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ECRI

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ECRI REPORT ON BOSNIA AND HERZEGOVINA

(fifth monitoring cycle)

Adopted on 6 December 2016

Published on 28 February 2017

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FOREWORD

The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country monitoring deals with all member States of the Council of Europe on an equal footing. The work takes place in 5-year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, those of the third round at the end of 2007, and those of the fourth round in the beginning of 2014. Work on the fifth round reports started in November 2012.

The working methods for the preparation of the reports involve documentary analyses, a visit to the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidence. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The in situ visit provides the opportunity to meet with the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final ECRI report.

The fifth round country-by-country reports focus on four topics common to all member States: (1) Legislative issues, (2) Hate speech, (3) Violence, (4) Integration policies and a number of topics specific to each one of them. The fourth-cycle interim recommendations not implemented or partially implemented during the fourth monitoring cycle will be followed up in this connection.

In the framework of the fifth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

The following report was drawn up by ECRI under its own responsibility. It covers the situation up to 30 June 2016; developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.

SUMMARY

Since the adoption of ECRI's second report on Bosnia and Herzegovina on 7 December 2010, progress has been made in a number of fields.

Courses on the application of the anti-discrimination Law and training events on combating hate crime were organised for judges, prosecutors and police officers.

Attacks against returnees are usually quickly condemned by local political representatives; and the Minister of Justice of the Canton of Sarajevo condemned the March 2016 attack against an LGBT event, calling for the incident to be investigated as a homophobic hate crime.

The Ministry of Human Rights and Refugees produced a revised strategy for the implementation of Annex VII of the Dayton Peace Agreement, which covers the rights of returnees, with an emphasis on housing and infrastructure, as well as support for employment.

ECRI was informed by the authorities that the problem of discrimination on ethnic grounds in the field of pension entitlements has been resolved.

Progress has been made concerning access to identity documents for Roma and the implementation of the 2010 revised Action Plan on the educational needs of Roma. Pupils now often receive textbooks, school supplies, and financial assistance for transport and meals. As a result, school enrolment rates among Roma children have increased, while drop-out rates have declined.

ECRI welcomes these positive developments in Bosnia and Herzegovina. However, despite the progress achieved, some issues give rise to concern.

The country's criminal, civil and administrative law provisions are still not entirely in line with ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.

The inter-ethnic tensions and corresponding levels of hate speech are still high. Politicians and the media use hate speech, while the authorities do not take sufficient action against it. Hate speech against LGBT persons is also a problem and attacks against LGBT events did not result in the necessary prosecutions, thus not providing an effective deterrent against the repetition of such crimes.

In the field of education, ethnically segregated education systems are still in place and the political elites of the three main ethnic groups show no willingness to introduce inclusive and integrated schools. ECRI regrets that none of its 2010 recommendations in this respect have been heeded.

The lack of progress made concerning the execution of the European Court of Human Rights (ECtHR) judgment in the case of Sejdić and Finci v. Bosnia and Herzegovina is another example of the persistent unwillingness to overcome the ethnic partition of the country for the benefit of developing an inclusive society.

Despite efforts towards the implementation of the revised strategy for returnees, only half of the scheduled housing units have been constructed and the rate of implementation in other areas of the revised strategy is even lower. Therefore a welcoming environment for all returnees is still elusive.

With regard to the situation of the Roma community, the national action plans have not been implemented fully and the situation of the Roma remains characterized by high levels of social exclusion.

The Ombudsman Institution, which has a complicated decision-making process, is understaffed and only 50% of its recommendations have been implemented. Furthermore, forthcoming legislation might affect its financial independence.

In this report, ECRI requests that the authorities take action in a number of areas; in this context, it makes a series of recommendations, including the following.

The authorities should bring the criminal, civil and administrative legislation, in general, into line with ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.

The authorities should develop, together with NGOs and international organisations, a comprehensive strategy to combat hate speech as well as activities to promote tolerance towards LGBT persons. They should also evaluate the hate crime-related training activities in order to make any necessary changes when expanding them.

All forms of segregation in schools should end, including "two schools under one roof" and monoethnic schools. The common core curriculum should be fully applied and further developed. The authorities should also ensure an inclusive and non-discriminatory learning environment in all schools and the removal of any symbols that represent an ethnic or religious bias. *

The revised strategy for returnees should be fully implemented. The authorities should also develop, implement and fund a comprehensive and integrated national Roma strategy. Furthermore, Bosnia and Herzegovina should execute the ECtHR judgement in the Sejdić and Finci case.

The authorities should strengthen the capacity of the Ombudsman Institution to carry out its anti-discrimination mandate effectively. This should include, inter alia, streamlined decision-making processes, an adequate increase in funding, sufficient human resources and awareness-raising campaigns. In the context of planned amendments to the Ombudsman Law, the Institution should be able to maintain its full financial independence from the government. Furthermore, the authorities should intensify their efforts to promote compliance with the recommendations of the Ombudsman Institution.*

* This recommendation will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. Common topics

1. Legislation against racism and racial discrimination[1]

- Criminal law provisions

1. The country consists of two entities, namely the Federation of Bosnia and Herzegovina (henceforth: the Federation), which is further sub-divided into ten cantons each with their own government, and the Republika Srpska (henceforth: RS). Furthermore, the Brčko District, which was disputed between the two entities in the aftermath of the 1992-1995 war, was established as an autonomous condominium in 1999 following an arbitration process led by the international community. The legal order reflects this situation and hence, in addition to the state-level Criminal Code of Bosnia and Herzegovina (henceforth: CCBH), the two entities and the Brčko District each have their own criminal legislation as well.

2. Generally speaking, the provisions of the CCBH reflect many of ECRI's recommendations concerning the use of criminal law contained in the General Policy Recommendation (GPR) No. 7 on national legislation to combat racism and racial discrimination. The relevant provisions are contained in articles 145, 145(a), 171 and 176 CCBH.[2] Some provisions are, however, not fully in line with GPR No. 7 and various gaps remain.

3. Language, colour and citizenship are not included in the enumerated grounds of the above-mentioned articles. Sexual orientation and gender identity are also missing. The CCBH does not contain provisions to criminalise public insults and defamation or threats, or the public expression, with a racist aim, of an ideology which claims the superiority of, or which depreciates or denigrates on the grounds of race, colour, language, religion, nationality, or national or ethnic origin. There are also no provisions to criminalise the creation or the leadership of a group which promotes racism, or support for such a group and participation in its activities. Furthermore, the public dissemination or distribution, or the production or storage aimed at public dissemination or distribution, with a racist aim, of written, pictorial or other material is also not criminalised. Moreover, the public denial, trivialisation, justification or condoning, with a racist aim, of crimes of genocide, crimes against humanity or war crimes is not expressly prohibited.

4. No amendments were made to the CCBH since ECRI's last report which, inter alia, recommended introducing racist motivation as an aggravating circumstance. At entity level, however, relevant changes were made to the Criminal Code of the RS in 2010. Article 37 of the Code establishes an aggravating circumstance for hate-motivated criminal offences with the list of grounds including racial, national or ethnic origin, language, religious beliefs, colour and sexual orientation. Gender identity is not included. Likewise, Article 49 of the Brčko District Criminal Code establishes an aggravating circumstance for hate-motivated criminal offences with the list of grounds including the same grounds. Again, gender identity is not included.

5. Similar amendments were proposed to the Criminal Code of the Federation in 2010, but were not adopted. The Code includes penalty enhancements for

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[1] According to ECRI's General Policy Recommendation (GPR) No.7, "racism" shall mean the belief that a ground such as "race", colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons. According to GPR No. 7 "racial discrimination" shall mean any differential treatment based on a ground such as "race", colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

[2] Criminal Code of Bosnia and Herzegovina (2003, amended as of 2015).

specific offences, such as murder, grievous bodily harm or rape, if these were committed on racial, national or religious grounds.[3] In 2013 and 2014, two initiatives were launched to amend the Federation's Criminal Code to define hate crime and provide for proportionate punishment for hate-motivated acts. Both proposals were adopted by the Federation's House of Representatives, but rejected by its House of Peoples. The authorities informed ECRI that the Federation's government will continue to propose these amendments.

6. ECRI recommends that the authorities bring the Criminal Code of Bosnia and Herzegovina, in general, into line with its General Policy Recommendation No. 7 as indicated in the preceding paragraphs; in particular they should explicitly (i) add language, colour, citizenship, sexual orientation and gender identity to the enumerated grounds in Articles 145, 145a, 171 and 176; (ii) criminalise racist insults, defamation and threats, as well as the public expression, with a racist aim, of an ideology which claims the superiority of, or which depreciates or denigrates, a grouping of persons on the grounds of race, colour, language, religion, nationality, or national or ethnic origin; (iii) prohibit the creation or leadership of a group which promotes racism, as well as the support for such a group and the participation in its activities; (iv) prohibit the public dissemination or public distribution, or the production or storage aimed at public dissemination or public distribution, with a racist aim, of written, pictorial or other material with racist content; and (v) criminalise the public denial, trivialisation, justification or condoning, with a racist aim, of crimes of genocide, crimes against humanity or war crimes. Furthermore, racist and homo-/transphobic motivation should be introduced as an aggravating circumstance at state- and entity-level, where this is not already the case.

- **Civil and administrative law provisions**

7. As regards the use of civil and administrative law to combat racism and racial discrimination, ECRI notes that Article II, paragraph 4, of the Constitution prohibits discrimination, inter alia, on the grounds of race, colour, language, religion, national origin, or association with a national minority.[4] Moreover, the Law on Prohibition of Discrimination adopted in 2009[5] (henceforth: Anti-discrimination Law), which applies to the whole country, lists among the enumerated grounds race, colour, language, religion, ethnic origin and religion, as recommended in ECRI's GPR no. 7, § 5, as well as sexual orientation. Citizenship and gender identity, however, are not included among the enumerated grounds.

8. The Anti-discrimination Law reflects most of ECRI's recommendations concerning the use of civil law contained in its GPR No. 7. However, some gaps remain. Article 4 of the Law includes most forms of discrimination listed in § 6 of ECRI's GPR No. 7, but not discrimination by association and announced intention to discriminate. In addition, the Law does not stipulate that discriminatory provisions included in individual or collective contracts or agreements, internal regulations of enterprises, rules governing profit-making or non-profit-making associations, and rules governing the independent professions and workers' and employers' organisations should be amended or declared null and void, as recommended in GPR No. 7, § 14.[6] Furthermore, there is no obligation to

[3] Criminal Code of the Federation of Bosnia and Herzegovina (2003, amended as of 2011).

[4] Constitution of Bosnia and Herzegovina (1995).

[5] Bosnia and Herzegovina Law on Prohibition of Discrimination (2009).

[6] Law on Prohibition of Discrimination (2009); and the Labour Laws of the Federation (1999) and of the RS (1999).

suppress public financing of organisations, or political parties, which promote racism.[7]

9. ECRI recommends that the authorities bring the civil and administrative law, in general, into line with its General Policy Recommendation (GPR) No. 7 as indicated in the preceding paragraphs; in particular they should amend the Law on Prohibition of Discrimination to explicitly: (i) include citizenship and gender identity as prohibited grounds; (ii) prohibit acts of discrimination by association and announced intention to discriminate; (iii) create an obligation to amend or declare null and void discriminatory provisions included in contracts, agreements, and regulations in the field of employment or the internal rules of associations and professional bodies, as recommended in ECRI's GPR No. 7, § 14. Furthermore, the authorities should introduce provisions to suppress the public financing of racist political parties or organisations.

10. The lack of progress concerning the execution of the European Court of Human Rights judgment in the case of Sejdić and Finci v. Bosnia and Herzegovina is discussed in section I.4.

- **National specialised bodies**[8]

11. The legislation concerning the mandate and powers of the Institution of the Ombudsman for Human Rights of Bosnia and Herzegovina (henceforth: Ombudsman Institution) is generally in line with ECRI's GPR No. 7. However, the Ombudsman Institution cannot represent victims in proceedings before the courts, as recommended in § 24 of GPR No. 7.[9]

12. ECRI recommends that the authorities grant the Ombudsman Institution the right and the capacities to represent victims in proceedings before the courts in discrimination cases.

13. For more information concerning the effectiveness of the Ombudsman Institution, please see section II.2.

2. Hate speech[10]

- **Data**

14. There are no official statistics available about the use of racist hate speech in the country. The OSCE Mission to Bosnia and Herzegovina (henceforth: OSCE Mission) observes, however, that hate speech is still part of everyday life in Bosnia and Herzegovina and that incidents occur frequently in the political discourse.[11] Hate speech is usually based on ethnic or associated religious identities. The problem is of special concern to the country, because the use of such rhetoric further deepens the already entrenched enmity and mistrust between the three main ethnic groups (Bosniacs, Croats and Serbs). Furthermore, in 2013, the OSCE Mission reported numerous threats, including a serious case in the Gracanica area, where Serb families were threatened with

[7] Bosnia and Herzegovina Law on Associations and Foundations (2008) and Law on Political Party Financing (2012).

[8] Independent authorities expressly entrusted with the fight against racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as ethnic origin, colour, citizenship, religion and language (racial discrimination), at national level.

[9] It should also be noted that the Code of Civil Procedure of Bosnia and Herzegovina does not contain the possibility of amicus curiae.

[10] For a definition of "hate speech" see Recommendation No. R (97) 20 of the Committee of Ministers to the member States on "hate speech", adopted on 30.10.1997.

[11] OSCE (18 June 2015). Transparency International Bosnia and Herzegovina (2013): 197.

having their houses set on fire, their children killed and women raped.[12] In 2012, the OSCE had already reported three cases of threats against ethnic Bosniacs and Serbs.[13]

- **Racist political discourse**

15. Due to the institutional make-up of the country, which is strongly divided along ethnic lines, the political climate is particularly conducive to the use of hate speech.[14] In spite of ECRI's recommendations made in this regard in its 2010 report (§§ 46-48), hate speech continues to be frequently used by politicians in the run up to elections in order to keep rallying voters from their respective ethnic group around an ethno-nationalistic narrative. In this context, controversial references to war-time events are frequently made by politicians in order to rekindle ethnic resentments.

16. On 20 March 2016, for example, the President of the RS, Milorad Dodik, attended an official opening ceremony of a student dormitory in Pale which was named after the Bosnian-Serb war-time leader Radovan Karadzic. The event took place while Karadzic was on trial at the International Criminal Tribunal for the former Yugoslavia (ICTY), which on 24 March 2016 found him guilty of genocide, war crimes and crimes against humanity and sentenced him to 40 years imprisonment. Dodik is reported to have told a TV reporter during the event "I respect Radovan Karadzic as a man with strength and character".[15] His appearance has been widely interpreted as part of a political campaign to attract Serb nationalist voters in the RS ahead of the 2016 local elections.

17. In this regard, ECRI also notes that a street in the largely Bosniac city of Bihac is named after Rasim Delić, former commander of the Bosnian army and convicted in 2008 by the ICTY for war crimes. In Mostar, several streets are named after leaders of the fascist Ustasha-regime, such as Mile Budak and Jure Francetić, who collaborated with the Nazis during the Second World War. In April 2016, the municipal council of the largely Croat town of Capljina also decided to name a street after Mile Budak.[16]

18. ECRI strongly recommends that the relevant authorities change all names of public places, such as the student dormitory in Pale and streets named after war criminals and Nazi-collaborators, that could amount to public denial, trivialisation, justification or condoning, with a racist aim, of genocide, war crimes or crimes against humanity, and refrain, in the future, from using such names.

- **Racist hate speech in the media**

19. In 2011, the South and East Europe Media Organisation (SEEMO) expressed concerns over the media situation in the country, stressing that public broadcasters and privately owned media reflect ethnic divisions.[17] Several NGOs engaged in media-monitoring report that this situation has not improved since. The media is still heavily instrumentalised by political elites who use hate

[12] OSCE/ODIHR (2014). - The OSCE/ODIHR includes cases of threats or incitement to violence in their hate crimes statistics, but not hate speech per se. Cf. § 39 below and the OSCE's hate crime definition, available at: http://hatecrime.osce.org/what-hate-crime.

[13] OSCE/ODIHR (2013).

[14] Albanian Media Institute (2014): 58-59.

[15] Balkan Insight (21 March 2016). – See also §§ 3 and 6 in section I.1 on ECRI's recommendation concerning the public denial, trivialisation, justification or condoning, with a racist aim, of crimes of genocide, crimes against humanity or war crimes.

[16] Balkan Insight (23 June 2016); Nezavisne novine (18 April 2016); and Večernji list BiH (30 July 2014).

[17] South and East Europe Media Organisation (2011): 3.

speech.[18] As a result, hate speech has become a common occurrence in the media.[19]

20. Media outlets still frequently succumb to one-sided reporting, intentional misrepresentation and stereotyping.[20] In addition, quoting expressions of hate speech verbatim without the necessary explanations, criticism and editorial distance is a common problem that leads to conveying hate messages. Monitoring carried out in 2013 by the country's Association of Journalists in the area of print, online and broadcasting media found 485 items that included hate speech. In 2013, the Press Council received 83 complaints concerning hate speech, a 60% increase compared to 2012.[21] However, these figures show only part of the problem, as there is no comprehensive data collection. The OSCE found that hate speech in the media, including in social media and television debates, particularly increased during the campaign for the 2014 general elections.[22]

21. There is also a trend in the media of inciting intolerance on ethnic and religious grounds by identifying these groups as "the other". This is done, for example, by using negative metonymic signifiers for groups instead of directly naming them.[23] An example is referring to Serbs as "Chetniks" (the Serb paramilitary forces during the Second World War) in order to discredit them.[24] In 2012, an article entitled "Miješano meso" (Mixed meat) was published on the website of the newspaper Glas Sprske and used metonymic signifiers while advocating against inter-ethnic marriages and for preserving ethnic "purity".[25]

- **Racist hate speech on the Internet**

22. Online media are increasingly used for the transmission of hate speech,[26] in particular the comments sections of news portals, online editions of print media and specialised Internet fora.[27] According to a media monitoring study carried out by the Association of Journalists in 2012, the most direct examples of hate speech in online media were found in the comments sections. However, hate speech, prejudice and stereotypes are also present in online articles, as for example in the case mentioned in § 21 above.[28] In 2011, the Press Council initiated the campaign You are Not Invisible against online hate speech. As a result of public awareness-raising and calls upon Internet users to report hate speech, the organisers received 200 complaints in 2013 and 594 in 2014. The Press Council points out these cases to online editors and tries to negotiate their removal. Some 20 cases were forwarded to the police for investigation.

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[18] Transparency International Bosnia and Herzegovina (2013): 189.

[19] Ibid.: 192.

[20] International Research & Exchanges Board (IREX) (2014): 20.

[21] Ibid.: 6.

[22] OSCE/ODIHR (12 October 2014): 2.

[23] Albanian Media Institute (2014): 58.

[24] Ibid.: 59-60.

[25] Pejaković (2012); see also: Bieber (2012).

[26] Albanian Media Institute (2014): 57.

[27] Transparency International Bosnia and Herzegovina (2013): 191; and Internews in Bosnia and Herzegovina (2014): 6.

[28] Internews in Bosnia and Herzegovina (2014): 6-8.

- **Racist hate speech in the field of sport**

23. In March 2014, a football match played in the RS between the junior national teams of Bosnia and Herzegovina and Serbia had to be stopped because of offensive chanting in support of the 1995 genocidal massacre in Srebrenica.[29]

24. Several incidents of antisemitic hate speech were reported in the field of sport. In August 2014, during a qualifying game in Tuzla for the European basketball championship, fans unfolded a banner depicting the Israeli flag with a Swastika in its middle instead of the Star of David. In June 2015, during a football match between Bosnia and Herzegovina and Israel, antisemitic chants were chanted.[30] In April 2015 a group of football fans from Bosnia and Herzegovina visiting Vienna chanted slogans such as "Kill the Jews".[31]

25. ECRI encourages the authorities to make effective use of ECRI's General Policy Recommendation No. 12 on combating racism and racial discrimination in the field of sport in order to address the problem of incitement to racial hatred during sport events.

- **Hate speech directed against LGBT persons**

26. The LGBT community in Bosnia and Herzegovina is generally confronted with media reporting based on negative stereotypes, such as being presented as a danger to ethno-national identities or to the "natural order of society". The Sarajevo Open Centre, which monitors hate speech against LGBT persons, documented 17 instances of hate speech in 2013, and already 42 such instances in 2014.[32]

27. In November 2013, the Islamic magazine Saff[33] published a series of articles accusing members and supporters of the LGBT community of spreading homosexuality amongst children through programmes aimed at preventing gender based violence. After protests from readers who requested the magazine to remove the text, it responded with an article in which it alleged a coordinated attack of the "faggots" against Saff.[34]

28. Negative attitudes towards the LGBT community are also present among politicians. In August 2013, the Federation's Minister of Culture, Sports and Youth addressed the issue of a LGBT pride parade in the country. He considered pride parades to be a form of oppression of the majority by a minority.[35]

29. In recent years, the LGBT community has been increasingly subjected to online hate speech through user comments and in social networks.[36] Comments calling for violence against LGBT persons were also observed, in particular on the site klix.ba and on Facebook.[37] In 2014, a Facebook group opposing the LGBT Pride Parade in Sarajevo promoted hate speech and called for violence against LGBT persons.[38]

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[29] Balkan Insight (12 March 2014). - The ICTY found that the 1995 Srebrenica massacre constituted genocide: ICTY (Appeals Chamber), Judgment in the case Prosecutor v. Krstić (19 April 2004). See also §§ 3 and 6 in section I.1.

[30] Balkanist (15 June 2015).

[31] The Local (5 April 2015).

[32] Sarajevo Open Centre (2013): 16; Sarajevo Open Centre (2014): 17.

[33] While some observers consider Saff to promote a conservative form of Islam (cf. International Crisis Group (2013): 16), others see the magazine as being close to radical Islamic circles (Balkan Insight (28 Apr 2015)).

[34] Sarajevo Open Centre (2013): 15-16.

[35] Ibid.

[36] Albanian Media Institute (2014): 63-64.

[37] Internews in Bosnia and Herzegovina (2014): 8.

[38] Ibid.

- **Measures taken by the authorities**

30. ECRI considers hate speech particularly worrying because it is often a first step in the process towards actual violence. Appropriate responses to hate speech include law enforcement channels (criminal and administrative law sanctions, civil law remedies) but also other measures to counter its harmful effects, such as self-regulation and counter speech.

- *Criminal, administrative and civil law responses*

31. ECRI has not received any information from the authorities concerning possible cases in which incitement to racial hatred has been prosecuted. As mentioned in section I.1 above, there is no criminal legislation expressly prohibiting hate speech on the grounds of sexual orientation or gender identity.[39] The Sarajevo Open Centre, which monitors hate speech against LGBT persons, stated that in 2013, 11 incidents which directly incited violence were reported to the police, which did not follow-up.[40]

32. The 2011 Code for Press and Online Media, in its Article 3, prohibits hate speech based on, inter alia, ethnicity, nationality, race, religion, gender and sexual orientation. The self-regulatory Press Council monitors the implementation of these provisions for print and online media. It reacts to complaints about hate speech, trying to mediate and negotiate the removal of the contested content and/or the publishing of a disclaimer or apology. However, the Press Council's decisions are not legally binding and it does not have the power to impose sanctions for incidents of hate speech. Concerning the cases of online hate speech forwarded by the Press Council to the police (see § 21 above), the Press Council was rarely contacted by the prosecutorial authorities and did not receive any feed-back. Such follow-up from the prosecutors, and more generally a closer working relationship between law enforcement authorities and the Press Council, would obviously facilitate efforts to combat hate speech.

33. The regulation of hate speech in the broadcasting sector is based on the 2011 Code on Audio-Visual and Radio Media Services. Its Article 3 prohibits the broadcasting of content which involves prejudice, and Article 4 prohibits the incitement of hatred, violence or discrimination. The Communications Regulatory Agency (henceforth: CRA), an independent public authority, which has jurisdiction over telecommunications and broadcasting in the whole country, is mandated to monitor the application of the Code. It can issue warnings, fines and suspensions against broadcasters that violate the norms related to hate speech.[41] Although the CRA has certain powers to act ex officio, it relies in practice on receiving individual complaints. According to the authorities, the CRA has received and processed only 10 complaints regarding allegations of hate speech on grounds relevant to ECRI in the period from 2011 to June 2015. It only found two cases to be in breach of the Code's prohibition of hate speech. Both cases concerned hate speech against LGBT persons, and the relevant TV station was fined 2 000 and 4 000 Convertible Marks (1 025 and 2 050 Euros) respectively.

34. The Central Electoral Commission (CEC) has a mandate to monitor election campaigns and can sanction candidates who use hate speech, but only if such incidents occur within the 30 days prior to the election date. The sanctions include pecuniary fines and the removal of candidates from election lists. According to the information provided by the CEC to ECRI's delegation, this approach has shown results and candidates now tend to refrain from using hate

[39] Sarajevo Open Centre (2014): 16.

[40] Sarajevo Open Centre (2013): 16.

[41] See also: Albanian Media Institute (2014): 50-56.

speech during the monitored pre-election period. However, hate speech is still employed by politicians prior to the 30-day period.

- *Programmes to prevent and to combat hate speech*

35. ECRI notes that in recent years, several programmes were implemented to tackle hate speech. However, these programmes were usually initiated, supported and carried out by international organisations, such as the Council of Europe and the OSCE, in cooperation with NGOs and self-regulatory bodies like the Press Council and the Association of Journalists. National authorities, such as the CRA, have on occasion participated in such programmes, but have not taken on a lead role.[42]

36. During the campaign for the 2014 general elections, for example, the Press Council organised the campaign Stop Hate Speech, which aimed at tackling hate speech in the comment sections of Internet portals.[43] Parallel to this campaign, the Association of Journalists, supported by the Council of Europe, monitored the media during the pre-election period.[44] While external support for such activities is useful, it appears to be necessary for the authorities to take a more active stance against hate speech, rather than leaving it to civil society. Furthermore, ECRI has no information about any official condemnation or counter-speech by the authorities or by high-ranking political representatives in response to hate speech.[45] There is no overall strategic approach in place to prevent and combat hate speech, but rather a combination of ad hoc activities.

37. ECRI recommends that the authorities develop, jointly with the relevant civil society groups and international organisations, a comprehensive strategy to combat hate speech. This strategy should make effective use of ECRI's General Policy Recommendation No.15 on combating Hate Speech. It should, inter alia, include (i) a proactive hate speech monitoring mechanism; (ii) closer cooperation between law enforcement authorities and self-regulatory media bodies in order to facilitate the prosecution of hate speech; (iii) an extension of the Central Electoral Commission's mandate to monitor the use of hate speech during the entire duration of election campaigns; and (iv) a stronger involvement of the authorities in initiating and leading anti-hate speech campaigns, including the promotion of condemnation and counter-speech by political representatives and officials.

38. ECRI reiterates the recommendations made in its 2010 report concerning the need to combat ethnically inflammatory discourse and statements by politicians (§§ 46-48), and those concerning hate speech in the media (§§ 51-53).

3. Racist and homo/transphobic violence

- **Data**

39. In 2014, the authorities reported to the OSCE/ODIHR a total of 200 hate crime incidents, which in addition to violence against persons or property also included cases of threats and incitement to violence (covered in section II.2). In 2013, the authorities reported 350 incidents.[46] They indicated, however, that the exact number of incidents reported to the police is unknown.[47] Incidents were also

[42] From 2011 to 2013, for example, the Press Council, together with the Association of Journalists, the CRA and the Sarajevo Open Centre, carried out a project to combat hate speech and to promote professionalism and tolerance in the media.

[43] Delegation of the European Union to Bosnia and Herzegovina (15 September 2014).

[44] Civil Right Defenders (6 October 2014).

[45] Cf. The Local (5 April 2015).

[46] OSCE/ODIHR (2015) and OSCE/ODIHR (2014). The authorities did not report hate crime data to ODIHR for 2012 and 2011.

[47] OSCE/ODIHR (2015).

reported by civil society and international organisations.[48] The OSCE Mission, for example, counted 71 incidents of hate-motivated violence in 2013 and 24 in 2012.[49]

- **Racist violence**

40. The inter-ethnic tensions are the main cause of racist violence in the country, in particular against returnee communities. UNHCR identified 87 cases of racially motivated violence against returnees in 2015. In 2013, the OSCE Mission reported, inter alia, the rape of a Croat female returnee, the assault of two Bosniac returnees, causing serious injuries, and an attack with an improvised explosive device against a property owned by Serb returnees.[50]

41. Ethnic antagonism also leads to violence against religious buildings and graveyards associated with an ethnic group. The Interreligious Council reported 20 such attacks from November 2014 to October 2015 (11 of them against the Islamic community, 5 against the Serb Orthodox Church and 4 against the Catholic Church).[51] The OSCE Mission reported 21 such incidents (15 against various Christian sites and six against the Islamic community) for 2013,[52] and 42 cases (24 against Christian sites and 18 against Islamic sites) in 2012.[53]

42. In the period of 2011 to 2014, repeated attacks took place against places of worship of the religious community of Jehovah's witnesses in Banja Luka and Zvornik in the RS. The attacks were carried out by 8th-grade school pupils, who were subsequently apprehended by the police. Jehovah's witnesses informed ECRI's delegation that the attacks occurred after the introduction in the RS of a new textbook for religious education in the 8th-grade. The textbook describes Jehovah's witnesses as a dangerous sect that intends to destroy individuals and families (see also § 49 below).

- **Homophobic and transphobic violence**

43. Data on homo-/transphobic violence is not systematically collected by the authorities.[54] In 2014, the NGO Sarajevo Open Centre documented 20 incidents. LGBT activists were the victims in 11 of these cases. From October 2014 to May 2015 alone, seven such incidents were reported.[55] In 2013, the Sarajevo Open Centre registered four cases of physical assault.[56] In 2012, the OSCE Mission reported one physical assault against a homosexual man by masked perpetrators resulting in serious injury.[57] Many of these attacks against LGBT persons occurred in public places.[58]

44. On 4 March 2016, an LGBT event at the Kriterion cinema in Sarajevo was attacked by a group shouting homophobic insults and assaulting one person.[59] This incident was similar to another attack which occurred in February 2014, when 14 masked attackers stormed into a panel discussion at the annual

[48] Sarajevo Open Centre (2015a): 3.

[49] OSCE/ODIHR (2014) and OSCE/ODIHR (2013).

[50] OSCE/ODIHR (2014).

[51] Interreligious Council in Bosnia and Herzegovina (2016): 4-5.

[52] OSCE/ODIHR (2014).

[53] OSCE/ODIHR (2013).

[54] Sarajevo Open Centre (2015a): 3.

[55] ILGA-Europe (2015a): 2.

[56] OSCE/ODIHR (2014).

[57] OSCE/ODIHR (2013).

[58] Sarajevo Open Centre (2015a): 3.

[59] Balkan Insight (08 March 2016).

Merlinka LGBT movie festival, chanting homophobic insults and injuring three participants.[60]

- **Measures taken by the authorities**

45. In its last report (§ 22), ECRI encouraged the authorities to strengthen their efforts to collect data concerning the application of criminal law provisions relating to racism. Hate crime data is now collected by the Ministry of Interior, the police, the Prosecutor's Office, the High Judicial and Prosecutorial Council and the State Investigation and Protection Agency. A regular victimisation survey is conducted which includes questions about hate crime.[61] In 2014, the authorities reported that out of the 200 hate crime incidents recorded by the police (see § 39 above), 36 cases were prosecuted. In 2013, out of the 350 incidents, 77 resulted in prosecutions.[62]

46. Since ECRI's 2010 report (cf. its § 21), the state-level Ministry of Security, together with the OSCE, integrated specialised training on hate crime into the police training curriculum. In 2015, training activities on dealing with violence against LGBT persons have also been implemented for the police forces in both entities. Moreover, in 2012, the Centres for Training of Judges and Prosecutors, supported by the OSCE, started organising training sessions for prosecutors on hate crime. In 2015, around 300 judges and prosecutors were trained and elements on homo-/transphobic violence were introduced into the curriculum. The authorities estimate that around 50% of all relevant prosecutors and judges have attended such training. ECRI commends these efforts, but also notes that there has been no comprehensive evaluation of the training programmes to assess their effectiveness.

47. ECRI's delegation was informed that attacks against returnees (see § 40 above) are usually quickly condemned by local political representatives, such as mayors. While no officials or political representatives condemned the attack against the 2014 Merlinka LGBT festival, ECRI notes that the Minister of Justice of the Canton of Sarajevo, Mario Nenadic, publicly condemned the March 2016 attack (see § 44) and called for this incident to be recognised as a homophobic attack.[63] ECRI commends this and encourages other political representatives to follow this example.

48. The organisers of the 2014 Merlinka LGBT movie festival complained that the police had failed to protect the venue, despite warnings about homo-/transphobic threats.[64] Furthermore, after the attack the law enforcement authorities treated the incident as an act of hooliganism, instead of as a hate crime, in spite of the evident homo-/transphobic nature of the event. This resulted in the absence of an effective deterrent, as became visible with the renewed attack in March 2016. Furthermore, in 2014, the Sarajevo Open Centre reported 13 incidents of violence against LGBT persons to the police, but without receiving a response.[65]

49. Jehovah's witnesses complained repeatedly to the authorities about the way their religious community is described in the RS school textbook (see § 42), but without success. On 15 July 2014, the Ombudsman Institution issued a recommendation to, inter alia, the Ministry of Education and Culture of the RS, requesting an agreement to revise the textbook within 20 days. ECRI regrets that

[60] Sarajevo Open Centre (2015b): 7.

[61] OSCE/ODIHR (2014).

[62] Ibid. and OSCE/ODIHR (2015).

[63] Balkan Insight (08 March 2016).

[64] Sarajevo Open Centre (2015b): 7; and Human Rights Watch (2014).

[65] ILGA-Europe (2015b): 50.

the recommendation was not implemented by the authorities and that the textbook remained unchanged and is still in use.

50. ECRI recommends that the authorities (i) carry out an evaluation of hate crime-related training activities for police officers, prosecutors and judges in order to make any necessary improvements; (ii) continue to roll out and expand these training programmes; and (iii) ensure that violence against returnees, religious communities, and LGBT persons is adequately covered in these trainings.

51. ECRI recommends that the authorities ensure that any homo-/transphobic motivation in cases of violence are duly taken into consideration by the relevant law enforcement agencies when investigating such incidents.

52. ECRI recommends revising the textbook used in the RS for religious education in the 8th-grade and removing all content that incites intolerance and hatred against Jehovah's witnesses.

4. Integration policies

- General Context

53. More than 20 years after the war, Bosnia and Herzegovina remains a divided country in which political life is largely defined along ethnic lines. There is no strategy in place to promote overall national integration. On the contrary, ECRI notes that ethno-nationalistic ideologies continue to permeate and dominate the country's state structures as well as decision-making processes, policies and practices. The political leadership of the Bosniac, Croat and Serb communities have shown little, if any, commitment to overcoming existing divisions and, in fact, often exacerbated them further. The consociational arrangements of the 1995 Dayton Peace Agreement, intended to facilitate post-war power sharing, have become entrenched and cemented the fragmentation caused by the war, its atrocities and displacement. The political willingness to form and promote an integrated society, based on common European civic values, in which a person's rights, duties and position are not based on ethnicity, remains largely absent among the country's elites.[66] From the discussions ECRI's delegation had, it became evident that, besides addressing specific problems which will be elaborated below, a paradigm shift in the attitudes towards the relationship between citizens, ethnic communities and the state is urgently needed. The following recommendations should therefore not be seen as sufficient in themselves, but as actions to be taken in the context of departing from ethno-centric politics and moving towards building an inclusive society for Bosnia and Herzegovina and its citizens. Without such a change in the overall political outlook, it remains doubtful whether a cohesive and integrated society can be developed in the country.

- Integration in the education sector

54. Concerning the field of education, which should play a pivotal role in overcoming inter-ethnic tensions, ECRI notes that none of its 2010 recommendations has been implemented and that the situation remains on the whole unchanged.[67] With the exception of Brčko District, and despite legal obligations and past commitments made to integrated education[68], public schools in Bosnia and Herzegovina are still not organised as multicultural, multilingual, open and

[66] Cf. Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM), Third Opinion on Bosnia and Herzegovina (2013): 1-2 and 5-6, in particular § 9.

[67] Cf. ECRI (2010): §§ 62-72. - Education falls within the decision-making powers of the two entities (in the Federation, this is even further de-centralised and education is the responsibility of the 10 cantons) and the Brčko District.

[68] The Coordinating Committee of Ministers of Education and Science in the Federation adopted, for example, in 2012 their "Recommendations for the elimination of segregated and divided structures in educational institutions".

inclusive institutions for all children.[69] Ethnic segregation, based on a politicised notion of mother-tongue education, persists.[70] The phenomenon of "two schools under one roof" is only the most visible form of this problem. In spite of ECRI's previous priority recommendation to resolve all remaining cases of this type of school[71] and a ruling of the Supreme Court of the Federation in November 2014 to the same effect[72], ECRI was informed by the authorities that this practice still continues in a number of schools (around 10%) in the Central-Bosnia and Herzegovina-Neretva Cantons of the Federation.[73] The segregation of school children from Bosniac, Croat or Serb background in monoethnic schools is also still a standard practice across the country, both in the RS and the Federation, and there have been no steps taken towards ending it, in spite of ECRI's 2010 recommendation on this issue.[74]

55. The possibility of establishing integrated education has been shown by the example of the autonomous Brčko District.[75] The district no longer operates segregated or monoethnic schools, but instead has moved to teaching children from the different ethnic communities together. Teachers in Brčko District receive training to facilitate the use of each of the three official languages by pupils and teachers.[76] ECRI observed, however, already in 2014 during discussions with the education authorities of the RS and different cantons of the Federation, a strong and politically-motivated rejection of the idea to view the Brčko District educational system as a model for future integration.[77]

56. Outside of Brčko District, the positive steps taken by some schools, such as the Mostar Gymnasium which ECRI's delegation visited, are severely limited by the existing legal framework for the education sector which in the Federation and the RS maintains a structure of separate classes based on language and hence ethnic background. The Mostar Gymnasium made genuine efforts to ameliorate the situation not only by proceeding with an administrative unification (one principal, a unified teaching staff, one students'- and one parents' council), but also organised, as much as possible, joint activities for the students, such as art projects, sports, festivities and school trips. ECRI commends such initiatives, but also notes that they are insufficient and remain exceptions in the country.

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[69] Cf. ECRI (2010): § 67. With regard to private schools, ECRI would like to point to the positive example of the United World College in Mostar.

[70] ECRI (2010): §§ 62-72. ECRI finds it particularly regrettable, and only comprehensible from a standpoint of ethno-nationalistic ideology, that the concept of mother-tongue education continues to be used to justify ethnic segregation when the three languages (Bosnian, Croatian and Serbian) are so similar that education professionals met by ECRI's delegation in the country confirmed that there is no objective linguistic barrier to fully integrated education (see also § 55 on the practice in Brčko District). The issue appears to be solely a problem of attitudes among the respective political elites. It is unfortunate that the topic has been politicised by those wishing to emphasise ethnic differences and block the development of a non-ethnic learning environment for all children, which the country urgently needs.

[71] ECRI (2010): §§ 63 and 69. - Cf. ECRI (2013): 5.

[72] Cf. Dxidix (13 February 2015).

[73] Cf. ECRI (2013): 5. – This type of school does not exist in the RS or in Brčko District.

[74] ECRI (2010): § 68.

[75] The 1999 arbitration agreement for Brčko District provides that the Principal Deputy High Representative for Bosnia and Herzegovina also serves ex officio as the Brčko International Supervisor (BIS). In 2006, the BIS abolished all entity laws (laws of the Federation and the RS) in the district in favour of Brčko's own laws and those of the State of Bosnia and Herzegovina. In 2012, the Peace Implementation Council for Bosnia and Herzegovina decided that the situation in Brčko District merited the suspension, though not termination, of the BIS's mandate.

[76] Cf. ECRI (2010): § 67

[77] ECRI held discussions in November 2014 with the authorities of Bosnia and Herzegovina and its entities, cantons and the Brčko District on the occasion of a Roundtable Conference in Sarajevo, jointly organised by ECRI and the Ombudsman Institution.

57. In 2010, ECRI recommended the full country-wide implementation of the common core curriculum and a stronger incorporation of all subjects, including culturally sensitive ones like history.[78] However, progress has been limited. The state-level Ministry of Civil Affairs only has a coordinating role and curricula are approved by the Education Ministries of the RS and the Federation cantons respectively. While approval of curricula is conditional on adherence to the Framework Law on Education for Bosnia and Herzegovina, there is no mechanism to ensure compliance. The state-level Agency for Primary and Secondary Education, founded in 2008, has been working on a framework for the development of curricula based on the common core curriculum (CCC) and agreed learning-outcomes, but the work has not been completed yet. ECRI was informed by the authorities, that so far, the Agency has produced the CCCs for six areas and that the relevant Ministries of Education in the RS, in the Federation Cantons and in Brčko District gradually began to introduce the CCCs into their curricula. However, political objections to the harmonisation of curricula remain particularly strong with regard to the so-called national group of subjects: history, mother-tongue language and literature, geography, arts and music.

58. There have also been fresh complaints about the absence of a neutral learning environment in schools, including the presence of symbols associated with a specific ethnic or religious community. In a recent example, parents of children at the Crnići Primary School in Stolac, which is a monoethnic school exclusively attended by Bosniac pupils who are mainly Muslims, protested against the placement of a Virgin Mary statue on the school grounds. The statue is associated with a nearby Roman-Catholic pilgrimage site. Neither the local mayor nor the cantonal education authorities of Herzegovina-Neretva, where catholic Croats make up the largest ethnic group, took any measures to remove the statue. In the RS, there are court cases pending concerning discrimination on ethnic grounds in monoethnic schools for Bosniac returnee children in Vrbanjci and Konjevic Polje, which resulted in school boycotts over a two year period. Parents also complain about annual celebrations of Christian-Orthodox school patron saints which are extended to include schools attended exclusively by Muslim Bosniac children. Furthermore, in 2015 the RS education authorities announced their intention to change the name of Bosnian language classes in schools to “Bosniac”, a term that normally only refers to the ethnic group. Bosniac parents perceive this as an attempt to downgrade their linguistic identity in the RS education sector. Due to this controversy, schools had initially been advised by the RS Ministry of Education to leave the subject name blank on pupils’ end-of-year report cards. Subsequently, the Ministry requested an opinion from the RS Constitutional Court on this issue and in the meantime schools were not issuing report cards to Bosniac children, something which can have a negative impact on their education. On 1 June 2016, however, the RS Ministry of Education instructed all RS primary schools to use the term “the language of the Bosniac people”, which led Bosniac parents to announce school boycotts.[79]

59. ECRI strongly reiterates the recommendations made in §§ 68-72 of its 2010 report, in particular concerning the urgent need to end all forms of segregation in schools, including “two schools under one roof” and monoethnic schools, and the application and further development of the common core curriculum. ECRI also strongly recommends ensuring inclusive and non-discriminatory learning

[78] ECRI (2010): §§ 64 and 71.

[79] Cf. Constitutional Court of Bosnia and Herzegovina (2016), Decision in the case U-7/15. While the Court found that the wording “the language of the Bosniac people” in Article 7(1) of the Constitution of the Republika Srpska does not violate the Constitution of Bosnia and Herzegovina or the ECHR, it stated that Bosniacs, like other ethnic groups in the country, have the right to name their respective language as they wish. - ECRI also notes that the Constitutions of three Federation cantons (Posavina, West Herzegovina and Herzegovina-Neretva) do not include Serbian as an official language.

environments in all schools and the removal of any symbols that represent an ethnic or religious bias.

- **Returnees**

60. According to UNHCR, there are some 460,000 returnees in the country. Most of them are Bosniacs, Croats or Serbs and they constitute a minority in the regions to which they returned. Their situation has been described as difficult and often characterised by significant levels of discrimination,[80] which results in the absence of a safe (see § 40) and welcoming environment for returnees. The authorities are currently preparing a new law and an action plan to deal with issues concerning returnees. However, there is a dearth of information about where exactly returnees are located and who amongst them is particularly vulnerable.

61. In 2010, the state-level Ministry of Human Rights and Refugees produced a revised strategy for the implementation of Annex VII of the Dayton Peace Agreement, which covers the rights of returnees. The overall strategic aims were the completion of the return process, the finalisation of property restitution, meeting the housing needs of returnees and ensuring a sustainable return and reintegration.[81] A particular operational emphasis was placed on the construction of housing units and related infrastructure, such as electrification, as well as on social protection and employment measures.[82] The implementation of the revised strategy has been supported by UNHCR and received funding from the EU.[83] However, the authorities informed ECRI that while some progress has been made, including in the areas of access to electricity and support for income generation and employment schemes, the implementation process has fallen severely behind schedule, mainly due to insufficient funding. As of early 2016, only 50% of the planned housing units were completed. It is estimated that by 2017, only about half of all envisaged activities will have been implemented. As a first step to remedy the situation, the authorities are planning to carry out a gap analysis in late 2016.

62. ECRI's delegation was informed by several interlocutors that problems persist in the area of property rights for returnees. There appears to be a practice in some municipalities to demand payments, following the restitution of properties, for any maintenance or improvements made by persons who temporarily, often with authorisation from the municipality, occupied the property during the owners' absence.

63. The authorities state that returnees are provided with social security under the same conditions as other citizens.[84] They acknowledge, however, the existence of problems in the provision of social security to such persons, notably due to inefficient coordination and harmonisation between the entities in terms of groups of beneficiaries as well as the scope and level of benefits. While it appears that there are no substantial delays in the issuing of new health care cards to returnees, the authorities informed ECRI of prolonged waiting periods when re-registering for social security benefits. In order to become eligible for welfare payments at their new address (i.e. the pre-war home they return to), returnees must first de-register from social security entitlements in their current place of residence and subsequently wait 6 to 12 months, depending on the legislation of

[80] UN OHCHR (25 Sept 2012). See also § 40 concerning violence against returnees and § 58 for examples of problems faced by returnee children and their parents in schools.

[81] Ministry of Human Rights and Refugees of Bosnia and Herzegovina (2010): 1.

[82] Ibid.: 2.

[83] Cf. Delegation of the EU to Bosnia and Herzegovina (5 March 2015): 10-11.

[84] See section II.1 below for a follow-up on ECRI's 2010 priority recommendation concerning discrimination on ethnic grounds in the field of pension entitlements.

each entity or canton, before they receive the same type of benefits in their return location. This causes severe difficulties for those returnees who depend on such payments and can constitute a major obstacle to their return and re-integration.

64. ECRI recommends that the authorities, in cooperation with UNHCR, gather relevant data on returnees and review their social situation, vulnerabilities and needs. The authorities should fully implement the revised strategy for the implementation of Annex VII of the Dayton Peace Agreement. ECRI also recommends that the authorities ensure that, following property restitution, returnees are not required to make payments for work done to the property during their absence. Furthermore, ECRI recommends that the authorities set up effective mechanisms to guarantee that returnees are not disadvantaged with regard to social security benefits and are not subjected to prolonged waiting periods when re-registering for such benefits upon their return.

- **National Minorities**[85]

65. The country has still not executed the European Court of Human Rights (ECtHR) judgement of 2009 in the case of Sejdić and Finci v. Bosnia and Herzegovina. The Court found that the ineligibility of members of national minorities, in this particular case a Roma and a Jew, to stand as candidates for the Presidency or membership of the House of Peoples at state level was in breach of the prohibition on discrimination.[86]

66. Lack of opportunities for employment of members of national minorities in the public sector also remains a problem. Members of the Council of National Minorities within the Parliamentary Assembly of Bosnia and Herzegovina mentioned to ECRI's delegation that even though vacancy notices might not include an affiliation with one of the three constituent peoples as a condition for recruitment, the tacit agreements between representatives of these three main ethnic groups on how to distribute positions in public institutions often renders it impossible for persons belonging to national minorities to be recruited.[87] ECRI would like to remind the authorities of its recommendation made in 2010 as to the need to ensure that national minorities, as well as persons who do not identify with any constituent people or national minority, are also covered by efforts aimed at increasing the number of persons from under-represented groups in the civil service and in public enterprises.[88]

67. ECRI strongly recommends that the authorities execute the 2009 judgement of the European Court of Human Rights in the case of Sejdić and Finci v. Bosnia and Herzegovina. ECRI also reiterates its recommendation made in § 81 of its 2010 report concerning the need to ensure that members of national minorities, as well as persons who do not identify with any constituent people or national minority, have in law as well as in practice equal opportunities to access public sector employment.

- **Roma**

68. The Roma community is the largest and most marginalised of the 17 recognised national minorities in Bosnia and Herzegovina. It is estimated to comprise 30 000

[85] For further details on issues concerning national minorities, please also consult the Third Opinion on Bosnia and Herzegovina (2013) of the FCNM Advisory Committee.

[86] ECtHR (2009), Sejdić and Finci v. Bosnia and Herzegovina (Applications nos. 27996/06 and 34836/06) Judgment (GC). Cf. ECRI (2010): §§ 7-9 and 171; and Human Rights Watch (2012): 16-26. See also: ECtHR (2014), Zornić v. Bosnia and Herzegovina (Application no. 3681/06) Judgment. - The execution of the Sejdić and Finci judgment may, in addition to amendments to the electoral legislation of Bosnia and Herzegovina, also require changes to the country's constitution (see Articles IV.1 and V), which is part of the 1995 Dayton Peace Agreement.

[87] Cf. Ombudsman Institution (2014): 10.

[88] ECRI (2010): § 81.

to 40 000 persons.[89] Roma face serious socio-economic problems and obstacles to their integration. The authorities are envisaging the development of a new national Roma strategy, while in the meantime Action Plans to address Roma needs in the areas of employment, housing, health care and education are in place.

69. An overarching problem is the fact that many Roma still lack identity documents and birth certificates.[90] In 2011, the Ministry of Human Rights and Refugees initiated steps to address the problem and, together with UNHCR and the local NGO Vasa Prava, significant progress has since been made in registering the births of Roma. In 2013 alone, 2 554 Roma children were registered.[91] However, the new 2015 Registration Law[92] requires residents to provide the address of an accommodation which is registered in their name. Roma organisations met by ECRI's delegation expressed concern that many Roma might not be able to fulfil this requirement due to their difficult housing situation (see also § 74 below), which in turn could prevent them from renewing their identity cards or registering their children's births.

- *Education*

70. The authorities informed ECRI that the implementation of the 2010 revised Action Plan on the educational needs of Roma has been intensified and that, depending on the resources of local and entity authorities, Roma pupils are now given textbooks, school supplies, and financial assistance for transport and meals. They are also no longer prevented from enrolling in schools when they do not possess identity documents[93] and school enrolment rates among Roma children increased, while drop-out rates declined.[94] According to the authorities, approximately 4 000 Roma children attended primary education in the school year 2011/12, which constituted an estimated enrolment rate of 78%.[95] This number decreased, however, to 1 247 in 2012/13[96], before increasing again to 2 078 in 2013/14 and 2 051 in 2014/15. The authorities also informed ECRI's delegation that the number of Roma pupils in special needs schools has decreased from 65 in 2011/12 to 22 in 2014/15, which is estimated to be the same proportion as for the overall population.[97]

71. In spite of the efforts made, the gaps between Roma and the overall population in the area of education are still worrying. As of 2015, only an estimated 40% of Roma children completed primary school and 10% completed secondary education, as compared to 92% and 57% respectively for the overall population.[98] The authorities also informed ECRI that the envisaged significant increase in the number of Roma children enrolled in day-care centres has not been achieved. The core problem is insufficient funding.[99] This is also acknowledged by the

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[89] Ombudsman Institution (2014): 22; and Ministry of Human Rights and Refugees of Bosnia and Herzegovina (no date): 2.

[90] Decade of Roma Inclusion (2014b): 55.

[91] Decade of Roma Inclusion (2014b): 64.

[92] In conjunction with the 2013 Law on Amendments to the Law on permanent and temporary residence.

[93] FCNM (2014).

[94] Ombudsman Institution (2013): 34.

[95] The figures are approximate because not all Roma indicate their ethnic background. Similarly, the percentage figures are approximations as the total number of Roma in the country is not known.

[96] The authorities pointed out that this decline was due to the fact that a large number of Roma families had left the country. In the first semester of the 2012/2013 school year, one third of Roma children were not graded because they had left. (Ombudsman Institution (2014): 34).

[97] Cf. Decade of Roma Inclusion (2015): 47; and Decade of Roma Inclusion (2014a): 3.

[98] Decade of Roma Inclusion (2015): 33.

[99] Decade of Roma Inclusion (2014a); and Ombudsman Institution (2014): 34.

government, for example in the Action Plan for Children in Bosnia and Herzegovina 2015-2018, which states that the Action Plan on the educational needs of Roma is not effectively implemented as a consequence of budgetary limitations and that Roma children continue to have unequal access to education.[100]

- *Employment, Housing and Health care*

72. In 2008, the government adopted the Roma Action Plan for employment, housing and health care, which was revised in 2013 (and its validity extended until 2016) with the participation of a significant number of members of the Roma community.[101] The authorities informed ECRI's delegation that from 2009 to 2015, over 4 000 000 Convertible Marks (2 050 000 Euros) were spent on Roma employment programmes, benefitting a total of 520 persons. However, they estimated the number of Roma in need of such assistance to be around 5 000. Given this gap and the very low employment rate among Roma (some Roma NGOs estimate it to be only 1% in the Federation and 3% in the RS),[102] the scale of the measures is clearly insufficient. Moreover, while the Roma employment programme supported employers to recruit Roma for a period of up to two years,[103] there were no steps taken towards ensuring the sustainability of these contracts afterwards. The authorities explained to ECRI that the shortcomings are mainly due to insufficient funding for the Action Plan. Some observers also saw a lack of coordination between relevant local authorities as a key obstacle, in addition to the low levels of qualification of the target group.[104] Furthermore, the specific situation of Roma women was insufficiently addressed.

73. The authorities implemented various health-related activities for Roma, such as controlling the vaccination status of Roma children and information campaigns on access to the public health insurance scheme.[105] These efforts seem to have yielded some results. Roma NGOs report progress in the health sector and estimate that between 60% and 70% of Roma have access to health care. However, obstacles remain, in particular for Roma who do not have identity documents or a registered place of residence (see § 69), which causes difficulties when attempting to access public health insurance, and for a substantial number of Roma who are reportedly still not familiar with their health-care related rights, indicating that further outreach is necessary.[106]

74. Concerning the field of housing, the authorities implemented activities to promote the legalisation of existing housing, awareness raising about housing legislation and the planning and construction of new housing units.[107] From 2009 to 2014, over 8 000 000 Euros were invested in Roma housing projects and around 700 housing units were constructed or reconstructed.[108] Roma NGOs note, however, that the Action Plan has only been partly implemented, due, inter alia, to a lack of sufficient financial resources.

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[100] Council of Ministers of Bosnia and Herzegovina (2015): 27.

[101] Decade of Roma Inclusion (2014a): 1; cf. Ombudsman Institution (2014): 19.

[102] Ombudsman Institution (2014): 31-32; and Decade of Roma Inclusion (2014a): 6-7.

[103] Decade of Roma Inclusion (2014b): 56.

[104] Decade of Roma Inclusion (2014a): 8.

[105] Ombudsman Institution (2014): 36-40. - The health care systems are within the competence of the Ministry of Health of the Federation, the Ministry of Health and Social Protection of the RS and the Department of Health of Brčko District.

[106] Ibid.: 41.

[107] CAHROM (2013): 14-15.

[108] Ibid.; and Decade of Roma Inclusion (2015): 9.

75. ECRI recommends that the authorities develop a comprehensive and integrated national Roma strategy. This strategy should, inter alia, include (i) measures aimed at bringing the school attendance- and completion rates, as well as the employment rate, of the Roma community in line with the levels among the overall population; (ii) increased community outreach activities to inform Roma about their rights; and (iii) a gender focus that addresses the needs and vulnerabilities of Roma girls and women. Furthermore, ECRI recommends that the authorities make adequate financial resources available for the full implementation of the planned measures.

76. ECRI also recommends that the authorities apply the 2015 Residence Law in a way that does not impede access to identity documents and birth certificates for Roma.

II. Topics specific to Bosnia and Herzegovina

1. Interim follow-up recommendations of the fourth round

77. In its 2010 report on Bosnia and Herzegovina, ECRI recommended that the authorities provide judges, prosecutors and lawyers with training on the Law on the Prevention of All Forms of Discrimination in particular and on racial discrimination issues in general. In its 2013 interim follow-up Conclusions, ECRI noted that the recommendation had been partially implemented and that the Centres for Training of Judges and Prosecutors of the two entities had organised courses on the application of the Law on the Prevention of All Forms of Discrimination. However, apart from one information meeting, lawyers had not received any training on the Law.[109] In November 2014[110], the authorities informed ECRI that around 30% of the target group had attended such training, and in early 2016 they indicated that this number had increased to about 50%. The training programmes are set to continue: in 2016, nine training sessions for 275 judges and prosecutors are planned in the Federation, and three such sessions for 90 participants are scheduled to take place in the RS. ECRI's delegation was also informed that the subject has now been integrated into the bar examinations for lawyers in the RS, and that a similar step is planned in the Federation.

78. ECRI's 2010 recommendation to resolve all remaining cases of "two schools under one roof" has not been implemented and is discussed above in § 54 (section I.4).

79. In 2010, ECRI recommended that the authorities put an end to instances of discrimination on ethnic grounds in the field of pension entitlements, and to take all the necessary legislative steps to ensure that new, similar cases do not arise in future. In its 2013 Conclusions, ECRI found that the recommendation had been partially implemented.[111] In addition to the steps already referred to in the Conclusions, ECRI's delegation was informed by the authorities that remaining problems in the area of pension entitlements have now been resolved. Difficulties persist, however, with regard to equal recognition of eligibility for disability benefits, which vary between the RS and the Federation, and often affect pensioners.[112] The authorities informed ECRI that it is planned to harmonise the relevant criteria in the near future.

[109] ECRI (2013): 5.

[110] See footnote 77 above.

[111] ECRI (2013): 6.

[112] See also § 63 above.

2. Issues concerning the effectiveness of independent authorities entrusted with the fight against racism and racial discrimination, as per ECRI's General Policy Recommendations Nos. 2 and 7

80. ECRI notes that the decision-making process within the Ombudsman Institution is often complicated. The three Ombudspersons, one from each of the constituent peoples[113], take all decisions by consensus. This slows down the process, but also means that cases which are deemed too politically sensitive in the current climate of ethnic divisions are in practice not considered. An example is the issue of segregation in schools.[114] While such complaints make up only a very small part of the case load[115], the European Commission for Democracy through Law (Venice Commission) of the Council of Europe mentions that "this type of 'denial of justice' tarnishes the prestige of the Institution, as well as the public confidence in its ability to address more controversial issues impartially."[116]

81. The Ombudsman Institution, which combines the functions of a typical Ombudsman with those of a specialised anti-discrimination body, is understaffed. Out of 90 positions, including administrative staff, only 54 are currently filled, with the rest remaining vacant due to budgetary constraints and related recruitment restrictions. The department in charge of investigating alleged cases of discrimination on *any* of the grounds[117] listed in the Law on Prohibition of Discrimination has currently only two staff members, which severely affects the Institution's ability to carry out its mandate effectively. There are also insufficient financial resources to conduct awareness-raising activities among the general public about the Ombudsman Institution and the possibility of lodging complaints.

82. The authorities drafted a law to amend the existing Ombudsman Law. According to Article 50(3) of the draft law, three state authorities (the Ministry of Finance and Treasury, the Council of Ministers, and the Presidency) would be entitled to adjust the budget of the Ombudsman Institution after it has already been adopted by the Budget Committee of the State Parliament. ECRI agrees with the Council of Europe's Venice Commission, which in its opinion of the draft law once more underlined the particular significance of financial resources for the independence of the Ombudsman Institution and recommended redrafting these provisions.[118]

83. ECRI's delegation was also informed by the Ombudspersons it met with that in recent years only about 50% of the Ombudsman Institution's recommendations were fully implemented. This demonstrates the limited importance that is accorded to these decisions, including by public institutions and the authorities.

84. ECRI recommends that the authorities strengthen the institutional capacity of the Ombudsman Institution in order to empower it to carry out its anti-discrimination mandate effectively. This should include, inter alia, streamlined decision-making processes and an adequate increase in funding to provide for sufficient human resources and awareness-raising campaigns. The authorities should also ensure

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[113] According to Article 3(7) of the Law on Amendments to the Law on Ombudsman for Human Rights of Bosnia and Herzegovina (2006), the Ombudsmen shall be appointed from the ranks of the three constituent peoples. The same Article also states, though, that this does not preclude the possibility of appointing an Ombudsman from the ranks of 'others'. The apparent contradiction between these two provisions is not resolved in the Law. (See also: European Commission for Democracy through Law (Venice Commission) (2015): § 42-45; and Human Rights Watch (2012): 22).

[114] Venice Commission (2015): § 39.

[115] Ibid.

[116] Ibid.

[117] The enumerated grounds extend beyond those relevant to ECRI's mandate and also include for example: sex, social status, education and trade union membership (Law on Prohibition of Discrimination (2009): Art. 2.).

[118] Venice Commission (2015): §§ 87-88. Cf. ECRI's General Policy Recommendation No. 2 on Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level – Appendix: Chapter D, Principles 5(1) and 7(3).

that in the context of planned amendments to the Ombudsman Law, the Ombudsman Institution maintains its full financial independence from the government. Furthermore, the authorities should intensify their efforts to promote compliance with the recommendations of the Ombudsman Institution.

3. Policies to combat discrimination and intolerance against LGBT persons[119]

- Data

85. ECRI's delegation was informed by the authorities that there are no statistics on the size of the LGBT population in the country and only very limited data on LGBT issues, as there are no official measures in place to collect and analyse data on discrimination on grounds of sexual orientation or gender identity. This results in a scarcity of information on discrimination of LGBT persons in various fields, such as employment, education, housing or health care. Recommendation CM/Rec(2010)5 of the Council of Europe's Committee of Ministers on measures to combat discrimination on grounds of sexual orientation or gender identity indicates that personal data referring to a person's sexual orientation or gender identity can be collected when this is necessary for the performance of a specific, lawful and legitimate purpose. It is clear that without such information there can be no solid basis for developing and implementing policies to address intolerance towards and discrimination against LGBT persons.

86. ECRI takes note of the positive fact that in 2015, the Human Rights Committee of the Parliament of Bosnia and Herzegovina, for the first time, discussed the issue of discrimination against LGBT persons and tasked the Ombudsman Institution to produce a report on this issue, which subsequently led to the setting-up of an inter-institutional working group with participation of civil society groups. ECRI would like to encourage the working group and the Ombudsman Institution to produce a comprehensive review of areas in which LGBT persons are discriminated against and to make concrete recommendations on how to address the problems identified. ECRI also notes that LGBT issues are included in the state-level Gender Action Plan and have, for the first time, in 2015 also been included in the entity Gender Action Plans.

- Legislation

- *Same-sex partnerships*

87. There is no possibility to register same-sex partnerships in the country. ECRI believes that the absence of recognition of same-sex partnerships can lead to various forms of discrimination in the field of social rights. In this regard, it draws the attention of the authorities to the Recommendation CM/Rec(2010)5 of the Council of Europe's Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity.[120]

88. ECRI would also like to draw the authorities' attention to the judgment of the European Court of Human Rights in the case of Oliari and Others v. Italy, in which the Court found that although Article 12 of the European Convention on Human Rights did not impose an obligation on governments to grant a same-sex couple access to marriage, the absence of a legal framework allowing for recognition and protection of their relationship violated, in the case of the Italian legal order[121], their rights under Article 8 of the Convention.[122]

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[119] Concerning the definition of LGBT cf. Council of Europe, Discrimination based on sexual orientation and gender identity in Europe 2011: 21 and 139 et seq.

[120] Council of Europe, Committee of Ministers, Recommendation CM/Rec(2010)5, in particular §§ 24 and 25.

[121] ECRI recalls that in Vallianatos and Others v. Greece the ECtHR had found a violation of Article 14 of the European Convention on Human Rights taken in conjunction with Article 8 thereof because heterosexual couples were the only ones who could conclude civil partnerships provided for by national

89. ECRI recommends that the authorities provide a legal framework that affords same-sex couples the possibility to have their relationship recognised and protected in order to address the practical problems related to the social reality in which they live.

- *Gender reassignment*

90. Gender reassignment surgery is not available in Bosnia and Herzegovina and has to be undertaken abroad. The authorities informed ECRI's delegation that the public health care system does not cover any of the costs. According to current practice, transgender persons can change their name and their personal identification number, including a gender marker, after having undergone a complete gender reassignment procedure, including surgery.[123] They need to present a medical report from a doctor to this effect. Although no problems have been reported so far, there are, however, no legal or administrative provisions for the recognition of gender reassignment procedures and for regulating the associated administrative processes.[124] In this context, ECRI would like to encourage the authorities to make use of existing decisions and guidance developed by various bodies of the Council of Europe in order to establish criteria for regulating the procedure for gender reassignment and legal gender recognition.[125]

91. ECRI recommends that the authorities regulate the procedure and conditions of gender reassignment, in line with Council of Europe guidelines.

- **Discrimination against LGBT persons in key areas of social life**

92. Although some signs of improvement started to emerge, the level of tolerance towards LGBT persons is still low in the country. Research carried out in 2013 indicated that 56.5% of the respondents in Bosnia and Herzegovina thought that homosexuality is a disease which should be cured.[126] NGOs describe the general situation in the country as one in which sexuality and sexual orientation are regarded as a private matter which should not be discussed in the public sphere.[127] As a result, LGBT persons tend to conceal their sexual orientation.[128] According to a survey carried out in 2013 among 545 LGBT persons, 35.8% of them experienced discrimination due to their sexual orientation or gender identity. In 93.8% of the cases, the discrimination experienced was not reported, mainly due to fear of declaring one's LGBT identity and lack of trust in the authorities.[129]

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law. It also notes that the finding of violation of Article 8 in Oliari and Others v. Italy was not based on the fact that national law discriminated against same-sex couples.

[122] ECtHR (2015), Oliari and Others v. Italy (Applications nos. 18766/11 and 36030/11) Judgment.

[123] Sarajevo Open Centre (2015): 14.

[124] ECRI was informed by the authorities that in the RS, the Law on Registers (2009) was amended in 2013 and now provides for the possibility of changing a person´s gender marker in the birth register.

[125] In particular: relevant judgments of the ECtHR, such as: ECtHR (2015), Y.Y v. Turkey (Application no.14793/08) Judgment; and ECtHR (2002), Goodwin v. UK, (Application no. 28957/95) Judgment [GC]; Council of Europe, Committee of Ministers, Recommendation CM/Rec(2010)5, §§ 21,22, and 23; Council of Europe, Sexual Orientation and Gender Identity unit (2015), Protecting human rights of transgender persons - A short guide to legal gender recognition; and Council of Europe, Commissioner for Human Rights (2009), Human Rights and Gender Identity.

[126] Sarajevo Open Centre (19 December 2013).

[127] Danish Institute for Human Rights / COWI (2009): 5.

[128] Sarajevo Open Centre (2013): 29-31.

[129] Ibid.: 31-33.

93. In 2013, the Sarajevo Open Centre reported three cases of discrimination in the field of housing, access to goods and services and employment.[130] During 2014, the organisation documented three cases of discrimination related to LGBT persons in secondary and higher educational institutions.[131]

94. In 2014, the Unsko-Sanski cantonal ministry of education supported a training of secondary school staff in the canton which raised awareness of LGBT issues among 17 staff members (teachers, teaching assistants and psychologists) from different high schools. The training was organised jointly by the Sarajevo Open Centre, the CURE Women's Group and the Heinrich Böll Foundation.[132] In the Sarajevo Canton, a course on healthy life-styles, which was offered as an alternative to pupils not attending religious education classes, included issues concerning sexual orientation and tolerance towards LGBT persons. ECRI was informed, however, that these two were exceptional activities and not part of a wider programme of awareness-raising about LGBT issues, in spite of the obvious need for such activities in order to tackle the intolerance faced by LGBT persons (see §§ 26-29 and 43-44).

95. ECRI recommends that the authorities, in close cooperation with LGBT organisations, carry out awareness-raising activities to promote tolerance and combat discrimination against LGBT persons.

[130] Sarajevo Open Centre (2014): 18.

[131] Sarajevo Open Centre (2015b): 14.

[132] ILGA Europe (2015b): 50.

INTERIM FOLLOW-UP RECOMMENDATIONS

The two specific recommendations for which ECRI requests priority implementation from the authorities of Bosnia and Herzegovina are the following:

- ECRI strongly reiterates the recommendations made in §§ 68-72 of its 2010 report, in particular concerning the urgent need to end all forms of segregation in schools, including "two schools under one roof" and monoethnic schools, and the application and further development of the common core curriculum. ECRI also strongly recommends ensuring inclusive and non-discriminatory learning environments in all schools and the removal of any symbols that represent an ethnic or religious bias.

- ECRI recommends that the authorities strengthen the institutional capacity of the Ombudsman Institution in order to empower it to carry out its anti-discrimination mandate effectively. This should include, inter alia, streamlined decision-making processes and an adequate increase in funding to provide for sufficient human resources and awareness-raising campaigns. The authorities should also ensure that in the context of planned amendments to the Ombudsman Law, the Ombudsman Institution maintains its full financial independence from the government. Furthermore, the authorities should intensify their efforts to promote compliance with the recommendations of the Ombudsman Institution.

A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

LIST OF RECOMMENDATIONS

The position of the recommendations in the text of the report is shown in parentheses.

1. (§ 6) ECRI recommends that the authorities bring the Criminal Code of Bosnia and Herzegovina, in general, into line with its General Policy Recommendation No. 7 as indicated in the preceding paragraphs; in particular they should explicitly (i) add language, colour, citizenship, sexual orientation and gender identity to the enumerated grounds in Articles 145, 145a, 171 and 176; (ii) criminalise racist insults, defamation and threats, as well as the public expression, with a racist aim, of an ideology which claims the superiority of, or which depreciates or denigrates, a grouping of persons on the grounds of race, colour, language, religion, nationality, or national or ethnic origin; (iii) prohibit the creation or leadership of a group which promotes racism, as well as the support for such a group and the participation in its activities; (iv) prohibit the public dissemination or public distribution, or the production or storage aimed at public dissemination or public distribution, with a racist aim, of written, pictorial or other material with racist content; and (v) criminalise the public denial, trivialisation, justification or condoning, with a racist aim, of crimes of genocide, crimes against humanity or war crimes. Furthermore, racist and homo-/transphobic motivation should be introduced as an aggravating circumstance at state- and entity-level, where this is not already the case.

2. (§ 9) ECRI recommends that the authorities bring the civil and administrative law, in general, into line with its General Policy Recommendation (GPR) No. 7 as indicated in the preceding paragraphs; in particular they should amend the Law on Prohibition of Discrimination to explicitly: (i) include citizenship and gender identity as prohibited grounds; (ii) prohibit acts of discrimination by association and announced intention to discriminate; (iii) create an obligation to amend or declare null and void discriminatory provisions included in contracts, agreements, and regulations in the field of employment or the internal rules of associations and professional bodies, as recommended in ECRI's GPR No. 7, § 14. Furthermore, the authorities should introduce provisions to suppress the public financing of racist political parties or organisations.

3. (§ 12) ECRI recommends that the authorities grant the Ombudsman Institution the right and the capacities to represent victims in proceedings before the courts in discrimination cases.

4. (§ 18) ECRI strongly recommends that the relevant authorities change all names of public places, such as the student dormitory in Pale and streets named after war criminals and Nazi-collaborators, that could amount to public denial, trivialisation, justification or condoning, with a racist aim, of genocide, war crimes or crimes against humanity, and refrain, in the future, from using such names.

5. (§ 37) ECRI recommends that the authorities develop, jointly with the relevant civil society groups and international organisations, a comprehensive strategy to combat hate speech. This strategy should make effective use of ECRI's General Policy Recommendation No.15 on combating Hate Speech. It should, inter alia, include (i) a proactive hate speech monitoring mechanism; (ii) closer cooperation between law enforcement authorities and self-regulatory media bodies in order to facilitate the prosecution of hate speech; (iii) an extension of the Central Electoral Commission's mandate to monitor the use of hate speech during the entire duration of election campaigns; and (iv) a stronger involvement of the authorities in initiating and leading anti-hate speech campaigns, including the promotion of condemnation and counter-speech by political representatives and officials.

6. (§ 38) ECRI reiterates the recommendations made in its 2010 report concerning the need to combat ethnically inflammatory discourse and statements by politicians (§§ 46-48), and those concerning hate speech in the media (§§ 51-53).

7. (§ 50) ECRI recommends that the authorities (i) carry out an evaluation of hate crime-related training activities for police officers, prosecutors and judges in order to make any necessary improvements; (ii) continue to roll out and expand these training programmes; and (iii) ensure that violence against returnees, religious communities, and LGBT persons is adequately covered in these trainings.

8. (§ 51) ECRI recommends that the authorities ensure that any homo-/transphobic motivation in cases of violence are duly taken into consideration by the relevant law enforcement agencies when investigating such incidents.

9. (§ 52) ECRI recommends revising the textbook used in the RS for religious education in the 8th-grade and removing all content that incites intolerance and hatred against Jehovah's witnesses.

10. (§ 59) ECRI strongly reiterates the recommendations made in §§ 68-72 of its 2010 report, in particular concerning the urgent need to end all forms of segregation in schools, including "two schools under one roof" and monoethnic schools, and the application and further development of the common core curriculum. ECRI also strongly recommends ensuring inclusive and non-discriminatory learning environments in all schools and the removal of any symbols that represent an ethnic or religious bias.

11. (§ 64) ECRI recommends that the authorities, in cooperation with UNHCR, gather relevant data on returnees and review their social situation, vulnerabilities and needs. The authorities should fully implement the revised strategy for the implementation of Annex VII of the Dayton Peace Agreement. ECRI also recommends that the authorities ensure that, following property restitution, returnees are not required to make payments for work done to the property during their absence. Furthermore, ECRI recommends that the authorities set up effective mechanisms to guarantee that returnees are not disadvantaged with regard to social security benefits and are not subjected to prolonged waiting periods when re-registering for such benefits upon their return.

12. (§ 67) ECRI strongly recommends that the authorities execute the 2009 judgement of the European Court of Human Rights in the case of Sejdić and Finci v. Bosnia and Herzegovina. ECRI also reiterates its recommendation made in § 81 of its 2010 report concerning the need to ensure that members of national minorities, as well as persons who do not identify with any constituent people or national minority, have in law as well as in practice equal opportunities to access public sector employment.

13. (§ 75) ECRI recommends that the authorities develop a comprehensive and integrated national Roma strategy. This strategy should, inter alia, include (i) measures aimed at bringing the school attendance- and completion rates, as well as the employment rate, of the Roma community in line with the levels among the overall population; (ii) increased community outreach activities to inform Roma about their rights; and (iii) a gender focus that addresses the needs and vulnerabilities of Roma girls and women. Furthermore, ECRI recommends that the authorities make adequate financial resources available for the full implementation of the planned measures.

14. (§ 76) ECRI also recommends that the authorities apply the 2015 Residence Law in a way that does not impede access to identity documents and birth certificates for Roma.

15. (§ 84) ECRI recommends that the authorities strengthen the institutional capacity of the Ombudsman Institution in order to empower it to carry out its anti-discrimination mandate effectively. This should include, inter alia, streamlined decision-making processes and an adequate increase in funding to provide for sufficient human resources and awareness-raising campaigns. The authorities should also ensure that in the context of planned amendments to the Ombudsman Law, the Ombudsman Institution maintains its full financial independence from the government. Furthermore, the authorities should intensify their efforts to promote compliance with the recommendations of the Ombudsman Institution.

16. (§ 89) ECRI recommends that the authorities provide a legal framework that affords same-sex couples the possibility to have their relationship recognised and protected in order to address the practical problems related to the social reality in which they live.

17. (§ 91) ECRI recommends that the authorities regulate the procedure and conditions of gender reassignment, in line with Council of Europe guidelines.

18. (§ 95) ECRI recommends that the authorities, in close cooperation with LGBT organisations, carry out awareness-raising activities to promote tolerance and combat discrimination against LGBT persons.

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