Movement and Stay of Aliens and Asylum.

45. **The By-law on Covering of the Costs of Repatriation and Placement of an Alien Under Supervision** (“Official Gazette of BiH”, No. 2/09) made as a sub-law act on the basis of the Law on Movement and Stay of Aliens and Asylum, prescribes the way of acting in relation to the covering of costs of repatriation and placement of an alien under supervision. For any acts of this kind, and making decisions and resolutions on the basis of this by-law the Ministry of Security of BiH, Ministry of Finance and Treasury of BiH and Aliens Affairs Service are the competent authorities. Through implementing of the previous procedures, the organizational unit of the Aliens Affairs Service which made a resolution on repatriation and placement of an alien under supervision, it is determined whether the alien, by being obliged to pay the costs of

repatriation and placement of an alien under supervision, possesses certain amount of money for refunding of the total costs of supervision and removal, and, if there are, regardless of the fact that the alien possesses certain amounts of money, other persons obliged to pay the costs of repatriation and placement of an alien under supervision in concordance with the article 96, paragraph 2 of the Law on Movement and Stay of Aliens and Asylum.

46. The costs of repatriation and placement of an alien under supervision represent the real costs made by: accommodation and stay of an alien in an immigration centre, deliberately done material damage on the property and inventory of the immigration centre or on the property of the third person, transport of an alien from immigration centre to the State Border Crossing with the country where an alien is returning to, one way travelling tickets by the adequate means of transport from Sarajevo to the place in the country of habitual residence, travelling tickets, overnight stay in the country of habitual residence and other travelling costs if included (according to the travel order). The stipulated costs are determined by the immigration centre with the resolution of director. An appeal postpones the execution of the mentioned resolution. On behalf of the budget of the institutions in Bosnia and Herzegovina the costs of the supervision and removal are refunded in the case when an alien is not able to refund the costs of repatriation and placement of an alien under supervision. The mentioned funds are planned in a real amount and they can cover the costs.

47. Republic of Srpska amended the Law on Labour - Refined Text ("Official Gazette of Republic of Srpska", No. 57/05) by regulating more precisely the prohibition of every grounds of discrimination including sexual harassment and mobbing of every employee regardless of domestic people or aliens (article 5, article 107-113). The Law on Employment of Aliens and Persons without Citizenship ("Official Gazette of Republic of Srpska", Nos. 97/04, 96/05, 123/06) is also in concordance with the provisions of the Law on Movement and Stay of Aliens and Asylum. The news is quota for employment of the aliens without citizenship prescribed for entities and 31st BiH till the 31<sup>st</sup> of October this year.

48. The Law on Labour and Law on Employment of Aliens and Persons without Citizenship ensures the appliance of the Convention for refugees and person without citizenship according to the Law on Movement and Stay of Aliens and Asylum in BiH.

49. In Bosnia and Herzegovina, the International Organization for Migration (IOM), in cooperation with partners, the Ministry of Civil Affairs of BiH, the Ministry of Labour and Veterans of Republic of Srpska and the Ministry of Labour and Social Policy of BiH, opened the Migration Service Centres (MSC) in Banja Luka and Sarajevo to provide information and advice on legal migrations from the countries of EU, Switzerland and some transoceanic countries within the project "The Building of Capacity, Information and Raising Awareness on the Purpose of Promoting Regular Migrations in the Western Balkans Region". The Convention directly support and promote these centres.

### **Answer to Question 3**

50. Concerning the fact that this Convention is part of the BiH Constitution, in the practice of the domestic legislature, it possesses the power of direct appliance, but, in this period, there is a small number of the cases in which the Convention can be directly applied by the courts and or administrative authorities.

51. We believe that the new legal resolutions, stipulated above, are mainly adjusted to the principles taken from the UN Convention on the protection of the rights of all migrant workers and members of their families, as in the administrative procedures of the Aliens Affairs Service and on the Ministry of Security of BiH (when solving the status matters of the stay of aliens), so in judicial proceedings of the protection of the aliens, especially in the aspect of acquiring right to work, just and non discriminating treatment before the administrative and judicial authorities of BiH, deadlines for appeals, etc.

52. The new Law, and, according to this, the actual By-law, is in the whole in concordance with the mentioned Convention and EU standards. The principles of the stipulated Convention are directly applied in every administrative and executing procedures proceeded before this Service, as well as during the practice of inspection affairs. So, by the ratification of the Convention on the protection of the rights of all migrant workers and members of their families in BiH has entered the legal system of BiH, and on the purpose of this, every authority is obliged to apply the resolutions of the Convention when making decisions on the right of migrant workers.

53. According to the legal procedures in BiH, every employee has right to protect his/her rights from labour relations by the competent judicial institutions, so, in this manner, the migrant workers are equally treated as the domestic ones. Such process would be conducted according to the domestic legislature.

#### **Answer to Question 4**

54. By the Law on Employment of the Aliens in both entities and Brčko District of BiH, it is prescribed that the aliens or the persons without citizenship can conclude an employment contract providing that they have the work permit and to fulfil the general and individual conditions according to the legal provisions in the practice of the employment legislature in BiH.

55. The protection of rights and freedom of the aliens is applied equally as to the citizens of BiH. By the article 8 of the Law on Movement and Stay of Aliens and Asylum, the prohibition of discrimination is regulated on any grounds whatsoever, such as: gender or sex, race, color of skin, language, religion, political and other opinion, ethnic and social origin, affiliation with a national minority, property status, status acquired by birth, or other status. The Convention is applied during the whole period of the migration of the workers and their families, which includes preparation for migration, leave, transit and whole period of stay of the paid activities in the country of employment, as well as the return to the country of origin, or to the country of habitual residence, as prescribed by the mentioned article of the Law.

56. According to article 69 of the Convention, in the cases when on the territory of BiH are the aliens and their families without regulated status, in concordance with the Law on Movement and Stay of Aliens and Asylum, and the Law on the Aliens Affairs Service, Instructions on the procedure of removal, supervision and funds for costs of supervision and repatriation of aliens from BiH, and other sub-law acts, the authorities of the Aliens Affairs Service take adequate legal measures. Depending on the concluded multilateral and bilateral conclusions between the country of employment and country of origin, concerning the circumstances of the entry in the country, period of the stay in the country of employment, and other relevant reasons, especially those related to the status of family have to be included as well.

57. Also, by the provisions of the Law on Movement and Stay of Aliens and Asylum, there are prescribed legal remedies, and, in certain cases, the right to appeal, and in the others the right of lawsuit before the Court of BiH. The legal remedies are mainly used because of the denial of the entry request of an alien, denial of the stay approval on different grounds, denial of the asylum request, cancellation of the stay, etc.

58. Against the stipulated decisions, in certain cases, an alien-worker has the right to appeal to the Ministry of Security of BiH in the 15 days period from the day of delivery of the decision (higher instance), with the every aspect of legal assistance. It is important to point out that the person who appeals on any condition cannot be expelled till the appeal deadline is over, that is, till the competent authority brings the final resolution of the appeal.

59. This is especially emphasized by the appropriate provisions of the mentioned Law, dealing with the forcible removal of the alien from of the country, on the official duty. The conclusion on authorization establishes that the decision on expulsion is being made without delay, within 7 days as the final deadline from the day when the resolution became executive. This conclusion determines the way, time and place of the execution of the resolution, and appeal does not postpone it. In the cases when an alien is placed under supervision, by the provision of the article 101 of the mentioned Law it is prescribed that an alien may lodge an appeal to the Ministry of Security of BiH within the 24 hours from the delivery of the decision. The Ministry of Security in BiH within 24 hours has to make decision on appeal from the date of receipt.

60. If the Ministry does not revoke decision on placing alien under supervision or fails to take a decision upon the appeal within 24 from the date of its receipt, lawsuit may be filed in the administrative procedure before the Court of Bosnia and Herzegovina.

#### **Answer to Question 5**

61. The possibility of applying the Convention to refugees or persons without citizenship is regulated by the special Law on Refugees and Displaced Persons. This Law has been meanwhile synchronized to the appropriate international documentation on the purpose of protection of the basic human rights of refugees and displaced persons. (the right to work, social and health care insurance, accommodation, acquiring the right to return, to regain property, etc.)

62. The Ministry for Human Rights and Refugees of BiH, in cooperation with the Ministry of Civil Affairs of BiH and Ministry of Security of BiH, made the **By-law on Acquiring the Right to Work of Persons with the Approved International Protection in BiH** (“**Official Gazette of BiH**”, No. 83/08). This by-law prescribes the procedure of enforcement of the Law Movement and Stay of Aliens and Asylum, obligations of the competent authorities, basic principles and special conditions regarding the rights to work to the persons who are approved the international protection in BiH.

63. The competent authorities for enforcement of this by-law are: The Ministry for Human Rights and Refugees in BiH, Ministry of Security of BiH, Ministry of Civil Affairs of BiH, the competent entities’ Ministries, competent authorities in Brčko District of BiH, the Cantonal Employment Services in Federation of BiH, entities institutions for pension/retirement and disability insurance funds and municipalities services competent for the right to work.

64. Article 3 of the By-law prescribes that the persons who are acquiring right to work under the same conditions as the citizens of BiH, and according to the effective laws in BiH and international agreements on this matter, are the following: persons with the recognized refugee status by the decision of the Ministry of Security according to the article 116, sub-paragraph a) of the Law, persons with the granted right to subsidiary protection by the decision of the Ministry of Security of BiH according to the article 116, sub-paragraph b), and persons to whom the refugee status has been recognized, according to the article 156 of the Law.

65. In the case of family reunification, according to the article 120, paragraph 3, of The Law, the members of the family from the paragraph 1, sub-paragraphs a) and c) of this article have the same rights as the persons from the article 116, sub-paragraph a) of the Law, regarding the acquiring right to work.

66. By this by-law, refugees and persons under subsidiary protection in BiH possess right to work under same conditions as the citizens of BiH. The exception of the rule is that mentioned persons cannot be employed in executive, court and legislative institutions where is explicitly requested BiH citizenship as a condition for employment. By acquiring employment rights, discrimination is prohibited on any grounds, as well as forced and debtor labour and abuse of workers.

67. When applying the competent employment institution, aliens are obliged to possess diploma validation as well as BiH Citizens. The diploma validation on achieved knowledge in the country of origin or in the country of habitual residence pursuant to the article 3 of this By-law is enforced in the same way as it is for the BiH citizens according to the BiH laws.

68. The persons pursuant to the article 3 of the By-law may freely and without mediation of the competent authorities look for job, to conclude contracts and to become self-employed, according to the valid provisions of work and employment. For employment or self-employment, a pursuant to the article 3 of the By-law does not need work permit.

69. The persons pursuant to the article 3 of the By-law acquire employment rights, such as: salary, protection on work, work conditions, work compensation, working hours, overtime work engagements, paid holidays, minimal age for employment, training period, right to be trained and requalified, protection of women and motherhood, protection of youth and other rights related to employment, under the same conditions as the BiH citizens.

70. In the case of breaking of employment or self-employment, a person pursuant to the article 3 of the By-law acquiring their rights on the basis on unemployment under the same conditions as the BiH citizens. An employee pursuant to the article 3 of the Bylaw have right to establish a syndicate and join the syndicate in order to protect his/her interests according to the By-law.

71. The Ministry for Human Rights and Refugees of BiH manages the official record on the persons who acquire right to work according to the By-law. The Ministry related to the stipulated By-law shall enforce the official record on the refugees acquiring right to work.

72. In article 3, paragraph 1, sub-paragraph d) of the Convention on the protection of the rights of all migrant workers and members of their families, it is stipulated that the Convention shall not refer to the refugees, persons without citizenship, unless such appliance is predicted by the relevant state legislature or international instruments valid in the member state.

73. We remind you that, according to the Law Movement and Stay of Aliens and Asylum, which determines the field of international protection, there are two aspects of international protection: the refugee status and subsidiary protection status.

74. Besides, as quoted above, in the Convention on the protection of the rights of all migrant workers and members of their families refugees are left out of appliance of the convention, the rights of the refugees in BiH are protected by the other international instruments. Apart from the international agreements, prescribed in Annex I of the BiH Constitution, the Convention Relating to the Status of Refugees from 1951 and its Protocol from 1967 are of the great importance in the field of the refugee law.

75. This Convention is mainly included in domestic legislature. So, when there is a person under international protection, in the article 120, paragraph 1 of the Law Movement and Stay of Aliens and Asylum, it is defined that:

- An alien to whom international protection has been granted and to whom the refugee status has been recognized shall acquire the rights and duties defined in Articles 3 through 34 of the 1951 Convention Relating to the Status of Refugees
- An alien to whom international protection has been granted and to whom the subsidiary protection status has been recognized shall acquire the same rights and duties as the alien with the refugee status, unless otherwise prescribed

76. According to the Convention, for example, the refugees, regarding the freedom of religion and religious education of the children, the right to protect industrial property, right to associate, admission to the courts, general education, taxes obligations, are equally treated as the BiH citizens.

77. In addition to the protection of the refugees granted by the Convention in article 120, paragraph 2 of the Law on Movement and Stay of Aliens and Asylum, it is said that the provisions of this Law and other laws of Bosnia and Herzegovina as well as of the international instruments which are already in force and to which Bosnia and Herzegovina is a contracting party, shall prevail over the provisions of the 1951 Convention Relating to the Status of Refugees, provided that they accord a more favorable treatment to the aliens with the recognized refugee status.

78. The sub-legal acts in BiH which regulate the method of acquiring certain refugees' rights, guaranteed by the domestic legislature and international instruments, in the way of acquiring rights, the refugees are equalized with the BiH citizens.

79. To be more concrete, the By-law on Acquiring Health Care Insurance and Medical Help of the persons with recognized refugee status or other aspect of international and legal protection in BiH prescribes that these categories of people acquire right to medical protection on the same

conditions as the BiH citizens. According to the By-law on personal Status and Registering Data of Birth, Marriage and Death of the refugees and persons under international protection in the BiH registers, the facts on birth, marriage and death of the stipulated categories are entered in the registers on the same conditions as the BiH citizens.

80. We recall the fact that, according to the Law on Ministries and Other Bodies of Administration of BiH (“Official Gazette of BiH”, Nos. 5/03, 42/03, 26/04, 42/04, 45/06 and 88/07), the Ministry of Security is responsible for implementing BiH immigration and asylum policy and regulating procedures concerning movement and stay of aliens in BiH, after recognizing of their status by the Ministry for Human Rights and refugees of BiH. The two mentioned sub-law acts, which regulate the way of the acquiring the rights of refugees were enforced by the Ministry for Human Rights and Refugees of BiH in Cooperation with the Ministry of Security of BiH, and with the Ministry of Civil Affairs of BiH.

81. Out of the international documents, we single out the European Convention on the Protection of Human Rights and Fundamental Freedoms, which is, according to the BiH Constitution, applied directly in Bosnia and Herzegovina and it is superior to the other legislative documents. The rights and freedoms guaranteed by this Convention are equally applied to every person under the state jurisdiction of the state which signed the agreement, that is, it is applied equally to the BiH citizens and aliens.

#### **Answer to Question 6**

82. Bosnia and Herzegovina has already acquired the practice of informing the public about the content of the international documents, after their use and ratification. When talking about this Convention, its content, apart from the country bodies of administration and institutions, is available on the three most popular printed media and on the web site of the Ministry for Human Rights and Refugees of BiH, so everyone may gather information. The special attention and publicity are paid to this document on the occasion of preparing and adopting of the Initial Report. Of course, its content was available to the members of the team of experts and working group and to the other authorities and authorities all over Bosnia and Herzegovina.

83. Concerning the education and police training and other important public authorities on the matters treated by the Convention, that process has been seriously approached. The certain police authorities, inspectors for aliens and administrative authorities in the Border Police of BiH, the Aliens Affairs Service, and in the Ministry of Security of BiH, which are responsible for the questions related to the aliens, by seminars, courses, and training, have been informed of the matters of the Convention on more occasions. During 2007 and 2008 all administrative authorities and inspectors for aliens were trained for 21 day at the Police Academy in Sarajevo. As a part of our plan and program of the training, we presented international regulations and standards, and in this manner, we acquainted them with the Convention. On promoting the mentioned Convention on the purpose of the better raising of awareness and understanding of the provisions of the Convention in the public sphere, we especially educated the administrative authorities of the Aliens Affairs Service.



### **Answer to Question 7**

84. Non-governmental organizations took part in the implementation of the Convention and apply of the Initial Report on rights of all migrant workers and members of their families, proportionally to their interest for the matter. Mainly, the Ministry for Human Rights and Refugees of BiH on the occasion of making the report invited by media all non-government organizations for cooperation. The truth is that the few of the organizations showed interest and were introduced to the content of the Initial Report, the Convention and temporary directives of the competent UN Committee. The Ministry for Human Rights and Refugees of BiH successfully cooperates with the non-government sector and it is ready for the future constructive cooperation.

## **II. INFORMATION RELATED TO THE ARTICLES OF THE CONVENTION**

### **A. General principles**

### **Answer to Question 8**

85. Concerning the information on (a) judicial, or administrative mechanisms competent for the investigation and making decisions on the appeals of migrant workers and member of their families on violation of their rights, including those without valid documentation or regulated status; (b) appeals investigated by those mechanisms from the 1<sup>st</sup> of July 2003 and their final outcome, and (c) on every case of the damage compensation due to the violation of their rights, we inform you on the following:

(a) Decision on approval or disapproval of the stay of an alien worker (migrant worker or member of his family) are provided by the Aliens Affairs Service which is the independent authoritative organization as a part of the Ministry of Security with Operative and administrative independence. The Law provides the right to lodge an appeal to the Ministry of Security of BiH as the secondary administrative body (administrative and independent procedure) and resolution become executive only when the appeal is being decided and delivered to the alien. In the period of the appeal procedure, an alien resides legally on the BiH territory;

(b) From the 1<sup>st</sup> of July 2003 to the 31<sup>st</sup> of December 2003, the secondary administrative resolution of the aliens' appeals on the resolution on the stay of aliens in BiH was under responsibility of the Ministry for Human Rights and Refugees of BiH. The Ministry of Security, as a secondary administrative body, overtook the responsibility for the secondary solving of the mentioned appeals from the 1<sup>st</sup> of January 2004 to the 1<sup>st</sup> of January 2009, and 774 appeals were processed, and out of this number 575 were rejected. The 183 appeals were returned to be reprocessed by the original authority. The 10 appeals were rejected. The 2 appeals were ceased and by the decision of the BiH Court, the 4 appeals were solved. This Ministry so far did neither took special registers on the purpose of the stay request on the basis of the work permit, nor on appeals of the aliens on the family reunification resolutions, nor even the migrant workers families. By the new ISM system (Informational System of Migrations), as soon as it is on its full capacity, it will be possible to single out reports on each appeal to the stipulated decisions;

(c) Concerning the damage compensation to the victims, it has been regulated by the positive legal prescriptions and it has been decided by the Courts.

86. By the Law on Employment of the Aliens and the Persons without Citizenship, article 13 in Republic of Srpska it has been concluded that an alien sentenced in effect for the criminal act for which may be pronounced imprisonment or criminal sanction of the prohibition of phone calls, activities or duties, the competent branch of the Institute shall by the appropriate solution terminate the work permit and within three days deliver it to the employer for whom the alien works and to the Republic Inspectorate for Labour. The competent court is obliged to deliver a verdict or resolution to the competent branch of the Institution.

87. Against the resolution on termination of the work permit, an employer or an alien may lodge an appeal to the minister responsible for the labour matters within 15 days from the day of the receipt. The minister responsible for the labour matters decides by a resolution, which is final and against it no dispute is allowed, on the appeal of an alien. An alien cannot be issued another work permit within a year, from the day of the terminating of the permit.

88. So, decisions on terminating of the work permit of a migrant worker are made by administrative authorities in Republic of Srpska, and these are The Employment Institution and the Ministry of Labour and Veterans.

**B. Information related to Part III of the Convention (human rights of all migrant workers and their families)**

**Answer to Question 9**

89. The measures taken by the institutions of Bosnia and Herzegovina according to the article 21 of the Convention related to the prevention in the cases of issuance of personal documents from the employer or employment service, are based on respect of the legal acts. According to the available data, personal documentation is mainly retained from an alien if it is false. The documents which are mainly taken away are false passports, stay permits and visas. The trend of these occurrences is diminished by the more precise border controls of the aliens entering the country.

**Answer to Question 10**

90. Concerning the article 22, paragraph 4 of the Convention, and according to the article 87, paragraph 7 of the Law on Movement and Stay of Aliens and Asylum, an appeal filed against the decision on expulsion of an alien from the country postpones the execution of the solution till the final resolution. Having in mind decisions provided according to the stay and asylum requests, an appeal may not be filed to the independent court body. The appeal is being filed to the Ministry, and against the final decisions may be disputed before the Court of BiH.

**Answer to Question 11**

91. In the case of arresting or imprisoning of our citizens in the country or abroad, it may be requested to inform the BiH Embassy. The consular officer may inform the local authorities that they are under consular protection of BiH and ask to be informed on the motif of arrest, and ask for appropriate permission to visit the arrested person as an official person. He/she will check the circumstances of arrestment, and he/she will check also, whether the local laws were respected. The consular officer may, on the request of the arrested person, may obtain the list of defence attorneys (the arrested pay the costs of the attorney).

92. According to the article 23 of the Convention on the Protection of the Rights of All Migrant Workers and Their Families, BiH citizens and the members of their families, via embassies and consular representations abroad are ensured with the efficient consular help. Of course, on better information of migrant workers on their rights in general and on their rights in the case of imprisonment and expulsion, are responsible competent ministries of the country.

93. The same rules are applied to the migrant workers and members of their families working and living in BiH. It is the matter of their embassies and consular representations to cooperate with the Ministry of Foreign Affairs of BiH and to inform regularly their citizens on their duties and rights, as well as on the right to appeal in the cases of arresting or imprisonment. The BiH Legislature is categorical and it does not encourage elements of discrimination. Both, domestic and alien workers acquire their rights according to the valid legal prescriptions. We should have in mind the fact that BiH is a country in the process of transition, and that its laws, sublegal acts and other legal documents have been constantly improved, annexed and synchronized with the European standards.

94. We point out the fact that the mentioned category of BiH citizens abroad is under consular protection according to the Vienna Convention, international bilateral contracts between the BiH and other countries, and in the concordance with the national regulations in the country of admittance.

#### **Answer to Question 12**

95. When we discuss bilateral agreements related to the system of social protection, they are applied according to the regulations of BiH entities, that is, related to the situation in the entity in which a migrant worker works and resides. This is not related to the migrant workers in the situations when they possess or do not possess valid documentation, that is, regulated or non-regulated employment. As quoted in the Initial Report, BiH signed more bilateral agreements related to the social protection area concerning the questions of: pension, health care insurance, compensation for unemployed workers, children's allowance and other aspects of the social insurance of workers and their families.

96. Bosnia and Herzegovina ratified the agreements on social insurance with the following countries:

1. Agreement between BiH and Republic of Austria on social insurance ("Official Gazette of BiH", No. 02/01);
2. Protocol on enforcement of the Agreement on Social Insurance between BiH and Republic of Austria ("Official Gazette of BiH - International Contracts", No. 02/01);
3. Contract on social insurance between BiH and Republic of Croatia ("Official Gazette of BiH International Contracts", No. 06/01);
4. Administrative agreement on the enforcement of the Contract on social insurance between BiH and Republic of Croatia ("Official Gazette of BiH International Contracts", No. 06/01);

5. Agreement between BiH and Federal Republic of Yugoslavia on social insurance (“Official Gazette of BiH International Contracts”, No. 16/03);
  6. Administrative Agreement for enforcement of the Agreement between BiH and Federal Republic of Yugoslavia on social insurance (the text was not published in the Official Gazette);
  7. Contract between BiH and Republic of Turkey on social insurance (“Official Gazette of BiH International Contracts”, No. 16/03);
  8. Administrative agreement for the enforcement of the Contract between BiH and Republic of Turkey on social insurance (“Official Gazette of BiH International Contracts”, No. 16/03);
  9. Contract between BiH and Republic of FYR Macedonia on social insurance (“Official Gazette of BiH International Contracts”, No. 01/06);
  10. Administrative agreement for the enforcement of the Contract between BiH and Republic of FYR Macedonia on social insurance (“Official Gazette of BiH International Contracts”, No. 01/06);
  11. Agreement between BiH and Republic of Slovenia on social insurance (“Official Gazette of BiH International Contracts”, No. 01/08);
  12. Administrative agreement for the enforcement of the Agreement between BiH and of Slovenia on social insurance (“Official Gazette of BiH International Contracts”, No. 01/08);
  13. Contract between BiH and Kingdom of Belgium on social insurance (“Official Gazette of BiH International Contracts”, No. 10/07);
  14. Administrative agreement for the enforcement of the Agreement between BiH and Kingdom of Belgium on social insurance (the text was not published in the Official Gazette).
97. Agreements on social insurance in the process of ratification are the following:
- Agreement between BiH and Republic of Hungary on social insurance
  - Administrative agreement for the enforcement of the Agreement between BiH and Republic of Hungary on social insurance
98. Agreements ready for signing are:
- Contract on Social Insurance between BiH and Kingdom of the Netherlands
  - Agreement on Social Insurance between BiH and Luxembourg
  - Agreement on Social Insurance between BiH and Switzerland

99. The following agreements on the basis of reciprocity and equal rights of citizens of these countries treat the following matters:

- Health care insurance and health protection
- Pension and disability insurance funds
- Insurance in the cases of the injury at work and professional illness
- Insurance for the case of unemployment
- Children's allowance and motherhood

### **Answer to Question 13**

100. The migrant workers and their families who do not possess valid documentation or regulated status, according to the actual legislature of BiH and entities do not have right to health care insurance. This means that the citizens of the countries with whom BiH made agreements on social (health) insurance may have the right to health care insurance in the range prescribed by the agreements. So, every insured person have an equal position regarding acquiring of rights on the obligatory health care insurance.

101. Bosnia and Herzegovina is currently working on the project called "The Building of Capacities, Information and Raising Awareness in Order to Promote Regular Migrations in the Western Balkans". The aim of the project is promotion of the regular migrations to the countries of the EU and to the other countries, as well as to promote the mobility among the Balkans' countries. This projects includes: direct information services through the Migrations Service Centres to the potential migrants on the migrations on the purpose of work and risks of the irregular migrations; the Building of the capacities of the public institutions and labour institutes in the development of the political practice of the migrations on the purpose of work; all-inclusive research on potentials of the migrations on the purpose of work.

102. The right to health care insurance of the migrant workers coming from the countries with whom BiH made agreements on social insurance (Croatia, Serbia, Macedonia, Montenegro, Slovenia, Turkey, Austria) or accepted the international agreements on social insurance concluded by Social Federative Republic of Yugoslavia (Germany, countries of the Benelux, Switzerland, France, Great Britain, Hungary, Italy, Czech Republic, Slovakia, Bulgaria), regarded and acquired in the context of the agreements.

103. If it is concluded, during the procedure of the right to health care insurance, that the stipulated persons are not under insurance of their countries of origin, then those, according to the international agreements on social insurance, may not acquire the right to health care insurance, but they are insured on some other basis according to the domestic regulations that regulate insurance of the workers, migrants and refugees that came from the countries with whom BiH does not have concluded agreements on social insurance.

104. By the article 11 of the Law on Health Care Insurance (“Official Gazette of Federation of BiH, Nos. 30/97, 7/02, 13/02, 14/02, 17/02, 70/08) it is prescribed that: “Every insured person have equal position regarding the acquiring of the obligatory health care insurance.”

105. Article 30 regulates that “the aliens and persons without citizenship are insured on the same conditions as the citizens of the Federation of BiH, if it is not regulated in different way by the international agreement”. By this article it is decided that if the health care insurance fee is paid (and in that manner the rights of the insured are equalized regardless of citizenship), there cannot be any possibility of discrimination regarding the acquiring of rights on health care insurance. So, every migrant worker for whom the employer pays health care insurance fee, according to the right to health care insurance, acquires it in the same way as any other insured person in BiH.

106. By the article 19 of the same Law, all insured persons are classified according to the fee amount, regarding their working status, then, all active working persons, that is working persons in the country, abroad, in state firms, at the private sectors, in administration, and directed to the specialists’ training on employment, etc. In addition to this, by the article all rights in health care insurance of the unemployed are regulated, that is, the status of the insured persons may be obtained by those who are registered in the competent employment institute. However, to obtain the right and status of the insured person, unemployed must acquire it in the way of registering in the employment institutes within provided deadlines.

107. So, according to the enforcement of the article 19 of the Law on Health Care Insurance, and on the basis of the definition of the term “migrant worker”, all these migrant workers regarding working status have equal rights on health care insurance as any employed citizen of this country.

108. By the international convention on protection of all migrant workers and their families, the rights of the migrant workers are protected, too, as regulated by our positive legislative prescriptions.

109. In article 5 of the Law on Health Care Insurance, it is prescribed that insured persons and their families (in further text: insured persons) have right to health care insurance and money compensations and all help according this Law.

110. The range of the right to health care insurance was prescribed by the resolutions of this Law, and by the article 20 it is prescribed who may be understood as a member of the family regarding this Law: spouse (matrimonial or illegitimate according to the marriage and family regulations), children (born in marriage or illegitimate, adopted or stepchildren) and other children without parents if supported by insured person, parents (mother, father, stepfather, stepmother, adopters of the insured persons), if supported by the insured person, grandchildren, brothers, sisters, grandparents if not able for independent life and work, and if they do not have supporting funds. The family members of the insured persons acquire right to on obligatory health care insurance based on this Law, under condition that the same right is not acquired on the basis of employment or doing some economic or non economic activities, or agricultural activity by his personal engagement.

111. The Government of the Federation of BiH by the enforced regulations determines the conditions under which can be understood that a person is unable for an independent life and work and does not have his/her own material funds.

112. By the article 53 of the Law it is determined that the right to health care insurance may acquire only a person who is recognized as an insured person. So, recognition of the insured person for each migrant worker and members of his family is prescribed by the cantonal institution for health care insurance. The migrant workers, who are recognized as insured persons by cantonal institution, are issued by the same institution the special document that confirms the recognized status of insured person. As a special document we now have medical-care booklet. The same procedure is used for the migrant workers families.

113. The only difference is in the domain of defining of the basic fee for health care insurance between the cantons. By the article 84 of the Law on Health Care Insurance of Federation of BiH it is decided that cantons, that is , the legislative body of the canton, on the proposition of cantonal institution on health care insurance determines by its prescriptions the ways of accounting and payment of the fee which are not defined by the tax prescriptions.

114. The article 84 of the Law, the basic fee, the way of accounting and payment of the fee form the article 1, subparagraph 3, 4, 5, 6, 7, 8, 9, 10 of the Law, defines, by its regulations, the legislative body of the canton on the proposition of cantonal health care insurance institution.

115. According to the Law on Health Care Insurance (“Official Gazette of Federation of BiH”, Nos. 30/97, 07/02), is acquired inside the Cantonal Health Care Insurance Institution. The Cantonal Health Care Insurance Institutions are obliged to ensure the watching of the acquiring and application of the rights from the obligatory health care insurance. The health care insurance rights are: right to health care insurance, salary compensation, compensation of the travel costs related to the health protection, for insured persons. The members of their families have rights on health care insurance and the travel costs related to the health protection.

116. According to the article 52 of the Law, the insured persons have right to compensate funeral costs. The enforced prescriptions on height, conditions and ways of using of the compensation for funeral costs are defined by the Cantonal Health Care Insurance Institution.

117. According to the Law on Amendments to the Law on Health Care Insurance (“Official Gazette of BiH”, No. 70/08), 15 year old children and the adolescent younger than 18, without completing the primary education, or, after completing it, they did not found a job, if they applied to the Employment Institution, they are insured persons, that is, without time limit for applying the Employment Institution.

#### **Answer to Question 14**

118. The legislative area which covers all kinds of education, from primary till secondary which is obligatory, to the higher education is being regulated by the laws on the country level, and its grounds the entities laws, regulating education, are adopted. The truth is that this area is still not synchronised all over the BiH territory , so, in the same educational approach there are certain differences, as on the entities level, so on the level of cantons in the Federation of BiH. It should be emphasized that in BiH primary education is free and obligatory. But, by the analysis of the

actual laws, on every level, except Sarajevo Canton, it is shown that the obligation of the country to ensure free education for the children of migrant workers, or those with or without valid documentation, is not emphasized. From the other side, there are no legal prohibitions on education of the children of migrant workers. So, the solving of the question is the matter of agreement between the host country and the country whose migrant workers live and reside in BiH. However, there are positive examples, especially in those places where stays a bigger number of migrant workers with their families, that confirm that they send their children to schools without a problem, or they organize their education in private schools. All said above, proves that there is a need to define more precisely the question of education of the children of migrant workers in BiH, in order to avoid discrimination of the children and to be treated equally according to the Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.

119. The basic question is that in BiH primary education is obligatory and that every child has equal right to attend school, and equal possibilities of taking part in adequate education without discrimination on any grounds (General Law on Primary and Secondary Education in BiH, "Official Gazette of BiH, No. 18/03).

120. Everyone is, under same conditions, allowed to be educated in primary and secondary school (article 38). "The aliens have human rights and freedoms prescribed by the Law and international agreements" (paragraph 1 of article 44). In the Law on Primary Education (Official Gazette of Republic of Srpska", No. 74/08). it is also emphasized that everyone has equal rights to the primary education: "Each child has equal right and equal possibilities to in primary education without discrimination on any grounds". The equal rights and equal possibilities mean the guarantee of the same conditions and opportunities for all children at the beginning and continuance of education.

121. The school takes responsibility for contributing to the making of culture which respects human rights and basic freedoms of all people as prescribed by the Constitution and other international documents from the area of human rights signed by BiH (article 11).

122. The Law on Secondary Education ("Official Record of Republic of Srpska, No. 74/08) regulates: "Secondary education is accessible to everyone under the same conditions". "Secondary education is not obligatory" (article 2). "The aliens and persons without citizenship have right to obtain education according to the law and legal regulations and conventions and agreements that BiH concluded with other countries or international organizations" (article 3). "In secondary education must not be discrimination on the base of race, sex, language, religion, political and other opinion, national or social background, on the base of invalidity or on any other grounds" (article 5).

123. From the above-mentioned, we may see that everyone is guaranteed the equal access to the education according to the law and international agreements, as well as migrant workers and their families.

124. Brčko District of BiH is a local community with the biggest percent of the return of refugees and displaced people. By the article 14 of the Law on Education and Secondary Schools in Brčko District of BiH it is concluded that the education of the national minority students is obtained according to the resolutions of this Law and the Law on the Protection of the Rights of National Minorities ("Official Gazette of BiH", No. 12/03).



125. In the same way, by the article 16 of the stipulated Law on education, the aliens and persons without citizenship have right to educate themselves in primary and secondary schools in Brčko District of BiH, according to the resolutions of the law, international conventions, agreements concluded by the Parliament of Brčko District. The mentioned Law is coordinated with the general Law on Primary and Secondary Education in BiH and every student is allowed to access every educational institution without discrimination on any grounds, with free school ride and free textbooks for primary education. By such treatment of our local community, the great amount of care for the educating population is taken, and the conditions are in concordance with the high European standards.

### **Answer to Question 15**

126. The informing of BiH citizens who want to migrate abroad is taken by the competent services of the Ministry of Foreign Affairs of BiH. That situation, in the time of the dominate use of internet and digital data transfers between, developed in most countries and in BiH as well, enables BiH citizens to be informed on rights and duties on their leave to other countries of their future employment and stay as well as on other information that might be helpful. It is certain that BiH, because of the big number of its citizens working abroad, pays attention to the making of program which will more efficiently inform citizens on the situation in the future country of employment.

127. Concerning this, in order to implement article 33 of the Convention, Ministry for Human Rights and Refugees of BiH made in 2008 an Informational Brochure for BiH emigrants. The Brochure contains precise information and it is made for the BiH workers working and staying abroad. It contains the following:

1. Citizenship (acquiring, cessation, documentation needed for the renunciation of the BiH citizenship in order to acquire citizenship of the other country as well as the list of the BiH institutions for providing information on regulations, apply of the international agreements regarding citizenship);
2. Personal identification documents: passports (issuance, replacement of the passport, issuance of the travel list, issuance of the covering letter), reside and stay, unique master citizen number, personal identification card, driver's licence, as a list of the BiH institutions for issuance of the travel documents, personal identification card, notice on arrival, and notice of departure, defining of the unique citizen master number, driver's licence and registration of the vehicle;
3. Customs exemption: legal resolutions on customs exemptions on the goods of the personal luggage, personal property of the physical person moving from abroad to BiH, inherited personal property, domestic objects for equipment of the secondary reside, basic means and other equipment imported on the purpose of work transfer from the third country to BiH, passenger car imported by the persons with disability, etc, and more detailed information on the Law on Customs Politics in BiH;
4. Health care and pension/retirement and disability insurance: information on the list of the domestic regulations on the mentioned matter, the list of the international contracts - agreements on social insurance, concluded and ratified bilateral

agreements, agreements in procedure of ratification, initials and negotiations, international bilateral agreements on social insurance, acquiring of the right to health care insurance, acquiring right to pension/retirement and disability insurance, and more detailed information on regulations, application of the international agreements and registering of the competent BiH institutions;

5. Validation of the foreign school diplomas and qualifications: information on the registering of domestic actual prescriptions from this area, validation and equalization of the documents, as well as more detailed information on regulations, procedures and registers of the institutions in BiH for validation of foreign diploma and qualifications;
6. Voting of the BiH citizens residing abroad: information on regulations on elections, competent institutions, accessing forms, instructions for accessing the Law on Elections in BiH and other detailed information on elections in BiH with the address of the competent institution in BiH;
7. Alphabetical register of addresses of BiH institutions with the data on the names, phone numbers, fax numbers, e-mails, addresses, etc.

128. The informational brochure for BiH emigrants has been delivered to all DCRs of BiH abroad, it is available on the web site of the Ministry for Human Rights and Refugees of BiH, it is delivered to the organizations of the BiH emigrants all over the world.

129. Also, on the purpose of informing of the BiH citizens who want to emigrate abroad in their rights and duties in the countries of employment, as well as on other information which can help to their integration in the country of employment on the web site of the Ministry for Human Rights and Refugees of BiH there are various information as a help to BiH citizens abroad, related to the help of the embassies/consular representations in the cases of: loss or theft of the documents, arresting or imprisoning, diseases, serious accidents, death and with some other problems. The information on visa regime may be gotten as well as for aliens travelling to BiH, Schengen visas, conditions for obtaining of the entry visa for BiH and new decision on visas for BiH applied from the 24<sup>th</sup> of December 2008. On the same web site, there are information on visas, travel recommendation, and business trips to BiH.

130. In the regional Project AENAS 2006, "The Building of Capacities, Informing and Raising Awareness in Order to Promote Regular Migrations in the Western Balkans" - Work of the Migration Service Centre, the Ministry of the Internal Affairs of the Federation of BiH delivered to the employment institution, in the initial phase of AENAS project, recommendations for acceptance of the mentioned project and informed Mission of the IOM in BiH on that.

131. According to the IOM's requests related to the selected topics which will be the subject of the National Training organized by the experts of IPOM/ILO/EU, focussed on the building of capacities, improving of informatics and raising awareness on the promoting of the regular migrations on the Western Balkans, Federal employment institute and the Ministry of the Internal Affairs of the Federation of BiH delivered to the IOM an act on the topic selection for which they decided that might be useful for the personnel training.

132. On the purpose of building of capacities of the useful information, advice and referent services for migrants in order to be helped with deciding on migration and improving of the development of the local capacities of knowledge in the area of labour politics and practice related to the migration of the workers, the intention is, within the activities of the I Employment Institute of Federation of BiH for 2009, to plan the activities connected to the informing and advising of migrants on the risks of illegal migration, possibilities for work or acquiring of qualifications at home, and on procedural engagements through individual or group advisory work in migration service centres, and employment training at the work place and offering of the direct aid to the migrants by the public employment services.

133. Besides, there would be done a training for employees in the competent institutions on managing with the migrant workers, distribution of the Manual on Establishing Efficient Politics of Migration of the Workers in the Countries of Origins and Destination (IPOM/ILO/EU), and study visit and training for competent institutions on the purpose of gathering the practical knowledge and information transfer on relevant questions of the migrant workers management.

**C. Information related to Part IV of the Convention (other rights of migrant workers and members of their families who do not possess valid documentation or do not have regulated status)**

**Answer to Question 16**

134. Article 1 (5) of the Elections Law of BiH prescribes that the BiH citizens, who have right to vote according to the Law, have right to vote personally in the municipality where they reside. The BiH citizen who resides temporarily abroad has right to vote personally (by the arrival on the appropriate polling place in BiH or in the Diplomatic Consular Representation of BiH abroad) or by mail (sending of the ballot by mail) for the municipality in which he/she once resided before the departure, and if he/she resides in that municipality in the moment of the applying for voting out of the country. The Central Election Commission of BiH, according to the Law, shall regulate the complete voting procedure in the diplomatic consular representations of BiH (procedure and deadlines for the registering for voting, forming of the election boards, defining of the number and schedule of the polling places and election procedure). The Central Election Commission of BiH appoints number and schedule of the polling places in the diplomatic consular representations of BiH abroad according to the criteria from the article 5.2 of this Law. The Central Election Commission of BiH appoints the election boards for the voting in the diplomatic consular representations of BiH, so that in every election board there are an equal number of the representatives of the three constitutive nations.

135. **In Chapter 3, Voters Register** - in article 3.3 it is prescribed that the Central Voters Register shall be made on the basis of data from the official records on permanent and temporary residence of the BiH citizens maintained by a competent state authority from other public identification documents and official records on BiH citizens maintained by the Central Election Commission of BiH and other competent authorities and on the basis of public documents and data received directly from citizens.

136. In Chapter 4 - Certification and Candidacy for Elections - The Election Law of BiH ("Official Gazette of BiH", Nos. 23/01, 7/02, 9/02, 20/02, 25/02, 4/04, 20/04, 25/05, 52/05, 65/05, 77/05, 11/06, 24/06, 32/07, 33/08 and 37/08) in the article 4.2 it is prescribed that in order

to be certified for the elections for all bodies of authority at all levels in BiH, an independent candidate or a candidate on a political party, list of independent candidates or a coalition's candidates list shall meet the following requirements:

- The candidate must be recorded in the Central Voters Register in the municipality in which he or she is standing for office or in the municipality found within the boundaries of the electoral unit if he or she is standing for office at the higher levels of authority, no later than by the day when the elections are announced; and
- The candidate may only run for office in one electoral unit at any level of authority and may appear only on one political party, coalition or list of independent candidates

137. The Law on Amendments of the Election Law of BiH ("Official Gazette of BiH", No. 33/08) in article 1 prescribes that the term "refugee" signifies the citizen of BiH who has right to vote and resides abroad under the status of the refugee from BiH.

138. From the quoted above results the fact that the BiH citizens residing temporarily abroad or who have the refugee status and have the right to vote personally or by mail for the municipality in which they resided before the departure, if they have recognized residence in that municipality in the moment of the registering for voting out of the country, they have the right to be elected as well, so they possess both passive and active right to vote.

#### **Answer to Question 17**

139. For the needs of migrant workers and members of their families, with the aid of the country, various institutional programs are arranged for the workers gathering, the election of their leaders and representatives. It has been done through the organizing of the clubs, where the citizens of a country meet, cultural and artistic societies, home of the emigrants etc. which by the aid of the country and by its direct activities take part in the solving of the actual problems of the workers and their families. These are the institutional aspects of the organizing of workers paying attention to the special needs, wishes and duties of the migrant workers and members of their families in BiH or emigrants from BiH abroad according to the article 42, paragraph 1 of the Convention. More detailed answers are given in the answers to 15 and 16.

#### **Answer to the Question 18**

140. Since in Bosnia and Herzegovina there is no big number of the migrant workers, and the registered number is not concentrated in special places where some special local educational systems would be organized in every part of the country, the competent authorities possess no special measures to ensure the respect of the total cultural identity of the migrant workers and their families. The truth is that the laws regulating this area on every level of the organization of the society, without discrimination on any grounds, give the possibility to the alien workers and the members of their families to be educated, to maintain their complete identity, etc. This means that the children of the migrant workers have the possibility to integrate and access the school system on every level. The approval of the stay and its prolonging on the basis of the educational needs is a regular practice. There are few examples where the competent authorities, especially on the basis of the educational needs, organize trainings or instructions on the language of aliens, except if there is a workers' initiative, without obstacles. It is similar with the question of the

respect of the cultural identity, where there is no obstacle for alien workers with the members of their families to cultivate freely their cultural, religious, spiritual and other customs and traditions. The workers from Bosnia and Herzegovina who reside and work abroad are traditionally organized through the forming of the home clubs and other means of gathering. They cultivate folklore, mother tongue and organize cultural events. The country through its embassies and consular representations gives the significant contribution to this. As a part of the Ministry for Human Rights and Refugees, the Emigration sector has been founded to deal with this problematic.

141. According to the official data of the Ministry for Human Rights, outside BiH there are 1,356,619 of people with BiH origins. According to the estimations, one third is formed of children and youth younger than 19, that is, the school age, involved in regular education of the host countries. This age is, through the process of integration, especially exposed to assimilation in the foreign surroundings. The most of the children abroad communicate easier in the host country language, and the relevant number of children do not speak mother tongue. These processes are especially expressed in Scandinavian and transoceanic countries. The important role against assimilation has the organizing of the additional classes for the children abroad, and first of all classes on mother tongue. The additional classes are not organized in every country with the BiH citizens' majority. The additional classes are usually organized as the part of the societies and clubs of the BiH Diaspora, religious communities, while in some countries, learning of the mother tongue is organized in regular schools of the host country, as a legal duty toward aliens or as a possibility and choice of a student to choose mother tongue instead of the other language.

142. It has been estimated that there are **about 4,490** of the BiH children included in the additional education abroad. According to the way of organizing of the additional education for the BiH children abroad the three basic segments can be singled out: the classes organized by the educational authorities of the host country where the learning of the mother tongue is included in regular education (integrated education), additional classes organized by the BiH societies, clubs, religious communities and the classes are organized by the competent institutions of BiH via diplomatic consular representations (education of the consular type). The integrated education is present in Austria, Denmark, Norway, Sweden and in parts of the Netherlands, Germany, Switzerland and Australia, where the classes are given in BiH societies, clubs and religious communities. The activities in the additional education is based on the plan and program for the additional education abroad and it enables students inclusion in the appropriate grade on returning to BiH. Exclusively in the organization of the BiH societies, clubs and religious communities, the additional classes are organized in Canada, the USA, and in the UK. The education of the consular type is present only in the German province Berlin, where organizing but not financial support is given in the Bosnian School in Berlin is partly under the responsibility of the BiH embassy in Germany. Out of 12 processed countries only Italy does not practice any of these educational types.

143. Bosnia and Herzegovina concluded more general bilateral agreements on cultural, educational and scientific cooperation. However, only with Germany an agreement on the cooperation regarding culture, education and science with the appendix to the agreement which regulates main principles of the organizing of the classes on mother tongue ("Official Gazette of BiH", No. 11/05).

144. Concerning the actual special measures dealing with the including of the migrant workers' children in the local educational systems in the Federation of BiH, apart from of regular education on the one of the BiH languages, the stipulated persons have the possibility to the regular education in English in BiH. These schools are attended by the children of BiH and other citizenship.

### **Answer to Question 19**

145. The matter of taxing the money entering the country as the part of the money orders or savings of the BiH workers who reside and work abroad is regulated by the positive legal prescriptions. According to the information we deal with, no matter if we speak about alien workers in BiH or workers from BiH working abroad, they do not come across any obstacle about money transfer, because, the state has acted properly by the legislative activity, according to the article 47 of the Convention.

146. By the international bilateral agreements on avoiding the double taxes payment regarding the income tax and property tax which BiH agrees and concludes with another countries, it is defined on the area of income from the independent and non-independent work, retirement and other income. In principle, these categories are taxable and the agreements define who is going to be in the charge of taxing. With some countries we have the residency criterion (every country taxes its own citizens). There is also a criterion of the origin taxing (the taxing is being done in the country of the origin of income). The countries which have a great number of our retirements or incomes receivers financed from their social welfare funds (so, they are not the result of the accumulated years of service in that country) demand and BiH agrees that they do the taxing of the categories, regardless of the residency criterion which may be accepted by the categories who by the work acquired right to retirement.

147. BiH by its agreements tries to consolidate rules to do the taxing once in one of the two agreement countries, and not twice which would do the financial harm to the physical or juristic person. The operative activity of taxing by itself is being done according to the local legislative of each country and BiH is responsible for the direct taxes on the levels of entities. According to the entities laws on income and profit there are levels that are not taxable and there are levels which are taxable on various rates defined by the laws of the entities. It means that the agreements on avoiding of double taxing are not concluded only because of the avoiding of taxing, but because of defining of the only one place for taxing of the tax payer according to the consolidated criteria. If there is an income category according to the local legislative which is not taxed in the agreement country of the origin of the resident, and criterion for taxing is residency, the other country accept that as a paid tax. That is the only situation when there is no taxing, with the acceptance of the fact that the tax is regarded as if it were paid.

### **Answer to Question 20**

148. The Law on Employment of Aliens and Persons without Citizenship is not synchronised with the Law on Movement and Stay of Aliens and Asylum. By the same Law on Movement and Stay of Aliens and Asylum, by the article 82, paragraph 3 it is prescribed that the temporary residence permit ceases to be valid within 15 days from the expiry of the work permit, in the case

that temporary residence permit was issued on the basis of a work permit that was the basis for issuance of temporary residence in BiH permit is no longer valid in case of non-approval, termination or cancellation of temporary residence.

149. According to the article 9 of the Law on Employment of Aliens and Persons without Citizenship in Republic of Srpska, work permit is issued for the specific job and for the specific kind of work on the period of three months less than the validity period of the travel document. Work permit cannot be issued for a period longer than a year. These legal resolutions are in the concordance with the Law on Movement and Stay of Aliens and Asylum, which is in concordance with the Convention.

150. The proposition on amendments to the Law on Employment of Aliens of the Federation of BiH, has been directed to the parliament procedure because of the synchronising with the Law on Movement and Stay of Aliens and Asylum. By the suggested amendments of the Law, the procedure of the issuance of work permit without conditioning of the possession of approval for the permanent or temporary residence, as well as the exceptions from the obligation of the possession of work permit are synchronised.

### **Answer to Question 21**

151. The limited access to employment of the migrant workers, giving the priority to the BiH workers, is regulated by the Laws on employment in both entities and Brčko District of BiH, and by the special legal documents on the employment of aliens. Of course, in concordance with the legal directions, there is no discrimination toward migrant workers after they complete the time period which, according to the article 52, paragraph b) of the Convention, must not be longer than 5 years. Concerning the deficient professions, they have priority for employment without specific limitations.

152. By the article 78, paragraph 5 of the Law on Movement and Stay of Aliens and Asylum it is defined that work permits under annual quota shall be issued for extension of existing work permits firstly and than for new recruitment, and by the article 2 of the Decision on the Annual Quota of Work Permits for Employment of Aliens in BiH for 2009 (which is made annually regarding the following year by the Council of Ministers of BiH), is regulated annual quota for the extension of the existing work permits. The annual quota of work permits for new recruitment is defined according to the activities and territorial schedule.

153. Concerning the regulated temporary stays in BiH, in the 5 years continuity, and more synchronized with the Law, each alien has the right to submit the request for permanent stay in BiH. It is regulated by the Law (article 68, paragraph 3) that an alien who has an approved permanent stay in BiH shall not be cancelled the permanent stay if he/she is working without work permit.

154. The advantages on issuance of work permits have the aliens who already have approved temporary residence in BiH on the basis of family reunification with an alien with approved temporary residence in BiH.

155. The article 79 prescribes work permits outside the quota, where are described the cases in which work permits may be issued independently from the established annual quota.

156. According to the Law on Employment of Aliens of the Federation of BiH (“Official Gazette of BiH”, No. 8/99), work permit may be issued to the alien under condition that in the employment service registers, among the unemployed there is no person who satisfies all requirements requested by employer for the conclusion of the employment contract or the contract on doing temporary job. In the Law on Amendments of the Law on Employment of Aliens of the Federation of BiH, which is in the parliament procedure, there is a predicted possibility of the issuance of work permit to an alien even if, in the employment service registers, exists a person who satisfy all requirement, but if he/she is not interested for the offered job.

157. Besides, by the stipulated Law it is anticipated that an alien on the BiH territory who is a founder or co-founder of the firm; member of management; member of the supervising committee or key person, regulated by the act on internal organization and systematization of the jobs in majority of the juristic or physical person, who will be employed, is issued work permit regardless of the existence of the persons in the employment service registers who satisfy all requirements demanded by the employer.

158. The Law on Employment of Aliens and Persons without Citizenship, in Republic of Srpska has not anticipated that, after legal stay for a period longer than 5 years of the alien in BiH, the issuance of work permit is not conditioned by the unemployment of the BiH citizens.

**D. Information related to Part V of the Convention  
(resolution applied to the special categories of  
migrant workers and their families)**

**Answer to Question 22**

159. On the number of seasonal workers, aliens, engaged on the doing of paid jobs in BiH, we still do not have precise data, because by taking effect of the new Law on Movement and Stay of Aliens and Asylum, the article 84 of the Law regulates exceptions from the requirement to hold a work permit, and in the cases of doing such jobs not exceeding three months. It is especially hard to define the exact number when it is about the citizens who have come from the countries without visa regime.

160. We mention that Bosnia and Herzegovina ratified the Convention No. 19 of the International Labour Organization, related to the equal treatment of the foreign and domestic workers regarding the compensation of the incidents at work.

161. In BiH the conclusion of the bilateral and multilateral agreements on the movement of the seasonal workers has not been performed yet. The initiative for conclusion of the agreements in the area of employment with other countries made the Presidency of BiH to make decisions on initiating the procedure on negotiating in order to conclude following agreements:

- Agreement between the Council of Ministers of BiH and the Government of Qatar related to the employment of the BiH workers in Qatar
- Agreement between the Council of Ministers of BiH and the Government of Republic Slovenia related to the temporary employment of the BiH workers in Republic Slovenia



- Agreement between the Council of Ministers of BiH and the Government of Republic Montenegro related to the temporary employment of the BiH workers in Republic Montenegro
- Agreement between the Council of Ministers of BiH and the Government of Republic Croatia related to the temporary employment of the BiH workers in Republic Croatia
- Agreement between the Council of Ministers of BiH and the Government of Republic Serbia related to the temporary employment of the BiH workers in Republic Serbia

162. The seasonal workers who traditionally work in BiH and workers from BiH work in the neighbouring countries and in the border area, work mainly on agricultural jobs, and touristic season jobs. In this moment we do not have statistical data which would describe the real situation. This means that, in the following period, BiH would have to be more organized on the question of registering aliens who work seasonally in BiH, as well as of the domestic workers going abroad to work seasonally. Of course, these questions must be regulated by bilateral and multilateral agreements which BiH has with certain countries, especially with the neighbouring countries.

163. However, it is obvious that the BiH citizens do the seasonal jobs in the countries in the surrounding and the conclusions of the agreements on such engagements are in procedure. According to the data of the Migration Service Centre (MSC) from Banja Luka in the period between the 1<sup>st</sup> of July 2008 and the 31<sup>st</sup> of December 2008, 175 clients applied. Analyzing the age structure, most of them, 67 (38/29%) were between 20 and 30, 56 (32%) of them were between 30 and 40, 29 (16, 57%) were between 40 and 50, and only 2 (1, 14%) were younger than 20.

**E. Information related to Part VI of the Convention (providing adequate, equal, human, and full civil rights related to the international migration of workers and their families)**

**Answer to Question 23**

164. Bosnia and Herzegovina and its competent institutions participated actively in the previous period in all international projects and organizations (such as: UNCHR, IOM, FRONTEX, AENAS, ICMP, etc) related to the international and regional cooperation in the field of migration, implementation and realisation of the concluded international agreements. Apart from the mentioned international administrative bodies and organizations through the MARRI Centre (Migration, Asylum, Refugees Regional Initiative) with its seat in Skopje, where BiH was one of the co-organizers and founder of the centre dealing with the problems of migration, asylum and refugees.

165. Bosnia and Herzegovina as a country in transition and as an aspirant for the EU membership, has been involved in numerous ways of cooperation, especially with the countries of the Southeast Europe with whom it has great number of signed agreements, such as: repatriation of the aliens in BiH and BiH citizens abroad whose stay is illegal, on re-admission of its own citizens and aliens whose stay is illegal, on cooperation in the combat against criminal, especially against terrorism, illegal drug distribution, on police cooperation. Since the most

agreements are of the recent date we should expect in the following period the results on the domain of cooperation on the area of migration, employment and better application of the signed bilateral and multilateral agreements, especially regarding the countries of the Southeast Europe. However, Bosnia and Herzegovina is very interested in the regional cooperation through the mutual administrative bodies in the region, which represents the future of the general development of the countries in the region and other countries. The positive examples are: Decade on Inclusion of the Roma 2008-2015, SECI Centre in Bucharest - struggle against organized crime, trafficking of human beings, etc.

#### **Answer to Question 24**

166. Bosnia and Herzegovina is very interested in respect and acquiring of the rights of migrant workers who reside and work on its territory and for the acquiring of the rights of its own citizens working abroad in numerous countries all over the world. It is not only about the acquiring right to work but the focus is set upon numerous social, economic, culture and other rights and needs of the migrant workers and their families. In order to diminish the negative consequences of the of the migration course, as on repatriation of the more than million of BiH citizens who because of the war emigrated in more than 100 countries of the world, Bosnia and Herzegovina can do very little at the moment. According to the estimation, in order to bring only one part of the refugees to BiH, huge amount of money is needed, and Bosnia and Herzegovina does not have that at the moment.

#### **Answer to Question 25**

167. The Agency for work and employment of BiH initiated, through the Ministry of the Civil Affairs of BiH “Agreement between the Government of the Republic Slovenia and the Council of Ministers of BiH on temporary employment of the BiH workers in Slovenia”, “Agreement between the Council of Ministers of BiH and the Government of Republic Montenegro related to the temporary employment of the BiH workers in Republic Montenegro”, “Agreement between the Council of Ministers of BiH and the Government of Republic Croatia related to the temporary employment of the BiH workers in Republic Croatia”, “Agreement between the Council of Ministers of BiH and the Government of Republic Serbia related to the temporary employment of the BiH workers in Republic Serbia”. By the final conclusion of the mentioned BiH agreements there will be provided the new conditions for better and more organized employment of BiH citizens in the countries quoted above.

168. In the same way, the Agency of Labour and Employment of BIH signed the Protocol on cooperation with the Employment Institute of Slovenia, the Protocol on cooperation with the Employment with Croatia, the Protocol on cooperation with the Employment with Montenegro, and with the Association of Trade Activities of Slovenia, and Memorandum on Cooperation of the Craftsmen Guild of Slovenia.

169. Although, till this moment, there were no conclusion of the agreements between BiH and other countries, which would regulate labour and employment of the BiH citizens abroad, but after the analysis and notification on the succession of the bilateral agreements of the ex SFRJ signed with the following countries:

- Agreement between SFRJ and Austria on regulating of the employment of the Yugoslav workers in Austria
- Agreement between SFRJ and Belgium on regulating of the employment and stay of the Yugoslav workers in Belgium
- Agreement between SFRJ and Luxemburg on regulating of the employment of the Yugoslav workers in Luxemburg
- Agreement between SFRJ and the Nederland on regulating of the employment of the Yugoslav workers in the Nederland
- Agreement between SFRJ and Australia on regulating of the employment of the Yugoslav workers in Australia

### **Answer to Question 26**

170. Bosnia and Herzegovina's consular policy is related to the possible return of all migrant workers abroad. This is especially related to those workers whose work or residence permit has expired, or when they are not in the regular situation in the country of employment, BiH took the several measures ensuring the return of the workers, especially of the minorities workers, the access to the reconstruction aid, employment social and health care insurance, regulated pension and education for the children of migrant workers with the right to mother tongue.

171. The measures taken in order to ensure safe and possible return of the BiH citizens working abroad, when they decide to return to BiH or when their residence permit or work has expired or when they are not in the regular situation in the country of employment, are provided by the signing of the Agreement on Readmission with the EU regulating the admission problems. By this agreement, according to the EU standards, the struggle against illegal migrations is intensified, where the mutual conditions for admission and deliverance of the persons who entered or stay illegally in the country territory of the one of the countries which signed the agreement. The conclusion of this agreement is in the function of improvement of the security in the country which signed the agreement and in the region of Southeast Europe with the positive reflections upon the EU and world.

172. Concerning the analysing of the reports submitted by the countries members according to the article 73 of the Convention, under the sub-paragraph 26, we let you know that the governments of the entities and Brčko District of BiH through their sectors for displaced persons, refugees and residence questions completed the procedure of the return to the abandoned property of the displaced persons and refugees.

173. The Competent Ministries took many activities on reconstruction of the ruined and damaged housing objects, in order to contribute to the safe return of its citizens, who, apart from the other, work abroad, and, when they decide to return to BiH. In this manner, on the BiH territory where during the war 453000 housing objects were ruined. Till this moment 317000 have been reconstructed what makes the reconstruction rate of 68%. Out of this number, 232000 housing objects have been reconstructed on the territory of Federation of BiH, around 72000 on

the territory of Republic of Srpska, and around 12000 on the territory of Brčko District. The process of reconstruction is continued and there are still around 150000 objects or 32% out of the total number of ruined and damaged objects.

174. In the mentioned period, BiH with the cooperation of the entities governments and with Brčko District Government provided relevant funds for restoration, reconstruction and building of the housing objects for displaced persons and refugees. The process of implementation of the Revised Strategy for the application of the Annex 7 of the Dayton Agreement is in the procedure. On the purpose of housing of the displaced persons and refugees, who still do not fulfil the conditions to return their pre-war property, Brčko District provided 320 housing units in the so called justified areas.

175. According to the Law on mediation on employment and social welfare of the employees (“Official Gazette of Federation of BiH”, Nos. 55/00, 41/01, 22/05, 9/08), the Federal Employment Institute is responsible for supervising and acting on providing conditions for return of the citizens of the Federation of BiH from abroad and for their working engagement.

### **Answer to Question 27**

176. The big problem of the most countries and of the BiH as well is related to the illegal and permanent movement of the migrant workers including organized trafficking. The appearance of the trafficking in human beings in BiH after war was something new and mostly unknown. In the first phases of trafficking, the clients were hidden in the luxurious villas. The victims were mostly women from the East Europe (Ukraine, Moldova, Russia, Romania, Serbia, etc). The main method was the acceptance of the luring and attractive jobs.

177. Everything was finished by the taking away the documents and by force. From the 2000 after the Palermo Conference, BiH continues the severe combat against the trafficking of human beings, especially women without rights. On the country level, the special commission was established, and several years later, the function of the state coordinator whose task is to organize and lead combat against this undesirable world phenomena. Till now, in BiH, two Action Plans have been adopted which elaborates all activities of efficient combat against the trafficking of human beings. It is important to note that the non-government organizations have relevant role on this matter. At the beginning, due to the lack of the objects and care of the women who needed every help, in BiH appeared several NGO who greatly contributed, by providing material and psychological help to the women in difficult situations, recovering them and returning home.

178. However, at the moment, the traffickers find new ways. Their clients are left and hidden in inappropriate objects (sheds, basements, cellars, etc). The most common victims are women, especially underage girls from BiH. The other characteristic of the trafficking in human beings would be the workers trafficking with the false documentation, great salary and fraud. They are transferred to countries of West Europe. The state border police, with the help of the local authorities successfully cut the criminals routes.

179. The Border Police of BiH in the previous period achieved great results on the basis of prevention and uncovering of the trafficking in human beings crime and in this manner directly reduced the number of the illegal immigrants. Related to this, during 2007 and 2008, the Border Police submitted 102 reports on the crime "Trafficking of Human Beings" from the article 189 of the Criminal Law of BiH against 294 204 persons, out of which number 9 official reports were related to the crime "Organized Crime" from the article 250 of the Law in connection with the crime "Trafficking in human beings from the article 189 of the Law to the Prosecutor's Office of BiH. The 15 reports are related to the crime "Association on the Purpose of Doing Crimes" from the article 249 related to the trafficking of human beings, while 78 reports are related to the crime "Trafficking of human beings". On the basis of these reports, great number of criminals was processed before the BiH Court. Concerning this, it may be said that in this manner Border Police of BiH contributed to the prevention of the illegal movements of the migrant workers, including organizing trafficking of human beings.

180. When we talk about data and information on migrant workers, we may say that during 2008 Border Police admitted 248 aliens who illegally entered Croatia from BiH, most of whom were the Turkey citizens (77), Serbia (122), while others were from Macedonia (27), Montenegro (3), Albany (15), Sri Lanka (1), UNMIK (1), Azerbaijan (1), and France (1). Here we mainly speak on illegal migrants who in the search for job go to the countries of EU, and whose transfer is organized by the groups from the all countries of the region by the mutual actions in order to achieve illegal benefit. We also may point out that the trend of the illegal migrations is receding recently.

181. The Aliens Affairs Service on the purpose of the more efficient migration management in BiH, that is, on the purpose of uncovering and prevention of the illegal migrations, all available measures and methods have been applied, and if needed, the cooperation is coordinated with the activities of the other security and police authorities in BiH.

182. Concerning BiH, approval of the temporary residence on humanitarian grounds, as defined by the article 54, paragraph 1 of the Law on Movement and Stay of Aliens and Asylum, the same may be issued an alien who has been a victim of organized crime and/or trafficking of human beings, for the purpose of providing protection and assistance for his/her rehabilitation and repatriation into the country of his/her habitual residence, or a country which will admit the alien; to a minor child of an alien if he/she who has been abandoned or is a victim of organized crime or if the minor is without parental protection or custody, or unaccompanied for any other reason whatsoever, and in other cases prescribed by the Law.

183. The stipulated legal resolution obviously represents an improvement achieved on the basis of protection and aid to the victims of trafficking of human beings, and according to the National Action Plan for the Combating trafficking in human beings and Illegal Migrations in BiH 2005-2007 and Action Plan for the trafficking of children.

184. It should be emphasized that in relation with the problem the great assistance is offered by cooperation with the Migration service centres in preventing of the illegal or secret movements of the migrant workers, as well as the bilateral agreements on employment in BiH and other countries.

### **Answer to Question 28**

185. According to the data of the Criminal Division of the BiH Court during the 2003-2006 period on the basis of the articles 186, 189 and 250 of the Criminal Law of BiH, 125 persons were sentenced. The number of trafficked persons was 372, 264 males, 53 females, and 12 underage persons.

186. According to the data of the Court of BiH we found out that 25 persons were from Kosovo, 19 from Serbia and Montenegro, 25 from Albania, 34 from Turkey and 14 from China, related to the nationality, 137 were Albanians, 3 Roma, 28 Bosnians, 4 Turks and 6 Kosovars.

187. On the basis of the article 186 of the Criminal Law of BiH (trafficking of human beings) 4 cases were resolved. On the basis of the article 189 of the Criminal Law of BiH (smuggling of human beings), 54 cases were resolved, and on the basis of the article 250 of the Criminal Law of BiH (organized crime) 4 cases were resolved.

188. In the Sector II of the Court of BiH for organized crime, economic crime and corruption in 2004, 2005 and 2006 there were 5 cases with 14 sentenced persons and about 2000 persons, mainly of the Turkish nationality, were the victims of the trafficking and smuggling of human beings. The Court of BiH does not pay special attention to the sex, age, and ethnic origin of the victims of the trafficking and smuggling of human beings, since the most important court activity is processing of the criminals. In the mentioned cases the following crimes, for which the agreement on confession was achieved, were treated:

- Organized crime from the article 250 of the Criminal Law of BiH, related to the smuggling of human beings from the article 189 of the Criminal Law of BiH - 1 case (two persons were sentenced to the four year of imprisonment)
- Organized crime from the article 250 of the Criminal Law of BiH, related to the trafficking in human beings from the article 186 and mutual recruitment on the purpose of prostitution from the article 187 of the Criminal Law of BiH - 1 case (one person was sentenced to the nine years of imprisonment, three persons pronounced guilty for the organized crime from the article 250 of the Criminal Law of BiH related to the trafficking in human beings from the article 186 of the Criminal Law of BiH and they were sentenced to the three years and six months of imprisonment, three years of imprisonment and two years of paroling from prison which shall not be executed if the new crime is not done within four years)
- Association on the purpose of doing crimes from the article 249 of the Criminal Law of BiH related to the smuggling of the human beings from the article 189 of the Criminal Law of BiH - 2 cases (five persons were pronounced guilty for the crime of association on the purpose of doing crimes from the article 249 of the criminal Law of BiH, and they were sentenced to the one year of paroling from prison which shall not be executed if the new crime is not done within three years, i.e. eight months, and which shall not be executed if the new crime is not done within three years; one year and two months which shall not be executed if the new crime is not done within three years and nine months, and which shall not be executed if the new crime is not done within two years)

- The trafficking in human beings and exploitation prostitution from the article 188 of the Criminal Law of Republic of Srpska - 1 case (three persons pronounced guilty for the crime of trafficking in human beings and exploitation prostitution from the article 188 of the Criminal Law of Republic of Srpska, and they were sentenced to the two years of paroling from prison, which shall not be executed if the new crime is not done within four years)
- Regarding the questions related to the smuggling and trafficking in human beings we give the more detailed information made in the Office of the State Coordinator for Combating Trafficking in human beings and Illegal Migrations for the Period of 2006-2007

### **General review of the situation and statistical markers of the victims of trafficking in human beings for 2006**

189. Concerning the providing care for the victims of the trafficking of human beings, non-government organizations during 2006, and 83 persons assisted. Out of this number there were 7 children, followed by mothers, and 20 were the identified victim situated in the safe houses earlier. So, the total number of the assisting victims identified by the non-government organizations 56 victims in 2006. By the data analysis collected by the police authorities, it is concluded that there are 42 identified victims of the trafficking of human beings, and 52 were processed (10 processed victims were identified last year). From the mentioned above can be concluded that during 2006, 71 victims of trafficking in human beings were identified: 31 from BiH, 22 from Serbia and Montenegro, 6 from Moldavia, 4 from Ukraine, 3 from Croatia, 2 from Bulgaria, and 1 from Switzerland and 1 from Russia, as shown in the chart. Only one victim was underage, from Serbia and Montenegro.

190. Chart 1 in the annex shows the age structure of the identified victims of trafficking in human beings in 2006. Charts 2, 3, 4 and 5 show the data on the total number of the number of identified victims of trafficking in human beings and their relations in the period of 1999-2006, and data on alien and domestic victims of trafficking of human beings.

### **Criminal charges**

#### *Smuggling of the illegal migrants in 2006*

191. On the basis of the data of the services for enforcement of the laws and prosecution during 2006, there were 63 reports submitted on the committed crimes of the smuggling of human beings from the article 189 of the Criminal Law of BiH against 126 persons. For one case there was a report on committed crime of the smuggling of human beings related to article 250 of the Criminal Law of BiH (organized crime).

192. The prosecutor's offices, during 2006, made 102 investigations on the crime of smuggling of human beings, and 57 investigations are continued, and there are 45 new investigations. In the reporting period, prosecutors made three orders on cessation of investigation, and the investigation was cancelled in 5 cases. In the reporting period, 41 indictments were filed, 39 confirmed and 2 denied.

193. The courts resolved 32 cases against 35 persons. On the agreement on guilt, 21 person was sentenced, 12 to parole from prison and 9 to imprisonment. Without the agreement on guilt, the 13 persons were sentenced, 10 to the parole from prison, and 3 to imprisonment. One person was released.

194. Chart 6 shows the relation between investigations, indictments, and sentences for the smuggling of human beings in 2005 and 2006.

#### *Trafficking in human beings in 2006*

195. On the basis of the data of the services for law enforcement and prosecution during 2006, 34 committed crimes of the trafficking with human beings were reported and similar crimes against 77 persons. In two cases, there were brought two criminal indictments against trafficking with human beings related to article 250 of the Criminal Law of BiH (organized crime).

196. The number of identifies victims of the trafficking with human beings in 2005, according to the police reports were 54, and in 2006, there were more investigations, actually 90 (new 42, and unsolved 48 from the previous period, which represents an increase regarding 2005, with the total number of 68 unsolved indictments, 37 new in 2005, and 31 continued from the previous period of 2004). 14 investigations were not conducted, and one was ceased.

197. Also, in 2006, 31 charges were brought, and 33 were confirmed at the Court (two charges brought in 2005, were confirmed in 2006), and in 2005, 24 charges were brought and 26 were confirmed by courts. The courts pronounced the first instance sentences to the 30 persons, out of which number, 23 convicting. According to the agreement, 10 persons were sentenced, 1 to parole from prison, 2 to pay, 11 to imprisonment; 3 charges were brought and 4 persons were released. Against the first instance sentences 12 appeals were filed.

198. Chart 7 shows the relation between the investigations, charges and first instance sentences for persons who commit the crime of trafficking in human beings and similar criminal acts.

199. Regarding the proportion between the pronounced imprisonment sentences, parole from prison sentences, monetary sentences, it can be concluded that the sentence policy became more severe. So, on the basis of the agreement on guilt for 7 persons were sentenced to imprisonment and without the agreement 11 persons were sentenced to imprisonment. The monetary sentences were pronounced to only 2 persons, on the basis of agreement on guilt. Relating to the total number of sentenced persons, only 3 persons were with rejected sentences, ad 4 persons were released. On received first instance sentences in 2006, 23 appeals were filed, 12 filed by the prosecutor, and 11 by accused persons.

200. Resolving these appeals, the secondary court pronounced 17 legal sentences, for 10 persons sentence to imprisonment, for 2 persons parole from prison. One person was pronounced monetary sentence, and 3 person's sentences were rejected, and one person was released. The number of the persons sentenced to imprisonment who have already served the sentence is 9, and 8 persons wait for the serving of sentence.

201. Table 1 in the annex shows the structure of the crimes of trafficking in human beings and similar criminal acts and the situation in 2005 and 2006.



## **General review of the situation and statistical markers on the victims of trafficking in human beings in 2007**

202. During 2007, non-governmental organizations offering support and protection to the victims of the trafficking in human beings assisted more than 50 persons. This number includes the victims of the trafficking in human beings identified earlier, as well as the persons identified during 2007. By the analysis of the collected data from the non-government organizations, law and prosecuting authorities, it is concluded that during 2007 41 persons were identified as the victims of the trafficking of human beings/exploitation of prostitution. Out of this number, 24 persons accepted accommodation and the help of the safe houses. As it can be seen from the following chart, out of the total number of the newly identified victims, 73% are BiH citizens. It is especially worrying that out of the total number of the identified victims in 2007 18 or 44% are underage persons, BiH citizens. The proportion between the domestic and foreign victims of the trafficking in human beings is shown in Charts 1 and 8.

203. Out of the 41 persons identified as the victims of the trafficking in human beings in 2007, 11 are aliens. The majority of aliens is from Serbia, as shown in Chart 8. Out of 11 victims of the trafficking of human beings, 1 person was identified earlier. Despite the previous assistance, he/she was found again in the chain of trafficking in human beings in 2007. Charts 11, 12 and 13 show the trends of the total numbers of the victims of the trafficking in human beings in BiH since 1999, when we started with the statistical data collecting, till 2007, and special trends of the number of foreign and domestic victims identified in that period.

### *Criminal prosecution in 2007*

204. On the basis of the data of the services for enforcement of the laws and prosecution during 2007 we can see that the number of brought charges, pronounced sentences and the number of the criminal reports receded. So, in 2007 34 reports were submitted, including 65 persons and 38 victims of the trafficking of human beings/exploitation of prostitution. There were totally 11 indictments, 8 confirmed. In the Federation of BiH 8 indictments were filed, 6 confirmed. In Brčko District of BiH, Republic of Srpska and the Court of the BiH one indictment was filed and one confirmed. In total, there were 6 pronounced sentences: one on the parole from prison and two sentences are valid (one by the agreement of guilt). In Brčko District of BiH there were no sentences, and in Republic of Srpska one was rejected. At the Court of BiH, one sentence (release) which included 10 persons, was not valid, and the other related to the trafficking in human beings on the purpose of the exploitation of begging was valid (based on the agreement of guilt).

205. In chart 15 the number of the investigations, indictments and pronounced sentences for the crimes of the trafficking in human beings are shown.

### **Answer to Question 29**

206. According to the National Action Plan for combating the trafficking in human beings and illegal migration in BiH for the period of 2005-2007, the Action Plan on trafficking in children and the Law on Movement and Stay of Aliens and Asylum, the good results were achieved. They are most obvious in the building of shelters. In BiH there are seven shelters with the capacity

for 156 persons (for domestic and aliens) and 15 places reserved for the emergency cases. The shelter is supplied with the free legal and medical aid for the victims, psychological advising, and long-termed rehabilitation victims' reintegration program.

207. The Council of Ministers of BiH in 2008 adopted Action Plan for prevention of trafficking in human beings in the period of 2008-2012.

208. Concerning the capacities related to the shelters for the alien victims of the trafficking in human beings, they have an adequate accommodation, free medical aid, psychological advising, rehabilitation program. The Ministry of security signed the protocol on cooperation and providing of the adequate and safe accommodation and taking care of the alien victims of the trafficking in human beings with six NGOs providing stipulated aid. Regarding free legal assistance to the victims of the trafficking in human beings, the Ministry of Security of BiH signed the Protocol with the society called "Your Rights" which provides free legal assistance in every administrative and court process.

209. In the budget of the institutions of BiH cooperating with the Ministry of Security of BiH there are funds provided for the stimulation of the activities of NGOs.

### **Raising awareness on the problem of trafficking in human beings**

210. The Office of the State Coordinator is in the partnership with Caritas of BiH took the campaign on the raising awareness on the problem of the trafficking in human beings, meant for the potential emigrants. The aimed group of this campaign are mainly young people in search for the jobs outside BiH. The campaign included printed posters (1400) and leaflets (around 14000) with the advice on what to do in the case of the job offer outside the country (gather more information on employer, inform the family and friends, make the copies of passports, always keep personal documents, etc). All materials are distributed to the diplomatic consular representations and missions of the international organizations in BiH through the Ministry of Foreign Affairs of BiH, to the offices of the Border Police and Universities in BiH, to the shopping and business centres (Mercator, Velpro, OBI, UNITIC), to the primary and secondary schools, employment institutes in Bosnia and Herzegovina. In Sarajevo, Mostar and Banja Luka, there are city-light billboards, and in Tuzla on three city buses.

211. Another preventive activity from the Action Plan has been realized in cooperation with the Caritas of BiH, regarding the promotional campaign starting on the 23<sup>rd</sup> of June 2008 by the emission of the short spot on TV (BHRT, FTV, RTRS, TV HAYAT, and TV KISS), and it lasted till the 29<sup>th</sup> of June 2008, with 21 emissions on each television, and at the same time on the radio stations with an adequate "spot", on Radio Stari Grad, RTRS, Bobar, Džungla (Doboj), radio Kiss and on radio of the Federation of BiH with 31 emission, and 21 for RTRS.

### **Temporary residence on humanitarian grounds**

212. Concerning the temporary residence on humanitarian grounds, the victim of trafficking in human beings, according to the article 54, paragraph 1 a, related to the article 52, paragraph 5 of the Law on Movement and Stay of Aliens and Asylum, a temporary residence on humanitarian grounds may be issued for the six months period, not longer, for the purpose of providing protection and assistance for his/her rehabilitation and repatriation into the country of his/her

habitual residence. The procedure of issuance of the temporary residence permit on the humanitarian grounds is being done by the Aliens Affairs Service, and it may be extended if there are legally prescribed conditions.

213. Having in mind the fact that the Office of the State Coordinator for Combating Trafficking in human beings and Illegal Migrations formed two different groups for the making of prescriptions and protocols according to the National Action Plan for Combating Trafficking in human beings and Illegal Migrations to BiH, so the Office has in its possession all documents relevant for the matters of health care. What should be emphasized is the fact that throughout BiH there is a possibility to be confidentially or anonymously, voluntarily advised and HIV tested (including the Hepatitis C testing, and somewhere Hepatitis B), so, these favours may be used by the victims of the trafficking in human beings and witnesses of the victims.

### **Answer to Question 30**

214. According to article 69 of the Convention, BiH from 2003 till today has done a lot of efforts on overcoming of the appearance of the informal sector. In relation to this, entities have made adequate legal measures which prohibit the work of the informal sector. The results very soon have appeared to be very good, because the number of registered workers increased greatly.

215. Concerning migrant workers, who are generally, seasonal, without legal status, we conclude that they are not registered in the special registers. Mostly, they are workers from the areas near borders with the neighbouring countries. The jobs are seasonal and related to agriculture and tourism.

216. Republic of Srpska does not plan to consider possibilities of the regulation of the status of migrant workers and their families who do not have regulated their status till the problem of visas and asylum is solved on the mutual level.

Annex

TABLES AND CHARTS

Chart 1

The number of identified victims of trafficking in human beings in 2006

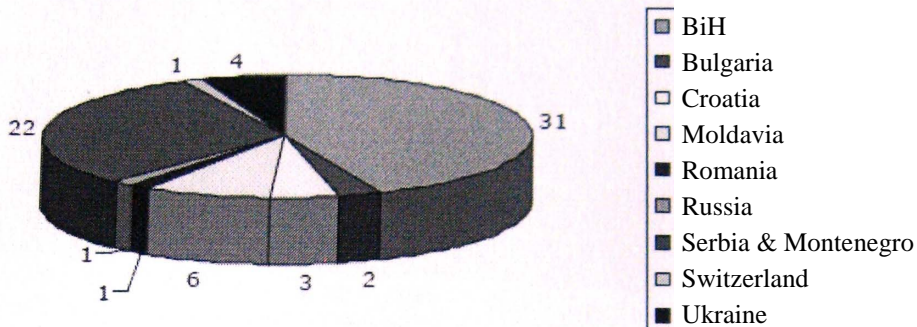
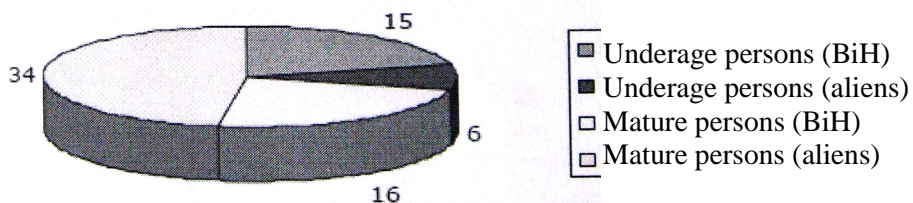


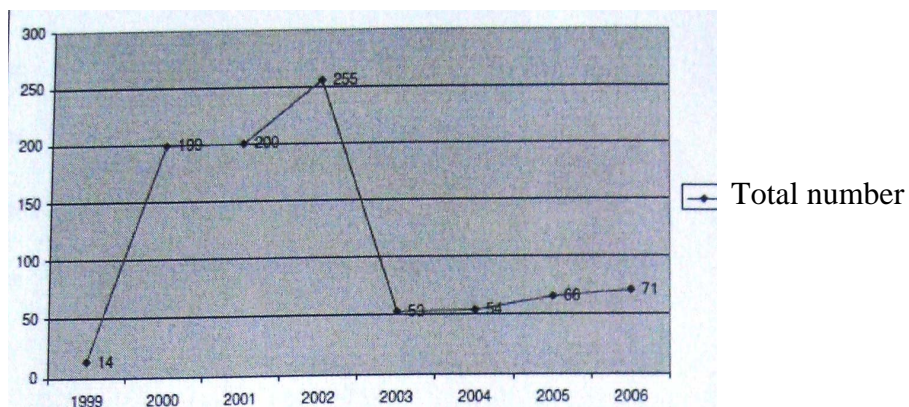
Chart 2

The age structure of identified victims of the trafficking in human beings

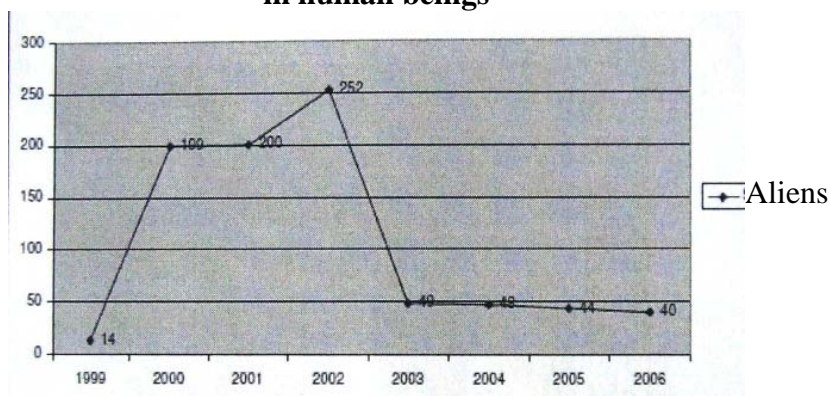


### Charts 3, 4 and 5

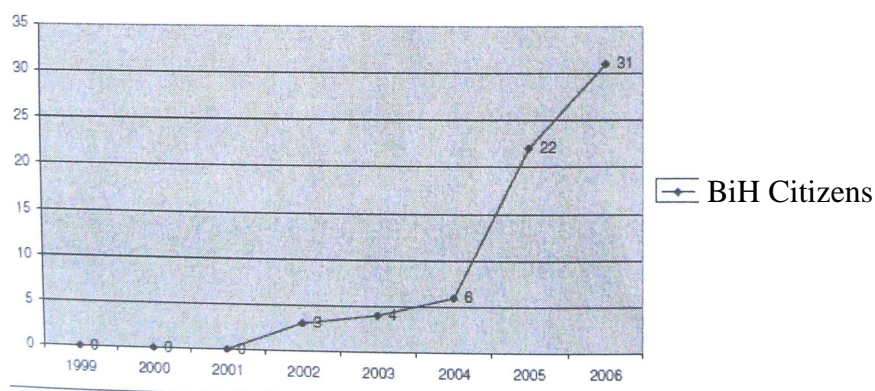
**Total number of identified victims of the trafficking in human beings**



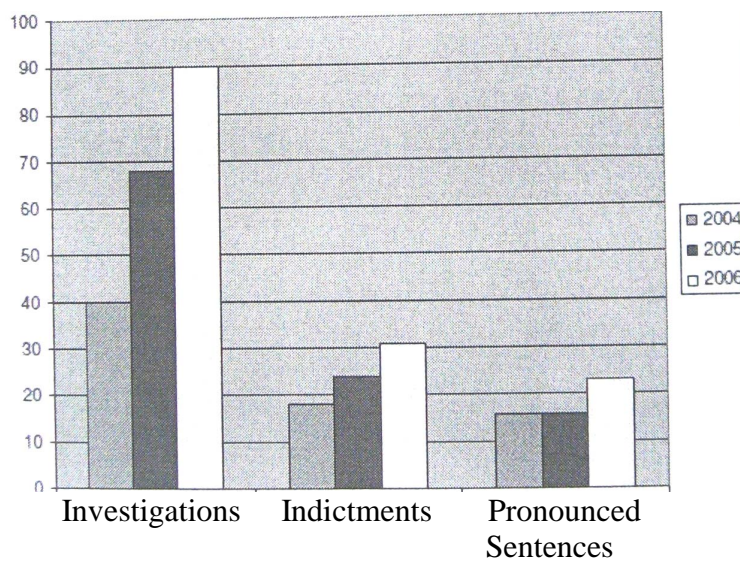
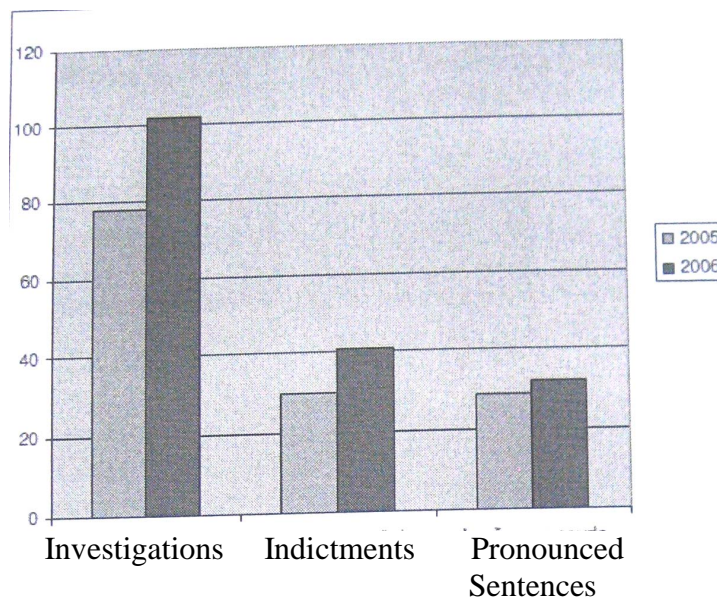
**The number of the aliens identified as potential victims of trafficking in human beings**



**The citizens of BiH identified as potential victims of trafficking in human beings**



**Charts 6 and 7**

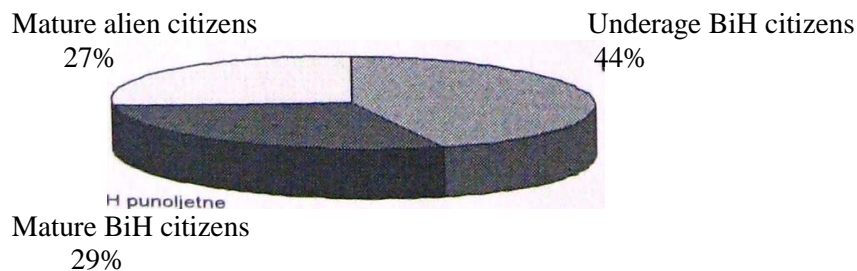


**Table 1**

Crime	Number of reported crimes		Number of reported persons		Number of victims	
	2005	2006	2005	2006	2005	2006
Exploitation of the slavery, article 185 of the CL of BiH	-	2	-	2	-	1
Trafficking in human beings, article 186 of CL of BiH	15	17 <sup>12</sup>	35	45	27	23
International recruitment in purpose of prostitution, article 187 of CL of BiH	-	3	-	9	-	3
Illegal depriving of personal documents, article 188 of CL of BiH	3	2	3	6	3	5
Exploitation of prostitution, article 210 of CL of Federation of BiH	10	8	10	13	14	8
Trafficking of human beings on the purpose of prostitution, article 197 of CL of Republic of Srpska	6	1	8	1	6	2
Exploitation of prostitution, article 207 of CL of Brčko District of BiH	1	1	2	1	3	1
Abusing children on purpose of pornography, article 208 of CL of Brčko District of BiH	1	-	1	-	1	-
<b>Total</b>	<b>36</b>	<b>34</b>	<b>59</b>	<b>77</b>	<b>54</b>	<b>43</b>

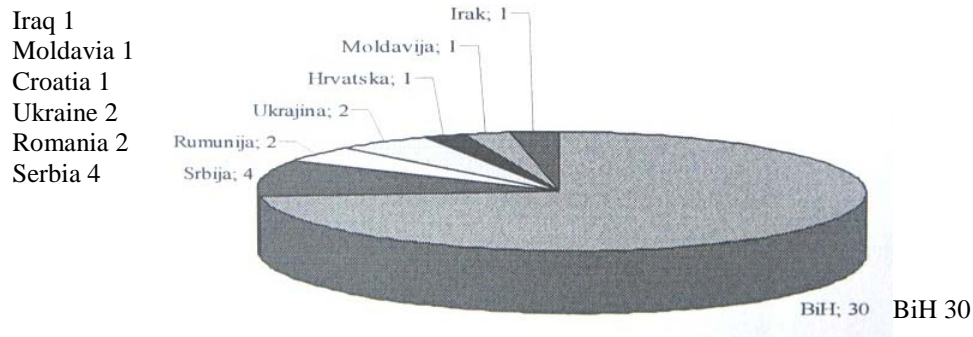
**Chart 8**

**Identified victims of trafficking in human beings in 2007**



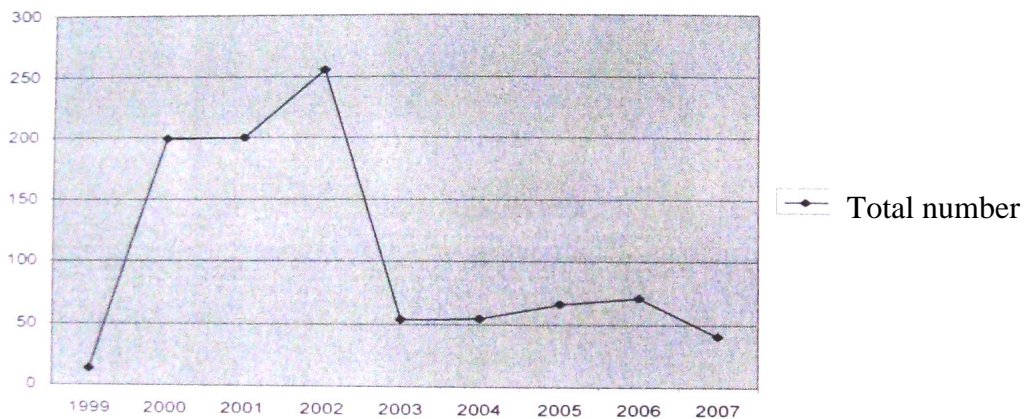
**Chart 9**

**The systematization of victims of trafficking in human beings in 2007, according to the country of origin**

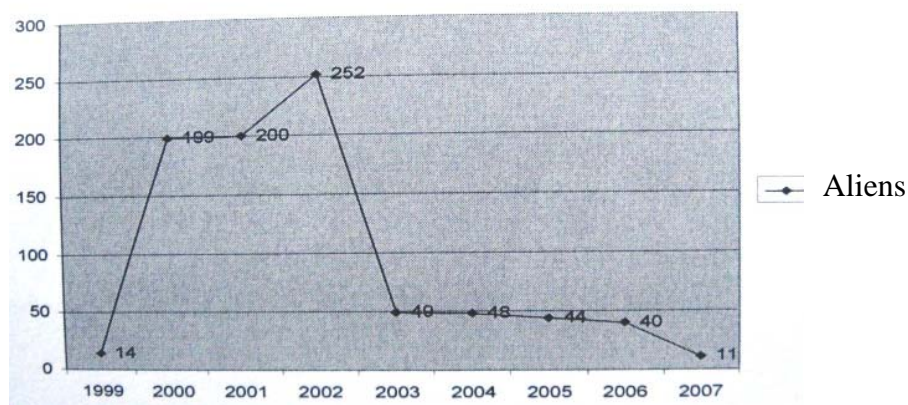


**Charts 10, 11, and 12**

**Total number of identified victims of trafficking in human beings**



**Total number of aliens identified as the victims of trafficking in human beings**





### Total number of BiH citizens identified as the victims of trafficking in human beings

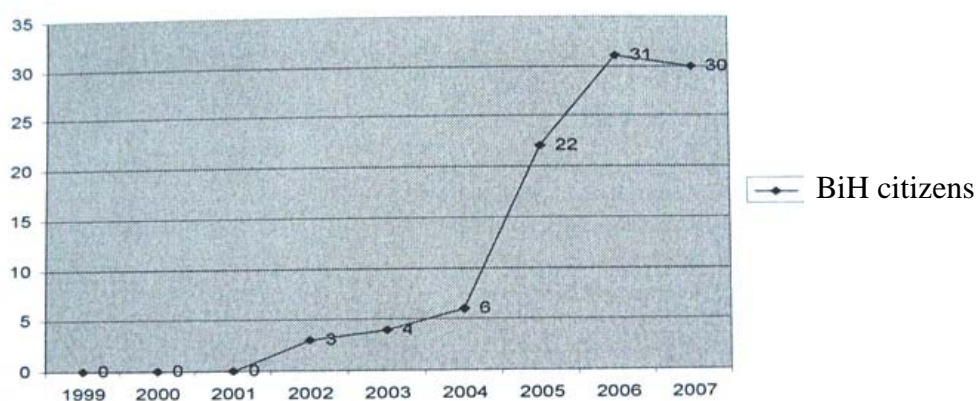
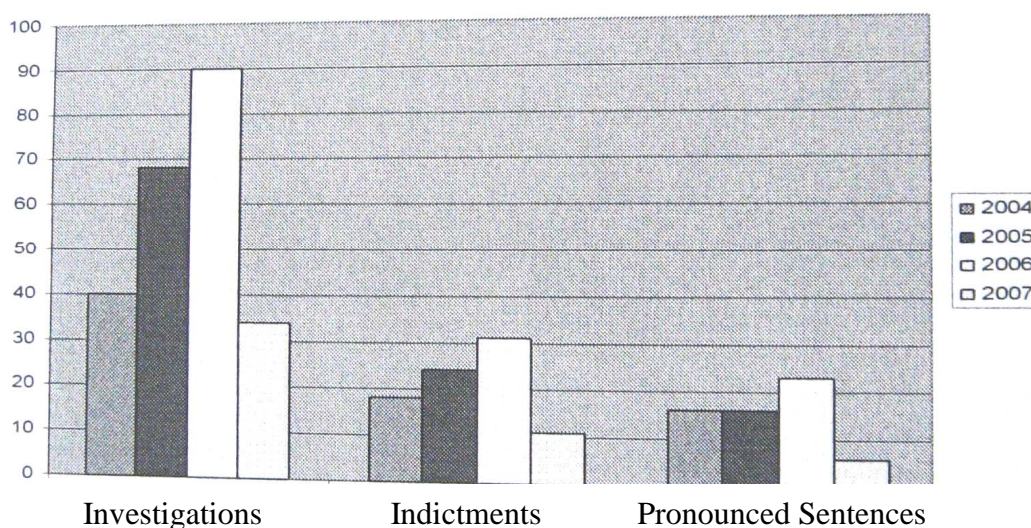


Chart 13



**Table 2**  
**Display of the BiH diaspora**

Continent	Country of admittance	Number of persons	Total
Europe	Austria	132 262	
	Belgium	8 000	
	Bulgaria	100	
	Czech Republic	1 771	
	Denmark	21 037	
	Finland	1 627	
	France	5 000	
	Greece	358	
	Croatia	60 000	
	Ireland	1 650	
	Italy	40 000	
	Luxemburg	6 000	
	Hungary	305	
	Macedonia	707	
	The Nederland	24 739	
	Norway	15 500	
	Poland	388	
	Slovenia	100 000	
	Germany	157 157	
	Serbia and Montenegro	137 000	
	Spain	1 824	
Switzerland	75 000		
The United Kingdom	10 000		
America	Canada	60 000	
	The USA	390 000	
Australia	Australia	50 000	
Asia	India	9	
	Indonesia	4	
	Iran	35	
	Israel and Palestine	1 000	
	Japan	50	
	Jordan	850	
	Qatar	100	
	El Kuwait	150	
	Lebanon	30	
	Malaysia	130	
	Pakistan	53	
	Saudi Arabia	189	
	Syria	220	
	Sri Lanka	1	
	Turkey	690	
	UAE	300	
	Egypt	200	
	South African Republic	12	
	Libya	1 500	
<b>Total</b>		<b>1 356 619</b>	<b>1 356 619</b>

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