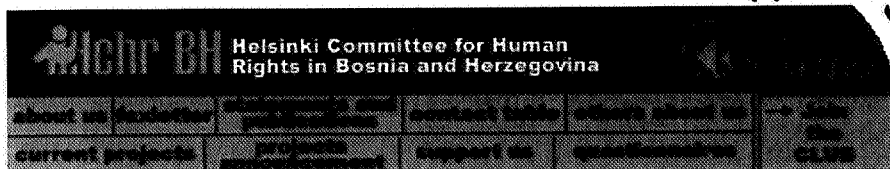


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REPORT ON THE STATUS OF HUMAN RIGHTS IN BOSNIA AND HERZEGOVINA

(Analysis for the period January – December 2004)

Introduction

When it comes to Bosnia and Herzegovina, the whole 2004 passed marked with a certain paradox; on one hand the authorities expressed their devotion to Bosnia and Herzegovina's getting closer to Euro-Atlantic integration processes, which should also imply their devotion to progress in the area of economy, democracy and human rights, while on the other hand it still stands still and noticeably falls behind when compared to its neighboring countries in the region.

The current situation in Bosnia and Herzegovina is best illustrated with the fact that so far it has only succeeded in becoming a member of Council of Europe, while it is still not the member of the NATO's Partnership for Peace Program, or the World Trade Organization and has still not met the basic preconditions for beginning negotiations on stabilization and association with the European Union.

Bosnia and Herzegovina's relative lagging behind and uncertainty as to the time of its joining the Euro-Atlantic integration processes nevertheless do not mean that during 2004 certain positive shifts have not taken place either.

The passed year witnessed the return of the one-millionth returnee to his prewar address, which can be considered a positive accomplishment. This almost represents 50% of returns in relation to the total number of refugees and displaced persons, which amounts to 2.25 million people. However, a small number of returnees have returned to the areas in which their ethnic group does not represent the majority of population, so that this kind of returns represents only 20% of the total number of returns.

It is also important to note that the property was repossessed in about 95% cases in which the repossession of houses or apartments had been requested, which also represents a positive accomplishment of the engagement of the international community and local authorities.

In October, the local elections were held. The elections were held in accordance with the international criteria on free and fair elections. However, a small turnout of voters is disturbing in spite of the difficult situation in the country and the need for more involvement on the part of the citizens.

The Helsinki Committee finds positive the Report of the Commission for Research of the Events in and around Srebrenica in the period from 10 July to 19 July 1995. This report contains relevant information on the events connected to the massacre in Srebrenica, on the number of victims, location and the way of their execution. The report expresses regret and apology to the victims on behalf of the Republika Srpska authorities.

By this report prerequisites have been created for the rebuilding of trust and reconciliation of the members of different ethnic groups. In line with this positive experience, efforts should be made to also establish the truth about other war events which still impede the normalization of the situation in the post-war Bosnia and Herzegovina and make it impossible to start the process of building the trust and making reconciliation.

A huge barrier for the normalization of the situation and the establishment of justice poses the fact that Radovan Karadžić and Ratko Mladić, the main actors in the war events in BH, are still at large and out of the reach of justice. This fact represents a great burden for BH and holds back and slows down its efforts to join the European integration processes.

We can conclude that certain positive shifts have also taken place in the area of shedding light on the destiny of missing persons. Although the number of persons reported missing is still very high and amounts to about 17,000, as a result of passing the Law on Missing Persons and of the establishment of the Institute for Missing Persons, as well as a result of the efforts of the national and international institutions, the search for missing persons does not seem to be as hopeless as it seemed a couple of years ago. There is a ground for hope that the process of discovering of graves and identification of missing persons will be speeded up and that the situation of the missing persons' families would thereby be eased.

As far as the institutions for protection of human rights are concerned, the year of 2004 meant their stagnation and further degradation. It is obvious that an adequate replacement for the Human Rights Chamber, which was abolished in late 2003, have not been found so that the citizens still yet do not have appropriate and efficient court protection as far as their human rights and freedoms are concerned. On the other hand, the institution of Ombudsmen of BH in its current form does not correspond to either its name or its purpose. The ombudsmen are occupied with themselves, the institution is on the verge of falling apart, and it serves for the protection of individual interests rather than for the protection of universal human rights.

This situation is worsened by the fact that there is also a continued trend of neglecting the human rights on the part of the international community, the High Representative most of all, and on the part of local authorities that are encouraged by such an attitude of the international factors.

Local elections

The basic characteristic of local elections held in Bosnia and Herzegovina on October 2, 2004, was an insufficient interest and a small voter turnout, which is depicted in the information that of 2,322,687 registered citizens with the right to vote at 4,057 polling stations - a total of 1,087,893 voted or 46.8 percent. In the Federation of Bosnia and Herzegovina, a total of 45 percent of voters turned out, in Republika Srpska 48.6 percent and in the Brčko District, a total of 60.9 percent. A total of 68 political parties vied for the votes, 146 independent candidates, six lists of independent candidates and 18 coalitions. For position of a mayor there were 809 candidates and for the counselors - the members of municipal assemblies 26,618 candidates. The responsibility of municipal mayors is significantly higher because as of these elections they are not in these positions due to the will of the parties, but due to a direct will of citizens.

This lowest turnout of voters in the post-Dayton Bosnia and Herzegovina confirmed assessments of the Helsinki Committee given at the eve of elections that the voters are insufficiently motivated and this is a consequence of a possible saturation, but more of a dissatisfaction caused by the torpor and inefficiency of the incumbent authorities at all levels and failure to meet pre-election promises.

Voter abstinence was especially acute in cities and among young people. Thus, in Zenica, only 30 percent of voters decided to go out to elections (in previous elections the voting right was used by even 63 percent of Zenica citizens), in Grude 35 percent, and the same percentage in Bosanski Petrovac, Srebrenica about 36 percent, Mostar 37.53... It needs to be noted that voters in Mostar unlike other voters were denied the right to directly elect the mayor because of the specific town Statute.

Especially worrisome is the information that in the population of younger than 30, the voting right was used between 7 and 15 percent of citizens. This is directly linked with the previous studies showing that more than 60 percent of young people want to leave Bosnia and Herzegovina because of the lack of prospects, slow reforms in education, unemployment and long lines in front of the Embassies in Sarajevo.

Equally worrying is a small voter turnout from abroad. Of 27,500 registered, compared to 2002 when there were 270,000, some 17,000 took to the polls this year. Diaspora had to re-register for these local elections in accordance with the new Election Law until June 17, 2004 and with a filled out form deliver a copy of identification document with a photograph. Some were not informed about this obligation, most find the election rules on re-registration too superfluous and complicated, and the disinterest and lack of care of authorities in Bosnia and Herzegovina toward this category of citizens came under reciprocal reception.

Mobile teams of observers of the Helsinki Committee of Human Rights in Bosnia and Herzegovina at the Election Day on October 2, 2004, visited more than 300 polling stations throughout Bosnia

and Herzegovina. They registered a significant number of citizens who were not on election lists and thereby their voting right was denied. In addition to the lack of the interest on the part of citizens to register, this also involves failures on the part of municipal authorities that have failed to carry out the registration process with a sufficient professionalism. On some of the voter lists, the names of dead people appeared. Especially acute was the problem with the voters in absentia who after the last elections most often did not register for these elections, and if they have registered, they did not use their right. In Srebrenica for example none of the registered in absentia and those who vote on unconfirmed ballots took to the polls. These elections have highlighted the need to finally start preparations for a census, which would, among other things, contribute to improved voter lists and allow everyone to use their right to vote if they want. Namely, the last census in Bosnia and Herzegovina was conducted way back in 1991.

The polling stations were in most cases well organized and the process encountered no greater problems. Still, in several places, BHać and Banja Luka /Mejdan/ for example, during the election process, there were changes of the members of the election boards.

There were incidents as well: for example: at the polling station Brjestovo – Vranjak, Modriča municipality a physical conflict between SDS and SNSD voters happened and the police intervened, physical conflicts were also registered in Modriča, and Skugrić. In Bratunc, the chairperson of the election board was attacked, in Višići near Čapljina there was a misunderstanding while the votes were counted because an accredited party observer was disallowed to attend the process, and there were many cases of exposing campaign materials within 50 meters from the polling stations and failure to honor election silence.

The most serious violations of the election process were registered in Zvornik, Tešanj, Kozluk and Jelah, where the elections were repeated. In Kozluk, Zvornik municipality, the elections were stopped because of a disorder. The election station was closed because the voter list was ripped, after which the police intervened. As many as seven political subjects filed complaints against the behavior of election board in this place. In addition, to ripping the voting list, the observers complained that some voters were bussed to the election poll and voted repeatedly.

In the Tešanj municipality, the elections were repeated at two polling stations, both planned for voting in absentia because the excerpts from the final voter list established a great similarity among many signatures, indicating that one and the same person gave many signatures.

Complaints were registered in Kalesija as well. According to observers, some people entered the premises where the voting material was kept and tried to cast additional ballots. That happened after the closure of the polling station, and there is the registry on the real number of voters.

The Election Commission of Bosnia and Herzegovina was forced, respecting election rules, to pass decision revoking elections in all 59 regular polling stations in Zvornik municipality and hold new elections. The decision was made because many irregularities were established in the election process, which could have "greatly affected the final outcome of elections, and concern a large number of same signatures in voter lists". The decision replaced 38 election boards over "a series of irregularities".

Presence of party observers was registered at all polling stations, but there was also a symbolic presence of observers from non-governmental sector and international observers.

Still, all the flaws and irregularities have not significantly affected the results, and the local elections in 2004 can be characterized as fair and democratic. In the positive assessment one can include the decisions of the Election Commission to repeat the process at some polling stations. This has contributed to neutralizing attempts of falsification so that the final outcome of local elections reflects the expression of the will of citizens of Bosnia and Herzegovina, that is, those who have took to the polls. Another good aspect is the fact that the elections were held in the organization of local institutions, with a minimum participation of the international community.

When it comes to the pre-election campaign, it needs to be said that representatives of political parties mostly used similar rhetoric. The topics were most frequently far from those that concern local communities. There were a few local community topics, and the discussions were about the European integrations, vulnerability of their ethnic group and «high politics». The candidates were mostly involved in attempts at discrediting political rivals, and they were less involved in presenting their ideas and programs, if general promises are taken out of consideration.

The biggest blow to the fairness of the campaign was the pre-election gathering of the Serb Radical Party held in Bijeljina on September 3, during which the deputy party president, which is seated in

Srbia, Tomislav Nikolić, held a speech imbued with hatred and intolerance while expressing unhidden territorial aspirations toward Bosnia and Herzegovina. Nikolić denied existence of the state of Bosnia and Herzegovina and conveyed that his followers will not rest until Serbia is established from Negotin to Banja Luka. At the gathering a song «Spremite se, spremite, četnici» (Prepare yourself, prepare, chetniks) was sung which glorifies the chetnik units that collaborated with nazi-fascists during the Second World War. The Election Commission by a decision penalized the organizers of the gathering with 10,000 KM (about 5,000 euros).

During the campaign, there was a burning of Croat flags in Stolac and an attack against Fata Orlović in Konjević Polje on September 11, which led to inter-ethnic tensions and the national parties capitalized on that. In Bratunc, after this event, a line-up of chetniks from Ravna Gora was held which was, among the Bosniak returnees, experienced as a serious threat. Three days later, a bomb was thrown at the house of Budimir Aćimović, mayor candidate for the Zvornik municipality. The head of this election headquarters several days later at the final election press conference offered journalists money "in appreciation for fair reporting" about Aćimović pre-election campaign.

The basic characteristics of the pre-election campaign constituted a high level of involvement of religious leaders who mostly implicitly directed electorate toward three national parties – the SDS, SDA and HDZ. The leader in this sphere were from the Islamic religious community reis Cerić and his deputy effendi Spahić. At the opening of a mosque in village of Miričina, near Gračanica, on September 6, naibu reis Ismet effendi Spahić said «...that he shall not stand beside the one who is ashamed to say that he is a Muslim» and added that «as a believer, he must not stand behind the one who does not have in his program laila ilalah.»

Reis Cerić at the opening of one of three religious facilities inaugurated in the region of Zenica on September 4 said: «In Bosnia this summer some fifty mosques were opened mostly where they slaughtered us and opened concentration camps. I recommend mosque destroyers not to do that ever again. Each time we make better, bigger and more beautiful mosques.»

In Dobrun, near Višegrad, on August 29, a monument to Serb leader Karađorđe from the 18th century was uncovered, and also opened was a museum of the first Serb uprising making the two hundred years of this event related to the neighboring Serbia. The Serb patriarch Pavle conducted the religious ceremony. The event was in the spirit of a strong presence of SDS representatives (whose founder and longstanding president was Radovan Karadžić) and who used it in their pre-election purposes.

In early September, the cardinal and Bosnian archbishop Vinko Puljić repeatedly talked about ha conspiracy against the Catholics in Bosnia and Herzegovina, openly asking assistance from the Vatican and the Republic of Croatia. Puljić called for a gathering of all Croat officials, intellectuals and representatives of parties with the Croat sign. He advocated an establishment of Forum of Croats which should ensure equality of Croats who «on a daily basis face inequality in comparison with other two constituent peoples.»

The council for appeals and complaints passed a decision and the Election Commission approved the decision revoking the candidacy of Ljubiša Kragulj, candidate of eight political parties for Banja Luka mayor. This was done due to a violation of provisions of chapter 7 of the Election Law because in a program on TV Simić in the pre-election campaign, he used language that can incite others to violence or hatred. Kragulj, namely, in his statement, called on violence against Nezavisne Novine and RTRS. Along with the revoked candidacy, the SDS was fined with 10.000 KM.

Still another candidacy caused polemics in public due to absurdity of legal or constitutional provisions: for the mayor of Bosanski Šamac on behalf of the Socialist Party of Republika Srpska the candidate was Simo Zarić who was convicted by The Hague Tribunal on individual basis for severe violations of the Geneva Convention and crimes against humanity to six years imprisonment. The Election Commission of Bosnia and Herzegovina in this case acted in accordance with the Election Law, which, following the Constitution of Bosnia and Herzegovina, prescribes that those convicted before The Hague tribunal, who are serving the sentence cannot be on the list of election candidates, while those who served sentences, which is the case with Zarić, have the right to election candidacy. On the other hand, those who were sanctioned in Bosnia and Herzegovina, for something that under the applicable Criminal Code is not characterized as a criminal act, could not be on election lists. For example: none of those whom according to Article 29a of the Election Law of Bosnia and Herzegovina were replaced from duty by High Representative, IPTF or the Appeals Sub-commission could be on the election lists.

The media have mostly fairly covered the campaign and had an equal access to all the parties and independent candidates. Debates in the broadcast media were often conducted without the participation of candidates from the biggest, ruling parties, SDA, SDS and HDZ, which probably considered sufficient the activities done by religious officials in their promotion. The media have missed a chance to make a stronger impact on the voter turnout by publishing statements of the popular people and independent intellectuals who had not been intending to vote.

Relations between ethnic groups and the status of national minorities

The consequences of ethnic cleansing continue to be prominent in all segments of the Bosnian and Herzegovinian society. Although nine years have elapsed since the peace was restored and the process of returning began, it can be said that the number of returnees, who have returned to the areas where their ethnic group constitutes minority in number, is unsatisfactory. In pre-war Bosnia and Herzegovina, only some twenty municipalities had such ethnic composition that one ethnic group was prevailing absolutely in numbers over the other two. In about 80% of municipalities, none of the ethnic groups had an absolute majority of inhabitants. Nowadays, only in Tuzla the majority population does not reach 90% of the total population, while that percentage in other communities ranges between 92% and 99%.

Governing nationalistic parties function on the basis of preserving ethnic homogenization, and to that purpose, they fuel the fear from the other ethnic group. The other ethnic group is still seen as a threat to one's own existence, which fuels chauvinism.

Sensitive and vulnerable interethnic relations are further burdened and strained by incidences of violence, desecration of tombstones, attacks on religious facilities, and writing of slogans with contents promoting intolerance, hatred and nationalism. The number of such incidents is lower than it was immediately after the war, but their reverberations are equally disastrous.

In only four days of March, from 18 to 22, the roof of the orthodox Church of Birth of the Most Holy Virgin in Bugojno part called Čipuljić was set on fire, the seat of the Islamic religious community in Banja Luka was stoned, Baba Bešir's Mosque in Mostar quarter called Balinovac was also stoned, two hand grenades were thrown onto Tsar's Mosque in Orahova near Gradiška (RS) and sacred things were damaged in the Church of Saint Apostles Peter and Paul in the place Vagan near Glamoč.

On 27 October, in Kakanj, where Bosniak majority prevails, graffiti of insulting contents appeared on the door of the Catholic church.

During Ramadan, the month of fasting of Moslems, the mosques were attacked in Banja Luka, Mrkonjić Grad, Bosanski Brod, Vlasenica, the places in the Republika Srpska. More than ten attacks on mosques in the RS were registered.

On 3 October, three tombstones were overturned in the Jewish cemetery in Sarajevo.

On 15 October, on one of the bridges in Brčko, the graffiti appeared reading "Brčko is Serb" and "Turks, convert to Christianity".

Orthodox priest, Zoran Perković, was physically assaulted in Sarajevo by persons of Bosniak nationality.

On 9 November, in Gornji Vakuf – Uskoplje, there was a fight between pupils of Croat and Bosniak nationality, in which three pupils were injured by knife and a baseball bat.

On 8 October, a mosque was attacked in Doboј, Republika Srpska, and the flowerpots in the mosque yard were broken. During the night between 7 and 8 November, the Čaršijska Mosque was stoned in Kiseljak, a place with Croat majority population.

On 18 November, vicar of the Saint Rocco's Church in Bosanska Gradiška, Kazimir Višaticki, who was highly respected by all residents of that place, was murdered. Immediately upon the crime, Bogdan Gligović was arrested. He admitted that he had committed the murder with gain as a motive.

In the surroundings of Tešanj, Republika Srpska, Hrustan Suljić, a returnee and the president of the Gornji Hranković Local Community, was killed at his doorstep by a fire-arms shot. Suljić was killed on 2 December and his murder is linked with the fact that he was a witness on the list of the Hague Tribunal. At the time this Report is written, nobody has been suspected or detained for this

murder.

Although there were more similar cases, these examples illustrate the nature of interethnic relations in Bosnia and Herzegovina and their vulnerability. It is necessary to stress that a great number of perpetrators of above-mentioned offences have never been found and tried. Impunity for committed wrongdoings encouraged violators to maintain permanent atmosphere of fear and insecurity with a great number of citizens.

The role of the police, prosecutor's offices and courts, i.e. functioning of the state of law, are the key factors in stopping and preventing such incidents, which have extremely negative effect to the normalizing of the situation in post-war Bosnia and Herzegovina.

Interethnic relations are also burdened with a high level of discrimination on ethnic ground. Public institutions and enterprises have practically one-nation composition of employees, with the exception of the police and courts. The access to education, health care and the right to pension also dependents on ethnic origin.

As far as the status of national minorities is concerned, it should be said that the Law on Protection of the Rights of National Minorities has not still started being applied, although it was adopted during 2003. This practically means that the minority languages are still not in use in the administration, judiciary and education. The members of minority groups do not have their printed media.

Economic and social rights are more often violated when the members of minority groups are concerned, so that the percentage of the employed from amongst minorities is symbolic. Social welfare measures, conditions of dwelling, particularly in case of the Romanies, are below the standards envisaged by the international conventions.

Finally, due to procedural problems, the members of national minorities were not in a position to elect at this year's local elections their representatives for local assemblies. It means that the members of minorities continue to be outside the Parliament and without opportunity to influence political developments.

Refugees and Displaced Persons

Officially, according to the data of the international community and the state Ministry for Refugees and Displaced Persons, more than a million of refugees and displaced persons from Bosnia and Herzegovina returned to their pre-war addresses from the signature of the Dayton Peace Agreement to October 2004 inclusive. Even if we accept this figure, there is no reason to be satisfied with the results achieved in the implementation of Annex 7, nine years after the Dayton Agreement. Let us remind that during the state of war, more than 2,200,000 people were moved away from their pre-war addresses.

The same sources say that out of the million and some more returnees, approximately 450,000 were the internally displaced in Bosnia and Herzegovina, and approximately 550,000 returned from the countries all over the world. Three quarters of this number returned to the Federation of Bosnia and Herzegovina, and one quarter to the Republika Srpska.

In the first ten months of 2004, a figure of 16,500 returnees is mentioned, of which more than 12,000 accounts for those whose ethnic group represents a minority in the areas to which they returned.

The estimates of the Helsinki Committee in Bosnia and Herzegovina based on the reports of monitors, visits to a number of municipalities, contacts with citizens, and data collected in local communities, say that the figure of one million returnees is absolutely unrealistic. Actual number of returnees is much lower. The number of returnees is unjustifiably identified with the number of returned property /houses and flats/. The fact is that the property returned, or more precisely, the number of approved requests, multiplied with the number of household members who applied for the return, is registered. The Helsinki Committee has the knowledge of the fact that a great number of owners, as soon as they enter into possession of the house or flat, sell the immovable property or exchange it. Some of them use their pre-war house that has been rebuilt, as the weekend cottage, or simply rent it out. Quite a number of rebuilt houses have never been moved in. In the area of Srebrenica, according to the official data, totally 4,000 refugees have returned. However, in practice more than 60% of them stay there only periodically. For example, in the village Moračići near Zvornik, 60 houses belonging to the Bosniaks were rebuilt this year, but by the beginning of

November none of the owners moved into them permanently.

Using legal regulations, a significant number of citizens simply register at the pre-war address, take out identity card and return to the present place of residence. The statistics count all such citizens among returnees. There are also frequent cases of return of just one or two members of a household, mainly elderly people, while others, registered for return, remain at some new, post-war addresses.

According to the estimates of the Helsinki Committee for Human Rights in Bosnia and Herzegovina, the realistic percentage of returns amounts approximately to 30 per cent out of the total number of 2,200,000 of displaced persons and refugees.

Here are some more examples in support of the above: in the territory that belongs nowadays to the Republika Srpska, approximately 220,000 Croats lived before the war. Today, there are ca. 15,000 Croats living there. In the area from Doboj to Bosanski Brod, more than 50,000 Croats lived before the war, but today there not more than 1,500. Some 50 Croats out of 2,000 Croat refugees have returned to Bijelo Brdo, one of the biggest villages on the road Doboj – Prnjavor. In the Derventa municipality, there are only 250 inhabitants of Croat nationality today out of former twenty thousand. The situation in the Federation of Bosnia and Herzegovina is somewhat less stunning, although here we also encounter huge differences between the official data and those that the associations of returnees have. So the officials say that out of the pre-war 17,000 Croats in Bugojno, there are 13,000 of them living there today. According to the information that the Helsinki Committee has, there are not more than 7,000 of them. Or the following case: before the war, in the area of the Tešanj municipality, there were approximately 6,000 Serbs living. Today, there are some hundred families living there, counting ca. 300 members.

When it is spoken of “good” results of returns, Bratunac is often mentioned as an outstanding example. However, by November 2004, only 4,500 Bosniaks returned to Bratunac out of 21,500 who lived there before the war, which means somewhat more than 20 per cent. By the beginning of October 2004, approximately 1,000 Serbs returned to Lušci Palanka near Sanski Most, which constitutes less than one third of the pre-war population, and that is the biggest place of return in its region.

Or, an illustration from Bijeljina: in the school year 2004/2005, in the area of the Bijeljina municipality, 64 new pupils-returnees were enrolled. Total number of pupils-returnees rose to 180! It is not even a tenth part of the pre-war number.

According to the statistics for 2004, Zvornik, Bratunac, Kotor Varoš, Doboj, Prijedor and Milići in the Republika Srpska and the Sarajevo Canton, Konjic, Mostar, Sapna and Jajce in the Federation would be the places in which the greatest number of so- called minority returns was noted.

We shall use Konjic as an example to show how it looks like: by October 2004, 290 persons returned to the area of the Konjic municipality, while in the same period 77 persons left the municipality. Out of all returnees, there was the greatest number of Bosniaks – 150, then Croats – 110 and 28 Serbs. Two persons from amongst Others returned too. Since the signature of the Dayton Peace Agreement till 1 October 2004, totally 3,034 persons returned, out of which 1410 Croats, 1237 Bosniaks, 379 Serbs and 8 persons from amongst Others. It is necessary to repair at least 1,600 houses in the Konjic municipality.

In the first nine months of this year, in the area of the Bosansko Grahovo municipality, 60 pre-war inhabitants returned, so that totally 3,600 inhabitants live there now, out of which 3,500 are Serb returnees and approximately 100 displaced Croats. It constitutes 45% of the pre-war population.

An example from the area of the Glamoč municipality, where 29 Serb families with approximately 100 members returned in October, shows an uncoordinated approach

to the problem of the return. Those are the families that had to leave other people's property in Derventa and bordering area of Banja Luka. The people are accommodated in containers, or with their relatives or friends, because their houses have not been rebuilt. Otherwise there are 6,500 inhabitants living in the territory of this municipality, out of which approximately 4,500 are Serbs, ca. 1,000 are Bosniaks and about 1,000 are Croats displaced from various areas of Bosnia and Herzegovina. In the village Bešlije, Travnik municipality, there were 228 residents of Romany nationality before the war. There are only some twenty of them today. In this year, 41 families waited for the repair of destroyed houses.

The process of return of property was almost one-hundred-percent accomplished in 2004. However,

the Helsinki Committee expresses its concern due to the fact that the number of those still considering returning is increasingly smaller. This is supported by the example that only 8% of the Croat refugees and displaced person from Bosnia and Herzegovina express any intention to return from the Republic of Croatia, and 71% of them made a firm decision not to return ever. At least the results of a comprehensive research conducted by the OSCE Mission in Croatia indicate so. As much as 85% of the persons interviewed claim that they have been entirely assimilated into the new community during the past fourteen years and only 15% still define themselves as refugees from Bosnia and Herzegovina. Out of the total number of the persons interviewed, 54% of them have nowadays some real property in Croatia, a house or a flat, and 95% have the Croatian citizenship. Otherwise, there are still approximately 50,000 persons from Bosnia and Herzegovina in the neighbouring Croatia at this moment.

Difficult economic and social situation in Bosnia and Herzegovina in 2004 is a hampering factor to the return, especially to the viable return. Impossibility of employment and exercise of the rights to education and health care are the reason why a certain number of returnees decide to leave again. It is intolerable that, for example, in Kozarac, where there are 15,000 returnees, there is no medical center. Only one general practitioner and a medical technician render health services to the patients in an improvised clinic. For all other services, the patients are referred to Banja Luka, Prijedor or Sanski Most.

Returnees often complain of discriminating attitude of municipal authorities when obtaining of various permits is concerned or of the work of inspection services. It is particularly pronounced in urban areas where minority returnees are deprived of the possibility to work and do business under equal conditions as the members of the majority group. Besides, in many cases public enterprises deprive the returnees of the right to electricity, water, telephone, road repair and rendering of municipal services. Behaving in that way, they bluntly obstruct the minority return. Persons displaced all over Bosnia and Herzegovina are in the same position. There is a case of a displaced family in Novo naselje near Janja (RS) who still live without water, electricity and sewage system.

In comparison with previous years, the security situation has improved. It does not mean that in 2004 we did not register occurrences of discriminatory behaviour based on the ethnicity. There were cases of physical assault on returnees, their property, and national and religious monuments.

The existence of parallel systems in the sphere of health care, pension funds, different school curricula and some other entity and even cantonal laws, is a source of various forms of discrimination in exercising equal rights for all.

The international community is at the stage of withdrawal from the process of return, and is oriented toward other crisis spots in the world. With the cessation of work of the Reconstruction and Return Task Force (RRTF) that operated within OHR, on the last day of 2003, the institutions of Bosnia and Herzegovina took over officially all responsibility for this area. As early as the beginning of 2003 the state strategy for implementation of Annex 7 was adopted. It was a joint document of local institutions and international community. Little has been accomplished of what was planned to be done. Nine years after the signature of the Dayton Peace Agreement, during 2004, in the territory of the Federation there are still 33 collective centres, nine collective settlements and three transit centres, with totally 6,549 persons in them. Let us remind that according to the plan, those centres were to be closed, and the people taken care of. The estimates indicate that approximately 40 million KM is needed to resolve this problem, because 2,288 families are involved.

The Parliamentary Assembly adopted the Law on Amendments to the Law on Refugees from Bosnia and Herzegovina and Displaced Persons in Bosnia and Herzegovina in November 2003. Upon entering into force of this document, setting up of a single Fund for Return was announced. It should have become operational, though still has not, in the first days of 2004. The Fund should have been filled by the resources from all levels of authority in Bosnia and Herzegovina, as well as by the resources of the Council of Europe Development Bank, but also from other loans and donations that the Fund would put together. The purpose of the Fund was, among others, to prevent various misappropriations of funds, misuse of donations and promotion of more efficient spending of funds.

The deadline of sixty days, within which the entities were obliged to harmonize their laws with the state laws and to adopt them, was not met. The Republika Srpska did not do it even within a year following above deadline, not to mention the adoption of necessary by-laws, such as the criteria for selection of priority-beneficiaries and obtaining aid for reconstruction and return. The Council of

Europe Development Bank granted 24 million KM loan to Bosnia and Herzegovina for financing the project of return, not earlier than November this year. As specified in the project, the funds will be spent on final closing of collective centres, solving of the problem of returnees living in provisional buildings as well as for provision of alternative accommodation. The state should participate in this project by 25 per cent of the funds, which was a precondition for obtaining the loan. Approximately at the same time, the Council of Europe Development Bank granted a loan of eight million euros for the same purposes. The information, presented by the High Representative this year, that Bosnia and Herzegovina received from the international community more aid than Germany had received after the Second World War through Marshall's plan, but that the money was misspent, and that criminals of various levels took advantage of it, resulted in establishing a local investigating commission, that has never presented to the public any specific findings, i.e. on how much money has Bosnia and Herzegovina actually received and where have the funds been invested.

The institutions at the level of Bosnia and Herzegovina should have taken a more active part in solving crucial issues concerning the status of refugees, such as the property rights and issues of citizenship and personal documents. The Council of Ministers and the Presidency of Bosnia and Herzegovina should finally solve, together with the surrounding states, i.e. Croatia, Serbia and Montenegro, all issues important to refugees, so that all citizens should have the same rights in respect of property and citizenship. A great number of Bosnians and Herzegovinians who live abroad, for example, fear that they might lose the citizenship of Bosnia and Herzegovina, because the legal regulations in this area are not completed. It is true that according to the Law on Citizenship, the state of Bosnia and Herzegovina is not obliged to sign agreements on dual citizenship by 2013. However, this certainly does not mean that the authorities should wait till that time limit. The same category of citizens also complains of the Electoral Law, justifiably qualifying it as very complicated, particularly in respect of the registration of electors.

The authorities reckon that somewhere between 200,000 and 250,000 people wait to return, i.e. wait for aid for the return, although according to their estimate, there are still 1,200,000 persons living outside their pre-war homes. Unfortunately, the time has taken its toll. No illusions that the situation will improve in the next two or three years should be entertained. On the basis of estimates of the Ministry for Human Rights and Refugees, the Council of Ministers, and applications for voluntary return, it is necessary to rebuild still approximately 50,000 housing units in Bosnia and Herzegovina. The estimates indicate that it would cost 900 million KM. There are no indications that these funds could be found.

Freedom of association

The freedom of association is guaranteed by the Constitution of Bosnia and Herzegovina as well as by the Constitutions of Entities. In 2001 the Law on Associations and Foundations of Bosnia and Herzegovina was adopted. It provided the possibility for the associations of citizens and non-governmental organizations to register for activities in the whole territory of Bosnia and Herzegovina, which had not been the case by then.

The Law on Associations and Foundations of Bosnia and Herzegovina is in compliance with the European Convention on Human Rights and Freedoms and it guarantees the exercise of the right to association. However, non-governmental organizations encounter in practice numerous obstacles when trying to register under the provisions of that Law.

The Ministry of Justice of Bosnia and Herzegovina, whose task is to apply this Law and to allocate the Decisions on the registration, introduced a complicated and time-consuming procedure, which made the registration difficult. The Instruction for application of this Law is significantly more restrictive than the Law itself, so that some of the non-governmental organizations lost several months before they succeeded in exercising their right to association. Some non-governmental organizations, which operate de facto in the entire territory of Bosnia and Herzegovina, still do not have the required registration, while some of them desisted from the registration at the level of Bosnia and Herzegovina, preserving the registration at the level of the Entity or canton.

Besides imposing restrictions on the freedom of association in practice, the Ministry of Justice of Bosnia and Herzegovina also undermines reintegration of the atomized Bosnian-Herzegovinian society. The fact is that in many spheres the citizens feel the need to associate on the basis of the same interest and the same aspirations also across the entity boundaries. However, under the prevailing circumstances, these aspirations cannot be accomplished.

The Helsinki Committee pointed on several occasions to the fact that the existing practice is intolerable, that it jeopardizes and reduces the freedom of association. However, the Ministry of Justice has not demonstrated willingness to change the existing practice and facilitate the procedures when exercising the freedom of association.

Freedom of Expression and Mass Media

Although it could be said that compared to the previous years the journalists and the mass media were less exposed to threats in 2004, there have still been pressures and attacks on the mass media sector. For example, in late June, the Ministry of Interior of the Republika Srpska first released an announcement in which it warned that it would take "appropriate measures" against journalist who had allegedly been trying to ruin the reputation of that institution, and then, in August, the Chief of the Police of the Republika Srpska, Radomir Njeguš, blatantly accused the journalists of "Nezavisne novine" and those of the RS Radio TV of belonging to a group that having acted on a well-thought plan was working on damaging and tarnishing the reputation of the Police. The first man of the RS Police said at the occasion that the journalist of these institutions should "end up in jails or in a mental hospital".

The election campaign prior to the local elections of 4 October also abounded in a series of very fierce verbal attacks on the mass media. The attacks were aimed at "Nezavisne novine" and the Radio TV of the Republika Srpska from Banja Luka for which the nationalistically determined political parties claimed "not to be Serb enough" or to be "American satellites". On the other hand, Bakir Izetbegović, the Vice-President of the party in power, the SDA, assessed the Federation Radio TV as unfavorably disposed toward the SDA and threatened with dismissals, and thereafter in "Dnevni avaz" he posed a question as to who was behind the project "Slobodna Bosna". "Bosnia and Bosniaks suffer damage. Who has the interest in it?" wondered Izetbegovic.

On 13 September, the candidate for the mayor of Banja Luka, Ljubiša Kragulj, in his capacity of a guest in a program on the Simić Television from Banja Luka accused "Nezavisne novine" of being a branch office of the CIA, while for the Director of the RS Radio TV, Dragan Davidović, he said that he had been "installed by the international community to destroy the Republika Srpska". Kragulj also said a series of insults against the Deputy Editor in Chief of "Nezavisne novine", Mirjana Kusmuk. He also criticized the Alternative Television from Banja Luka by saying that they were "financed by the foreigners" and stated a series of insults against the management of the Television.

At the opening ceremony of a mosque in Sokolovic-Kolonija, the Head of the Islamic Community, Reisu-l-ulema Mustafa Cerić, warned those present that the "bulletin of Great Serbia, the Belgrade magazine "Duga" had moved to Sarajevo" alluding to "Slobodna Bosna". At that occasion he explained that "Duga" from Belgrade in the early nineties was preparing those who committed atrocities in Bosnia. The Islamic Community, headed by Reisu-l-ulema Cerić, in an attempt to find out who was behind the insulting and vulgar editorial policy pursued by "Dani against honorable Islamic institutions", in early October sent out a circular letter to the owners of BH companies with an appeal not to advertise their companies in that magazine. This way of pointing a finger at "the enemy" of Muslims represents a most flagrant attack on the freedom of mass media.

There were physical attacks too: the master of ceremonies at the Big Radio, Darko Gunjić was attacked in Banja Luka in the night on 20 September, while a cameraman of the Radio Television of Republika Srpska and a colleague of his were attacked on 19 October at the occasion of reporting on the arrest of the Hague indictee in Bileća. At the occasion the cameraman was inflicted bodily injuries while his camera was destroyed.

There have been direct death threats over phone on several occasions to the "Slobodna Bosna" and "Dnevni list" journalists, and the members of the crew of the Federation Television working on the program "60 minuta" (60 minutes), while on 25 May a series of serious threats was made to the Editor in Chief of the "Patriot" magazine, Slobodan Vasković, and his family.

On several occasions, the Helsinki Committee for Human Rights in BH denounced such and similar attacks on the mass media. Especially disturbing are declarations of the representatives of the governmental authorities, political parties' and religious leaders in which one can recognize not only their wish to put the public mass media under control but also an open invitation to physically fight with disobedient mass media and individuals working for them.

The process of establishment of a public broadcasting system in Bosnia and Herzegovina is in the late 2004 still far away from its finalization. The obstruction, dictated by the coalition national

parties headed by the nationalistic elite supported by the religious and other quasi protectors of narrow national interests, is still at work. Behind it all are their unhidden aspirations to keep or win control over the public mass media, and to preserve the fragmentation of the state and monopoly position in this segment as well.

It is true though that on 13 August the BHTV 1 started broadcasting on its own network and currently it covers with its signal over 97% of the territory of BH. For the time being, the public broadcasting system is consisted of three televisions – the RTV of Republika Srpska (RTVRS), the Federation RTV (RTVF) and the RTV BH which is a channel for the whole BH. The question here is whether this envisaged form would ever start functioning in its full capacity and with the appropriate quality. It is also mainly the product of Dayton solutions which long time now have become impediment in all spheres of life. Despite all insisting and imposing on the part of the OHR, the legislation has still not been completed. On 13 October, the members of the House of Representatives did not accept the proposed Law on the Public Broadcasting System in BH. The adoption of this law is one of the requirements of the European Union in the process of initiating negotiations on the stabilization and association.

In 2004, the practice again confirmed the expectations that it would take time before both the courts as well as the complainants get used to the laws on defamation. After a real flood of complaints in late 2003 and early 2004, the number of complaints has decreased in the recent months. The great number of disputes between different mass media is symptomatic, which in any case does not contribute to the strengthening of trust in the media on the part of their consumers. We must state that a great deal of the complaints resulted from insufficiently professional approach of some journalists and editors, and as far as the printed mass media are concerned, also from the lack of functioning of self regulation, that is from the failure to abide by the Code of Ethics.

When it comes to the daily newspapers, the most frequent violations of the Code of Ethics are related to the discrimination and breach of privacy, while in the case of weekly and biweekly papers the most obvious is the usage of anonymous sources, mixing of comments, assumptions and facts as well as the violation of editorial responsibility and violation of generally accepted social standards of decency. The polemics that appeared in the media on sex and gender minorities were on the verge of vulgarity. The way of reporting by some radio and TV stations as well as by some printed media regarding the death of seriously ill 21 years old Ukrainian in Mostar, who was forced into prostitution and kept in a slave position, was mainly sensational in nature. All that along with the unacceptable publishing of a photograph and the full identity of the person that was the victim of human trafficking, mentioning her “three year old child whom she probably has never seen” and similar. The publishing of the photographs of the killed and murdered, and the victim of suicides has become a kind of journalist trend that deeply hurts the feeling of the victims’ families. A reaction of “Dnevni avaz” in the case of kidnapping of the boy in Sarajevo, by publishing his name and surname as well as photographs was not in the framework of professional standards, more so since the parents of the minor victim and investigative bodies demanded that such information should not be published because it could have brought to tragic consequences.”

In relation to the coverage of court processes, the mass media sometimes also do not respect even the basic principles and regulations established by the European Convention on Protection of Human Rights in the way interpreted by the European Court for Human Rights in its decisions. Among the principles that are also violated is the principle of the protection of the right to freedom of expression as well as the right to a fair trial (assumption of innocence, rights of juveniles, etc.) and the right to privacy. It is inadmissible to give space to some politicians to publicly comment on court processes that are underway.

It is true that the pluralism of information is secured in BH, and that there is no concentration of mass media or the monopoly over information. The timely passing of the Rules on Media Concentration contributed to it, and these Rules prevented the owners of the printed mass media from having possession of more than one electronic mass media, and prevented any of the television from covering its channel on more than one frequency. On the other hand, in a large number of mass media there is clearly recognizable orientation towards one of the ethnic groups, that is towards one of the nationalistic parties in power.

Most journalists are facing problems with their employers in exercising their rights, first and foremost those rights that pertain to their employment relations. All the more so, it is strange that they are still divided in a number of associations and trade unions. The Helsinki Committee for Human Rights in BH welcomes the merger of the three associations from Mostar, Banja Luka and Sarajevo that took place on 10 December 2004 and sees this act as a beginning of the creation of a

journalist organization that will unify the interests and obligations of all those engaged in public media sector which would contribute to further democratization of BH, and above all to the promotion of independent and professional journalism.

Sexual and gender minorities

In the community that is made of the members of sexual and gender minorities, when it comes to Bosnia and Herzegovina, a sense of fear is predominant. Not only when it comes to the treatment of the setting toward them, but also when it comes to their freedom of expression of being a member of a lesbian, gay, bisexual or transgender group.

During 2004, most frequent were verbal threats and intimidation of individuals and some members of the community. Unfortunately, cases of beatings were also registered. Due to their sexual orientation, some people lost their job, and some were eliminated at job vacancies, after the first interview. In a significantly more difficult position are homosexual men, while the female part of the population is less exposed. Older members of the community, taught by bad experience and frustrated by the treatment of the environment toward them, rarely approach communities and associations and thus resolve common problems with a greater difficulty.

The treatment of the rights of sexual minorities significantly differs from other rights because of the social setting, which is still too conservative and traditional and thus unable to overcome predominant stereotypes. What differentiates sexual discrimination from other forms of minority discrimination is the fact that people in their mindset perceive this issue as a disease and, if there is no direct aggressiveness and violence, according to homosexual accounts - that is the best that one can expect at this point in time.

The incompleteness of one part of the law puts this population category in an unequal position compared to other citizens. Unlike Criminal Code of the Social Republic of Bosnia and Herzegovina, the Criminal Code of the Federation of Bosnia and Herzegovina applicable until 1996 and the Criminal Code of the Republika Srpska which was amended in 1998, the criminal codes currently in force do not penalize homosexuals and do not restrict their rights, but both entity laws on public law and order contain provisions that can threaten the rights of sexual and gender minorities.

In accordance with the aforementioned law in the Federation of Bosnia and Herzegovina, the violation of public law and order is considered to be the «threatening of public morality» as well as «insulting the patriotic, national, religious and moral feelings of citizens» in public places. In Republika Srpska, the law bans these relations between people in public places that could «call into question the rights of citizens to a personal security, peace, privacy and human dignity». Such legal inconsistencies leave judges to ascertain based on their free assessment and on the basis of discretionary right what threatens public law and order and what is inadmissible from the standpoint of «public morality».

In a country where religious leaders use holidays to designate homosexuality as evil, in a country where theologians in publicly televised debates bring terrorism and homosexuality in the same category – modern sins and affections against nature, in a country where the journalists talk about homosexuality like a «disease», «western trash» and something “objectively” immoral, one could assume that the judges in such an environment do not have enough room for a sensitive approach to sensitive cases.

The fact that the family law in Bosnia and Herzegovina interprets marriage as a «legal communion between a man and a woman», excluding the possibility of marriage between the people of the same gender, is a discriminatory solution.

The European Parliament, let's remind, on September 17, 1998 adopted an urgent resolution on equal rights of homosexuals and lesbians in the European Community. The resolution was motivated by the previous rejection of the parliaments of some countries to harmonize their anti-homosexual laws with the European Community human rights stands. This resolution affirms the commitment of the European Community not to give its consent to an approach of any country that violates human rights of lesbians and homosexuals through its legislation or policy. Thus, Slovenia prior to joining the EU passed a law banning discrimination at workplace. Applicable now is the Law on Labor Relations that explicitly bans discrimination based on sexual orientation. One of the Articles explicitly states that an employer is forbidden from putting an employee or person seeking employment in an unequal position based on (*inter alia*) sexual orientation. The Slovenian criminal legislation explicitly bans discrimination based on sexual orientation.

Still, the inconsistency in legislation is not the only cause of discriminatory or possible discriminatory position of sexual and gender minorities in Bosnia and Herzegovina.

The biggest obstacle for exercising human rights in this population is a social and cultural environment. They face lack of understanding everywhere - in the family, on the street, at workplace, in the education process, in contacts with public administration, with the media...

The media, due to possible accusations that they promote homosexuality, most often ignore these topics and thus do not want to be involved with them, and oftentimes the problems of this population are presented pejoratively.

Frankly, in recent times certain media dedicate more room to these issues. Unfortunately, the approach is rather sensational and also burdened with prejudice and ignorance. To get the picture of the situation, we can cite the polemics that emerged during and after a television program that treated homosexuality that will appear in a local film, which at that time, was yet to be completed.

"Why would majority accept minority", was one of the questions raised in the aforementioned program. Everything that followed in the Bosnian media afterwards was in discord with public morality; vulgar vocabulary was used, insulting and totally rude. A high level of intolerance toward the other and different was expressed. Not even the condemnatory and justified reactions from the Coordination of Journalist Association of Bosnia and Herzegovina and the Press Council were able to soften the bitter taste caused by the spitting vocabulary served to the public. Along with frequent discriminatory tones, some of the texts were an open call to lynch.

To what extent and how the topics of interest for LGBT (lesbian, gay, bisexual and transsexual) population were represented in the media in Bosnia and Herzegovina, and in the surrounding countries, was the question to which the activists of LGBT and other non-governmental organizations tried to find at the regional conference "South East European Regional LGBT Media Initiative" organized in Novi Sad between June 24 - 27, 2004.

There was a single assessment that what can be heard, seen and read most often gives an absolutely distorted picture because the relationship of the media toward the topics is sensational, degrading and with a ridicule, which constitutes a direct attack to human dignity and basic human right to choose. In most texts this population is mentioned in an explicitly meditative context. Homosexuality is viewed in the entire region in this manner. The only difference is in the level of radical attitudes presented in the media.

For this kind of relationship of the media, a part of the blame is carried by the members of this population due to their lack of interest to animate and inform journalists about their activities and concrete cases where their basic human rights are violated. Ever since in February of this year Association Q was established in Bosnia and Herzegovina, as the first organization for affirmation and protection of the culture, identity and human rights of queer people, members of sexual and gender minorities have started coming out from the virtual world. Internet forum that is involved in the issues of queer population in BH established in Sarajevo is also a clear message that these people refuse any form of self-ghettoization.

Initiatives for the establishment of non-governmental organization that would bring together the people belonging to sexual and gender minorities in BH date back to 2001. However, then, from mentioned reasons, and primarily fear, it was not possible to collect sufficient number (30) signatures for registration.

The goal of Association Q that was established this year is to primarily empower self-reliance and strengthen the community. There is an ongoing monitoring of the cases of discrimination, role of the media, role of administration and the treatment of the environment toward the membership. In all this they need a greater assistance from other non-governmental organizations, especially those that in their programs are tasked with promoting and protecting human rights. Their participation in the creation of legislation and social climate aimed at removing all forms of violence and discrimination against homosexual people seems precious.

A regional and broader international cooperation of organizations fighting for the rights for sexual and gender minorities is an important element to take and apply solutions that are applied in other countries and to empower the self-reliance of the community.

Human rights of women

Women in Bosnia and Herzegovina are insufficiently present in public, political, cultural, economical, social and private life. We have not gone far enough on the road to achieving true equality between men and women. It is women who are mostly talking about human rights of women. A partner relationship between women and men has not been established in representing and promoting the issues of equality.

The country of Bosnia and Herzegovina committed itself to applying the Convention on the Elimination of All Forms of Discrimination Against Women. It has also accepted the Beijing Declaration and Action Platform, thus committing itself to taking all measures in order to provide a favorable social ambience and pass legislation for equality of rights among genders in Bosnia and Herzegovina, to create all necessary preconditions for elimination of gender-based discrimination.

The Law on Gender Equality of Bosnia and Herzegovina (Official Gazette of BH 16/6 2003) represents the first legal regulation from the sphere of local legislation, which regulates the gender equality and provides protection from discrimination based on gender. The law creates the preconditions to improve the position of women in our country and foresees an efficient legal protection and harmonization of other regulations of the local legislation with this Law. Naturally, this Law prescribes the obligations of the state to create the infrastructure and the mechanisms so that the Law could be applied.

The entity agencies– Gender Centers in the Federation Bosnia and Herzegovina and Republika Srpska were established with an aim of setting the infrastructure – the Commission on Gender Equality in cantonal, municipal councils and local communities and to coordinate the work of the actors of civil society – non-governmental organizations with an aim of advocacy and promotion of equal rights and opportunities for men and women. These bodies are not yet fully prepared for an efficient work to promote and protect woman rights. The Council of Ministers of Bosnia and Herzegovina passed Decision on Establishing the Agency for Gender Equality in BH (Official Gazette of BH 12/4 2004. godine), but this decision is yet to be implemented.

According to the Convention on the Elimination of All Forms of Discrimination Against Women, as well as the accepted Beijing Declaration with the plan of action, the state had the obligation to submit to the CEDAW Committee the Reports on any action taken concerning the application of the Convention, i.e. the progress achieved within the legislation, judiciary, and adopted administrative and other measures between the two reporting periods. Bosnia and Herzegovina is yet to send a comprehensive report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women, although it was obliged to send reports in 1994, 1998, 2002. The Ministry of Human Rights and Refugees of Bosnia and Herzegovina has made a Report proposal which is sent on November 1, 2004.

The Helsinki Human Rights Committee in Bosnia and Herzegovina is of the opinion that the authorities in Bosnia and Herzegovina could have done more for the promotion of the Convention on the Elimination of All Forms of Discrimination Against Women and the Law on Gender Equality in Bosnia and Herzegovina.

Although the legislative framework in Bosnia and Herzegovina creates the basis for the protection of human rights of women, there is a huge discrepancy between the legislation and practice. The Helsinki Committee was an active participant in the implementation of the project "From the Law to True Equality", whose implementer was the Center for Women– ŽAR from Sarajevo, and Associated Women Banja Luka, and this year together with 28 other women non-governmental organizations from Bosnia and Herzegovina adopted the Platform for Action of women NGOs in Bosnia and Herzegovina, promotion of gender equality in access to power through advocacy and representation of the implementation of the Law on Gender Equality in Bosnia and Herzegovina. This Platform represents a strategy on the part of the woman scene of Bosnia and Herzegovina to reach the vision of Bosnian and Herzegovinian society, as a society of equal opportunities for women and men. This time also the woman non-governmental organizations were quicker and more concrete in reaction in comparison to the official politics of Bosnia and Herzegovina.

Bosnia and Herzegovina records poor information about family violence in which, as a rule, women and children are the victims. According to some estimates it is believed that more than 55 percent of women in Bosnia and Herzegovina suffer some kind of violence in the family. The relevant statistical information are not maintained in neither state statistical agencies, nor they are collated in the Ministries of Interior, and these information are almost impossible to reach in health institutions. The legislative reform in the sphere of criminal code made certain progress in the prevention of violence against women, but this code has not defined possibilities of passing

temporary measures with which the victims of violence would be better protected. In addition, the authorities in Bosnia and Herzegovina have not built a strategy and policy to combat violence in the family.

The Helsinki Committee for Human Rights in Bosnia and Herzegovina, together with other woman non-governmental organizations in Bosnia and Herzegovina, in 2000 launched an initiative to pass the Law on Protection from Family Violence. The authorities in the Federation of Bosnia and Herzegovina only this year started activities to pass this law, while in the Republika Srpska they are only now deliberating possibilities to initiate this legal project. Non-governmental organizations have opened Safe Houses for women and children, victims of family violence (Modriča, Bijeljina, Sarajevo, Mostar, Zenica and others). A single SOS line was established in Bosnia and Herzegovina, for support to women and children, victims of family violence, while in some places, within the Ministries of Interior, mobile teams were set up, who together with the Centers for Social Work, health institutions and judiciary promptly respond to all reports of family violence.

Estimates say that some 50 percent of the population in Bosnia and Herzegovina live on the poverty line. Some 565 000 (Data of the Bureau of Statistics of the Federation of Bosnia and Herzegovina and the Republika Srpska) people are looking for a job, of whom 45 percent are women. It needs to be noted that these figures only include those women who have registered themselves in the employment bureaus. However, a significant number of women have not registered themselves with the employment bureaus, especially when it comes to women living in rural regions. Some 300,000 people are employed in "gray economy", and estimates say that female workers constitute some 80 percent of this number.

Poverty affects the whole household, because due to traditional labor division in the families in Bosnia and Herzegovina - women carry a disproportionately heavy burden. This is especially evident in rural households.

Women who are employed in the public and private sector are exposed to different types of discrimination, sexual harassment, unequal salary in comparison with men, stipulations concerning the family planning by the employer; vacancies opened by employers most often seek women younger than 35, to be "attractive" etc. In the process of privatization of state-owned companies, women are completely marginalized. In private companies, when there are layoffs, the women are the first to lose their jobs. The state did not provide a consistent program of re-qualification or training programs for women who initiate small projects aimed at creating conditions for economic independence.

The traditional, so-called female jobs in the sectors of education, health, judiciary, illustrate a discriminatory treatment of society against women, because in these positions where women constitute between 70 and 80 percent of workforce, the managerial positions and places where decisions are made, the number of women is negligible.

The women non-governmental organizations have established a women economic network- BH ŽEM, with the primary goal of economic strengthening of women in Bosnia and Herzegovina. This network has support of the World Learning Star Network, financed by USAID.

The Foundation BH - Woman Initiative, was established and in the course of 2004, it provided economic support to the women of Bosnia and Herzegovina in launching their own business through 300 small projects.

Some 60 percent of women do not have health insurance. The authorities in Bosnia and Herzegovina have not provided suitable safety nets and do not strengthen the system of support at the level of state and community within the social policy framework with an aim of enabling poor women to easier withstand difficult economic conditions.

Bosnia and Herzegovina still does not have a single strategy and policy of preserving and improving the health of the nation. The access to health care of women is conditional upon their economic potential or they are forced to seek some other solutions, an alternative treatment. Because of this, there is an increasing reporting of HIV/AIDS cases in Bosnia and Herzegovina, other sexual diseases and people suffering from cancer. There are no relevant data on the number of people affected by those diseases, while some estimates say that some 80 people are HIV infected and it is not known whether this is a growing trend. Visible were the two cases that happened in the Zenica-Doboj and Herzegovina-Neretva cantons, where two foreign female citizens, victims of trafficking, were HIV infected. After their death, estimates were out telling that some 1,000 people are HIV infected, as the consequence of infection of these two people. It is imperative that the

authorities in Bosnia and Herzegovina provide data collation under a single principle, for the entire Bosnia and Herzegovina, and that through school programs and media outreach, provide more room for public education, and especially of women in the matters of health.

Testing to HIV is very limited because the competent health institutions do not have the needed reagents, so the risk population categories are not in a position to learn whether they are infected or not, which leaves room to presume that a large number of citizens are threatened with this disease.

It is important to note that Bosnia and Herzegovina in the post-war period is facing a new evil, trafficking with humans, women and children. In the first post-war years, Bosnia and Herzegovina was a transit country, and more recently it is becoming the country of origin of trafficking victims for sexual exploitation. It is true that the state adopted the Action Plan for Human Trafficking in Bosnia and Herzegovina, and established the state commission charged with monitoring the implementation of this plan, while the Council of Ministers passed a Decision on establishing a task force combating human trafficking and organized illegal immigration (Official Gazette of Bosnia and Herzegovina 3/2 2004). The mandate of this task force, headed by the Ministry of Security in Bosnia and Herzegovina, is to act in the prevention of human trafficking and prostitution, in cooperation with representatives of ministries of interior affairs and the international community and the European police. The decisions on procedures and methods of coordination of activities aimed at preventing human trafficking and illegal immigration in Bosnia and Herzegovina, passed by the Council of Ministers (Official Gazette of Bosnia and Herzegovina 24/03), established a position of state coordinator for Bosnia and Herzegovina. The role and the task of the state coordinator is to ensure co-ordination between all activities with the relevant ministries, and to prepare and propose measures for the implementation of the national plan of activities to the Council of Ministers. The state coordinator represents Bosnia and Herzegovina in international bodies involved in the matters of trafficking. The state coordinator is also tasked with initiating meetings with all organizations and institutions that are involved in the activities aimed at preventing human trafficking and illegal immigration to collect relevant information for reports and monitoring the implementation of the National Plan of Action combating human trafficking. With a group of non-governmental organizations that have established a RING network, and which have developed capacities in time, shelters for women and trafficking victims were opened (Mostar – 2 shelters, Sarajevo – 2 shelters, Bijeljina - 1).

Women who are victims of trafficking are almost under an exclusive care of local non-governmental organizations and the International Organization for Migrations, which care about women, organize their rehabilitation and provide return to the country of origin. When it comes to judicial proceedings against local citizens who are involved in women trafficking, they are most frequently monitored by the High Commissioner's Office for Human Rights (UNOHCHR). In the Federation of Bosnia and Herzegovina, a total of seven criminal reports against 10 people were filed, because of mediation in prostitution. In the Republika Srpska, five cases are processed, in which nine people are accused, while some 30 people are in the investigation or accusation stage. All these proceedings take a lot of time and yield no satisfactory outcome.

There is no relevant statistical information about the number of trafficking victims in Bosnia and Herzegovina. All estimates of this number are based on partial reports of court proceedings, State Boarder Service, number of entries and departures of foreign female citizens at the airports of Bosnia and Herzegovina. According to the UNOHCHR-a report (Report on Human Trafficking, July 2004, page 9), ending with December 2003, a total of 264 foreign female citizens were registered at the departure from Bosnia and Herzegovina at the Sarajevo Airport, who were illegally in Bosnia and Herzegovina. In 2002, from Moldova and Ukraine, for example, a total of 286 entries were registered, and 139 departures from Bosnia and Herzegovina. According to the estimates from early 2004, it can be assumed that the number of foreign female citizens – victims of trafficking in Bosnia and Herzegovina was reduced. Unfortunately, there are no official data or relevant research concerning the number of citizens of Bosnia and Herzegovina who are the victims of trafficking, but there are estimates indicating that trafficking with local citizens with an aim of sexual exploitation is on the rise.

Local elections, held on October 2, 2004 in Bosnia and Herzegovina, illustrate the treatment of the electorate and the political parties toward women in Bosnia and Herzegovina, i.e. the readiness to put trust in women in equal position when it comes to creation of policy and making decisions as well as dividing the power.

The Election Law of Bosnia and Herzegovina has established a quota that obliges political parties that 30 percent of candidates on the ballots must be women.

In the elections, a total of 27,427 candidates were running, of whom 9,554 were women. A total of 908 people were candidates for municipal mayors, who were directly voted for, of whom 33 were women.

After the election and according to the information of the Election Commission of Bosnia and Herzegovina, of 148 mayor positions in Bosnia and Herzegovina, three women were elected as mayors in municipalities of Drvar, Oštra Luka and Istočni Stari grad. In municipal councils of Bosnia and Herzegovina, of 3,145 mandates in total, only about 18.1 percent of women were elected as municipal councilors.

The women non-governmental scene at these elections tried through various campaigns to influence the electorate and the media to recognize the real abilities and give trust to women, so that as many women candidates would get as many votes at October elections.

All these activities were not efficient enough to break the stereotypes among the voters in Bosnia and Herzegovina, and the political parties have not done enough in the pre-election meetings to promote women.

Of eight ministries in the Council of Ministers of Bosnia and Herzegovina, a woman is the Minister of Finance and Treasury, and there is one woman in the position of deputy minister of foreign affairs.

Monitoring the participation of women in management boards of state-run companies, the number of women in these bodies is practically negligible, because mostly membership in the management boards is a paid position, but women are numerous in supervisory boards where the compensation is symbolic or does not exist at all. In the ministry of defense or in SIPA, there are no women in responsible positions (NATO standards advocate participation of women up to six percent in these institutions). This information is quite telling of the male-female relations in Bosnia and Herzegovina, it tells about the relationship between the politics and authorities toward the women cause. Discriminatory treatment against women is an obstacle to use equal opportunities between men and women.

According to the Law on Gender Equality, the media are obliged through their programs develop awareness on gender equality in Bosnia and Herzegovina.

Program schedules in broadcast and print media are still not prepared for gender sensitive reporting.

A low level of awareness on the importance and equality of genders results in a stereotype treatment of women in the media. Women are less affirmed as scientists, engineers, doctors, economists, etc., but the news reports about beauty queens, women who are the members of jet set, etc, are always published.

Non-governmental organizations in Bosnia and Herzegovina together with Gender Centers have taken activities to alter the treatment of media and promote gender sensitive reporting on gender equality in Bosnia and Herzegovina.

Children's rights

The children of Bosnia and Herzegovina have not been afforded the same opportunities of equal scope of enjoyment of protection and exercise of the rights in the entire territory of the state.

The Convention on the Rights of the Child, adopted 15 years ago in the United Nations, and incorporated in the Constitution of Bosnia and Herzegovina, is a universal children's law which obligates our state to undertake all measures and create such social environment that will enable promotion of the status and protection of the rights of children in Bosnia and Herzegovina.

It is estimated that the children between 0 and 18 years of age account for 1/3 of the population in Bosnia and Herzegovina.

Bosnia and Herzegovina, i.e. the Ministry for Human Rights and Refugees – the Sector for Human Rights, has drawn up a Plan of Action for the Children of Bosnia and Herzegovina 2002 – 2010. The framework of this Plan of Action was initiated by and based on the World Summit for Children that established general goals: to put children in the first place, not to neglect a single child, to stop inflicting injuries to children and their exploitation, to protect children from war, to fight against AIDS, to attack poverty, to listen to children, to protect the planet for children.

Unfortunately, there is a discrepancy between the adopted guidelines in the field of this Plan of

Action, aiming at strengthening of the status and protection of children, and the present practice in Bosnia and Herzegovina.

The economic development in Bosnia and Herzegovina is the cause of considerable concern. 60% of the population of Bosnia and Herzegovina is on the verge of poverty, which is unavoidably reflected to the status of children in exercising their rights.

The lack of political consent on creation of a single economic space in Bosnia and Herzegovina consequently reflects to the economic position of each child. That represents an obstacle to the access of children to exercising their rights provided for by the Convention on the Rights of the Child.

Judicature and laws in Bosnia and Herzegovina do not establish coherent strategies and levels of basic protection for children in accordance with the Convention and other international standards. Substantive law and adjective law provisions have not been harmonized with the purpose of establishment of uniform standards of protection of children in Bosnia and Herzegovina, nor have the courts in Bosnia and Herzegovina been accommodated by introduction of specialized courts and judges specialized for children's rights.

The institution of Ombudsmen opened as early as 1997 the Department for the Rights of the Child and such Departments have been located in major communities in Bosnia and Herzegovina. They monitor the governmental policies, but also react by

recommendations to violations of children's rights based on personal complaints of parents and children. This mechanism is meant to represent a corrective of policy and practice in protection and exercise of the rights of children.

It should be stressed that juvenile delinquency is permanently on the increase, while the age of perpetrators is lowering progressively. Although there is no data base on this phenomenon, the latest information published in media (Oslobođenje, 24.11.2004) indicate that there were 1288 criminal offences committed by 322 minors in the Sarajevo Canton for the last 10 months. The minors commit most often aggravated thefts – 940 cases, thefts – 48 cases, robberies – 63 cases, serious bodily injuries – 17 cases, light bodily injuries – 35 cases, possession or use of drugs – 23 cases. The information available from the Republika Srpska indicates approximately 44% increase of juvenile delinquency in 2004.

Bosnia and Herzegovina do not have at the disposal the accommodation capacities specialized for juveniles. Those convicted to imprisonment are not separated from other adult convicts, while those against whom a disciplinary measure is pronounced, are not provided an adequate re-socialization. The social services do not have sufficient human resources that would work on the issues of re-socialization, prevention of juvenile delinquency, alcoholism and drugs, and family violence.

As far as family violence is concerned, Bosnia and Herzegovina register a noticeable increase of cases where children and women are the victims. The violence against children is executed in various ways. In most cases the children are exposed to physical violence in the family. It is believed that the violence is present in every fourth family and that children are also not spared of mental, sexual or other forms of violence. There have also been registered cases of trafficking in children with the aim of sexual exploitation. Non-governmental organizations have opened "Safe houses" for women and children, victims of domestic violence (Modriča, Bijeljina, Sarajevo, Mostar, Zenica, etc.). The "safe houses" give refuge more and more often to juvenile female children.

Health care and social welfare of children in Bosnia and Herzegovina has been transferred to the entities and cantons respectively. A reform of the health care system in Bosnia and Herzegovina is in progress, by which a system of the family doctor is being introduced, with a special emphasis on the primary health care. This reform is aiming at moving closer of health care to the end user population of Bosnia and Herzegovina, including the children. However, health care is available only to those persons and children who have health-insurance booklets, i.e. the children whose parents are employed and whose employers pay regularly contributions for health insurance. If we bear in mind that approximately 600 000 people in Bosnia and Herzegovina are unemployed, and that almost 50% of the employed population cannot use the health care services due to failure on the part of employers to pay for the health insurance, then we have the situation that, at an estimate, approximately 60% of the children are deprived of the use of health care services. The problem of health care of children and family certainly bears great influence to demography as well. Birth rate in Bosnia and Herzegovina registers a warning fall. In 1991, the birth rate was 14,1‰, while in

2004 it is about 10%. These are alarming data to which the authorities have not found an adequate answer yet.

In Bosnia and Herzegovina, violations of rights and discrimination of children depend to a large extent on their ethnic and religious affiliation, and on the political affiliation of their parents as well.

Children are the victims of violence in schoolyards, means of public transportation, etc. Juvenile violent groups ambush children in front of schools or on the way from school to home, abusing them and taking away from them all items of value and money, or they "recruit" them under coercion for distribution of narcotics.

Framework Law on Primary and Secondary Education in Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina 18/2003) addresses all issues of the rights of children to education, as well as the standards that must be applied in education. In Bosnia and Herzegovina, 94% of children are included in education, and 99% of those enrolled in the 1st class reach the 5th class of primary school. Primary education in Bosnia and Herzegovina is free of charge. Unfortunately, this proclaimed principle is more and more frequently jeopardized because there is a practice that in addition to the high costs of books, clothes, footwear, transportation and the like, the parents must set aside another 30 to 50 KM each school year for the insurance for possible damages to school inventory. Only in the Una-Sana Canton, 144 children do not attend compulsory primary education.

Children from rural parts of Bosnia and Herzegovina, where almost no transportation to school facilities is provided, are more and more frequently deprived of full education, because the parents are even willing to pay fines or to go to prison, but due to their personal convictions – stereotypes they do not want to educate their children, particularly female children or children with special needs.

Majority of schools in Bosnia and Herzegovina are not technically and technologically equipped and a great number of school facilities are still devastated. There is no unique educational system, nor plans and programmes of work as well as human resources prescribed by Pedagogical Standards and general normative provisions, such as a psychologist, a social worker or, in small communities, a pedagogue.

In order to include children with special needs in everyday schooling, a campaign was launched in all schools in Bosnia and Herzegovina in the past period for organizing inclusive education.

By the enactment of the Law on National Minorities, equal rights and schooling conditions are secured for all children in Bosnia and Herzegovina, which means for national minorities too. This Law enables national minorities to define themselves their educational needs. The Romanies, as the largest minority in number in Bosnia and Herzegovina, still do not have exact data on the number of their children who do not attend school, but it is estimated that 70% of the children have never set in the school bench. Although a Plan of Action on educational needs of the Romanies and other minorities in Bosnia and Herzegovina was signed, a small step was made in its implementation. As far as the national set of subjects is concerned, no textbooks in their languages have been prepared, which means that these children, although included in education, cannot use their own language, but have to use the language of the majority.

On the basis of the Report on the State of Human Rights in BH for 2004, the Helsinki Committee for Human Rights in Bosnia and Herzegovina

brings the following

R E C O M M E N D A T I O N S

1. To the Election Commission of BiH and competent local authorities to exert additional effort to establish complete and updated voting lists in order not to repeat in the next elections the weakness expressed at the local elections held in 2004.
2. To legislative and executive authorities, political parties, religious communities and media to fight against any kind of nationalistic actions regardless of who committed them and who was a victim of such acts.

We encourage judicial authorities to react more energetically against the violation of law in a part relating to spread of national hatred, xenophobia, anti-Semitism, and enticement to

violence against the members of ethnic groups, national minorities and believers of any religion, and to sanction the perpetrators of such acts adequately.

3. We encourage the legislative and executive authorities of Bosnia and Herzegovina and Entities to establish the mechanisms for establishing the truth in view of the events that took part in the period 1992 – 1995, thereby to contribute to the establishment of the confidence and reconciliation among the peoples who live in BiH.
4. To the Council of Ministers of Bosnia and Herzegovina to enact necessary by-laws and finally to make other preparations for the application of the Law on Protection of Minorities.
5. To all municipal and cantonal authorities to implement in practice the provisions of the Amendments to the Constitutions of the Entities relating to the constitutionality of the peoples throughout the territory of BiH. It is necessary to abolish discrimination on ethnic grounds in employment, education and work of public institutions and enterprises, thereby enabling all the citizens, who wish so, to return to their pre-war addresses.
6. To the Ministry for Human Rights and Refugees, Entity Ministries dealing with the refugees and displaced persons, and to the local authorities, to plan in the budgets funds for reconstruction of houses destroyed during the war whose owners intend to live in them.

In this part, support and understanding of international donors is expected.

7. To the Ministry of Justice of BiH to harmonise the by-laws with the Law on Associations and Foundations in order to facilitate the exercise of the right to association and to avoid complicated and long-lasting procedures while registering the associations and foundations that want to be active in the entire territory of Bosnia and Herzegovina.
8. To printed media to observe the Code regulating the conduct of media, and to respect the decision passed by the Press Council of BiH.
9. To all governmental structures, religious communities and media to stop satanising and discriminating sexual and gender minorities.
10. To the authorities at all levels, including the law enforcement units and judicial authorities to observe the National Action Plan for Struggle Against Trafficking in Human Beings in order to eliminate discrimination against women, violence against women, poverty, organized crime and corruption.
11. To the governmental bodies of the Federation of BiH and the Republika Srpska to pass the laws on protection against domestic violence.
12. To the authorities at all levels, to educational institutions and parents to consistently stick to the Action Plan for Children for the period 2002 – 2010.

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