



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Committee against Torture**

**Consideration of reports submitted by States  
parties under article 19 of the Convention**

**Combined second to fifth periodic reports of States parties  
due in 2009, submitted in response to the list of issues  
(CAT/C/BIH/Q/2) transmitted to the State party pursuant to  
the optional reporting procedure (A/62/44, paras. 23 and 24)**

**Bosnia and Herzegovina\*, \*\*, \*\*\***

[19 November 2009]

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\* For the initial report of Bosnia and Herzegovina, see CAT/C/21/Add.6; for its consideration, see CAT/C/SR.667 and 670 and CAT/C/BHI/CO/1.

\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

\*\*\* Annexes to the present document may be consulted in the files of the secretariat.

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## Article 1

### Reply to the questions raised in paragraph 1 of the list of issues (CAT/C/BIH/Q/2)

1. Criminal laws of the Republic of Srpska and Brčko District of Bosnia and Herzegovina do not contain express legal definition of torture that is covered by the Convention against Torture and the Criminal Code of Bosnia and Herzegovina.
2. The Ministry of Justice of Bosnia and Herzegovina (BiH), after the enactment of the Criminal Code of Bosnia and Herzegovina and the Law on Criminal Procedure of Bosnia and Herzegovina, established in 2003 the Team for the monitoring and evaluation of the application and harmonization of criminal law. In accordance with the proposals by the Team in 2008 comprehensive amendments were adopted to the Law on Criminal Procedure of BiH and the amendments to the Criminal Code of BiH are currently under construction.
3. However, entity ministries of justice or the Judicial Commission of Brčko District are competent to take action for the purpose of harmonization of criminal laws in the entities and Brčko District of Bosnia and Herzegovina with international conventions.
4. The Ministry of Justice of Republika Srpska foresees in its program of activities for 2009 the creation of the Law on Amendments to the Criminal Code of Republika Srpska, with the aim of harmonization with the Criminal Code of BiH and it has formed a working group for drafting the Law on Amendments to the Criminal Code of Republika Srpska, which will prepare draft amendments to this law.
5. The Ministry of Justice of Republika Srpska requested the Team for monitoring and evaluation of the application of criminal laws to provide concrete proposals with a rationale for the amendments of certain articles of the Criminal Code of Bosnia and Herzegovina.
6. The Law Commission of Brčko District of Bosnia and Herzegovina informed us that in the Criminal Code of Brčko District of BiH there is no express definition of torture as contained in the Criminal Code of Bosnia and Herzegovina, in Article 172, paragraph 1, point f) and paragraph 2, point e), nor feedback why the legal definition of torture contained in the Criminal Code of Bosnia and Herzegovina and the definition of torture in the United Nations Convention against Torture is not incorporated in the Criminal Code of Brčko District of Bosnia and Herzegovina. The legal definition of torture contained in the individual crimes that are covered by the Criminal Code of Brčko District of BiH, as in Article 178, paragraph 2 (extortion of testimony), in Article 163 paragraph 2 (murder), in Article 169, paragraph 3 (serious bodily injury), in Article 200, paragraph 2 and 3 (rape), in Article 218, paragraph 6 (domestic violence), etc.
7. In the coming period, the Ministry of Justice of BiH plans to initiate the need for harmonization of the legal definition of torture with the definition in the Criminal Code of Bosnia and Herzegovina.

### Reply to questions raised in paragraph 2

8. All crimes that are alleged to have been associated with trafficking in the Criminal Code of Bosnia and Herzegovina (CC BiH) are classified in the chapter of crimes against humanity and values protected by international law. The crime of trafficking is regulated by Article 186 of CC BiH, which is coordinated with the Palermo Protocol (Convention against Transnational Organized Crime supplemented by 2 protocols, of which one relates

to the prevention, suppression and punishment of trafficking, in persons, especially women and children).

9. At the entity level, there are other related crimes such as: The Article 210 of CC FBiH — inducement to prostitution, Article 198 of CC RS — human trafficking for purpose of prostitution and the article 207 of the Brčko District – inducement to prostitution.

10. The Council of Europe Convention on the Action against Trafficking in Human Beings came into force on 1 May 2008 and in accordance with this Convention and at the request of the National Coordinator through the Organization for Security and Co-operation in Europe (OSCE), the analysis of compliance of our legislation with international standards and entities' laws with the State is being drafted due to the shown need for synchronization. This analysis is done by the Office for Democratic Institutions and Human Rights (ODIHR).

11. In November 2008, in relation to harmonization of domestic legal framework, the OSCE Mission to Bosnia and Herzegovina organized the meeting of the Team for monitoring and evaluation of the application of criminal laws on human trafficking on Jahorina, with the aim of contribution to find the best legal framework for the effective fight against human trafficking. At the two-day meeting, which, in addition to regular members of the Team for monitoring and evaluation of the application of criminal laws was also attended by the National Coordinator and representatives of prosecutors and the State Investigation and Protection Agency with many years of experience in working on issues of human trafficking, the proposal of a new definition of criminal act of human trafficking was adopted as well as of other related acts envisaged by the criminal law of Bosnia and Herzegovina. Furthermore, the need was emphasized for redefining crimes from entities' criminal codes and the Criminal Law of B District, in connection with the criminal acts "Human Trafficking for prostitution" and "inducement to prostitution," since a large number of cases of trafficking is included under these provisions although elements of the criminal acts of human trafficking as provided for by the criminal code of Bosnia and Herzegovina have been fulfilled. At the same time it was noticed that the characteristics of the criminal acts which by the laws of the entities and Brčko District are not fully in line with international standards in this field. The team for monitoring and evaluation of the application of criminal law of Bosnia and Herzegovina shall follow a further procedure for proposals of amendments to criminal legislation for its harmonization with the standards of the Convention.

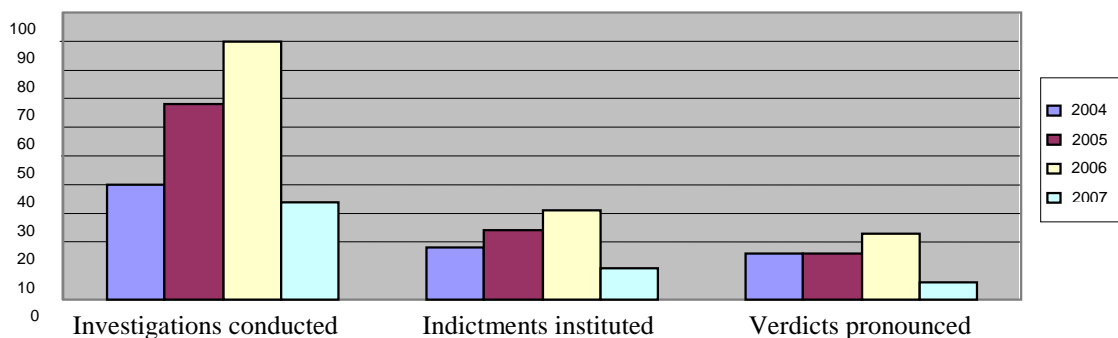
#### **Prosecution for 2007**

12. On the basis of data collected from the law enforcement services and prosecutors, in the course of 2007 there has been a significant reduction in the number of instituted indictments, pronounced verdicts and submitted criminal reports. Thus, in 2007, there were 34 reports submitted, which includes 65 persons and 38 victims of human trafficking/inducement to prostitution. A total of 11 charges were filed, of which 8 were confirmed. In the Federation of Bosnia and Herzegovina 8 indictments were instituted, of which 6 confirmed. In the Brčko District, the Republika Srpska and the Court of Bosnia and Herzegovina one indictment each was instituted and confirmed. A total of six sentences were pronounced. In the Federation of Bosnia and Herzegovina 3 verdicts were pronounced: of which one was a conditional sentence, two are final (one made by a plea guilty agreement). The Brčko District has had no pronounced verdicts and in the Republika Srpska there was one rejected verdict. At the Court of Bosnia and Herzegovina, a verdict (guilty), which included 10 people had been effective and the other one relating to human trafficking for begging came into force (made by a plea guilty agreement).

13. Figure 1 shows the ratio between the numbers of conducted investigations, instituted indictments and pronounced verdicts for the crimes of human trafficking between 2004 and 2007.

Figure 1

**Investigations, indictments and verdicts in cases of human trafficking (2004–2007)**



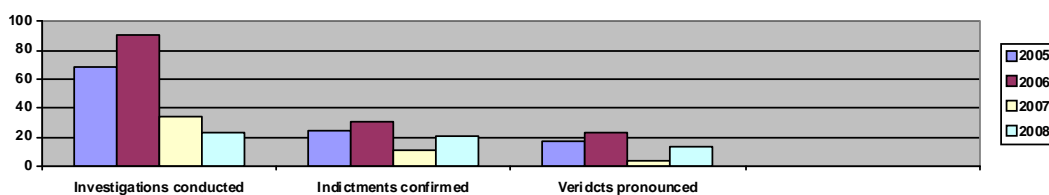
**Prosecution for the year 2008**

14. On the basis of data collected from police agencies and prosecutors' offices, in the course of 2008 there has been a significant increase in the number of instituted indictments and pronounced verdicts while the number of conducted investigations dropped. Thus, in 2008, there were 23 investigations conducted, which included 53 persons in cases of human trafficking and mediation in prostitution. A total of 21 charges were filed and confirmed. In the Federation of Bosnia and Herzegovina 15 indictments were filed and confirmed. In the Brčko District one indictment was instituted and confirmed. In the Republika Srpska two indictments were instituted and confirmed, while the Court of Bosnia and Herzegovina had three indictments instituted and confirmed. The total of 14 verdicts was pronounced. In the Federation of Bosnia and Herzegovina 11 verdicts were pronounced. In the Republika Srpska one verdict was pronounced and at the Court of Bosnia and Herzegovina one verdict was pronounced as well.

15. Figure 2 shows the relationship between the number of conducted investigations, instituted indictments and pronounced verdicts for the crimes of human trafficking between 2005 and 2008.

Figure 2

**Investigations, indictments and verdicts in cases of human trafficking (2005–2008)**



16. During the last year, the Strike Force to combat human trafficking and illegal migration under the direction of the General Prosecutor of Bosnia and Herzegovina had a high importance and role in the overall activities of the criminal prosecution of perpetrators of crimes of human trafficking and smuggling of migrants.

#### **Federal Ministry of Internal Affairs**

17. Requested information referring to criminalization of human trafficking at the state level are merged at the state level by the Office of the National Coordinator for Combating Trafficking in human beings and illegal immigration. Specifically, in accordance with the conclusions of the Strike Force to combat human trafficking and illegal immigration, as well as the conclusions from the meeting of liaison officers for the law enforcement agencies in the Office of the National Coordinator for Combating Trafficking in human beings and illegal immigration, the Federal police administration submits periodical, i.e., semi-annual and annual statistical data to the State Investigation and Protection Agency related to human trafficking and illegal migration. These statistical data are united for the area of the Federation of BiH.

18. The Federal Police Administration undertakes specific measures and actions on the entity-level harmonization in terms of analysis, processing of statistical data, etc., and their submission to the State Investigation and Protection Agency, as well as to the Office of the National Coordinator.

## **Article 2**

### **Reply to questions raised in paragraph 3**

19. Concrete measures that have proven to be effective for the prevention of any kind of torture in the police of the Brčko District of BIH are:

(a) Organization of the work of the Unit for professional standards for the purpose of internal controls and conduct of BD police officers; and

(b) Adoption of internal regulations: “Code of Ethics for members of Police of Brčko District of Bosnia and Herzegovina – June 2003” and “Instructions on conduct and mutual relations of authorized official persons in the PBD – August 2007”.

20. The Ministry of Internal Affairs of the Federation of BiH and the Ministry of Internal Affairs of Republika Srpska in accordance with the above model of work organization of the Police of Brčko District of BiH has taken concrete measures for the prevention of any kind of torture through the organization of work of the Unit for professional standards for the purpose of internal controls and conduct of police officers and through the adoption of internal regulations or ethical codes for members of the police members of the Ministry of Internal Affairs of the Federation of BiH and the Ministry of Internal Affairs of the Republic of Srpska, as well as through instructions on conduct and mutual relations of authorized official persons in police cantons in the Federation and the police stations of the Republika Srpska.

#### **Reply to questions raised in paragraph 4<sup>1</sup>**

21. At the state level of Bosnia and Herzegovina, there are no arranged or established mechanisms for collecting and processing data in connection with the matters contained in the Convention and the criteria for the classification of these data. Data are presented separately by the entities and Brčko District of BiH, and thus we provide aggregate and partially harmonized data for Bosnia and Herzegovina.

#### **Reply to questions raised in paragraph 5<sup>2</sup>**

22. In Bosnia and Herzegovina, this issue is regulated by the Law on Police Officials of Bosnia and Herzegovina, the Entities and Brčko District BIH, where it is stated that the police officer shall not execute the command by whose execution he would commit a crime by criminal legislation in Bosnia and Herzegovina.

23. All institutions in BiH with the public authority have an obligation to act in the manner prescribed by the Law on Police Officials.

24. Given that the act of torture is embedded in the Criminal Code of BiH as a felony, all activities leading to the execution of this crime are prohibited, including inducement or approval of public officials for causing physical or mental pain or suffering to another person, which states that it is not necessary to take special legal and administrative measures to provide guarantees that “no exceptional circumstances” and “an order from a superior officer or a public authority” may not be invoked as a justification of torture.

#### **Reply to questions raised in paragraph 6**

25. In 2003 the Ombudsman Institution for Human Rights of Bosnia and Herzegovina was accredited with the status of an international institution and the function of the Ombudsman was performed by a foreign national, Mr Frank Orton (2000–2003). In that period preparations were carried out for the transformation of these institutions into the domestic institution. By the decision of the House of Representatives of BiH of 27 November and by the decision of the House of Peoples of Bosnia and Herzegovina of 28 November 2003, the suggestion by the Presidency of Bosnia and Herzegovina was accepted and the first three national Ombudsmen were appointed: Mr Safet Pasic, Mr. Mariofil Ljubic and Mrs. Snjezana Savipara. Shortly after her appointment Mrs. Snjezana Savic submitted her resignation, and the Parliamentary Assembly appointed Mr. Vitomir Popovic who took over the role of Ombudsman on 1 March 2004. The Law on Ombudsman for Human Rights, which was imposed in 2000 by the High Representative for BiH and adopted in 2002 by the Parliamentary Assembly as the legislative body of Bosnia and Herzegovina, regulated the jurisdiction and functioning of the Ombudsman institutions of BiH in order to ensure efficient functioning of the mechanism for the protection of human rights and fundamental freedoms as guaranteed by the Constitution of BiH and the international agreements which are contained in the Annex to the Constitution.

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<sup>1</sup> The first initial report of BiH did not contain the classified data (e.g. per sex, ethnic affiliation, geographic area, etc.) concerning cases of torture and preventive measures.

<sup>2</sup> Regarding whether derogation is prohibited on both the federal and the entity levels, taken from General recommendations 2, no available information on an “order from a superior officer or a public authority”.

26. Article 25 of the Law on Ombudsman for Human Rights of Bosnia and Herzegovina provided that:

“Government Authorities are required to render the Institution appropriate assistance in the investigation and controls. During an investigation the Ombudsman has access to any other organ of government in order to verify required information, conduct personal conversation and considerations of necessary files and documents.

“The Ombudsman must not be denied access to files or administrative documents or other documents that relate to activities or activity which is under investigation, without prejudice to the provisions of Article 28 of this Law.”

27. This provision of the Law granted the authority to the institutions of Ombudsman for Human Rights of BiH to visit and monitor the situation in correctional institutions in Bosnia and Herzegovina. Thus, in 2004, the representatives of the institutions visited KPZ Sarajevo, KPZ Kula, KPZ Zenica. Particular attention was given to issues of accommodation and treatment of mentally incompetent perpetrators of crimes and in connection to this the Institution made a special report (SO3/04) and gave certain recommendations.

28. During 2005 the institution of Ombudsman of Bosnia and Herzegovina continued monitoring Penal-correctional institutes in Bosnia and Herzegovina and in March 2005 it acted *ex officio*, on the basis of information published in the media about the rebellion in the KPZ Banja Luka. After analyzing the collected results of the investigation the Ombudsmen concluded that there was violation of the rights of prisoners under Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and in this sense they released specific recommendations to the Ministry of Justice of Republika Srpska and the administration of the KPZ Banja Luka.

29. Bearing in mind the tasks from the Program of activities for the realization of priorities in 2004 from the Report of the European Commission to the EU Council of Ministers on the feasibility of negotiations between BiH and the EU on a Stabilization and Association Agreement, which states that one of the priorities is integrating institutions of Ombudsman in Bosnia and Herzegovina, the competent institutions started in 2005 to work on passing the Law on Amendments to the Law on Ombudsman of Bosnia and Herzegovina. This Law was adopted by the Parliamentary Assembly of Bosnia and Herzegovina, at the House of Representatives session, held on 7th March 2006 and at the session of the House of Peoples held on 27 March 2006.

30. The goal of unifying institutions of Ombudsman in Bosnia and Herzegovina (Federation of Bosnia and Herzegovina Ombudsman, the Ombudsman of the Republika Srpska and the BiH Ombudsman) is primarily the equal treatment of complaints in the whole of BiH, the same level of protection of human rights, economical and functional institution of Ombudsman for Human Rights of BiH.

31. In 2006 the representatives of the institutions visited, among other KPZs, the District Prison in Dobož and in this sense they expressed concern at prison conditions, especially in areas in which detainees reside and rooms intended for solitary confinement.

32. During 2007, along with regular activities and work on individual complaints of detainees/convicted persons and in coordination with the CPT delegation of the Council of Europe, the Institution paid a special visit to KPZ Zenica, exploring allegations of physical abuse of prisoners, especially regarding the death of prisoner Cabarajić Zvonimir. This visit was the subject of the Special report (S04/07) and recommendations of the Ombudsman of Bosnia and Herzegovina.

33. The Ombudsmen for Bosnia and Herzegovina were appointed by the decision of the Parliamentary Assembly of Bosnia and Herzegovina no. PABiH 275/08 of 4 December



2008: Ivo Bradvica, Jasminko Dzumhur and Ljubomir Sandic who held the constitutive session on 15 December 2008 and so took over the duty of the newly appointed Ombudsmen of BiH. In April 2009, the Ombudsman Mr Ivo Bradvica resigned from the post of Ombudsman and the procedure of appointment of Ombudsman from among the Croatian people is under way.

34. The Law on Amendments to the Law on Ombudsman for Human Rights of Bosnia and Herzegovina sets forth that the Ombudsman institution should have:

- (1) A department of monitoring the rights of children;
- (2) A department of monitoring the rights of national, religious and other minorities; and
- (3) The Department for Protection of Persons with Disabilities.

35. Considering the situation in the field, especially the most common violations of human rights, the Ombudsmen of Bosnia and Herzegovina have decided to establish, by the Rules on Internal Organization and Systematization (adopted 05 Jan 2009 in Banja Luka) and in addition to the three mentioned departments, the following departments:

- (1) Department of elimination of all forms of discrimination;
- (2) Department of Economic, Social and Cultural Rights;
- (3) Department of civil and political rights; and
- (4) Department of tracking rights of detainees/prisoners.

36. The increased influx of complaints of detainees/prisoners led the Ombudsman of Bosnia and Herzegovina in the period from 04 March 2009 to 25 June 2009 to visit all correctional institutions in Bosnia and Herzegovina and have insight into all aspects of prison life, with special emphasis on the enforcement of the obligations of Bosnia and Herzegovina prescribed by the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

37. All observations, analyses and recommendations can be found in the comprehensive report of the Institution of Ombudsman on Human Rights of Bosnia and Herzegovina, which will be published and presented to the public in September 2009. This report and the independent institution petition shall be timely submitted to the UN Committee against Torture by the Ombudsman for Human Rights.

## **Reply to questions raised in paragraph 7**

### **The situation in the institutions for social care in the Federation of Bosnia and Herzegovina**

38. The above question, among others, applies to existing measures to prevent torture and ill treatment in the institutions that care for children, the aged, mentally ill or disabled.

#### *Institution for care of mentally disabled persons – Drin*

39. In the mentioned institution there is no torture and ill treatment and therefore the measures to prevent torture and abuse are not necessary. The measures of protection are carried out against two persons who can not be controlled by medicaments and human bed bindings.

*Institution for care of mentally disabled persons – Bakovici*

40. This institution does not have a closed section; there is a dedicated room for the separation of users and fixing by special fixers when it is assessed that there is a real danger to the life and health of the user or other user or employee. The decision on separation is made by the neuropsychiatrist and sometimes, in the case of emergency, by the nurse/technician with immediate notification of the neuropsychiatrist who decides the further course of the proceedings. The action taken is enrolled in the user's health file.

41. Separations are rare because the work is preventive (talk, control of drug-taking therapy, occupational therapy, other socio-therapies and entertainment and recreational activities). In 2008/2009 separation and fixation were carried out with three users: with two on two occasions and with one on one occasion. This was duly and properly recorded.

42. The separation is done by special instructions issued on the basis of the Law on protection of persons with mental disorders ("Official Gazette of FBiH" no. 37/01 and 40/02) and upon the filling in the "separation log".

*Institution for care of mentally disabled children and young people – Pazarić*

43. The institution does not use torture, physical and psychological punishment and harassment of protégés. In their work they use only educational measures and methods, which affirm protégés' acceptable behavior, the proper attitude toward the property and work, through constant motivation, stimulation and correction of negative traits. The following procedures are used:

- Regular administration and control of medicament therapy by authorized employees, in cooperation with specialist doctors.
- Use of the space for reducing aggression in the room for multisensor therapy.
- Organized and permanent work in various cultural and sports sections.
- Holding regular meetings and the conduct of the advisory sessions (individual and group discussion for therapeutic purposes).
- And sometimes it is necessary to use some other means designed for particular situations, in moments of reinforced psycho-mobility unrest, aggression and destructiveness in order to protect the health of protégés and the property of the Institution, such as human fixation and a limited stay in a room for isolation. Such things are necessarily recorded in a log book. It is necessary to fill in the log book who it was that approved the stay in isolation, the reason for the stay and the duration of the isolation which can not last longer than two hours. The practice imposed some alternative methods and procedures, such as daily walks and trips, therapeutic working occupation and occupational therapy, which currently is not adequately manageable due to lack of the required skilled personnel.

*Institution for the education of male children and adolescents – Sarajevo*

44. In the framework of professional standards of the institution it is prohibited to use force and torture, but the possibility of verbal forms of force is not excluded in the framework of accepted scientific methodology through preventive and corrective techniques: a warning, regimentation, habituation, prevention, training, persuasion. Supporting staff's attitude towards children is under the control and takes place with the presence of their teachers.

### **The situation in the institutions for social care in Republika Srpska**

*Clinical Center in Eastern Sarajevo, Psychiatry clinic in Sokolac (closed and open squad of forensic psychiatry)*

45. The SRT Committee Commission visited this institution in 2003, 2004, 2007 and on 12 May 2009, with the application of the Law on the Protection of Persons with mental disorders ("Official Gazette of RS", No. 64/04), and recommended measures by the SRT Commission, which was conducted by the clinic and during the last visit it was stated that there is no torture against patients or prisoners.

46. Until now, the institution has not enforced education on alternative techniques involving coercion, or evaluation of various educational programs.

*Clinical Center in Banja Luka*

47. The prevention of torture against patients on the psychiatric clinic in Banja Luka is mainly carried out in line with the Law on the protection of persons with mental disorders ("Official Gazette of RS", No. 64/04), and there are no internal regulations to prevent torture against patients at other clinics, except for the house rules, and the process of medical staff is taking place as per ethnic, human and professional principles.

*Home for retarded children and youth in Prijedor*

48. The following rules are applied in prevention of torture against the institution protégés:

- The Rulebook on Internal Organization and Systematization of the job description, work assignments and responsibilities of workers
- Decisions on establishing the rules – to limit and instructions how to treat the unrest persons
- To prevent torture, the Institution uses the services of a psychiatrist, medical doctors, physiologists, dentists and medical technicians

*Institution for the care of children and adolescents in Visegrad*

49. The following rules are applied in prevention of torture against the institution protégés:

- Instruction to restrict – isolate unrest users
- Rule – Application of physical force to protect persons with mental disorders (regulations provided in the report attachment)

*JUSZ Social-geriatric Center in Banja Luka*

50. The following is applied in the prevention of torture:

- Regulations on the work of the institution
- Rules on the behaviour of workers at work
- Rules on the criteria and conditions for admission of users in the institution
- Instruction for the work of the Commission for reception and discharge of users

51. It is stated that the institution has no registered cases of abuse of users or any other forms of torture and inhuman treatment.

*Ministry of Health and Social Care of Republika Srpska*

52. In Republika Srpska, the area of social care in the Social geriatric centers and institutions for the care of children with special needs concerning the prevention of torture is regulated by:

- The Law on Social Care of Republika Srpska (“Official Gazette of Republika Srpska”, No. 5/93), and amendments to the said Act (“Official Gazette of Republika Srpska”, No. 15/96, 110/03 and 33/08)
- The New and updated Law on Social Care of Republika Srpska, which is in the draft stage and according to the plan it should be adopted and entered into force by the end of the current year
- The Law on the Ombudsman for Children (“Official Gazette of Republika Srpska”, No. 1003/08)

*Ministry of Education and Culture of Republika Srpska*

53. During the teaching and out-teaching activities it is necessary to promote the models of non-violent communication, mutual tolerance and respect, through organizing panel discussions, school meetings with parents, classroom hours, student workshops, events, by publication on the notice board of pedagogical-educational institutions or in other appropriate ways.

54. The responsibilities of relevant institutions and other bodies participating in the prevention, detection and combating of violence among children and young people to take measures and activities aimed towards the prevention and combating of violence are:

(a) In units of local government, to maintain the regular meetings of representatives of competent authorities and departments for the coordination of activities related to the issues of violence, and establish effective ways of cooperation and exchange of relevant data, both in terms of individual cases of violence, as well as achievements and addressing the problems of violence among children and young people;

(b) In the case of reports or notification of violence to ensure to provide the other competent authority appropriate information on the case and treatment for a full inquiry into the activities taken, with the goal of comprehensive protection of the child;

(c) To establish cooperation and exchange of data with other units of local self-government in order to exchange experiences and the creation of good practice;

(d) To establish cooperation with other organizations that could help in specific cases, e.g. with non-governmental organizations, religious communities, family counselling, family medicine outpatient clinics, as well as experts dealing with issues of violence among same age;

(e) To create special and customized treatment plans in cases of violence among children and young people considering the features and characteristics of individual communities;

(f) To establish cooperation with relevant medical institutions and doctors.

55. “The Ministry of Education and Culture does not maintain statistics on the results of the enforcement of measures for the prevention of torture and abuse in educational institutions, as the annual program of the school does not provide for the conduct of these statistics.”

56. “The Ministry does not have data related to education with alternative techniques that do not involve coercion, and there are no data about who carries out this training.”

*Federal Ministry of Health*

57. The Constitution of the Federation of BiH, in its annex, contains the listed instruments for the protection of human rights, which have the legal force of constitutional provisions, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984). The Law on Health Protection (“Official Gazette of Federation of BiH”, No. 29/97) stipulates that the medical staff are persons who have a health education and directly provide health care to citizens, with the obligatory respect for the moral and ethical principles of medical profession (Article 101). In this regard, it is important to emphasize that the relevant chambers lay down their code of ethics. How important it is to respect them is shown by the provision of the Act on health care, according to which the competent Chamber of Commerce takes away health-care workers permission to work independently if the competent authority determines the chambers measure as the most serious punishment for violations of ethical principles of the profession (Article 108, paragraph 2). On the other hand, health institutions at the secondary and the tertiary levels also bring their code of ethics adapted to the type of services they offer, which entails establishing ethical committees aimed at monitoring compliance with the Code and taking appropriate action.

58. Please note that the process of adopting a new Law on health care is under way. This Law includes a separate chapter on the rights of the patients entitled “Human rights and values in health care and patient rights”. It sets forth, according to ratified international instruments on the rights of patients, a number of rights that must be guaranteed to the patient in the system of health care, as well as their duties.

59. It should be especially emphasized that we shall regulate a more detailed elaboration of the rights and duties of patients by the special Law on the rights and duties of patients, which is being prepared. The law will further regulate the rights of patients in the Federation of BiH, the methods and procedures to protect them.

60. The above-mentioned indicates that the medical staff in the Federation are primarily obliged to respect constitutional and legal norms, and ethical codes of the Chambers of health professionals as well as ethical codes of medical institutions in which they are employed, which all need to contribute to patients’ tolerance and respect for their rights, mutual respect for colleagues, and finally, the general health of the population.

61. We inform you that the Federal Ministry of Health currently does not have knowledge that there have been violations of the rights of persons in the hospitals, in the context of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

62. The Ministry of Defence of Bosnia and Herzegovina submitted a response as regards the question on measures for the prevention of torture and abuse in the military or institutions under the supervision of the military organs.

63. The Armed Forces of Bosnia and Herzegovina are under democratic civilian control and parliamentary oversight. The Parliamentary Assembly of Bosnia and Herzegovina carries out control and the Presidency of Bosnia and Herzegovina command and control over the armed forces of BiH. The Minister of Defence of BiH is in the chain of command and control over the BiH armed forces. In this way and in accordance with the standards of democratic countries, the mechanisms for monitoring the legality of work and compliance with international obligations taken by the Armed Forces of BiH have been established.

64. The structure of the Ministry of Defence of Bosnia and Herzegovina includes the Inspectorate General and that of the Armed Forces of BiH includes a network of inspectors with authorities pertaining to investigation of all irregularities in the work of professional

military persons (PVL) in the Ministry of Defence and BiH Armed Forces. The jurisdiction of the General Inspectorate includes:

- Training and education of PVL in professional and ethical regard
- Conducting investigations into the bad behavior of PVL
- Removal of the circumstances damaging morality, reputation and effectiveness of the Armed power
- The establishment of professional standards of moral leadership in the BiH Armed forces

65. Bearing in mind the above, the Ministry of Defense of Bosnia and Herzegovina states that measures have been taken pertaining to the prevention of irregularities, including the act of torture or torture.

*Activities of the NGO sector*

66. This non-governmental organization (NGO) has been working and training in the field of communication skills and non-violent conflict solving, combat and prevention of trafficking, gender equality, human rights, healthy partner relationship, and reproductive health and rights.

67. Medica Zenica organizes and implements educational activities for the needs of employees who work with children in educational or social care institutions, aged people, and people with mental disorders or disabilities, as well as for employees in hospitals. Medica Zenica held long term multi-targeted education throughout BiH for police officers and the State Border Service officials.

68. Medica Zenica also organized educational and creative workshops for children who reside in the children's house Medica, as well as for children within the non-governmental organizations: "Teacher Without Borders" from Zenica, "Romano Centro" – Zenica and public institution House as a family, Zenica, dealing with children's rights (as per Convention on the Rights of the Child); prevention of violence in the family and community, as well as in the field of prevention of exploitation of children.

69. For 16 years, through the work of their psychosocial and health services, among which is the Safe House (stationary location), Medica Zenica has provided care and support to surviving victims of war trauma, torture and violence, that is, women of different age, girls and children, as well as men, within the framework of psychological counselling, such as family therapy. It also has implemented and honoured the measures to prevent torture and abuse within the Safe House, which provides shelter for women and children, both in relation to work with clients (women, girls and children) and among employees. Thus, employees are obliged to and shall respect the following measures and policies, some of which are signed at signing of business contracts.

70. The Center for torture victims is not familiar with the measures for the prevention of torture and abuse in educational institutions, institutions of social care for children, aged persons, persons with mental disorders or disabilities, as well as in hospitals.

71. In the regions of Sarajevo, Stolac, Gorazde and Visegrad, the Center for torture victims organized 12 educational workshops for social workers (in the centers for social work), teachers and psychologists in schools with the aim of raising awareness of this occupational group on torture, its consequences, especially from the viewpoint of family deregulation, impact on children and on prevention measures based on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. These activities were implemented in the period December 2006–December 2008.

### **Reply to questions raised in paragraph 8**

72. BiH police agencies act in accordance with the provisions of the CPC and the Police Law, the Law on Police Officials and other bylaws that enable access to legal assistance of professional lawyers immediately after the deprivation of liberty as well as enabling an examination by an independent doctor.

73. The Federal Police Administration has provided that police officers treat persons deprived of their liberty in accordance with Article 5 of the Criminal Procedure Code of the Federation BiH, thus they are briefed in their native language on the reasons for deprivation of liberty, the right to take a counsel of their own choice, the right to inform their families of their arrest through a consular official of their citizenship State or other persons designated by the persons deprived of their freedom, and their right of access to doctor from the very beginning of the deprivation of liberty. The Guidelines on treatment of persons deprived of their liberty sets out the way of accepting people deprived of their liberty in detention premises, the manner of their accommodation, health and hygienic conditions and food, records and supporting documents related to the official action of deprivation of freedom, the obligations of police officers and other issues pertaining to procedure and the conduct of police officers in relation to persons deprived of their liberty. Under the provisions of the Guidelines the police officer is obliged to determine, upon reception of the person deprived of his liberty, the status of such person, whether there are bodily injuries (bruises, scratches, cuts, etc.) incurred by physical means, health problems or whether the person is under the influence of alcohol or drugs. All injuries sustained during the deprivation of liberty are to be photographed. A person who is seriously injured or sick shall not be kept in detention premises unless he/she has previously received professional medical help. Provided medical assistance is recorded in the Log book of deprivation of liberty. Persons deprived of liberty who obviously need medical help are taken to a health institution even if they claim that they do not need any assistance. If they continue to refuse help they are required to sign a statement on the rejection of help.

74. A police officer submits any use of physical force to the control of the Unit for professional standards, which is a unit of Federal Police Administration.

### **Reply to questions raised in paragraph 9**

75. Article 190 of the Criminal Code of BiH stipulates the prohibition of torture, while the general provisions of the law, i.e. Article 11, prescribe that the criminal law is applied to anyone who commits a crime in the territory of Bosnia and Herzegovina, whether on a domestic ship, regardless of where the vessel was located at the time of the crime, in a domestic civil aircraft while in flight or in a domestic military aircraft, regardless of where the plane was located at the time of the crime. These provisions set forth the obligations prohibiting torture in the areas under de facto control of Bosnia and Herzegovina.

## **Article 3**

### **Reply to questions raised in paragraph 10**

76. The provisions of Article 91 of the Law on Movement and Stay of Aliens and Asylum ("Official Gazette of BiH" No. 36/8) prescribe the principle of prohibition of return, namely that a foreigner shall not, in any way, be expelled or returned to the border of the territory where his life or freedom are threatened because of his race, religion, nationality, membership of a particular social group, or because of political opinion,

regardless of whether he was officially granted international protection. Prohibition of return or expulsion refers also to persons for whom there is reasonable doubt that they would be in danger of being submitted to torture or other inhuman or degrading treatment or punishment. In addition, a foreigner can not be expelled or returned to such a country in which he is not protected from being sent to such territory. We have had no cases in which we did not exercise extradition, return or expulsion because of concerns that people could be tortured.

### **Reply to questions raised in paragraph 11**

77. Upon completion of the visit to the Guantanamo Bay military base, the Ministry of Justice of BiH, submitted the Report to the Council of Ministers of Bosnia and Herzegovina, which was adopted at the 69th session held on 16 November 2004. The Council of Ministers of Bosnia and Herzegovina was informed that there was no criminal proceedings initiated against the members of the “Algerian group” in the U.S., and the provision of legal aid under the authority of the Ministry of Justice of Bosnia and Herzegovina was ended.

78. In this regard, the Council of Ministers of Bosnia and Herzegovina has taken the view that the emphasis is to be on diplomatic action and that urgent diplomatic approaches should be undertaken to solve this issue.

79. Acting on conclusions of the Council of Ministers of Bosnia and Herzegovina from the session held on 1 February 2005, the Chairman of the Council of Ministers, Mr. Adnan Terzic, requested the competent organs of the United States to free citizens of Bosnia and Herzegovina in Guantanamo, but the State Department sent a negative answer.

80. Significant cooperation was also established with the representative organization of detained persons-legal firm Wilmer Cutler Pickering Hale and Dorr, who suggested taking diplomatic action since the Ministry of Justice of Bosnia and Herzegovina, as already noted, has no instrument for direct action on the liberation of detainees and in this particular case cannot proceed through the institute of international legal assistance.

81. However, as there have been active activities concerning people detained in the Guantanamo military base, particularly after the Parliamentary Assembly of the Council of Europe had adopted Resolution 1433 (2005) on 26 April 2005, “Legality of keeping people in detention in Guantanamo Bay by the United States” which invited all members of the Council of Europe to engage in enhanced diplomatic activity in order to protect their citizens and former residents held in the military base Guantanamo. Bosnia and Herzegovina has also taken specific actions in this regard.

82. At its 18th session held on 26 July 2007, the Council of Ministers of Bosnia and Herzegovina adopted a conclusion obliging the Ministry of Foreign Affairs to urgently send the U.S. Government a note asking ask for guarantees that the death penalty shall not be pronounced and executed on citizens of Bosnia and Herzegovina detained in Guantanamo and that they will not be subjected to torture, inhuman and degrading treatment.

83. On 6 August 2007, in line with the conclusion the Council of Ministers, the Ministry of Foreign Affairs addressed a note to the Government of the United States in which it requested a guarantee that the death penalty will not be pronounced and executed on members of the “Algerian group” and that they will not be subjected to torture, inhuman and degrading treatment.

84. On the occasion of the said note, the meeting with Michael Fux from the State Department Bureau, responsible for South and Central Europe issues, was held in the Embassy of Bosnia and Herzegovina on 5 September 2007. On that occasion, Mr. Fux



informed that the Law on military authority from 2006 provides for the possibility of the death penalty for most serious crimes, but he believed that the Ministry of Defense of the U.S. had no intention of imposing such a sentence on prisoners from Bosnia and Herzegovina. As regards their treatment in Guantanamo prison, he offered assurances that the U.S. abided by the Geneva Conventions of 1949, as well as domestic legislation, which among other things, prohibit torture, inhuman and degrading treatment of prisoners.

85. In the meantime, in connection with these activities and the conclusion from the 5th session of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, the Council of Ministers of Bosnia and Herzegovina, at its 7th session held on 19/04/2007, tasked the Ministry of Justice, Ministry of Human Rights and Refugees and the Ministry of Foreign Affairs to draft a “Road Map” for the return of nationals of Bosnia and Herzegovina detained in Guantanamo.

86. The requested “Map of Time” has been made and adjusted among the three mentioned ministries of Bosnia and Herzegovina and submitted to the Council of Ministers of Bosnia and Herzegovina on 11/09/2007.

87. On its meeting held on 27/09/2007, the Council of Ministers of Bosnia and Herzegovina reviewed the proposed “Road Map” but has not reached consensus regarding the adoption of this document.

### **Reply to questions raised in paragraph 12<sup>3</sup>**

#### **State Commission for revision of decisions on the naturalization of foreign nationals**

88. The mandate of the State Commission for revision of decisions on the naturalization of foreign nationals in Bosnia and Herzegovina is to audit decisions on acceptance of the citizenship of BiH gained by foreign nationals in the period from 06/04/1992 to 01/01/2006. During the audit process and in line with its mandate the State Commission deprived a certain number of persons of citizenship of Bosnia and Herzegovina. After the deprivation of citizenship of BiH, those people were required to regulate their status as foreign nationals in BiH in accordance with the Law on Movement and Stay of Aliens and Asylum.

89. The Service for Foreigners pronounced the expulsion from the territory of BiH to persons deprived of BiH citizenship who stayed to reside undocumented in BiH, after all conditions had been met. Some persons left the country voluntarily. It concerns 5 persons altogether, from whom the Commission took away citizenship and who were moved from Bosnia and Herzegovina through expulsion or left voluntarily. In addition, another seven persons who have the same status are expected either to undergo the same measure of expulsion at the end of appeal procedures before the competent second instance Court of BiH or to abandon Bosnia and Herzegovina voluntarily.

90. The people who were returned to their country are the following:

1. ABDULADHIM MOHAMED MAKTOUF, a citizen of Iraq, the decision on administrative detention. On 19/06/2009 he voluntarily left BiH.
2. SOFIANE AMEUR, a citizen of Algeria, the decision on administrative detention. On 25/06/2009 he left BiH.
3. ABDELILAH KARRACHE, a citizen of Morocco, left BiH as of 04/03/2009.

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<sup>3</sup> New paragraph added by FG.

4. ALI AHMED ALI Hamad, a citizen of Bahrain, a decision on administrative detention, deported from Bosnia and Herzegovina as of 30/03/2009.

5. MIMOUN Atto, a citizen of Algeria, a pronounced measure of expulsion from the date of 27/7/2007. Deported from BIH on 09/12/2007.

91. Please note that all listed persons had multiple legal rights to judicial protection and judicial review of decisions made by competent organs of the judicial bodies in Bosnia and Herzegovina, which ensured the right to two instance proceedings.

92. In the appendix to the present report we attach the Report of the revision of decisions on naturalization of foreign citizens in Bosnia and Herzegovina.

### **Reply to questions raised in paragraph 13**

93. The adoption of the Law on Movement and Stay of Aliens and Asylum, as well as the Regulations on asylum in Bosnia-Herzegovina "Official Gazette of BiH" No. 26/04, established the basic principles of international protection of asylum such as: prohibition of return – "non refoulement", non-punishment for illegal entry or stay in the country, prohibition of discrimination on any grounds, freedom of movement within the country, the principle of best interests of the child, family unity, the principle of information, right to the Head of the proceedings and translator of the same gender, the protection of data , use of free legal aid, etc.

94. The authorities in the procedure are informed and trained to strictly conform to these principles, as prescribed by the provisions of the Law on Movement and Stay of Aliens and Asylum and the provisions of the Rulebook on asylum in Bosnia and Herzegovina, in all such situations when a person appears in the territory of our country and asks for international protection.

95. In addition to the fact that the positive provisions of these regulations determine and oblige the competent authorities concerning international protection, it is necessary to point out that the Sector for Asylum in cooperation with UNHCR carries out constant training, education and training of employees of the Border Police of BiH, Service for foreigners, non-governmental sector, etc.

### **Reply to questions raised in paragraph 14**

96. Since 1 July 2004 when the Law on Movement and Stay of Aliens and Asylum started to be implemented, the Asylum Division of the Ministry of Security has responsibility for the actions against the demands of foreigners for international protection in BiH, which was carried out by UNHCR until 30/06/2004, in accordance with its mandate.

97. Since 1 July 2004 to 30 September 2008 the Sector for asylum received 358 requests for international protection for 958 persons. As of 30/09/2008, 282 requests for international protection for 677 people were decided with 76 other claims under process.

98. The decisions issued against the demands for international protection can be categorized as follows:

- Rejection: 133 demands for 323 persons
- Suspension: 138 requests for 335 persons
- Discard: 5 requests for 12 persons

- Recognition status: 6 requests for 7 persons

99. The Sector for Asylum awarded 7 refugee status (from 01/07/2004 to 30/09/2008). In 2006 the Sector for Asylum awarded 6 refugee status while 1 refugee status was awarded in 2008. (Palestine, 5; Saudi Arabia, 1; and Serbia and Montenegro, 1).

100. The countries of origin of seekers of international protection were: Republic of Serbia-Kosovo, Macedonia, Croatia, Palestine, Ukraine, Sri Lanka, Bangladesh, Iran, China, Syria, Pakistan, Jordan, Albania, Iraq, Germany, Poland, Slovenia, Moldova, Saudi Arabia, Lithuania and Brazil.

## Article 4

### Reply to questions raised in paragraph 15

101. Regarding the data on all measures that are taken to harmonize the provisions of the law at the entity level, which prescribe the prohibition and punishment of criminal acts of torture, with the provisions of the Criminal Code and Code of Criminal Procedure of Bosnia and Herzegovina, see the answer in relation to Article 1, point 1 of the List of questions.

102. The Criminal laws in BiH prescribe rape and other forms of sexual violence in the chapter on criminal acts against sexual freedom and morality, for which they laid down the basic forms and qualifications. Prosecution of crimes of rape and other forms of sexual violence is carried out in the same way as for other crimes, while the statistical data are collected only for the crime of rape, but not for other acts from the chapter on criminal acts against sexual freedom and morality.

#### Federal Ministry of Internal Affairs

103. Rape and other forms of sexual violence are provided for in Chapter XIX of CC FBiH (Criminal Code of Bosnia and Herzegovina): Criminal acts against sexual freedom and morality, so that the legal text for basic criminal acts are:

Article 203 of CC of FBiH – rape.

1. Who compels another person, by force or threats to direct assault on his/her life or body or the life or body of the people close to him/her, to sexual intercourse with him or sexual act equal to it, shall be sentenced from one year to ten years.
2. Who commits the crime from paragraph 1 of this Article in a particularly cruel or humiliating manner, or if at the same time more sexual intercourses or sexual acts equal to them are committed by more perpetrators, shall be punished by imprisonment of three to fifteen years.
3. If the crime from paragraph 1 of this Article caused the death of the raped person, or he/she is seriously physically hurt, or his/her health has been deteriorated, or the raped feminine person became pregnant, the perpetrator shall be sentenced to imprisonment for at least three years.
4. The sentence from paragraph 2 of this Article shall be applied to the person who commits the crime from paragraph 1 of this Article on the grounds of ethnicity, nationality, religious or linguistic hostility towards the victim.
5. Who commits the crime from paragraph 1 of this Article against minors, shall be punished by imprisonment of at least three years.

6. Who commits the crime from paragraphs 2, 3 and 4 of this Article against minors, shall be punished by imprisonment of at least five years.
7. If the crime from paragraph 2 of this Article causes consequences from paragraph 3 of this Article, the perpetrator shall be sentenced to imprisonment for at least five years.

Article 206 of CC of FBiH – coercion to have sexual intercourse:

“Who compels another person to sexual intercourse with him/her or sexual act equal to it by serious threat to serious evil, shall be punished to imprisonment of six months to five years.”

104. We do not have specific knowledge about the phenomenon of “female genital mutilation”.

### **Reply to questions raised in paragraph 16**

105. With regard to measures which the State Party has undertaken to prevent people from gender-based violence and human trafficking, the Strategy for the Prevention and Combating Domestic Violence in Bosnia and Herzegovina for the period 2008–2010 and the State Action Plan to combat human trafficking and illegal immigration for the period 2008–2012 were adopted.

106. In accordance with the work programs of institutional gender mechanisms in Bosnia and Herzegovina and the need to adopt the National strategy to combat domestic violence in Bosnia and Herzegovina, the Coordination Committee of institutional gender mechanisms of Bosnia and Herzegovina issued a decision that the Agency for Gender Equality, as a state institution for the achievement of principles of gender equality within the framework of executive authorities in Bosnia and Herzegovina, drafts the National strategy for prevention and fight against domestic violence by merging the goals and activities of the entities strategic and action plans.

107. The Constitution of Bosnia and Herzegovina (Annex 4 of the General Framework Agreement for Peace in Bosnia and Herzegovina), Article II, which refers to human rights and fundamental freedoms, ensures the highest level of internationally recognized human rights and fundamental freedoms. Similar solutions are also provided in the Constitution of the Federation of Bosnia and Herzegovina, Republika Srpska and the Brčko District of Bosnia and Herzegovina.

108. Enjoyment of rights and freedoms warranted by the Constitution or international agreements listed in Annex I to the Constitution of Bosnia and Herzegovina is ensured to all persons in Bosnia and Herzegovina without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, affiliation to a national minority, property, birth or other status.

109. The Parliamentary Assembly of Bosnia and Herzegovina adopted the *Law on Gender Equality* in Bosnia and Herzegovina (“Official Gazette of BiH”, no. 16/03), which regulates, promotes and protects gender equality and guarantees equal opportunities to all citizens, both in public and in private sphere of society and prevents direct and indirect discrimination based on sex.

110. Article 17 of the Law on Gender Equality in Bosnia and Herzegovina reads: “Any form of violence in the private and public life on the basis of sex is prohibited.” This provision, in connection with Article 154 of the Law of Obligations (OC) is the basis for compensation in case of violence, which generally enables private legal protection in case

of violence based on gender. Provisions related to domestic violence are also included in the following legislation:

1. *Criminal Code of the Federation of Bosnia and Herzegovina* (“Official Gazette of Federation BiH”, No. 36/03, 37/03, 21/04, 69/04, 18/05) envisages in art. 222 a special incrimination entitled “**Violence in the family**”. In addition to the basic form of this crime for which a fine or imprisonment up to one year is envisaged, there are qualified forms that stipulate fines or jail sentences.
2. *Criminal Code of Republika Srpska* (“Official Gazette of RS”, No. 49/03, 108/04, 37/06 and 70/06) envisages in art. 208 a special incrimination entitled “**Violence in the family or the family community**”. In addition to the basic form of this crime for which a fine or imprisonment up to two years is envisaged, there are qualified forms that stipulate fines or jail sentences.
3. *Criminal Code of the Brčko District* (“Official Gazette of the Brčko District of BiH” no. 10/03, 45/04 and 06/05). Article 218 of this act provides the special *incrimination* entitled “Violence in the family”. In addition to the basic form of this crime for which a fine or imprisonment up to one year is envisaged, there are qualified forms that stipulate fines or jail sentences.
4. *Law on Protection from Domestic Violence of the Republika Srpska* (“Official Gazette of RS”, No. 118/05, 17/08) prescribes fines and protective measures as the basic *sanctions* with the aim of more effective protection of victims of domestic violence.
5. *Law on Protection from Domestic Violence of the Federation of Bosnia and Herzegovina* (“Official Gazette of FBiH”, No. 22/05 and 51/06) prescribes fines and protective measures as the basic sanctions with the aim of more effective protection of victims of domestic violence.
6. *Family law of the Federation of Bosnia and Herzegovina* (“Official Gazette of FBiH”, No. 30/05 and 41/05), Article 4, Paragraph 1 “prohibits the violent behavior of the spouse and any other family member”.

111. The Parliamentary Assembly of Bosnia and Herzegovina, at the 19th session of the House of Representatives held in 2007 and at the 11th session of the House of Peoples held in 2008 adopted a “*Resolution on the fight against violence against women in the family*” (“Official Gazette of BiH”, No. 15/08). The resolution confirms that every form of violence against women, including violence against women in the family is violation of basic rights and freedoms, and that it prevents or cancels the exercise of these rights and fundamental freedoms. The resolution expressed concern about the insufficient progress in protecting and promoting these rights and freedoms in all cases of violence against women.

112. The *Gender Action Plan of Bosnia and Herzegovina* is a strategic document in the field of gender equality, adopted at the 129th session of the Council of Ministers of Bosnia and Herzegovina, 14 September 2006. The Gender Action Plan consists of 15 areas that include activities, timelines and responsible institutions whose cooperation is necessary for the implementation of activities envisaged in the Gender Action Plan. Chapter XI of the Gender Action Plan of Bosnia and Herzegovina is called “Domestic violence, gender-based violence, sexual harassment and harassment and human trafficking”.

113. When it comes to measures that relate to the fight against human trafficking it should be noted that the Council of Ministers adopted on 29 May 2008 the National action plan to combat trafficking for the period 2008–2012.

114. The new plan defines clear responsibilities of various government institutions necessary to take in the coming five-year period (2008–2012) in order to come to the

successful prosecution of criminal traffickers and improved standards of protection of victims of trafficking, which takes into account the latest standards for protection of human rights in fight against this phenomenon.

115. The cases of feminine genital mutilation have not been recorded.

### **Reply to questions raised in paragraph 17<sup>4</sup>**

116. Responses to the recommendations of the Special Rapporteur contained in paragraphs 78–86 are listed below.

117. Paragraph 78: At the request of the State Coordinator through OSCE, the analysis of compliance of our legislation with international standards and laws of the entity with the State is under way since the need for harmonization arose. This analysis is done in the Office for Democratic Institutions and Human Rights (ODIHR) and will be completed at the end of July 2009.

118. Paragraph 79: The Special Rapporteur believes that reforms are required on issues such as the employment of foreigners and their access to health and social rights, to prevent their becoming vulnerable to trafficking.

119. On 16 April 2008 a new Law on Movement and Stay of Aliens and Asylum was adopted and it is to the greatest extent possible harmonized with the EU standards. This law specifies in what way and under what conditions foreign nationals can be employed within the borders of Bosnia-Herzegovina.

120. First of all, Article 8 of this Act should be noted, reading: Discrimination of foreigners is prohibited on any ground (such as: gender or sex, race, color, language, religion, political or other opinion, national or social origin, liaison with national minority, property, status gained by birth or other status). So a foreign citizen has the right to a work permit and it is described in Article 11 of this law which says:

1. If a foreigner intends to stay in BiH with the aim of paid work, he/she must have a work permit which is issued by the competent authority for employment of foreigners in accordance with the provisions of this law and other laws in BiH that regulate the issues of work of foreigners, except where this Act or international agreement provide that the work permit is not required for certain types of labor.
2. Performing activities necessary for the establishment and registration of legal persons or business entity is not regarded as a work in terms of paragraph (1) of this Article, and is not subject to the obligation to obtain work permits.
3. The body from the paragraph (1) of this Article shall send the decision upon the request for the issuance of work permits to the Service immediately upon delivery of the said decision to the party in the proceedings.
4. The provisions of this Article do not apply to foreigners who have recognized refugee status or status of subsidiary protection in BiH.

121. In accordance with the Law on Movement and Stay of Aliens and Asylum of Bosnia and Herzegovina, the Ministry of Security has issued regulations on protection of victims of trafficking. These regulations set forth rules and standards of treatment as well as other

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<sup>4</sup> Statistical data are given in the report of the State party on follow-up of recommendations, pages 29 to 34.

issues in connection with the acceptance, recovery and return of foreign victims of trafficking. Article 16 of this Rule says that the victim of trafficking who is a foreign citizen has the right to health care provided through conclusion of the contract on the provision of health care between the Ministry of Security and health care institutions.

122. Paragraph 80: Continuous training of police officers is carried out for the purpose of advancing the fight against trafficking.

123. Paragraph 81: When it comes to the identification of victims of trafficking, in most cases the prosecutor in cooperation with police agencies and NGOs estimates whether there is a basis for the existence of human trafficking and whether the person is a victim of trafficking. Regardless of the assessment of the prosecutor, as long as there are grounds to believe that he or she is a victim of human trafficking, such persons are entitled to assistance.

124. Paragraph 82: In the course of 2008, in order to achieve better coordination between all agencies for implementation involved in the fight against human trafficking and in compliance with the National Action Plan for Combating Trafficking in Human Beings and Illegal Immigration, the Office of National Coordinator for Combating Trafficking in Human Beings and Illegal Immigration in cooperation with the Ministry of Human Rights and Refugees implemented activities related to the “development of a monitoring mechanism for monitoring the application of minimum standards for protection of victims of trafficking and care for them by various agencies”. These monitoring teams continuously evaluate the quality of action of professionals and relevant institutions. It is especially necessary to assess the quality of services provided to victims of trafficking and their comparison with the basic standards of protection. In the first phase of these activities, on the basis of regional organizations of the State Investigation and Protection Agency, all institutions and organizations involved in the fight against human trafficking named their representatives in the wider composition of regional monitoring groups, and in the second stage narrower monitoring teams were formed to be responsible for the development of further cooperation, monitoring and coordination at the regional level. Monitoring teams were formed according to the principle of operation of the State Investigation and Protection Agency in the regions of Sarajevo, Mostar, Banja Luka and Tuzla.

125. Paragraph 84: On the basis of the signed protocol with the Ministry of State Security, *Vaša prava BiH Your Rights BiH*) provide free assistance to victims of trafficking, asylum seekers in BiH, as well as others who are under international protection in BiH. In addition, in accordance with the protocol with the Ministry of Human Rights and Refugees of BiH, legal aid is also received by the users who are under the jurisdiction of this Ministry.

126. Paragraph 85: Information management and research is enhanced in cooperation with the International Center for Migration Policies Development (ICMPD) through the implementation of a regional project which aims at harmonizing and improving the quality and reliability of trafficking data. This project is simultaneously implemented in ten countries of Southeast Europe. For this purpose, the development of two separate databases was supported. The first is a database of victims of trafficking, which contains information on trafficked persons and information that may be useful in preventive activities, as well as activities of protection and assistance provided to victims of human trafficking, both foreigners and domestic citizens. This database is set up in the Ministry for Human Rights and Refugees. The second database is on the traffickers, namely the data related to criminal prosecution, and it contains all information about the perpetrators of criminal acts and monitors all taken legal action and court proceedings. It is set up in the State Investigation and Protection Agency. This response can be applied to paragraph 82 as well.

127. Paragraph 86: In 2008, the Centers for training of judges and prosecutors in the Federation of Bosnia and Herzegovina, Republika Srpska and the Brčko District of BiH, in cooperation with the National Coordinator and the International Organization for Migration and with the support of the Agency for International Development of the United States, created and published a manual for judges and prosecutors under the heading “Trafficking – prevention and protection in Bosnia and Herzegovina”. The manual aims to standardize procedures in the phase of detection, prosecution and passing judgements on crimes of trafficking and so enhance knowledge in the area of trafficking through use of the law and other regulations and established procedures, more efficient and more effective treatment and protection of victims of trafficking, all with the aim to prevent and combat human trafficking as a very dangerous form of organized crime.

128. Training of judges and prosecutors was carried out within this project with the participation of police, representatives of social welfare services and mostly by use of the interactive cooperation between leaders and participants of the training. When conducting the training course participants shared experiences, finding best solutions in collecting evidence and prosecuting cases of trafficking, while at the same time providing care and protection of victims.

129. The evaluation of knowledge that was achieved was conducted at the end of each training, which proved to be mutually beneficial for leaders and for students in the training. As there was a desire that this kind of training would continue and expand, there was also the third seminar for the training of educators. In this way, the participants in the seminar had the opportunity to be trained to train others in the process of detecting and identifying cases of trafficking, prosecution and prosecution along with the proper application of mechanisms to brief victims.

### **Reply to questions raised in paragraph 18**

130. Examples of judgments are shown in the annex of the present report.

## **Article 5**

### **Reply to questions raised in paragraph 19**

131. The provisions of Article 12 of the Criminal Code of BiH stipulate the application of criminal legislation of Bosnia and Herzegovina for the criminal acts committed outside the territory of Bosnia-Herzegovina, with a specially provided obligation to prosecute crimes that Bosnia and Herzegovina is obliged to punish under international rules of law, international or interstate treaties. The criminal legislation of Bosnia and Herzegovina is also applied toward a citizen of Bosnia and Herzegovina or the alien outside the territory of Bosnia and Herzegovina for any other criminal offences other than acts against the integrity of Bosnia and Herzegovina, or it is applied to the alien, who outside the territory of Bosnia and Herzegovina commits a crime against a foreign country or foreigner for which, under that legislation, the penalty of imprisonment of five years or a more serious punishment may be imposed.

132. As regards the space of the Federation of BiH for which we are exclusively entitled to provide data, we emphasize that the provision of Art. 48 of CPC of FBiH sets forth certain territorial jurisdiction of prosecutors determined by the provisions that apply to the jurisdiction of the court of the area for which a prosecutor was appointed. We should point out that the provision of Art. 26, para. 1 of CPC of FBiH stipulates a certain fundamental territorial jurisdiction of courts, such that the local competent court is the court in whose



area the criminal act was committed or attempted. Simply speaking, the above-mentioned crimes are prosecuted in the place of execution of the criminal legal act in the first instance.

133. The Federal Police Administration has acted in 12 cases regarding the application or decision of the International Criminal Tribunal for the Former Yugoslavia (ICTY), which mainly relate to the personal protection of defendants and convicted during the stay in the territory of BiH, the personal protection of witnesses, collecting notices and information related to possible threats to the accused and convicted during the stay in the territory of Bosnia and Herzegovina and other tasks that were listed in the demands and decisions of the ICTY, which are the responsibility of the Federal Police Administration.

134. There were no cases of police arresting or bringing or transferring to the Tribunal the persons wanted by ICTY.

## Article 7

### Reply to questions raised in paragraph 20

135. The authorities of Bosnia and Herzegovina do not have information regarding allegations of discriminatory treatment in criminal proceedings, nor are there statistical indicators that officials belonging to the ethnic majority often fail to prosecute alleged criminals belonging to the same ethnic group.<sup>5</sup>

### Reply to questions raised in paragraph 21

136. The High Judicial and Prosecutorial Council of Bosnia and Herzegovina does not collect data and does not maintain a comparative record of national affiliation of the accused or suspects in criminal proceedings in relation to nationality of serving judges and prosecutors.

137. The national structure of the bearers of judicial functions, considered per different levels of judicial institutions and the political-territorial units in Bosnia and Herzegovina, is shown in the table below:

Table 1

#### National structure of judges and prosecutors by judicial authority levels and type of institution

<i>Level</i>	<i>Type of institution</i>	<i>Bosniak</i>	<i>Croat</i>	<i>Serb</i>	<i>Undecided</i>	<i>Other</i>	<i>Total</i>
BiH		33 (47.83%)	11 (15.94%)	22 (31.88%)	1 (1.45%)	2 (2.9%)	<b>69</b>
	Court	19 (45.24%)	6 (14.29%)	15 (35.71%)	1 (2.38%)	1 (2.38%)	<b>42</b>
	Prosecutor's Office	14 (51.85%)	6 (14.29%)	7 (25.93%)	0 (0%)	1 (3.7%)	<b>27</b>
Brčko District		12 (40%)	6 (20%)	12 (40%)	0 (0%)	0 (0%)	<b>30</b>
	Appellate Court	2 (28.57%)	3 (42.86%)	2 (28.57%)	0 (0%)	0 (0%)	<b>7</b>
	Prosecutor's Office	4 (50%)	1 (12.5%)	3 (37.5%)	0 (0%)	0 (0%)	<b>8</b>

<sup>5</sup> Reference to follow-up letter, issues of discriminatory treatment in connection with prosecuting of perpetrators from a majority people/FG/in the information of the State Party it is read that "there are no evidence supporting this allegation".

<i>Level</i>	<i>Type of institution</i>	<i>Bosniak</i>	<i>Croat</i>	<i>Serb</i>	<i>Undecided</i>	<i>Other</i>	<i>Total</i>
	Basic Court	6 (40%)	2 (13.33%)	7 (46.67%)	0 (0%)	0 (0%)	<b>15</b>
FBiH		18 (58.06%)	8 (25.81%)	4 (12.9%)	0 (0%)	1 (3.23%)	<b>31</b>
	Court	14 (63.64%)	5 (22.73%)	3 (13.64%)	0 (0%)	0 (0%)	<b>22</b>
	Prosecutor's Office	4 (44.44%)	3 (33.33%)	1 (11.11%)	0 (0%)	1 (11.11%)	<b>9</b>
RS		4 (19.05%)	3 (14.29%)	12 (57.14%)	0 (0%)	2 (9.52%)	<b>21</b>
	Court	4 (23.53%)	2 (11.76%)	10 (58.82%)	0 (0%)	1 (5.88%)	<b>17</b>
	Prosecutor's Office	0 (0%)	1 (25%)	2 (50%)	0 (0%)	1 (25%)	<b>4</b>
Cantonal		159 (56.58%)	65 (23.13%)	46 (16.37%)	1 (1.36%)	10 (3.56%)	<b>281</b>
	Court	65 (55.08%)	29 (22.09%)	21 (17.8%)	0 (0%)	3 (2.54%)	<b>118</b>
	Prosecutor's Office	94 (57.67%)	36 (22.09%)	25 (15.34%)	1 (0.6%)	7 (4.29%)	<b>163</b>
District		29 (20.57%)	11 (7.8%)	95 (67.38%)	2 (1.42%)	4 (2.84%)	<b>141</b>
	Court	13 (21.31%)	6 (9.84%)	40 (65.57%)	0 (0%)	2 (3.28%)	<b>61</b>
	Prosecutor's Office	16 (20%)	5 (6.25%)	55 (68.75%)	2 (2.5%)	2 (2.5%)	<b>80</b>
Municipal	Court	223 (58.07%)	81 (21.09%)	72 (18.75%)	3 (1.78%)	5 (1.3%)	<b>384</b>
Municipal	Court	51 (26.02%)	13 (6.63%)	123 (62.76%)	2 (1.02%)	7 (3.57%)	<b>196</b>

138. Also, we want to note that additional information about the structure of the national carriers of the judicial function can be found in the annual report for 2008 of the Council.

### **Reply to questions raised in paragraph 22**

139. The period immediately after the signing of the Dayton Peace Agreement was characterized by the fear of displaced persons and returnees, especially members of the so-called "minority" people, who were faced with the risks of their personal safety and the lack of human and logistical capacities and resources of the security structure. In this period, returnees had great distrust of security structures and the population in local communities from which they fled and they decided to return to the area.

140. The applicable laws and by-laws set forth that the competent entity ministries of internal affairs maintain the unique records of committed criminal acts and offences for all citizens of Bosnia-Herzegovina, so that specific indicators for the returnees and their property are not available.

141. Today the security situation in the country, generally speaking, is satisfactory, which is confirmed by official data presented by the competent institutions. This attitude is shared jointly by the Ministry of Human Rights and Refugees, representatives of relevant institutions of the entities, representatives of EUPM and UNHCR and other international organizations. However, the actual and potential minority returnees indicate that the threat or perceived threat to their physical security remains an important factor for making decisions on return. Thus, although the overall situation has improved significantly, we still can not conclude that safety is no longer an obstacle to the return process.

### **Identified problems from the revised Strategy of Bosnia and Herzegovina for the implementation of Annex 7 of the Dayton Peace Agreement**

142. Despite the generally satisfactory security situation in BiH, isolated incidents that are happening to "minority" returnees which are not investigated and prosecuted in a satisfactory manner and the constant presence of widespread mine contamination are all

obstacles to return. In addition, some other problems have been identified regarding the proposed measures for improvement of the situation in the field of security, such as:

(a) There is no adequate coordination and general integrated approach of competent and responsible organizations for the improvement of security situation in BiH;

(b) The lack of official condemnation of individual or group attacks on the personal and property safety of returnees, by members of other nations, and reported incidents are not being investigated and prosecuted in a satisfactory manner;

(c) Sometimes, with their inadequate and unchecked reporting on attacks and incidents related to returnees and their property, damage is caused to the coexistence and reintegration of returnees into the local community;

(d) There is no detailed information on the number and character of incidents in connection with attacks on returnees and their property nor specific records is kept in this regard, which is itself indicative. What is more important, there is inadequate exchange of information between the competent police and judicial bodies and institutions on these issues. It affects updated information on the outcome of court proceedings in connection with the filed claims for bringing legal actions or criminal proceedings. It is necessary to point out that the assessments of the security situation in Bosnia-Herzegovina issued by some government institutions and especially non-governmental sector often differ. Such assessments are often subjective and separate, so that actually they cannot give a global picture on the field situation in this area;

(e) It is noted that the suspected war criminals are slowly prosecuted and that a number of them live in areas where they committed crimes, while the members of the so-called "minority people" returned or intend to return to the same area. It is felt that there is a lack of policies and strategies that would deal with allegations of crimes committed in these areas, as such an environment does not contribute to the sustainability of return nor does it help in overcoming the fear of returnees;

(f) In practice there are cases that a number of offences and crimes are not registered by the police out of fear of consequences, or due to general lack of confidence in the police, so that such cases are not prosecuted and pass without sanctions against perpetrators. This is one of the reasons that the reports and assessments on the security of returnees prepared by the non-government sector are different from official statements of the relevant police authorities;

(g) There is a variety of events in the field reported by the returnees, which relate to threats to their lives, destruction, occupying and exploitation of their private property to which the police structures keep silent and do not undertake legal measures. This also contributes to a lack of confidence in competent institutions in places of return;

(h) The lack of timely arrest and prosecution of a number of persons suspected of having committed war crimes contributes to general uncertainty and is an obstacle to the return.

143. Since the end of 2004 an independent unit, Department for Witness Protection (OZS) has existed within the State Investigation and Protection Agency. In the past period it has carried out a series of concrete measures, actions and efforts in order to complete the establishment of organizational, personnel filling, material-technical equipping and training of employees and to reach full operational independence to perform tasks in the field of witness protection, especially in the implementation of the Witness protection program. Besides the above efforts the Department has acted upon orders and requests of the Court of BiH, BiH prosecutors and other competent institutions in BiH, or foreign bodies, and has taken concrete operational – tactical measures and actions of protection and support for witnesses. The largest number of witnesses who have undergone these measures are

witnesses in criminal proceedings concerning war crimes and values protected by international humanitarian law who themselves were usually victims of torture and inhuman treatment during the war period 1992–1995.

## Article 8

### Reply to questions raised in paragraph 23<sup>6</sup>

144. In total, 5 war crimes cases against 8 persons were tried.

Table 2

#### War crimes cases prosecuted in the Brčko District of Bosnia and Herzegovina

<i>Case code</i>	<i>Family name and name of the accused</i>	<i>Type of punishment</i>
KT-44/93	Jurošević Dragomir	Acquittal 26/03/2007
KT-390/04	Simonović Konstantin	Agreement – 6-year prison 18/10/2005
KT-100/05	Kostić Kosta	15-year prison 13/09/2007
KT-100/05	Milošević Miloš	Acquittal 13/09/2007
KT-100/05	Simić Raco	Acquittal 13/09/2007
KT-256/06	Kovačević Pero	I-instance acquittal cancelled upon appeal, trial reopened before the Appellate Court
KT-286/07	Hasanović Fikret	5-year jail 11/05/2009
KT-287/07	Pavić Pepo	5-year jail 11/05/2009

## Article 9

### Reply to questions raised in paragraph 24

#### Cooperation with the International Criminal Tribunal for the Former Yugoslavia

145. As regards the history of cooperation, it is necessary to point out that the cooperation between the prosecutors of Bosnia and Herzegovina and the International Criminal Tribunal for the Former Yugoslavia (ICTY), or the ICTY prosecutors had begun even before the official establishment of the Special Department for War Crimes on 1 March 2005.

146. In this period, meetings were held with the ICTY prosecution in connection with future work and the structure of the Special Department for War Crimes, where the representatives of the ICTY advised how to effectively prosecute complex cases of war crimes with a multiple number of accused persons, accompanied by widely evidential and other materials.

147. Tips also related to other aspects of managing the process of war crimes, and in this regard they stressed the need for the establishment of automated systems and databases, as well as the creation of technical support for implementation of these systems.

148. The working meetings greatly assisted the establishment of internal structure and the organization of work of the Special Department for War Crimes in the five regional

<sup>6</sup> The State party did not provide the information on this article in its initial report.

prosecuting teams, where each team is responsible for a specific geographical area/region in BiH, and the sixth team (“Team for special projects”), which deals with crimes committed in and around Srebrenica, as well as other teams tasked to provide support to the work of the prosecuting teams.

149. Types of cooperation between the ICTY prosecutors and the Special Department for War Crimes can be classified in the following manner:

- (a) Subject matter cooperation in terms of the category of war crimes, as follows:
  - (i) Rules 11 bis cases in which the ICTY earlier confirmed indictment;
  - (ii) Categories “2” cases, in which the ICTY Prosecutor’s Office did not finalize investigation;
  - (iii) Cases passed to the ICTY Prosecutor’s Office by the cantonal / district prosecutors’ offices and other investigative authorities pursuant to “Rules of the road”; and
  - (iv) New investigations that were opened after 1 March 2003 after the entry into force of the Law on Criminal Procedure of Bosnia and Herzegovina.
- (b) Cooperation by way of support to the work of the Special Department in general and in relation to specified categories of cases:
  - (i) Authorized employees’ access to the Special Department evidence database of the ICTY Prosecutor’s Office and the judicial database of the ICTY Registrar’s Office;
  - (ii) Special training of the department employees by the ICTY in the field of international criminal and humanitarian law;
  - (iii) Co-operation in making amendments to the Criminal Law relevant legislation;
  - (iv) Exchange of different types of data such as information regarding the place and arrest of the accused inaccessible to the ICTY and the BiH authorities.

150. Below follows a brief description of each of these forms of cooperation.

#### **Cooperation depending on the types of cases**

*Cases that ICTY Prosecutor’s Office intends to pass to the Court of Bosnia and Herzegovina under the provisions of rule 11 bis of the Rules on Procedure and Evidence*

151. In accordance with the Rule 11 bis of the Rules of Procedure and Evidence of the ICTY, the cases in which the indictment is confirmed by the ICTY can be passed to the authorities of Bosnia and Herzegovina by the decision of the Council for passing of ICTY cases. The discussions that were held in the period 2004–2005 showed that the rule 11 bis cases should have priority in terms of legal proceedings, given their complexity and sensitivity. In the previous period the ICTY passed to the Prosecutor’s Office of BiH and the Special Department for War Crimes 6 cases against 11 defendants (Radovan Stankovic, Gojko Jankovic, Mitar Rasevic and Savo Todovic, Zeljko Mejakić and 3 suspected, Pasko Ljubicic, Milorad Trbic). The Special Department was also informed not to expect the transfer of other cases under the rule 11 bis in the coming period.

152. The support rendered by the ICTY Prosecutors’s Office included working meetings with discussions on general matters and specific cases. The results of these meetings were to identify potential problems with evidence, the specific legal issues regarding the application of the laws of BiH, as well as issues of drafting and application of prosecuting

strategies for work on individual cases. ICTY provides support to the work on the 11 bis cases on a regular basis, because the need for assistance, such as locating witnesses and evidence, is needed in all stages of criminal proceedings. ICTY Prosecutor's Office provides maximum support in this process.

153. In addition, it should be mentioned that there is close coordination with the Office of the ICTY Registrar, regarding obtaining copies of transcripts from the trial, audio-video recordings and other court evidence of importance for 11 bis cases.

*Cases in which ICTY Prosecutor's Office has not completed the investigation*

154. The ICTY Prosecutor's Office, in accordance with the provisions of the Strategy for termination of the work, has the obligation to transfer cases in which the ICTY had not confirmed the indictment by the end of 2004 to further processing of a Special department for war crimes. In 2005, the Special department for war crimes was informed that there are approximately 40 such cases against more than 45 possible suspects. More specifically, the Court of BiH currently has implemented procedures for two cases of this kind so far (Marko Radic and cases related to Bugojno), and one of these cases (Momcilo Mandic) has been completed and is in effect. The investigation is currently implemented for the three cases from the subject categories. The support provided by the ICTY in connection with these cases is identical to the level of support for the rule 11 bis cases.

*Cases that cantonal/district prosecutors and investigative agencies from Bosnia and Herzegovina ceded to ICTY in accordance with rules of the road*

155. The survey of local investigations the ICTY Chief Prosecutor conducted in accordance with the agreed measures contained in the provisions of the Rome Agreement entitled "Cooperation on war crimes and respect for human rights" (paragraph 5, Item 2) was officially completed on 1 October 2004 by the letter of the ICTY Chief Prosecutor sent to the Presidency of BiH on 27 August 2004.

156. In addition to information on the official completion of the review of war crimes cases as of the end of September 2004, the ICTY Prosecutor's Office proposed that the review process should be overtaken by the Prosecutor's Office of BiH. The Presidency of BiH informed the Chief Prosecutor of the ICTY that it accepts the recall of the agreed measures of the Rome Agreement, i.e. the Prosecutor's office of BiH shall accept the survey of war crimes.

157. In anticipation of this transfer of duties, there were numerous meetings held with the Chief Prosecutor of the ICTY in order to prepare the transfer of the large number of cases in which a domestic inquiry was conducted.

158. In close cooperation with the ICTY Prosecutor and her staff, the Prosecutor's Office of BiH has developed regulations on the transfer of duties and the manner of treatment in cases. It was jointly agreed that the vast majority of these cases be given to the local competent cantonal/regional Prosecutors' offices to continue processing.

159. The Special Department reviewed 746 such cases and gave an evaluation in accordance with the Regulations on the review of war crimes and indicative criteria for sensitive Rules of the Road cases. Out of this number, 202 cases were judged as "very sensitive" and the venue for their prosecution has been taken by the Special department for war crimes, while others have been ceded to cantonal/regional Prosecutors' offices as locally competent.

160. The support by the ICTY Prosecutor's Office provided to the Special department for war crimes in this process especially relates to the transfer of a database for Rules of the

Road cases that contains all the cases in this category and to the provision of electronic copies of all documents.

**New investigations opened after 1 March 2003 (when the Law on Criminal Procedure of Bosnia and Herzegovina came into force)**

161. This category includes cases of war crimes in the investigation opened after the entry into force of the Law on Criminal Procedure of Bosnia and Herzegovina, and which are within the competence of prosecutors and the Court of BiH, regardless of whether these cases are classified as sensitive or very sensitive and subject to review and evaluation. ICTY, which also represents the main archive for the evidence that had been collected during the armed conflict, provides concrete support for a Special department for war crimes in connection with these cases. An example of such support is the Kravica case against 11 people accused of associating to commit genocide in Bratunac and Srebrenica during July 1995. The ICTY Prosecutor's Office has provided significant support in this case by providing evidence and statements in their possession, to make an analysis of events in Srebrenica and help locate witnesses.

**Other forms of cooperation**

*Access of authorized employees of the Special Division to the database of evidence of ICTY prosecutors and the judicial database of the ICTY Registrar*

162. In the period 2005–2006, due to the large number of requests submitted by the Special Department for War Crimes and the relatively limited resources of the ICTY, it was agreed that the Special department for war crimes would get access to EDS, the database of the ICTY prosecutors and the judicial database of the ICTY Registrar.

163. The EDS database is a collection of evidence, evidence from the trial and statements of witnesses. The ICTY prosecutor's office has copied almost the entire database on a portable hard drive for the use of the Special department for war crimes, and its content was transferred to a secure network of the Special Department. The Special department currently has 80–90% of the EDS database. The 10 percent of database that is not available for now contains the confidential materials that are forwarded to the state and institutions with diplomatic immunity, and only these sources can give permission for their release. This is to enable all employees of the Special Department for War Crimes to have access to most of the useful data at all times.

164. The Court Case Database is a database of the Registrar, which contains all the transcripts from the trials, evidence, decisions and judgments. The division for legal advice of the Special Department for War Crimes manages this database. The Special Department for War Crimes has only one password to access the 'online' database via the electronic "key" with the printed 6-digit code that is constantly changing in order to avoid unauthorized access. There is a need for additional codes, as it large quantities of material are sought daily, but the Registry of the ICTY was unable to approve a number of codes for access. The requests for additional codes are still not resolved.

*Education of the Special Department employees in the area of application of international criminal and humanitarian law*

165. In the period from mid- to late 2005, local prosecutors of the Special Department for War Crimes attended certain professional seminars in the field, covering areas such as crimes against humanity, command responsibility and joint criminal enterprise. Prosecutors had the opportunity to exchange experiences on how to work on cases in the ICTY and the differences in relation to the work system of the BiH Court. Specifically, local prosecutors of the Special Department for War Crimes had training from the "command responsibility

and joint criminal enterprise”, the two legal doctrines that apply in proceedings before the ICTY and which the Bosnian legal system did not previously know. These seminars addressed concrete questions regarding the rule 11 bis cases, as well as general principles of international law.

*Joint work on drafting amendments to relevant legislation Criminal Law*

166. In the last quarter of 2004 the representatives of prosecutors, as members of working groups for drafting amendments to the Criminal Code, Criminal Procedure Code, Law on protection of vulnerable witnesses and witnesses under threat, and the Law on the transfer of cases from the ICTY, worked together with the ICTY prosecution’s Office and Registrar and the judicial councils in coordinating the preparation of the necessary changes and amendments to facilitate the transfer of cases, evidence and material possessed by ICTY. This type of cooperation includes consultations with the ICTY in the drafting of the Regulations on the review of war crimes and provisional criteria for sensitive cases of Rules of the Road.

*The exchange of different types of data*

167. Coordination and work meetings are still held with the ICTY prosecution in connection with the transfer of cases and evidence. Conversations with the ICTY take place every day. Also, frequently, there is a need for assistance, primarily from the ICTY Prosecutor’s Office, but also other organs of the ICTY such as the Registrar, Judicial Council and the Office for legal assistance, and detention. These request concern many issues such as transfer and authentication of written materials and evidence, transcripts of trials, material evidence, evidence from the trial and access to witnesses and defendants and the ICTY.

168. In 2008, there has been developed regular maintenance of a video conference between representatives of the transitional team and the Special Department for War Crimes for discussing all the current issues of cooperation, such as access to evidence of ICTY, verification of evidence, organization of visits of representatives of the Hague Special Department for War Crimes in order to search database of the ICTY, the question of change of measures for the protection of witnesses, which is specified in the proceedings before the ICTY, the status of cases under the categories “2” and 11 bis, as well as the question of developing the State strategy for addressing war crimes (the Council of Ministers adopted this strategy on 29 December 2008), issues of regional cooperation, etc. This new mechanism has proven to be very useful and it is necessary to continue with regular maintenance of video conferencing. Also, 2008 marked the initial activities in the improvement of cooperation between the Prosecutor’s offices in the entities and Brčko District of BiH and the ICTY, such that all petitions are submitted through the Prosecutor’s Office of Bosnia and Herzegovina and the realization of these activities is expected in the coming period.

**Cooperation and activities in connection with apprehension of persons accused by the ICTY and the prosecution of their supporters**

169. The BiH Prosecutor’s Office regularly cooperates with the prosecution of ICTY, EUFOR, via NATO, and local law enforcement agencies, such as the State Investigation and Protection Agency (SIPA), and exchanges information about the possible place of residence of defendants who are in hiding and leads the investigation on the network which provides assistance in flight. As soon as the Prosecutor’s Office of BiH gets new information it promptly provides it to the ICTY Prosecutor’s Office and coordinates activities with appropriate international and national law enforcement agencies. All operations are performed jointly. For example, in 2006, these activities resulted in the arrest



and extradition of Dragan Zelenovic, accused of crimes committed in Foca, by the Court of BiH to ICTY detention unit.

170. The Prosecutor's Office of BiH has the sole jurisdiction for the prosecution of persons suspected of assisting the main defendants of war crimes. Currently, certain investigations are under way and the activities are coordinated with the ICTY Prosecutor's Office, EUFOR, via NATO, and local law enforcement agencies. As a result of the recent discussions on coordination a local prosecutor was appointed as the lead prosecutor for investigation in these cases.

171. In terms of cooperation with the ICTY regarding the arrest of defendants who are in hiding, the Prosecutor's Office of BiH coordinates work with the ICTY Prosecutor's Office, EUFOR, via NATO, and local law enforcement agencies. The Prosecutor's Office of BiH passes over all kinds of information and intelligence available to prosecutors of Bosnia and Herzegovina, to the ICTY Prosecutor's Office. The BiH Prosecutor's Office coordinates its work with international and domestic law enforcement agencies and all operations are performed jointly.

172. The BiH Prosecutor's Office has jurisdiction to conduct the investigation and prosecution of persons who are suspected of providing assistance to the main accused of war crimes. A number of investigations are under way and they are processed in close cooperation with the ICTY Prosecutor's Office and the local law enforcement agencies.

173. In the previous period, the BiH Prosecutor's Office ordered investigations in 39 cases against 44 people on the grounds of suspicion that they committed the crime of assisting a person accused by the International Criminal Court under Article 233, Paragraph 1 of the Criminal Code of BiH, and all in connection with the application of the provisions of Article 11, Paragraph 1 and 2 of the Law on application of specific interim measures for the efficient implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia and other international restrictive measures ("Official Gazette of BiH", no. 25/06 of 04/04/2006).

174. Moreover, in 2007, the Court of BiH, upon the BiH Prosecutor's office's proposal, issued decisions on interim measures in two cases against seven persons prohibiting the disposition and transfer of funds and the disposition and loading of immovable and movable property owned or possessed by these persons, in accordance with the provisions of the Act on the application of certain interim measures for the efficient implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia and other international restrictive measures. Upon coming into effect, the decisions by the Court of BiH ordering specific measures of freezing the assets of these persons have been submitted to the competent authorities (land registry office of the competent court, the Republic office for land surveying and associated jobs, banking agency) for the treatment within their jurisdiction, or to the execution of the court decisions in effect. However, during 2008, the Court of BiH issued a decision on the elimination of these two interim measures.

#### **Federal Ministry of Internal Affairs-Federal Police Administration**

175. The Federal Police Administration has acted in 12 cases regarding the application or the decision of the ICTY, which are mainly related to the personal protection of defendants and convicted during the stay in the territory of BiH, the personal protection of witnesses, collection of notices and information related to possible threats to the accused and convicted during the stay in the territory of Bosnia and Herzegovina, and all other jobs and tasks set forth in the requests and decisions of ICTY have been undertaken, which are the responsibility of the Federal Police Administration.

176. There were no cases of police detention, arrest and transfer to the Tribunal's custody of the persons wanted by ICTY.

## Article 10

### Reply to questions raised in paragraph 25

177. The instructions and training provided for law enforcement officials, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subject to any form of arrest, detention or imprisonment with respect to human rights and specifically the treatment of detainees and the measures for the prevention of torture and cruel, inhuman or degrading treatment or punishment are based on the legal (ZIKS FBiH, ZIKS RS, ZIKS BH), bylaws (House Rules of procedure, Statutes) and international conventions, primarily on European prison rules and standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) of the Council of Europe.

178. Regarding the above, the following activities were conducted in criminal correctional institutions of BiH for members of the institution staff:

(a) Regular monthly meetings were held at which the analysis of work was done, especially with regard to the treatment of indoor and detained persons;

(b) Daily control of the institution staff and taking of appropriate measures in order to overcome difficulties were undertaken. On the basis of knowledge or filed complaints investigations were launched and measures were taken against the responsible persons.

179. Training was organized on the topic: "Risk assessment and needs of convicted people in the project of the Council of Europe", "Procedure upon complaints and appeals of the convicted persons", "Basic elements of the prison officials' capabilities", also in the project of the Council of Europe, as well as the workshop type project within the organization AVP regarding the non-violent roads for resolving conflict situations during the conduct of work assignments in the Institution.

180. Regular practical training is conducted on physical preparedness as well as the use of coercive means, all in order to prevent inhuman and degrading treatment of detained and imprisoned persons.

181. The Law on internal affairs of the Republic of Srpska provides for training to be carried out for all members of this Ministry. Each year, in accordance with the above law, the Police Director of the MUP RS, brings the annual training program for all the authorized official persons who are employed in this Ministry.

182. The same Ministry also implements many other activities and training that relates to apprehensions and detention, including for the treatment of detained persons, all in accordance with the principles of the CPC and other by-laws.

183. The control of the application of the above mentioned actions is carried out by the officers of the Police administration, Crime Investigation Police Department, the Inspectorate for internal control, as well as governing workers in lower organizational units, depending on the level of control.

184. An annual program of training provides for the evaluation and verification at the end of each year of all the OSL of the Ministry, which is then included into the annual performance of the officer.

185. The Federal Administration Police also has a curriculum of training of police officers approved by the manager and it applies during the current year. It is important to

note that the training relates to the training of police officers both on laws and bylaws that have been in use for a number of years and to acts that took effect recently.

186. On 27 April 2007, the Director of the Federal Police Administration forwarded the Act number 09-04-3-2305 to the heads of the organizational unit of the Federal Police Administration with preliminary observations of the delegation of the CPT and it was considered necessary to again highlight that the abuse of detainees is against the law and unprofessional, and that every case of abuse will be prosecuted as priority and the perpetrators strictly sanctioned. Strict implementation of the provisions of the Guidelines on the treatment of persons deprived of freedom brought by the Director under the number 09-14-04-7-199 of 22 March 2006 was requested.

187. In 2008, in cooperation with the Police Academy in Sarajevo the realization of the course "Human dignity and the police" was planned. The Head of this administration's Department for retention, raids and arrests participated in the two-day seminar organized by the Council of Europe, held in Sarajevo on 19 and 20 May 2008, on the topic: "Rights of prisoners and detainees."

188. In accordance with the Rulebook on internal organization and staffing structure, the tasks of management, organizing, planning, control and implementation of activities in the vocational education and training of police officers of the Police of Brčko District of BiH are carried out by the head of the training department for police officers. According to the calendar of planned activities during 2008, the police officers of the Police of Brčko District of BiH attended numerous and various educational seminars that are targeted to improve the professional skills of police officers. Of those activities, we can highlight the following trainings in accordance with the required information:

- Application of the International Convention on the Elimination of All Forms of Racial Discrimination
- The development of an inter-state mechanism of counselling for victims of trafficking
- Suppression of hate crimes
- Development of policies in the area of freedom, security and justice
- Fighting against drug and human trafficking
- Policing in the community
- Study visit concerning human trafficking and illegal immigration
- Application of modern methods in the fight against organized crime
- Scene research
- Training of prison (detention) staff
- Lawful collection of evidence-specific investigation
- Illegal immigration

#### **NGO sector**

189. The Center for Victims of Torture, as a continuation of previous activities within the project financed by the EC in the period from September 2006 to September 2008, organized a total of 69 educational workshops for 130 prison policemen of KPZ Zenica, Sarajevo KPZ and KPZ Eastern Sarajevo with the aim of raising their awareness on the United Nations Convention against Torture, as well as on the specific traits of their work that put them in a group of professionals who by doing their job can become potential

perpetrators of torture. Educative workshops with this target group were, among other things, based on the report and recommendations of CPT.

190. The Center for Victims of Torture, as a continuation of previous activities within the project financed by the EC in the period December 2006 to December 2008, organized 12 educational workshops for medical professionals in the official health system, in the regions of Sarajevo, Stolac, Gorazde and Visegrad. One workshop was held in the Brčko District for medical professionals in the medical center.

191. The workshops aimed to raise awareness of these professionals about torture, its types, the consequences in regard to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment.

192. It should be noted that the activities of the Center for Victims of torture have been financed by foreign donors.

193. Paragraph 25 in the list of questions (CAT/C/BIH/Q/2) refers to training conducted in alternative non-coercive techniques as well as the monitoring and evaluation of the various training programmes and who conducts such trainings.

194. In relation to the above, the institutions of social protection in the Federation provide organized education about alternative technology that does not exclude coercion. We think that training to prevent all forms of torture should be organized at the level of Bosnia and Herzegovina in the Ministry of Human Rights and Refugees of Bosnia and Herzegovina.

195. In this regard, we inform you of the following: the Constitution of the Federation, in its annex, contains the listed instruments for the protection of human rights which have the legal force of constitutional provisions, including the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984).

196. The Law on Health Protection (“Official Gazette of Federation BiH”, No. 29/97) stipulates that medical staff who have a health education focus and directly provide health care to citizens, must demonstrate the obligatory respect for the moral and ethical principles of medical profession (Article 101).

197. In this regard, it is important to emphasize that the relevant chambers lay down their code of ethics. How important it is to respect these principles is shown by the provision of the Act on health care, according to which the competent Chamber of Commerce takes away health-care workers permission to work independently if the competent authority of the chamber determines that such a measure is the most severe punishment for violations of ethical principles of the profession (article 108, paragraph 2).

198. On the other hand, health institutions at the secondary and tertiary levels also bring their code of ethics adapted to the type of services they offer, which entails the establishment of ethical committees aimed at monitoring compliance with the Code and taking appropriate action.

199. Please note that the process of adopting a new law on health care is under way, which regulates in a separate chapter entitled “Human rights and values in health care and patient’s rights” the rights of patients. A number of rights and duties were found in the ratified international instruments on the rights of patients that have to be guaranteed in the system of health care.

200. We especially emphasize that the detailed coverage of the rights and duties of patients will be regulated by the special law on the rights and duties of patients, which is being prepared. The law will further regulate the rights of patients in the Federation, as well as the methods and procedures to protect them.

201. The above-mentioned indicates that the medical staff in the Federation is obliged to respect primarily constitutional and legal norms, and the ethical codes of the Chamber of health professionals and medical institutions in which they are employed, which all need to contribute to patients' tolerance and respect for their rights, mutual respect among colleagues, and finally, the general health of the population.

202. The Federal Ministry of Health currently does not have knowledge that there have been violations of the rights of persons in the hospitals in the context of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984).

203. Since this issue concerns the education of members of law enforcement agencies, medical personnel, public officials and other persons who may participate in the confinement, testing and treatment of individuals detained in any way, by detention or imprisonment, in connection with human rights and in particular against the prisoners, as well as measures to prevent torture and cruel Inhuman or Degrading Treatment or Punishment, we use this opportunity to report to you.

204. Medica Zenica has not worked on exclusively targeted training for public officials, who on any basis may participate in the confinement, testing and treatment of individuals deprived of their liberty. However, in the past 12 years throughout the country, Medica Zenica has worked in the field of education on the consequences of war trauma, torture and violence, communication skills, non-violent conflict solving/conflict, for members of the police, State Border Service, the courts, Prosecutor's offices, as well as for employees in health institutions (medical personnel) and other public officials.

205. Below follows a brief summary of the training that Medica Zenica (and the Infotek department within the Medica Zenica) organized in the period 1999–2006 in BiH for employees in police, judiciary, prosecutors' offices, health care, social work, media and nongovernmental organizations.

#### **The multidisciplinary approach to combating domestic violence and other forms of violence against children and women**

206. During many years of experience in working with women and children victims and survivors of violence Medica has cooperated with the institutions of the system which face in their work the problem of violence against women and children, and victims of trauma and torture.

207. Co-operation has proven to be useful and it contributed to higher quality care for victims and survivors of all forms of violence. Co-operation was not based on established policies and protocols, but was derived from the needs.

208. At the same time, very often professionals of both genders indicated the need for additional education, because they were not prepared sufficiently (or at all) to present the system of education at the workshop targeted towards topics related to the problem of survival of violence, its causes, its psychological and other consequences.

209. The pilot project was implemented by the team of Medica's Infotek, in the period October 1999 – October 2000 with the support of OHCHR. The program lasted 16 months.

210. The goal of education was not to teach professionals how to do their job, each of which carries a specific responsibility and weight, but to adopt new knowledge and skills in the field of psychological care and the application of principles of human rights in everyday work, and prevention of professional burnout. At the same time, the goal was to connect professionals from institutions in a unique network of supporters (we consider as supporters all those who bring professional and human expertise that can provide assistance to victims and survivors of trauma and violence).

211. Participants were divided into 5 groups of related professions: police, judiciary and prosecutor's office, health, social welfare, NGOs and the media. Each group has passed the 6 +2 full daily training sessions held for a period of 2–3 weeks. At the end of the program a group of 93 professionals was trained not only as individual professionals who work with the cases of violence against women and domestic violence, but also as part of a network of supporters.

212. The pilot project is unique as a model of application of a multidisciplinary approach and cooperation between institutions and the NGO sector. Interest was expressed in its further implementation. The Project is implemented and continued by Medica Zenica (and its Infotek department), and funding is provided by UNICEF. During 2001, the continuation of the program was organized in Mostar. The partner organization in Mostar was the Association of Women "Zena BiH". During 2002/2003 the program was implemented in Bihac (Una-Sana Canton) and Prijedor, in partnership with "Women from Una" (Bihac), and "Hope" and "Pro et Contra" (Prijedor). Continuation in 2003/2004 included Srednjobosanski and Dobojski Canton, with the partner organization "Alter Art" from Travnik and "Future" from the Modrica. And during 2004/2005 the program continued to be organized in the area of East Herzegovina and in the south of Podrinje, in partnership with the "Women's Center", Trebinje and the Association "Anima N" Gorazde.

213. Training for supporters in Mostar had a total of 93 persons (from the same institutions as in Zenica). In Bihać there were 99, and 100 in Prijedor. In Travnik 78 participants were trained, 113 in Dobojski, 37 in Gorazde and 81 in Trebinje – a total of 694 participants trained.

214. After that trainings were held for trainers in Zenica and Mostar, and trainings for promoters were held in the community in Zenica, Mostar, Bihac, Prijedor, Travnik and Dobojski.

215. Training for trainers was carried out with the aim to create a base for further training in this field, and for other professionals and helpers in the community who were not covered by the project, and also for permanent education of new staff. Training lasted 9 +3 days. In Zenica, the training for trainers was successfully completed by 12 participants, by 29 in Mostar, 17 in Bihac and 21 in Prijedor. In Travnik the training was successfully completed by 19 participants, and by 21 participants in Dobojski, 12 in Gorazde, and 27 in Trebinje: a total of 158 persons.

216. Training for promoters in the community was conducted with the aim of strengthening the capacity for initiatives that lead to positive changes in the community that would impact on the eradication of violence against women and children and domestic violence. The training lasted 6 +3 days. In Zenica, the training for promoters was successfully completed by 12 participants, by 19 in Mostar, 15 in Bihac and 18 in Prijedor. In Travnik the training was successfully completed by 21 participants, by 23 participants in Dobojski, 10 in Gorazde and 25 in Trebinje: a total of 143 persons.

217. This program was successfully completed by 694 people from 63 municipalities in Bosnia-Herzegovina (30 in FBiH and 33 in RS).

## Article 11

### Reply to questions raised in paragraph 26<sup>7</sup>

218. Data on convicted and detained persons for the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District of BiH for the period of the last five years, classified by sex, age, ethnicity, place of residence, and type of crime, the duration of detention and the length of pronounced punishment of imprisonment, are shown in the table that is attached to the report.

#### Federal Ministry of Internal Affairs

219. Tables 3a, b and c show data on the number of persons deprived of their freedom, who were detained up to 24 hours, age and ethnicity in the past five years, which are contained in cantonal Ministries of Interior and the Federal Police Administration.

Table 3 (a)

#### Number of persons deprived of their freedom who were detained up to 24 hours

<i>Yr</i>	<i>Men</i>	<i>Women</i>	<i>Total</i>
2004	7 616	198	<b>7 814</b>
2005	7 607	124	<b>7 731</b>
2006	6 902	127	<b>7 029</b>
2007	6 751	144	<b>6 895</b>
2008	7 253	186	<b>7 439</b>
<b>Total</b>	<b>36 129</b>	<b>779</b>	<b>36 908</b>

Table 3 (b)

#### Age of persons deprived of their freedom who were detained up to 24 hours

<i>Yr</i>	<i>15–20 yr</i>	<i>21–24 yr</i>	<i>25–29 yr</i>	<i>30–39 yr</i>	<i>Over 40 yr</i>
2004	1 198	1 748	1 572	1 696	1 600
2005	1 164	1 702	1 676	1 592	1 597
2006	1 041	1 624	1 465	1 476	1 423
2007	1 009	1 477	1 501	1 461	1 447
2008	963	1 394	1 752	1 599	1 731

Table 3 (c)

#### Ethnicity of persons deprived of their freedom who were detained up to 24 hours

<i>Yr</i>	<i>Bosniak</i>	<i>Croat</i>	<i>Serbian</i>	<i>Other</i>
2004	5 933	1 200	360	321
2005	5 747	1 225	322	437
2006	5 149	1 171	348	361
2007	5 233	983	357	322
2008	5 650	1 076	367	346

<sup>7</sup> In the first initial report the State Party did not supply data to this point.

220. On 27 April 2007, the Director of the Federal Police Administration forwarded act number: 09-04-3-2305 to the heads of the organizational unit of the Federal Police Administration with preliminary observations of the delegation of the European Committee for the prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and it was considered necessary to again highlight that the abuse of detainees is against law and unprofessional, and that every case of abuse will be prosecuted as priority and the perpetrators strictly sanctioned. Strict implementation of the provisions of Guidelines on the treatment of persons deprived of freedom brought by the Director under the number: 09-14-04-7-199 of 22 March 2006 was asked for.

221. In 2008, in cooperation with the Police Academy in Sarajevo the realization of the course "Human dignity and the police" was planned. The Head of Department for retention, the raid and arrest of this administration participated in the two-day seminar organized by the Council of Europe, held in Sarajevo on 19 and 20 May 2008, on the topic: "Rights of prisoners and detainees".

222. A summary of statistics on detention by the Police of BD for the years 2004–2008 has been compiled, as follows:

#### **Detention of population by the police of BD: 2004**

Number of prisoners: 48

Men: 47

Women: 1

#### **Age**

<i>15–20</i>	<i>21–24</i>	<i>25–29</i>	<i>30–39</i>	<i>Over 40</i>
6	9	0	14	19

#### **Ethnicity**

<i>Serb</i>	<i>Croat</i>	<i>Bosniak</i>	<i>Other</i>
26	4	13	5

Municipality/City:

- District: 30
- B & H: 11
- Foreigners: 7

#### **Length of detention**

<i>Up to 3 months</i>	<i>3 to 6 months</i>	<i>Over 6 months</i>
27	10	11

#### **Detention of population by the police of BD: 2005**

Number of prisoners: 56

Men: 54

Women: 2



**Age**

<i>15–20</i>	<i>21–24</i>	<i>25–29</i>	<i>30–39</i>	<i>over 40</i>
5	13	3	24	11

**Ethnicity**

<i>Serb</i>	<i>Croat</i>	<i>Bosniak</i>	<i>Other</i>
27	7	15	7

## Municipality/City:

- District: 27
- B & H: 21
- Foreigners: 8

**Length of detention**

<i>to 3 months</i>	<i>3 to 6 months</i>	<i>over 6 months</i>
42	10	4

**Detention of population by the police of BD: 2006**

Number of prisoners: 60

Men: 57

Women: 3

**Age**

<i>15–20</i>	<i>21–24</i>	<i>25–29</i>	<i>30–39</i>	<i>over 40</i>
8	16	11	19	6

**Ethnicity**

<i>Serb</i>	<i>Croat</i>	<i>Bosniak</i>	<i>Other</i>
22	4	22	12

## Municipality/City:

- District: 29
- B & H: 17
- Foreigners: 14

**Length of detention**

<i>1 to 3 months</i>	<i>3 to 6 months</i>	<i>over 6 months</i>
55	2	3

**Detention of population by the police of BD: 2007**

Number of prisoners: 33

Men: 33

Women: 0

**Age**

<i>15–20</i>	<i>21–24</i>	<i>25–29</i>	<i>30–39</i>	<i>over 40</i>
4	7	9	7	6

**Ethnicity**

<i>Serb</i>	<i>Croat</i>	<i>Bosniak</i>	<i>Other</i>
16	5	11	1

Municipality/City:

- District: 22
- BH: 5
- Foreigners: 6

**Length of detention**

<i>1 to 3 months</i>	<i>3 to 6 months</i>	<i>over 6 months</i>
27	3	3

**Detention of population by the police of BD: 2008**

Number of prisoners: 47

Men: 45

Women: 2

**Age**

<i>15–20</i>	<i>21–24</i>	<i>25–29</i>	<i>30–39</i>	<i>over 40</i>
10	8	11	9	9

**Ethnicity**

<i>Serb</i>	<i>Croat</i>	<i>Bosniak</i>	<i>Other</i>
25	1	19	2

Municipality/City:

- District: 39
- BH: 5
- Foreigners: 3

**Length of detention**

<i>1 to 3 months</i>	<i>3 to 6 months</i>	<i>Over 6 months</i>
25	13	9

**Reply to questions raised in paragraph 27<sup>8</sup>**

223. The Law on Execution of Criminal Sanctions of BiH, Republika Srpska and the Federation defines the issue of accommodation of different categories of convicted persons and persons in the execution of detention measures. Also, the execution of corrective measures of transfer to correctional institution is implemented in separate departments. Within the Penal-correctional Department of East Sarajevo, there are special, separate departments for the execution of sentences of imprisonment for women and prison sentences for juveniles (opened 1 October 2008). In the correctional Institute in Tuzla convicted persons-women serve a sentence of imprisonment in separate department located within the Institute.

224. Within the Penal-correctional Institute in Banja Luka, there is also a separate department for the execution of corrective measures of transfer to the correctional institution (started with the work 1 Sept 2006), and a similar squad is functioning within the KPZ Tuzla, for the purposes of the Federation. In the correctional Institute in Zenica the juvenile prison punishment is served in one pavilion (minors are in a separate annex, but still are not completely separated from other convicts).

225. As for the execution of detention measures, in all correctional institutions in BiH, in which there is a detention section, men, women and minors can be kept in separate rooms, which must be ensured for the whole time of detention. When it comes to execution of custody of detained persons of female gender, they are separated from the males and only members of the female gender deal and communicate with them.

**Reply to questions raised in paragraph 28<sup>9</sup>**

226. In the am period, in accordance with existing legal regulations, the Ombudsman has access to all files on the convicted persons and officials, and therefore criminal and correctional institutes proceed upon recommendations that can be implemented.

227. Most of the recommendations of the Ombudsman of Bosnia and Herzegovina were partly satisfied.

**Reply to questions raised in paragraph 29**

228. The procedure of reception, registration and release of convicted persons in correctional institutions in BiH is fully implemented in accordance with the provisions of the Law on Execution of Criminal Sanctions BiH Federation and Republika Srpska.

<sup>8</sup> At the moment of consideration of the report by the State Party there were no separate rooms for men, women and children in BiH. Confined men, women and children were kept in separate departments, sections and floors. Recommendation from CAT/C/BIH/CO/1, page 5, para. 14.

<sup>9</sup> The Ombudsman's office is currently under reform. It was also stated in CERD/C/BIH/CO/6, pages 2 and 3: the information obtained contains data on the Ombudsman institution but does not contain the data from this field.

Reception of convicted persons in servitude in prison is to be made solely on the basis of referral act of the court of jurisdiction. Immediately upon acceptance in an institution the convicted and detained persons are registered in the books of convicts and detainees, which is the responsibility of the Department officials. All data which are contained in these registers represent the official secret, and they may be given insight to the organs and institutions on official request.

229. Inspection of the work of penal-correctional institutions is carried out by the authorized officials of the ministries of justice – the inspectors, through regular and special inspection reviews. Regular inspections are conducted at least once a year, and extraordinary inspections are carried out in accordance with the needs and security issues.

230. In 2008, the independent Commission was formed in the Republika Srpska, appointed by the National Assembly of Republika Srpska, whose mandate is the protection and the state of human rights and the conditions in which the executed criminal sanctions and other measures imposed in criminal proceedings are implemented. Formation of the Independent Commission with equivalent mandate to the Federation of BiH is in progress.

231. Visits to correctional institutions in BiH are regularly exercised and performed by representatives of the Ombudsman entity, the Ombudsman of Bosnia and Herzegovina, representatives of the CPT (Committee for the Prevention of Torture), as well as representatives of the Red Cross.

232. A video surveillance system for monitoring possible violence was established in certain correctional facilities, related to new methods of prevention of inhuman treatment of convicted persons, which is not used in investigation situations.

233. At deprivation of liberty all organizational units of the Ministry of Internal Affairs of RS, or authorized official persons make the deprived person aware of his rights, in accordance with the provisions of the CPC, upon which the deprived person is registered into the records of persons deprived of freedom. The specific records should contain all data on the person deprived of his liberty, from personal details to all the physical characteristics.

234. Persons detained by the employees of this Ministry are provided all the conditions which are necessary for them, which include adequate accommodation, nutrition, and unobstructed access to lawyers and to all inspection bodies, as referred to in Article 9 point 25.

235. The Federal Administration of the police disposes of five rooms for the accommodation of persons deprived of freedom. These facilities meet the required standards for this purpose and have video monitoring. A unit for professional standards within its jurisdiction conducts inspection in this area and can visit these facilities, and is competent to act upon complaints of persons deprived of freedom. Until now no objections regarding the work of the police officers of the Federal Police Administration have been received from people deprived of freedom.

### **Reply to questions raised in paragraph 30**

#### **Special report in connection with the complaints of persons who committed crime in the state of mental incompetence or significantly reduced mental competence (July 2004)**

236. Recommendations to the Government of the Federation:

(a) To take all necessary steps in adopting laws or amendments to existing laws which would in clear and precise way regulate the position of the above mentioned

plaintiffs with a full appreciation of the principles mentioned in Article 5 of the European Convention;

(b) To take the necessary steps to improve human and material potentials of Social Welfare organs;

(c) To continue and intensify the steps already undertaken towards the final termination of the execution of security measures within the criminal-correctional Institute Zenica;

(d) To notify the Ombudsmen for Human Rights of BiH on the level of implementation of the above recommendations, no later than 3 months from the date of receipt of this Special report.

**Special report on the situation in the correctional Institute of Banja Luka (March 2005)**

237. Recommendations to the Ministry of Justice of Republika Srpska and correctional Institute Banja Luka:

(a) That in cases of allegations about the application of violence by prison personnel against prisoners in relation to physical mistreatment and receiving bribes, the government KPZ and the RS Ministry of Justice take all necessary actions for the purpose of determining the accuracy of allegations, and in each particular case to assess whether they meet the requirements of Article 3 of the Convention, namely to initiate, based on the determined admissibility, appropriate disciplinary action against the persons mentioned by the convicted persons in the introductory part of this report;

(b) To take all necessary steps to find the best way to improve the status of prisoners in the KPZ Banja Luka in order to ensure adequate medical care and nutrition, and announce a competition to this regard, among other things, for permanent employment of a doctor of medicine, as well as other necessary medical staff pursuant to the Rulebook on Internal Organization of KPZ institutions of the Republika Srpska.

**Special report on the visit to the correctional Institute Zenica**

238. Recommendations to the Federal Ministry of Justice and Administration KPZ Zenica:

(a) Immediately, upon receipt of this report, administration KPZ and the Federal Ministry of Justice should take all necessary measures in order to assess the accuracy of a statement on the application of violence by prison personnel against prisoners in relation to physical mistreatment, and to determine in any particular case whether it meets the requirements of the Article 3 of the Convention, namely to institute the appropriate disciplinary or criminal proceedings against individual members of the prison guard, on the basis of responsibility;

(b) Upon receipt of the reports of this administration KPZ and the Federal Ministry of Justice should take steps to ensure that all alleged incidents of violence, regardless of whether these situations concern violence between members of the prison staff and convicted persons, or between the convicted persons, be recorded and explored;

(c) The KPZ Administration and the Federal Ministry should notify the Ombudsman for Human Rights of Bosnia and Herzegovina on the level of implementation of the above mentioned recommendations no later than 30 days from the date of receipt of this Special report.

## Article 12

### Reply to questions raised in paragraph 31

239. All information and complaints by the convicted persons regarding possible unprofessional behavior of prison officials, violence among prisoners and sexual abuse are checked by the managers of correctional institutions and managers of individual services and facilities. In cases when it is determined that there are reasonable grounds, the disciplinary process is implemented.

240. In the requested time period, according to data from the sentencing and correctional institutions, disciplinary action was brought against five members of security services in correctional Institute of Banja Luka for excessive use of force, and appropriate disciplinary measures were pronounced.

241. The management of the correctional Institute in Zenica submitted on 9 May 2007 to Cantonal prosecutors in Zenica the information with all available evidence (statements and medical records), on the basis of which the Prosecutor's office conducted criminal investigations that resulted in an indictment against an employee because of the reasonable doubt that he committed the crime of abuse in performing his services under Article 182 in connection with the criminal act of light bodily injury from the article 173 of KZ. The investigation was completed 5 May 2008 and the case number KT-1406/07 is in the trial phase, awaiting the main hearing. The person under investigation was moved to other jobs and work tasks, and has no contact in connection with the exercise of his official duty with the convicted persons.

### **Federal Ministry of Internal Affairs – Federal Police Administration**

242. Until now there have been no cases of torture and cruel, inhuman or degrading treatment by employees of the Federal Police Administration. In such cases, an urgent and unbiased investigation would take place.

243. Every citizen has the right and opportunity to file a petition – a complaint regarding the proceedings (irregular and improper) of the Federal Police Administration. The same unit for professional standards is responsible for handling the complaints, it leads the internal procedures (internal investigation) against the police officials of the Federal government police against whom complaints are filed and the submissions and in cases of breaches of official duty they will submit them to the disciplinary Commission with the request to start disciplinary proceedings. This unit starts the internal investigation by the official duty, inter alia, in the following cases: serious injuries to a detainee or person under police protection; any incident of use of official police weapon, any incident of abuse or coercion of force, etc.

244. It should be noted that the Decree of the Government of the Federation Office for public complaints ("Official Gazette of Federation BiH", No. 68/05) establishes the Office for public complaints, which performs its duties independently of the chain of command. It consists of the Chairman and two members, one of which is a member of the Federal Ministry of Internal Affairs and two members are representatives of the public. The competent commissions of the Parliament of the Federation of Bosnia and Herzegovina select the Chairman and members of the Office, and the Federal Minister appoints them. The office is responsible for tracking all petitions and complaints submitted to this Ministry, monitoring the realization of internal investigations of the Unit for Professional Standards, overseeing the disciplinary penalties pronounced by the relevant disciplinary bodies and enforcement of those penalties, etc. The Institute will provide more objective decision-making on public work in this area.

245. Under this point of inquiry from the list of questions the Federal Prosecutor's Office submitted the copies of judgments which were made by competent courts on the prosecution of crimes that come under the term "criminal acts of Torture, Cruel, Inhuman and Degrading Treatment" as follows:

- Crime of murder from art. 166 para. 2 points a), b), c), d) and e) of the Criminal Code of the Federation of Bosnia and Herzegovina
- Offense of serious bodily injury from the art. 172 para. 3 of the CC of FBiH
- Offense of rape from the art. 203 para. 2, 3, 4, 5, 6 and 7 of the CC of FBiH
- Criminal offense of domestic violence from art. 222 para. 4, para. 5 and para. 6 of the Criminal Code of FBiH
- Criminal offense of extortion of testimony from Art. 181 paragraph 1 and paragraph 2 of the CC of FBiH
- Criminal offense of assault in the performance of services from art. 182 of CC of FBiH

246. All cantonal prosecutors in the Federation responded to the letter of the Federal prosecutor's office of FBiH and submitted the required information.

247. In this regard, and bearing in mind the above, we submit the information obtained from the cantonal prosecutors in the Federation of BiH with respect to prosecution of the above crimes, as follows below.

#### **Cantonal Prosecutor's Office of Una-Sana Canton Bihać**

248. The following information was obtained from the prosecutors in this canton:

- In terms of crime under art. 166, paragraph 2 of the Criminal Code of FBiH, a total of 11 charges were raised, 9 convictions brought, while in two cases the court decisions have not been pronounced yet
- In terms of crime under art. 172 CC of the FBiH, 4 charges were filed and conviction brought, while in other cases the verdict is still undecided
- In terms of crime under art. 181 CC of the FBiH, there were no indictments instituted, nor verdicts pronounced
- In terms of crime under art. 182 CC of the FBiH, one indictment was instituted, and the process is completed by passing the acquittal
- In terms of crime under art. 203 CC of the FBiH, two indictments were instituted and two convictions pronounced
- In terms of crime under art. 222 CC of the FBiH, 42 indictments were instituted, 34 convictions pronounced, one verdict which rejects the accusation, while in 7 cases the judicial decisions have not been brought yet

#### **Cantonal Prosecutor's Office of Canton 10 – Livno**

249. This Prosecutor's Office informed the Federal prosecution of FBiH that it did not handle cases which could be classified under the crimes of torture, cruel, inhuman and degrading treatment.

#### **Cantonal Prosecutor's Office of Bosanski-Podrinje canton – Gorazde**

250. With regard to the above crimes, the relevant Prosecutor's Office raised 3 indictments with respect to a criminal offense under art. 222 paragraph 4 of the Criminal

Code of FBiH, and two convictions and a sentence which rejects the accusation were pronounced.

#### **Cantonal Prosecutor's Office Posavski Canton – Orasje**

251. The Prosecutor's Office raised 11 indictments for the crime under art. 222 CC of the FBiH, and the competent court has ruled 6 verdicts until now.

#### **Cantonal Prosecutor's Office of the Sarajevo Canton**

252. The following information was obtained from the prosecutors in this canton:

- In terms of crime under art. 166 paragraph 2 of the Criminal Code of FBiH, 12 convictions and 5 acquittals for indictments of the prosecution were pronounced
- In terms of crime under art. 172 para. 3 of the Criminal Code of FBiH, 11 convictions and two acquittals were brought
- In terms of crime under art. 203 of CC of the FBiH, 15 convictions and 7 acquittals were pronounced
- In terms of crime under art. 222 of CC of the FBiH, 17 convictions and one acquittal were pronounced
- In terms of crime under art. 181 of CC of the FBiH, there was no indictment or verdict of competent courts
- In terms of crime under art. 182 of CC of the FBiH, one acquittal was pronounced by indictment of the prosecutors

#### **Cantonal Prosecutor's Office Herzegovina-Neretva Canton Mostar**

253. The following information was obtained from the prosecutors in this canton:

- With respect to criminal acts of murder under art. 166 paragraph 2 of the Criminal Code of FBiH, a total of 5 charges were filed and 5 convictions brought
- In terms of crime under art. 172 para. 3 of the Criminal Code of FBiH, 4 charges were filed and 3 convictions brought, with the provision that a verdict stated that the accused person is not accountable
- With respect to criminal acts of rape under art. 203, para. 5 of the CC of the Federation of Bosnia and Herzegovina, one indictment was brought leading to the conviction
- In terms of crime under art. 222 para. 4, para. 5 and para. 6 of the Criminal Code of FBiH, a total of 6 charges were raised and 5 convictions brought
- With regard to other crimes, the Prosecutor's Office did not register their processing with the relevant prosecutor's office

#### **Cantonal Prosecutor's Office West-Herzegovina Canton – Siroki Brijeg**

254. This Prosecutor's Office, in relation to the above crimes, brought one indictment because of a criminal offense in the art. 222 paragraph 4 of the Criminal Code of FBiH, resulting in a conviction.

#### **Cantonal Prosecutor's Office Central-Bosnia Canton Travnik**

255. The following information was obtained from the prosecutors in this canton:



- In terms of crime under art. 166 paragraph 2 of the Criminal Code of FBiH, 4 charges were filed and 4 convictions brought, with the provision that in one case the accused who committed the offence was in a state of mental incompetence
- In terms of crime under art. 172 para. 3 of the Criminal Code of FBiH, 4 charges were filed and 3 convictions brought, while in one case the verdict is still not brought
- With regard to crimes under art. 181 paragraph 1 and paragraph 2 of the Criminal Code of FBiH, Art. 182 of CC of the FBiH and Art. 203 para. 2, 3, 4, 5, 6 and 7 of CC of the FBiH, there was no indictment or verdict by competent courts
- In terms of crime in the art. 222 paragraph 4 of the Criminal Code of FBiH, 6 indictments were raised and 4 convictions brought

#### **Cantonal Prosecutor's Office Zenica-Doboj Canton Zenica**

256. The following information was obtained from the prosecutors in this canton:

- In terms of crime under art. 166 paragraph 2 of the Criminal Code of FBiH, two indictments were filed and two convictions pronounced
- In terms of crime under art. 172 para. 3 of the Criminal Code of FBiH a total of 8 charges were filed and 6 convictions brought, while in two cases the verdict is still not brought
- In terms of crime under art. 203 para. 2, 3, 4, 5, 6 and 7 of the Criminal Code of FBiH, a total of 5 charges were filed and 5 convictions brought
- In terms of crime under art. 222 para. 4, 5 and 6 of the Criminal Code of FBiH, a total of 37 indictments were filed and 36 convictions brought, while one case was not ruled
- In terms of crime under art. 181 para. 1 and 2 of the Criminal Code of FBiH, there was no indictment, nor verdict brought
- In terms of crime under art. 182 CC of the FBiH, one indictment was instituted and one conviction brought

#### **Cantonal Prosecutor's Office Tuzla Canton – Tuzla**

257. The above Prosecutor's Office submitted to the Federal Prosecutor's Office of FBiH information about the prosecution of the above crimes. Given the quantity of data, we provide aggregate data for all crimes per year, as follows:

- In 2003, a total of 124 charges were filed, 7 cases closed, in 7 cases suspended sentences were brought and in 3 acquittals were made
- In 2004, 358 indictments were instituted, 54 cases closed, 92 suspended sentences brought, 10 defendants convicted to fines and 8 acquittals
- In 2005, 252 indictments were instituted, 51 closed subjects, 129 suspended sentences brought, 12 sentences where the accused was pronounced a fine and 6 acquittals
- During 2006, there were 259 indictments, 54 cases closed, 129 suspended sentences brought, 12 sentences pronounced for fines and two acquittals
- During 2007, 185 indictments were instituted, 16 cases closed, 50 suspended sentences brought, two rulings pronounced for fines and one acquittal

- During 2008, 181 indictment were instituted, 25 cases closed and 82 suspended sentences brought, 3 verdict were pronounced fines, with one acquittal

258. With respect to the list of issues to be met before submitting the merged fifth periodic report of Bosnia and Herzegovina, it is appropriate to respond here to the query from art. 5 point 19, which requires the delivery of data on whether the State Party carries out provisions on universal jurisdiction in respect of persons who are responsible for the acts of torture. With the view of the Federation of BiH for which entity we are solely authorized to provide information, we emphasize that the provision of Art. 48 of CPC of FBiH specifies certain territorial jurisdiction of prosecutors which is determined by the provisions that apply to the jurisdiction of the court of the category for which a prosecutor was appointed. We should point out that the provision of Art. 26 para. 1 of FBiH CPC specifies certain fundamental territorial jurisdiction of courts, in such a way that the local competent court in whose area the criminal act is carried out or attempted has jurisdiction. Simply speaking, the above-mentioned crimes are prosecuted in the place of execution of criminal legal action in the first degree.

### **Reply to questions raised in paragraph 32**

259. The Police Chief of the Brčko District of BiH organizes, in accordance with the provisions of the Law on Police of Brčko District of BiH, internal control of the work of police officers that is implemented through the work of the Unit for professional standards. The am Unit uses legislation, human, material and technical capacity as a mechanism for detecting and studying possible flaws in the work of police officers, as is the case with the reporting of sexual violence in places of detention (the Detention Unit). According to official data available by the Unit for professional standards during the last five years there was only one case of a certain sexual violence and harassment in the detention unit, which was completed by effective disciplinary sanctions.

260. The Police of Brčko District of BiH is currently the only police agency in BiH which in addition to its regular tasks and duties acts as a Detention unit. In order to ensure legality and regularity of the performance of regular, standard police operations, during 2008 the Police of Brčko District of BiH launched initiatives for amendments to the Law on Execution of criminal and misdemeanor sanctions. On 29 August 2008 the Judicial Commission adopted Conclusion No. SuPK-911/08, which gives approval for the proposed amendments to the Law on Execution of criminal and misdemeanor sanctions or to comply with the provisions of the Law on Criminal Procedure of Bosnia and Herzegovina.

Table 4

#### **Uses of force by the police of the Brčko District of Bosnia and Herzegovina over 5 years**

<i>Year</i>	<i>Uses of force</i>
2004	69
2005	57
2006	64
2007	54
2008	66
<b>Total for 5 yr</b>	<b>310</b>

261. With regard to cases of the use of force by police, reports revealed the following:

(a) Federal Ministry of Internal Affairs, in the reporting period, or in the previous five years, the Federal Administration of the police there did not record cases of exceeding the authority of police officers regarding the treatment of persons deprived of their liberty;

(b) The Ministry of Internal Affairs and West-Herzegovina, Posavski, Bosnia-Podrinje and Tuzla Canton, in the aforementioned period, there were no registered cases of exceeding authority of police officials regarding the treatment of persons deprived of their liberty;

(c) In MUP of Herzegovina-Neretva Canton, one police officer was prosecuted, from PS Prozor-Rama, when, on 11 March 2005, Mostar Cantonal prosecutors submitted a "report on the crime of abuse in performing services under Article 182 of the Criminal Code of FBiH";

(d) In the MUP of Sarajevo Canton, in the specified period, two cases were registered as follows: one in 2006 in which it was stated that three police officers by their actions and behavior towards the person deprived of freedom, committed a serious breach of official duty, and one case in 2008, which has found that two police officers by their actions and behavior towards the person deprived of freedom committed a breach of official duty. In this case, after the internal investigation, a decision of the Disciplinary Commission of MUP Canton Sarajevo, triggered disciplinary procedures which were stopped by the conclusion until the termination of the investigative process or the termination of criminal proceedings, in case the competent prosecutor's office filed it and the Court confirmed the indictment;

(e) The Ministry of Internal Affairs of Zenica-Doboj Canton, one case was registered in 2005, when three police officers PS Zavidovici were prosecuted for exceeding authority related to the treatment of persons deprived of their liberty. In disciplinary proceedings, these prosecuted police officers were acquitted of responsibility;

(f) In 2006, three events were recorded, of which two occurred in the area of PU Zenica and one in the area of PU Visoko. The disciplinary procedure has been conducted against two police officers PU Zenica, a decision was taken to relieve these officers of responsibility, and in another case there has been made a disciplinary decision that a police officer PU Zenica committed a severe breach of official duty, qualified as the use of force contrary to the Law on Police Officials of Zenica-Doboj Canton, and he was pronounced disciplinary sanctions, i.e. a fine. The same sanction was determined by the Disciplinary Commission's decision against a police officer PU Visoko, for the same breach of official duty;

(g) In 2007, one case was recorded where a police officer PU Zenica was prosecuted and in the disciplinary proceedings acquitted of responsibility;

(h) In 2008, a case was recorded in PU Tesanj in which four police officers were prosecuted, and in the disciplinary proceedings three of these officers were acquitted from responsibility and one was pronounced a fine;

(i) The Ministry of Internal Affairs and the Una-Sana Canton in 2004 received 12 complaints regarding the exceeding of powers in the treatment of persons deprived of their liberty. After an investigation conducted it was found that one complaint was founded, six complaints unfounded, and five were rated as the appeals without sufficient evidence;

(j) In 2005, 14 complaints were received on the above basis, and after the investigation, one complaint was judged as founded, three as unfounded, and six without sufficient evidence, one complaint was informally dissolved and on the occasion of one appeal acquittal decision was made;

(h) In 2006, 15 complaints were received on the same basis, and after the investigation, two complaints were evaluated founded, five unfounded, and eight without sufficient evidence;

(i) In 2007, 11 complaints were received from the field, and after the investigation, it was found that four complaints were founded, three unfounded, and four without sufficient evidence;

(j) In 2008, 18 complaints were received related to the exceeding of powers in the treatment of persons deprived of their liberty. So far, investigations were conducted in 16 cases, and investigations in the two cases are in progress. It was found that one complaint was founded, seven unfounded, seven without sufficient evidence, and an appeal was an informal dissolution.

262. In all these cases, public complaints bureau in the Ministry of Internal Affairs and the Una-Sana Canton adopted the final reports on investigations conducted by the professional standards, internal control and audit of the specified MOI. In cases where it has been found that the complaints were founded reports are submitted to disciplinary prosecutor for further processing.

(a) In the MUP of Canton 10 – Livno, in 2004 one case of exceeding authority during treatment of police officials was recorded, the police officer was acquitted by the Disciplinary Commission;

(b) In 2005 they recorded four cases, two of which are concluded as complaints without sufficient evidence, in one case the police officer was acquitted of responsibility, and in one case a police officer was punished by the Disciplinary Commission, due to serious breach of official duty;

(c) During 2006, 2007 and 2008 there were no registered cases;

(d) In the MOI of Central-Bosnia Canton, in the period of 2004–2007, there were no registered cases of exceeding official authority of police officers regarding the treatment of persons deprived of their liberty. During 2008, a citizen complaint on the treatment of police officers was registered and the internal process is in progress.

263. In the correctional institutions of BiH there are regular internal controls of work of members of the security services, which among other things, are aimed at the disclosure and prevention of unprofessional behavior of members of security services. Also, control and supervision over the treatment of members of these services is done through inspection of authorized officials from the Ministry of Justice.

264. In the reporting period, in five occasions there were registered claims on the treatment of security services officers, which is related to exceeding, or misplaced use of force in the correctional institute in Foča. In four cases the use of coercive means, in the framework of the regular procedure, is justified by the Ministry of Justice, while the fifth case shows that there was no use of coercive means against convicted persons. Also in the KPZ Foča, a convicted person filed the complaint on sexual harassment by another convicted person. Questioning the referred convicted persons in this case, the competent services of the institution after all the checks carried out concluded that there is no evidence that would support the allegations of the convicted persons.

265. In the closed correctional institute in Zenica there was unprofessional behavior of prison guards, police officers-which was confirmed by complaints of detained persons or detainees. In the course of 2008 three criminal charges were filed against the prison-police officers, due to abuse of official position.

266. Regarding violence among imprisoned people in the observed period, 232 convicts were disciplinarily treated. Regarding offenses against convicted persons the situation is as follows:

- In 2003 there were 29 criminal reports filed, 26 because of rebellion and 3 – narcotics
- In 2004 there were 12 criminal reports filed, 10-narcotics, 1-infliction of serious bodily injury, 1-forging
- In 2005 there were 23 criminal charges filed, 15-narcotics, 3-serious bodily injury, 2 indecent actions, 1-banknotes forging
- In 2007 there were 32 criminal charges filed, 25 narcotics, 4-serious bodily injury, 2-blackmailing, 1-illegal traffic of mobile phone
- In 2008 there were 28 criminal reports filed, 15-drugs, 7-serious bodily injury, 3-attempted murder, 2-possession of illegal object “mobile phone”, 1-extortion

267. During the year 2005 there were 2 cases of sexual abuse among convicted persons reported.

### **Reply to questions raised in paragraph 33<sup>10</sup>**

268. Members of the relevant institutions of Bosnia and Herzegovina, the Entities and Brčko District of Bosnia and Herzegovina had no attachments to this request and the coordinator of activities on behalf of the Ministry for Human Rights and Refugees approached the EUPM in Bosnia and Herzegovina act, seeking to obtain any evidence about the cases of ethnic bias and politically motivated police and judicial procedures, especially regarding ethnic and other minorities and returnees, but we did not obtain any feedback from EUPM prior to the conclusion of this report.

## **Article 13**

### **Reply to questions raised in paragraph 34<sup>11</sup>**

269. Pursuant to the provisions of the Entities laws on Execution of Criminal Sanctions of BiH, the convicted person is entitled to discretion complaint to the superior of the correctional institution for violation of his rights or other irregularities which are made in the institution. Complaints of convicted persons are to be resolved without delay, a decision on the appeal of convicted persons is brought by the facility manager, with the previously obtained opinion of managerial employees for re-education and support.

270. In the event that the convicted person does not get a response to a complaint filed within fifteen days, or if he/she is not satisfied with the decision, he/she has the right to file a written complaint to the Ministry of Justice.

271. The convicted person has the right to appeal the violation of their rights and to irregularities in the institution to the official of the Ministry of Justice, who conducts oversight of the work of the institution, without the presence of institution workers.

<sup>10</sup> See the letter to BiH in connection with the follow-up of recommendations/FG.

<sup>11</sup> Some data are given in the report of the State Party on follow-up of recommendations.

272. The convicted person has the right to refer to authorities and institutions (courts, Ministry of Justice, Ombudsman, etc.) without supervision of administration of the institution, to protect their rights and legally protected interests. Also, the convicted foreign nationals have the right to generate contacts with the diplomatic-consular representative of their country or the representative of the state which protects their interests.

273. Upon arrival to the prison to serve the sentence, the convicted persons are made familiar immediately with all regulations regarding the possibilities of achieving the above and other rights, as well as with their obligations and duties. During the entire time spent in the prison, the convicted persons have access to legal aid services in the institution, with a view to taking necessary action for the protection of their rights. Also, re-education officers/tutors and members of security services are in daily contact with the convicted persons to provide the necessary information, to react to verbal complaints and to make appropriate decisions in consent with the competent leaders.

#### **Ministry of Justice of Republika Srpska**

274. Pursuant to the provisions of the Law on Execution of Criminal Sanctions, the convicted person is entitled to discretion complaint to the superior of the correctional institution for violation of his rights or other irregularities which are made in the institution. Complaints of convicted persons are to be resolved without delay, a decision on the appeal of convicted persons is brought by the facility manager, with the previously obtained opinion of managerial employees for re-education and support.

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278. Upon arrival to the prison to serve the sentence, the convicted persons are made familiar immediately with all regulations regarding the possibilities of achieving the above and other rights, as well as with their obligations and duties. During the entire time spent in the prison, the convicted persons have access to legal aid services in the institution, with a view to taking necessary action for the protection of their rights. Also, re-education officers/tutors and members of security services are in daily contact with the convicted persons to provide the necessary information, to react to verbal complaints and to make appropriate decisions in consent with the competent leaders.

#### **Federal Ministry of Internal Affairs – Federal Police Administration**

279. Persons deprived of freedom by members of the Federal Police Administration are briefed on their right to submit complaints about police treatment to competent prosecutors, and may submit a petition – a complaint against improper and inappropriate behavior of police officers to the Unit for professional standards of the administration, which is competent to treat it and take appropriate measures and actions for investigation the soundness of the complaints.

280. In addition to such investigations, the Unit for professional standards carries out internal procedures to establish justification and legality of use of force by police officers of the Police of Brčko District of BiH, which are all assessed as lawful and proper.

281. The law enforcement agencies operating in Bosnia and Herzegovina act in accordance with applicable legislation, especially with the laws on criminal procedure, law on internal affairs and the appropriate internal instructions that define the jurisdiction of officials in dealing with persons deprived of their liberty and represent one of the basic mechanisms for handling complaints by persons deprived of freedom. The mentioned legal framework prescribes that all police officers are to report any inappropriate or illegal behavior of police officers.

282. In organizational terms, competent officers for the implementation of the inner process by appeals of the citizens or persons deprived of freedom are the immediate governing executives, the Unit for Professional Standards, the Bureau for complaints and representations of the citizens and disciplinary prosecutors. The Bureau for complaints and representations of the citizens is an independent authority of the MUP RS and is composed of five members, four independent representatives and one representative of the MoI, who are elected by the Assembly of the entity, or in the Parliamentary procedure in the Federal Administration Police Office, Office for Complaints and submissions of citizens and consists of three members, two independent representatives and one representative of the MUP.

283. The Ministry of Internal Affairs of RS acts in accordance with applicable legislation, especially with the Law on criminal procedure, internal affairs and the Instruction on the implementation of internal process in the RS Ministry of Internal Affairs and it is one of the basic mechanisms that exist for handling the complaints of people deprived of freedom.

284. In accordance with the above laws and Instruction, the competencies are envisaged for officers of the Ministry, as well as ways of treating the complaints of persons deprived of freedom.

285. The booklet states that each employee of the Ministry has to report any inappropriate or illegal conduct of other workers of the Ministry. This also applies to complaints made by persons deprived of freedom.

286. The competent employees for implementation of the internal procedure upon complaints of the citizens or persons deprived of freedom are the immediate governing officers of the Unit for Professional Standards, the Bureau for complaints and representations of the citizens and disciplinary prosecutors.

287. When handling complaints, whether in oral or written form, through the box for submissions and the like, each organizational unit of the Ministry which received an appeal is required to forward it to the Unit for Professional Standards within 24 hours.

288. After receiving the complaints a unified form is filled in i.e. the initial report on complaints against officers.

289. Upon the receipt of an appeal, a competent person conducts a conversation with the plaintiff to assess the admissibility of its submission. After conducting a conversation a person who has made an appeal accepts the explanation of persons who received a complaint (in the event that the appeal was filed because of ignorance of regulations or the like), or declines an explanation, and the initial report is submitted to the Unit for professional standards.

290. All complaints must be submitted to the Bureau for complaints and submissions. The Bureau is an independent body and consists of five members, four of which are

prominent academic citizens, and one member is a member of this Ministry and they are all responsible for impartial monitoring of procedure upon appeal.

291. Before the commencement of the proceedings on appeal, the head of the Unit for professional standards decides on the appeal admissibility. If the head decides that the complaint was founded, he brings an order to implement internal procedure, which should be completed within 30 days, and in exceptional cases may extend up to 90 days.

292. The actions of proof include:

- Taking statements from the police or any other employee
- Hearing of witnesses, plaintiff
- Searching of person, rooms and moving things
- Temporary deprivation of objects
- Recognition of persons and objects
- Expertise
- Special activities of evidence
- Other acts of evidence necessary in the inner procedure

293. The doer of the above measures and actions creates an investigation report conducted on the inner process and submits it to the Chief of the Inspectorate, and the Chief of the Inspectorate states whether there is a violation or not, or whether the complaint was founded or not. If it is determined that the complaint was founded, the initiative is submitted for institution of the disciplinary proceedings to the disciplinary prosecutor, who then submits a request to initiate disciplinary proceedings before the relevant disciplinary tribunal.

294. All complaints are recorded in a register that is kept in the Unit for Professional Standards.

295. It is also important to note that if the appeal relates to the crime and it is found that a member of the Ministry committed the same, in addition to the implementation of internal procedure, a report is submitted to the competent prosecutor on the committed crime.

### **Reply to questions raised in paragraph 35**

296. In Schedule 4, you can find statistical data by FMMUP.

297. In Schedule 5, you can find statistical data by the Police of the District Brčko of BiH.

298. In Schedule 7, you can find statistical data by the Prosecutor's Office of the Republic of Srpska.

299. On 9 May 2007, according to the data collected from the sentencing and correctional institutions in the reporting period the Administration of the correctional institute in Zenica submitted information to the Cantonal prosecutors in Zenica, with all available evidence (statements and medical records) on the basis of which the Prosecutor's Office conducted criminal investigations that resulted in indictment against an employee of the Institute because of the reasonable doubt that he committed the crime of abuse in performing services under Article 182 in connection with crime Light bodily injury from the Article 173 of KZ. The investigation was completed on 5 May 2008 and the file number KT-1406/07 is in the trial phase, the main trial is expected. The person against whom the



investigation was conducted was moved to another job and work tasks and has no official contact with the convicted person.

300. There were no other cases of filed complaints related to torture or acts that may be categorized under the cruel, inhuman or degrading treatment.

301. In conjunction with data on the number of cases in the area of crimes against torture, the Prosecutor's Office of Bosnia and Herzegovina, reports that in the period from 30 June 2003 to 30 June 2008 there were no received criminal report or application, nor any order brought on the implementation of the investigation for the crimes done per Article 190 of the Criminal Code of Bosnia and Herzegovina – Torture and other forms of brutal, inhuman and degrading treatment. For these reasons, information about specified crimes can not be found in records of the Prosecutor's Office of Bosnia and Herzegovina.

302. The special department for war crimes has available data on cases relating to the crimes against humanity whose legal qualification includes torture (Article 172, paragraph 1, point f of the Criminal Code of Bosnia and Herzegovina), as follows:

- Number of orders to implement the investigation – a total of 77 against the 168 suspects
- Number of indictment affirmed by the Court of Bosnia and Herzegovina – a total of 26 against more than 40 accused persons
- Number of first instance verdicts – a total of 12 against 16 accused persons, of which 10 were convictions and 2 acquittals
- Number of second instance verdicts – a total of 6 against 6 persons convicted, all 6 convictions with prison sentence

303. Please note that information regarding the number of orders for the implementation of the investigation is not final and is subject to change according to the dynamics of conducting investigative actions and the possibility that other orders exist on the conduct of an investigation that does not currently contain the point h in its legal qualification to amend the same, and include this paragraph in the text of the indictment.

304. The Unit for Professional Standards of MUP RS does not have data for the past five years, on the subject matter, but has data for the past three years, although even these data are not entirely accurate, because all procedures under the responsibility of the Unit are not recorded.

305. So there are cases when, for example, there was use of force or coercion by employees of the Ministry, and the same was justified, but it was not timely delivered or the report on the use of coercive means was not delivered. There are similar examples of why we have stated that these data are not entirely accurate.

306. During the past three years there were 14 cases that have elements of cruel, inhuman or degrading treatment and 9 of them were recorded in 2006, 6 in 2005, while in 2007 and the referent period in 2008 there were no such cases. Out of these 14 cases the disciplinary penalty was pronounced against 8 workers, including fines or termination of employment. For the other 6 cases the basis for application was not determined and they were rejected for these reasons.

307. It is also important to note that 8 workers with imposed disciplinary penalties underwent criminal proceedings, or statements about the crime were filed with the competent prosecutors.

308. Attached please find copies of judgments which were made by competent courts on prosecution of crimes that go under the term "criminal acts of torture, cruel, inhuman and degrading treatment" as follows:

- Judgment of the Cantonal Court Novi Travnik number: 006-0-K-07-000 008 from 08/052007 against convicted Čatić Edin, for the crime of murder under art. 166 para. 2, point d) of the Criminal Code of the Federation of Bosnia and Herzegovina
- Verdict of the District Court in Travnik number: 51 0 K 009281 08 C from 16/06/2008, against the convicted Dovoda Ilija, due to criminal acts of serious bodily injury under art. 172, para. 3 in connection with paragraph 1 of the Criminal Code of FBiH, in liaison with the Crime and violence in the family under art. 222 paragraph 2 in connection with paragraph 1 of the Criminal Code of FBiH, described in point 1 of the sentence reading
- Judgment of the Cantonal Court in Sarajevo No. K-71/04 of 17/11/2004, against the convicted Majunović Faruk, because of criminal activity in rape under article 203 para. 5, in connection with para. 1 of the CC of FBiH
- Municipal Court verdict in Konjic number: 07 56 K 007613 06 of 09/06/2006, against the convicted Čilić Cazim, Admir and Cilić Arnel, due to criminal acts of violence in the family of art. 222 paragraph 4, in conjunction with paragraph 1 of the Criminal Code of FBiH
- Verdict of the District Court in Zenica, number: 043-0-K-08-000090 from 30/01/2009, against the accused Biloglavić Đemil, due to criminal acts of abuse in the performance of services under art. 182 of CC of the FBiH, etc.

309. Also we report that at this moment we do not possess the verdicts in relation to the criminal offense of extortion of testimony under Art. 181 paragraph 1 and paragraph 2 of the Criminal Code of FBiH, with the provision that we still expect the delivery of copies of judgments by the Cantonal Prosecutor's Office in Tuzla Canton from Tuzla. If the given Prosecutor's Office disposes of the rulings pertaining to the above-cited criminal act, a copy of the verdict will be delivered immediately.

310. The Federal Prosecutor's Office of FBiH requested submission of data from the cantonal prosecutor's offices in the Federation of BiH referring to prosecution of crimes that come under the term "criminal acts of Torture, Cruel, Inhuman and Degrading Treatment" and it concerns the following acts:

- Crime of murder under art. 166 para. 2 points (a), (b), (c), (d) and (e) of the Criminal Code of FBiH
- Offense of serious bodily injury under art. 172 para. 3 of the CC of FBiH
- Offense of rape under art. 203 para. 2, 3, 4, 5, 6 and 7 of the CC of FBiH
- Criminal offense of domestic violence under art. 222 para. 4, para. 5 and para. 6 of the Criminal Code of FBiH
- Criminal offense of extortion of testimony under Art. 181 paragraph 1 and paragraph 2 of the CC of FBiH
- Criminal offense of assault in the performance of services under art. 182 of CC of FBiH

311. All cantonal prosecutors in the Federation BiH responded to the letter of the Federal prosecutor's office of FBiH and submitted the required information. In connection to the aforesaid, on 9 April 2009, in Sarajevo, the 4th meeting was held of the Working Group for draft of the periodic report of the BiH authorities to UN Committee against torture.

312. In this regard, and bearing in mind the above, we submit the information obtained from the cantonal prosecutors in the Federation of BiH with respect to prosecution of the above crimes, as follows below.

### **Cantonal Prosecutor's Office of Una-Sana Canton Bihać**

313. The following information was obtained from the prosecutors in this canton:

- In terms of crime under art. 166, paragraph 2 of the Criminal Code of FBiH, a total of 11 charges were raised, 9 convictions brought, while in two cases the court decisions have not been pronounced yet
- In terms of crime under art. 172 CC of the FBiH, 4 charges were filed and conviction brought, while in other cases the verdict is still undecided
- In terms of crime under art. 181 CC of the FBiH, there were no indictments instituted, nor verdicts pronounced
- In terms of crime under art. 182 CC of the FBiH, one indictment was instituted, and the process is completed by passing the acquittal
- In terms of crime under art. 203 CC of the FBiH, two indictments were instituted and two convictions pronounced
- In terms of crime under art. 222 CC of the FBiH, 42 indictments were instituted, 34 convictions pronounced, one verdict which rejects the accusation, while in 7 cases the judicial decisions have not been brought yet

### **Cantonal Prosecutor's Office of Canton 10 – Livno**

314. This Prosecutor's Office informed the Federal prosecution of FBiH that it did not handle cases which could be classified under the crimes of torture, cruel, inhuman and degrading treatment.

### **Cantonal Prosecutor's Office of Bosanski-Podrinje canton – Gorazde**

315. With regard to the above crimes, the relevant Prosecutor's Office raised 3 indictments with respect to a criminal offense under art. 222 paragraph 4 of the Criminal Code of FBiH, and two convictions and a sentence which rejects the accusation were pronounced.

### **Cantonal Prosecutor's Office Posavski Canton – Orasje**

316. The Prosecutor's Office raised 11 indictments for the crime under art. 222 CC of the FBiH, and the competent court has ruled 6 verdicts until now.

### **Cantonal Prosecutor's Office of the Sarajevo Canton**

317. The following information was obtained from the prosecutors in this canton:

- In terms of crime under art. 166 paragraph 2 of the Criminal Code of FBiH, 12 convictions and 5 acquittals for indictments of the prosecution were pronounced
- In terms of crime under art. 172 para. 3 of the Criminal Code of FBiH, 11 convictions and two acquittals were brought
- In terms of crime under art. 203 of CC of the FBiH, 15 convictions and 7 acquittals were pronounced
- In terms of crime under art. 222 of CC of the FBiH, 17 convictions and one acquittal were pronounced
- In terms of crime under art. 181 of CC of the FBiH, there was no indictment or verdict of competent courts

- In terms of crime under art. 182 of CC of the FBiH, one acquittal was pronounced by indictment of the prosecutors

#### **Cantonal Prosecutor's Office Herzegovina-Neretva Canton Mostar**

318. The following information was obtained from the prosecutors in this canton:

- With respect to criminal acts of murder under art. 166 paragraph 2 of the Criminal Code of FBiH, a total of 5 charges were filed and 5 convictions brought
- In terms of crime under art. 172 para. 3 of the Criminal Code of FBiH, 4 charges were filed and 3 convictions brought, with the provision that a verdict stated that the accused person is not accountable
- With respect to criminal acts of rape under art. 203, para. 5 of the CC of the Federation of Bosnia and Herzegovina, one indictment was brought leading to the conviction
- In terms of crime under art. 222 para. 4, para. 5 and para. 6 of the Criminal Code of FBiH, a total of 6 charges were raised and 5 convictions brought
- With regard to other crimes, the Prosecutor's Office did not register their processing with the relevant prosecutor's office

#### **Cantonal Prosecutor's Office West-Herzegovina Canton – Siroki Brijeg**

319. This Prosecutor's Office, in relation to the above crimes, brought one indictment because of a criminal offense in the art. 222 paragraph 4 of the Criminal Code of FBiH, resulting in a conviction.

#### **Cantonal Prosecutor's Office Central-Bosnia Canton Travnik**

320. The following information was obtained from the prosecutors in this canton:

- In terms of crime under art. 166 paragraph 2 of the Criminal Code of FBiH, 4 charges were filed and 4 convictions brought, with the provision that in one case the accused who committed the offence was in a state of mental incompetence
- In terms of crime under art. 172 para. 3 of the Criminal Code of FBiH, 4 charges were filed and 3 convictions brought, while in one case the verdict is still not brought
- With regard to crimes under art. 181 paragraph 1 and paragraph 2 of the Criminal Code of FBiH, Art. 182 of CC of the FBiH and Art. 203 para. 2, 3, 4, 5, 6 and 7 of CC of the FBiH, there was no indictment or verdict by competent courts
- In terms of crime in the art. 222 paragraph 4 of the Criminal Code of FBiH, 6 indictments were raised and 4 convictions brought

#### **Cantonal Prosecutor's Office Zenica-Doboj Canton Zenica**

321. The following information was obtained from the prosecutors in this canton:

- In terms of crime under art. 166 paragraph 2 of the Criminal Code of FBiH, two indictments were filed and two convictions pronounced
- In terms of crime under art. 172 para. 3 of the Criminal Code of FBiH a total of 8 charges were filed and 6 convictions brought, while in two cases the verdict is still not brought

- In terms of crime under art. 203 para. 2, 3, 4, 5, 6 and 7 of the Criminal Code of FBiH, a total of 5 charges were filed and 5 convictions brought
- In terms of crime under art. 222 para. 4, 5 and 6 of the Criminal Code of FBiH, a total of 37 indictments were filed and 36 convictions brought, while one case was not ruled
- In terms of crime under art. 181 para. 1 and 2 of the Criminal Code of FBiH, there was no indictment, nor verdict brought
- In terms of crime under art. 182 CC of the FBiH, one indictment was instituted and one conviction brought

#### **Cantonal Prosecutor's Office Tuzla Canton – Tuzla**

322. The above Prosecutor's Office submitted to the Federal Prosecutor's Office of FBiH information about the prosecution of the above crimes. Given the quantity of data, we provide aggregate data for all crimes per year, as follows:

- In 2003, a total of 124 charges were filed, 7 cases closed, in 7 cases suspended sentences were brought and in 3 acquittals were made
- In 2004, 358 indictments were instituted, 54 cases closed, 92 suspended sentences brought, 10 defendants convicted to fines and 8 acquittals
- In 2005, 252 indictments were instituted, 51 closed subjects, 129 suspended sentences brought, 12 sentences where the accused was pronounced a fine and 6 acquittals
- During 2006, there were 259 indictments, 54 cases closed, 129 suspended sentences brought, 12 sentences pronounced for fines and two acquittals
- During 2007, 185 indictments were instituted, 16 cases closed, 50 suspended sentences brought, two rulings pronounced for fines and one acquittal
- During 2008, 181 indictments were instituted, 25 cases closed and 82 suspended sentences brought, 3 verdict were pronounced fines, with one acquittal

323. With respect to the list of issues to be met before submitting the merged fifth periodic report of Bosnia and Herzegovina, it is appropriate to respond here to the query from art. 5 point 19, which requires the delivery of data on whether the State Party carries out provisions on universal jurisdiction in respect of persons who are responsible for the acts of torture. With the view of the Federation of BiH for which entity we are solely authorized to provide information, we emphasize that the provision of Art. 48 of CPC of FBiH specifies certain territorial jurisdiction of prosecutors which is determined by the provisions that apply to the jurisdiction of the court of the category for which a prosecutor was appointed. We should point out that the provision of Art. 26 para. 1 of FBiH CPC specifies certain fundamental territorial jurisdiction of courts, in such a way that the local competent court in whose area the criminal act is carried out or attempted has jurisdiction. Simply speaking, the above-mentioned crimes are prosecuted in the place of execution of criminal legal action in the first degree.

Table 5  
**Prosecutor's Office of the Brčko District of BiH: Criminal acts of torture, cruel, inhuman and degrading treatment, collective specification (2004–2008)**

S. n.	Criminal act	Geog. area	Number of perpetrators per year										Number of victims										
			2004		2005		2006		2007		2008		2004		2005		2006		2007		2008		
			M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	
1.	Murder from art. 163 para. 2 of KZB of DBiH	Brčko District									1											1	
2.	Serious bodily harm from art. 169 para. 3 of KZB of DBiH	Brčko District			1	1								2									
3.	Rape from art. 200 para. 5 in con. with art. 28 of KZB of DBiH	Brčko District	1										1										
4.	Rape from art. 200 para. 6 in con. with para. 2 and 3 of KZB of DBiH	Brčko District								2													1
5.	Domestic violence from art. 218 para. 4 of KZB of DBiH		2	1	2		1		3		2		5		2		1	2	3				2
6.	Abuse at performance of duty from art. 179 of KZB of DBiH	Brčko District	1																				
<b>Total</b>			<b>4</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>–</b>	<b>3</b>	<b>–</b>	<b>5</b>	<b>–</b>	<b>–</b>	<b>6</b>	<b>2</b>	<b>2</b>	<b>–</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>1</b>	<b>3</b>	

**Reply to questions raised in paragraph 36<sup>12</sup>**

324. The Special Division for Witness Protection within the Court of Bosnia and Herzegovina acts pursuant to the provisions of two *lex specialis* Laws, which govern the field of legal protection of witnesses, such as the Law on witness protection program in BiH, according to which the department has jurisdiction to implement the Program of protection of witnesses against threat and vulnerable witnesses by which the Department acts in order to protect witnesses under threat who have procedural protection measures specified in the criminal proceedings before the Court of BiH.

325. The Department initiated the adoption of the Law on Amendments to the Law on the application of witness protection in BiH, which is in parliamentary procedure, and whose passing would refine and promote legislation that would regulate the implementation of the witness protection program in BiH.

326. The organizational structure ward has been twice changed and it is adapted to security and operational needs, extent, structure and complexity of operational tasks.

327. A basic tactical training of police and civil servants was conducted and there is a need for specialist training and continuing education in the field of witness protection.

328. The Department has signed a number of the Agreements on cooperation and understanding with the units for the protection of witnesses of individual countries, which represents a prerequisite for the implementation of the Program for the protection of witnesses and provision of measures of external relocation of witnesses, but there is a need for additional execution of the agreements for the purpose of strengthening and extension of official cooperation as a basic basis for implementing of the Program of protection.

329. Regarding the current operational engagements the Department the data reflect the number of received commands and requests from the relevant institutions, as well as the number of witnesses who have been provided certain measures of protection and support to: the number of commands and requests is 641, a number of witnesses on various grounds is 396.

330. It should be noted that the total number of witnesses to whom the Department offered the measures of protection and support includes about 95% of witnesses who have testified in criminal proceedings in the field of war crimes, and that most of them are also victims of torture and inhuman treatment from the war period 1992–1995. These witnesses had large procedural measures of physical and mechanical protection in a certain period.

331. In the previous period the Department considered several requests by the Prosecutor's Office of Bosnia and Herzegovina to start the application of witness protection in BiH, but since the planned legal conditions have not been realized, not a single classic witness protection program has been implemented.

332. In the reporting period, in the correctional institutions of BiH there have been no cases of torture, violence or intimidation because of filed appeal or witnessing.

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<sup>12</sup> Some data were given in the information of the State Party on follow-up of recommendations, and here additional information is requested.

## Article 14

### Reply to questions raised in paragraph 37<sup>13</sup>

333. As regards the activities of Bosnia and Herzegovina on the development of the Law on the Rights of Victims of Torture and Civil Victims of War<sup>14</sup> for the needs of Bosnia and Herzegovina, in 2006, the Ministry for Human Rights and Refugees in its capacity as coordinator initiated the activities towards the governments of the entities and the Government of the Brčko District of BiH for the appointment of the Working Group for drafting the Law on the Rights of Victims of Torture and Civil Victims of War in BiH. The Working Group held a meeting with representatives of associations of families of victims of the war in cooperation with the International Commission for the Search of Missing Persons (ICMP). After that, in cooperation with the ICMP it organized the expert meeting in order to complete the preparation of a comparative analysis, or the future concept of the law that requires the consent of the governments of entities, prior to consideration by the Council of Ministers.

334. Despite the activities launched in the preparation of the Law on the Rights of Victims of Torture and Civil Victims of War in BiH, there was no political will to further the work of the Working Group on the drafting of the law and so the bill was not drafted.

335. In the Action Plan for 2009, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina has initiated activities in the preparation of the Law on the Rights of Victims of Torture and Civil Victims of War in BiH. That is why there is no established National Fund for the compensation of victims of torture.

336. The camp league of Bosnia and Herzegovina submitted indications that about 17,500 individual claims for compensation have been submitted for intangible damages in Bosnia and Herzegovina, and 21 claims for compensation for intangible damage in the Republic of Serbia and 46 petitions in Montenegro. For now, according to the information by the Camp league of BiH, one claim for compensation for intangible damages was positively resolved in the Republika Srpska, at the District Court in Banja Luka, in which a fee in the amount of 9.04 KM per day spent in the camp was designated as compensation. This fee, although the verdict was brought in 2005 has not yet been paid for reasons of legal barriers in the form of deferred payment of war damages. All other claims on the territory of Bosnia and Herzegovina are mainly in the idle phase except for individual complaints to the Municipal Court in Sarajevo, where the debates are under way.

337. The claims in the Republic of Serbia are in the late phase of discussions and we expect that the first verdict in the Primary Court in Belgrade will be brought by the end of this year.

338. In Montenegro, the agreement was reached between the Government and the lawyer team on indemnity payments, which are expected also at the end of this year, and we would like to mention here that for these reasons the camp "Morinje" is missing.

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<sup>13</sup> Some data have already been supplied in the report of the State Party on implemented measures.

<sup>14</sup> The term overtaken from the letter in connection with the follow-up of the recommendations.



**Reply to questions raised in paragraph 38<sup>15</sup>**

339. The BiH Criminal Code prescribes liability for all legal entities, but does not contain some additional provisions in relation to the legal penalties for persons who have committed or been involved in the crime of trafficking. Measure of confiscation of assets is a general measure and as such applies to all criminal acts. However, there remains an open question as to what extent the confiscation measure is used in acts of trafficking. The national action plan to combat human trafficking and illegal immigration, therefore, imposes the obligation of the relevant institutions to devote more efforts to build an efficient judicial system that would instigate the victims to seek compensation from confiscated assets during the court proceedings. Those victims who could be damaged in this manner should be compensated through the state fund for this purpose, depending on the available resources. The BiH legal framework allows all affected parties, including victims of trafficking, to submit their claims while the criminal procedure is on (if this does not significantly prolong the length of the proceedings) or in a separate civil procedure. In current practice, courts usually refer victims of trafficking, as the damaged party, to launch a separate civil suit after the criminal proceedings. It is an extra judicial process, the duration of which discourages victims from launching it. As a result, they usually drop their claims of rights in this way. Your Rights, a domestic NGO which under the agreement with the Ministry of Security of Bosnia and Herzegovina ensures legal aid to victims says that in the past two years there were only a few cases in which victims sought redress. It often happens that the victims have returned to the country of residence when the trial begins. In such a situation, Your Rights independently represent the interests of the victims on the basis of their authorization.

**Reply to questions raised in paragraph 39**

340. The legal structure to combat trafficking in persons is satisfactory but it is a problem in practice, namely low imposed penalties. However, certain progress in the past few years have been noticeable. The National Action Plan for Combating Trafficking in Human Beings provides a strengthening of the capacity in terms of strengthening the criminal policies.

341. Changes of the Criminal Code of Bosnia and Herzegovina were the result of an increase in the number of cases of trafficking in connection with which there were investigation, charges, and pronounced verdicts. All crimes that are alleged to have been associated with trafficking in the Criminal Code of Bosnia and Herzegovina are classified in the chapter of crimes against humanity and values protected by international law. However, analysis of the prosecuted cases reveals that the verdicts imposed on perpetrators of these crimes are not proportionate to the severity of criminal acts of trafficking, except in cases of organized crime. Moreover, the penalties imposed are often suspended or are under the law of minimum. Despite the constant growth of the number of prosecuted cases of trafficking, most criticism of the efforts of Bosnia and Herzegovina in the fight against these phenomena is focused precisely toward too mild criminal policy.

342. The problems that interfere with the successful prosecution of cases of trafficking are often attributed to lack of cooperation of victims with prosecutors and law enforcement agencies. On the other hand, even when the victims were ready to testify, delays in legal proceedings result in additional difficulties to victims and victim-witnesses, and victims have been stuck in the shelter for several years. An additional problematic area in the

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<sup>15</sup> Some data were supplied in the report of the State Party on implemented measures.

prosecution of cases of human trafficking is the issue of witness protection. Although the legal framework creates a space for enhanced protection of these sensitive categories, threats to witnesses do not end with the end of the trial. In several cases, the victim-witnesses were provided protection as part of the organized relocation to third countries, but it is necessary to explore possibilities of cooperation around this issue with countries that might be willing to accept the victims of serious crimes.

343. In the previous period, most activity focused on the investigation of criminal acts of trafficking, on cases of sexual exploitation with sporadic cases of investigations and prosecution of crimes of trafficking for the purpose of forced labor, forced begging, contracted marriages, as well as crimes that may affect the trafficking or can be directly or indirectly linked to trafficking, such as child pornography or pedophilia. In the coming period it will be necessary to intensify activities in the fight against such forms of criminal activity.

344. At the end it should be added that there are still problems, ambiguities and conflicts in matters that occur with crimes related to trafficking when the processes within the legal framework, or through the authority at the entity level. Bosnia and Herzegovina hopes that the recommendations from the analysis of OHIDRA would help institutions to solve problems in the entity legislation and solve the problem of conflict of competencies between the entity and state bodies. There is also continuous education to train judges and prosecutors implemented through the training centers.

345. The goals are:

Goal 1: Increase the number of convictions and tighten punitive policies made for crimes of trafficking.

Goal 2: Making more effective the measures for the confiscation of assets and benefits acquired by the exercise of criminal acts in connection with trafficking.

Goal 3: Making more effective the system of redress of victims of trafficking.

Goal 4: Improve the implementation of the Law on witness protection program.

## **Article 15**

### **Reply to questions raised in paragraph 40**

346. The answer to the first part of this question has already been provided. In the second part we outline the issues that the confession given during the deprivation of liberty, and hearing by the police, and without the presence of defense counsel can be used as legal evidence in court in accordance with criminal legislation of Bosnia and Herzegovina, if given and taken in accordance with the provisions of the Law on Criminal Procedure of Bosnia and Herzegovina, or if a person is informed that he/she may take counsel, but it is not a case in which the person by the Law on Criminal Procedure of Bosnia and Herzegovina must have a counsel.

## Article 16

### Reply to questions raised in paragraph 41

347. The total capacity of the penal-correctional institutions in the Republika Srpska, by application of standards and 42 CPM is 1085 seats, of which 800 seats are in the rooms of servitude, and 285 seats in the Detention Unit.

348. In the Federation BiH the capacity of sentencing and correctional facilities is 1247 places for convicted persons and 306 places for detention of persons, which by the standards of the CPT is 1553 seats.

349. In the reporting period the overcrowding problem was particularly pronounced in the departments of servitude in prison Foča and correctional Institute Banja Luka, and in the department for the execution of detention measures in correctional institute of Eastern Sarajevo, while in other criminal correctional facilities occupancy rate ranged on average between 70 and 80%.

350. The closed correctional institute in Zenica provides an opportunity for the accommodation of 642 persons sentenced and 42 persons detained. On average, the number of convicted persons is around 746, which makes the difference of 104 persons sentenced more than the capacity volume of the Division (4 m<sup>2</sup>). The reported overcrowding negatively reflects on the implementation of planned re-education treatment and safety situation in general, which leads to conflicts among the convicts.

351. The question of prevention of violence among convicted persons who are on a prison sentence, through the determination of rules of conduct and government is regulated by the Law on Execution of Criminal Sanctions, Home Rules and the Rules on disciplinary responsibility of convicted persons.

352. The basic method of work is a conversation with convicted person, individual and group work. If the expected results are not achieved and conflicts continue the convicted person is to be treated with disciplinary action. Penalties may be imposed to the convicted person: solitary confinement for up to 10 (RS), or 20 days (FBiH), depending on the weight of discipline violation. The convicted person can be pronounced and reinforced surveillance measures which can last at least 30 and no more than 90 days. For the most difficult forms of violations of the House rules the measure of "isolation" can be imposed on the convicted person.

353. A modern pavilion was opened in the KPZ ZT Zenica ZT to separate the convicted persons for security reasons of capacity of 28 persons, of the one cell type. The walking circles are also separated with intent to avoid higher concentrations of the convicted persons in one place. The preparatory work for the construction of the pavilion for high risk convicts is under way.

354. When determining the treatment for each convicted person it should be taken into account that the most risky categories, prone to violence and destructive activities are not scheduled in the same collectives-groups. The closed institutions (in which the risky categories are convicted) have a possibility of separating the most risky convicted persons in special classes, which is with enhanced surveillance and intensive treatment program.

355. In addition to preventive measures, in cases when it comes to violations of the provisions of the House Rules, related to violence, the disciplinary proceedings against the perpetrators is launched and appropriate disciplinary penalties are brought.

**Reply to questions raised in paragraph 42**

356. Pursuant to Article 6 of the Law on Execution of Criminal Sanctions in the Federation of Bosnia and Herzegovina the labor of convicted persons is not forced and compulsory, but left to the own will of the convicted. If the convicted person expresses interest in a working engagement he is tasked according to the psychophysical and professional skills at a specific position. For example, 436 convicted people in the KPZ Zenica are engaged working, which makes 58% of the prison population. In the cultural-educational section there are 238 convicted people included. The convicted persons may acquire regular education, so 90 convicts attend classes in the KPZ Zenica, including 24 primary and 66 secondary school classes for various professions.

357. The convicted spend their leisure in an organized manner, through various sections (sports, art, literature, carving, etc.), reading daily and weekly newspapers, the use of the library, and watching radio and TV programs. The convicted persons also practice their religious needs.

358. The work of convicted persons is carried out through the activities of economy units and is arranged through various business activities. The work of convicted persons is not required, but the individual treatment for each person predicts therapeutic activity, if the convicted person accepts it. Arrangement of the work is carried out in accordance with psychophysical abilities, and if possible, in accordance with the technical abilities of convicted persons.

359. Depending on the capabilities of individual institutions, most common types of jobs that are scheduled for convicted persons are helping jobs in prison kitchens and laundry rooms, works on the prison economy and jobs in the prison facilities and work outside the circle of institutions (tinsmith, carpenter, construction, painting, etc.).

360. Applicable legislation does not provide for working engagement for detainees. Regarding the implementation of organized leisure time, the law has regulated the issue of staying in fresh air at least two hours a day and if there are capacities in the institution for sports activities.

**Reply to questions raised in paragraph 43**

361. Bosnia and Herzegovina has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and after reception to the Council of Europe in 2002 it has become a signatory of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. All measures set forth in the Convention are adopted by Bosnia and Herzegovina and consistently applied.

362. The Law on Execution of Criminal Sanctions of BiH, Republika Srpska and the Federation of Bosnia and Herzegovina prescribes that convicted persons enjoy the protection of basic rights as required under the Constitution of Bosnia and Herzegovina, the Constitution of the Republic of Srpska, Federation of Bosnia and Herzegovina Constitution and international treaties. The treatment of convicted persons must be humane and with respect for their human dignity, to preserve their physical and mental integrity, taking into account to maintain the necessary order and discipline.

363. It is forbidden to implement any kind of torture and other brutal, inhuman or cruel methods and humiliating procedures by the official institution persons against the convicted.

## Others

### Reply to questions raised in paragraph 44

364. The Ministry of Human Rights and Refugees, in accordance with the Law on the conclusion and execution of international treaties (“Official Gazette” No. 29/00) initiated the activities and procedures for creation of basis for the accession of Bosnia and Herzegovina to the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, and by gathering the opinions of government entities and Brčko District of BiH (given that the underlying problems is in the jurisdiction of entities and Brčko District), submitted it to the procedure of consideration and adoption by the Council of Ministers and the Presidency.

365. Upon completed procedure of discussion and adoption of a basis for the accession of Bosnia and Herzegovina to the optional Protocol to the UN Convention against Torture, the Presidency of Bosnia and Herzegovina, on its 40th session held 26 June 2008, with the consent of the Parliamentary Assembly of Bosnia and Herzegovina, released the Decision on ratification of the Optional Protocol to the UN Convention against Torture, which was published in the Official Gazette of Bosnia and Herzegovina in August 2008.

366. Activities of the authorities of Bosnia and Herzegovina for the establishment of national preventive mechanisms are initiated in close collaboration with the Office of Ombudsman of Bosnia and Herzegovina, and the assistance and the support of the OSCE Mission to Bosnia and Herzegovina.

## General information on the national human rights situation and on the implementation of human rights at the national level

### Reply to questions raised in paragraph 45

367. The Law on the Prohibition of Discrimination in Bosnia and Herzegovina is already in the parliamentary procedure and its adoption is expected by the end of July 2009. Considering that the current Constitution of Bosnia and Herzegovina emphasizes the primacy of the European Convention on Human Rights and Fundamental Freedoms in relation to the domestic laws, the concept as such enters into the very basis of this law on the level of Bosnia and Herzegovina for the protection of human rights of citizens of Bosnia and Herzegovina and promotion of their equal rights and opportunities. Universality and indivisibility as a concept of equality of all human beings within the framework of the law is defined as the value in applying this law to the entire territory under the jurisdiction of Bosnia and Herzegovina, which is why this law is the same and unified framework for the protection from discrimination, which in addition to protection of most vulnerable categories emphasizes a special opportunity and obligation of the competent institutions to protect the priority rights of children in Bosnia and Herzegovina, to anticipate sanctions for its violation and it introduces a unique and powerful mechanism of judicial protection against discrimination and strengthens the role of Ombudsman of Bosnia and Herzegovina.

### Reply to questions raised in paragraph 46

368. Within the activities related to protection and promotion of the human rights, the public administration represents one of the greatest challenges in the implementation of all

priority activities conducted by executive authority institutions in order to rationalize the public expenditure of a country with medium income such as Bosnia and Herzegovina.<sup>16</sup> The Dayton Peace Accord from 1995 divided the country into two entities – the Federation and the Republika Srpska: the Brčko District was established later on as an independent self-governing administrative unit. The government capacities continue to be weak while the majority of responsibilities is at the entities' level, and in the Federation, at the level of 10 cantons. The result is an extremely split system of public administration consisting of more than 100 ministries, very often lacking vertical and horizontal coordination.

369. In January 2006, formal negotiations started on the Stabilization and Accession Agreement (SAA) between EU and Bosnia and Herzegovina, and one of the requirements for signature of the SAA Agreement is the public administration reform. While SAA negotiations have opened a new chapter in the post-Dayton BiH having as a result satisfactorily finalized reforms in many authority areas, the fact is that the approval of non-visa regime was denied to Bosnia and Herzegovina because the necessary reforms, including especially the police reform, have not been completed yet.

370. However, a whole range of initiatives and efforts have been launched at the national and subnational levels towards better implementation of development goals relating to children. One of them is the above mentioned National plan of action for children, followed by establishment of the National Council for Children (CfC) in 2002, an independent body acting within the BiH Ministry for Human Rights and Refugees. It is responsible for monitoring of implementation of the Plan of Action which actually contains general principles specified in WFfC Declaration from 2002 and was made in line with the WFfC Plan of Action.

371. In the past four years, the Council for Children has worked on development of the legal framework for protection of children by rendering support to relevant ministries and involvement in preparation of different programs and laws, such as the Framework Law on Primary and Secondary Education in BiH (adopted in 2003), National Strategy for prevention and combat of AIDS (adopted in 2006), Strategy for fight against juvenile crimes (adopted in 2006) etc. The Council offered support to creation and implementation of measures aiming at reaching standards and principles established by the Convention on the Rights of the Child and its Protocols, as well as other international instruments to which BiH is a party. The Council followed-up all important events, plans and programs implemented by competent ministries and has constructed indicators base don the Plan of Action for children, together with the activities at raising level of awareness among relevant authorities relating to obligations to fulfil, while respecting international protocols and conventions.

372. Numerous programs and initiatives have been realized so far in cooperation with the government and non-government partners and international organizations such as UNICEF, "Save the Children Norway" and "Save the Children UK". Such initiatives, among others, involve the report on violence against children in BiH (jointly prepared by UNICEF and "Save the Children Norway"), preparation/contribution in the Strategy for combat against drug abuse, Strategy on violence against children and Strategy for fight against juvenile crimes ("Save the Children UK/OSI). The Council has implemented many activities regarding protection of children's rights such as promotion of the rights of the children members of ethnic minorities and children with special needs (together with a local NGO), the project of promotion and protection of children's rights (together with "Amici dei Bambini"), a conference on violence against children (supported by UNICEF), round table on the topic "Right to strike vs. right to education" (supported by UNICEF), the project

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<sup>16</sup> According to the WB data for 2006, GDP per capita in Bosnia was \$2,280 USD.

“Strengthening of capacities for monitoring and implementation of children and women rights” in BiH with UNICEF, as well as the project “Strengthening of capacities of the Council for Children of BiH” with “Save the Children Norway”, just to mention some of the activities. The Review of the national Plan of action for children is planned for 2007.

373. The important document drafted at the state level by BiH government was the Middle term Strategy of development for the period 2004–2005/PRSP (MTDS) in cooperation with IMF and the World Bank. Besides recommendations for economic development, the Strategy covers the areas relevant to children’s rights, such as education, health care and social care and offers recommendations for achieving progress. In order to adequately monitor the MTDS implementation, the Council of Ministers had formed in 2004 a Unit for economic planning and implementation of the Middle-term Strategy of Development (EPPU) which is in administration linked to the Office of the chairman of the Council of Ministers of BiH. This Unit has as a goal to, together with competent institutions, coordinate and follow up the implementation of MTDS and other development strategies; EPPU also plays its role in monitoring of MDG, where majority of MDG indicators is included in PRSP.

374. Actually, since UNDP worked on the Report on human development for BiH (NHDR) and the Report on Millennium Development Goals (MDGR) at the time of the preparation of BiH MTDS/PRSP, MTDS as a middle-term strategy running through 2007 should mean a half way to achievement of MDG goals which represent the long-term strategy until 2015. The complementary nature of these two strategies has ensured achievements of MDG goals to be verified in an appropriate manner.

375. The MTDS review was done in 2006 in order to reorganize the sector priorities and to ensure more details for original, much wider founded strategy. The revised MTDS strategy, however, did not include information on monitoring of MDG goals and the relevant progress. In 2006 the BiH Parliament approved the transformation of EPPU into Directorate for economic planning (DEP) which will become permanent government body with enhanced mandate for purpose of creation of policies and monitoring. The creation of the new National Development Plan and the Strategy on social inclusion was planned for 2007, covering the period from 2008 to 2012. The National Plan of Action for children should be harmonized with the new National Development Plan and the Strategy for Social Inclusion for 2008–2012, and these documents should contain measures of social care and protection of children’s rights in accordance with the WfFC.

376. Besides MTDS strategy, other important documents that contributed to improvement of children’s rights in the country include since 2002 the decision on introduction of the policy “Health for all citizens of Bosnia and Herzegovina” adopted in 2002 which had created the basis for development of documents in health area, such as the National Strategy on prevention and fight against HIV/AIDS, adopted in 2003 by the Council of Ministers.

377. In the field of education, two documents were the key instruments for establishment of the key reforms as well as the harmonization of the existing laws in highly defragmented educational sector in BiH. “Message to people of Bosnia and Herzegovina: Reform of education’ is the document signed by both entity ministers for education at the meeting of the Council for Peace Implementation (PIC) in Brussels in November 2002. This document involves promises by educational authorities in BiH that they will undertake, among other things, actions to stop segregation and discrimination, to induce presence of returnees in schools; to establish the system on strong legal foundations where needs and interest of children and pupils will take the top place and where unnecessary spending, doubling and inefficiency in the educational system will be revoked. The adoption of the Framework law on primary and secondary education in 2003 enabled the mobility of pupils, allowed greater autonomy of schools, established the right to equal access and participation in education to

every child and extended the duration of the compulsory education to nine years. This Law also serves as the legal and administrative unifier of the so-called system “two schools under one roof”, in which children of different ethnic origin enter the school at separate doors and study different curricula. This Law offered the basis for adoption of the Core curricula which enables access to all schools in BiH and guarantees equal status for languages of all three peoples (Bosniak, Croat and Serb).

378. Other important laws and documents include adoption of the Law on protection of persons with mental disorders and the decision of the Council of Ministers from 2003 on adoption of the Standard rules on equalization of disabled persons, the Strategy for fight against juvenile crime (adopted in 2006), the revised Strategy on mine action from 2005 to 2009, approved by the Council of Ministers in 2004 together with the Strategy for assistance to mine victims. UNICEF supported the development of the National strategy for elimination of disorders cause by lack of iodine (IDD) in 2006, which has as a goal eradication of IDD till the end of 2010, and the support to National strategy on early development of a child which was created by multi-sector working group for issues of early development of child and it which was adopted by entity governments in 2006. The Law on protection of the national minorities was adopted in 2003 and a Committee for Roma Issues was formed to ensure realization of the rights of this big minority group. The Strategy on inclusion of children with special needs was also approved in 2006.

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