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# INTERNATIONAL HELSINKI FEDERATION FOR HUMAN RIGHTS

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## Extract from the IHF report

### *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2006 (Events of 2005)*

#### BOSNIA AND HERZEGOVINA<sup>1</sup>

**IHF FOCUS: freedom of expression and the media; returnees and IDPs and discrimination; anti-terrorism measures; rights of the child; national and ethnic minorities (Roma); aggressive nationalism; equal rights of women and men; asylum seekers; trafficking in human beings.**

The most significant political event affecting human rights in Bosnia and Herzegovina (BiH) was undoubtedly the start of negotiations on a Stabilization and Association Agreement with the EU, aiming at substantial changes in various sectors to meet EU accession criteria *inter alia* in the field of democracy and human rights. This process was a major incentive both with regard to improving legislation and its implementation.

The tenth anniversary of the Dayton Agreement, which established peace in BiH, offered a platform for open discussion on the success of the agreement, to scrutinize the functioning of the state established under it, as well as to reflect upon the human rights related provisions of the BiH constitution. The dominant position during these discussions was that BiH has established itself as an expensive, non-functional and inefficient state, which should be reformed so as to strengthen the position of central authorities, regions and local self-governance. At the same time it was stated that the Dayton constitution neglected the individual by guaranteeing protection of the three constituent peoples, thereby reducing its citizens to being solely members of the Serb, Bosnian or Croat ethnic groups. For this reason, the constitution must undergo changes so as to strengthen the position of individual citizens and their equality irrespective of which part of the country they live or which national group they belong to. However, no agreement was reached among the ruling political parties on amendments to the constitution, despite support from civil society in BiH, the EU, the US administration, the Council of Europe Venice Commission, and other international actors.

Inter-ethnic relations were still burdened by attempts of the ruling nationalist parties to preserve the ethnic homogenization, including territorial division on the basis of ethnicity. Mutual fear persisted and few serious efforts were taken to enhance tolerance, respect for diversity and the rights of ethnic groups other than one's own. High-ranking religious leaders in the three dominant religious communities failed in their responsibility to promote

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<sup>1</sup> Based on Helsinki Committee for Human Rights in Bosnia and Herzegovina, *Report on the Status of Human Rights in Bosnia and Herzegovina, January through December 2005*, December 2005. The section on the Roma minority was provided by the European Roma Rights Center (ERRC, IHF cooperating organization).

tolerance. This problem was closely interwoven with the constitutional provisions dealing with interethnic issues, which were based exclusively on the ethnic principle that feeds nationalism. In the domain of human rights, this situation primarily resulted in widespread discrimination on the basis of ethnicity, which had negative implications on the return of refugees and displaced persons. Ethnically motivated discrimination also resulted in denying minority members access to employment, adequate education, appropriate health and social care as well as the right to retirement.

The fact that the most notorious war criminals, Radovan Karadžić and Radko Mladić, remained at large thereby escaping criminal responsibility further encumbered the status of human rights in BiH.

BiH continued to lag behind in the implementation of the planned reforms to establish the rule of law and ensure equality of all citizens before law. Tardiness in the establishment of the rule of law continued to breed numerous infringements of human rights, a climate of insecurity among citizens, and mistrust toward the authorities.

### **Freedom of Expression, Media and Information**

The enactment of a law regulating the public broadcasting system, as well as disrespect of and failure to abide by the press code were the two most significant features in the media sphere during 2005.

The House of Peoples passed the Law on the Public Radio-Television System of BiH on 5 October. This regulates the entire public broadcasting system, including Radio-Television BiH (BHRT) that can be received in the territory of the entire state, Radio-Television of the Federation (RTFBiH), Radio-Television of Republika Srpska (RS) (RTRS), and of the Corporation of Public RTV Services in BiH. As of the end of the year, other legal provisions on individual networks were yet to be harmonized with this law. In addition, the House of Peoples passed the Law on Public Radio-Television Service of BiH on 31 October 2005.

The enactment of these two laws meant that BiH met the prerequisites of the European Commission for the commencement of negotiations on a stabilization and association process. However, the laws failed to guarantee that all citizens of BiH shall, through the public broadcasting system, have the right to receive timely, true and accurate information.

It was feared that the manner in which the two laws were passed and enacted would foreshadow their future implementation. Both laws were passed without the votes of the Croatian representatives of the House of Representatives and without approval of the Croatian delegates of the House of Peoples. The Croatian deputies insisted on the establishment of three channels in three national languages. The Croat member of the BiH presidency, Ivo Miro Jović condemned the laws as “racist,” and several Croat-dominated political parties called on citizens not to pay RTV fees. The Law on the Public Radio-Television System could only be passed after the Constitutional Court had ruled that the law is not detrimental to the vital interests of ethnic Croatian people.

The Helsinki Committee in BiH stated that a public broadcasting system with four legal entities would be too complex, expensive, and inefficient. It criticized the Dayton solutions as a poor basis for a public media reform as they promoted the rights of collective groups over the rights of individuals. The division of the production of broadcasting to three centers (Banja Luka, Sarajevo and Mostar) would form the basis for future mono-ethnic centers – Serb, Bosnian and Croat – despite the fact that the law guarantees equal rights to all nationalities and languages. It noted that this kind of media policy promoted under the cover

of “equality” would only help nationalist party leaders to continue to have a say in media reporting, contribute to ethnic division, and undermine journalistic professionalism.

While direct pressure on the media decreased, indirect and subtle pressure increased with the aim of influencing editorial and programming policies, the orientation of media outlets, and to keep the quantity and quality of information under control. Decisions by authorities not to buy advertising space in specific media outlets was one of the most effective instruments to put these media outlets under financial pressure.

- The bimonthly *Front Slobode* in Tuzla ceased publication after 62 years. One of the reasons was that the government of the Tuzla Canton decided to stop advertising and publishing tenders in the paper - and most local companies followed suit.

Not only the leading political parties but also the local mafia and other organized criminal groups, as well as religious leaders, attempted to gain control over public media and influence their editorial policies, sometimes very openly.

- The verbal humiliations and insults by Prime Minister Salko Ophodaš of Bosansko-Podrinjski Canton against a journalist of RTV Goražde in March once again brought to the surface the long-time and daily “disciplining” of this media outlet.
- Journalists and editors of Radio Q were threatened and physically assaulted by Muslim religious leaders.
- In April, Sandra Gojković, a journalist with *Nezavisne novine*, received a phone call which threatened that it would be “bad for her life and security” if she continued to publish critical texts.
- In July, a BN TV crew was physically attacked in Divič, near Zvornik, and a cameraman of BHT1 was attacked while working in Zenica.
- FTV reporters and editors of were constantly exposed to threats and insults.
- Journalists of Radio ZOS in Matuzići were repeatedly harassed when reporting from the region of Doboj.

The status of journalists deteriorated and their labor rights were seriously violated: the payment of salaries was delayed and contributions for pension and health insurances were not paid, in many cases because journalists worked without an official contract. Young journalists, in particular, who easily took any work opportunity to gain experience in journalism were exploited.

Another problem was the poor professional standard of some media outlets and journalists. The disrespect of the press code by many media was manifested in intrusions in the private lives of individuals and failures to provide the right of reply. Victims of crime and other tragedies were frequently and unnecessarily identified. In this way also the rights of the child were violated, which led the Press Council in April 2005 to restrict its statutes with regard to the protection of children and juveniles and to emphasize that the interests of the child must always be the priority. In addition, media continued to show a noticeable lack of sensitivity for gender issues and members of marginalized groups such as ethnic minorities, persons with special needs, and sexual minorities, and openly published discriminatory articles about them. Further, some media resorted to incitement to religious or ethnic hatred, untrue and unfair reporting, and failed to differentiate between comments, assumptions and facts.

## Returnees and IDPs and Discrimination

At the end of November 2005, the Ministry for Human Rights and Refugees stated that 50% of refugees and displaced persons had returned to their homes since the signing of the Dayton Peace Accord but emphasized that the real figure could only be determined after a census. The ministry based its statement on UNHCR statistics. According to the same source, 186,000 people who had registered during 2005 to obtain status as a displaced person, and about one million Bosnians and Herzegovinians still remained abroad, most of them having become permanent residents or citizens of the countries they stayed in. Ten years after the Dayton Agreement, over one million of the about 2.2 million people who had left their homes during the war were officially said to have returned to their homes, about 5,599 in the first nine months of 2005 (1,099 from abroad).

The Helsinki Committee for Human Rights in BiH, however, refuted the above-mentioned figures. It cited the Union of Associations of Refugees and Displaced Persons in BiH, according to which only one third of the total number of refugees and displaced persons had returned to their pre-war homes. This figure refers to genuine returns, i.e., returnees actually taking up residence in their pre-war homes. The Helsinki Committee criticized the methodology used by authorities to record returns, which often was to simply count the number of people whose property had been returned, and the members of their family. In reality, however, in most cases only one or two elderly members of a family returned to the repossessed apartment or house, staying there for a limited period of time – and then selling or exchanging the property. Others used their returned houses only as weekend homes or were, officially, registered in those houses but in reality lived and worked elsewhere.

In addition, the official records did not take into account the number of people who had to leave their homes for the second time: many people moved abroad in the course of 2005.

Information from the federation ombudsmen provided alarming data about sold houses/apartments in many municipalities: for example, in Mostar, over 3,000 housing units were sold, and in Kupres (Federation) 288 contracts on the sale of apartments were concluded, i.e., about 90% of the total number of housing units in that town.

As most returnees were elderly persons, concern was expressed about the birth rate: in Rogatica,(RS) the first child born by a returnee was recorded in 2005, ten years after the Dayton Agreement.

Interest for real return was fading as were opportunities to move to areas where returnees belonged to the majority. This led the Helsinki Committee to conclude that ethnic cleansing was at its final stage in BiH. This was reflected *inter alia* in information published by the NGO European Movement in Banja Luka: only two municipalities in all of BiH, i.e., Tuzla and Sarajevo Center, had a minority of more than 10% of the total population. This was the exact opposite of the pre-war situation when only 20% percent of municipalities had an ethnic majority population of over 50%.

The clear division of BiH into ethnically defined territories was illustrated by the following examples:

- The pre-war RS had 220,000 Croat inhabitants – as of the end of 2005, their number was less than 15,000.
- Out of 39,000 Serbs, who fled Herzegovina during the war, only about 9,000 had returned by the end of the year.

- 12,000 Croats lived in Kraljeva Sutjeska (Federation) prior to the war – as of the end of 2005 their number was 2,000.
- Modriča (RS) had a community of 11,670 Bosnia's before the war, in late 2005 their number was 3,000. The town had 10,600 Croats prior to the war but only 150 in 2005.
- About 6,000 Serbs lived in the municipality of Tešanj (Federation) until 1991. At the end of 2005 not even 5% of the inhabitants were Serbs.

At the end of 2004, more than 30,000 people displaced from other parts of BiH still lived in the Canton of Sarajevo, over 3,000 of them as “displaced persons” even though they had never left the city – yet, they were unable to return to their pre-war homes. Almost 4,500 people still living in collective centers in the Federation were in the most difficult situation. In RS, such centers were officially closed but people who had no place to go still lived in some of the run-down buildings.

Many reconstructed houses in BiH stood empty.

- In Jeleč, municipality of Foča, 70 mainly elderly persons lived in 36 households during the summer and even fewer in winter. Since 2000, 120 houses had been reconstructed, including the school, which did not operate in 2005 because there were no children to attend it.

### **Discrimination and Property Rights**

The process of return of property was officially completed in 2004 and was assessed as successful, however, local authorities in many locations continued to obstruct the process in 2005 by failing to enforce legal decisions on the repossession of property. As a result, a large number of citizens of BiH were still deprived of their right to enjoy their own property.

In addition to the non-implementation of property rights, local authorities, supported by nationalist politicians, also obstructed the exercise of many other fundamental rights of returnees belonging to a minority ethnicity, including access to electricity and water supply, health and social protection, and especially to education, as well as the construction of roads. Different social schemes and varying laws and other regulations in different parts of the country provided for discrimination against returnees in all parts of BiH.

However, unemployment remained the major obstacle to sustainable return. All over the country, without exception, returnees faced discrimination in employment in municipalities, public institutions and public enterprises. The constitutional amendment, which provides for proportional ethnic representation in all governmental bodies, including courts, was not respected.

- In Derventa (RS), 150 households of returnees had been waiting for six years for electricity. In Ustiprača (RS), 20% of returnees' houses were also without electricity, as were many in the municipalities of Zvornik, Višegrad, Sanski Most, Glamoč and others throughout BiH.
- In Bosanski Novi, only three out of 6,000 Bosnian returnees had found jobs in administrative bodies, one in the local court and two in education.
- In Bosanska Krupa (Federation), which had a relatively good Serb returnee record, only four non-Bosnia's were employed in the public sector.

Even though the security of returnees and their property improved in 2005, a large number of assaults on national and religious facilities and monuments were reported, as well as some cases of physical assaults and destruction of property. While police operations gained in efficiency, the police force remained ethnically unbalanced. Moreover, authorities failed to undertake measures to solve many problems that had been persisting for years and had turned into inter-ethnic conflicts, for example, with respect to property issues.

In addition to the ruling coalition parties, the international community carried a great deal of responsibility for poor results in the return process, status of returnees and the changed demographic picture, which were attributable to too many and unfortunate compromises with domestic authorities who lacked the will to put them into practice. While the Strategy of Return designated the year 2006 as the last year of return, it is clear that not all those who want to return will be able to do so, not least due to the lack of funds at home and abroad.

### **Aggressive Nationalism**

Inter-ethnic relations remained encumbered by attempts of the ruling nationalist parties – primarily the Bosniac Part of Democratic Action (SDA), the Croat Democratic Union (HDZ) and the Serb Democratic Party (SDS) – to maintain ethnic homogeneity. Despite a BiH Constitutional Court ruling on the equality of the Serbs, Croats and Bosnia's as constituent peoples across BiH, a desire for domination of one ethnic group over the others in areas where it had demographic and political supremacy persisted. Aggressive nationalism was facilitated by the fact that criminal laws did not foresee any sanctions against hate crimes. Prosecutor's offices failed to react to anti-Semitic, racist and xenophobic incidents, which encouraged extreme nationalism.

Fragile inter-ethnic relations were additionally complicated by ethnically motivated violence, desecration of places of worship and cemeteries, and similar incidents.

- Thirty-five kilos of explosives were found in Potočari, a site of the memorial center dedicated to the victims of genocide in Srebrenica, on the eve of 11 July, the day marking the tenth anniversary of the Srebrenica massacre. The perpetrator was not caught.
- A group of young Bosnia's threw stones at a bus carrying supporters of the ethnic Croat football club "Zrinjski" on 21 May. One person suffered minor injuries.
- A bomb exploded under the car belonging to Mate Lončar, a public attorney in West Herzegovina Canton, on 26 March. No one was injured. That was the second attack on the Lončar family in 2005.
- Vandalism broke out in Bijeljina on 12 October after a soccer match between the junior national football teams of Serbia and Montenegro and BiH. A BiH flag was set on fire, and fans wore shirts with images of Radovan Karadžić and Ratko Mladić, calling Muslims offensive names and shouting words such as "Knife, string, Srebrenica."
- Religious objects of the Islamic community were desecrated on ten occasions as well as a Muslim cemetery in Prijedor.
- In late July, stones were thrown at the Orthodox Church of Saint Apostles Peter and Paul in Kozarac.

- On 3-4 May, the family grave of Catholic priest Tomislav Matanović and his parents was desecrated in the Catholic cemetery Urije, near Prijedor. The family was killed in Prijedor during the war.

Police very rarely managed to catch the perpetrators and bring them to justice, and even in cases in which perpetrators were known, they received only symbolic punishment or were acquitted.

### **Anti-Terrorism Measures**

In November 2005, the Council of Ministers of BiH submitted a proposal for the Law on Changes and Amendments to the Law on Intelligence and Security Agency of BiH (OSA). The proposed amendments, which were drafted with the aim of preventing terrorism, would expand the competences of OSA by authorizing it, “in extreme cases when it is necessary to protect human lives, property and other security interests of BiH, to arrest persons, take them into custody, and to establish their identity. The amendments foresee that the interrogation of a person brought in can last up to six hours if necessary for the collection of important information, after which the OSA is obliged to inform a court on the conducted proceedings and hand over the person to the competent institution.

The Helsinki Committee in BiH called this proposal a serious and unacceptable precedent because it vests the intelligence services with powers that are incompatible with international human rights standards. The bill had not been adopted by the end of 2005.

Another unacceptable legal measure was the adoption by the House of Peoples of the Parliamentary Assembly under an accelerated procedure of the Law on Changes and Amendments to the Law on BiH Citizenship on 16 November. Its article 8(5 and 8) deprives persons stripped of citizenship of the right to appeal, which violates international human rights standards.<sup>2</sup> According to Miodrag Pandurević, assistant minister of civil affairs, the status of 1,200-1,500 naturalized persons will be subject to revision under the new amendments.

As of the end of 2005, BiH was the only European country to which persons extradited to the US and held imprisoned in Guantánamo Bay had not returned. BiH authorities had not taken the necessary steps to protect the rights of the so-called Algerian Group that was extradited in January 2002. The wife of one of the prisoners held in Guantánamo Bay went on hunger strike on 5 December to protest the negligence by the authorities.

### **National and Ethnic Minorities**

The Law on the Protection of National Minorities entered into force in 2003. It is based on the Council of Europe Framework Convention on the Protection of National Minorities, ratified by BiH. The law, however, has not been applied because the political parties in power have been unable to agree on the by-laws necessary for its implementation. BiH has not yet ratified the European Charter on Regional and Minority Languages. Positively, the Council of Roma was established in 2005 as a consultative state body, but its work did not yield noticeable results. Generally, the rights of national and ethnic minorities were poorly protected in BiH.

The Law on the Protection of National Minorities lists 17 national minorities that live in BiH. There are, however, no reliable data on their number since the last census was conducted in

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<sup>2</sup> Article 14 of the ICCPR, and article 6 of the ECHR, as well as provisions of its Protocol 7.

1991 and in the meantime significant demographic changes have taken place due to the war and ethnic cleansing.

According to the information obtained from the Jewish communities, about 1,000 Jews lived in BiH in 2005. The European Commission against Racism and Intolerance (ECRI) expressed its concern over the fact that anti-Semitic books could be bought in bookshops, including *Mein Kampf* and the *Zionist Protocols* considering this a threat against the Jewish community. The Islamic Youth Journal, SAFF, published January an anti-Semitic, offensive text about the Jewish victims of the Holocaust and the six million Jews held in concentration camps during the Second World War.

Most members of ethnic minorities faced discrimination with the situation of Roma being the worst.

### *Roma Minority*<sup>3</sup>

The Roma population is the largest ethnic minority in BiH, and its number is usually assessed at 80,000-85,000, while Roma activists claim that the real number is between 80,000 and 120,000.<sup>4</sup>

Roma were discriminated against particularly in employment and housing and their economic status was considerably lower than that of other ethnic groups. Only 1.5% of working-age Roma was employed in 2005 as compared with the 50% employment level before the war. The only Rom in all BiH, Redžo Seferović, who had been working in the state service, was fired. In the area of Zenica (Doboj Canton of the Federation), only six Roma were employed. In some municipalities, all Roma were unemployed. As a result, they were also not entitled to free medical care, which is linked to employment.

In 2005, Roma continued to be barred by law from enjoying a number of fundamental political rights. BiH remained the only country in Europe in which Roma were ineligible for high political offices, including the presidency, and so were relegated to a second-class “non-constituent” people.

Roma also faced other forms of discrimination: many were denied basic franchise and were not able to vote because they lacked personal documents and/or were stateless. As a result, they were denied a number of services crucial for the realization of a range of fundamental rights, including schooling, public housing, health care and social support services. In most extreme cases recorded in the past years, Roma reportedly died at least in part as a result of the failure of authorities to provide basic services such as rudimentary health care. Many Roma were still in 2005 not able to repossess their pre-war properties, and, as such, lived in very precarious situations, often in informal settlements with substandard conditions poor enough to make many Roma face serious existential threats. In addition, instances of violence against Roma by state agents, as well as by their non-Romani neighbours, were reported.

Only 15% of Roma children completed the compulsory eight-year education, with most girls dropping out in the fifth grade of elementary school. As result, the illiteracy rate of Roma was very high. Minority languages were not used in communication with authorities, including in

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<sup>3</sup> This section was provided by the European Roma Rights Center (ERRC, IHF cooperation organization). Part of the information was collected in co-operation with the Helsinki Committee for Human Rights in Republika Srpska.

<sup>4</sup> Helsinki Committee for Human Rights in BiH, *Report on the Status of Human Rights in Bosnia and Herzegovina, January through December 2005*, December 2005.

courts, and they were not taught in schools. There were no Roma-language newspapers, and only two radio stations broadcast programs in Romani from time to time.<sup>5</sup>

In addition to present-day discrimination, justice has yet to be provided to Romani victims of actions during the 1992-1995 war: a number of Romani communities were specifically targeted and their inhabitants killed, forcibly conscripted into the military service, raped, enslaved and forced to perform sex labour. It has been estimated that as many as 30,000 Roma were subjected to ethnic cleansing.

Although the majority of Bosnian Roma lived before the war in eastern Bosnia, i.e., in today's RS, now most Roma live in the Federation, primarily in northeastern Bosnia, the Tuzla Canton, or central Bosnia (Sarajevo, Zenica). Many thousands of Roma from BiH have not returned. The war fundamentally altered the demography of Romani settlement in BiH, and, perhaps more importantly for individuals concerned, vast numbers of Roma have been unable to claim pre-war property and have remained without adequate compensation for property confiscated or destroyed during the war.

Many Roma experienced difficulties in exercising their property rights and in accessing the right to adequate housing. As of the end of 2005, numerous Roma were still internally displaced within the country for a myriad of reasons. Since the end of the war, some Roma have been unable to return to their pre-war homes due to fear and/or impediments to return. The repossession of personal property by Roma has been left to the discretion of local authorities slow to remove temporary occupants from their property. In many of the cases of repossession of personal property by Roma of which the *ERRC* is aware, temporary occupants have vandalised or looted property before leaving.

Many of the informal settlements in which Roma lived prior to the war have been destroyed and no adequate alternative accommodation has been made available to former inhabitants. In some cases, Roma who have been able to return to their pre-war informal settlements have found their land allocated for industrial or other economic development projects, while no plans have been made for the provision of alternative accommodation for Roma displaced through forced evictions. Roma living in informal settlements or who lived in social housing before the war have frequently been excluded from the benefits of new property laws and have been in many cases ineligible for the funds that have been poured into the country under reconstruction schemes. In such settlements, an adequate standard of living is not available. In extreme cases, very substandard conditions in such settlements have led to the death of vulnerable inhabitants. Further, Roma have frequently been unable to rent private accommodation due to racial discrimination or poverty or both.

In the context of persistent ethnic tensions and mistrust in post-war BiH, Roma have been at the mercy of law enforcement agencies in which they have almost no representation. Police officers have in many cases been the perpetrators of violent attacks on Roma; have specifically targeted Roma through ethnic profiling practices; have conducted abusive raids on Romani settlements; have accused Roma of crimes on the basis of little or no evidence; and have failed to adequately investigate crimes committed against Roma. Racially motivated attacks against Roma have in a number of incidents also fallen victim to violent attacks by non-Roma, resulting in very serious injuries in some cases. Verbal abuse and threats of violence against Roma have been common.

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<sup>5</sup> Ibid.

## **Equal Rights of Women and Men**

BiH is party to the Convention on the Elimination of All Forms of Discrimination against Women and has signed the Beijing Declaration and the Action Platform. The Law on Gender Equality was passed in 2003 at the state level and instruments for its implementation were adopted. Gender centers have been established at both the state and entity level. Legislative assemblies of the state, entities, cantons and the Brčko District have established gender equality commissions. Nevertheless, notwithstanding the ratified instruments and passed laws, the human rights of women continued to be insufficiently respected in 2005.

About 20 % of the population lived below the poverty line and 30 % on its verge, with poverty hitting especially hard on women, children and the elderly. The official unemployment rate in BiH was 40 %, of which 46.8 % were women. Access of women to employment, particularly if they were over 35 years of age, was extremely difficult. When hiring staff, new owners of privately-owned companies often paid more attention to the age of applicants, their appearance, and readiness to renounce having children than to their professional qualifications.

Approximately 59% of women did not have a health insurance, and for those who had, medical care in fields that specifically dealt with women was in many locations substandard or absent. For example, the Drvar municipality did not have a maternity clinic and pregnant women were forced to travel up to 100 km to get adequate medical assistance.

Women were inadequately and unsatisfactorily represented in political life. Only 14% of the deputies in the House of Representatives of the BiH parliament elected in 2002 were women, and 21% in the House of Representatives. In the National Assembly of RS, 17% of the deputies were women, in the cantonal assemblies in the BiH Federation 22%, and in municipal councils 22%. A similar imbalance reigned in the BiH Council of Ministers with 29% women ministers and in the BiH Federation government, with only 6% women. The percentage of women working in presidential offices of the parliamentary assemblies was 23.

## **Domestic Violence**

Domestic violence was on the increase and could largely be associated with poverty, economic and social status of a family, and post-war trauma. Most perpetrators of domestic violence were the immediate members of a women's family – husband, father, or son, who in many cases had been victims of violence themselves. The Law on the Protection from Domestic Violence was passed in April 2005, with the ultimate goal of prevention.

According to information collected by the School of Political Science, and in line with police statistics, the registered number of cases of family violence with police intervention in 2004 was 2,869 cases in 15 BiH cities. Of them, 1,233 cases ended in a court ruling. Yet, sentences pronounced by many courts were lenient, thereby watering down the goals of the laws.

While NGOs were the first to response to the persisting problem of domestic violence by establishing five “safe houses” as well as SOS telephones for victims, they did not get appropriate financial support from the state for their activities.

## Rights of the Child

The Convention on the Rights of the Child is incorporated into the legal system of BiH,<sup>6</sup> thereby providing for the obligation on the state to take effective measures for its implementation. In September 2000, BiH signed the Optional Protocol to the Convention on the Rights of the Child concerning the involvement of children in armed conflicts, and the Protocol on the sale of children, child prostitution and child pornography.

While it was estimated that children made up one third of the total population of BiH, promoting their rights did not constitute a priority in practice, either among political or legislative actors, or other politicians in 2005.

The Ministry for Human Rights and Refugees under the auspices of the UNICEF developed a Plan of Action for the children of BiH for 2002-2010, which included areas of particular significance for strengthening the position of children, as well as priorities for their protection. This was the first official BiH document related to children's rights. In addition, the Council for Children was established in 2003 as a consultative body of the government.

The state Framework Law on Primary and Secondary Education (June 2003) was the most concrete contribution concerning the rights of the child by the legislative assembly of BiH, and provided, *inter alia*, for the right to education. All other issues relating to the protection of children's human rights are regulated by laws adopted by entities or cantons, which has resulted in varying and uneven protection and led to discriminatory practices in some areas, including access to health and social protection and the right to education.

Sixty percent of children in BiH were not covered by health insurance. According to UNICEF data, eight out of 1,000 born children did not live to their 5<sup>th</sup> birthday. Around 15% of children were not vaccinated against infectious diseases, 45% did not have running water in their homes, almost 6% did not attend primary education,<sup>7</sup> and ten-year-olds and ever younger children were subject to economic exploitation.

The introduction of nine-year primary education has not been accompanied by the provision of adequate technical equipment to schools, teaching tools were in short supply, classrooms were inadequate for teaching, and a large number of schools could not afford to pay material costs such as heating. At the same time, in some urban schools children were under video surveillance, which was said to be used to prevent violence and other crime among pupils.

Children of school age were in practice segregated on the basis of ethnicity. Forty-seven schools in BiH worked upon the principle of "two schools under the same roof," having two separate curricula under the pretext of protecting children's rights to their culture and language. The competent authorities and the coalition political partners – the SDA and the HDZ – openly supported these kind of unacceptable practices.

A burning issue was violence against children, which took many forms from economic, physical and mental, to sexual abuse. Violence against children was present primarily in the family, but also on the streets and in schools. Domestic physical violence was on the increase: children in every fourth family fell victim to some form of domestic violence. According to a report published by the Ministry for Human Rights and Refugees, most victims were girls between ages 7 and 16. It seemed obvious that there was a serious lack of resources directed to services dealing with prohibition and prevention of violence.

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<sup>6</sup> The Constitution of BiH – Annex 6, amendment to the Annex.

<sup>7</sup> Initial report of the Council of Ministers of BiH on the application of the International Pact on Economic, Social and Cultural Rights in Bosnia and Herzegovina for the period 1993 - 2003

Increasing sexual abuse of children was of particular concern and was frequently covered by the media, but in a sensationalist manner that often violated the child victims' privacy rights and in no way facilitated serious public discussion about the issue. The UNICEF brochure "The Media and the Children's Rights" was published so as to assist journalists in reporting about children in a responsible manner, but it was not sufficiently used in practice.

There were also reports of minors establishing contacts via the internet to provide sexual services for six KM (around EUR 3) in order to finance their drug use. In one widely-reported case, the president of a Roma association warned that Roma girls aged between ten to 15 were sold most probably by their parents at prices up to 50,000 KM (approximately EUR 25,000). As a rule, such cases were prosecuted, but due to varying legislation in different parts of BiH the gravity of the pronounced penalties depended greatly on the place of trial. In some locations, however, even minors were sentenced to prison terms for being involved in such activities, which is unacceptable under international standards.

### **Asylum Seekers**

The Constitution of BiH, the Law on the Movement and Stay of Aliens and Asylum (2003) and the Book of Rules on Asylum (2004) generally guarantee the rights of aliens as provided by international human rights standards.

Pursuant to article 35(3) of the Law on the Movement and Stay of Aliens and Asylum, an alien, who has been granted residence in BiH for humanitarian reasons, shall be entitled to work, education, as well as health and social care under the same conditions as the citizens of BiH. Further, the law guarantees them freedom from arbitrary arrest, torture and other cruel, inhuman or degrading treatment or punishment. They also enjoy freedom from being forced to return to a country where their life or freedom would be under threat on account of their race, religion, nationality, membership of a particular social group or political opinion, whether or not they have formally been granted asylum (article 34).

Since July 2004, the Ministry of Security has been in charge of processing all asylum applications.<sup>8</sup> By 21 November 2005, it had received 135 applications concerning 218 persons (one application can relate to several persons). By the end of November 2005, 83 requests for 125 persons had been rejected and none approved.

No specialized BiH institution was assigned with the task of sheltering asylum seekers. The Rakovica refugee camp should have become an asylum center by the end of 2005, but this did not happen. According to information from November 2005, it housed 133 people of whom 61 were asylum seekers, 60 had the status of "temporary admitted persons" and 12 were recognized refugees. The status of most "temporary admitted persons" had lasted already seven years and was extended until 30 June 2006. All aliens in Rakovica lived in prefabricated shacks in unacceptable conditions. Despite efforts by the dwellers and the staff, the facilities looked neglected, the equipment was inadequate and old, and each shack had one common kitchen and one common bathroom for both men and women. The food served in Rakovica lacked variety and was insufficient. While health care was provided, many chronically ill patients had to buy and pay for part of their medicines themselves. In general, access to hospitalization was difficult. There were no cultural events in the camp, except occasional workshops for women and indoor football tournaments. All ten employees in the camp worked on the basis of temporary service contracts concluded with the Ministry of Security - none of them had health and social insurance.

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<sup>8</sup> Formerly this was carried out by the UNHCR.

The majority of asylum seekers in Rakovica were Roma from Kosovo who had no IDs due to administrative changes in Kosovo. After seven years in the camp with the status of “temporary admitted persons,” BiH authorities had still not managed to solve the problem while the Roma were not able to return to Kosovo: if they do so to claim their homes, they would have to cancel their registration in BiH and register their permanent residence in Kosovo. Most of them, however, were not ready to take this step due to lack of economic and physical safety in Kosovo.

The best interests of the child was undermined in Rakovica due to poor living conditions, including conditions that violated the right to privacy and hindered the harmonious development of a child's personality. The playground for pre-school children was situated in a damp and dirty container of less than 10 m<sup>2</sup> without water or toilets. A social worker also resided and worked, mainly with women, in such a container.

According to UNHCR, most “temporary admitted persons” in BiH came from Serbia and Montenegro, which has an agreement on dual citizenship with BiH. This agreement states that citizens of Serbia and Montenegro, who have legally resided in BiH for more than three years, are entitled to apply for BiH citizenship. The UNHCR noted, however, that their applications were as a rule turned down.

### *Trafficking in Human Beings*

In trafficking in human beings and especially in women, BiH was a transit country from east to west. Most victims were Albanians, Iraqis, Kurds, Chinese, Ukrainians, Moldavians and Romanians. It was particularly worrisome that an increasing number of trafficking victims in “safe houses” were young girls from BiH, which showed that BiH was transforming more and more also into a country of origin of victims of human trafficking.

While it was very difficult to get data on the real number of victims in human trafficking, the International Organization for Migrations (IOM) stated that between 1999 and the end of 2004, 817 victims of human trafficking had been registered in BiH, 12% of whom were juvenile girls. The problem was exemplified by the fact that 30 girls mostly from BiH and Montenegro were accommodated in the “safe house” of the NGO Lara-Bijeljina at the same time in the beginning of 2005.

- Thirteen girl victims of trafficking were reported near Modriča, one of whom returned without a kidney and spleen. The others have not been found. Similar cases were reported in other areas of BiH.

The Decision on the Procedures and Manner of Coordinating Activities to Prevent Human Trafficking and Illegal Immigration in BiH and the establishment of the office of the State Coordinator for BiH led to the enactment of the updated State Action Plan to Fight Human Trafficking for the period 2005 – 2007. This plan defines new goals in fighting human trafficking in the next few years and new program papers for operative actions were developed.

A group of domestic NGOs, together with the UNICEF and “Save the Children” prepared a report on the cases of trafficking in children in BiH. According to the obtained data, between 110 and 160 children were identified as subjects of trafficking for the purpose of sexual abuse in the period from 1999 and 2003. The majority of victims were older than 14, and few of them not older than 10 years. Almost all were girls. Unfortunately, the report did not receive major response and it remained unclear if the report was seriously discussed at any official governmental body in BiH.