

NASLOVNA STRANA:

**Alternative CEDAW Report:  
Report of civil society organizations on  
implementation of the concluding  
observations and recommendations of CEDAW  
committee for Bosnia and herzeGovina  
2013-2017**

**TITLE: REPORT OF NON GOVERNMENTAL ORGANIZATIONS ON THE IMPLEMENTATION OF THE CONCLUDING OBSERVATIONS AND RECOMMENDATIONS OF CEDAW COMMITTEE FOR BOSNIA AND HERZEGOVINA 2013-2017**

**Report prepared by:** Aleksandra Petrić, Gordana Vidović, Inela Hadžić, Lejla Gačanica, Željka Umićević, Dragana Dardić, Ivana Stanković, Jovanka Popović, Radmila Žigić, Diana Šehić, Fedra Idžaković, Arijana Čatović, Danka Zelić, Tanja Mandić Đokić, Emina Bošnjak, Svjetlana Marković, Indira Bajramović, Selma Hadžihalilović.

**Contribution to the drafting of the report was given by the following organizations:** Center of Legal Assistance for Women Zenica, CURE Foundation, Sarajevo, Local Democracy Foundation, Sarajevo, Foundation United Women Banja Luka, Initiative and Civil Action (ICVA), Sarajevo, Association "Land of Children in BiH", Tuzla, Citizens Association Future, Modriča, Women to women, Sarajevo, Association of active women Gender Brčko District of Bosnia and Herzegovina, Sarajevo open Centre, Better future, Tuzla, Network of women with disabilities, Association of women Derventa Women Association Bosansko Grahovo, Initiative "Women Citizens for Constitutional Changes" Foundation Lara, Bijeljina, Women's Association "Most", Višegrad.

**Preparation and production of the report were coordinated by organizations:**

Helsinki Citizens' Assembly Banja Luka and Rights for All, Sarajevo

**Interpreter:** Ivana Stanković

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ORGANIZATIONS ON THE IMPLEMENTATION OF THE CONCLUDING  
OBSERVATIONS AND RECOMMENDATIONS OF CEDAW COMMITTEE  
FOR BOSNIA AND HERZEGOVINA**

**November 2016**

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## **SUMMARY**

Prepared by: Aleksandra Petrić

Bosnia and Herzegovina (hereinafter: BiH) continues to systematically marginalize the role of women in social, economic and political development.

Although it has, for the second time, developed an Action Plan for the implementation of Security Council Resolution 1325 on Women, Peace and Security, Bosnia and Herzegovina has failed to provide real mechanisms for its implementation and monitoring, without qualitative indicators of progress, and failed to ensure the involvement of institutions from lower governing levels and did not allow a broader involvement of civil society in its preparation and monitoring. Mechanisms of support and assistance to victims / witnesses of war crimes are limited and dependent on the projects supported by international funds, and war victims are discouraged by lack of access to justice, compensation for non-pecuniary damage and the exercise of rights by virtue of their status, due to the limited regulations and lack of harmonized policies.

The reform of the Constitution of Bosnia and Herzegovina was stopped due to lack of political will of key political leaders, and a number of protection issues of gender equality and eliminating discrimination against women through amendments to the Constitution, which was initiated by women's NGOs, have not been the subject of debate in Parliament. In addition to suggesting sex as one of the determinants in the context of the general prohibition of discrimination, the Constitution of Bosnia and Herzegovina still does not define affirmative measures that clearly promote and protect gender equality and women's human rights.

Gender stereotypes in education and in the media are visible and widespread. Bosnia and Herzegovina has failed to indicate the gender stereotypes and promote gender equality through educational strategies, curricula, and systematical training of education workers, or to carry out broader action aimed at removing gender stereotypical and discriminatory content in textbooks for all levels of education. Informal training programs on gender stereotypes, violence, gender equality and women's human rights are implemented by civil society organizations, without the insured continuity and over a defined scope, directly dependent on the support of international organizations and funds. Although the Law on Gender Equality of BiH and recommendations of self-regulatory bodies in the media recognize the obligation and the need to remove gender stereotypes, women and topics of interest to women continue to be underrepresented and invisible in all media, with the dominant stereotypical portrayal of their patriarchal social roles and positions.

Laws and public policies in Bosnia and Herzegovina do not recognize violence against women as a specific form of gender-based violence, but instead use gender-neutral definition, which

significantly contributes to minimizing the degree of social danger of different forms of violence which women face in the private and public spheres of life. Bosnia and Herzegovina has failed to ensure the continued and effective coordination and cooperation between government institutions at all levels in the context of preventing and combating violence against women, as well as to harmonize entity laws and public policies in this area. Such situation leads directly to the unequal status and protection of the rights of women survivors of violence and limitations in their access to justice. Brčko District still has not adopted the Law on Protection from Domestic Violence, or secured systematic and continuous data collection on violence against women by public institutions. Safe houses run by NGOs neither have the same legal status in both entities, nor a secured systematic support, which directly threatens the existing limited services for helping women in the period of acute violence.

Instead of harmonizing the legal framework in the field of preventing human trafficking, which is one of the recommendations of the CEDAW Committee, Bosnia and Herzegovina has made a change of jurisdiction for criminal prosecution from higher to lower levels of government, thereby further marginalizing the problem of human trafficking and exploitation of prostitution as a serious violations of basic human rights. Instead of harmonizing the legal framework in the field of preventing human trafficking, which is one of the recommendations of the CEDAW Committee, Bosnia and Herzegovina has made a change of jurisdiction for criminal prosecution from higher to lower levels of government, thereby further marginalizing the problem of human trafficking and exploitation of prostitution as a serious violations of basic human rights. Instead of harmonizing the legal framework in the field of preventing human trafficking, which is one of the recommendations of the CEDAW Committee, Bosnia and Herzegovina has made a change of jurisdiction for criminal prosecution from higher to lower levels of government, thereby further marginalizing the problem of human trafficking and exploitation of prostitution as a serious violations of basic human rights. The courts continue imposing low penalties for traffickers, mechanisms to identify victims and potential victims do not comply with requirements, the survivors do not have access to adequate systematic assistance and compensation, and financial resources from public budgets focused on prevention and support survivors are directed to selected non-governmental organizations.

Bosnia and Herzegovina has maintained the basic legislative framework which partially ensures the representation of women in the electoral process, however, without systemically regulated affirmative measures women remain marginalized in the process of governing and managing

governmental institutions at all levels, they do not participate in negotiations on the key issues of concern to social, economic and political development, planning and safety. Bosnia and Herzegovina has failed to ensure continuous supervision over the implementation of the Law on Gender Equality of BiH and provided sanctions, which allowed political parties to, within their structures, continue marginalizing women, without a clear commitment to gender equality in the context of program platforms and with a very low participation of women in leadership positions.

In the field of employment, labor and social protection of women's rights, in the period covered by this report, Bosnia and Herzegovina has made no progress in achieving real equality between men and women in the labor market. Employment of women has increased minimally, and women who work in the "gray economy" are not integrated in the formal labor market. Incomplete data show that women are not equally paid for the same work, they to work part time more frequently and do not have access to confidential and safe system for filing complaints related to discrimination based on sex or sexual harassment in the workplace. Bosnia and Herzegovina also has not established a system to protect the rights of women using maternity leave, or improved protection of the right to benefits during maternity leave. General austerity measures do not take into account the position and rights of women that carry the economy of care and directly transfer the burden of pro-natality policies on women.

Despite the efforts of government institutions at all levels in Bosnia and Herzegovina to devote special attention to non-discrimination and promote gender equality through regulations, strategies and policies in the area of prevention and health protection, practice shows that these regulations are essentially of formalist declarative nature, and that women, especially women from disadvantaged groups (such as women with disabilities, rural women, victims of war, Roma and others.) do not have ensured equal and non-discriminatory access to health care in all parts of the country. Key problems identified include the inability to exercise the right to health care, lack of health services adapted to the needs of women, and insensitive approach of health workers who provide services for prevention and protection of health. Topics related to sexual and reproductive health are not part of the mandatory curriculum and are limited to occasional training for a limited number of students and are carried out by non-governmental organizations, without systematic approach to teachers training and available services and counseling tailored to the needs of girls and boys. Bosnia and Herzegovina has made no progress towards ensuring continuous protection of disadvantaged groups of women, particularly internally displaced women returnees, women in rural communities, single mothers, elderly women, Roma women, women with disabilities, LGBTI women, and women who are subjected to multiple forms of discrimination and violations of women's human rights.

Returnee women are in most cases employed in agriculture, generally without a regulated employment status and the possibility to exercise social and other rights, they do not have unrestricted access to health care, as well as equal access to resources for employment and self-employment, which are predominantly allocated to men.

Women in rural areas are particularly affected by poverty, predominantly engaged in unpaid care economy, their mobility is extremely limited, and are without unimpeded access to health care and support in cases of domestic violence. Bosnia and Herzegovina has no official information on the situation of multiply marginalized women in rural communities, such as Roma women, LGBTI women, single mothers, widows, elderly women, women with disabilities and women exposed to domestic violence. Support for women in rural communities in access to and the exercise of rights is limitedly available through the activities of non-governmental organizations, and dependent on international funds, without systemic and strategic decisions of governmental institutions.

Women with disabilities are particularly exposed to discrimination, at increased risk of violence, with limited access to social resources, employment and decision-making positions, as well as support services and assistance that are provided for women without disabilities. Problems requiring special attention and immediate action by government institutions at all levels in Bosnia and Herzegovina are ensuring widely available access to health services to women with disabilities with medical staff trained to provide such services, launching employment programs for women with disabilities, as well as ensuring access to social services and determining rights in the field of social protection taking into account the real needs of women with disabilities.

Protecting the rights of LGBTI (lesbian, bisexual, transgender and intersexual) women has been improved in a formal legal sense through the changes of anti-discrimination and partly through criminal legislation, and by partially planning public policy measures aimed at LGBTI women, however, the governmental institutions of Bosnia and Herzegovina at all levels failed to take effective measures to prevent discrimination of LGBTI women. A series of unsanctioned cases of incitement to violence and hatred based on sexual orientation and gender identity have created the impression that the homophobic and transphobic attacks in Bosnia and Herzegovina are being tolerated, both by society and by governmental institutions. Present legislation of Bosnia and Herzegovina does not recognize same-sex unions of LB women and their relationships, and thus limits them in ability to use the constitutionally guaranteed rights. LB women do not have access to the right to biomedical assisted fertilization through health care, and trans\* women do not have access to medical and financial support with a sex change because of the lack of legal regulations.

Roma women in Bosnia and Herzegovina continue to be exposed to multiple forms of discrimination, are affected by poverty and lack of access to social resources. No progress was registered in planning and implementation of systemic and targeted affirmative action of

institutions of Bosnia and Herzegovina at all levels in favor of the real improvement of the position of Roma women and protection of their fundamental human rights, in particular the area of vulnerability remains a lack of access to housing and health care and protection from domestic violence, exposure to early marriages, access to regular schools and kindergartens is hindered for Roma girls, and affirmative measures aimed at solving the problem of unemployment of Roma women do not exist.

## CONTEXT

In the period of reviewing the combined fourth and fifth periodic report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the recommendations of the CEDAW Committee to governmental institutions of Bosnia and Herzegovina (2013), Bosnia and Herzegovina has made limited efforts to improve and harmonize the legislative framework, public policies, as well as to effectively implement specific systematic gender-responsive affirmative measures to efficiently improve the situation of women and protection of their fundamental human rights at all levels.

Ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (2013) without reservation and the adoption of the Framework Strategy for the Implementation of the Convention for the period 2015-2018 by the Council of Ministers, as well as emphasizing the priority commitment to its full implementation in the light of the taking over the role of the presidency of the Committee of Ministers of the Council of Europe (2015) indicate positive steps towards strengthening the commitment to the implementation of international instruments in the protection of women's human rights in Bosnia and Herzegovina. However, it is worrying that Bosnia and Herzegovina continues not to integrate women's human rights and gender equality in important reform and development processes. This is indicated by the fact that during the submission of the application for membership in the European Union (2016), Bosnia and Herzegovina produced a reform agenda for BiH for the period 2015-2018, which is completely gender-blind and does not define specific measures and actions aimed at improving the status of women.

Bosnia and Herzegovina has adopted a new public policy framework and partially improved the laws with the aim of action in the field of gender equality and women's human rights - Gender Action Plan for the period 2013 -2017, the Action Plan for the implementation of UN Security Council Resolution 1325 on Women, Peace and security for the period 2014-2017, Action Plan for Combating human trafficking in Bosnia and Herzegovina for the period 2016 -2019. Law on Prohibition of Discrimination was improved with Changes and Amendments (2016) towards ensuring urgency of the proceedings, entity criminal codes are aligned in the direction of recognizing the crimes committed out of hatred, other public policies, guidelines, and protocols have been adopted at lower levels of government and administration, aiming at advancing formal strategic framework for the protection of women's human rights.

However, the implementation of measures planned by laws and public policies in practice, as well as their impact on the advancement of the position of women and protection of their basic human rights and freedoms remains without clear quantitative and qualitative indicators of progress. Bosnia and Herzegovina continues to ignore the need for systematic and continuous assessment of the situation while drafting laws and strategic documents, harmonized system of

data collection, as well as the assessment of the effects of measures implemented in all areas important for women and protection of their rights. Public budgets at all levels are not created in accordance with the requirements of laws and public policies in these areas, and their application largely depends on the support of international funds, which does not indicate the actual long-term commitment of the institutions of Bosnia and Herzegovina to systematically support solving problems in the field of protection of women's human rights. Problems in the functioning of government and governance at the state level of Bosnia and Herzegovina due to the absence of agreement of key parliamentary political parties and their leaders are negatively reflected in all areas of human rights and particularly affect women.

Activists of the civil society organizations who are engaged in the protection of human rights and support for women, as well as supporting democratic processes, peace building and the inclusion of women in important reform processes for decades, remain marginalized and excluded. Their experience and knowledge gained in direct work with women throughout Bosnia and Herzegovina is neither valued nor built into public policies. The institutions of Bosnia and Herzegovina on all levels are not sufficiently active in the direction of opening possibilities for cooperation and dialogue with civil society organizations. The lack of clear commitment of the international community, which remains largely insensitive to support the actions of civil society organizations in the field of women's human rights and gender equality, and women's exclusion from participating in all decision making processes important for the functioning of Bosnia and Herzegovina further complicates positive changes directed towards the realization of women's human rights in practice.

## INTRODUCTION

This report is the result of joint action of the group of activists and civil society organizations active in the field of protecting women's human rights and gender equality from all over Bosnia and Herzegovina, under the coordination of "Helsinki Citizens Assembly" Banja Luka and "Rights for All" Sarajevo. During process of its drafting, several workshops and coordination meetings were held with the aim of joint definition of key indicators, priority areas and methodologies, which contributed to its value especially in the direction of strengthening women's activist movement in Bosnia and Herzegovina aimed at monitoring and advocating compliance with the obligations of the state of Bosnia and Herzegovina to the Convention on elimination of all forms of discrimination against women (CEDAW). Activists and organizations that have contributed to its making have collected data, analyzed the situation, defined the specific recommendations by areas, as well as the prioritized general recommendations that require urgent, continuous and systematic actions of government institutions at all levels in Bosnia and Herzegovina towards enabling women of Bosnia and Herzegovina unhindered and non-discriminatory access to the realization and protection of basic human rights and freedoms.

The report follows the concluding observations and recommendations of the CEDAW Committee (2013) addressed to the institutions of Bosnia and Herzegovina and covers areas where identified problems, violations or discriminatory practices directed against women, could have been confirmed by relevant data, information obtained through the implementation of long-term activities aimed at improving woman's position, monitoring the implementation of laws and public policies through a practice of institutions, including the experiences of women / women's groups whose rights are directly threatened and violated, as well as the continuous action on changing discriminatory laws, policies and practices and adoption of new ones in order to protect women's human rights. In this regard, the report has a particular value, as it seeks to, experientially and realistically, indicate the position of women in Bosnia and Herzegovina, as well as the realization and protection of their rights in practice.

This is the fourth alternative report prepared by the activists and civil society organizations in Bosnia and Herzegovina<sup>1</sup>, which analyzes the key aspects of women's rights violations and gives recommendations aimed at actions by government institutions at all levels of governance and administration, and requires proactive measures towards a comprehensive systematic protection of human rights of different groups of women, consistent implementation of laws

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<sup>1</sup> The first report on the state of women's human rights in Bosnia and Herzegovina was prepared in 1999 in cooperation between Global Rights and women's NGOs in BiH, the second report was prepared in 2004 in cooperation between Global Rights and coalition of 16 women's NGOs in BiH, the third report was prepared in 2013 under the coordination of Rights for All Sarajevo and Helsinki Citizens Assembly Banja Luka and participation of 8 organizations working in the field of women's human rights and gender equality.

and public policies, as well as the compliance with international standards and rights through the obligation to implement the Convention on the Elimination of all forms of discrimination against women.

Although sixth periodic state report that Bosnia and Herzegovina is obliged to submit to the CEDAW Committee in July 2017 was not available during the preparation of this report, activists and civil society organizations that participated in its drafting believe that it will allow the CEDAW Committee insight into the important data and assessment of the state of women's human rights in Bosnia and Herzegovina. The report provides activists and civil society organizations in Bosnia and Herzegovina to present to the CEDAW Committee independent analysis and key recommendations in ten areas, as follows: women in post conflict situations, action plan for the implementation of UN Security Council Resolution 1325, a constitutional and legislative framework, stereotypes, violence against women, human trafficking, women in public and political life, economic status of women in Bosnia and Herzegovina, health, and disadvantaged groups of women: women in rural areas, returnees and displaced women, women with disabilities, LGBTI women, Roma women.

## WOMEN IN POST-CONFLICT SITUATIONS

Prepared by: Gordana Vidović

### **Concluding observation number 9:**

While recognizing the State party's efforts to improve the situation of women in post-conflict situations, the Committee is deeply concerned about: (a) The slow pace of prosecutions and very low level of *conviction* rates of perpetrators of sexual violence, which result in pervasive impunity, despite the implementation of the 2008 national war crimes prosecution strategy; (b) The inadequate definition, at both the State and entity levels, of acts of sexual violence as war crimes and crimes against humanity, in particular the elements of the crime of rape, which are not in line with international standards; the large number of cases at the district and cantonal levels, at which rape continues to be prosecuted as an ordinary crime, without taking into account the dimension of the armed conflict; and the parallel applicability of different criminal codes, resulting in inconsistent jurisprudence and lenient sentencing practices; (c) Long delays in adopting measures to address the needs of a large number of women victimized by the conflict; (d) The lack of adequate victim reparation in war crimes trials, where victims are being referred to initiate separate civil proceedings, while such claims can be submitted and ruled upon during criminal proceedings; (e) The deficiencies of witness protection measures in cases prosecuted at the district and cantonal levels, where the law on the witness protection programme is not applicable; (f) Women's inadequate and unequal access to compensation, support and rehabilitation measures for violations suffered during the war, such as enforced disappearances. These measures include sustained psychological and medical support as well as financial and social benefits, which are regulated differently in the entities; (g) The lack of measures taken to address the systematic stigmatization faced by women victims of wartime sexual violence, which hampers their access to justice and social reintegration.

### **Concluding observation number 10:**

The Committee recommends that the State party: (a) Speed up the implementation of the national war crimes strategy and increase the number of prosecutions of war crimes cases by allocating more financial resources and investigative capacities to address the large backlog of cases; (b) Amend all relevant criminal codes to include a definition of wartime sexual violence in line with international standards, including a specific definition of rape as a war crime and a crime against humanity, in order to adequately reflect the gravity of the crimes committed and intensify its efforts to harmonize the jurisprudence and sentencing practices of its courts throughout the State party, by establishing effective cooperation mechanisms between prosecutors and courts competent to deal with war crimes at all levels of the State party; (c) Expedite the adoption of pending draft laws and programmes designed to ensure effective access to justice for all women victims of wartime sexual violence, including adequate reparation, such as the draft law on the rights of victims of torture and civilian war victims, the programme for victims of sexual violence in conflict and torture (2013-2016) and the draft strategy on transitional justice aimed at improving access to justice; (d) Ensure the effective implementation of the new law on the witness protection programme and establish sustainable and operational witness protection measures at the district and cantonal levels; (e) Develop a comprehensive approach to improve the status and position of all women victims of the war, including by combating the stigma attached to sexual violence; and expand the provision of compensation, support and rehabilitation measures and benefits, and ensure equal access to such services for all women victims, irrespective of their place of residence. 11. The Committee is concerned about the lack of effectiveness of the Security Council resolution 1325 (2000) action plan regarding women's participation in peace, reconciliation and rehabilitation processes. 12. The Committee recommends that the State party ensure the full implementation of Security Council resolution 1325 (2000) through the State party's action plan and develop concrete measures to enhance the participation of women in decision-making processes relating to post-conflict policies and strategies, taking into account the needs of women and girls, in particular as regards their social rehabilitation and reintegration.

## INTRODUCTION

In the concluding observations of the combined fourth and fifth periodic report, the UN Committee on the Elimination of Discrimination against Women commended the efforts of Bosnia and Herzegovina to improve the status of women in post-conflict situations. At the same time it expressed its deep concern over the long delays in the adoption of measures to address the needs of a large number of women victims of conflict, as well as because women neither have adequate and equal access to benefits, support and rehabilitation measures, nor financial and social assistance, which are regulated differently in entities, and has demanded that the State party submits a progress report.

At the request of the CEDAW Committee, the Parliamentary Assembly adopted a “**Information of Bosnia and Herzegovina for the UN CEDAW**”<sup>2</sup> on the measures taken which makes it evident that Bosnia and Herzegovina, despite the progress made in creating the legal framework, has yet failed to focus on specific problems that women face, as well as on improvement of their equal economic, political and social opportunities. The analysis of the aforementioned “Information of Bosnia and Herzegovina for the UN CEDAW” found that more effective monitoring and evaluation systems have not been established, which was one of the recommendations of an independent evaluation on the implementation of the Action Plan for implementing UN Resolution 1325 (2010-2013)<sup>3</sup>.

In the last four years a certain number of legislative initiatives were launched with the aim to harmonize the legal framework of Bosnia and Herzegovina with international standards and to finally provide victims the right to justice and reparation. Law on Witness Protection Program in BiH was adopted on April 29 2014. This law applies only to witnesses testifying before the State Court and not to those witnesses before district courts in the Republika Srpska, cantonal courts in the Federation of BiH and courts in the Brčko District. Due to the lack of political will, the following legislative initiatives were not adopted: National Strategy for Transitional Justice; The program to improve the status of survivors of sexual violence and labor sexual violence and the Law on the rights of victims of torture<sup>4</sup>, which was in 2016 reviewed in draft form by the Council of Ministers.<sup>5</sup>

Psychological support to witnesses and victims before, during and after the trial for war crimes is still insufficient and mostly depends on the support that comes from civil society and

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<sup>2</sup> [http://arsbih.gov.ba/wp-content/uploads/2015/08/150626\\_prilog\\_pisana\\_informacija\\_cedaw.pdf](http://arsbih.gov.ba/wp-content/uploads/2015/08/150626_prilog_pisana_informacija_cedaw.pdf)

<sup>3</sup> “An independent evaluation of the implementation of the Action Plan for the implementation of UNSCR 1325 was conducted in 2013 by the Institute for Inclusive Security in Washington, which, among other things, stated: Almost all indicators are quantitative in nature, which prevents monitoring of progress in achieving the strategic and medium-term objectives, and qualitative institutional and general social change to achieve gender equality in the fields of defense and security”. See: [http://arsbih.gov.ba/wp-content/uploads/2014/07/AP1325\\_bhs.pdf](http://arsbih.gov.ba/wp-content/uploads/2014/07/AP1325_bhs.pdf)

<sup>4</sup> This law is important for the systemic regulation of this area and ensuring equal access to rights and the right to compensation of victims of torture and other cruel, inhuman and degrading treatment.

<sup>5</sup> <http://www.avaz.ba/clanak/243540/predvidena-izrada-zakona-o-pravima-zrtava-torture-u-bih?url=clanak/243540/predvidena-izrada-zakona-o-pravima-zrtava-torture-u-bih>

international donors, while institutional support is still lacking. Sustainability of Departments for providing support to witnesses during the trial for war crimes in different cities, established with the support of the European Union and UNDP, will be questionable if BiH authorities do not provide adequate financial and human resources to ensure future activities.

War victims are discouraged, because many lawsuits for compensation of non-pecuniary damages for compensation of the time forcibly spent in concentration camps are being rejected with the explanation of the absolute statute of limitations.<sup>6</sup> Courts in the Republika Srpska, with the decision on the rejection of the claim, also deliver the decision on the payment of court fees with interests that range from 1000 to 5000 euros. In the other BiH entity, the Federation of Bosnia and Herzegovina, attorney and court costs are free of charge.

The first verdict which entitles victim of wartime sexual violence to the right of compensating damage through Criminal Procedure was adopted in June of 2015<sup>7</sup>. Therefore, this verdict is reassuring for all the victims and it opens up new possibilities for changes of courts and prosecutors' offices practice.

The legislation of the Republika Srpska does not recognize victims of rape and other forms of sexual violence as a special category of victims. The existing law on social benefits in the Republika Srpska defines strict deadlines that have already expired, and thus excludes a large group of potential applicants to seek their rights<sup>8</sup>. In addition, current procedures by which victims can apply for the status of civilian victims of war are not fully transparent and sensitive to the psychological needs of the victims. Psychological damage is not recognized as a valid basis for obtaining income and this situation should be changed.

Despite the recommendation of the CEDAW regarding adequate funding and an adequate number of employees in the prosecutor's offices and courts, prosecutors' offices and courts still have inadequate number of employees. This issue should be addressed urgently in order to ensure timely and efficient processing of the remaining cases.

Since the general public does not consider state institutions sufficiently influential to change the dominant understanding of the conflict, the active involvement of civil society and the media is particularly important, in order to accelerate the process of seeking truth, justice, reparation and guarantees of non-repetition. Furthermore, it is necessary to develop effective mechanisms to track the implementation of laws, overcome structural barriers to equality for

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<sup>6</sup> <http://www.glassrpske.com/drustvo/vijesti/Odbijena-prva-tuzba-za-nadoknadu-ratne-stete/lat/168521.html>

<sup>7</sup> <http://www.nap.ba/new/vijest.php?id=13381>

<sup>8</sup> Based on the obtained results of mobile teams that provide free legal aid to victims of sexual violence during the war, realized by Citizens Association Future in the municipalities of Šamac, Modriča, Vukosavlje, Brod, Doboj, Derventa, and with the support UNDP, there is a need for this kind of assistance because the deadlines victims have not yet achieved their basic rights, are discouraged because the deadlines for submitting requests for acquiring the status have expired, they do not have adequate health care and treatment, live in extreme poverty, etc.

women i.e. management and supervisory positions. In this context, the situation in the Republika Srpska is much worse than in the rest of the country.

### **Recommendations**

- Ensure the creation of a united legal framework and protocols at the national level for all victims and witnesses, in order to avoid a continuation of the current situation in which there is discrimination in access to rights and social benefits depending on the entity.
- Accelerate the adoption of draft laws and programs that are on hold, planned to ensure effective access to justice for women victims of sexual violence during the war, including adequate compensation, such as the draft Law on the rights of victims of torture and civilian victims of war, Program for Victims of Sexual Violence in conflict and torture and a draft of Transitional Justice Strategy, which aims to improve access to justice<sup>9</sup>
- Ensure effective implementation of the new Law on witness protection program and the establishment of sustainable operational witness protection measures at the level of district and cantonal courts. Financial resources for the implementation of laws and programs must be ensured, and the whole process needs to be coordinated with the other aforementioned legislative initiatives regarding war victims in Bosnia and Herzegovina.
- It is necessary to harmonize laws on civilian victims of war throughout the country by making amendments to the law in the Republika Srpska to introduce a special category for people who have suffered rape or other forms of sexual violence during the war, without prescribing any time limits for its implementation and with aim to equalize status of rights of survivors of sexual violence in the war on the territory of Bosnia and Herzegovina
- BiH should remove existing barriers and develop a more effective system of protection of victims / witnesses that includes comprehensive legal, psycho-social support before, during and after the trial. Bosnia and Herzegovina must provide effective restitution and rehabilitation, particularly in terms of adequate housing for victims of rape and other forms of sexual violence; priorities in employment and access to education for their children, as well as the right to free legal, medical and psycho-social support;
- It is necessary to harmonize the approach in sensitizing professionals; their constant education and approximation of standards of their practice; among other things, to enable victims to exercise their rights to compensation during criminal proceedings.
- The state must support civil society organizations as a link between the witnesses / victims and institutions in the process of psycho-social support and legal assistance; and to provide funds for the work of these organizations, taking into account that they continue to provide quality treatment.

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<sup>9</sup> The process of establishing the facts, although crucial to ascertain the truth, cannot replace access to justice and compensation for victims of serious human rights violations, and their families must be guaranteed these rights independently of the adoption of the Strategy.

- Ensure effective mechanisms for active involvement of entity institutions and Brčko District which must provide real support to the entire process from the harmonization of laws to their implementation at all and especially at the local government levels.
- Encourage local communities through a multi-disciplinary and integrated approach to develop their own models of comprehensive protection and support to victims and witnesses of rape and other forms of sexual violence during the war; promoting good practice and sharing positive experiences

## **ACTION PLAN FOR THE IMPLEMENTATION OF RESOLUTION 1325**

**Prepared by: Gordana Vidović**

### **Concluding observation number 11:**

The Committee is concerned about the lack of effectiveness of the Security Council resolution 1325 (2000) action plan regarding women's participation in peace, reconciliation and rehabilitation processes.

### **Concluding observation number 12:**

The Committee recommends that the State party ensure the full implementation of Security Council resolution 1325 (2000) through the State party's action plan and develop concrete measures to enhance the participation of women in decision-making processes relating to post-conflict policies and strategies, taking into account the needs of women and girls, in particular as regards their social rehabilitation and reintegration.

## **Introduction**

Part of the observations and recommendations relates to the areas of importance for the implementation of UN Resolution 1325 in Bosnia and Herzegovina, among which the most important are:

- **Women in post-conflict situations**
- **Human trafficking and exploitation of prostitution**
- **Participation of women in public and political life**

**CEDAW recommendations for these three areas, have served as the basis for the development of the second Action Plan for implementation of UNSCR 1325 in Bosnia and Herzegovina, for the period 2014- 2017<sup>10</sup>.** This Action Plan has been prepared by the Agency for Gender Equality and the

<sup>10</sup> The first Action Plan for the implementation of UNSCR 1325 in Bosnia and Herzegovina for the period 2010-2013 was adopted on 07/27/210. Second Action Plan (2014-2017) grouped targets within three main categories in accordance with UN Resolution 1325: equal participation, prevention and protection. See: <http://arsbih.gov.ba/akcioni-plan-za-implementaciju-unscr-1325-u-bosni-i-hercegovini-za-period-2014-2017-godine/>

Coordinating Committee, composed of representatives of institutions. Non-governmental organizations were not involved in the drafting, although the documents indicated that the Action Plan was developed in consultation with the non-governmental organizations.

his, like all other documents, was created as the result of an extremely pragmatic reasons, by which Bosnia and Herzegovina aspires not only to promote itself as a “regional leader in the implementation of Resolution 1325” but also as “progressive and credible country that is strongly committed to the promotion of women's human rights”. Bosnia and Herzegovina has also signed and ratified a number of international conventions on human rights, has established a legal framework guaranteeing the rights of women and ensuring the highest level of protection of economic, social, cultural and political rights as well as their application in practice.<sup>11</sup>

The new structure retains all the goals from the previous Action Plan, with the difference that the priority areas are included in the strategic objectives 1 and 2, while the third strategic objective (“horizontal objective”) contains transversal (“cross-cutting”) areas that are equally important for the realization of the first two strategic objectives. This refers to the improvement of coordination mechanisms, instruments for the implementation of the Action Plan, and cooperation with other actors (local authorities, NGOs, international organizations). Given that women exercise their rights at the local level it is very important to ensure absolute implementation of the Action Plan of UNSCR 1325 in Bosnia and Herzegovina (2014-2017) at the local level. In this regard, the strategic goal 2 (Increased human security) opened the way towards the introduction of the principle of gender equality in the security sector, because it has enabled to reconsider the security at all levels of government, especially in local communities in a qualitatively different way and to offer new solutions that would increase the level of security of women. The Alternative CEDAW report treats the abovementioned topics as separate entities, therefore in this part we are focusing on mechanism of monitoring the implementation of the Action plan.

### **Mechanism of monitoring the implementation of the Action Plan**

Gender Action Plan for Bosnia and Herzegovina for the period 2013-2017<sup>12</sup> defines the obligation of the Agency for Gender Equality of Bosnia and Herzegovina to co-ordinate and monitor the implementation of UN Resolution 1325, as well as to develop and implement the Action Plan for the implementation of this resolution in Bosnia and Herzegovina.

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Resolution 1325 "Women, Peace and Security" United Nations Security Council adopted 31.10.2000. . This was the first time that the UN Security Council advocated the inclusion of women in peace processes and the implementation of peace agreements at such high level. Special significance of this resolution is that it calls for increased participation of women in decision-making, conflict prevention, post-conflict processes, peace negotiations and peace operations.

<sup>11</sup> International documents that Bosnia and Herzegovina has ratified have a legal obligation. Other documents which represent international guidelines and recommendations are binding on the basis of a broad global consensus under which they were established.

<sup>12</sup> <http://arsbih.gov.ba/project/gender-akcioni-plan-bih-2013-2017/> see the second specific goal: Monitoring and improvement of the application of national and international standards for gender equality

The basic mechanism for monitoring the implementation of the Action Plan for implementation of UNSCR 1325 in Bosnia and Herzegovina from 2014 to 2017 is the Coordination Board, appointed by the Council of Ministers<sup>13</sup> to supervise the implementation of the Action Plan for implementation of UNSCR 1325 in BiH 2014 - 2017. The Committee has 25 members of which only one member is from the non-governmental sector, i.e. the Coordination Group of NGOs. All other members are representatives of the state institutions and gender mechanisms.

The Coordination Committee, which supervises the implementation of the Action Plan there are no representatives from entity and Brčko District institutions, whose jurisdiction is directly linked to the objectives defined in the Action Plan. The participation of just one representative of the non-governmental sector in the Coordinating Committee is absolutely minor and does not guarantee any influence in the process of consultation and monitoring of the implementation of AP.

One of the main obstacles for more active involvement of women from civil society in the process of implementation of the NAP, but also the exercise of independent supervision of its implementation, is the lack of transparency of the operations and actions of institutions. Information on the implementation of the Action Plan has not been published on the website since September 2013<sup>14</sup>. The Agency for Gender Equality in BiH is responsible for regular update of the website and should be criticized as such attitude blurs the essential aim and significance of Resolution 1325. If the state decides to adopt a resolution, as Bosnia and Herzegovina has made, it is obliged to take measures which include real and not just a normative acceptance of the Resolution.

In October 2013, at the proposal of the Agency for Gender Equality of BiH, the Coordination Group of 16 non-governmental organizations involved in the application of UNSCR 1325 has been established and has signed a Memorandum of cooperation with the Coordinating Committee<sup>15</sup>. By signing the memorandum with the most active organizations engaged in this issue, „State“ has sent a positive message to international actors stating its transparency and respecting the work of NGOs. The fact that it has not held a single meeting with the Coordinating Group, speaks in favor of the claim that the state only declaratively recognizes opinion and the work of NGOs. As assumed, the purpose of this memorandum was entirely satisfying forms derived from suggestions of an independent audit.

Statement that the Agency for Gender Equality of BiH has not developed effective mechanisms is substantiated by the findings of the independent evaluation of the implementation of the first Action Plan (2010-2013). The overall process of harmonization of regulations, rules and

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<sup>13</sup> "Official Gazette of BiH" number 20/15 of 03/09/2015.

<sup>14</sup> <http://www.1325.arsbih.gov.ba/>

<sup>15</sup> <http://arsbih.gov.ba/saradnja-sa-nvo/>

procedures in the field of defense and security with the Law on Gender Equality in Bosnia and Herzegovina is inconsistent and uneven. The independent evaluation also recommends establishment of effective monitoring and evaluation system: *“Almost all indicators are quantitative in nature, which prevents monitoring progress in achieving the strategic and medium-term objectives, and qualitative institutional and general social changes in achieving gender equality in the fields of defense and security”*<sup>16</sup>.

Action Plan for the implementation of Resolution 1325 foresees significant activity at the local level, **because the security of the community can be achieved only if the participation of women is in the life of the community is promoted, if the partnerships between different institutions are create and if the women are involved in the decision-making processes.** In this regard there are serious suspicions that the appointed Coordination Committee has no legitimacy of monitoring and evaluation, especially of the second strategic goal (Increased level of human security), which should consider security at all levels, particularly in local communities and offer new solutions that would increase the level of security of women.

**The key criticism is that the Action Plan for the implementation of Resolution 1325 in BiH does neither recognizes entity institutions nor institutions of Brčko District for performing the monitoring and evaluation or for implementing activities under their jurisdiction.**

By analyzing the implementation of the AP UNSCR 1325 in BiH <sup>17</sup> it was found that, **at the local level**, there are no strategies and other activities aimed at increasing the safety of women in local communities. Local authorities justify themselves by not being obliged to apply the provisions of the Law on Gender Equality, because this is **not binding by the Law on Local Government and Self-Government**. The fact is that the gender component is neither incorporated into these legislations, nor had the entity ministries sent **any instructions on the treatment** itself. So far, local action plans for the implementation of Resolution 1325 was adopted in several local communities <sup>18</sup>. It is praiseworthy that the local communities started drafting these strategic documents, but these documents do not have a development component, or a special significance. None of the mentioned municipalities have published action plans on their websites and in qualitative sense those do not have significance (they are too general, not based on a real assessment of needs, the establishment of bodies for implementation and monitoring was not planned, therefor it is more than ever believed that the local authorities had only declaratively supported this activity, with no intention to seriously dedicate themselves to its implementation).

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<sup>16</sup> [http://arsbih.gov.ba/wp-content/uploads/2014/07/AP1325\\_bhs.pdf](http://arsbih.gov.ba/wp-content/uploads/2014/07/AP1325_bhs.pdf) (The AP does not state who did the independent evaluation)

<sup>17</sup> Analysis of the implementation of the NAP 1325 prepared and published by the Citizens Association Future, see [www.buducnost-md.com](http://www.buducnost-md.com)

<sup>18</sup> The report of the Agency for Gender Equality of BiH on the implementation of the Action Plan 1325 "Women, Peace and Security" in Bosnia and Herzegovina for the period 31/07/2014 - 31/07/2015 announced that six local action plans were made, four of which were adopted by the municipal assemblies / councils.

State institutions consistently refuse initiatives to amend the laws and by-laws in accordance with the signed and ratified standards and recommendations. Civil society organizations are concerned about the inertia of the international institutions, which quietly observes and does not take action against state institutions.

Although non-governmental organizations or international agencies have launched or implemented projects for the provision of accommodation, psychological and medical support, this does not absolve the state of Bosnia and Herzegovina from the primary responsibility to do it itself. The situation is further aggravated by the general financial crisis in BiH, as well as the consequences of floods that hit Bosnia and Herzegovina in 2014 and left hundreds of people homeless, including survivors of rape and other forms of sexual violence during the war.

The issue of women and gender politics is rated very low on the scale of governmental structures and without the strong synergy of all available forces desired objectives cannot be achieved. Civil society organizations strongly advocate that the state, in accordance with assumed obligations, ensures the conditions for equal status of women in society through the implementation of international standards and domestic laws. It is necessary to make further impact on governmental institutions aiming to ensure affirmative measures for combating gender discrimination and to constant promotion of the balanced participation of all genders.

## **Recommendations**

- STRENGTHEN THE COORDINATION COMMITTEE WHICH SUPERVISES THE IMPLEMENTATION OF ACTIVITIES FROM THE ACTION PLAN FOR IMPLEMENTATION OF UNSCR 1325 by including representatives of the entity institutions and women's NGOs in Bosnia and Herzegovina since they have the capacity and resources that can significantly contribute to the work of the Coordination Committee.
- 1) DEVELOP A METHODOLOGY FOR QUALITATIVE SUPERVISION OF THE IMPLEMENTATION OF THE ACTION PLAN FOR IMPLEMENTATION OF UNSCR 1325
    - Develop qualitative indicators for monitoring progress in achieving the strategic and medium-term objectives of the implementation of the Action Plan for implementation of UNSCR 1325 at all levels
    - Oblige the competent institutions to draft the rules and guidelines for the implementation of the Action Plan for implementation of UNSCR 1325
    - Develop mechanisms for the support to local communities through process of education for the preparation of plans and programs for gender equality in which the activities related to the implementation of the NAP UNSCR 1325 in Bosnia and Herzegovina should be incorporated

## CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK

Prepared by: Inela Hadžić and Lejla Gačanica

### **Concluding observation number 13:**

While acknowledging the existing definitions in the gender equality law, the Committee is concerned that the Constitution does not at present include a comprehensive definition of discrimination against women, in line with article 1, or of the principle of equality between women and men, in line with article 2 of the Convention.

### **Concluding observation number 14:**

In the light of the constitutional review process, the Committee recommends that the State party specifically incorporate into its new Constitution a definition of equality between women and men and a prohibition of direct and indirect discrimination against women in the public and private spheres, in accordance with articles 1 and 2 of the Convention.

In July 2015 the Committee adopted the **General Recommendation 33** in which, among other things, it called upon the State parties to embody the principle of the equality of men and women and the elimination of discrimination against women in all spheres of life (public and private) in their national constitutions, and to take measures to ensure the realization of the principle in all areas of public and private life as well as in all fields of law.

## INTRODUCTION

**Although there are two initiatives that advocate for changing the Constitution from a gender perspective<sup>19</sup>, Bosnia and Herzegovina has not showed political will to implemented from 2013 until now, there for Bosnia and Herzegovina remains one of few European countries whose Constitution does not contain provisions related to equality between women and men.<sup>20</sup>**

The Constitution of Bosnia and Herzegovina, particularly the Annex IV of the Dayton Peace Agreement from November 1995, was aimed at stopping the war in the territory of Bosnia and Herzegovina and the establishment of peace. The Constitution of Bosnia and Herzegovina accepts the universal guarantee of human rights contained in international human rights documents (Annex 1 of the Constitution), which have priority over the provisions of the Constitution. However, the entire text of the Constitution does not say anything on the issue of gender equality or mentions men and women as individuals of different genders or sex. The BiH

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<sup>19</sup> It is a set of gender-sensitive amendments made by the Agency for Gender Equality and the initiative Women Citizens of the constitutional reform

<sup>20</sup> In the report "Gender equality law in Europe: How are EU rules transposed into national law in 2015?" is stated: "...a large number of countries (Austria, Bulgaria, Croatia, Finland, France, Germany, Greece, Hungary, Italy, Liechtenstein, Lithuania, the FYR of Macedonia, Malta, Montenegro, Poland, Portugal, Romania, Serbia, Slovenia, Spain and Turkey) have also adopted provisions pertaining to equality between men and women in their Constitution". The report provides a general overview of the transposition of EU gender equality law in the 28 Member States of the European Union, as well as Iceland, Liechtenstein and Norway (the EEA countries) and four candidate countries (the Former Yugoslav Republic of Macedonia, Montenegro, Serbia and Turkey). The report is available on: [http://ec.europa.eu/justice/gender-equality/files/your\\_rights/gender\\_equality\\_law\\_in\\_europe\\_2015\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/your_rights/gender_equality_law_in_europe_2015_en.pdf)

Constitution does not recognize or use gender-sensitive language in his text and does not contain any affirmative measures to ensure equal participation of women and men in all spheres of socio-political life. Constitution of Bosnia and Herzegovina only bans discrimination on the grounds of gender, along with other enumerated grounds.

Many shortcomings and vagueness of the BiH Constitution implicated the need to amend and modify its particular parts. The first serious attempts to reform the Constitution of BiH began after the judgment of the European Court of Human Rights in Strasbourg in the Sejdic-Finci verdict which determined systemic discrimination against all persons who do not identify themselves as belonging to one of the three constituent nations. However, governing structures in BiH have not been able to reach a compromise over this issue from the notification of the judgment (December 2009) until today. Instead of constitutional changes, Economic and Social Affairs defined by the reform agenda for BiH 2015-2018 were placed in the foreground. Even the media monitoring, done in the period between 1<sup>st</sup> and 30<sup>th</sup> of September 2016, confirmed that the issue of constitutional changes is completely marginalized and thrown out of the political agenda<sup>21</sup>. Out of 5908 media reports and articles, which were covered by monitoring none mentioned constitutional changes (be it the obligation of the state to change the BiH Constitution in accordance with the judgment of the European Court of Human Rights, or the initiatives of civil society organizations engaged in constitutional reform).

### **Implementation of the recommendations of the CEDAW Committee and the constitutional reform process**

In recent years there has been a series of attempts to amend the existing Constitution of BiH, primarily with the aim of eliminating ethnic discrimination, which came from several political parties<sup>22</sup>, civil society organizations or have been initiated by international actors and the ruling parties in BiH (April package, Butmir package and Prud Agreement). The proposals of political parties, program platforms or resolution of the same, did not follow the provisions regarding gender equality and affirmative measures to ensure gender equality, and only a handful of proposals contained provisions on the use of gender-aware language.

After an unsuccessful attempt of the agreement of the ruling parties (2012), about three sets of amendments for the implementation of the Sejdic-Finci verdict, the process of constitutional reform was stopped until September of 2015 when the Council of Ministers, on the proposal of the Ministry of Justice, considered and adopted the Action Plan for enforcement of verdicts of the European Court of Human rights in the case "Zornić against Bosnia and Herzegovina"<sup>23</sup> and "Sejdić-Finci vs. Bosnia and Herzegovina".<sup>24</sup> Also, the suggestion that the deadlines for implementation of the action plan defining the adoption of amendments to the Constitution of Bosnia and Herzegovina and harmonization of electoral legislation with the aim of eliminating

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<sup>21</sup> The monitoring covered 6 media in BiH (two on-line portals, two TV stations and two daily newspapers), and was organized by the Initiative "Women citizens for constitutional reform".

<sup>22</sup> The proposal of the SPD in 2004 and 2009, the proposal of the HDZ BiH from 2010, the proposal of Our Party in 2012, the SDA Program Declaration of 2009, the Platform of HNS in 2013, Resolution on starting constitutional grounds of the SNSD from 2013.

<sup>23</sup> Zornić against Bosnia and Herzegovina (Case No. 3681/06) - The European Court of Human Rights

<sup>24</sup> Sejdić and Finci v. Bosnia and Herzegovina (27996/06 and 34836/06) – European Court for Human Rights

human rights violations, will be determined by the working groups when it is formed was adopted, and all in accordance with the European Charter on Human Rights and Freedoms. Up to the date of submission of this report, the Ministry of Justice has failed to make Draft decision on the establishment of the Working Group to prepare a proposal for amendments to the BiH Constitution, which had been pending since September of 2015.

In spite of proposal to amend the Constitution of BiH, whose goal was to remove ethnic discrimination, only a handful of other proposals that have been formulated mainly by civil society organizations<sup>25</sup> and the Agency for Gender Equality were related to the issues of gender equality and the elimination of gender discrimination. The Agency for Gender Equality has produced a set of amendments to the Constitution of BiH and the Constitution of the entities which would guarantee the equality, promote equal opportunities, guarantee the right to decide on reproductive health, and implement affirmative measures. These proposals were not part of legal procedures until now.

Initiative “Women Citizens for Constitutional Changes“ is one of the few active initiatives committed to changing the Constitution from a gender perspective. In 2013 The initiative has, through the Commission for Gender Equality of the Parliamentary Assembly, sent the proposal of gender-sensitive amendments to the Constitution of BiH (use of gender-sensitive language, introduction of affirmative measures and defining gender equality as a constitutional value)<sup>26</sup> to the Council of Ministers and the House of Representatives, whose adoption would eliminate discrimination against women in the Constitution. However, until 2016 the proposed gender amendments created by the Initiative, have not been a session topic of the Parliamentary Assembly of Bosnia and Herzegovina. The fact that the proposals of the Initiative were only 'noticed' by the relevant individuals indicates the lack of will to deal with the issue of gender equality to which they pledged by the Convention and shows complete negligence of those in power towards the proposals coming from civil society organizations.

The lack of precise regulation of issues, such as the policies of equal opportunities to participate in political life, decision-making about reproductive rights and health, prescription of affirmative measures and the like at the level of the Constitution, in fact leaves open many issues concerning women's rights, which are being manipulated differently (on entity levels) at their expense.

In BiH, the lack of political will and willingness to recognize gender equality as a prerequisite for participative democracy, human and economic development, peace and stability is evident. It is essential that the Constitution reflects gender equality in its rights and duties, as well as parity democracy, which is based on the equal representation of women and men in decision-making bodies.

## **Recommendations:**

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<sup>25</sup> The proposal of the Centre for Human Rights, University of Sarajevo in 2006, the proposal of the Association of Alumni Center for Interdisciplinary Studies (ACIPS) in 2007 and 2009, the proposed amendments of Tuzla Civic Forum and Law Institute Sarajevo, and proposal from dr Goran Markovic from Law Faculty east Sarajevo, etc.

<sup>26</sup> Platform of women priorities for constitutional changes with the amendments to the BiH Constitution from a gender perspective, the document is available at: <https://gradjankezaustavnepromijene.wordpress.com/platformu-zenskih-prioriteta/>

1. **Expand the General Recommendation No. 14 so that it includes the introduction of affirmative measures in the BiH Constitution, so that it states:**

**“In the light of the constitutional review process, the Committee recommends that the State party specifically incorporate into its new Constitution a definition of equality between women and men and a prohibition of direct and indirect discrimination against women in the public and private spheres, in accordance with articles 1 and 2 and 15 of the Convention as well as to incorporate affirmative measures in the Constitution.”**

2. **Conduct dialogue on constitutional reforms solely in the institutional framework, transparently and with the participation of a wider range of actors, and develop high-quality and continuous public debate with the aim of sensitizing the public on fundamental issues of realization of gender equality in the context of the Constitution.**

## STEREOTYPES

Prepared by: Lejla Gačanica, Dragana Dardić, Jovanka Popović and Ivana Stanković

### **Concluding observation number 19:**

The Committee reiterates its concern about the persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society at large (see CEDAW/C/BIH/CO/3, para. 23). It notes that such attitudes and stereotypes constitute a significant impediment to the implementation of the Convention, as they are root causes of: (a) women's disadvantaged position in the State party in political and public life, especially in decision-making positions and elected offices, as well as in the labor market; (b) the prevalence of violence against women in the State party; and (c) gender segregation as reflected in women and girls' educational choices. In addition, the Committee regrets the serious delays in addressing the remaining gender stereotypes found in school textbooks and materials

### **Committee recommendation number 20:**

The Committee urges the State party to: (a) Remove, as a matter of priority, gender stereotypes from educational textbooks and teaching materials; (b) Disseminate the principles of non-discrimination and gender equality throughout the educational system, both formal and informal, with a view to enhancing a positive and non-stereotypical portrayal of women, by incorporating human rights and gender equality into training and educational materials and by providing training on women's rights to teaching staff; (c) Develop a comprehensive, wide-ranging strategy across all sectors, with proactive and sustained measures, targeted at women and men, girls and boys, to overcome patriarchal and gender-based stereotypical attitudes about the roles and responsibilities of women and men in the family and in society, in particular in areas where women are in the most disadvantaged position, such as public and political life and employment; (d) Intensify its cooperation with civil society and women's organizations, political parties, education professionals, the private sector and the media, and disseminate information to the general public and to specific audiences, such as decision-makers, employers, youth and disadvantaged groups of women, on women's rights in the private and public spheres.

## Introduction

A large presence of patriarchal norms in BiH society groups keeps alive those gender stereotypes whose presence is evident in almost all aspects of life of girls, young and adult women in BiH. Issues of gender equality and gender stereotypes are seriously neglected by the education system, and very often simplified and subsumed under questions from completely different areas.

Gender analysis of textbooks and curricula are rare and they are mostly signed by civil society organizations. So far, gender mechanisms and relevant ministries have not systematically addressed the question of the removal of gender stereotypes from textbooks, nor the introduction of continuous training of teachers to gender issues. These training services are usually given sporadically (and within projects) by NGOs. Another problem is the decentralized education system<sup>27</sup> resulting in unequal educational policy and the existence of a large number of private primary and secondary schools that are largely autonomous and are not subject to regular inspection, monitoring and analysis<sup>28</sup>. The most important points of resistance in the elimination of gender stereotypes in education are: unadjusted curricula, textbooks full of gender stereotypes, lack of education of the teaching staff about issues of gender equality and elimination of stereotypes in the context, and unadjusted subject of civic education and classroom meetings.

When it comes to the media, there are no organized, planned media campaigns to promote women as equal members of society and they are still commonly displayed in "traditional" roles of housewives mothers, victims. The dissemination of knowledge and better understanding of the concept of equality between men and women at all levels of society is absent in both cases.

## Gender stereotypes in education

The issue of gender stereotypes and roles that are traditionally attributed to women and men in BiH society are not the subject of interest of neither education experts nor the official strategies and policies in the field of education. Strategic documents in BiH education system in are not concerned with gender equality. The strategic directions of development of education

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<sup>27</sup> Education in BiH is the responsibility of the entities, cantons and Brčko District. In BiH there are three curricula - Curriculum of Republika Srpska, a Framework of Curriculum of Federation of Bosnia and Herzegovina and curriculum for the teaching of the Croatian language. See Ibrahimovic, Namir, Primary and Secondary Education in BiH (current status and recommendations for reform), the Initiative for Monitoring European Integration BiH, 2015, available at: [http://eu-monitoring.ba/site/wp-content/uploads/2015/06/obrazovanje\\_lzvjestaj\\_Namir\\_Ibrahimovic.pdf](http://eu-monitoring.ba/site/wp-content/uploads/2015/06/obrazovanje_lzvjestaj_Namir_Ibrahimovic.pdf)

<sup>28</sup> The analysis "Private schools in BiH" from December 2015 states that the relevant ministries were not informed about the number of private schools and do not follow their work (the currently known number is 11 elementary schools, 36 private schools and 15 public schools in private property), that pedagogical monitoring and assessment of educational standards or are either not performed or not available to the public, and that educational policy and motives of the founders (and sources of funding) are not subject to control.):[http://skolegijum.ba/static/biblioteka/567c138f02c25\\_privatneskoleubosniihercegovini.pdf](http://skolegijum.ba/static/biblioteka/567c138f02c25_privatneskoleubosniihercegovini.pdf))

in Bosnia and Herzegovina with the implementation plan for the period 2008 - 2015 did not problematize gender stereotypes nor deal with the issue of gender equality<sup>29</sup>. The same is the case of the Strategic Platform of Adult Education in BiH for the period 2014 - 2020, where women are only statistics in unemployment tables<sup>30</sup>. In 2016, Republika Srpska adopted a new Strategy for the Development of Education RS for the period 2016 - 2021, in which there is nothing written about learning about gender equality and the elimination of gender stereotypes from textbooks<sup>31</sup>. The issue of education is directly connected with the future occupation. Ratifying various international treaties on human rights, BiH has committed to implementing programs of counseling boys and girls about career choice and to encouraging young women to choose non-traditional fields of study and professions. However, the key strategic documents in the field of education which relate directly to the selection of future profession and career, never mention gender or gender determination<sup>32</sup>, or only do so sporadically, without problematizing gender stereotypes as the determinants of the future occupations of girls and women in BiH society. According to official data, the differences in gender representation are the highest in vocational schools, where there is about 70% of men, while in other types of secondary schools the majority are girls<sup>33</sup>. Women often opt for the field of education that will enable them to find employment that is considered acceptable for women<sup>34</sup>. Within the Qualification framework, occupations are still listed only in the masculine gender<sup>35</sup>.

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<sup>29</sup> Official gazette of BiH issue 63/08

<sup>30</sup> See: *Decision on adoption of strategic platform of development of adult education in the context of lifelong learning in Bosnia and Herzegovina for the period 2014 - 2020*: <http://www.sluzbenilist.ba/page/akt/TgoI9GmxLiY=>

<sup>31</sup> The part of the Strategy which refers to the quality standards of textbooks it is stated that it has not been sufficiently invested in innovation and improving the quality of textbooks, but it does not mention the need to innovate and revised textbook facilities, many of which are gender-stereotyped. <http://www.atvbl.com/wp-content/uploads/2016/03/Prijedlog-strategije-razvoja-obrazovanja-RS-2016-2021-1.pdf>

<sup>32</sup> The document "Strategic Directions of Development of career guidance in the Federation of BiH" for the period 2015-2020, states that the services of career guidance should be implemented without discrimination against users on the basis of gender, age, etc., while the principles and standards of adult education in Bosnia and Herzegovina in 2014 point out in only one place that "adults have the right to equal opportunities and conditions for access, participation and gaining an education, regardless of age, sex, (...) and other essentials "(see: <https://ec.europa.eu/epale/hr/resource-centre/content/principles-and-standards-in-a-field-education-adult-in-bosnia-and-herzegovina>). The strategy of entrepreneurial learning in education systems in BiH for the period 2012-2015 with the Action Plan for implementing gender and gender determination are mentioned in two places: "The most important thing is that each local community creates conditions for their residents (regardless of their age, level and type of education, ethnicity or gender) and provides them with advice and support in establishing their own enterprises and access to business support services." "It is extremely important that every local community creates conditions for its citizens, regardless of age, level and type of education, ethnic or gender determination, and that they should be able to, upon request, have a chance to be trained to acquire basic knowledge and skills that can provide them with answers to the question "How to start your own business?"

<sup>33</sup> *Women and men in BiH 2016.*, [http://www.bhas.ba/tematskibilteni/TB\\_zene\\_i\\_muskarci\\_bh\\_2015\\_eng.pdf](http://www.bhas.ba/tematskibilteni/TB_zene_i_muskarci_bh_2015_eng.pdf)

<sup>34</sup> Bosnia and Herzegovina: Gender differences in the exploitation of the rights and opportunities offered by the company, access to economic opportunities and representation", the World Bank, the Agency for Statistics of Bosnia and Herzegovina, Institute for Statistics of FBiH and the Republic Institute for Statistics of the Republic of Serbian, 2015, available at <http://arsbih.gov.ba/wp-content/uploads/2016/03/WB-Rodne-razlike-u-iskoris%CC%8Ctavanju-prava.pdf>

<sup>35</sup> For example: upholsterer, cook, waiter, welder, etc. See

[http://www.vetbih.org/portal/index.php?option=com\\_content&view=article&id=63&Itemid=132&lang=sr](http://www.vetbih.org/portal/index.php?option=com_content&view=article&id=63&Itemid=132&lang=sr)

So far, comprehensive and systematic review and analysis of existing curricula<sup>36</sup> ((with reference to the gender stereotypes) have not been made, nor has the new curricula and methodologies that will be exempt from gender stereotypes been proposed and / or adopted. Existing plans and programs do not contain, or contain only sporadically, content that explicitly talk about gender equality<sup>37</sup>.

The curriculum of Republika Srpska in primary education (2014) is gender insensitive - gender roles and stereotypes are mentioned only two times.<sup>38</sup>

The situation is similar in the Federation of BiH. After completing nine years of schooling, pupils are expected to know where the Apennine Peninsula is and what are its geographical features, to be able to understand the structure of the cell, to be able to understand the fission and fusion, but they are not expected to be able to recognize and appoint gender stereotypes and roles!<sup>39</sup>

According to data collected by the pedagogical institutes<sup>40</sup> in BiH, none of them proposed changes to the curricula from a gender perspective. In the common core of the curricula for Civil Education defined upon terms of learning outcomes<sup>41</sup> of 2015, it is only mentioned briefly "to avoid gender stereotypes", and sexual / gender affiliation only as one of the factors of "cultural identity".

In August 2016 the Ministry of Education, Science and Youth of Canton Sarajevo issued a revised curricula for high schools by subjects, but in them there is no mention of gender roles and stereotypes<sup>42</sup>. Only Sociology for 4th grade of non-vocational high school envisions the field of "Sexuality and Society" which is concerned with the concept of gender, the change the relationship between the sexes, men and women now and then, etc., while in the subject Culture of Religions the study of the culture of equality and partnership between men and women is mentioned once.

In addition to the curricula, textbooks are another key factor in promoting stereotypes in education. So far, a complete analysis of the textbooks in use in BiH has not been done. Textbooks in BiH remain "a safe haven for patriarchy" and according to everything „they reflect

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<sup>36</sup> In BiH there are three curricula - for primary schools in Republika Srpska, the Framework of the curriculum of Federation BiH and curriculum for the teaching of the Croatian language.

<sup>37</sup> *Curricula, textbooks and gender stereotypes, Women's Forum of the Social Democratic Party of Bosnia and Herzegovina, March 2016*

<sup>38</sup> Within this 789 pages long document, gender roles and stereotypes are mentioned in: Biology for the 9th grade, under the topic "Reproductive health" and in the subject Education and behavior in classroom for the 7th grade under the topics "Prevention of violence" where it is not specified whether it is about violence against girls and women, or peer violence, or any other form of violence. See: [http://www.rpz-rs.org/sajt/doc/file/web\\_portal/05/5.2/Nastavni%20plan%20i%20program%20za%20osnovnu%20skolu.pdf](http://www.rpz-rs.org/sajt/doc/file/web_portal/05/5.2/Nastavni%20plan%20i%20program%20za%20osnovnu%20skolu.pdf)

<sup>39</sup> [http://www.sobih.ba/siteoo/images/stories/galerije/Zakonska\\_akta/okvini%20npp.pdf](http://www.sobih.ba/siteoo/images/stories/galerije/Zakonska_akta/okvini%20npp.pdf)

The sector for textbook policy of the Federal Ministry of Education and Science told us that this Framework of curriculum for nine years primary schools in FBiH still valid, but also that each canton brings their own curricula.

<sup>40</sup> Data were collected from five cantonal institutes and the Republic Institute of RS (owned by the authors).

<sup>41</sup> Prepared by the Agency for preschool, primary and secondary education

<sup>42</sup> In the revised curricula for subjects Philosophy, Sport, Psychology, Civil Education, Democracy and Human Rights, Biology (mentions only sexual disease, sexual maturation and relations between the sexes), Bosnian, Croatian and Serbian Language and Literature no letters gender roles. See: <http://mon.ks.gov.ba/aktuelno/novosti/revidirani-nastavni-programi-za-gimnazije>

patriarchal hetero-normative reality in which girls and boys live „<sup>43</sup>. In the illustrations in textbooks boys play with the ball, run, ride a scooter, go to school, build a house, mow the grass, drive a car, while the girls teach children, knit socks, knead bread, weave a carpet, picking flowers, wear a bow in her hair, go to the market.<sup>44</sup>

One recent analysis of textbooks on stereotypes, which was conducted in high schools in the Canton of Sarajevo in 2016,<sup>45</sup> corroborates that women and girls are stereotyped and are appear numerically underrepresented. The photographs of the 5 analyzed textbooks identified 290 photos which show men and 27 pictures of women. The analysis also indicates that the spectrum of occupations in which women are included is significantly narrow that household activities appear as exclusively female jobs, and that the sacred “father-mother-child” family dominates textbooks, while completely ignoring the fact that many women now raise their children themselves.

An important link in the elimination of gender stereotypes is the teaching staff that should be sensitized, educated and ready to work on critical questioning and expanding of the understanding of unfounded stereotypes in pupils in the classroom. Data from the pedagogical Institutes talk about education in the field of gender equality in one canton only<sup>46</sup>, while other cantons (as well as RS) or do not keep records or lack trained staff to do so.

As a preparation of this subject a research on the topic of stereotypes in education was carried out in 37 primary and secondary schools in BiH<sup>47</sup>. The aim was to obtain data on the presence of learning about stereotypes and gender equality, as well as learn more about the cooperation between educational institutions and the NGO sector. From a total of 10 schools who had responded to the survey, only 3 schools are working on these questions<sup>48</sup>.

Civil society organizations that we interviewed for the purpose of writing this report<sup>49</sup>, have identified “taught roles” as something that children bring to school that usually continues, if not support, questioning the same roles, well as the problem of “lack of interest of teachers” in the process of learning about gender stereotypes.

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<sup>43</sup> „*School textbook as a safe shelter of patriarchy* “ on: <http://www.voxfeminae.net/cunerview/politika-drustvo/item/8807-skolski-udzbenik-kao-sigurno-utociste-patrijarhata>

<sup>44</sup> The author Lamija Begagić analyzed Bosnian language and literature textbooks, as well as My environment for classroom instruction (I - IV / V grade). In an analysis titled *Wife, mother, teacher*, Begagić further states that the world that we depict in textbooks is "the world seen through the eyes of a boy," and that gender sensitive and correct language is used carelessly and imprecise. See: <http://www.skolegijum.ba/tekst/index/271>

<sup>45</sup> Seven textbooks were analyzed - Readers from 1st to 4th grade and textbooks in History, Philosophy and Sociology, which are used in high schools in the Canton of Sarajevo in accordance with the current curricula. Analysis of the representation of stereotypes in textbooks for the school year 2015/2016 for CURE Foundation was conducted by M.Sc. Saša Knežević. For the purpose of writing this part of the report, the results of this analysis were submitted by the CURE Foundation.

<sup>46</sup> Pedagogical Institute of the Una-Sana Canton: 23 teachers, 20 women and 3 men, passed training in the field of gender equality.

<sup>47</sup> The poll No 01/16, conducted from April until May 2016 (samples are the courtesy of the authors)).

<sup>48</sup> The International High and Elementary Schools in Sarajevo tackles the issue of gender stereotypes up to five times in semester in cooperation with TPO Foundation, as well as within 16 days of activism against gender-based violence, while the Secondary Technical School "Hasib Hadžović" from Goražde problematizes questions of gender equality with their staff and students more than 10 times during the semester.

<sup>49</sup> The survey No 02/16, which was conducted in April 2016, was answered by 16 civil society organizations in BiH (copies are the courtesy of the authors).

Carriers and implementers of educational programs in the field of gender equality remain NGOs that organize various activities in schools (workshops for pupils, parents, teaching staff<sup>50</sup>, lectures<sup>51</sup>, researches<sup>52</sup>, peer educations<sup>53</sup>, cooperation development projects<sup>54</sup>, publications). This field remains in the sphere of non-formal education within the education system, and thus unavailable (to a different extent) throughout the territory of the entire country.

### **Gender stereotypes in the media**

In addition to the system of education, the media play a crucial role in informing and raising public awareness about the harmful effects of gender stereotypes in society. Content devoted to gender equality, successful women and women's rights in BiH media is supported mainly by donations from foreign organizations, and is not the product of an organized editorial policy<sup>55</sup>. What is missing in the media is guaranteed continuous monitoring and effects and the application of the provisions on sex / gender equality.

Despite trainings for journalists on the topics of gender equality and upgrading of the relevant laws about the activities of the media in BiH in the field of gender equality<sup>56</sup>, stereotypical portrayal of men and women in the media is still present and women are still significantly under-represented in the news related to politics<sup>57</sup>, economy and the reform process. National

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<sup>50</sup> Women to Women (2014) - more than 90 workshops in Sarajevo, East Sarajevo, Foca, Gorazde; CURE (2014 and 2015) - through projects Gender-based violence (22 workshops with 8 different grades of secondary schools, collaboration with secondary school teachers and pedagogues) and Gender and sex through the educational system (12 workshops with 227 secondary school students in Sarajevo); Local Democracy Foundation - through the project Wishlist - prevention of violence among and against young people (13 workshops in Sarajevo); Association "Strength of a Woman" - a set of workshops: Sexually transmitted diseases and sexual health, Antitrafficking- prevention of trafficking, on the significance of life values in human relationships; TPO Foundation - more than 1,500 young people and children from the Canton of Sarajevo, Tuzla, Herzegovina-Neretva and Zenica-Doboj Canton and some cities in Republika Srpska participated in workshops; Foundation "United Women" (since 2014) - project Preventive activities against gender-based violence in schools (11 elementary schools in Banja Luka and Gradiska); Association of women "Derventa" with the project Prevention of gender-based violence against girls in primary schools in Derventa, Prnjavor, Brod, Liješće, Podnovlje and Rudanci, Kotor and G. Smrtići; Organization Women's voice - 24 workshops in primary schools (2014 and 2015)

<sup>51</sup> Women's center of Trebinje (lectures on the topic of sexual violence, bullying, domestic violence, violence via social networks and peer violence in Eastern Herzegovina); Women's Association "Derventa" (There is no difference between us)

<sup>52</sup> Organization Women's Voice (on violence in relationships among young people, Bihać, 2015)

<sup>53</sup> The Institute for Youth Development "KULT", Foundation "United Women"

<sup>54</sup> TPO Foundation - co-operation and partnership with more than 200 high schools in the Canton of Sarajevo, Tuzla and Zenica-Doboj, Herzegovina-Neretva Canton and Central Bosnia Canton, with more than 10 local and international universities, with more than 20 local non-governmental organizations and municipalities

<sup>55</sup> Balkan Media Barometer Bosnia and Herzegovina 2014

<sup>56</sup> Recommendations of "treating gender issues and usage of gender sensitive language in media in Bosnia and Herzegovina"

The Press Council, 08/24/2006, Code of Press and Online Media in BiH (available at:

[http://www.vzs.ba/index.php?option=com\\_content&view=article&id=218&Itemid=9](http://www.vzs.ba/index.php?option=com_content&view=article&id=218&Itemid=9))

<sup>57</sup> The analysis of reports by the printed media on female candidates at the General Elections in BiH in 2014 conducted by the Association INFOHOUSE shows that female candidates did not occupy an important place in the media coverage on election campaigns. Printed media have only written about 5.37% of women who have applied for the general elections in 2014. See: [http://soc.ba/site/wp-content/uploads/2015/04/Godisnji\\_HRP-7\\_FINAL\\_10.04.2015\\_za-print.pdf](http://soc.ba/site/wp-content/uploads/2015/04/Godisnji_HRP-7_FINAL_10.04.2015_za-print.pdf)

Even the local elections in BiH, held in October 2016, did not pass without the stereotypical portrayal of women candidates. Informative Portal of the city of Bijeljina organized a campaign called "Who is the most beautiful candidate for councilors in

Report for Bosnia and Herzegovina under the Global Media Monitoring Project <sup>58</sup> demonstrates that the participation of women in the news (newspapers, radio, television and on-line media) in 2015 amounted to 15.6%, which is a significant drop compared to 2010, when women made up 23% of the people that we read or heard about in the news.

Media monitoring, conducted in September 2016 showed that gender equality and women's human rights are not the subject of media content. In fact, from 5908 monitored media items and texts only 0.5% of them are engaged in these issues. <sup>59</sup>.

Regulatory Agency for Communications, which is in charge of monitoring the work of electronic media in BiH, does not have information about national campaigns for the promotion of gender equality and suppression of stereotypes, nor do they have recorded reports of discrimination on the basis of sex in the media in BiH in the period 2010 - 2016.

Women in the media are still more likely to be identify in relation to their family status (as being somebody's wife) than men, while the reporting on female victims of gender-based violence is printed in black chronicles sections, often with sensationalist headlines <sup>60</sup>. The presence of women in the media depends entirely on how many women are active in public, especially political life, while gender-sensitive language in the media is still not a professional standard <sup>61</sup>.

## Recommendations

1. Introduce mandatory gender sensitive education / teaching in the curricula at all levels of education, with particular focus on establishing a unified textbook policy based on gender and gender equality.
2. Develop unique indicators for evaluating teaching materials, especially textbooks from a gender perspective and ensure their continuous monitoring and analysis, and in the most recent period execute a comprehensive analysis of approved textbooks from the point of gender stereotypes.
3. Provide and encourage the training of educators and teaching staff in the direction of promoting gender equality in the education system, including cooperation with civil society organizations, parents and the media.
4. Provide mechanisms for the consistent application of laws on equal representation of women and men in the media and identify practical measures to promote positive and non-stereotypical image of women and men in the media, including the education of journalists, as well as systematic monitoring of the media in this area and a campaign to promote gender equality.

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Bijeljina"reducing the participation of women in politics to the question of beauty, rather than expertise and competence.

(<http://www.gradbijeljina.net/2016/09/09/koja-je-najljepša-kandidatkinja-za-odbornika-skupštine-grada-bijeljina-2/>)

<sup>58</sup> [http://cdn.agilitycms.com/who-makes-the-news/Imported/reports\\_2015/national/Bosnia-Herzegovina.pdf](http://cdn.agilitycms.com/who-makes-the-news/Imported/reports_2015/national/Bosnia-Herzegovina.pdf)

<sup>59</sup> The monitoring covered 6 media in BiH (two on-line portals, two TV stations and two daily newspapers), and was organized by the Initiative "Women citizens for constitutional reform". It lasted from 1<sup>st</sup> to 30<sup>th</sup> of September 2016

<sup>60</sup> See: *Reporting on marginalized and vulnerable groups in Bosnia and Herzegovina: Analysis of media content* (2013) on [http://hcabl.org/wp-content/uploads/2014/01/analiza-medijskih-sadržaja\\_2013.pdf](http://hcabl.org/wp-content/uploads/2014/01/analiza-medijskih-sadržaja_2013.pdf)

<sup>61</sup> *Balkan Media Barometer BiH in 2014 and Reporting on marginalized and vulnerable groups in Bosnia and Herzegovina: Analysis of media content, the Helsinki Citizens Assembly Banja Luka, 2013.*

## **VIOLENCE AGAINST WOMEN**

Prepared by: Aleksandra Petrić

### **Concluding observation number 21:**

While welcoming the State party's increased efforts to combat domestic violence, the Committee reiterates its serious concern about the high prevalence of domestic violence and the lack of monitoring and accountability mechanisms regarding the implementation of existing strategies, at both the State and entity levels; insufficient data collection to assess the phenomenon of domestic violence; and insufficient support services dependent on non-governmental organizations and foreign funding. The Committee is also concerned about the inconsistent application of the laws regulating domestic violence by the courts of both entities, which undermines women's trust in the judicial system despite the comprehensive legislative framework in place; the underreporting of domestic violence; the limited number of protective measures issued; and the lenient sentencing policy, including a large percentage of suspended sentences. In addition, the Committee regrets the absence of information regarding Brčko District and the insufficient information on other forms of violence against women in the State party.

### **Committee recommendation number 22:**

The Committee recommends that the State party: (a) Establish effective institutional mechanisms to coordinate, monitor and assess the effectiveness of the impact of the strategies developed and measures taken with a view to ensuring the consistent application of the laws at all levels; (b) Encourage women to report incidents of domestic violence by de-stigmatizing victims and raising awareness about the criminal nature of such acts, and intensify its efforts to ensure that all reported cases of domestic and sexual violence against women and girls are effectively investigated and that perpetrators are prosecuted and sentenced commensurate with the gravity of the crime; (c) Collect statistical data on domestic violence, including femicide, disaggregated by sex, age and relationship between victim and perpetrator, and undertake research on the extent of all forms of violence against women and its root causes; (d) Provide mandatory training for judges, lawyers and law enforcement officers on the uniform application of the existing legal framework, including on the definition of domestic violence and on gender stereotypes; (e) Provide adequate assistance, protection and rehabilitation to women victims of all forms of violence, including by strengthening the capacity of existing shelters and by enhancing cooperation with and funding for non-governmental organizations providing shelter and rehabilitation to victims.

## **Introduction**

Violence against women remains and survives in Bosnia and Herzegovina as a widespread violation of human rights, without significant progress towards recognition of different forms of violence which women of all ages are exposed on a daily basis and throughout their lifetime. Despite the commitment to the implementation of international standards through the ratification of key international conventions, existing regulations and public policies in BiH do not recognize violence against women as a specific form of gender-based violence, but instead use the gender-neutral definitions, which significantly contributes to minimizing the degree of social danger of different forms of violence to which women are being exposed in the private and public spheres of life.

Governmental institutions in BiH did not provide mechanisms for continuous, accessible and sensitized informing on rights and available support and assistance to women exposed to

violence and implementation of the permanent campaign to inform the public about the causes, consequences and legal i.e. punitive measures against the perpetrators of violence in order to raise public awareness and general prevention. Women subjected to violence still do not enjoy ensured unhindered access to the systematic, efficient and sensible support and assistance and are faced with various forms of prejudice and discrimination, both in their immediate environment, as well as from professionals who work in institutions whose responsibilities and authorities are in this regard directly governed by the laws and by-laws.

Bosnia and Herzegovina has failed to ensure the continued and effective coordination and cooperation between government institutions at all levels in the context of preventing and combating violence against women, as well as to harmonize laws and entity public policies in this area, which leads directly to the inability to ensure the equal status and protection of rights of women who survived violence and their access to justice. Safe houses run by NGOs have neither the same legal status in both entities, nor a secured system support, which directly threatens the existing limited services to help women in the period of acute violence. In the Brčko District, as a special administrative unit of Bosnia and Herzegovina, the institutional mechanisms for gender equality have been established, but their active work towards preventing and combating violence against women requires a stronger system of support through capacity building of professionals, gender responsive budgeting and synergy with NGOs.

The activities of governmental institutions at all levels, in particular entity, state and Brčko District level indicates slow progress towards meeting international standards and obligations that BiH obliged to respect, including *the Council of Europe Convention on preventing and combating violence against women and domestic violence*<sup>62</sup>, as well as mutual cooperation, coordination and partnership activities with non-governmental organizations, which is visible through the absence of measurable and sustainable progress indicators in the area of preventing and combating violence against women.

### **Violence against women is directly related to the lack of access to justice and lack of trust in the system of protection**

Data of governmental institutions and non-governmental organizations indicate that violence in families and partner relationships in BiH still represents the most widespread form of violence, which predominantly affects women and girls<sup>63</sup>. Reports of governmental institutions indicate

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<sup>62</sup> Bosnia and Herzegovina has ratified the Convention on November 7 2013 (Official Gazette no. 15/13) and obliged to undertaking a series of legislative and other measures towards the prevention of violence against women, support and assistance to women survivors of violence, and punishment of the perpetrators of violence.

<sup>63</sup>According to the data of Cantonal Ministry of Internal Affairs in FBiH, on the Article 222 of FBiH Criminal Code, there were 1,459 cases and 992 reports submitted on the crime of domestic violence in 2014, in contrast to 2013, during which 1,699 cases were registered, and 916 reports submitted on the crime of domestic violence. In 2015 the six safe houses in the Federation, run by NGOs Local Democracy Foundation Sarajevo, Medica Zenica, Vive Women Tuzla, Women from Una Bihać, BiH Woman Mostar and Caritas Mostar, sheltered 264, and in 2014 373 women and children who survived violence, while the SOS line 1265 lead by the above organization (with the exception of the Caritas Mostar,) and the Center for Social Work Jajce in 2015 recorded 914 and in 2014, 1103 calls Source: Gender Center of the Federation of Bosnia and Herzegovina, available on the direct link: <http://goo.gl/YHtprS> (last access 07/19/2016) According to the data of the Ministry of Internal Affairs of the Republika Srpska, 1,089 cases were registered in 2015 and 353 reports were submitted to the relevant Prosecutor's Office,

that the decline in the number of recorded and prosecuted cases is being seen as reduction of violence<sup>64</sup>, which does not indicate the actual situation, and ignores the fact that a large number of women and girls who daily experience some form of domestic violence throughout the country do not report it to the police and centers for social work, or other institutions that are considered primary protection actors.<sup>65</sup> The fact that the murder of women<sup>66</sup> and other forms of gender-based violence against women<sup>67</sup> are not being systematically and continuously monitored and recorded by the government institutions in BiH is worrying. This results in a lack of focus on the actual situation and planning of adequate measures to prevent and combat these forms of violence. Although there is some progress in the direction of the systematical monitoring of domestic violence in both entities by government institutions<sup>68</sup>, due to the differences in the legal treatment of domestic violence (in the Federation of Bosnia and Herzegovina it is a criminal offense, in the Republika Srpska, a felony and misdemeanor), fragmented administrative and political management as well as the unclear division of responsibilities towards preventing and combating violence against women and domestic violence between state and entity, there is no agreed methodology for the collection and processing of data which would enable a comprehensive and continuous analysis and planning of systematical measures based on actual needs.

Governmental institutions of Brčko District have taken the initiative of making a special law on protection against domestic violence<sup>69</sup>, in order to ensure systematic solution. Data collected

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while in 2014 1,236 cases were registered, and 525 reports were submitted to the relevant Prosecutor's Office. In 2014, SOS line for victims of violence 1264 in the Republic of Serbian, led by the Foundation Lara Bijeljina, NGO Future Modriča, and Foundation United Women Banja Luka in 2014 received 3,879 calls for help. Source: Ministry of Family, Youth and Sport of the Republika Srpska, available at: <http://goo.gl/y7GDOB> (last access 07/19/2016)

<sup>64</sup> See the report on the implementation of the Gender Action Plan for Bosnia and Herzegovina for 2014, made by the Agency for Gender Equality of BiH, December 2015, available on the direct link: <http://goo.gl/j25wkM> (last access 06/15/2016)

<sup>65</sup> The study "Prevalence and characteristics of violence against women in BiH" conducted by the Gender Equality Agency of Bosnia and Herzegovina in 2013 indicates that only 5.5% of women exposed to violence had actually sought the help of some of the institutions. Available on the website of the Agency for Gender Equality of BiH, a direct link: <http://goo.gl/9MhMRF> (last access 06/17/2016)

<sup>66</sup> Foundation United Women Banja Luka has carried out continuous monitoring of media reports on killings of women in Bosnia and Herzegovina during 2015, during which they recorded 14 cases, while in the first six months of 2016, they recorded seven cases of murders of women.

<sup>67</sup> These offenses also include serious bodily injuries, rape, sexual violence as a war crime, sexual violence against children, sexual intercourse with a helpless person, threat to the security, human trafficking, forced prostitution, crimes of hate, minors trafficking and the like, where women and girls are the injured party, and which are regulated by the criminal laws of the Republika Srpska, the Federation of BiH, Brčko District, and partly by the Criminal Code of Bosnia and Herzegovina.

<sup>68</sup> In the period 2013/2014, the Ministry of Family, Youth and Sport of the Republika Srpska has adopted Regulations on the content of the records and reports on domestic violence, which stipulates the obligation of the subjects of protection defined by the Law on Protection from Domestic Violence of RS to continually collect administrative data on domestic violence and to submit them to the ministry twice a year on the prescribed forms. Gender Centre of the Federal Government, in collaboration with the Expert Team for the preparation and monitoring of the implementation of the Strategy for Prevention and Combating Domestic Violence of FBiH, police stations, centers for social work and non-governmental organizations that were selected for the pilot project, established an electronic database on reporting cases of domestic violence to the police, monitoring of protective measures by the social work centers, accommodation for women survivors of violence in shelters run by NGOs in the Federation, as well as emergency calls for 1265.

<sup>69</sup> The law is currently in a preliminary draft form, which was created by the Working Group coordinated by the Department of Health, of Brčko District Government, and was sent for the assessment of the Commission for Gender Equality of the Assembly of Brčko District. Presentation of "The process of drafting the Law on Protection from Domestic Violence in the Brčko District", Delfa Dejanović, advisor to the mayor in the Mayor's Office of Brčko District Bosnia and Herzegovina at the workshop "The priorities for action under the Program Platforms for cooperation of women MPs in the Parliamentary Assembly and the Assembly of Brčko District and women active in NGOs for the period 2016 - 2018 "10th-12th June 2016.

by NGOs indicate the lack of a unified approach to data collection, as well as providing institutional support and assistance to women survivors of violence.<sup>70</sup>

Analyses carried out by non-governmental organizations indicate that BiH legislation does not oblige informing women who are victims of violence on the available forms of support and assistance, or specifies system institutions that are obliged to provide this information. Support for victims of sexual violence is not provided because in BiH there are no emergency centers for victims of rape or other forms of sexual violence. The analyzes also indicate that criminal legislation in BiH (state, entities, Brčko District) does not criminalize acts of persecution, forced marriage and female genital mutilation, which is contrary to international standards and commitments.<sup>71</sup>

The practice of judicial institutions in BiH indicates a lack of access to protection of the rights of women and girls who are victims of violence, as well as inadequate punishment of perpetrators of violence. Local non-governmental organizations monitoring the criminal proceedings in the field of gender-based violence<sup>72</sup> report that despite the fact that the entity laws on protection against domestic violence prescribe mandatory urgent action, processes for crimes of domestic violence last up to four months on average, which does not provide protection of constant repetition of violence and does not eliminate further harmful consequences to women survivors of violence. There are also cases of sexual violence against women and girls committed several years until the time of confirmation of the indictment, even though there were no objective reasons for delaying the process, because the investigation was conducted immediately after the commission of the offense, the statements of the accused and the victim have been taken and a number of physical evidence was collected, which is very worrying. Also cases of unjustified numerous case adjourning have been monitored, as well as frequent changes of prosecuting officers, advising minor girls to testify without the presence of

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<sup>70</sup> Association of active women Gender Brčko District continuously collects information from local institutions (police, prosecution, court, centers for social work, Center for Mental Health). According to available data, the police of Brčko District was reported with 14 cases in 2013 and by September 2014, with 10 cases of domestic violence, where women and girls were identified as victims. The Prosecutor's Office of Brčko District in 2013 raised 13 indictments, in 2014 9 indictment, in 2015 8 indictments for criminal offense of domestic violence, and in 2013 one indictment for the crime of rape. Basic Court of Brčko District passed 5 verdicts in 2013, in 2014 10 verdicts, and in 2015 10 verdicts on domestic violence. Of the total number of verdicts, 29% were \_ conditional sentence, one acquitting verdict and one suspended process, while the rest of the sentences were imprisonment verdicts, ranging from one month to one year. Data of Center for Mental Health of Brčko District indicate that 319 families, were identified in 2013, in 2014 183 families and in 2015 310 families, cases of violent behavior and with whom professionals worked in the field of psychological and psychotherapeutic support and assistance. According to the Center for Social Work in Brčko District, 53 cases were recorded in 2013, and by the beginning of November 2014, 32 cases of domestic violence. In 2011, the center has located one mother with a child of one year and a girl of 17 years in a safe house (in Bijeljina and Modriča), and paid the costs of accommodation from budget funds. From that time, until mid-November 2014, no woman, child, or a girl was placed in a safe house. In a letter delivered in mid-November 2014, the Center says that it does not keep separate records on the frequency of reporting violence, and that the counseling work with victims and perpetrators in violence is being carried out in the ordinary procedure, the rules of the profession, in accordance with the needs of the individual case and to the extent that individual situation demands.

<sup>71</sup> For more details see Petrić Natalija, Galić Nenad "Baseline Study: Analysis of the harmonization of legislation and public policies with the Council of Europe Convention on preventing and combating violence against women and domestic violence," second revised edition, Banja Luka, November 2015, the Foundation United Women Banja Port. Available on direct link: <http://goo.gl/PhM8Nt> (last access 05/22/2016)

<sup>72</sup> Dženana Radončić, Aleksandra Petrić "The report and analysis of monitoring of criminal proceedings in the field of gender-based violence," Center of Legal Assistance for Women Zenica and Foundation United Women Banja Luka, 2014, available at direct link: <http://goo.gl/KFGlxz> (last access 07/03/2016)

professionals required by law to assist in testimony, failures of prosecuting officers in proper assessment of crimes which are presupposed to be punished more strictly, lack of protective and security measures for the injured party<sup>73</sup>, lack of legal and psychological support during testimony for women who experienced violence, as well as advising the injured party to legally claim compensation in court proceedings. Formal and poor introduction on the possibility of claims for indemnification for women and girls who have suffered violence results in a zero rate of compensation claims in criminal proceedings.<sup>74</sup> Penal policy in the field of gender-based violence in Bosnia and Herzegovina continues to be extremely mild, although the prescribed punishment for these offenses was recently tightened.<sup>75</sup> The courts typically impose a conditional sentences and fines to perpetrators of gender-based violence, particularly domestic violence, and the prison sentences of shorter term are rare even in cases of repeating the same act. The common practice of the judges, who consider family ties and the obligation to support and care for minor children as mitigating circumstances in crimes like domestic violence, is disturbing, although the crimes have been committed against family members, which points out the lack of sensibility of the judges and the view on the violence on women as socially less dangerous.

Women victims of violence do not enjoy equal access to free legal assistance as a law to harmonize the criteria for the exercise of the right to legal assistance is still not adopted. The current mismatch<sup>76</sup> between the existing regulations which regulate this area also contributes to this situation as well as the lack of uniformity in the standardization of services, especially in the scope of services<sup>77</sup>. The big problem is the fact that not all laws recognize women victims of domestic violence as beneficiaries of the free legal assistance. Free legal assistance is provided to women victims of domestic violence also in the framework of the activities of non-governmental organizations, with a gender-sensitive approach and depending on the actual needs of women, typically with the support of international donors and without the support of these services through public budgets. In the criminal acts of domestic violence, lower formal observance of the Code of Criminal Procedure is noticeable, often inappropriately, without respect between the court and the parties, without mutual listening, which gives the impression of confusion and risk of non-recording important data.<sup>78</sup> Certain courts in FBiH

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<sup>73</sup> Data collected during 2016, through the monitoring of criminal proceedings in the FBiH (Zenica-Doboj Canton) shows low number of protective measures, and the reason is insufficient resources for its effective implementation (human and financial). Protective measures are not imposed with respect to children, only in relation to a woman, even though the children victimized by the criminal offense of domestic violence.

<sup>74</sup> This conclusion follows the collected data in the area of the central Bosnia and Herzegovina-Neretva Canton, while the Zenica-Doboj Canton recorded a single case of claims for indemnification in criminal proceedings

<sup>75</sup> For example, the Law on Amendments to the Criminal Code of the Republika Srpska (Official gazette. number 67/13) has tightened the criminal penalties for crimes against sexual integrity and crimes against marriage and family.

<sup>76</sup> For example, the Law on Amendments to the Criminal Code of RS (Official Gazette number 67/13) toughens criminal penalties for crimes against sexual integrity and crimes against marriage and family. According to the Criminal Code of FBiH (Official Gazette No. 36/03, 37/03, 21/04, 69/04, 18/05, 42/10, 42/11, 59/14, 76/14, 46/16) for some of the same criminal acts sanctions are still milder than in the RS.

<sup>77</sup> More details on "Analysis of compliance of existing service standards provided to the victims of domestic violence in FBiH and RS with the Istanbul Convention", Sarajevo, September 2015, Local Democracy Foundation Sarajevo

<sup>78</sup> Thus, in one case, on the occasion of the crime of domestic violence (Zenica-Doboj Canton), the judge asked the accused: "You want a conditional sentence?", without serious consideration of the aggravating circumstances of the case and without taking into account the objectives of special and general prevention

record a delay in the conduct of criminal proceedings due to illness of judges, which indicates a serious problem of insufficient judicial staff.<sup>79</sup>

### **Safe houses in BiH without continuous systematic support**

Safe houses are an important segment of support through the provision of free and sensitized psychological, legal, and medical aid to women and children who are survivors of violence. There is no coordinated systematic approach in providing support and assistance to women and girls who are victims of violence. There are neither protective measures for sheltering, nor supported recovery process and exit strategies. The establishment and operation of safe houses is regulated by entity laws on protection against domestic violence which treat this field differently in terms of establishment, ways of sheltering women and children who are survivors of violence and modes of financing safe houses.<sup>80</sup> Currently, 8 safe houses are active in Bosnia and Herzegovina - five in the Federation and three in the Republika Srpska<sup>81</sup>. At the beginning of 2016 due to the absence of financial support from government institutions, Safe House for women victims of violence in Mostar, which was for many years led the NGO Women of BiH Mostar, was closed.

In the Republika Srpska work of safe houses is systemically regulated by law and the accompanying regulations, and supervision of their work is provided through the Ministry of Family, Youth and Sport, while in the Federation there is a preliminary draft of the Law on Amendments to the Law on Protection from Domestic Violence of FBiH since September of 2015<sup>82</sup> which foresees changes in the way of establishment and status, labor standards, funding and supervision of the work of safe houses in the Federation. The proposed changes go in the direction of establishment of safe houses under the FBiH Law on institutions and funding according to the decision about the amount of prices determined by the Federal Minister of Labor and Social Policy for each calendar year, based on the planned funds and in accordance with the Law on Budget of FBiH. Non-governmental organizations that run safe houses strive

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<sup>79</sup> The problem is detected through the monitoring of the courts during 2016 in the Herzegovina-Neretva Canton

<sup>80</sup> Safe houses in the Republika Srpska can be established by legal entities, survivors are sheltered on the basis of decision of a competent center for social work, with the consent of the survivors, and a woman survivor of violence has the legal ability to seek the imposition of provisional measures of sheltering in safe houses. 70% of the funds to finance the temporary sheltering and accommodation are being allocated from the budget of the Republika Srpska, through the Ministry of Family, Youth and Sports, and 30% from the local budget, in accordance with the established price of accommodation. According to the currently valid law in the Federation, safe house can be established by legal entities and individuals, survivors besides accommodation in a safe house can be placed in a suitable institution or with another family, but based on the decision of the guardianship authority, with the approval of the survivor who does not have legal possibility to herself requests the implementation of this measure. 30% of the funds for financing the temporary sheltering and accommodation are allocated from cantonal budgets and 70% from the budget of the Federation. (Law on Protection from Domestic Violence of the Republika Srpska Official Gazette no. 102/12 108/13 and 82/15 Law on Protection from Domestic Violence of the Federation of BiH, Official Gazette no. 20/13).

<sup>81</sup> Safe houses for women and children victims of violence act within the framework of the following non-governmental organizations in Bosnia and Herzegovina: Local Democracy Foundation Sarajevo, Medica Zenica, Vive Women Tuzla, Women from Una Bihać, Caritas Mostar, Foundation United Women Banja Luka, Citizens Association Future Modriča and Foundation Lara Bijeljina.

<sup>82</sup> There is currently a public discussion on the Draft Law on Amendments to the Law on Protection from Domestic Violence of FBiH, which was launched by Federal Ministry of Justice on April 24 2016. The text of draft law is available on the website of Ministries, on direct link: <http://goo.gl/400hx3> (last access 07/22/2016)

for a solution by which the safe houses would be founded and operated under the Law on Institutions, and the Law on Associations and Foundations of BiH and FBiH, and would be in the line with the provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence, which would facilitate the smooth continued operation of existing shelters and establishment of new ones, in accordance with needs.<sup>83</sup>

The practice of safe houses in BiH indicates a difficult access to this type of protection for women survivors of violence, despite the existence of legal opportunities in the Republika Srpska to seek sheltering in a safe house. The relevant center for social work makes decision on accommodation of the victim to a safe house if the victim does not have a family member or friend where she could be placed, or if there is a danger that violence could be repeated at these locations. Women reporting to SOS line, due to legal procedures, are sent to the center for social work, which in order to avoid paying the costs of accommodation, refuse to issue a decision. Practice shows that centers also plan in advance the number of survivors who will be staying in a safe house during the year and refuse to increase that number.<sup>84</sup>

### **Recommendations:**

- Bosnia and Herzegovina must ensure that the obligations and methods of keeping data on different forms of gender-based violence against women are regulated by laws and accompanying regulations at the entity level and Brčko District level and to define the institutions that are required to collect and process data, as well as institutions that will systematize and analyze data. These data should be publicly presented and available, with protection of confidentiality of personal information about victims / survivors and perpetrators of violence;

-Regarding facilitation of access to justice and protection for women survivors of violence, Bosnia and Herzegovina must provide the urgency of treatment from all institutions subjects of protection of women from violence, and legal possibilities for identifying the status of witnesses under threat and vulnerable witnesses for women survivors of gender-based violence, access to the compensation of damages in the criminal proceedings, and access to protection measures and free legal and psychological help and information, through the legal definition of institutions that are obliged to provide assistance and information, as well as clear definition of their responsibilities and authorities;

-Regarding the criminal policy aimed at preventing and combating domestic violence, Bosnia and Herzegovina must ensure that the courts recognize that the circumstances family ties and

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<sup>83</sup> Proposal of resolution has been submitted to the Club of Women Parliamentarians of FBiH, Ministry of Labor and Social Policy and the Ministry of Justice of the Federation. It is available on direct link: <http://goo.gl/eS9gNg> (last access 07/22/2016)

<sup>84</sup> Experiences in the work of the Safe House run by the Foundation United Women Banja Luka and Foundation Lara Bijeljina, based on the statements of staff and a letters sent to the relevant centers for social work by which the accommodation to a safe house is being refused. Analysis of harmonization of legislation and public policies to Bosnia and Herzegovina with the Convention on preventing and combating violence against women and domestic violence also points to this (ETS 210), second revised edition, Banja Luka November 2015, the Foundation United Women Banja Luka, page 62

caring for children cannot be seen nor taken into account as mitigating circumstances and reasons to ease sanctions against the perpetrators of violence;

- Regarding harmonization of standards of establishment and work of the safe houses in Bosnia and Herzegovina, Bosnia Herzegovina must ensure the adoption of laws and by-laws that will follow the best practices experiences of non-governmental organizations, while recognizing the financing model that will include fixed and variable costs based on actual needs and continuous planning and allocation of funds from the entity / cantonal / local public budgets;

- Regarding facilitating real and effective access to protection and assistance in safe houses for women and children who are survivors of violence, Bosnia and Herzegovina must legally and in practice enable women survivors of domestic violence to request sheltering in a safe house and to make sure that its implementation is consistent and under urgent procedure, thus protecting the safety of women and children who survived the violence from recurrence of violence and facilitating their rehabilitation and continuation of life without violence;

## Trafficking and exploitation of prostitution

Prepared by: Radmila Žigić

### **Concluding observation number 23:**

While noting the new legislative framework in place at the State level, the Committee remains concerned about the low number of prosecutions, undue delays in proceedings and the leniency of sentences, despite the growing trend of internal and international trafficking in the State party. It is particularly concerned that the Criminal Codes of the entities and of Brčko District have not been harmonized with the State Criminal Code and therefore do not allow adequate prosecutions at the entity and district levels with corresponding punishments and convictions of acts of CEDAW/C/BIH/CO/4-5 8/14 13-41250 trafficking, especially internal trafficking. Furthermore, while noting the adoption of regulations protecting victims and witnesses and the development of a new strategy for combating trafficking in human beings, the Committee is concerned about the lack of effective victim identification procedures, especially regarding women and girls from Roma communities and internally displaced women who are increasingly affected, and that most of the shelters providing adequate services to victims of trafficking, are operated by non-governmental organizations that rely on external funding.

### **Concluding recommendation number 24:**

The Committee recommends that the State party: (a) Amend the Criminal Codes of both entities and of Brčko District to harmonize them with the relevant provisions of the Criminal Code of Bosnia and Herzegovina in order to ensure that acts of trafficking are adequately prosecuted; (b) Ensure the effective implementation of the new legislative framework and the timely prosecution and punishment of traffickers, as well as review its sentencing policy in trafficking cases; (c) Provide mandatory and gender-sensitive training for judges, prosecutors, police officers and other law enforcement officers on applicable legal provisions, including regulations on the protection of witnesses of trafficking; (d) Strengthen mechanisms aimed at the early identification and referral of victims of trafficking, with a special focus on Roma and internally displaced women, as well as preventive measures such as raising awareness about the risks of trafficking for disadvantaged groups of women; (e) Ensure adequate funding for anti-trafficking activities undertaken by non-governmental organizations.

### **Concluding observation number 25:**

The Committee expresses concern at the fact that the State party remains a country of origin, destination and transit for trafficking in human beings, in particular women and girls, for purposes of sexual exploitation. It is also concerned at the fact that prostitution that is punishable as an administrative offence, as well as at the absence of research and data on the prevalence of exploitation of prostitution in the State party and the lack of policies and programmes to address that phenomenon.

### **Concluding recommendation number 26:**

The Committee calls upon the State party to: (a) Amend its legislation to ensure that women victims of prostitution are no longer punished by a fine; ensure the investigation, prosecution and punishment of those who exploit prostitution; and take measures to discourage the demand for prostitution; (b) Pursue a comprehensive approach to addressing the exploitation of prostitution, including by developing strategies to support and provide rehabilitation for women who wish to leave prostitution; and provide, in its next periodic report, comprehensive information and data on the prevalence of exploitation of prostitution.

In **Concluding recommendation 19**, CEDAW draws attention to the fact that in addition to established forms of trafficking there are new forms of sexual exploitation, including sex tourism, recruitment of local forces from developing countries to work in developed countries and organized marriages between women from developing countries and foreigners. Article 6 requires States to oppose these practices and established forms of exploitation.

Trafficking of human beings, especially of women for sexual exploitation, has become a serious problem in Bosnia and Herzegovina after the war. By improving the legal framework, establishing the National Coordination Body and the national referral mechanism for combating human trafficking, Bosnia and Herzegovina has significantly suppressed this drastic form of human rights violation that struck mostly women. However, the difficult economic situation, high unemployment rate and poverty have increased the risk of human trafficking within the country. The exploitation of women, citizens of Bosnia and Herzegovina, in prostitution and labor exploitation and trafficking of children is increased. Big risks are also migrations, especially of young women and men, who are leaving BiH in search of work. Despite these risks, prevention of human trafficking is increasingly less prioritized in the work of government services in recent years. Particularly worrying is that: 1. The courts impose low penalties to traffickers, 2. mechanisms for identifying victims and potential victims are not developed according to the needs, 3. survivors do not receive adequate assistance and compensation for the suffering to which they were exposed, and 4. coordinated prevention policies and assistance for groups at risk, in order to reduce the risk of human trafficking, do not exist. Activities of state structures are nowhere close to make Bosnia and Herzegovina stop being a country of origin, transit and destination for human trafficking.

### **The implementation of the recommendations and the current priorities for action**

In the reporting period, instead of harmonization of the legal framework, Bosnia and Herzegovina has **changed jurisdiction in conducting the investigation and prosecution of trafficking**. Combating human trafficking in the country is fully transferred to the lower levels of law enforcement agencies and judicial institutions (entity and cantonal police and entity prosecutors and courts) which can be considered a social marginalization of this criminal activity and serious human rights violation. Amendments of criminal laws started in the entities and Brčko District in 2013 and are partly harmonized with the relevant provisions of the Criminal Code of Bosnia and Herzegovina, in order to ensure that the offense of trafficking is adequately processed in all parts of the country. Laws have changed in Republika Srpska<sup>85</sup> and Brčko District<sup>86</sup>, but in the Federation of Bosnia and Herzegovina, Criminal Code has not yet been harmonized with international standards in criminalizing trafficking. In 2015, the Criminal Code of BiH was changed<sup>87</sup> and the State Agency for Investigation and Protection and BiH Prosecutor's Office are responsible for the international trafficking since mid-2015. These changes were carried out "in silence", with no official explanation to the public and no other actions to strengthen the capacity of law enforcement agencies at lower levels of government for taking over new authorities in combating human trafficking. At the same time, the Federation of Bosnia and Herzegovina created dangerous legal vacuum because, given that the entity has not harmonized the criminal law, and many perpetrators of trafficking crimes can be amnestied from responsibility or get milder punishment because they were prosecuted only for

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<sup>85</sup> In addition to Article 198 (Trafficking in human beings for prostitution) in the Criminal Code of the Republika Srpska three more articles were introduced, 198a., 198b. and 198v. which additionally incriminate various forms of human trafficking, as well as punishing users of sexual services of victims of trafficking. (Law on Amendments to the Criminal Code (Official Gazette of the Republika Srpska, No. 67/13))

<sup>86</sup> Articles from 207 to 209, the Criminal Code of Brčko District, revised text (Official Gazette of Brčko District No. 33/13)

<sup>87</sup> Article 11., 12., 13., 14., Amendments to the Criminal Code of BiH (BiH Official Gazette No. 40/15)

“inciting prostitution“. According to the Criminal Code of FBiH, the largest prison sentence for this offense is 15 years of imprisonment, but it does not prescribe punishment of users of services of victims of trafficking.

The man who forced prostitution of underage girl that he had sexually abused, was sentenced in Travnik in 2014 to imprisonment of one (1) year and four (4) months, for crimes of “inciting prostitution“ and “ sexual intercourse with a child“<sup>88</sup>. In addition to extremely low penalties<sup>89</sup>, the offense is inadequately qualified, contrary to international standards in the definition of human trafficking offenses. The same court in early 2016, sentenced a man who has forced underage girl into prostitution for year and a half to imprisonment of three years, qualifying offense as “inciting prostitution“<sup>90</sup>. These , and similar judgments, numerous the BiH, do not provide justice for victims of human trafficking , and send a message to the public that trafficking is not a dangerous crime , and violation of human rights.

Changes to the criminal laws of the Republika Srpska, and Brčko District have not, in the reporting period, produced the desired effects, and enhance the protection of persons exposed to trafficking. In the Republika Srpska police identified only three (3) criminal acts of trafficking and one (1) case of incitement to prostitution in the period from 2013 to 2016<sup>91</sup>. Police of the Brčko District was more efficient and has revealed more cases of human trafficking, however, in several cases, the District Prosecution has changed qualification of the offense so that the person who was suspected to have bought the girl for forced marriage, was criminally prosecuted for “extramarital relationship with a younger juvenile“ , which is considerably milder criminal offense. In the Republika Srpska there is a possibility of misdemeanor punishment of women involved in prostitution, according to the Law on public order and peace, although in the reporting period, no such punishment was imposed. Also, the BiH authorities at all levels, do not treat the involvement of boys and girls in beggary as human trafficking and beggary phenomena are rarely investigated. Mostly misdemeanor charges for beggary are being imposed, and that towards parents and others who force children into beggary.

These, as well as numerous other judgments confirm that the penal policy for human trafficking remains inadequate by gravity of the offense and violation of human rights. Court proceedings last are extremely long<sup>92</sup>, and prosecutors are prone to concluding plea agreements that enable low penalties for human traffickers<sup>93</sup>. The fact the victims are not compensated by the criminal verdict is characteristic for all court proceedings. In order to achieve compensation, survivors of human trafficking are sent to legal proceedings for which they have neither the resources nor adequate legal assistance. No person,victim of human trafficking, has received compensation

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<sup>88</sup> Verdict number:06 0 K 004665 14 K, Cantonal court in Novi Travnik

<sup>89</sup> Protocol to prevent, suppress and punish trafficking in persons, especially women and children (2000). Paragraph (a) of Article 3 of the Protocol defines human trafficking . In practice, this document is usually called Palermo Protocol and it provides a framework for the identification and definition of criminal offenses related to human trafficking for all the signatory countries, including the BiH

<sup>90</sup> Verdict number: 06 0 K 008165 15 K, Cantonal court in Novi Travnik

<sup>91</sup> Statistical data of Ministry of the Interior RS, Round Table "Distribution and experience in detecting cases of human trafficking in the Republika Srpska and Brčko District," RING Network, March 2016

<sup>92</sup> There was a trial that lasted 12 years.

<sup>93</sup> One judge of the Court has repeatedly refused to accept a plea agreement by which the State Prosecution wanted to allow human traffickers to obtain the sentence below the statutory minimum sentence for human trafficking. It is about report of Judge Branko Perić, Court Chief Prosecutor of BiH, to Goran Salihović, for conducting of competent prosecutor in the trial against M. C. and others accused of human trafficking and organized crime.

for a crime she/he survived. Insight into the court records indicates that victims of human trafficking very often do not have legal assistance during the trial. Also during the investigation and trial before the cantonal (FBiH) and district courts (Republika Srpska), trafficking victims do not receive the protection that is required under international standards (Palermo Protocol, the European Convention for the fight against human trafficking and others) and local regulations. Two underage victims who testified before the District Court in East Sarajevo had no legal advisor or assistance from the Centre for Social Work in the process and were not aware that they have the right of accommodation in safe house, and legal and psychological assistance. Only one organization, "Your rights", has an agreement with the Office of the State Coordinator for the provision of legal assistance to victims, which is not enough<sup>94</sup>.

4 (four) monitoring team composed of representatives of governmental and non-governmental sectors work to support the identification of victims of human trafficking in Bosnia and Herzegovina and are logistically related to the four regional offices of the State Investigation and Protection Agency (SIPA), in Tuzla, Mostar, Banja Luka and Sarajevo. After amendments to the law and jurisdiction in prosecuting human trafficking this was not changed. This identification system today does not match the situation on the ground, resulting in a very small number of identified victims of trafficking, as well as insufficient assistance that victims receive. Less and less non-governmental organizations are involved in victim identification, which has a direct impact on reducing the number of detected cases of human trafficking. Example from Doboј confirms how important is the involvement of NGOs in the early stages of identifying the victims, because thanks to the work of NGO "Future" from Modriča, a case, which was originally classified as a domestic violence with suspected trafficking, was completely exposed and prosecuted as human trafficking with cooperation of the Prosecution of Doboј and a safe house in Modriča, and the father who forced his two daughters to offer sexual services for money, was sentenced to 5.5 years in prison. The judgment of the Municipal Court in Orašje<sup>95</sup> (Posavska County, Federation of Bosnia and Herzegovina), where sister was convicted for pimping underage sister, indicates that, with the support and protection of victims, this case also was qualified as human trafficking. However, without additional support, case was classified as a sexual relationship with a child and introducing a child to pornography. The precedent of this judgment is the fact that the extramarital husband of the convicted, her accomplice, was not judged at all.

Funds that are allocated from the state budget for the prevention of human trafficking and assisting victims are insufficient and only focused on a few selected NGOs. At one point, it was problematic that the organizations which shelter trafficking victims were all located in the Federation of Bosnia and Herzegovina, on a narrow area from 50 to 60 kilometers around Sarajevo<sup>96</sup>. Selected shelters are very far from a large number of potential beneficiaries<sup>97</sup>, as

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<sup>94</sup> A representative of Your rights at the Conference of the Network Ring in Brčko, in November 2013, stated that this organization provided assistance for only six victims in 2013, although that year, 49 victims of human trafficking were identified in BiH. Foundation "Lara", Minutes of the Conference

<sup>95</sup> Verdict number: 25 0 K 026700 15 K 2, Municipal court Orašje

<sup>96</sup> Safe houses of the International Solidarity Forum in Sarajevo and near Doboј

<sup>97</sup> Many places in BiH are located 300 or more kilometers from Sarajevo, which is a major obstacle to the availability of support services such as shelters for victims of trafficking.

well as for the effective reintegration programs in which it is important that victims restore social connections in the communities where they lived. The focus of government authorities is increasingly focused on the prevention of labor exploitation and manipulation of children in beggary, while the sexual exploitation of women is being marginalized, which is a trend that could lead to discrimination against women victims of human trafficking in relation to other categories of victims.<sup>98</sup> While it is important to detect and punish all forms of human trafficking, a higher level of tolerance towards the exploitation of women in illegal prostitution can contribute to the escalation of violations of women's human rights and the general increase in human trafficking. Frequent media reports about prostitution as “good” profession for women and so-called elite prostitution contribute to this fear.<sup>99</sup> Although some of these texts write about difficult experiences of women and intermediation in organizing prostitution, no investigations were initiated on the basis of sensational media reports. Although some of the media write about growing number of women working in the market of illegal prostitution, no civil service does analysis of the problem of poverty among women and their sexual exploitation, even in cases where the pimp is exposed and arrested. Unified data or an estimate on the number of women engaged in prostitution does not exist, or do the aid programs that would allow them to abandon this risky and dangerous “work”. This category of women is completely outside the law and has no right to assistance and rehabilitation, unless it is proved that they were victims of human trafficking or the solicitation of prostitution.

## Recommendations

In order to improve the overall action against human trafficking in BiH and provide adequate protection and assistance to victims, Bosnia and Herzegovina must:

1. Conduct an analysis of the efficiency of the current legislative changes and changes in jurisdiction in conducting the investigations and prosecuting the perpetrators of human trafficking and consequently organize an effective system of coordination at the state level and quality mechanisms for early identification of victims at the local level, particularly at the level of circuit and cantonal prosecutor's offices and prosecutors' offices in Brčko District which will also involve nongovernmental organizations;

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<sup>98</sup> In the structure of identified victims of trafficking in 2014, 38 out of 48, were victims of forced beggary and labor, and only 10 of sexual exploitation. In 2015, only 7 victims of sexual exploitation have been identified and 24 victims of forced beggary. During 2014 and 2015, a campaign funded by the Ministry of Security on the occasion of 18 October, the European Day Against Human Trafficking, the fight against the abuse of children in beggary was in focus.

<sup>99</sup> <http://www.banjalukalive.com/aktuelnosti/ispovijest-banjaluckih-prostitutki.html>, <http://depo.ba/clanak/91395/inspektor-ognjen-kos-me-je-tjerao-da-placam-reket-a-ako-ne-bih-imala-novac-onda-me-tukao>  
[http://www.nezavisne.com/zivot-stil/zivot/ispovijest-tuzlanske-prostitutke-Koliko-kosta-seks-uz-cestu/327224?utm\\_source=feedburner&utm\\_medium=feed&utm\\_campaign=Feed%3A+ZivotIStil-NezavisneNovine+\(Zivot+i+stil+-+Nezavisne+novine\)](http://www.nezavisne.com/zivot-stil/zivot/ispovijest-tuzlanske-prostitutke-Koliko-kosta-seks-uz-cestu/327224?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+ZivotIStil-NezavisneNovine+(Zivot+i+stil+-+Nezavisne+novine))

2. Provide mandatory and gender-sensitive training for judges, prosecutors, police officers and other law enforcement officers on the application of legal provisions, including provisions on the protection of victims of human trafficking;
3. Establish one or more functional state compensation schemes<sup>100</sup> for compensation to victims of human trafficking while respecting international standards for the provision of financial compensation for victims of serious criminal offenses;
4. Improve legal counseling and legal representation of victims, including several governmental and nongovernmental centers <sup>101</sup> for providing free legal assistance to the state referral mechanism for victim assistance;
5. Provide adequate funding for anti-trafficking activities implemented by nongovernmental organizations;
6. Follow a comprehensive approach in addressing the exploitation of prostitution, including legislation and developing strategies which will support and provide rehabilitation for women who want to leave prostitution, and to provide, in its next periodic report, detailed information and data on the prevalence of exploitation of prostitution using multiple data sources, and not only currently exposed cases of incitement to prostitution.

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<sup>100</sup> BiH has four (4) independent criminal law systems the compensation schemes may be contacted at the entity level, the BD and at the state level. A possible solution is the unique compensation scheme at the state level which would be adopted by all three levels of administrative organization

<sup>101</sup> Several women's NGOs, human rights defenders, have developed services of legal assistance and necessary sensibility to provide adequate legal referral and legal assistance to victims.

## **PARTICIPATION OF WOMEN IN POLITICAL AND PUBLIC LIFE**

Prepared by: Diana Šehić and Gordana Vidović

### **Concluding recommendation number 28:**

The Committee recommends that the State party: (a) Develop effective mechanisms for the application of quotas in order to increase women's political representation, by placing women in winnable positions and establishing benchmarks with a concrete timetable and sanctions for non-compliance; (b) Introduce procedures to ensure the implementation of article 20 of the Gender Equality Law at the State, entity, district and municipal levels to promote, inter alia, the participation of Roma women and rural women in elected office and appointed bodies; and promote women in leadership positions in the executive branch and the public service, through the use of temporary special measures where appropriate; (c) Increase its efforts to provide training and capacity-building to enable women to enter public office, and enhance awareness-raising campaigns on the importance of women's full and equal participation in political and public life, including activities targeting leaders of political parties; (d) Continue providing incentives for political parties to nominate equal numbers of women and men as candidates, and harmonize their statutes with the Gender Equality Law; (e) Encourage the media to ensure that female and male candidates receive equal visibility, especially during pre-election campaigns, including by fully implementing the relevant provisions of the law on public broadcasting service regarding the equal appearance and representation of both men and women in programming content and programming policy.

## **INTRODUCTION**

Although the legal framework that formally guarantees gender equality was established in BiH, women continue to suffer discrimination in almost all spheres of life and work, including areas of public and political activity<sup>102</sup>. The key reason for this is the extremely poor application of the regulations in practice.

There are many examples from which it is clear that the state only formally adopted laws that guarantee the rights of women, while at the same time the whole process of harmonization of regulations, rules and procedures with key law, such as the Law on Gender Equality, is inconsistent and uneven.

The issue of women and gender politics is rated low on the scale of the governing structures. There is no political will to really fulfill legal obligations. Of course, one should not ignore the fact that the marginalization of women in politics is greatly influenced by patriarchal matrix, a family tradition, the overall system of social values, and in recent year's very large commitment of women to work and family responsibilities, and finally a very poor socio-economic situation of society in general. Previously submitted recommendations and requirements of the

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<sup>102</sup> The most severe forms of discrimination are: domestic violence, discrimination in the field of labor, employment both access to resources, discrimination in participation in public and political decision-making, multiple marginalization of women victims of war, victims of domestic violence, rural women, women with disabilities, single mothers, Roma women, refugees and displaced persons, women in sports both other multiply marginalized groups. These groups of women suffer discrimination both on the basis of gender both on the basis of other characteristics or situations in which they live, which further complicates their position.

Committee are continually ignored by the state and are realized only through apparently expressed willingness to change this situation in favor of gender equality.

Civil society organizations (CSOs) continuously advocate the implementation and consistent application of the law, which is still uneven, in order to ensure the protection of basic human rights and gender equality.

### **The continuous marginalization of women through non-selection in the legislative and executive authorities and bodies**

Women in BiH are traditionally under-represented in legislative bodies<sup>103</sup> and executive bodies<sup>104</sup> and not one out of the 14 governments in Bosnia and Herzegovina (BiH Council of Ministers, entity, cantonal and Brčko District Government) has been appointed in accordance with the obligation under Article 20, of Gender Equality Law (GEL)<sup>105</sup>.

The Parliamentary Assembly in BiH for the period 2014 - 2018 has only 21.1% elected female representatives<sup>106</sup>. The man was elected Chairman of the Council of Ministers in 2014, while seven men and two women were elected to the position of Ministers. Among the deputy ministers, in the 2014 - 2018 term, there are no women.

The Commission for Gender Equality of the House of Representatives of the Parliamentary Assembly, on the initiative of CSO's, sent the Draft Law on Amendments to the Law on the Council of Ministers the parliamentary procedure at the end of 2015, which stipulates that at least 40% of the under-represented gender must be represented within the Council of Ministers. The adoption of these amendments would in practice lead to the refusal of confirmation of the appointment of the Council of Ministers by the House of Representatives of PA of BiH if the proposed convocation does not reflect equal representation of both genders. The Parliamentary Assembly of Bosnia and Herzegovina<sup>107</sup> did not adopt the Proposal of this law, even though it is in alignment function of all legislations with the GEL of BiH.

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<sup>103</sup> Total of 19.03% of women were elected to legislative bodies at all levels of government on elections in October 2014.

<sup>104</sup> Man was elected for the chairman of 2014, while seven men and two women were elected at positions of Ministers. Among the deputy ministers, in the term 2014-2018, there are no women. The the previous session of the Council of Ministers none appointed woman was appointed, in the Government of of FBiH Minister only 4 of 16 ministerial positions are appointed to women, while the RS Government appointed woman Prime Minister and five women Ministers. No woman was appointed Prime minister of cantonal government, while the percentage of female ministers in cantonal governments was 17,5% (number varies from 0% to 37,5%, depending on the canton). RS government appointed woman to the position of Prime Minister once again after the 2014 elections, and (only) three women were appointed ministers.

<sup>105</sup> ((1) State bodies at all levels of government, as well as bodies of local authorities, including the legislative, executive and judicial authority, political parties, legal persons with public authorities, legal entities that owned or controlled by the state, entity, cantonal, city or municipality or whose work is under the public authority, shall ensure and promote equal gender representation in management, decision making and representation. This obligation shall exist for all authorized proponents during elections of representatives and delegations to international organizations and bodies. (2) Equal gender representation exists in the case when one of the genders is represented with at least 40% in the bodies from paragraph (1) of this Article.

<sup>106</sup> Agency for Statistics BiH Women and men in BiH, Sarajevo 2015

<sup>107</sup> At the 30th session of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, held on 24 May 2016, Draft Law on Amendments and Supplements to the Law on the Council of Ministers, proposed by the Commission for Gender Equality, **was not adopted** although it was adopted in its first reading, the 28th session of the House of Representatives.

Proposal for amendments to the electoral legislation of BiH prepared by inter-sectoral working group<sup>108</sup> which foresaw the collapse of the existing gender quotas of equal representation of both genders on the candidate lists<sup>109</sup> was shut down under strong pressure from OCD. This proposal is yet another example that indicates a continuous tendency of further reduction of women's rights to equal participation in political life and decision-making process.

The electoral law was harmonized with the GEL in March 2014 only in terms of increasing gender quota from 30% to 40% of the less represented gender of the total number of members to municipal election commissions, electoral committees and candidates' lists for the elections. The problem is that the quota system is applied only in the process of nomination and that because the Central Election Commission (CEC) will annul it or, return each candidate list which does not satisfy this provision. The low percentage of women elected in the executive power, once the elections are completed and the parties are not controlled or sanctioned because of gender inequality in appointments, proves that there is no real intention to give women a chance to take position in the legislative and executive authorities.

This is supported by data on the candidates for the local elections, which were held in October 2016. Political parties have complied with the legal obligation for the formation of lists of candidates (usually on all lists 40% of women are represented). However, as there is no specific legal obligation for nominating less represented gender for mayors of 417 candidates for mayors, only 26 were women, or 6.2%. Therefore it is no surprise that after completion of local elections only six women mayors were elected from the 142 local government units in BiH.

### **The marginalization of women in political parties**

The primary responsibility for increasing women's political participation is on the political parties. Applicable laws on political organizations were never harmonized with the Law on Gender Equality, which for them is a *lex specialis*. Despite the fact that laws are not harmonized, political parties were obliged to harmonize their statutes and other documents with the GEL, which none of the observed political parties have done<sup>110</sup>.

All this contributes greatly to the general view that everything that happens within the party remains their internal matter and that the society should not interfere. Inter-party relations, influences, decision-making, women's representation in the top of the party bodies and decisions on the positioning of women on electoral lists and compensatory lists are made non-transparently and generally in a very narrow, closed circle gathered around the party leader. At

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<sup>108</sup> Decision on the establishment of inter-agency working group to amend the electoral legislation of Bosnia and Herzegovina passed both houses of the Parliamentary Assembly of BiH ("Official Gazette of BiH", Nos. 40/15 and 45/15)

<sup>109</sup> This bill clearly undermines the existing provision (gender quotas), which in the current law prescribes the gender distribution of at least 40%, but not anywhere on the candidate lists, but with mandatory sort of candidates in the first three, five and eight places. For example, the new proposal can make a candidate list out of 20 people, of which men will be in the first twelve, and last eight will be reserved for women, which is a significant setback. <http://infohouse.ba/doc/maparavnopravnosti.pdf>, last access July 2016.

<sup>110</sup> The law on financing of political parties shall apply to political parties, which are in accordance with Article 2 of the Law on Financing of Political Parties ("Official Gazette" No. 95/12) registered with the competent court in any entity, with the aim of carrying out political activities and achieving political goals.

the same time, political parties are almost exclusively funded from public budgets<sup>111</sup>, which are extremely high, having in mind the extremely difficult financial and economic situation in BiH. So, in the past six years, political parties received a total of 115 million from all budgets in BiH<sup>112</sup>.

Representation of women in numerous party bodies such as the presidency and the main/central board is roughly the same as the representation in parliaments i.e. it ranges from 10 to 30%, while in the senior management of the parties they take up to 15%. So for example, out of 7 political parties which are parliamentary at most levels of government, no woman was appointed President of the party. Five parties have woman vice-presidents, while two have none.<sup>113</sup>

Mostly, second places on electoral lists are reserved for women, there is almost no women carriers of the party lists, and tops of the compensatory lists are dominated by men. One should not ignore the fact that the lack of support from colleagues within the party, who, themselves, mainly believe that women should not have place in politics and that the involvement of women is only a mere formal fulfillment of legal quotas, are directly related to the insufficient number of women in legislative and executive authorities.

When looking at the total number of candidate lists (732 in the general elections of 2014), only 10% of the lists had a woman list carrier. This is real evidence of relations of political subjects towards women and their hypocrisy to some extent<sup>114</sup>.

The fact is that, in the political parties, women mainly organize and operate within women's forums or branches and deal with the so-called "women's issues", such as issues of maternity protection and benefits, rights of children, persons with disabilities, social protection of vulnerable populations, and so on. These forums do not have any real influence within political parties or participate in making any important decisions and mainly serve to create the illusion of equal participation of women in political parties.

"I responsibly claim that women must prove ten times more than a man, especially if it relates to politics. Our mentality is such, and many political parties use it only because of the legal framework, for women are on the lists only because of the mandatory quota"<sup>115</sup>

Political parties are not and cannot be exempt from the obligation to establish gender equality. On this issue it is necessary to open the conversation and finally set a clear request to the political parties that are required to reconcile their documents with GEL.<sup>116</sup> However, in

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<sup>111</sup> <http://www.klix.ba/vijesti/bih/finansiranje-politickih-stranaka-u-bih-mijenjati-zakon-da-bi-se-sprijecile-zloupotrebe/150917111> (last access 05/10/2016)

<sup>112</sup> <http://www.hocu.ba/index.php/hocu.info/dario-jovanovic-zena-u-politici-nema-dovoljno-a-moglo-bi-ih-biti-jos-manje/>

<sup>113</sup> *ibid.*

<sup>114</sup> <http://www.nkp.ba/zena-jeste-stub-porodice-ali-ima-pravo-na-posao-i-karijeru-lejla-vukovic-ostro-reagovala-na-prijedlog-ukidanja-rodne-kvote-u-election-law/>

<sup>115</sup> *ibid.*

<sup>116</sup> The statutes of the two political parties gender equality is explicitly mentioned as one of the fundamental principles / objectives (SDP and DF). Three political parties do not cite gender equality as one of the goals (SDA, HDZ BiH and HDZ 1990), but two of them (SDA and HDZ 1990) recognized the need for stronger involvement of

addition to the necessary formal harmonization of all party documents with GEL, it might be more important to establish instruments to ensure practical implementation of this in practice. For now, parties are dealing with issues of gender equality through documents mainly in terms of human rights issues and discrimination, without necessarily establishing equal participation of women in all party bodies<sup>117</sup>, and the absence of punishment for such behavior of political parties, increases this problem. Role model of a woman who is a successful and influential leader, especially political one, does not exist and is not promoted in any way. Moreover, the media analyzes women politicians in a very critical manner and in every sense - styling, lifestyle or family status, skills and qualities, expertise, etc.<sup>118</sup>.

Political parties should make their own programs a tool for the empowerment of women, ensuring that women's voices are heard inside and outside of the party and also to provide that women have equal opportunity to be elected, and not as it is today, to only represent a mere numerical satisfaction of quota on the election lists. Such attitude of political parties towards women would directly affect the underrepresentation of women in public administration bodies, as well as in other positions of power and decision-making.

Emphasized and excessive influence of political parties does not allow depoliticisation, departisation and professionalization of the public administration, and the level of representation of women in these positions is a result of the dominant intra-political culture, rather than a consequence of the lack of interest of women in public functions. Closed nature of political parties towards more massive participation of women on their own intra-party decision-making positions, generates the same kind of practice at the level of political power<sup>119</sup>. The Council Ministers has adopted the Gender Action Plan for the period 2013 - 2017, which, among other things, states that it is essential that all actors of society participate and contribute to the affirmation of women as equal carriers of various political functions, at all government levels including political parties<sup>120</sup>. The problem is that none of the measures proposed in this Action Plan oblige political parties to harmonize their internal documents with the provisions of GEL as a first and essential step towards equality. Thus, the Agency for Gender Equality, in cooperation with numerous partners, in particular the OSCE Mission in Bosnia and

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women in intra-flows. The other four parties notion of gender equality related to the concept of human rights and / or (not) gender discrimination (SBB, SDS, SNSD, HDZ 1990). Other documents (Applications, Software declarations and manifests) four political parties (SDA, HDZ 1990, SDS and SNSD) do not mention gender equality as one of the goals, while the one party is explicitly mentioned (HDZ BiH) as a basic principle. SBB, DF and SDP reference to the need to involve more women in public life. It is interesting that only one party in its policy the need to harmonize the law with GEL (SBB).

(50 SHADES BiH POLITICS, PUBLISHER Infohouse, November 2015, <http://infohouse.ba/doc/50nijansisive.pdf>)

<sup>117</sup> When it comes to women in politics, you will always hear questioning of their abilities and qualities. Have you heard about such issues when it comes to men? I don't think so. Our male colleagues are always acceptable, suitable and capable candidates. We are witnessing violations of the law in the appointment, election, decisions on selection of the positions. And when you warn about it you face with an impenetrable wall, arrangements of political options in which women generally are in a discriminatory position.

<sup>118</sup> <http://www.vesta.ba/en/node/1525> (Conference " (In) visibility of women in politics " in Tuzla, Adis Arapovic, CCI)

<sup>119</sup> [http://arsbih.gov.ba/wp-content/uploads/2014/01/GAP\\_BIH.pdf](http://arsbih.gov.ba/wp-content/uploads/2014/01/GAP_BIH.pdf)

<sup>120</sup> <http://arsbih.gov.ba/devet-politickih-stranaka-potpisalo-izjavu-o-ravnopravnosti-spolova/>

Herzegovina, prepared a "Statement of commitment to gender equality in political parties", which defines the basic conditions for the operation of political parties on issues of gender equality<sup>121</sup>. Political parties, first ones to sign the statement, were presented in June 2014.<sup>122</sup> .

Good legal framework for gender equality; established institutional mechanisms at the state and entity level; numerous Commissions for Gender Equality in parliaments and assemblies on almost all levels of government that continuously interact or cooperate with international actors and local CSOs with plentiful donor funding, made no real or practical contribution to strengthening the position of women in political parties or to bigger number of women on positions of executive and legislative powers or places of economic decision-making.

## RECOMMENDATIONS

- Changes to Election Law of BiH should foresee appointment of mandates to candidates of the underrepresented gender (e.g. through the appointment of mandates from the compensation lists) and provide a system that will result in the selection of a minimum of 40% women in parliaments independently from layout of votes on the list
- Harmonize the Law on Council of Ministers, the Law on the Government of FBiH and Law on the government of RS with GEL so that the validation of the composition of the Government is not possible without a minimum of 40% of women in ministerial positions;
- Institutionalize the percentage participation of women, in accordance with GEL, from political parties, legislative and executive authorities, and from civil society organizations in the process of reforms (including financial and other negotiations) and that by involving them in all formal bodies and mechanisms.
- Prescribe penalties for political parties which do not respect the GEL and regulations on gender equality, especially in the nomination and appointment of governments, by denying funds for financing the political parties from state budget
- Prescribe penalties for political parties which do not respect the provisions on gender equality, especially when appointing and nominating members in governments, by denying public budget funds for financing the political parties.

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<sup>121</sup> Social Democratic Party of Bosnia and Herzegovina, SBB, the Serbian Progressive Party, SNSD, our party, the HDZ, the Socialist Party, Party of Democratic Progress and the Party for Bosnia and Herzegovina, and some political parties expressed their readiness to sign this statement. To date we have no knowledge of whether some customers have signed this statement, nor the analysis is done on the application in practice

<sup>122</sup> European Commission (2015) Report for BiH for 2015 (SWD (2015) 214 final): "In particular, steps were taken towards strengthen policy coordination and improving the business environment, in particular to facilitate market entry and the issuance of building permits."

## EMPLOYMENT, LABOR, SOCIAL RIGHTS OF WOMEN

Prepared by: Fedra Idžaković

### **Concluding observation number 33:**

The Committee notes that the State party has taken various measures to support the participation of women in the labor market, as part of the Bosnia and Herzegovina strategy for employment (2010-2014) and the entities' employment strategies; that the gender action plan of Bosnia and Herzegovina for the period 2013-2017 gives priority to women's economic participation by developing measures aimed at facilitating the reconciliation of private and professional life; and that a framework law was enacted in order to unify and harmonize the social sector in the State party, including through maternity protection. However, the Committee remains concerned about: CEDAW/C/BIH/CO/4-5 13-41250 11/14 (a) The markedly low participation rate of women in the labor force, in spite of their high level of education, as reflected by the disproportionately high unemployment rate among women; (b) The concentration of women in such sectors as health care, education and agriculture, in the informal sector and in the "grey economy", and the large number of women employed with temporary contracts; and the exclusion from the formal labor market of disadvantaged groups of women, such as internally displaced women, rural women and Roma women; (c) The lack of an institutional framework to enforce the prohibition of gender-based discrimination and sexual harassment at work and the lack of measures to facilitate the reporting of such acts and to inform women of their rights; (d) The lack of childcare facilities, which constitutes an obstacle to the full exercise of women's right to work; (e) The 12 different existing regimes with different regulations on maternity protection depending on women's place of residence, which have a negative impact on their ability to participate in the labor force and reinforce the unequal division of family responsibilities between women and men.

### **Concluding recommendation number 34:**

The Committee urges the State party to: (a) Adopt temporary special measures in accordance with article 4, paragraph 1, of the Convention and with the Committee's general recommendation No. 25, aimed at achieving de facto equal opportunities for women and men in the labor market, including disadvantaged groups of women; and establish special training programmes and counselling for different groups of unemployed women, including by promoting women's entrepreneurship; (b) Take effective measures to integrate disadvantaged groups of women and women working in the "grey economy" into the formal labor market; (c) Closely monitor the working conditions of women in the informal sector and those employed with temporary contracts, by strengthening labor inspections; ensure their access to social services and social security; and consider ratifying International Labor Organization Convention No. 189 (2011), concerning decent work for domestic workers; (d) Adopt effective measures, including temporary special measures, to eliminate horizontal and vertical occupational segregation based on stereotypes related to gender; (e) Develop a confidential and safe system for filing complaints related to gender-based discrimination and sexual harassment in the workplace, and ensure that victims have effective access to such means of redress; (f) Enhance the availability and affordability of childcare facilities to help women exercise their right to work, in order to increase women's access to the labor market; (g) Ensure that the implementation of the framework law regulating the social sector results in the harmonization of pregnancy and maternity protection in the State party, in order to guarantee paid maternity leave for all women;

## Introduction and context

Despite some positive developments, Bosnia and Herzegovina is still in the early stages of development of a functional market economy<sup>123</sup>. BH economy is still uncompetitive, of low

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<sup>123</sup> The World Economic Forum has positioned the BiH on the 111 place, according to the general competitiveness out of 140 economies analyzed in the report on global competitiveness 2015-2016 (The Global Competitiveness Report 2015-2016): more on: <http://reports.weforum.org/global-competitiveness-report-2015-2016/economies/#economy=BIH> (07/25/2016)

productivity, closely linked to technological obsolescence, with small share of innovation, and high proportion of the workforce in manufacturing<sup>124</sup>. GDP per capita in 2014 reached only 28% of the EU average, which is largely unchanged since 2011<sup>125</sup>. Improvements in the labor market are still limited. Employment in the service sector still accounts for the largest part of the employed percentage (32%)<sup>126</sup>. Employment and activity rates are still low with only small changes during the previous four years, which is particularly unfavorable for women<sup>127</sup>. Bosnia and Herzegovina continues to record a high proportion of “gray economy”, measured as the difference between the unemployment registered at employment offices and those measured by the Labor Force Survey (LFS) that is carried out every year by statistical services in Bosnia and Herzegovina.

Bosnia and Herzegovina has finally, for the first time after the 1991, conducted general population census in 2013 and the results are extremely worrying. Bosnia and Herzegovina has a population of 3,531,159, of which the working-age population makes 2,987,440 people. At the same time Bosnia and Herzegovina has 1,624,924 persons who are not economically active, most of which are women, 988,248 of them.<sup>128</sup> 1,033,884 are employed, of which 39% are women. 328,632 are unemployed of which 42% are women. The total illiterate population older than ten years in Bosnia and Herzegovina is 2.82% most of which are, again, women<sup>129</sup>.

In 2016 Bosnia and Herzegovina has submitted an application for membership in the EU and adopted the reform agenda<sup>130</sup> as a plan for the development of reform policies by 2018. The reform agenda does not mention or integrate the question of human rights and gender equality. As part of the integration process and related reforms, the Decision on the establishment of so-called mechanism of institutions coordination was adapted<sup>131</sup> which foresees the establishment of a range of authorities to concretely implement the integration process. The decision, at the same time, does not have formally prescribed gender quota for the appointment and participation of women in the aforementioned bodies, and the entire process of integration and reforms is extremely non-transparent. The BiH government's Decision on the mechanism of coordination was adopted at a secret session and without the knowledge of the key partners in the process. Negotiations on the establishment of a mechanism of coordination last for months after the submission of applications due to political demands of party leaders who continue to generate a political crisis in the country<sup>132</sup>.

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<sup>124</sup> European Commission (2015) The report for Bosnia and Herzegovina for 2015 (SWD (2015) 214 final).

<sup>125</sup> Ibid.

<sup>126</sup> On average, employment rate of women was around 37% in the previous four years. Survey employment by the Labor Force Survey BiH has decreased by 1.4% in 2016 compared to 2015.

<sup>127</sup> Agency for Statistics (June 2016) Census, households and dwellings in Bosnia and Herzegovina, 2013, census results.

<sup>128</sup> Ibid.

<sup>129</sup> Reform Agenda for Bosnia and Herzegovina for the period 2015-2018, available at: <http://europa.ba/wp-content/uploads/2015/09/Reform-Agenda-BiH.pdf> (07/20/2016); more on agenda: <http://europa.ba/?p=35691> (07/20/2016)

<sup>130</sup> The Council of Ministers (January 2016), Decision on coordination system of European integration process in Bosnia and Herzegovina (Official Gazette no. 8/16)

<sup>131</sup> By: Adela Pepić et al. (2016) Alternative Report for BiH 2016 (2016) SOC on behalf of the Initiative for monitoring the EU integration of Bosnia and Herzegovina, available at: [http://eu-monitoring.ba/site/wp-content/uploads/2016/07/HRP\\_alternativni-izvjestaj\\_BOS\\_12.07.2016.-web.pdf](http://eu-monitoring.ba/site/wp-content/uploads/2016/07/HRP_alternativni-izvjestaj_BOS_12.07.2016.-web.pdf) (08/30/2016)

<sup>132</sup> Data on survey unemployment according to the Labor Force Survey BiH (LFS), which, since 2006, is carried out by the Agency and statistical offices in BiH every year on a sample of 10,598 households throughout BiH, and in accordance with the recommendations and definitions of the International Labor Organization (ILO) in accordance with the recommendations of

## Progress assessment / areas of concern for CSOs:

### *(Un) employment and gray market*

In the last ten years the actual, practical equality of women in the labor market has not been achieved, and the recommendations of the CEDAW Committee in this area have been partially or not at all implemented. In the period from 2007- 2016, employment of women has increased only by 3% (i.e. survey employment), or 1% (i.e. registered employment)<sup>133</sup>. Existing data suggest that numerous strategies, action plans which programs of (self) employment had no significant impact on improving the status of women.

In the past 4 reporting year survey employment of women is stagnating at around 37% and falling by 1.4% in 2016. Unemployment of women is between 41% -45% in the survey, or, about 50% -51.7% in registered unemployment, which indicates an increasing trend in unemployment in 2016 of almost 2% compared to the same period last year. The difference between survey and registered unemployment, ranged between 10% and 15% in the period of 2013 to 2016, which indicates lack of progress in the integration of women working in the “gray economy” into formal labor market.

### *The right to work and from work, corporate governance, discrimination against women*

The largest number of employees, regardless of gender works full time. However, available data indicate that compared to men women more frequently work in short or part-time<sup>134</sup>. However, incomplete statistics do not provide a more specific analysis of this phenomenon that must be viewed from the standpoint of access to equal rights and opportunities for women and men, in particular, right to equal pay for work of equal value, contributions, vacations, maternity and other leave.

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Eurostat. The above data are from comparable statistics according to LFS reports for the period from 2007 to 2016.; Reports of LFS are available at: [http://www.bhas.ba/?option=com\\_content&view=article&id=113=ba](http://www.bhas.ba/?option=com_content&view=article&id=113=ba) (06/01/2016); Data on registered unemployment are also the data of the Agency for Statistics and indicate the number of persons who have registered in the employment services throughout BiH, according to a Statement on registered unemployment announced by the Agency at the end of each month. Data from the Statement that Agency publishes in late December was used for the analysis. Available at: [http://www.bhas.ba/index.php?option=com\\_publicacija&view=publicacija\\_pregled&ids=1&id=2&n=Tr%C5%BEi%C5%A1te%20rada](http://www.bhas.ba/index.php?option=com_publicacija&view=publicacija_pregled&ids=1&id=2&n=Tr%C5%BEi%C5%A1te%20rada) (07/14/2016). It should be noted that the registration on the employment offices, is often the basis for the realization of some of the rights, for example health care. Comparative data from survey and registered unemployment were used. The difference between officially registered and survey unemployment is considered a reflection of the high proportion of employees in the informal economy.

<sup>133</sup> 10.7% of women worked at less than full time compared with 9% of men in 2013, ie, 9.2% of women compared to 7% of men in part-time, or reduced working hours in 2014. According to the Women and men in Bosnia and Herzegovina (2015), the Agency for Statistics, available at: [http://www.bhas.ba/tematskibilteni/TB\\_zene\\_i\\_muskarci\\_bh\\_2015\\_eng.pdf](http://www.bhas.ba/tematskibilteni/TB_zene_i_muskarci_bh_2015_eng.pdf) (07/14/2016)

<sup>134</sup> Bosnia and Herzegovina: Gender differences in exploiting the rights and opportunities offered by the society, access to economic opportunities and representation (2015), the World Bank, Agency for Statistics of Bosnia and Herzegovina, the Institute of Statistics of FBiH and Republic Institute of Statistics of the Republika Srpska, p.54, available at: <http://arsbih.gov.ba/wp-content/uploads/2016/03/WB-Rodne-razlike-u-iskoris%CC%8Ctavanju-prava.pdf> (06/01/2016.)

Gender differences in the amount of compensation for hourly earnings in favor of men are visible and noticeable in all levels of education, age groups, professions and industries<sup>135</sup>. Taking into account the population that is working for a salary or wages, age of 15-64. , the gender differences in hourly rate are estimated at 9% in favor of male employees (3.9 BAM for men and 3.5 for women BAM)<sup>136</sup>.

Gender-based discrimination in the field of labor still exists in the process of promotions and appointments to senior management positions in companies and institutions to the detriment of women.<sup>137</sup> This is confirmed by the data of Agency for Gender Equality from 2014 which show that women account for 15.7% of the management structures of companies, of which 12.5% are Presidents of the Committees and over 50% of the committees do not include woman at all<sup>138</sup>. There has been legislative progress in establishing a system for filing complaints related to discrimination based on gender or sexual harassment in the workplace by amendments to the Anti-Discrimination Law<sup>139</sup>. At the same time, every tenth person employed in the institutions of Bosnia and Herzegovina believes she was the victim of discrimination based on gender, and one in six to have been the victim of sexual harassment in the workplace<sup>140</sup>. The periodic or regular monitoring of application of anti-discrimination law is not implemented in institutions and companies; there is no data on penalties imposed for non-application of these regulations<sup>141</sup>.

There is no satisfactory, concrete progress in the protection of rights to maternity / parental leave and benefits. The new Labor Law of FBiH was adopted<sup>142</sup> which stipulates the possibility

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<sup>135</sup> Ibid.

<sup>136</sup> Demir, E. (2015) Discrimination in the area of labor in Bosnia and Herzegovina, Association for Democratic Initiatives Sarajevo and The report ""Answer of institutions and companies in the prevention of discrimination against women in BiH" (2014) ICVA and Land of children.

<sup>137</sup> The study is based on the answers of 70 of the top 100 business entities by the analysis of the Business magazine in 2013.

See: <http://arsbih.gov.ba/stakleni-krov-na-trzistu-rada/> (07/21/2016.)

<sup>138</sup> BiH adopted amendments to the Law on Prohibition of Discrimination in the summer of 2016. Article 24, paragraph 4 provides the obligation of public authorities and legal entities to regulate the principle of equal treatment by their acts and to "ensure effective internal procedures for protection against discrimination". Available at:

<https://www.parlament.ba/sadrzaj/zakonodavstvo/usvojeni/default.aspx?id=67215&langTag=bs-BA&pril=b> (09/19/2016)

<sup>139</sup> Kadribašić A. and S. Dakić (December 2013) The study on readiness of BiH institutions to implement obligations under the Law on Gender Equality in Bosnia and Herzegovina, Ministry of Human Rights and Refugees, the Agency for Gender Equality

<sup>139</sup> According to the Report "Answer of institutions and companies in the prevention of discrimination against women in BiH" (2014) ICVA and Land of children.

<sup>140</sup> According to the Report "Answer of institutions and companies in the prevention of discrimination against women in BiH" (2014) ICVA and Land of children.

<sup>141</sup> Labor Law of FBiH ("Official Gazette of BiH", no. 26/16)

<sup>142</sup> Recommendation no. 4 and 5, The institution of the Ombudsman:

"4. Ombudsmen invite the Federation Government and cantonal governments to examine the justification of the decision, according to which the payment of benefits is done through Canton budget, given the fact that the right to compensation instead of salary during maternity leave, is a right stemming from employment, and should not be related to the inflows to the budget. 5. Ombudsman notes with concern that different cantons have differently accessed the regulation of the amount of compensation for the duration of the maternity leave ..., although different solutions are possible in accordance with the Federation Constitution and the constitutions of the cantons because of divided jurisdictions for determining the different levels of compensation, current solutions do not provide consistent implementation of the principle of equality before the law, and especially in those cantons which have not secured the minimum standard of 66% of income ." Institution of Ombudsman

that, at the expiration of 42 days from birth of the child, the parents may agree that the father uses the right to maternity leave instead of the mother. At the same time, the FBiH did not resolve the question of legal and practical inequality of women / parents in the exercise of this right either in this reporting period. Bosnian Ombudsmen indicate that fees based on the use of rights arising from employment should not be linked to the inflow of funds in the budget, as it is currently regulated in the FBiH, and that current solutions do not ensure equality before the law, and especially in those cantons which have not secured the minimum standard of 66% of an income<sup>143</sup>.

The trend of discrimination and violation of the rights of women who use maternity leave on whole territory of Bosnia and Herzegovina continues. Unsanctioned cases of firing pregnant women or new mothers are still recorded; in the RS, there are cases of fictitious salary increases due to registration for reimbursement of benefits from public funds<sup>144</sup>. Women employed in private companies have a great chance to be required to pay their own taxes and contributions, because they are considered to be a financial burden<sup>145</sup>. At the same time, services for children of working parents are still inaccessible, and BiH has almost the lowest coefficient of coverage of pre-school education in Europe<sup>146</sup>.

#### *Economy of care and reform at the expense of women*

According to the regular, annual labor force surveys, women have a high proportion in the group of inactive people in the labor market, and this around 61.5% in the last reporting period. Census data from 2013 indicate a high figure of 440,992 or 98% of the women in the group of people who do housework<sup>147</sup>. Women continue to be the ones to, because of traditionalism, take care of the family, children, elderly or persons with disabilities. Without disputing the right of a woman to an informed decision to be entirely devoted to the work in the household, we should point out that concrete, practical measures to ensure the protection and the right to decent work in the household are not taken. In this area, the state again has a tendency to solve problems by making strategic documents without any real progress in the practice. At the same time, the documents, are being adopted with neither impact assessment nor evaluation

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for Human Rights in Bosnia and Herzegovina (2015) Special Report on the state of mothers and motherhood in the Federation of BiH, available at: [http://www.ombudsmen.gov.ba/documents/obudsmen\\_doc2015102111102085bos.pdf](http://www.ombudsmen.gov.ba/documents/obudsmen_doc2015102111102085bos.pdf) (07/22/2016)

<sup>143</sup> Izić I., Letić A. and Stojanović S. (2016) Stop discrimination against pregnant women and new mothers in the Republika Srpska Helsinki Committee for Human Rights in the Republika Srpska.

<sup>144</sup> Đogo M. "Discrimination against young mothers" (05/05/2016) web portal Nezavisne newspaper, available at <http://www.nezavisne.com/index/kolumne/Diskriminacija-mladih-majki/368304> (07/26/2016)

<sup>145</sup> According to UNICEF, "Access to pre-school education is currently between 6 and 13%, the lowest rate among the neighboring countries (in relation to Croatia and Serbia with 45%, Macedonia with 25% and well below the OECD average of 77%)", available at : [http://www.unicef.org/bih/ba/media\\_20011.html](http://www.unicef.org/bih/ba/media_20011.html) (06/01/2016)

<sup>146</sup> Agency for statistics (June 2016) Census, households and dwellings in Bosnia and Herzegovina, 2013, census results.

<sup>147</sup> See example: The Council of Ministers and the International Labor Organization (2013) Document of the Decent Work Country Programme 2012-2015

of planned or implemented measures to legislation, budgets, practice and, in particular, to the status of women<sup>148</sup>.

There is a noticeable tendency, especially in the field of social protection, to propose or maintain solutions according to which women are not entitled to compensation for their work and care of relative, although the law guarantees reimbursements of cost related to accommodation of people with disabilities in institutions- by the state.<sup>149</sup> Despite the specific legislative initiatives of CSOs and women politicians<sup>150</sup> the Government of FBiH justifies perennial failure to solve the problem of maternity benefits in the Federation by potentially high budget costs that may be the result of realization of this right. The situation with the recommendation of the BiH Ombudsman aimed towards the establishment of the fund for the payment of alimonies is similar to the case with the initiative of activists and women politicians.<sup>151</sup> The result of many examples is that the government shifts the cost of care for family and most vulnerable categories of the population to women. This should also be considered in the light of the economic reforms and austerity measures implemented by the State, not only because of the obvious crisis but also because of the reform processes that are part of the EU accession process and arrangements with international financial institutions<sup>152</sup>. The earlier mentioned Reform agenda envisages major changes in areas such as. labor market and reform of social security and pensions<sup>153</sup>. The fact that these processes, significant for all who live in the BiH, are not performed in a transparent and inclusive manner is worrying, especially for women's organizations and women's perspective. At the same time, international financial institutions, which insist on sharp cuts and "fiscal sustainability", play a significantly important role in these processes<sup>154</sup>. Assessment of planned reforms the impact, in particular on women and marginalized groups such as the poor, retirees, disabled persons, etc. are neither visible nor accessible.

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<sup>148</sup> See example: Draft Law on foster care FBiH, available at:

[http://www.parlamentfbih.gov.ba/dom\\_naroda/bos/parlament/propisi/El\\_materijali\\_2015/Zakon%20o%20hraniteljstvu\\_bos.pdf](http://www.parlamentfbih.gov.ba/dom_naroda/bos/parlament/propisi/El_materijali_2015/Zakon%20o%20hraniteljstvu_bos.pdf) (06/01/2016)

<sup>149</sup> See for example: the initiative of the Club of Women Parliamentarians of the House FBiH (2016), available at:

<http://www.klubparlamentarki-pfbih.ba/bs/usvojena-inicijativa-kluba-parlamentarki-o-izjednacavanju-porodiljskih-naknada-ufbih/> (09/19/2016)

<sup>150</sup> Institution of Ombudsman for Human Rights in Bosnia and Herzegovina (2013) Special Report: Children in conflict divorces, available on [http://www.ombudsmen.gov.ba/documents/obmudsmen\\_doc2013111913333951eng.pdf](http://www.ombudsmen.gov.ba/documents/obmudsmen_doc2013111913333951eng.pdf) (10/10/2016)

<sup>151</sup> Reform Agenda for Bosnia and Herzegovina for the period 2015-2018. years, available at: <http://europa.ba/wp-content/uploads/2015/09/Reform-Agenda-BiH.pdf> (07/20/2016); More on Agenda: <http://europa.ba/?p=35691> (07/20/2016)

<sup>152</sup> There are 6 fields of the reform agenda: public finance, taxation and fiscal sustainability, the business climate and competitiveness, labor market, social welfare reform and pensions, the rule of law and good governance, and public administration reform. Reform Agenda for Bosnia and Herzegovina for the period 2015-2018. years, available at: <http://europa.ba/wp-content/uploads/2015/09/Reform-Agenda-BiH.pdf> (07/20/2016); More on Agenda: <http://europa.ba/?p=35691> (07/20/2016)

<sup>153</sup> Reform Agenda: "The budgets will be established and maintained on solid medium-term basis, agreed with the IMF ...", "Other labor market reforms will be taken as agreed with the IMF and the World Bank ...", "Systems of social protection will be reformed (in consultation with the World Bank and IMF) ...", " Federation and the cantons will seek World Bank's assistance in resolving the issue of unpaid obligations to the social fund for contributions from employment ... "and so on.

<sup>154</sup> For example, employment of women in 2013 was 37% (survey), 41.3% (registered), and 39% according to the Census of population and housing in Bosnia and Herzegovina, 2013, Census results (Agency for statistics (June 2016))

### *Statistics*

Despite numerous, repeated recommendations of international institutions for the establishment of regular statistical reporting on the situation of women, we still do not have adequate, reliable and regularly collected data on an annual basis on topics of (un) employed women, wage differentials, part-time jobs, number women in decision making and management positions in companies, etc.

According to data collected by different methods in specific years, the distinction range between 2 and 10%.<sup>155</sup> The database of the initiated procedures in cases of discrimination (including discrimination based on gender, sexual harassment, and other cases of discrimination against women) has not been established even seven years after the adoption of the Law against Discrimination which explicitly stipulates this obligation<sup>156</sup>.

### **Recommendation:**

- Bosnia and Herzegovina must be committed to transparency and inclusiveness of the reform process, especially the reform of labor, social and pension system as well as the EU accession process through the coordination mechanism. This process must be inclusive for women's perspectives and NGOs involved in women's rights.
- When creating policies in the areas of labor, employment and social systems BiH should carry out compulsory assessment of the impact of these policies on the status of women. New policies must include a system of mandatory, regular monitoring and reporting on their implementation.
- Bosnia and Herzegovina must take urgent measures of affirmative action for increasing employment and self-employment of women, especially those who are inactive or unemployed for a long time, as well as measures to protect rights and position of women who are active assisting-family members, or women who perform duties of housekeepers.
- FBiH must immediately, without delay, provide the right to maternity leave and the regular payment of benefits as rights stemming from labor and security, and prescribe maternity pay for unemployed women from the social welfare system. The base and the method of calculation must be the same for all women, while administrative units can retain the possibility of securing larger amounts than those foreseen by the fundamental regulations. Effective protection against discrimination and other violations of the rights of women workers on maternity leave must be provided through the operation of the labor inspection and establishment of a harsh penal policy for all offenders in the entire territory of Bosnia and Herzegovina.
- Bosnia and Herzegovina urgently needs to prescribe jurisdiction for the labor inspection for monitoring of the Law against Discrimination and the Law on Gender Equality, especially in employment, equal pay, leave, career advancement and access to management bodies of

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<sup>155</sup> Article 8 of the Law on Prohibition of Discrimination ( "Official Gazette" no. 52/09, 66/16)

<sup>156</sup> Law on Health Insurance of FBiH ( "Official Gazette of the FBiH" number: 30/97, 7/02, 70/08, 48/11), Law on Health Insurance of RS ( "Official Gazette" No. 18/99, 51 / 01, 70/01, 51/03, 17/08, 01/09, 106/09) and the Law on health insurance of BD ( "Official Gazette of BD" number: 1/02, 7/02, 19/07, 2 / 08, 34/08)

companies, as well as to establish a system of protection against sexual harassment, harassment and discrimination based on gender.

- States must urgently establish a regular system of collecting detailed statistical data on the status of women, especially in employment, payrolls and benefits in individual sectors of employment, vocational training and promotion, participation in management and corporate governance, work on the “gray market”, etc.

## HEALTH

Prepared by: Ariana Ćatović

### **Concluding observation number 35:**

The Committee is concerned at the absence of unified laws and policies in the area of health, resulting in unequal access to health-care services and health insurance coverage, depending on the place of residence of women and the financial capacities of the district and/or canton concerned, which disproportionately affects Roma women and rural women. The Committee is also concerned about the low rate of modern contraceptive use in the State party, resulting in high numbers of teenage pregnancies. While noting the implementation of the young people's health policy (2008-2012) in Republika Srpska and the 2010 strategy to improve sexual and reproductive health and rights in the Federation, the Committee is concerned about the absence of information on the measures taken and the results achieved.

### **Concluding recommendation number 36:**

The Committee recommends that the State party: (a) Intensify its efforts to harmonize its health-care system and to integrate a gender perspective into all health sector programmes and reforms, in order to ensure that women, including disadvantaged groups of women, have equal access to health-care services and adequate health insurance coverage throughout the State party; (b) Raise awareness of and enhance effective access to affordable modern contraceptive methods, including in rural areas, so that women and men can make informed choices about the number and spacing of their children; (c) Introduce age-appropriate education on sexual and reproductive health and rights in school curricula, including issues relating to gender relations and responsible sexual behaviour, with the aim of preventing early pregnancies and the transmission of sexually transmitted diseases, including HIV; (d) Undertake systematic gender impact assessments of current strategies and policies, and include such information in its next periodic report.

## Introduction

In Bosnia and Herzegovina (BiH) a decentralized health care system leads to unequal access to health care and services. Currently there are three laws on health insurance<sup>157</sup> and three laws on health care<sup>158</sup>. A number of strategies and policies was adopted in addition to the above mentioned laws. Federation of Bosnia and Herzegovina (FBiH), among other things, also adopted the Strategic plan for development of health in FBiH in the period from 2008 to 2018, Policy and Strategy for the Protection and Promotion of Mental Health in the Federation (2012-2020), Strategy for improving sexual and reproductive health and rights in the Federation (2010-2019). The RS has adopted Policy of improving the health of the population of RS until 2020, Policy for the promotion of sexual and reproductive health from 2012 to 2017, Strategy

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<sup>157</sup> The Law on Health Care of FBiH ( "Official Gazette of FBiH" No. 41/10), Law on Health Protection of the RS ( "Official Gazette" No. 106/09, 44/15) and the Law on Health Protection of BD ( "Official Gazette BD "number: 38/11, 09/13, 27/14, 03/15)

<sup>158</sup> The Council of Ministers, on the 41st session held on 28.01.2016. year, adopted a Report on the implementation of the Gender Action Plan of Bosnia and Herzegovina for 2014, available at the link <http://arsbih.gov.ba/project/izvjestaj-o-realizaciji-gender-akcionog-plana-bih-za-2014-year/>

of development of mental health in RS 2009-2015 and others. Brčko District has not made any publicly available strategy or policy in the field of health. All these, and other existing regulations, strategies and policies, to a larger or lesser extent, they emphasize the need to pay special attention to the improvement of health services and rights in the field of health, respecting the principle of non-discrimination and gender equality. Unfortunately, these principles are only declarative in order to meet the formalities, because in practice, women, especially from marginalized groups, are not ensured with equal and non-discriminatory approach to health in all parts of the country.

Report on implementation of the Gender action plan of Bosnia and Herzegovina for 2014.<sup>159</sup> states that all valid strategies and policies in the field of health in the Federation have integrated gender perspective. Analyzing these strategies, it is evident that they did not fully involved needs and problems of vulnerable groups of women such as disabled women, rural women, minorities, women victims of war, etc. who, due to their specific situation, may face additional health risks<sup>160</sup>.

Gender Action plan of BiH for the period 2013-2017 (GAP)<sup>161</sup> is a strategic document which, within the strategic goal 1, predicts Creation, implementation and monitoring of measures for improving gender equality in the governmental institutions of the priority areas, where health prevention and protection are listed as a priority areas.

This document, in the part of the assessment, states that, in spite of the efforts made on the coordination of laws, regulations and strategies governing the field of health with national and international standards for gender equality, there is still a difference between determined rights to health care and opportunities for their realization in practice, which is especially true for women from rural areas and women belonging to vulnerable groups. It is stated that there are a number of barriers that prevent access to health care for the residents of Bosnia and Herzegovina, particularly due to: different rates of contributions for health insurance, non-payment of contributions by employers, unresolved problems of coordination between entities, cantons and so on. Also, eight measures whose consistent implementation would significantly improve access to information and health care institutions were adopted. However, nearly three years after the adoption of GAP, not even one of the proposed measures has been implemented thoroughly.

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<sup>159</sup> The necessity of considering all the specific needs of different categories is one of the foundations of General Recommendation 24 (CEDAW):

"Although the biological differences between men and women may lead to differences in health status, there are social factors that influence the health of men and women. They can create differences among women themselves. For this reason, it is necessary to pay special attention to the health needs and rights of women belonging to particularly vulnerable groups, or groups that are severely disadvantaged, such as women, migrants, refugees and internally displaced women, female children and elderly women, women who prostitution, indigenous women and the physically or mentally disabled women "

<sup>160</sup> Gender Action Plan for the period 2013-2017 ( "Official Gazette" No. 98/13)

<sup>161</sup> According to data published in a statistically yearbook of the RS 2015 and the calculation of resources in the health sector in the Federation for the year 2014 issued by the Health Insurance and Reinsurance Federation. Data from the two publications relating to 2014 and are available at:

[http://www.rzs.rs.ba/static/uploads/bilteni/godisnjak/2015/28pio\\_2015.pdf](http://www.rzs.rs.ba/static/uploads/bilteni/godisnjak/2015/28pio_2015.pdf) and <http://www.parlamentfbih.gov>

## Access to health services and health insurance

The main problems of health care in the BiH are inconsistent policies, limited access to health services and the use of health insurance, and the fact that no institution face any sanctions if it does not implement the measures prescribed by law or if it adopts by-laws that are inconsistent with applicable law.

Data of entity Health Insurance Institutes (HII) indicates that more than 500,000 of citizens do not have a health insurance<sup>162</sup>, more than 2/3 of which refers to the Federation. The big difference in the number of uninsured persons in the FBiH<sup>163</sup> than in the RS is due to article 19, paragraph 12 of the Law on Health Insurance FBiH and article 20 of the Law on mediation in employment and Social security of unemployed persons in FBiH.

These discriminatory articles of above mentioned laws stipulate the realization of the right to health insurance for unemployed persons through employment services, by the existence of the deadline for registering to the employment service within 30 to 90 days upon termination of schooling or job loss and the deadline within 15 days for providing written notice of termination of employment by the employer to the employment services.

This particularly affects vulnerable groups of women and rural women, who, due to the lack of financial resources, lack of knowledge and patriarchal upbringing, do not report, within the legal deadline, to the register of unemployed persons, and therefore lose their health insurance. In order to re-acquire the right to health insurance they must get employed, and the employer must register them and pay their social and health insurance.

It often happens that, even if they find a job, women work in the informal economy where employers do not register them and therefore they cannot be entitled to health insurance. In Tuzla Canton, there was a regression of the right to compulsory health insurance. The latest amendments to the Law on Social Protection (September 2015), denied the right to compulsory health insurance for children, 6-15 years of age, who do not attend primary school. In this way, 46 children lost their right to access to health care, which affected mostly girls, particularly Roma.

The situation in the RS is more favorable, because mentioned discriminatory deadlines do not exist. In the publication, "Report: Are women in the BiH protected from discrimination?"<sup>164</sup>, civil society organization ICVA from Sarajevo states that most of the problems and discrimination in the realization of the rights of Roma women to health care happen through the denial of emergency health care that does not involve owning health insurance. Some of the medical institutions try to charge and / or charge examinations of pregnant Roma women. Because of the conditioned access to health care even during pregnancy, 21% of pregnant

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<sup>162</sup> Law on Mediation in Employment and Social Security of the Unemployed ( "FBiH Official Gazette", No. 41/01)

<sup>163</sup> The report is available at: <http://icva-bh.org/wordpress/wp-content/uploads/2015/07/Da-li-su-zene-u-BiH-zasticene-od-diskriminacije.pdf>

<sup>164</sup> Indicators MICS: "Guidelines for improving the situation of Roma children in Bosnia and Herzegovina"

Roma women, aged 15-49, never requested or received prenatal care.<sup>165</sup> Associations of women with disabilities indicate problems in accessing gynecological care and protection of pregnant women. In BiH, only a few gynecological clinics in bigger cities have adequate tables for gynecological examination of women who use wheelchairs. The lack of training of health personnel for examinations and childbirth of women with disabilities and unprofessional behavior contribute to the absence of women on regular examinations or they, due to traumatic experiences, do not decide to give birth to more than one child. Women in the rural area have no access to specialized health services because all specialized services are located in cities. The Annual report on the results of the activities of the institution of Ombudsman for human rights from 2015 stated the following: "...As noted above, people often indicate low level of provision of health care, its poor quality and the unprofessional attitude of doctors towards patients. Example: At a public discussion on women's rights in Bosansko Grahovo the lack of specialist gynecologist in this municipality was mentioned as a special problem faced by women in this area. The Ombudsman sent a recommendation to the Government of the Canton 10 to consider taking measures within its jurisdiction aimed at raising the level of health care in the area of Grahovo. The declaration on the recommendation was not received, and the Ombudsman will continue monitoring its implementation. Another problem faced by women in the BiH are medical co-payments. FBiH Parliament adopted the Decision on maximum amounts of direct co-payments for the insured persons who use of certain types of health care from the primary health care package which helped to establish categories of insured persons exempt from any medical costs. By the Decision, among others, women are exempt from medical costs in the realization of health care regarding pregnancy and maternity, health service users in relation to the prevention of breast and uterus cancer, persons older than 65 years who are not beneficiaries of pensions and retirees with minimum pension, unemployed persons, persons with certain disabilities and other vulnerable groups. This decision is not implemented because the cantons have not harmonized their regulations on the co-payment with this decision. The cantons do not suffer any consequences for refusing to implement this decision. The consequence of this behavior is that women do not go to the preventive examinations because they are in most cases the cost of which is not planned in the household budget. This particularly affects women victims of violence, unemployed women, women working in the informal economy and the like.

### **Sexual and reproductive health in the education system**

Sexual and reproductive health is still relatively taboo topic in Bosnia because the social relations are still based on unwritten patriarchal laws and rigid gender roles. A large number of citizens' identifies sexual and reproductive health with the sexual act and believes that discussions on this subject in schools could only encourage young people to engage in early sexual activity. There is no an understanding that education on sexual and reproductive health primarily protects the physical health of young people and ensures knowledge which will help them to build their own system of values and self-esteem that will enable them to make responsible decisions and to behave responsibly. The unified systematic approach to inclusion

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<sup>165</sup> Stated in the Strategy for the improvement of sexual and reproductive health and rights in FBiH, 2010-2019 years in a part of Promoting sexual health and reproductive rights.

of topics related to sexual and reproductive health into the formal education system does not exist in BiH. The only information that is available through the formal education system is offered in biology classes during the final grades of primary school<sup>166</sup>, where we talk about reproductive anatomy and function of man, and the topics that talk about contraception, sexually transmitted diseases, sexual abuse, gender issues and the like are not included. Young people are left to explore everything on their own and to obtain information through sources that are not reliable and that often provide misleading and inaccurate information. No one is seriously concerned with the consequences of lack of education of young people about sexual and reproductive health. On the territory of Bosnia and Herzegovina there are no research and no official data and analysis on the consequences of the lack of preventive education programs on sexual and reproductive health. Rarely available data in this field were published in the Special Report of the Ombudsman for Children of RS, which indicates a lack of prevention programs to protect the health of children and almost complete absence of the role of formal education in the protection of their reproductive health. The study was conducted on a sample of 523 high school students (60% girls and 40% boys) from 17 secondary schools and it shows that the largest number of children, receives information about reproductive health from the media (67%), parents (39%) and peers (33%), while school takes the last place in the education of children on this topic (15%)<sup>167</sup>. The legislation does not prescribe compulsory education on sexual and reproductive health. Both entities have adopted policies related to this issue<sup>168</sup>, which recognize the need for continuous education and development of curricula aimed at the education of young people of both sexes in primary and secondary schools on this topic as well as the promotion of cooperation with non-governmental organizations that have the knowledge and human resources to contribute to the improvement of the situation in this area. Policy of sexual and reproductive health and rights in BiH, which aims to promote and protect of sexual and reproductive health and rights of all citizens in BiH, was also adopted. Policy prescribes directions of action, some of which are particularly related to youth, such as raising the level of knowledge about sexual and reproductive health and rights of young people through continuous education. Although all these policy prescribe continuous education through the educational system, in practice nothing is being done. Exceptions are occasional educations conducted in some schools in cooperation with NGOs, educating a limited number of students. These educations are important but their disadvantage is that they do not include gender-sensitive, continuous and systematic approach that would include mechanisms of teacher training and gender-sensitive and accessible services adjusted to the needs of young people.

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<sup>166</sup> Reproductive health - the attitudes of young people, a special report of the Ombudsman for Children and Youth Network Consultants, Banja Luka, December, 2012. Br. 1928-5 - I / 12.

<sup>167</sup> Strategy to improve sexual and reproductive health and rights in the Federation for the period 2010-2019, the Federal Ministry of Health, and the Policy for the promotion of sexual and reproductive health of the Republika Srpska for the period 2012-2017, the Ministry of Health and Social Protection of the Republika

<sup>168</sup> Official Gazette no. 21/11

## Recommendations

- It is necessary to continue efforts to harmonize the health care system and ensure that women, including vulnerable women, are entitled to equal access and adequate coverage of health insurance.
- It is necessary to undertake systematic gender impact assessment of current strategies and policies that regulate the field of health as well as the integrated assessment of their current implementation and effects.
- It is necessary to carefully plan, prescribe by law and effectively implement programs that will provide education on sexual and reproductive health through the formal education system, starting with the lower grades of elementary school. The programs must be gender-responsible and sensitive, free from prejudice, stigmatization and sexual-gender segregation, open for open discussion and suitable for the children, recognizing their rights, freedoms, choices and roles. It is essential that programs include interagency cooperation (education, health, social protection) and the resources and knowledge of the NGO sector, as well as planning of public budgets, which will be focused on the sustainability of the program.

## DISADVANTAGED GROUPS OF WOMEN

### **Concluding observation number 37:**

The Committee expresses concern about the situation of various disadvantaged groups of women, including Roma women, internally displaced women, many of whom continue to live in collective accommodation, so-called minority returnee women, rural women, older women and women with disabilities, who are more vulnerable to poverty and are at risk of intersectional forms of discrimination in terms of education, health care, employment and public and political participation. It regrets the insufficient information provided by the State party in this regard and the limited information provided on the use of temporary special measures.

### **Concluding recommendation number 38:**

The Committee calls upon the State party to take effective measures to eliminate discrimination against Roma women, internally displaced women and minority returnee women, rural women, older women and women with disabilities, particularly in the areas of education, health and employment and in political and public life, by developing targeted strategies, including temporary special measures, to increase equality in those areas. The Committee also recommends that the State party increase its cooperation with civil society organizations in this regard and requests that it include detailed information, including disaggregated data and information, on the situation of disadvantaged groups of women in its next periodic report.

## Summary

Due to the different needs, position and level of enjoyment of the rights of different groups of marginalized women, in this section some of these vulnerable groups are presented separately - women with disabilities, returnees and internally displaced women, LGBTI women, Roma women in rural areas. What is common for all of these groups of women are: multiple discrimination based on gender and other characteristics such as sexual orientation, ethnic origin or social status; uneven and inaccessible health care which is closely associated with poor transportation infrastructure, abolition of rural clinics, expensive private examinations, transportation costs and architectural barriers; lack of adequate statistical data and failure to recognize the specific needs of these vulnerable groups in specific strategies and development policies. One of the common characteristics lies in the fact that these women almost never participate in legislative and / or executive bodies at any level of government in BiH and that the level of prejudice and stereotypes towards certain groups in BiH society is extremely high and worrying.

## **WOMEN WITH DISABILITIES**

Prepared by: Tanja Mandić Đokić

### **INTRODUCTION**

Women with disabilities have already been identified as a vulnerable group that is particularly exposed to discrimination by the previous Alternative Report on the implementation of CEDAW, and still are at increased risk of violence and have difficulties to access the social resources and achieve their rights. Women with disabilities are in a discriminatory position in relation to other women in Bosnia and Herzegovina, because the services that have been provided to the women without disabilities in recent years remain inaccessible for women with disabilities. Modest measures that society takes for the advancement of the position of persons with disabilities do not take the gender perspective into account.

Bosnia and Herzegovina has almost no records of participation of women with disabilities in political life, and especially not outside the functions related generally to the disability movement. No woman with a disability is a representative of the entity parliaments, or a representative of the Parliamentary Assembly of BiH. Also, women with disabilities are not on the electoral lists of political parties and none of the women with disabilities are at the head of a public authority. In order to meet the obligations of Bosnia and Herzegovina arising from the Article 33 of the Convention on the Rights of Persons with Disabilities, Council of Ministers of Bosnia and Herzegovina issued the Decision on the establishment of the Council for Persons with Disabilities of Bosnia and Herzegovina<sup>169</sup>. From a total of 10 representatives of organizations of persons with disabilities in the Council, from both entities and Brčko District, only 2 are women, one of which is secretary of the Council. In the RS, the Ministry of Health and Social Welfare, has the position of the National Coordinator for persons with disabilities in which is a woman with disability, but this is a voluntary advisory position without a lot of influence.

There are relatively few projects for persons with disabilities, which are implemented in cooperation with entity / local authorities (most important are the UNDP LOD projects ) and none of them has exclusively targeted women with disabilities, although donors generally insist on the participation of women in the projects.

In general, media reporting on people with disabilities is full of discriminatory stereotypes, showing them usually as vulnerable or “unfortunate” or as “heroes” with overly sentimental tone. Until a year ago, women with disabilities were not even referred as “women” but by general term - person with disabilities.

Network of Women with Disabilities has since recently been active in Bosnia and Herzegovina. The network gathers 60 women with disabilities and works on increasing the number of members, and reaching large number of women with disabilities. The network has identified

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<sup>169</sup> „There is no requirement that the institutions have a person who knows sign language, but the Law on Health Protection of RS (Official Gazette No. 106/09) stipulates that, if necessary, an interpreter can be provided. The practice of calling interpreters has not been established. " See: Analysis of the application of disability policy BiH 2008 – 2013.

that due to numerous social barriers (poverty, reduced mobility, etc.) and lack of empowerment many women are prevented or unmotivated to even engage in the fight for their better position and to join organizations such as the Network of women.

### **Parts within the areas covered by the report which we want to point out / defined priorities**

- **The inaccessibility of health care for women with disabilities**

The inability to use health services is reflected in the lack of adaptation of medical equipment, lack of adaptation of interior space, inaccessibility of information for blind and deaf people<sup>170</sup> and lack of training of medical personnel to provide adequate assistance to persons with disabilities.

Throughout the country there are only 4 gynecological chairs that can be adapted in order to deliver the transfer of a woman in a wheelchair and those are located in Banja Luka, Sarajevo, Tuzla and Bijeljina. And in these cases, women testify that the medical staff poorly handles the equipment, are scared and do not know how to assist a woman with disabilities. This leads to the fact that women with disabilities avoid using healthcare services, go to a doctor only in cases of major problems and almost never carry out preventive examinations. Even in cases when adapted equipment exists (mostly from donations) it is not a result of systematical efforts to adapt existing services to everyone and health institutions do not promote opportunities for using certain services. Women with disabilities have no information that there was a possibility to do the check up and often acquired equipment remains unused.

Under the umbrella of illusory equality of all patients, those whose needs exceed the boundaries of average patients are being discriminated.

“I avoid each examination that cannot be done while sitting in a wheelchair, because the moment I am supposed to use the bed for examination, two people have to lift and carry me because the beds are high and narrow. That is terribly impractical so I do not go on rehabilitation or to a gynecologist.” S.P. Teslić.

D. V. sister of J. V. from Prnjavor: “My sister has to be put into general anesthesia when going to the dentist. It's a small operation during which several teeth get fixed. In our municipality it is impossible to carry out such thing, so we have to take her to Banja Luka, pay medical costs and travel costs for two of us, because one has to drive and other take care of her in return. We both have to take a day off at work.”

- **Employment of women with disabilities**

Although the legal framework which stipulates the obligation of employing persons with disabilities exist, in its (already insufficient) implementation women with disabilities are additionally discriminated against compared to men, as employers give priority to the category of disabled war veterans consisted of men only. There are entity funds for vocational

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<sup>170</sup> Data drawn based on the counting of women names in the competition results of the Fund for 2016; <http://fprzoi.ba/wp-content/uploads/2015/10/op%C5%A1ti-pro%C5%A1li-l-javni-poziv-20151.pdf>, <http://fprzoi.ba/wp-content/uploads/2015/10/posebni-pro%C5%A1li-l-javni-poziv-20151.pdf>, <http://fprzoi.ba/wp-content/uploads/2015/10/samostalni-poduzetnici-pro%C5%A1li-l-javni-poziv-2015.pdf>

rehabilitation and employment of persons with disabilities who have a record of the number of persons with disabilities that have used their legally defined services, but they admit not keeping records on women with disabilities. However, based on available data (reports, announcements of the contest results), we can extract information that speak of devastatingly low representation of women with disabilities using the employment programs. Thus, in 2015 in FBiH a total of 248 people with disabilities were employed, of which 66 were women, or 26.6%.<sup>171</sup>

In the Republika Srpska in the period 2013-2016 through the Fund for Employment 547 people with disabilities were employed, of which only 34 women, or 6.2%.<sup>172</sup> The practice also notes that women with a higher degree of functional disability are the least likely to get a job, regardless of qualifications.

- **The absence of social services in the communities and not taking into account the gender perspective in determining the rights in the field of social protection**

Community services such as personal assistance, home care, special transportation, etc. do not exist or exist in a very small scale and do not meet the needs of women with disabilities. In the Republika Srpska personal assistance services exists in 3 municipalities, and in the Federation in none. A gender perspective is not taken into account when assessing the needs of people with disabilities which affects the ability of women with disabilities to exercise social roles (eg. motherhood).

In BiH there is a significant discrimination in relation to the cause of disability.

“When the protection that disabled war veterans receive is compared with protection of persons whose disability is not a product of war, but the result of an accident, illness or is acquired at birth (BiH legislation uses clumsy term “non-war disability”), it is clear that these two groups of people with disabilities receive very different amounts of aid funds. In addition, the method of determining the need for social protection is different. This is expressed in both entities, thus FBiH allocates almost five times less for non-war invalids than for war invalids, with the same percentage of disability”.<sup>173</sup>

Knowing that the category of disabled war veterans includes men in 99% of cases, it is not difficult to conclude that in the total number of persons with disabilities, women are the ones who have a minimum compensation which is nowhere close to guaranteeing the lowest level of social security.

V.Č. Banja Luka<sup>174</sup>: “I feel that I am a burden to my family, so I adapt all of my needs to theirs, which makes me try not to have any needs. There is no transportation so I cannot go anywhere alone, the fee for the care is not enough to pay someone to go with me. All this leads to the fact that I spent my time at home, I do not socialize or go to school anymore”.

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<sup>171</sup> Data obtained by e-mail from the Fund for Vocational Rehabilitation and Employment of Disabled Persons RS.

<sup>172</sup> Alternative report on implementation of the UN Convention on the Rights of Persons with Disabilities.

<sup>173</sup> All the testimonies of women were taken from the minutes of an internal workshop for women's empowerment organized by HO "Partner".

<sup>174</sup> <http://www.cesi.fpn.unsa.ba/profil-bosne-i-hercegovine/>

## Recommendations

- It is mandatory to foresee the disability perspective in policies, strategies and action plans created for the advancement of women in Bosnia and Herzegovina in order to make all social resources and services available to women with disabilities equally
- - It is mandatory to foresee the gender perspective during creation of legislations, policies, strategies and action plans in the field of disability, in order to avoid discrimination against women with disabilities in relation to men with disabilities.
- Provide actual access to health services for women with disabilities especially in primary health care (possibility of sign language interpreters, instructions for the blind, physical accessibility to buildings, beds, toilets and so on).
- Additionally stimulate the employment of women with disabilities over 40% of disability, and increase control of the application of the Law on professional rehabilitation, training and employment of persons with disabilities in both entities.
- Recognize the gender perspective in assessing the scope of services and rights in the field of social protection.

## INTERNALLY DISPLACED WOMEN AND RETURNEES

Prepared by: Danka Zelić

### Introduction

Around 2, 2 millions of people, more than half of overall population, were forced from their homes during the war in Bosnia and Herzegovina. Around 1.2 million of them fled out of Bosnia and Herzegovina, and around one million were displaced within the country.

Statistics show that today in Bosnia and Herzegovina there are about 113,000 internally displaced persons and that 58,578 refugees still live outside BiH.<sup>175</sup> This number is still unacceptably high, and an additional problem is the fact that the statistics of refugees and displaced persons were never done by gender, so that we do not have information on how many men and how many women had the status of refugees and displaced persons. There is no data how many women returnees live in BiH. The only statistics that we can access is the Gender and age structure of displaced persons in the Federation of BiH: 18,078 men and 20,742 women, until 2014<sup>176</sup>.

In addition, displaced persons in Bosnia even Herzegovina, even 21 years after the war, live in collective centers. Although it was planned that all the collective centers get shutdown by the end of 2017, this will not happen within the prescribed period<sup>177</sup>. The State Ministry for Human Rights and Refugees say that the money is provided, but they explain that the implementation of the project of construction of social housing for the displaced people needs more time. According to data of this Ministry of BiH there are 170 collective centers that house close to eight and a half thousand people. By 2017, 40 percent of collective centers should be closed, while the other centers could be closed by 2020<sup>178</sup>.

The refugees, internally displaced persons and returnees are an especially vulnerable group in terms of exposure to poverty and all forms of discrimination. Particularly vulnerable categories of returnees are women, single mothers and elderly people. A large number of returnee women is employed in agriculture, seasonally or permanently, but usually do not have regulated employment status and are without the possibility of obtaining social and other rights. Aid granted for returnees in order to become self-employed or employed represents a blatant example of gender discrimination. A particular problem is the unavailability and lack of uniformity of health care for women returnees who, in their places of return, do not have clinics, pharmacies, or the ability to perform regular gynecological examinations.

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<sup>175</sup> <http://www.fmroi.gov.ba/bosanski/statistika/index.php>

<sup>176</sup> <http://balkans.aljazeera.net/vijesti/hiljade-bh-gradana-u-kolektivnom-smjestaju>

<sup>177</sup> Statement of Edina Imamović from the Ministry of Human Rights and Refugees in BiH

<sup>178</sup> <http://www.fmroi.gov.ba/bosanski/odluke/Odluka%20preliminarna%20JP%20Zapo%C5%A1ljavanje%20F%20BiH.pdf>

## Implementation of the recommendation and the current situation

The returnees face a number of problems related to the exercise of their rights and ensuring sustainable return. There are very few opportunities for permanent employment, mainly because the returnees mostly return to places that were essentially destroyed during the conflict and where infrastructure is not restored, a pre-war jobs no longer exist, because everything that survived the war, was destroyed by the privatization. Returnee women are usually the ones who are disadvantaged and are less likely to find any job. Percentage of women beneficiaries of subsidies for sustainable returns across the country is negligible compared to the number of male users. According to the Decision on establishing the ranking list of potential beneficiaries under the Programme to help sustainable return in order to support employment / self-employment of returnees in agriculture in the municipalities of the Federation of Bosnia and Herzegovina, of the total 1,562 beneficiaries 1,414 were men and 148 women<sup>179</sup>. Thus, of the total aid intended for sustainable return in the municipalities of the Federation, less than 10% was given to women.

Also, the Decision on establishing the ranking list of potential beneficiaries under the Programme to help sustainable return in order to support employment / self-employment of returnees in agriculture in municipalities of Republika Srpska and Brčko District shows that of a total of 466 beneficiaries, only 59 are women versus 407 men<sup>180</sup>. Furthermore, only 122 women and even 660 men (total of 782 people) were on the Ranking list of the spring / autumn fruit planting in FBiH, part of support provided by Federal Ministry of Displaced Persons and Refugees in 2015<sup>181</sup>, and only 13 women versus 190 men met the requirements for equipping farms and cattle fund development<sup>182</sup>.

And while men dominate when it comes to assistance programs in agriculture and small business, there were more women in university scholarship programs. 184 female students' returnees received a scholarship to study in the Republika Srpska in school year 2014/2015 versus 133 male students, and in the 2015/2016 year, 193 female and 138 male students<sup>183</sup>. Scholarships are granted for students from first to fifth year of studies. But in the real sector in

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<sup>179</sup> <http://www.fmroi.gov.ba/bosanski/odluke/Odluka%20preliminarna%20JP%20Zapo%C5%A1ljavanje%20RS.pdf>. Decision on determining the potential beneficiaries of the program of assistance for sustainable return in order to support employment / self-employment of returnees in small businesses in the RS, shows only three women on the list for aid, as opposed to 30 men.

See: <http://www.fmroi.gov.ba/bosanski/index.php>

<sup>180</sup> [http://www.fmroi.gov.ba/bosanski/j\\_oglasij/index.php#josv](http://www.fmroi.gov.ba/bosanski/j_oglasij/index.php#josv)

<sup>181</sup> <http://www.fmroi.gov.ba/bosanski/index.php>

<sup>182</sup> <http://www.fmroi.gov.ba/bosanski/index.php>

<sup>183</sup> The project "Through Education to the prevention of malignant diseases among women," conducted by the Women Citizens Association Grahovo - Final Report 06/2014. The study included 100 women (gynecological examinations and Pap tests) in Livno, urban area and Bosansko Grahovo, rural. Research in a controlled population in Livno has shown that the incidence of invasive cervical cancer was 0.06 to 0.17%, the same as the frequency of CIN II, H SIL, while in Bosansko Grahovo incidence was 1%, of cervical cancer, and even 2% for CIN II. Also, 85% of women who have regular access to health care (Livno) have done Pap test in the last three years, while the result of the returnee population is below 60%.

employment that number is different, and generally when compared with women, men are advantaged.

Health insurance and health care for internally displaced women and returnees in BiH is uneven, inefficient and often not available and depends on the economic power of the entity and cantons. Specific difference is evident in rural and urban areas, as well as between the entities and in all cantons.

Problems in the use of health services faced by displaced women and women returnees, particularly from rural areas are: absence of health insurance, distance of health facilities, abolished rural clinics, transportation costs, time required to do the examinations, the costs of examinations and interventions in private clinics, long distance or lack of pharmacies in the area of return, as well as prices of medicines.

Although in the past some health centers and hospitals restored and in the larger towns and cities, in small towns gynecological examination is not possible because gynecological clinics are not renewed. There are examples where the gynecological clinics were renovated and equipped with all necessary equipment, but are not operational. Basically, the problem is that cantonal governments and relevant ministries do not want to fund specialized doctors to go to work in these clinics. Often, women's NGOs find funds to finance visiting doctors in clinics in rural areas, in order to facilitate medical examinations of women returnees. Those same organizations periodically carry out education projects for women returnees, and provide free gynecological examinations for women returnees who do not have health insurance. NGO reports show that women returnees who do not have regular access to adequate health care are much more likely to develop cancer than women with normal and accessible health care<sup>184</sup>.

Despite the efforts made on the coordination of laws, regulations and strategies governing the field of health with national and international standards for gender equality, the difference between the established rights to health care and opportunities for their realization in practice still exists, which is especially true for women returnees, women from rural areas and disadvantaged groups of women.

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<sup>184</sup> National Democratic Institute conducted a survey in BiH in 2015, and the research was conducted in 2013 by SOC. More information is available at: <http://www.slideshare.net/NDIdemocracy/ndi-public-opinion-poll-in-the-balkans-on-lgbti-communities>, <http://soc.ba/oslobodenje-zivot-lgbt-osoba-u-bih-nije-jednostavan/> and [http://soc.ba/site/wp-content/uploads/2013/11/ko\\_smo\\_mi\\_2013\\_10\\_25web1.pdf](http://soc.ba/site/wp-content/uploads/2013/11/ko_smo_mi_2013_10_25web1.pdf).

## **RECOMMENDATIONS:**

1. Undertake a systematic assessment of the gender impact of current strategies and policies that regulate the field of health and continue to work on the harmonization of the health care system and ensuring that women returnees and internally displaced women are entitled to equal access and adequate health insurance coverage, including sexual and reproductive health.
2. Employment Services at all levels in Bosnia and Herzegovina should strengthen human resources and ensure special staff who will work on full integration of gender equality in employment, and design projects which will be specifically focused on the employment of women returnees and internally displaced women.
3. Adequately legally regulate issues of social and health insurance of women returnees, who are employed in agriculture, seasonally or permanently, who do not have regulated employment status and are without the possibility of obtaining social and other rights
4. Systematically work on informing returnees on their rights, as well as on opportunities of employment and self-employment. Ensure that all the right information gets to all returnees through newsletters, meetings in local communities and municipalities, as well as through local and other media.

## **LBTI WOMEN**

Prepared by: Emina Bošnjak

### **INTRODUCTION**

Lesbians, bisexual, transgender and intersex (LBTI) women are one of the most marginalized social groups in Bosnia and Herzegovina. Until 2015 there was no public policy that included the protection, promotion or inclusion of LBTI women in BiH society, LGBTI rights were not on the agenda of any of the authorities, and in many areas, especially private and family life, LGBTI persons and thus LBTI women were structurally discriminated.

Public opinion researches, which were conducted by organizations concerned with human rights show extremely high level of ignorance about the problems and needs of LBTI women, worrying levels of social distance, and prejudices and stereotypes against LBTI women<sup>185</sup>. Having this in mind, growing trends in the number of cases of violence and discrimination against LBTI women are not surprising.

### **Parts within the areas covered by the report which we want to point out / defined priorities**

Data of Sarajevo Open Centre<sup>186</sup> show that there have been a total of 16 cases of incidents of hate speech and hate crimes against LBTI women in 2014, and in 2015 this number was increased to 28. In 2014, there were no reports of discrimination against LBTI women, but in 2015 two cases of discrimination were reported to Sarajevo open Centre. In Bosnia and Herzegovina there are still no official reports that would show the state of human rights of lesbian, bisexual, transgender and intersexual (LBTI) women. Thanks to the two-year pressure from civil society organizations, the first thematic session on the rights of LGBTI people in the state parliament (PA BiH) was held in May 2015. This was the first session of a parliamentary body in BiH history exclusively dedicated to human rights of LGBTI persons, and the Joint Commission for Human Rights of the Parliamentary Assembly of BiH, among other things, concluded that the institution of Ombudsman for Human Rights should make a special report on the protection of the rights of LGBT people and submit it to the relevant authorities. The report is currently being drafted.

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<sup>185</sup> Official court information or court records that classify crimes, especially crimes of hate and hate speech, on the basis of sexual orientation, gender identity or sexual characteristics do not exist. SOC, as civil society organizations dealing with the rights of LGBTI people has a system of documenting violations of human rights of LGBT people that served as the source of this data.

<sup>186</sup> The term "sexual expression and / or orientation" should be "gender expression and / or sexual orientation." These are terms that are established and used in the discourse of human rights, and in the movement for the rights of LGBTI persons and (international) legal practice. This is particularly important bearing in mind that practitioners (in justice, administration, etc.) are often not aware of the true meaning of these terms, and clear definitions are necessary in our legal culture.

The first law that stipulates the prohibition of discrimination based on gender and sexual orientation is the Law on Gender Equality in Bosnia and Herzegovina from 2003 (amended in 2009). According to the Law on Prohibition of Discrimination, adopted in 2009, discrimination against LGBTI women is prohibited, inter alia, on the basis of “sexual expression and / or orientation”<sup>187</sup>. Following the adoption of these laws, there were no any further necessary steps for their effective implementation, and so far not a single case of discrimination of LGBTI women in the courts was recorded on these grounds.

Anti-Discrimination Law is in parliamentary procedure of amendments since April 2016, and contains specific amendments addressed by the SOC. If BiH Parliament adopts this law, Bosnia and Herzegovina will become one of the first countries in Europe which prohibits discrimination based on “sexual characteristics“, providing comprehensive protection of intersex women from discrimination in all spheres of life. In addition, the bill would explicitly prohibit discrimination based on sexual orientation and gender identity, substituting the previous term with established and correct ones. The law will thus protect all lesbian, bisexual, trans \* and intersex (LGBTI) women from discrimination. Concern that these changes will not result in reduced levels of discrimination against LGBTI women remains if effective steps to prevent discrimination are not undertaken.

Draft Law on Amendments to the Criminal Code of the FBiH Ministry of Justice was adopted by the FBiH Parliament in April 2016. Now all three criminal codes (RS, FBiH, BD) regulate the criminal offenses motivated by hatred, including acts committed on grounds of sexual orientation and gender identity. The provisions sanctioning incitement to hatred, hate speech and violence are contained in the criminal codes of both entities and the Brčko District, but are limited exclusively to the national, ethnic and religious grounds. With this legal framework, it is difficult to sanction incitement to hatred and violence towards other social groups such as LGBTI women, which prevails on the internet portals and social networks, and which often develops into discrimination and crimes of hate.

Not even after more than two years after the attack on the Festival Merlinka, there have been no charges brought against responsible persons; the offense was characterized the as violent behavior, which is considered a misdemeanor under the criminal law of the Federation. It is clear that the pattern of inadequate and negligent investigation and prosecution of attacks on Sarajevo Queer Festival 2008, Festival Merlinka 2014 and a series of cases of incitement to violence and hatred based on sexual orientation and gender identity led to an appearance that the homophobic and transphobic attacks in BiH are being tolerated, which culminated in yet

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<sup>187</sup> <https://campaigns.savethechildren.net/sites/campaigns.savethechildren.net/files/NW%20Balkans%20Spotlight.pdf>

another homophobic attack on staff and guests of Art cinema Criterion on 4<sup>th</sup> of March 2016. The current legal framework does not standardize same sex civil unions of LB women and their interrelations. Same sex, stable, emotional communities of family life of LB women thus do not have the ability to use their constitutionally guaranteed right to liberty and security, to private and family life and home, to found a family, to protection of acquired property or to freedom of movement and residence solely because of their sexual orientation. None health insurance system (FBiH, cantonal, RS) covers the costs of biomedical assisted fertilization for same-sex partnerships / couples of LB women (as is the case with women who are not married or are in an extramarital community). Currently in BiH there is no act of the law regulating the issue of biomedical assisted fertilization.

There are still no available, fast and transparent procedures for changing the label of sex in identity documents for transgender women. Trans \* women in BiH are discriminated against in all spheres of life because of their gender identity and gender expression, and are left to constantly face with a legal vacuum that exists in the field of regulation of legal sex change. Trans \* women in BiH can change the label of sex in their personal documents and personal identification number only after the medical adaptation of sex. The lack of medical and financial support for transgender persons further extends and complicates this long process. And endocrine therapy and surgical procedures must be performed abroad, because it is not possible in BiH, and formal system of health insurance does not cover these costs. This means that the person itself bears the costs of its transition, with the additional costs of frequent visits to foreign specialists.

For the first time, during the second half of 2015 and in 2016, certain institutions - gender institutional mechanisms and the Ministry of Human Rights and Refugees have shown interest and sensitivity for the protection of LGBTI women, and made a step forward in terms of the inclusion of measures to protect the rights of lesbians, gays, bisexual and transgender persons in public policies related to gender equality and protection from discrimination. Although concrete activities related to the human rights of LGBTI people are for the first time included in the annual plans for Gender Equality of the Government of the Republika Srpska and the Federation of Bosnia and Herzegovina, and in Action Plan for Combating Discrimination at the state level, the activities of the institutions are not sufficient and are focused only on certain authorities. The fight for equality of LGBT people still requires intense activities and systematic approach that would provide and / or promote equal treatment and participation of LGBTI women in the areas of education, health, employment and political and public life and prevent stigmatization, prejudice, stereotypes and all forms of violence against LGBTI women.

## Recommendations:

- Preparation, adoption and implementation of the action plan for equality of LGBT people, which would explicitly include lesbian, bisexual, transgender and intersex women in order to reduce discrimination against them in all spheres of public life, with clear measures of inclusion of LGBTI women in BiH society;
- - The commitment of the Ministry for Human Rights and Refugees to work on a strategy for human rights and the strategy for combating discrimination must include issues related to the rights of LGBTI women and representatives of civil society must be involved in drafting of these documents;
  - Amend the Criminal Code of FBiH, RS and BD so that it adequately regulates provoking and calling for hatred, intolerance and violence based on sexual orientation, gender identity and sexual characteristics which would protect LGBTI women;
- - Include mandatory education about crimes committed out of hatred and discrimination based on sexual orientation, gender identity and sexual characteristics in the curricula of police academies of Republika Srpska and the Federation of Bosnia and Herzegovina, as well as in the permanent and specialized training programs of existing police officers, prosecutors and judges;
- Development and implementation of protocols which will clearly stipulate cooperation between police and judicial authorities in prosecution of crimes committed out of hatred and discrimination based on sexual orientation, gender identity and sexual characteristics with the aim of fast and efficient clarifying;
- - Regulation of legal sex change designed to recognize the particular vulnerability of transgender women in the transition process and the adoption of laws that would explicitly regulate the rights and freedoms of transgender and transsexual persons. This legislation is necessary to systematically and comprehensively regulate the procedure of change of the name, sex label and personal identification number in all personal documents;
- - Regulation of the same sex life communities of LB women due to achieving equality and a higher standard of protection of human rights of all citizens
- - Adoption of the law that will govern biomedical assisted fertilization and that will, without discrimination, include LB women, including their life communities.

## ROMA WOMEN

Prepared by: Svjetlana Marković, Ivana Stanković, Indira Bajramović

### Introduction:

17 ethnic minorities live in BiH today, and Roma, between 70,000 and 100,000 of them<sup>188</sup>, belong to the largest and poorest ethnic group. The Roma population faces numerous problems, and particularly disadvantaged are Roma women who are twice as exposed to stigma, primarily as women, and then as members of the Roma minority.

Given that BiH still lacks a comprehensive protection of their fundamental rights and freedoms, their position is extremely difficult in all spheres of life<sup>189</sup>. Although the Council of Ministers adopted the revised Action Plan for Roma in the fields of employment, housing and health care for the period of 2013-2016, a small step forward in the improvement of the status of this discriminated group was recorded. Like this, the majority of strategic documents has already expired or will expire during 2016, which sets new challenges before BiH. The framework of the *National strategy for Roma integration of the European Union by 2020* (EU Platform) which was adopted in 2011 by the European Commission is still in force, and Bosnia and Herzegovina will have to align all future strategies with the EU platform.

Support to the integration of Roma in society is still provided by Roma association, precisely 84 of them, according to the data from 2013.<sup>190</sup> Roma Women's Network Success, which has 7 organizations from both entities and two individuals, is active in BiH. Thanks to the reactions of this Network 5 Roma women entered the Committee for Roma<sup>191</sup> which until then included no Roma women.

### Parts within the areas covered by the report which we want to point out / defined priorities

#### ● Housing

A large number of Roma are still homeless, living in crowded homes without running water, electricity and sewage systems<sup>192</sup>, women are often unprotected and exposed to

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<sup>188</sup> <http://arsbih.gov.ba/konferencija-suocavanje-sa-stvarnoscu-i-buducnoscu-za-romkinje-u-bih/>

<sup>189</sup> Of this number, 64 associations are registered in the Federation of Bosnia and Herzegovina, 18 in the Republika Srpska, and 2 associations operate in the Brčko District. See: <http://www.osce.org/bs/bih/110497?download=true>

<sup>190</sup> Committee for Roma is an advisory body of the Council of Ministers and has 22 members (11 representatives of the Roma community and 11 representatives of institutions). It was founded in 2002 and is responsible to monitor the implementation of the proposed activities for the purpose of efficient implementation of the Decade of Roma Inclusion 2005-2015.

<sup>191</sup> "Most of many-members Roma families throughout Bosnia and Herzegovina live in very poor housing conditions. Those are mainly destroyed and abandoned barracks, warehouses or dumps. Due to the inability to register their residence in settlements without legal ground for housing, they cannot exercise their right to health and social care, education, employment." See Guidelines for improving the situation of Roma children in Bosnia and Herzegovina - social inclusion (October 2013), available at: [http://www.mhrr.gov.ba/ljudska\\_prava/djeca\\_bih/default.aspx?id=4281&langTag=bs-BA](http://www.mhrr.gov.ba/ljudska_prava/djeca_bih/default.aspx?id=4281&langTag=bs-BA)

<sup>192</sup> This issue is particularly described in the film Episode in the Life of an Iron Picker from 2013-made by a true story of Roma women Senada Alimanović, whose baby dies during pregnancy, but she can not be subjected to the necessary operation because there is no health insurance.

domestic violence. Due to poor sanitation and lack of drinking water, the lives of both mothers and children are often at risk among pregnant Roma women <sup>193</sup>.

Some of the problems identified in Special Report on the situation of Roma by Institution of Ombudsman for Human Rights in Bosnia and Herzegovina are reflected in the poor implementation of the Action Plan, the lack of financial resources, complicated and long procedures, lack of cooperation between Roma associations, the migration of Roma families, the lack of construction land, unresolved property relations, inability to legalize existing facilities, lack of funds for the participation of the municipal administrative bodies in the implementation of projects at the cantonal level, the resistance of the local population, insufficient hygiene and technical conditions in which Roma live, and the absence of good will of local authorities <sup>194</sup>.

In some municipalities free legal assistance to solve the housing problems of the Roma is enabled, but the frequent migration of the population represents an additional challenge to continuously address this issue.

#### ● Education of Roma population

There is still no complete information when it comes to the education of Roma in Bosnia and Herzegovina, and the obstacles they face in education are the same for several years - from extreme poverty, constant migration and the lack of systematic support to properly resolve this issue. Non-registration of children in the registers is an additional load, because the children are deprived of health and social protection, and thus the right to education. Roma children rarely have the opportunity to attend nurseries. For example, in Brčko District, where Roma are the largest ethnic minority with more than 2,500 people, none of the children attend preschool <sup>195</sup>.

According to available, although incomplete data, the total number of Roma children included in regular primary education in the school year 2014/2015 in BiH is 2,051 (1,144 male and 907 female). 286 children were enrolled in the first grade (173 male and female 113) <sup>196</sup>, and the statistics show that Roma children perform significantly worse compared to other children. On the other hand, the alarming fact is that the number of girls who drop out of primary school is increasing. 22% of the Roma population have not completed primary school, mostly Roma women, and as many as 88% of Roma women have none basic education.

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<sup>193</sup> Ombudsmen for Human Rights, Special report on the situation of Roma in Bosnia and Herzegovina. Available at: <http://www.osce.org/bs/bih/110497?download=true> (last access 08/20/2016)

<sup>194</sup> Growing up of Roma children: In less favorable position from the birth, the discrimination that follows them like a shadow. RadioSarajevo.ba. Available at: <http://www.radiosarajevo.ba/metromahala/teme/odrastanje-romske-djece-od-rodenja-u-losijoj-poziciji-s-diskriminacijom-koja-prati-kao-sjena/219894> (last access 08/19/2016)

<sup>195</sup> The report on the implementation of the Revised Action Plan of Bosnia and Herzegovina on the Educational Needs of Roma for school year 2014/2015. Available at: [http://www.mhrr.gov.ba/PDF/djeca/IZVJESTAJ%20o%20provodjenju%20RAP\\_%20za%20sk%20%202014\\_2015%20.pdf](http://www.mhrr.gov.ba/PDF/djeca/IZVJESTAJ%20o%20provodjenju%20RAP_%20za%20sk%20%202014_2015%20.pdf) (last access 08/2/2016)

<sup>196</sup> The annual report on the human rights of women in Bosnia and Herzegovina in 2014. Sarajevo Open Centre. Available at: [http://www.fondacijacure.org/files/Godisnji\\_HRP-7\\_FINAL\\_10.04.2015\\_za-print.pdf](http://www.fondacijacure.org/files/Godisnji_HRP-7_FINAL_10.04.2015_za-print.pdf) (last access 08/25/2016)

4.5% Roma women and 9% of Roma men graduate from high school <sup>197</sup>. This has the effect of unpaid domestic work, the economic dependence of Roma women and the impossibility of adequate health care.

One of the problems is also the teaching of languages other than native to Roma (B / H / S languages), absences from school and the ignorance of their parents. Roma network Success, testifies the discrimination of Roma children in schools<sup>198</sup>.

Early paid marriages and traditional practices in which young Roma women have the obligation to take care of younger brothers and sisters are still a harsh reality for many Roma girls and young women in Bosnia and Herzegovina. Results published in Misc4 survey from 2013, which referred to early and forced marriages, indicate that more than one third of Roma women aged 15-19 years are currently married; 15% of Roma women aged 20-49 are married before the age of 15, and 48% before 18 years. The percentage of married women was higher among those with no formal education (53%) compared to women with secondary and higher education (20%)<sup>199</sup>.

According to the Ministry of Security of BiH in the period 2013-2015, six cases of forced marriages were registered. On the other hand, the association "Otaharin" only in Bijeljina recorded as many as 40 cases of forced marriages<sup>200</sup> in the last five years. According to data of the association "Land of Children" from Tuzla, the youngest recorded girl who was forcibly married in the Tuzla area was 12 years old. During the past three years in Tuzla, eight cases of early marriages<sup>201</sup> were recorded and processed.

#### ● Employment

There are many reasons for a very bad situation in the employment of Roma. In addition to inadequate education and constant migration, slow integration and lack of adequate job qualifications prevent members of this minority to come to any kind of employment.

On the basis of findings by the Decade of Roma Inclusion Secretariat Foundation, a large number of data on the employment of Roma is missing. Percentage of employment of Roma is very low (particularly for Roma women) and in Federation and Brčko District of BiH there is less than 1%, while in the RS less than 3%. On the other hand, the difference in

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<sup>197</sup> According to Indira Bajramović, president of the Association of Better Future, in a primary school in Donji Vakuf parents do not allow their children to sit with Roma children and call them derogatory names. Indira also knows about the case of a girl from Prnjavor that goes into the third year of high school. According to Indira Bajramović, professor has threatened the girl that she will not finish the third grade while he was here and that she does not need school anyway, because she is going to get married soon “.

<sup>198</sup> Annual report on the state of women's rights in Bosnia and Herzegovina during 2013, Sarajevo Open Centre. Available at: <http://soc.ba/site/wp-content/uploads/2014/04/Godisnji-izvjestaj-o-stanju-ljudskih-prava-zena-u-BiH-u-2013.pdf> (last access 08/25/2016)

<sup>199</sup> Forced marriages are a reality of BiH society, Etrafika, available on: <http://www.etratika.net/drustvo/38949/prisilni-brakovirealnost-bh-drustva/> (last access 10/17/2016.)

<sup>200</sup> Human trafficking under the mask of tradition: Girls are being sold for 400 BAM, Etrafika portal, available on: <http://www.etratika.net/drustvo/36369/trgovina-ljudima-pod-maskom-tradicije-djevojice-prodaju-za-400-km/> (last access 10/17/2016)

<sup>201</sup> Roma Inclusion Index 2015. Decade of Roma Inclusion Secretariat Foundation. September 2015. Available on: [http://www.romadecade.org/cms/upload/file/9810\\_file1\\_roma-inclusion-index-2015-s.pdf](http://www.romadecade.org/cms/upload/file/9810_file1_roma-inclusion-index-2015-s.pdf) (last access 08/30/2016)

unemployment rates between Roma men / Roma women and the total population is reduced<sup>202</sup>. Many Roma do not register as unemployed, or do not identify themselves as Roma on that occasion, and a lot of them are employed in the gray economy. In late 2014, the Ministry for Human Rights and Refugees has concluded a Memorandum of Understanding on the implementation of the Action Plan for Roma in the field of employment with all relevant Employment Bureaus in BiH on whose basis the **Roma employment program** was made in 2015. The program defines the funds for co-financing of employment by employers and self-employment of unemployed Roma man<sup>203</sup>, but women are not recognized as a special group by this program.

There is a need to initiate amendments to the law in order to introduce special measures for increased employment of Roma, i.e. Roma women as particularly marginalized group.<sup>204</sup> The action plans and programs should foresee certain affirmative action, on the basis of which the Roma women would get a particular advantage during the actual employment. Besides this, the basic problems of Roma employment are lack of competitiveness in the labor market due to a lack of vocational training, insufficient involvement of Roma people, lack of education, mistrust of employers, nepotism, lack of incentives for opening an independent business and trade, prejudices and stereotypes.

#### ● Health and social protection

According to the latest available data from 2011, 90% of Roma women have no access to health, social protection and employment.<sup>205</sup> Indira Bajramović, from the Association of Better Future, states that “a person who wants to pay health insurance, should attach medical certificate, which has to be paid, has to pay six months of retroactive insurance and then to wait another month in order to be included in the health insurance system, which is inconceivable for a large part of this population “. According to the Ministry of Human Rights, the social work centers, which provided data, do not know whether the 71.45% ie 1776 of registered Roma children are insured by the National Institute of Health. This fact represents an obligation to seriously approach to this problem, also described by the non-governmental organizations working with Roma children. According to the overall

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<sup>202</sup> Bosnia and Herzegovina. Federal Employment Service. Available at: <http://www.fzzz.ba/projekti/programu-zapoljavanja-roma-u-2015-godini> (last access 08/26/2016)

<sup>203</sup> A positive example of resolving the issue of discrimination against Roma is situated in the Municipality of Travnik, which has in April 2016, adopted the Action Plan of the Municipality of Travnik for Roma in the areas of employment, housing youth and health care from 2016 to 2020. In the current Action Plan youth and \_ women are recognized as a specific target group for which the sustainable self-employment programs will be created, including providing technical assistance to people who express interest in employment program. View: [www.opcinatravnik.com.ba/ba/filedownload.php?did=1701](http://www.opcinatravnik.com.ba/ba/filedownload.php?did=1701) (last access 08/25/2016)

<sup>204</sup> *Review of the situation of gender equality in access to social benefits and protection. Gender Centre of the Federation of Bosnia and Herzegovina*, Available on: <http://www.gcfbih.gov.ba/pregled-stanja-rodne-ravnopravnosti-u-ostvarivanju-socijalnih-prava-i-zastite/> (last access 10/17/2016)

<sup>205</sup> The Ministry of Human Rights and Refugees. Guidelines for improving the situation of Roma children in Bosnia and Herzegovina. (October 2013). Available at: [http://www.mhrr.gov.ba/liudska\\_prava/djeca\\_bih/default.aspx?id=4281&langTag=bs-BA](http://www.mhrr.gov.ba/liudska_prava/djeca_bih/default.aspx?id=4281&langTag=bs-BA) (last access 08/15/2016)

assessment, the Federation of BiH has around 4,000 Roma children without health insurance<sup>206</sup>.

In the analysis of Masha Durkalic "Her voice echoes" from 2015, it is emphasized that Roma women are largely economically dependent on their partners and rarely receive help from their families which they left to get married. Their sexual and reproductive health is endangered, due to the lack of access to contraception (they become mothers in their early twenties), and regular gynecological examinations.<sup>207</sup>

In the opinion of representatives of women's Roma organizations, Roma women are still not sufficiently aware of the importance of preventive action when it comes to sexual and reproductive health, and distance from urban areas where health facilities are located, prevents timely treatment.<sup>208</sup>

### **Public and political life**

When it comes to the involvement of Roma women in public and political life in BiH, Roma women's network Success, has information that three women are involved in the councils of the local committees, that there is one councilor of Roma women in Prnjavor, and one woman in the Youth Commission of the Visoko municipality. In addition, 5 of Roma women are members of the Roma Committee at the Council of Ministers, one of which is presiding.

### **Recommendations:**

- Create a new strategy and individual action plans in the areas of health, education, employment and housing of Roma.
- Define measures to combat multiple discrimination of Roma girls and women.
- Establish day centers for girls and women of educational character with purpose of the employment training.

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<sup>206</sup> Masha Durkalic. Her voice echoes. (2015). Sarajevo. Available at:

<http://www.fondacijacure.org/files/mojGlasOdjekujeBa.pdf> (last access 08/15/2016)

<sup>207</sup> Education of Roma women about sexual and reproductive health in Tuzla. RadioSarajevo.ba. (December 2014). Available at:<http://www.radiosarajevo.ba/vijesti/bosna-i-hercegovina/u-tuzli-edukacija-romkinja-o-seksualnom-i-reproduktivnom-zdravlju/174232> (last access 08/15/2016)

<sup>208</sup> According to the report, "Rural Development in Bosnia and Herzegovina: Myth and Reality", BiH is one of the most rural countries in Europe. Its population is unevenly distributed, and 61% of the population lives in rural municipalities. Life in the countryside is very different from that in urban areas, which puts rural women in a special position, their lives are determined by traditional rules, limited economic opportunities, high unemployment and low wages, increased risk of social exclusion, disabled equal access to services and exclusion from political and social life. " See: Durkalic, Masha (2015). Her voice echoes ... Sarajevo: CURE Foundation; electronic source: <http://www.fondacijacure.org/files/mojGlasOdjekujeBa.pdf>. (last access 08/23/2016).

## Rural women

Prepared by: Selma Hadžihalilović

### Introduction

Rural women still represent marginalized and multiply discriminated group throughout Bosnia and Herzegovina<sup>209</sup>. Although the UN Committee gave clear recommendations to the state to make further efforts for the elimination of discrimination of this category of the population, the situation on the ground indicates to new trends of discrimination, but also the disappearance of the village as a direct result of the new migration of the population of Bosnia and Herzegovina.

Only in one of the two entities in BiH - in Republika Srpska - there are signs of positive action through the continued implementation of the Campaign Equally for rural women<sup>210</sup>, and the Federation of Bosnia and Herzegovina, despite the plan for rural development<sup>211</sup>, has not adopted any specific measures to improve the quality of life of rural women.

Patriarchal and traditional norms, which still dominate the rural areas of Bosnia and Herzegovina, rise of nationalistic rhetoric's and radical and conservative religious movements, directly affect the status of women in rural areas, but at the same time replicated to smaller communities.

Only women's self-organization contributes to the launch of topics related to women's rights and gender equality in rural areas, whilst those who have the power to launch these issues to on daily political agenda, ignore and deny it completely. Such example is also the \_ Reform agenda, which does not mention women and gender equality in its text, let alone the elimination of violence, discrimination of any kind, or marginalized groups in general<sup>212</sup>.

The lack of interest of those who have the power of decision to devote adequate attention to this category of socially marginalized women, results in additional social stigma and the general invisibility in the public media. Consequently, rural women are still invisible social group.

### Implementation of the recommendations and the current situation

The increase in poverty, particularly poverty of women additionally leads to multiple marginalization of rural women who traditionally lead in the gray economy of care, and who do not receive compensation for their daily hard work, because their work is implied and expected. Unpaid physical work of caring for household, but also for extended family has a direct impact on the ability of rural women to participate in decision-making processes in their local communities. In addition, issues such as women's mobility are an obstacle that is very difficult to overcome. Almost non-existent transport infrastructure, and poor internal traffic, results in the fact that women in rural areas depend on the irregular lines of transport, illegal transport or goodwill of male family members so that they can move to urban centers without restrictions

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<sup>209</sup> <http://www.vladars.net/sr-SP-Cyrl/Vlada/centri/gendercentarrs/AKTI/Pages/default.aspx>

<sup>210</sup> [http://fmpvs.gov.ba/V\\_3/program-ruralnog-razvoja-fbih?p=0](http://fmpvs.gov.ba/V_3/program-ruralnog-razvoja-fbih?p=0)

<sup>211</sup> <http://www.fbihvlada.gov.ba/pdf/Reformska%20agenda.pdf>

<sup>212</sup> Comments of participants at workshops of women empowerment in areas of "two schools under one roof" - Srednjobosanski Canton.

and in terms of satisfying their basic needs. Another problem are nationally divided providers of transportation, which often inflicts additional problems, because women get judged by the community for using transport offered by the “others”<sup>213</sup>.

Local clinics in rural areas work sporadically or only before the local elections. It is not uncommon for clinics to be equipped with the most advanced technical appliances, but to simply be closed because there is no one to operate them (Bosansko Grahovo), or that doctors do not visit local clinics during bad weather conditions like snow (Bosanski Petrovac)<sup>214</sup>. A further complication arises because the Ministry of Health does not take into account the cultural determinants of local communities, and send male gynecologists in conservative and patriarchal communities<sup>215</sup>.

From interviews with women from rural areas, we can conclude that women victims of violence have no trust in the police or other protection mechanisms, since small towns have no permanent establishment of law enforcement agencies other than sporadic patrols and, often, calling the police to conduct an investigation requires waiting for several hours.

Official data on the situation of multiply marginalized women living in the countryside, such as Roma women, LBT \* women, single parents, widows, elderly women, women with disabilities, as well as information on the trends of domestic violence and / or violence in rural communities - do not exist.

The marginalization and stigmatization particularly affects those categories of women who were unable to “justify” expectations, and gave birth to a child with disabilities or failed to make descendants. Women and children with disabilities who live in rural areas or small communities have almost no systematic support and depend on the support provided by local NGOs.<sup>216</sup> Issues such as assisted reproduction and sterility are taboo subjects, and women is the one who is guilty and who is “to blame” for the failure according to the social norms.<sup>217</sup>

Migration caused by poverty, and population movements towards large urban centers or emigration to third countries additionally burdens and affects rural areas. In Bosnia and Herzegovina there are no official figures on migration.

Non-governmental organizations, with the support of foreign donors, sporadically correspond to the expressed needs of rural women. There is no single registry of programs that are directly related to the advancement of women in rural areas, just as there is no single registry of women's organizations and associations of women in rural areas and are working to improve the quality of their lives. Some inspirational success

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<sup>213</sup> <http://www.fondacijacure.org/files/moiGlasOdjekujeBa.pdf>

<sup>214</sup> <http://diskriminacija.ba/kolumne/pristup-zdravlju-%E2%80%93-ili-pravo-na-zdravlje>

<sup>215</sup> <http://www.azramag.ba/izdvojeno/udruzenje-roditelja-djece-s-poteskocama-u-razvoju-iz-zavidovica-mala-sirena-imapuno-ljubavi/>

<sup>216</sup> Individual interviews and consultations between the author and women in workshops on women's human rights

<sup>217</sup> <http://www.esrebrenica.ba/upoznaj-srebrenicu/polozej-zena-u-nasim-krajevima-dalje-je-veoma-tezak.html>

stories of rural women are the result of years of personal sacrifice and commitment, and investment by third parties - International private foundations. Examples of the successful practices of local cooperatives<sup>218</sup> cannot be easily replicated in other areas, since there are no laws to promote social entrepreneurship, and Regulations for the promotion of agricultural production are not sufficiently developed to provide adequate support and protection to women who decide to merge. Another obstacle is the fact that launching any kind of production requires a high degree of literacy in order to understand the legal prerequisites for starting independent production and support of the state in terms of interpretation of the law is almost non-existent. Examples of successful women manufactories exist, especially in the area of cultivation of medicinal herbs and the production of cosmetics, but they are completely invisible to the media, and the state neither invests efforts to protect women's traditional production, nor establishes market for them.

There are also examples of education of rural women, but they are sporadic and limited to project durations<sup>219</sup>, and are mainly part of projects related to some other issues like peace building, dealing with the past and the like<sup>220</sup>. There are no concrete action plans with secured funds that would enable continuous education of rural women.

Issues such as free time with the purpose, or culture are not set up in rural areas. Libraries, theaters, or even safe spaces for young women in rural areas do not exist, and directly depend on whether there is an Association of women in that area.

## Recommendations

For the advancement of women in rural areas it is necessary to:

- Conduct an analysis of existing programs for the advancement of women in rural areas with special emphasis on health care, education, mobility, migration, violence, poverty
- Include the issue of support to marginalized women's groups, including rural women, in all state policies
- Initiate regional resource centers for advisory support to rural women
- Encourage development of local action plans to improve the quality of life of rural women
- Support projects of local women's non-governmental organizations which gather women in rural communities in order to strengthen the visibility of women and girls from rural area

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<sup>218</sup> "Economic empowerment and psychosocial education of women in rural areas who do not have formal education" - See more at: <http://www.avaz.ba/clanak/162295/educirali-115-zena-iz-tri-sela-zenice-i-zavidovica?url=clanak/162295/educirali-115-zena-iz-tri-sela-zenice-i-zavidovica#sthash.6f8Th8A4.dpuf>

<sup>219</sup> <http://magic.ba/info/34-info/2459-bratunac-sajam-qdomae-s-ljubavljug-pokazao-kako-ene-grade-mir.html>

<sup>220</sup> <http://magic.ba/info/34-info/2459-bratunac-sajam-qdomae-s-ljubavljug-pokazao-kako-ene-grade-mir.html>

## **FINAL RECOMMENDATIONS**

Activists and civil society organizations require that the institutions of Bosnia and Herzegovina at all levels of government immediately:

1. Ensure gender perspective and women's participation in all reform processes and policies, particularly in the areas of education, health and labor market, reforms of labor, social and pension system and the processes of accession to the European Union. All these processes should be open and inclusive for women and must integrate different needs and priorities of women, especially of vulnerable groups of women (women with disabilities, returnees and internally displaced women, long-term unemployed women, victims of gender-based violence, single mothers, women in rural areas, Roma women, LBT women and elderly women).
2. Perform mandatory situation assessment when designing legislation and strategic documents, as well as assessing the impact of measures implemented in all areas important to women and protection of their rights. State institutions at all levels must introduce a system of mandatory, regular monitoring and reporting on the implementation of the implemented measures and policies.
3. Plan and adopt public budgets at all levels in accordance with the requirements of laws and public policies in the field of women's human rights.

Activists and civil society organizations in BiH again ask state to consistently apply international standards and national laws in the field of women's human rights and to urgently introduce regular and harmonized system of collecting and publishing detailed statistics on the status of women, including vulnerable groups of women, in all areas of life, particularly in the areas of employment and labor, violence, trafficking, health, education and political participation.

## **Helsinki Citizens' Assembly Banja Luka**

Helsinki Citizens' Assembly is a non-profit organization that works in the fields of peace-building and dealing with the past and the empowerment of different marginalized groups for political and public activities at the local, national and regional level since 1996. Through non-formal education (workshops, trainings, conferences), networking, information, researches, analysis and advocacy we actively fight for the implementation and protection of human rights, particularly women's rights and the rights of other vulnerable groups in society, such as ethnic minorities, persons with disabilities, LGBT people and youth.

## **Rights for all**

RIGHTS FOR ALL is a Bosnian civil society organizations dealing with the protection and promotion of human rights in order to create a just and democratic society based on human rights principles. RIGHTS FOR ALL demands State responsibility to respect, protect and implement human rights for all; seeks justice for victims of human rights violations; promotes equal opportunities for all, regardless of sex or gender, disability, race or minority status, sexual or gender orientation, or any other difference; and supports skills development and empowerment of excluded groups and communities.