



Bosnia and Herzegovina

UPR

Report for Universal Periodic Review Izvještaj za Univerzalni Periodični Pregled

Bosna i Hercegovina

Informal Coalition of Non-governmental Organizations
Neformalna koalicija nevladinih organizacija

September
2009
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Uvod

Opšti periodični pregled (UPR) predstavlja novi mehanizam Savjeta za ljudska prava Ujedinjenih nacija, koji je ustanovila Generalna skupština UN-a, u skladu sa Rezolucijom 60/251 od 15. marta 2006. godine. Pregled predstavlja sveobuhvatnu procjenu stepena ljudskih prava u svim državama članicama UN-a i zasnovan je na Povelji Ujedinjenih nacija, Univerzalnoj deklaraciji o ljudskim pravima, konvencijama kojima je pristupila država koja je predmet razmatranja, kao i na pregledu dobrovoljno izražene namjere države o preduzimanju konkretnih mjera na promociji i zaštiti ljudskih prava i važećem međunarodnom humanitarnom pravu. Svaka članica UN-a će biti razmatrana u okviru UPR mehanizma svake četiri godine.

Ciljevi UPR-a su prevashodno poboljšanje stanja ljudskih prava, ali i ocjena stepena ispunjavanja obaveza države u domenu ljudskih prava.

UPR se temelji na tri izvještaja: Nacionalni izvještaj države koja je pod procjenom, kompilacija Preporuka UN tijela za ljudska prava koju priprema Ured visokog komesara za ljudska prava (OHCHR) i izvještaj koji takođe priprema OHCHR, ali na osnovu priloga nevladinih organizacija i institucija za ljudska prava države pod procjenom.

Opšti periodični pregled podrazumijeva posebnu proceduru izvještavanja o stanju ljudskih prava u svim zemljama članicama Ujedinjenih nacija, koja se odvija kroz tri faze. Prva faza protiče u debati u okviru Radne grupe UPR u kojoj se razmatra Nacionalni izvještaj zemlje koja je predmet rasprave. Druga faza predstavlja izradu i usvajanje Nacrta izvještaja Radne grupe UPR o procjeni stanja ljudskih prava, koji je pripremila tročlana delegacija izvjestilaca Savjeta za ljudska prava i delegacija dotične zemlje. Nacrt izvještaja se pred-

Introduction

The Universal Periodic Review (UPR) is a new mechanism of Human Rights Council of United Nations, created through the UN General Assembly on 15 March 2006 by resolution 60/251. The UPR represents general review of human rights in every country which is member of UN. UPR is based on human rights treaties ratified by the State, the Charter of the United Nations, the Universal Declaration of Human Rights, and other standards that have reached the status of customary international law or jus cogens, also resolutions adopted by the Commission and other commitments undertaken by the State through voluntary declarations and pledges. Every country member of UN will be under UPR mechanism every four years.

Aims of UPR are the improvement of the human rights situation on the ground, but also review of the level of fulfillment of the State's human rights obligations and commitments in the area of human rights.

UPR is based on three reports: National report of the State under review, a compilation prepared by the OHCHR, of information contained in reports of the treaty bodies, Special Procedures and other relevant UN bodies, and a summary, also prepared by the OHCHR, and submitted by other stakeholders such as NGOs, and national human rights institutions.

UPR has a special procedure of reporting on human rights situation in the countries members of UN, which consists of three phases. The first phase is a debate of the Working Group which reviews the National report of the State under review. The second phase is conduction and adoption of the Draft of the Working Group Report on their review of the human rights situation in the state under review, prepared by three-member delegation of the Human Rights Council and delegation of the State. The draft of the report is presented on the third meeting of the Working Group, which represents the third phase of the UPR.

stavlja na trećem sastanku Radne grupe, što čini treću fazu postupka razmatranja. Konačna verzija Izvještaja Radne grupe UPR usvaja se na prvoj narednoj plenarnoj sjednici Savjeta za ljudska prava.

Kuća ljudskih prava Sarajevo sprovela je niz aktivnosti koje su podrazumjevale aktivno uključenje aktivista i eksperta iz područja ljudskih prava, te nevladinog sektora iz cijele BiH u UPR proces. Formirana je neformalna koalicija nevladinih organizacija za izvještavanje o stanju ljudskih prava u BiH, održan je niz sastanaka s nevladinim organizacijama koje su učestvovala u kreiranju zajedničkog UPR izvještaja, zatim nekoliko konsultativnih sastanaka s Ministarstvom za ljudska prava BiH, organizovan je seminar za novinare i press konferencija, te je održana velika javna rasprava nevladinog sektora u BiH o prijedlogu zajedničkog UPR izvještaja, koju je posjetilo više od 50 predstavnika nevladinih organizacija iz cijele BiH.

Pred vama je konačni zajednički UPR izvještaj **Neformalne koalicije nevladinih organizacija za izvještavanje o ljudskim pravima**, koji predstavlja viđenje nevladinog sektora o implementaciji standarda Ujedinjenih nacija u Bosni i Hercegovini. Ovaj izvještaj dostavljen je OHCHR-u i prilog je nevladinog sektora sticanju objektivne slike o stanju ljudskih prava u BiH, s ciljem da se to stanje unaprijedi i poboljša. U trenutku slanja, izvještaj je podržalo 30 nevladinih organizacija, a nove članice se dodatno prijavljuju svakim danom.

S obzirom da je UPR proces koji se obnavlja svake četiri godine, Neformalna NVO koalicija za UPR vršit će kontinuiran monitoring rada bosanskohercegovačkih vlasti u vezi s implementacijom preporuka BiH vlastima koje usvoji Savjet za ljudska prava Ujedinjenih nacija.

Cilj ove publikacije jeste da informiše najširu javnost, a posebno zainteresovane pojedince i organizacije, sa stajalištima nevladinog sek-

Final version of the Working Group Report is being adopted on the first next plenary session of the Human Rights Council.

Human Rights House of Sarajevo has implemented set of activities which included active involvement of human rights activists and experts, as well as non-governmental sector throughout whole Bosnia and Herzegovina, in the UPR process. HRH Sarajevo has formed Informal coalition of non-governmental organizations for UPR, held set of meetings of NGOs who took the role in the creation of the joint UPR report, also held several national consultation meetings with the Ministry of Human Rights of B&H, organized UPR seminar for journalists and press conference, and had a broad public debate with NGO sector in B&H on the Draft of the joint NGO report for UPR, with the participation of more than 50 representatives of non-governmental organizations from throughout B&H.

In front of you is the Final NGO Report for UPR, made by **Informal Coalition of Non-governmental Organizations for UPR**, which represents a standpoint of NGO sector on implementation of UN standards in B&H. This report has been submitted to OHCHR and is a contribution of NGO sector in B&H to achievement of more objective image of human rights situation in B&H, with aim to improve human rights and strengthen civil society in B&H. The report was, until its submission deadline, supported by more than 30 non-governmental organizations from throughout whole B&H, while more organizations are supporting it every day.

Having in mind that the UPR process is happening every four years, Informal NGO Coalition for UPR will be doing a continuous monitoring of the work of B&H authorities, regarding the implementation of those recommendations to B&H Government adopted by Human Rights Council of the UN.

The aim of this publication is to inform the broadest public, and especially interested individuals and organizations, with the points

tora o stanju ljudskih prava u Bosni i Hercegovini, te da im omogući aktivno učešće u nastojanjima za afirmacijom i unaprijeđenjem ljudskih prava u BiH.

*Srđan Dizdarević,
Predsjednik Upravnog odbora
Kuće ljudskih prava u Sarajevu*

of view of NGO sector regarding the human rights situation in B&H, and to make possible for them to actively engage in the efforts for promotion and improvement of human rights in B&H.

*Srdjan Dizdarevic,
President of the Board
of the Human Rights House of Sarajevo*

UPR

Izveštaj za : **Report for**
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I

UVOD

Ovaj izvještaj je sačinjen od strane Neformalne koalicije nevladinih organizacija za izvještavanje o ljudskim pravima u Bosni i Hercegovini, koju čine preko 30 organizacija koje se bave promocijom i zaštitom ljudskih prava. Koalicija je formirana u martu 2009. godine od strane sljedećih organizacija: Kuća ljudskih prava Sarajevo, Helsinški komitet za ljudska prava u Bosni i Hercegovini, Centar „Žena i društvo“, Omladinska grupa Helsinškog komiteta za ljudska prava u BiH, Kancelarija Regionalnog koordinatara omladinskih grupa na području Zapadnog Balkana, Udruženje „Renesansa“, Fondacija CURE, Srpsko građansko vijeće Kantona Sarajevo, Centar informativno pravne pomoći – CIPP, ICVA, Prava za sve, Udruženje Q, Transparency International (FBiH i RS), Udruženje žena Romkinja „Bolja budućnost“, European Law Students' Association - ELSA, Centar za ljudska prava Sarajevo, Omladinski klub „Dijamant“, Udruženje decertificiranih policajaca Federacije BiH i RS-a (UDCP FBiH i UDCP RS), Bona Fides, Zemlja djece, Liga za zaštitu privatne svojine i ljudskih prava, Udruženje za građanska prava – UGP, Zdravo da ste, Fondacija „Istina, pravda, pomirenje“, NVO Altruista „Svjetlo“, Crveni polumjesec BiH, Udruženje „Prijatelji porodice“ i Centar za omladinski razvoj PRONI.

I

INTRODUCTION

The Informal NGO Coalition for UPR of Bosnia and Herzegovina (B&H) submitting this report consists of 30 non-governmental organizations that deal with promotion and protection of human rights in B&H. The coalition is established in March 2009 by following NGOs: Human Rights House of Sarajevo, Helsinki Committee for Human Rights in Bosnia and Herzegovina, CURE Foundation, Serb Civic Council of Sarajevo Canton, Woman and Society Center, Association of Citizens „Renaissance“, Regional Coordinator for Youth Groups in Western Balkans, Center for Informative and Legal Help – CIPP, ICVA, Prava za sve (Rights for All), Association Q, Transparency International in B&H, Association of Roma Women „Better Future“, European Law Students' Association - ELSA, Center for Human Rights Sarajevo, Youth Club „Diamond“, Association of Decertified Policemen in B&H, Bona Fides, Zemlja djece (Land of Children), League for Protection of Private Property and Human Rights, Association for Civic Rights – UGP, Zdravo da ste (Hello Neighbour), Foundation „Truth, Justice, Reconciliation“, NGO of Altruists „Svjetlo“ („The Light“), Red Half-Moon of B&H, Association „Friends of Family“ and Center for Youth Development – PRONI.

II

REZIME

1. Bosna i Hercegovina je ratifikovala najveći broj UN konvencija koje se tiču ljudskih prava. Još nije ratifikovana Konvencija o pravima osoba sa invaliditetom. No, Konvencije na čiju se primjenu država obavezala, ne primjenjuju se direktno. Tako je zabilježen samo jedan slučaj direktne primjene Konvencije o pravima djeteta.
2. Odsustvo pravne države i vladavine prava, što stvara prostor kršenjima ljudskih prava, ilustruje i podatak da se čak 20 % odluka Ustavnog suda BiH ne poštuje i ne implementira!
3. Upotreba jezika mržnje i zapaljivog govora, široko su rasprostranjeni. No, ove se pojave ne sankcionišu, što inspiratore grubih kršenja ljudskih prava oslobađa odgovornosti, dok pred sudovima eventualno odgovaraju direktni izvršioc i kaznenih djela.
4. S obzirom na ulogu koju međunarodna zajednica ima u Bosni i Hercegovini od potpisivanja Dejtonskog mirovnog ugovora do danas, i ona je jedan od kršilaca ljudskih prava, kao što je to slučaj sa 598 decertificiranih policajaca.

II

EXECUTIVE SUMMARY

1. Bosnia and Herzegovina has ratified the majority of the UN conventions relating to human rights. The Convention on the Rights of Persons with Disabilities has not yet been ratified. However, the Conventions that the state has committed to apply are not applied directly. For example only one case of direct implementation of the Convention on the Rights of the Child was recorded so far.
2. The lack of state regulation and the rule of law, which makes space for violation of human rights, is illustrated by the fact that even 20% of the decision passed by the Constitutional Court are not respected for nor implemented!
3. The use of hate and inflammatory speech is widely spread. Nevertheless, these occurrences are not being sanctioned, thus freeing the instigators of the violation of human rights from responsibility, while at the same time direct perpetrators of the most severe criminal offences being eventually tried before the courts.
4. Having in mind the role of international community in Bosnia and Herzegovina, since the signing of the Dayton Peace Agreement until today, international community is also contributing to violation of human rights, as illustrated in the case of 598 decertified policemen.

III

STANJE LJUDSKIH PRAVA I PRAVNI OKVIRI

3.1 Diskriminacija

5. Ustav Bosne i Hercegovine sadrži neke kontraverze, a među njima i one koje se odnose na diskriminaciju. U članu 2, Ustav garantuje uživanje ljudskih prava svim licima, bez diskriminacije na bilo kojim osnovama. No, članovi 4 i 5, Ustava sadrže diskriminatorne odredbe. Naime, u članu 4 se određuje da će dva vijeća Parlamentarne skupštine BiH „izabrati među svojim članovima jednog Srbina, jednog Bošnjaka i jednog Hrvata, koji će imati funkcije predsjednika i podpredsjednika...“, čime je uskraćena mogućnost da bilo koju rukovodeću funkciju u oba doma parlamenta zauzme neko ko nije iz reda jednog od tri navedena naroda, što predstavlja diskriminaciju. Na jednak način je u članu 5 određen sastav Predsjedništva BiH koje će se sastojati „...od tri člana: jednog Bošnjaka, jednog Hrvata, od kojih će obojica biti direktno birani sa teritorije Federacije, i jednog Srbina koji će biti direktno biran sa teritorije Republike Srpske“. Ovim članom su diskriminirana ne samo ona lica koja ne pripadaju srpskom, hrvatskom i bošnjačkom narodu, već i Hrvati i Bošnjaci koji ne žive u Federaciji BiH, kao i Srbi koji žive van Republike Srpske.
6. Iako su nadležne instance, Evropska komisija za demokratiju kroz pravo, poznatija kao Venecijanska komisija, Komitet za ljudska prava UN, među ostalim, ocjenile ove odredbe Ustava BiH kao suprotne međunarodnim standardima za ljudska prava, još uvijek se nije pristu-

III

BACKGROUND AND LEGAL FRAMEWORK

3.1 Discrimination

5. The Constitution of Bosnia and Herzegovina contains certain controversies, some of which are related to discrimination. Article 2, of the Constitution guarantees the enjoyment of human rights to all persons without discrimination on any grounds. However, Articles 4 and 5 of the Constitution contain discriminatory provisions. Namely, Article 4 sets out that each of the two chambers of the Parliamentary Assembly of BiH shall „select from its members one Serb, one Bosniak, and one Croat to serve as its Chair and Deputy Chair...“, thereby depriving anyone, who does not belong to any of the three mentioned nationalities, of the opportunity to serve as Chair or Deputy Chair in both Chambers of the Parliaments, which presents a discrimination. In the same manner, Article 5 determines the composition of the Presidency of BiH which shall consist „...of three members: one Bosniak, one Croat, each directly elected from the territory of the Federation, and one Serb directly elected from the territory of the Republic of Srpska“. This Article discriminates not only those persons who do not belong to the Serb, Croat and Bosniak people, but also the Croats and Bosniaks who do not live in the Federation of BiH, and Serbs who live outside the Republic of Srpska.
6. Although the competent institutions, the European Commission for Democracy through Law, also known as the Venice Commission, the UN Human Rights Committee, among others, have concluded that these provisions of the BiH Constitution are in contravention of the international

pilo njihovoj izmjeni i harmonizaciji sa navedenom konvencijom.

7. I u nekim zakonima su ugrađene diskriminatorne odredbe. To je slučaj sa Zakonom o pravima boraca i članova njihovih porodica Federacije BiH. Ustavni sud Federacije BiH je još 2005. godine proglasio ovaj Zakon neustavnim upravo zbog ovih diskriminatornih odredaba koje pogađaju pripadnike vojske Autonomne pokrajine Zapadna Bosna i članove njihovih porodica. No, premijer Vlade Federacije BiH, koji je dužan da provede odluku Ustavnog suda, uporno odbija da to učini.
 8. Prethodnih godina su usvojeni Zakon o jednakopravnosti polova i Zakon o pravima pripadnika nacionalnih manjina, koji su usklađeni sa međunarodnim normama i sadrže antidiskriminacione odredbe. No, ovi zakoni se ne primjenjuju na adekvatan način. Nedavno je usvojen i Zakon o zabrani diskriminacije, što je ohrabrujuće.
 9. Diskriminacija je jedan od najozbiljnijih generatora kršenja ljudskih prava u BiH. Pojedinci su diskriminirani zbog svoje nacionalne, političke i polne pripadnosti. Uz to, žrtve diskriminacije su i pripadnici takozvanih „ranjivih“ grupa. Pored žena, seksualnih manjina, na meti su i lica sa onesposobljenjem, nacionalne manjine, porodice nestalih, žrtve rata, lica u trećoj životnoj dobi, djeca, povratnici. Veoma je rasprostranjena višestruka diskriminacija kojom su pripadnici ranjivih grupa diskriminirani po nekoliko osnova. Diskriminacija se ispoljava u nekim vitalnim oblastima kao što je zapošljavanje, obrazovanje, zdravstvena i socijalna zaštita, prava iz penzionog osiguranja. Posljedica ovog stanja je, primjera radi, činjenica da samo 0,8 % radno aktivnih povratnika iz reda etničke grupe koja u toj sredini nije
7. Some laws have discriminatory provisions too. This is the case with the Law on the Rights of Veterans and Members of their Families of the Federation of BiH. The Constitutional Court of the Federation of BiH proclaimed this law unconstitutional in 2005 due to the discriminatory provisions affecting the members of the Army of the Autonomous Province of Western Bosnia and members of their families. However, the Federation Prime Minister, who is obliged to implement the decision of the Constitutional Court, has consistently refused to do so.
 8. The Law on Gender Equality and the Law on Rights of National Minorities, which were harmonized with international norms and contain anti-discriminatory provisions, were adopted in the previous years. However, these laws are not being applied in an adequate manner. The Law on Prohibition of Discrimination has been adopted recently, which is encouraging.
 9. Discrimination is one of the most serious generators of violations of human rights in BiH. Individuals are discriminated against on the grounds of their national, political and sexual orientation. Moreover, the victims of discrimination are also members of the so-called “vulnerable” groups. Apart from women, sexual minorities, the subjects of discrimination are also persons with disabilities, national minorities, families of missing persons, victims of war, elderly people, children, returnees. The members of vulnerable groups are being discriminated against in many different ways. Discrimination is demonstrated in some vital fields of life, such as employment, education, health and social care, pension rights. One of the consequences of this situation is, for example, the fact that only 0.8 per cent of working age returnees

dominantna, ima zaposlenje. Dalje, samo 1,5 % radno aktivnih Roma ima posao u odnosu na 50 % koliko ih je imalo zaposlenje prije rata.

10. Bilježi se sve učestalija pojava osjećaja diskriminacije kod zapošljavanja u državnu službu BiH, kako zbog nedovoljno definisanih propisa, nedostatka nezavisnosti i profesionalizma u radu Komisije za izbor kandidata, a samim tim i neadekvatne uloge Agencije za državnu službu BiH u cjelokupnom procesu.
11. Diskriminaciju bilježimo i kada su u pitanju nosioci stanarskog prava u stano- vima koji su od 1945.godine oduzeti i dodjeljeni građanima koji su stekli stanarsko pravo nad njima po Zakonu o stambenim poslovima iz 1974.godine. U Republici Srpskoj i Brčkom distriktu, ti stanari su stekli pravo na otkup stanova u kojima žive dok to pravo nemaju stanari u Federaciji BiH. Inače je rasprostanjena diskriminacija po mjestu stanovanja i ona se odnosi na korištenje prava iz oblasti socijalne zaštite, zdravstvene zaštite, obra- zovanja, prava djeteta, prava starijih i iznemoglih lica.

3.2. Nacionalne manjine

12. U Bosni Hercegovini je 2003. godine stu- pio na snagu Zakon o zaštiti prava pripad- nika nacionalnih manjina. Ovaj Zakon se temelji na Okvirnoj konvenciji o zaštiti nacionalnih manjina koju je Bosna i Her- cegovina ratifikovala. BiH još uvijek nije ratifikovala Evropsku povelju o regional- nim i jezicima manjina.
13. Iako je Zakon o zaštiti pripadnika nacio- nalnih manjina usvojen prije više od dvije godine, on se ne primjenjuje, kako zbog

belonging to an ethnic group that is not dominant in a region, has employment. Furthermore, only 1.5 per cent of work- ing age Roma have jobs, as compared to 50 per cent that had been employed before the war .

10. The discrimination is more frequently re- ported in the area of employment in the civil service of BiH due to inadequately defined regulations, lack of independency and of professional work of the Panel for selection of candidates, and the inadequate role of the Civil Service Agency of BiH as such in the whole process.
11. The discrimination is also reported in case of holders of the occupancy right over the apartments that were seized in 1945 and allocated to the citizens over which they had acquired the occupancy right pursu- ant to the Law on Housing Issues from 1974. The holders of occupancy rights in the Republic of Srpska and Brcko district gained the right to purchase apartments they live in, while the tenants in the Fed- eration of BiH have not gained that right. There is also widely spread discrimination by place of residence and it refers to the exercise of the rights in the field of social care, health care, education, rights of the child, rights of the elderly and vulnerable persons.

3.2. National minorities

12. The Law on the Rights of National Minor- ities has become effective in Bosnia and Herzegovina in 2003. This Law is based upon the Framework Convention on Pro- tection of National Minorities which has been ratified by Bosnia and Herzegovina. BiH has not so far ratified the European Charter on the Regional and Minority Languages.
13. Although the Law on Protection of Na- tional Minorities was adopted more than two years ago, it has not been applied

toga što nisu doneseni potrebni podzakonski akti, tako i zbog nedostatka političke volje. Inače, Zakon je pobrojao 17 nacionalnih manjina koje žive u BiH s tim da nema pouzdanih podataka o njihovom broju s obzirom na to da je posljednji popis stanovništva održan 1991. godine, a u međuvremenu je, zbog rata i etničkog čišćenja, došlo do značajnih demografskih promjena.

14. Najbrojnija je romska manjina, ali procjene o broju Roma variraju tako da se pretpostavlja da trenutno u BiH živi između 80 000 i 85 000 Roma, s tim što aktivisti romskih udruženja tvrde da ih je između 80 000 i 120 000.
15. Položaj pripadnika nacionalnih manjina je nepovoljan i oni su u velikom broju slučajeva žrtve etničke diskriminacije. Svakako, položaj Roma je najteži kada je riječ o pripadnicima nacionalnih manjina. Njihov položaj je posebno težak kada je pitanju zapošljavanje, ekonomski položaj i stanovanje. Svega 1,5 % radno sposobnih Roma ima zaposlenje u odnosu na oko 50% koliko ih je radilo prije rata. Jedini Rom koji je radio u državnoj službi, Redžo Seferović, dobio je otkaz. Na području Zeničko – dobojskog kantonona, u Federaciji BiH, zaposleno je svega šest Roma. U Visokom radi jedan Rom dok u Sarajevskom i Tuzlanskom kantonu rade po dva policajca romske nacionalnosti. U Hemijskom kombinatu u Tuzli, rade dva inženjera romske nacionalnosti. Postoje opštine u kojima ne radi ni jedan Rom.
16. Značajan broj Roma još uvijek nije ostvario pravo na povratak u kuće i stanove u kojima su živjeli prije rata. Inače, uslovi u kojima žive Romi su izuzetno loši i ne zadovoljavaju minimalne standarde. Najčešće oni žive u vlažnim kućama, bez

due to failure to pass necessary by-laws and due to lack of political will. The Law has listed 17 national minorities living in Bosnia and Herzegovina, but there are no reliable data on their number since the last census was conducted in 1991, and in the meantime, due to war and ethnical cleansing, there were significant demographic changes.

14. The largest is Roma population, however, the assessment of the number of Roma people varies, and it can be only assumed that currently in Bosnia and Herzegovina there are in between 80,000 to 85,000 Roma people, while the activist of Roma associations claim that there are in between 80,000 to 120,000 Roma people.
15. The status of member of national minorities is unfavourable, and they are in the large number of cases the victims of ethnic discrimination. When speaking of members of national minorities, the position of Roma people is of course the most difficult. Their position is particularly difficult in regard to the employment, economic position and housing. Only 1.5 % of working age Roma people are employed as compared to about 50% that had worked before the war. The only Roma who was working in civil service, Redžo Seferović, has been fired. Only six Roma is employed in the area of Zenica–Doboj Canton, in the Federation of BiH. In Visoko, one Roma works, while in Sarajevo and Tuzla Canton there are two policemen of Roma nationality each. In the Chemical Complex in Tuzla, there are two engineers of Roma nationality. There are municipalities in which not a single Roma is working.
16. A significant number of Roma people has not exercised the right to return to their homes in which they had lived before the war. However, the living conditions of Roma people are extremely poor and do not meet the minimum standards. Usu-

sanitarija, tekuće vode i struje. Procjenjuje se da oko 10000 romskih porodica nema odgovarajući smještaj.

17. Velika većina pripadnika nacionalnih manjina nema pravo na besplatnu zdravstvenu zaštitu, jer to pravo pripada zaposlenim osobama, članovima njihovih porodica i penzionerima.
 18. Kada je riječ o obrazovanju, samo 15% romske djece završava obavezno osmogodišnje obrazovanje, s tim što djevojčice u prosjeku prekidaju školovanje u petom razredu osnovne škole. Nepismenost je jako izražena kod Roma.
 19. Jezici manjina se ne koriste u komunikaciji sa vlastima, uključujući sudove. Ne postoje primjeri učenja manjinskih jezika u školama. Ne postoje printani mediji na romskom jeziku, a samo dvije radio stanice povremeno emituju program na ovom jeziku.
 20. Pozitivnim se može smatrati osnivanje Vijeća Roma kao konsultativnog tijela.
 21. Prema podacima dobijenim od jevrejskih opština, u BiH živi oko 1 000 Jevreja. Evropska komisija protiv rasizma i netolerancije (ECRI) izražava zabrinutost zbog činjenice da se u knjižarama u BiH mogu kupiti antisemitske knjige, uključujući Mein Kampf i Cionske protokole što se tumači kao prijatna jevrejskoj zajednici. U islamskom omladinskom časopisu SAFF objavljen je antisemitski tekst u kome se uvrijedljivo govori o jevrejskim žrtvama holokausta i stradanju šest miliona Jevreja u koncentracionim logorima tokom Drugog svjetskog rata, autora Fatmira Alispahića.
 22. Ljudska prava u Bosni i Hercegovini su u uskoj korelaciji sa nacionalnim pripadništvom, te se ne može govoriti o
17. The vast proportion of national minorities is not entitled to free health care, since that right belongs to employed persons, members of their families and retired people.
 18. Regarding education, only 15% of Roma children complete compulsory 8-year primary education, while the girls stop their education in the fifth grade of primary school. Illiteracy is very common with Roma people.
 19. The minority languages are not used in any communication with authorities, including the courts. There are no examples of learning minority languages in schools. There are no printed media in Roma language, and only two radio stations occasionally broadcast the programs in this language.
 20. The establishment of the Roma Council as a consultative body can be taken as positive example.
 21. Based on the data obtained from the Jewish organizations, there are about 1.000 Jews in Bosnia and Herzegovina. The European Commission Against Racism and Intolerance (ECRI) is concerned about the fact that anti-Semitic books, including Mein Kampf and Zion Protocols can be bought in the book-shops in BiH, interpreting it as a threat to the Jewish community. The Islamic Youth Magazine „SAFF“ published anti-Semitic text speaking of Jewish victims of Holocaust and killing of six million of Jews in the concentration camps during the Second World War in an abusive language, the author of which is Fatmir Alispahic.
 22. The human rights in Bosnia and Herzegovina are in a close co-relation with nationalities, and in that sense the rights of

zaštićenosti prava pripadnika nacionalnih manjina.

23. Bosna i Hercegovina je potpisala Deklaraciju o pristupanju “Dekadi Romskog uključanja 2005. - 2015. godina” tek 4. septembra 2008. godine. Potpisivanjem ove deklaracije, BiH je iskazala političku volju da značajno smanji diskriminaciju prema Romima i utječe na poboljšanje njihovog socioekonomskog statusa. U tom kontekstu, sačinjeni su i Akcioni planovi za rješavanje problema Roma u oblastima zapošljavanja, stambenog zbrinjavanja, zdravstvene zaštite i obrazovanja, ali se još ne primjenjuju u praksi.

3.3. Zaštitnici ljudskih prava

24. Bosna i Hercegovina bilježi eskalaciju napada na zaštitnike ljudskih prava tako da se njihov položaj može ocjeniti kao zabrinjavajući. Ova ocjena se temelji na nizu slučajeva nasilja i prijetnji smrću, pokušajima zastrašivanja i ućutkivanja i drugim nasrtajima kojima su izloženi pojedinci i grupe koji se zalažu za zaštitu ljudskih prava i njihovo unapređenje. Na meti napada su se našli zaštitnici prava pripadnika seksualnih manjina kao i aktivistkinje i aktivisti koji se angažuju protiv trgovine ljudima. Žrtve napada su i nevladine organizacije i njihovi aktivisti koji se bave istraživanjem korupcije i kriminala, kao i novinari koji se bave istraživačkim žurnalizmom koji se dotiče nezakonitosti svake vrste. Napadi na novinare i pokušaj da se ućutka istraživačko novinarstvo ozbiljno prijeti slobodi izražavanja dovodeći u pitanje dostignuti nivo razvijenosti demokratije. Treba takođe istaći da su nerijetko na meti i članovi porodica zaštitnika ljudskih prava što ukazuje na to da se želi stvoriti atmosfera straha i onemogućiti svako kritičko razmišljanje i djelovanje.

the members of national minorities are not being protected.

23. Bosnia and Herzegovina has signed the Declaration on Accession to “Decade of Roma Inclusion 2005 - 2015” only on 4 September 2008. By signing this Declaration, BiH has expressed its political will to significantly reduce discrimination against Roma people and to improve their socio-economical status. In such a context, action plans were made to resolve the problems of Roma in the areas of employment, accommodation, health care and education, however they are still not being fully implemented.

3.3. Human Rights Defenders

24. In Bosnia and Herzegovina there is an escalation of assaults on human rights defenders and their situation can be assessed as alarming. This assessment is based on a series of cases of violence and death threats, intimidation and silencing attempts and other attacks against individuals and groups who are trying to protect rights of individuals and contribute to the improvement of human rights in the country. The target of assaults were campaigners for the rights of members of sexual minorities as well as the activists engaged against human trafficking. The victims of assaults are also the non-governmental organizations and their activists who deal with investigation of corruption and crime, as well as journalist who are engaged in research journalism, dealing with unlawfulness of any kind. Assaults against journalists and attempts to silence journalists seriously threatens freedom of expression, bringing into question the achieved level of development of democracy. One should stress that family members of the human rights activists are often targeted, which indicates that there is a intention to create a sense of fear and to prevent any thought or act of criticism.

25. Prethodnih godina, zabilježeni su i pokušaji ubistva nekih od aktivista. Znakovito je to da ni jedan od tih slučajeva nije rasvijetljen i niko od počinitelaca nasilja nije procesuiran.
26. Udari na zaštitnike ljudskih prava najčešće dolaze od političara, ali sve češće i od visoko pozicioniranih vjerskih službenika.
27. Vlast gotovo da ništa ne čine na zaštiti boraca za ljudska prava. Izostaje reagovanje nadležnih sudova i policije na sankcionisanju napada na zaštitnike ljudskih prava, kao što se ništa ne čini kako bi se obezbjedilo sigurno okruženje za aktivizam na zaštiti i promociji ljudskih prava i sloboda.
28. Bilježimo i grube napade na sindikalne aktiviste kao i slučajeve otpuštanja s posla nekih od njih.
29. Deklaracija Generalne skupštine Ujedinjenih nacija o pravima i obavezama pojedinaca, grupa i društvenih organa u odnosu na unapređenje i zaštitu univerzalno priznatih ljudskih prava i sloboda nema odgovarajući tretman od strane nosilaca vlasti što takođe doprinosi neadekvatnom tretmanu zaštitnika ljudskih prava.
25. In the previous years, attempted murders of some activists have been recorded. It is indicative that none of the cases were resolved and none of perpetrators of violence have been investigated.
26. Attacks against human rights defenders most frequently come from politicians, and lately more frequently from high-ranking religious officials.
27. The authorities do almost nothing to protect the human rights defender. The courts and police fail to respond and sanction assaults against human rights defenders. Moreover, nothing has been done to provide safe environment for activists dealing with protection and promotion of human rights.
28. Severe attacks against trade union activists have been recorded, as well as the cases of dismissal from job of some of them.
29. The Declaration of the General Assembly of the United Nations on the Rights and Obligations of the Individuals, Groups and Social Bodies related to promotion and protection of universally recognized human rights and freedoms is not adequately treated by the authorities, which also contributes to inadequate treatment of human rights activists.

3.4. Tortura, nehumano i ponižavajuće ponašanje

30. Najčešće pojave torture odnosno „pretjerane upotrebe sile“, se vezuju za kazneno popravne ustanove. U nizu slučajeva, zatvorenici se žale na loše postupanje zatvorskog osoblja. Prvi problem predstavlja nepostojanje jedinstvene definicije torture u važećim entitetskim zakonima što ukazuje na potrebu njihove harmonizacije. Evidentna je potreba za odgovarajućom edukacijom zaposlenih u kazneno popravnim ustanovama i njihovo upoznavanje sa propisima koji zabranjuju torturu. Često su i osobe

3.4. Torture, inhumane and degrading treatment

30. The most frequent incidents of torture, i.e. “use of excessive force”, are linked with penitentiaries. In number of cases, prisoners have complained of bad treatment by prison guards. The first problem is the lack of a single definition of torture in the current entity legislation, which calls for synchronization. The need for adequate training of employees of penitentiaries is evident, as well as their introduction to the regulations banning torture. Very often, persons in custody are not sufficiently informed about their rights and the rights

lišene slobode nedovoljno informisane o svojim pravima, kao i o pravu na žalbu. Nije obezbjeđeno nezavisno djelovanje unutrašnje kontrole, nezavisno djelovanje ljekara i inspekcija tako da ovi slučajevi rijetko bivaju rasvijetljeni do kraja. Ovdje se takođe osjeća odsustvo redovnog monitoringa stanja u karceralnim ustanovama od strane institucija za ljudska prava i nevladinih organizacija, što bi moglo poboljšati stanje. Na kraju, stanje u karceralnim ustanovama i položaj lica lišenih slobode ilustruje i činjenica da su se dvije presude Suda za ljudska prava u Strazburu odnosila na kršenja prava tih lica, a kažnjena je Bosna i Hercegovina.

31. Poseban problem predstavljaju osuđena lica kojima je određeno obavezno psihijatrijsko liječenje. Iako i međunarodni propisi i domaći zakoni predviđaju da će ta lica biti smještena u posebnu zdravstvenu ustanovu koja je osnovana samo za tu svrhu, ova lica i dalje borave u neodgovarajućim institucijama tipa KPZ Zenica ili u Psihijatrijskoj bolnici u Sokocu, koje ne odgovaraju postojećim međunarodnim kriterijima i standardima.
32. Stanje u karceralnim ustanovama ilustruje i činjenica da je Sud za ljudska prava u Strazburu donio nekoliko presuda koje su se odnosile na kršenja prava zatvorenika, uključujući i osuđena lica kojima je potrebno psihijatrijsko liječenje, pri čemu je kažnjena država BiH.

3.5. Seksualne manjine

33. Sve do 1998., homoseksualnost je bila tretirana kao krivično djelo. Promjenama zakona, homoseksualnost je depenalizirana. Zakonom o jednakopravnosti polova iz 2003. godine, zabranjena je diskriminacija na osnovu pola, roda i seksualne orijentacije. No, ponovo su aktuelizirana

to complain. Independent internal control, or the independent work of doctors and inspections, have not been secured, which is the reason why the cases of torture are rarely fully investigated and disclosed. The lack of regular monitoring of the conditions in penitentiaries by human rights institutions and non-governmental institutions is evident, although it could lead to improvement of the overall situation. Finally, the state of penitentiaries and the status of persons in custody are illustrated by the fact that two verdicts of the Court of Human Rights in Strasbourg were related to the violation of the rights of those persons, and Bosnia and Herzegovina was penalized.

31. A special problem is linked with convicted persons in need of mandatory psychiatric treatment. Although the international regulation and local legislation stipulate accommodation of these persons in a specialized medical institution set up only for this purpose, these persons are still residing in inappropriate institutions such as the penitentiary in Zenica, or in the Psychiatric hospital in Sokolac, which do not meet the criteria and existing international standards.
32. The situation in the penitentiaries is also illustrated by the fact that the Court of Human Rights in Strasbourg passed several verdicts related to the violation of the prisoners' rights, including the convicted persons in need of mandatory psychiatric, and Bosnia and Herzegovina was penalized.

3.5. Sexual minorities

33. Homosexuality was treated as criminal offence until 1998. Homosexuality is decriminalized through modifications of the legislation. The Law on Gender Equality from 2003 prohibits discrimination on the grounds of sex, gender and sexual orientation. However, there are again efforts un-

nastojanja da se ova zakonska odredba ukine. Porodični zakoni u Republici Srpskoj i u Federaciji BiH definišu brak kao zajednicu muškarca i žene unatoč odredbama UN konvencije o zabrani svakog oblika diskriminacije i unatoč važećeg Zakona o jednakopravnosti polova. I tek usvojeni Zakon o zabrani diskriminacije se poziva na postojeće porodične zakone kada je u pitanju definicija braka. Ne postoje zakoni koji bi se odnosili na identitet i prava transrodnih i transseksualnih osoba. Konačno, nema zakona koji bi regulisao interseks djecu i odluke koje bi se ticale njihovog spola i seksualnog ili rodnog identiteta.

derway to abolish this legal provision. The Family Law in the Republic of Srpska and in the Federation of BiH define a marriage as “a legal community of a man and a woman”, in spite of the provisions of the UN Convention on Prohibition of all Forms of Discrimination and in spite of the current Law on Gender Equality. Recently adopted Law on Prohibition of Discrimination refers to the existing family laws when definition of a marriage is in question. There are no laws that would relate to the identity and rights of bisexual and transsexual persons. Finally, there are no laws that would regulate the issue of transgender persons and decisions that would regulate their sex, sexual or gender identity.

34. Ne postoji mogućnost sklapanja istospolnih brakova niti usvajana djece od strane istospolnih parova.
35. I pored očigledne diskriminacije kojoj su izloženi pripadnici seksualnih manjina, niti jedna sudska odluka nije donijeta, kojom bi se prepoznala i sankcionisala takva diskriminacija.
36. U toku priprema Sarajevo Queer Festivala septembra 2008. godine, ispoljen je jezik mržnje prema homoseksualcima. Homoseksualnost je žigosana kao bolest, zapadno smeće, devijacija. Ove izjave su dali političari uključujući parlamentarce, te neki vjerski lideri. Ovim je data podrška nasilnicima i huliganima koji su fizički napali učesnike Festivala povrijedivši desetak osoba.
37. Inače, aktivisti koji se zalažu za prava osoba koje pripadaju seksualnim manjinama kao i njihove organizacije, izloženi su stalnim pritiscima, prijetnjama i nastojanjima da se onemogući njihov rad. Održavaju se predrasude prema lezbejkama, homoseksualcima, biseksualcima, transrodnim osobama, a o ovim pojavama se ili ne govori u školama ili se to čini na iskrivljen način.
34. There is no possibility of concluding the same-sex marriages or adopting children by the same-sex couples.
35. In spite of evident discrimination that the members of the sexual minorities are exposed to, no court decision was passed identifying and sanctioning such discrimination.
36. During the preparations for the First Queer Festival in Sarajevo at the end of September 2008, a hate speech against homosexuals was delivered. Homosexuality was qualified as “a disease”, as “Western trash” and “deviation”. These statements were given by politicians, including parliamentarians, and some religious leaders. This supported violators and hooligans who physically assaulted participants of the Festival, which resulted in eight casualties.
37. In addition, activists who advocate for the rights of persons belonging to sexual minorities and their organizations are exposed to constant pressures, threats, aimed at disabling them to perform their work. Prejudices against lesbian, homosexuals, bisexuals and transsexuals are sustained by schools which do not speak about these occurrences or speak about them in a distorted way.

3.6. Nasilje zasnovano na polu i rodu

38. Uprkos postojanju zakona utemeljenih na međunarodnim standardima i uperenim protiv nasilja baziranog na polu i rodu, ono predstavlja učestalu pojavu, a naročito nasilje u porodici. Žrtve nasilja su uglavnom žene, djevojke i djevojčice. Sve češće se izvještava o pojavama incesta, a žrtve ove pojave, kao i seksualnog nasilja općenito i uvlačenja u lanac prostitucije, su maloljetnice. Iako nema zvaničnih statistika, nevladine organizacije procjenjuju da svega 5 % žrtava prijavljuje nasilje policiji.
39. Kazne za nasilje nad ženama i djevojčicama su uglavnom izuzetno blage. Uglavnom se izriču uslovne i novčane kazne, dok se kazne zatvora izriču u rijetkim slučajevima, pri čemu se po pravilu ne izriču maksimalno zapriječene kazne.
40. Uprkos odredbama zakona o sprečavanju nasilja u porodici, žrtve bivaju prisiljene da žive pod istim krovom sa nasilnikom. Prema jednom vjerodostojnom istraživanju, niti u jednom slučaju nasilnik nije udaljen iz stana. Zaštitom žrtava nasilja se uglavnom bave nevladine organizacije koje žrtve nasilja sklanjaju u sigurne kuće. Vlasti izdvajaju minimalna sredstva za ove namjene.

3.7. Osobe sa invaliditetom

41. Još uvijek nije ratifikovana Konvencija o pravima osoba sa onesposobljenjem. U ovoj oblasti, temeljni problem je taj da se država odnosi prema osobama sa onesposobljenjem ne vodeći računa o njihovoj objektivnoj situaciji i potrebama, već u funkciji grupe kojoj pripadaju i porijeklu onesposobljenja. Osobe sa invaliditetom su podijeljene u četiri grupe, po mjestu i načinu nastanka invaliditeta: ratni vojni

3.6. Sex and Gender Based Violence

38. Despite the existence of legislation based on international standards, directed against the sex and gender based violence it frequently appears, in particular in domestic violence. The victims of violence are mainly women, adolescent girls and girls. It is more often reported on the cases of incest the victims of which, as well as sexual violence generally and involvement into the chain of prostitution, are underage girls. Although there is no official statistics, non-governmental organizations estimate that only 5% of victims report the violence to the police.
39. Sentences for violence against women and girls are usually extremely lenient. Suspended and financial sentences are mainly passed. Imprisonment sentences are rarely pronounced, while maximum sentences, as a rule, are not pronounced.
40. In spite of the Law on Prevention against Domestic Violence, the victims are being forced to live under the same roof with a violent person. According to one reliable research, a violent person has not been moved away from the apartment in any of the cases. Protection of victims of violence is being mainly addressed by non-governmental organizations which resettle the victims of violence into safe houses. The authorities allocate minimum funds for this purpose.

3.7. Persons with Disabilities

41. The Convention on the Rights of Persons with Disabilities has not yet been ratified. In this field, a basic problem is that the state, when persons with disabilities are concerned, does not take into account their objective situation and needs, but considers them in a function of a group to which they belong to, and in origin of disabilities. Persons with disabilities are divided into four groups: by place and way

invalidi, civilne žrtve rata, invalidi rada i neratni invalidi. U najpovoljnijem položaju su ratni vojni invalidi koji u odnosu na neratne imaju šest i više puta veće naknade. U najnepovoljnijoj poziciji su neratne osobe sa invaliditetom među kojima, prema podacima Svjetske banke, njih gotovo 43 % nema nikakvu materijanu pomoć.

42. Ne postoje dovoljne i adekvatne mjere kojima bi se invalidne osobe uključile u radni proces ili ih osposobljavale za poslove koje mogu obavljati. Poslodavci se nedovoljno stimulišu da zapošljavaju ova lica.
43. Iako se u obrazovanju zakonom predviđa inkluzija djece sa onesposobljenjem, ona u praksi ne postoji, jer nisu ispunjene materijane i druge pretpostavke za tako nešto.
44. Osobama sa onesposobljenjem je znatno limitirano kretanje i pristup institucijama i ustanovama koje bi im trebale biti pri ruci kao što su zdravstvene, obrazovne, administrativne i druge ustanove, a nekim kategorijama je onemogućen pristup sredstvima javnog saobraćaja. I pored postojanja propisa u ovoj oblasti, njihovo provođenje u suštini ovisi od volje lokalnih vlasti.
45. Bilježimo odsustvo dijaloga predstavnika vlasti i organizacija osoba sa onesposobljenjem, kao i nedostatak valjanih statistika koje bi mogle da budu od koristi pri mjenjanju sadašnjeg stanja.

3.8. Pravo na adekvatno obrazovanje

46. Obrazovanje je rascjepkano i podijeljeno na tri pristrasna nacionalno obojena nastavna plana i programa. Kroz njih se iskazuju tendencije razdvajanja i asimilacije,

of appearance of disabilities: disabled war veterans, civil war victims, disabled workers and civil non-war persons with disabilities. The disabled war veterans are in the most favourable position who, as compared with disabled non-war persons, have even six or more times higher disability allowances. Disabled civil non-war persons are in the worst position among whom, in accordance with the data of the World Bank, almost 43% does not have any material support.

42. There are no sufficient or adequate measures to include persons with disabilities into employment or to train them to carry out jobs they can do. The employers are not sufficiently stimulated to get these persons employed.
43. Although the Law on Education provides for the inclusion of children with disabilities, inclusion does not exist in practice, since material and other requirements for it are not met.
44. Movement of Persons with disabilities and access to institutions, which should be easily approachable to them, such as health care, educational, administrative and other institutions, is considerably limited. Access to public transport means is also made impossible for some categories. Despite the existence of regulations in this field, their implementation in essence depends on the good will of local authorities.
45. We have noted a lack of dialogue between the representatives of governmental bodies and organizations of persons with disabilities, as well as a lack of reliable statistics which could be helpful for changing the current situation.

3.8. Right to Adequate Education

46. The education is divided into three partial nationally coloured curricula. Through them, tendencies of separation and assimilation are expressed, and the consequence is the cre-

a posljedica je stvaranje tri odvojene grupe građana, koje se slabo ili nikako međusobno poznaju, što rezultira nepovjerenjem i strahom od drugog.

47. Posebno je dramatično stanje u više od 30 podijeljenih škola u kojima je na djelu klasična segregacija. Djeca su podijeljena prema etničkoj pripadnosti, a uskraćena im je mogućnost međusobnog komuniciranja pa čak i susretanja.
48. Iako je osnovno obrazovanje definisano kao obavezno i besplatno, ono ne odgovara toj definiciji. Gotovo 4% djece prispjele za upis u školu se ne upisuje, bilo zbog udaljenosti škole, nedostupnosti škole djeci sa posebnim potrebama, krajnjeg siromaštva, neposjedovanja dokumenata – rodnog lista, prije svega, što naročito pogađa romsku djecu, ili zbog nacionalne obojenosti nastavnih programa i udžbenika, što od škole odbija djecu pripadnika manjinskih naroda. Ima slučajeve da se romska djeca, koja imaju problema sa jezikom, smiještaju specijalna odjeljenja za djecu sa mentalnom retardacijom. Primjetno je da posljednjih nekoliko godina roditelji ne upisuju žensku djecu u školu. Visok je procenat djece koja ne završavaju osnovnu školu i pored toga što je ona obavezna. Roditelji se ne sankcionišu kada spriječavaju pohađanje osnovne škole svojoj djeci.
49. Osnovno obrazovanje nameće određene troškove porodicama što stvara posebne poteškoće siromašnim. Nije sistemski riješeno kako djeci obezbjediti besplatne udžbenike, niti je riješeno pitanje troškova prevoza do škole za one koji ne mogu sami pokriti te troškove.

3.9. Dječija prava

50. Djeca spadaju u kategoriju izrazito ranjivih grupacija. Ugroženo je i pravo na život, što ilustruje zvanični podatak da osam promila djece ne doživi petu godinu.

ation of three separated groups of citizens, who poorly know each other or do not know each other at all, having as a consequence lack of confidence and fear from others.

47. There is particularly dramatic situation in more than 30 divided schools with classical segregation taking place. The children are divided on ethnical grounds, and they are deprived of opportunity to mutually communicate and even meet each other.
48. Although the primary schooling is defined as compulsory and free, the situation does not fit into the definition. Almost 4% of children at the school age are not enrolled either due to a big distance from school, inaccessibility of school to children with special needs, due to extreme poverty, non-possession of documents – birth certificate, first of all, which particularly affects Roma children, or due to nationally coloured curricula and text-books, which rejects the children members of minorities.. There are cases that Roma children, who have problems with language, are placed in special classes for children mentally disabled. Notably, the last several years parents do not enroll female children in school. There is a high percentage of children not completing primary school in spite the fact that this is compulsory. Parents are not being sanctioned when preventing children from attending primary schools.
49. Primary education creates additional costs for the families, which makes special difficulties to the families in need. The issue of free provision of text-books and transportation to school for those who can not cover the costs has not been resolved in a systemic way.

3.9. Children's Rights

50. Children belong to the category of extremely vulnerable persons. The right to life is also endangered which is illustrated by the official data that eight promiles of

Svako četvrto dijete je žrtva nekog oblika nasilja, a djeca su najčešća žrtva mina, čiji broj danas prelazi jedan milion.

51. Svako pete dijete živi u siromašnoj porodici što između ostalog, zbog neuhranjenosti, povećava rizike od bolesti.
52. Jedan broj djece, posebno romske, nisu upisani u matične knjige rođenih, ne mogu koristiti zdravstveno osiguranje, socijalnu pomoć, niti se mogu upisati u školu. Djeca smještena u domovima ne uživaju podjednaku zaštitu države, a neki domovi su izvan sistema socijalne zaštite, tako da država uopšte nema uvid u stanje u tim ustanovama.
53. Procjene ukazuju na to da gotovo 25% djece nema besplatnu zdravstvenu zaštitu i pored toga što im to pravo zakonski pripada.
54. Kao posljedica siromaštva, ali i savremenog robovlasništva, sve je više djece na ulicama koja se uglavnom bave prosijačenjem.
55. Vidljiva je zloupotreba djeca u političke svrhe, na mitinzima političkih partija ili prilikom organizovanja uličnih manifestacija. Djeca se dovode u prve redove, a te slike se zlurabe u uske političke namjere.

3.10. Socijalna prava

56. Bosna i Hercegovina nije u svom Ustavu definisana kao socijalna država. Sistem zaštite je različit u dva entiteta sa zakonima koji nisu harmonizovani niti usklađeni sa međunarodnim normama. Postojeći sistem socijalne zaštite, koje je neefikasan i diskriminatorski, ne pruža sigurnost najugroženijim građanima što stvara tenzije i nestabilnost.
57. Iako sredstva koja se izdvajaju za socijalnu zaštitu nisu mala, ona se ne raspoređuju

children do not reach fifth year of life. Every fourth child is a victim of some forms of violence, and children are, most frequently, casualties of mines the number of which nowadays exceeds one million.

51. Every fifth child lives in a poor family which, among other things, cause undernourishment, which negatively affects the health, and has a higher risk of diseases.
52. A number of children, particularly Roma children, are not registered into the birth registry books, can not use health insurance, social aid, and can not enroll to school. Children accommodated in care homes do not enjoy equal protection by the state, and some care homes are outside of the social care system, and the state does not have insight into the situation in these institutions.
53. Assessments show that almost 25% of children do not have free health care notwithstanding the fact that they are entitled to that right under the law.
54. As a consequence of poverty, and of modern slavery, there is an increasing number of children on the street, begging.
55. There is an evident abuse of children for the political purposes, at the rallies of political parties or during street manifestations. Children are being brought into the first rows, and those pictures are being misused for political purposes.

3.10. Social Rights

56. In its Constitution, Bosnia and Herzegovina is not defined as a social state. System of protection differs in the entities, with the laws that are not harmonized with international norms. The existing system of social protection, which is inefficient and discriminatory, does not offer security to most vulnerable citizens, which creates tensions and instability.
57. Although the funds earmarked for social care are not small, they are not distributed

prema objektivnim potrebama i objektiviziranim pravima, već na političkim sklonostima i nastojanjima političkih elita da kupe političke saveznike. Tako, oko 300000 ljudi živi u stanju socijalne potrebe, a nemaju nikakvu socijalnu podršku. Uzrok ovakvom stanju leži i u činjenici da ostvarivanje zagarantovanih prava zavisi od ekonomske moći i spremnosti nekih kantona da obezbjede budžetska sredstva za primjenu zakona u praksi.

58. Naročito su ugrožena djeca, majke koje koriste porodiljsko bolovanje, osobe sa invaliditetom koji nije proistekao iz rata, zatim radnici kojima poslodavci ne uplaćuju doprinose, Romi, te lica koja imaju preko 65 godina starosti.
59. Među uzroke lošeg stanja spada i nedostatak stručnosti u institucijama koje implementiraju socijalnu politiku, kao i odsustvo sankcija za kantone koji ne izvršavaju minimum obaveza određen zakonima.

3.11. Sloboda izražavanja

60. Depenalizacija uvrede i klevete i usvajanje Zakona o slobodnom pristupu informacijama stvorili su povoljniji zakonski okvir za poštovanje slobode izražavanja. No, ona je ipak izložena stalnim pritiscima i prijetnjama.
61. Jedan od osnovnih problema leži u činjenici da nije zaokružena transformacija Javnog RTV sistema. Nisu stvoreni preduslovi kako bi javni servis zaista bio zaštićen od političkih pritisaka i uticaja na uređivačku politiku. Uz to, politički pritisci na Regulatornu agenciju za komunikacije, koja bi kao nezavisno tijelo trebala, među ostalim, braniti etičke i druge profesionalne standarde, rezultirali su zavisnošću jednog broja javnih emitera od centara političke moći.

in line with objective needs and rules, but in line with political affiliation and in line with efforts of political elite to buy political allies. Thus, around 300,000 people live in a situation of a social poverty, at the same time having no social support. The cause for such a situation lies in a fact that exercise of guaranteed rights depend on economical strength and readiness of some of the cantons to secure budget funds for implementation of the law in practice.

58. Particularly endangered are children, mothers on maternity leave, non-war disabled persons, workers without employers contributions, Roma people, and elderly people.
59. Among the causes of bad situation there is a lack of competences within institutions that implement social policy, as well as the absence of sanctions against those cantons that do not meet minimum obligations prescribed by law.

3.11. Freedom of Expression

60. De-penalization of the libel and the slander, as well as adoption of Law on free access to information, have generated more favourable legal framework for the respect of freedom of expression. However, this freedom remains exposed to constant pressure and threats.
61. One of the fundamental problems lies in the fact that the transformation of public radio and television broadcasting system has not been completed. The prerequisite, those that could realistically protect the public service from political pressures and influences have not been founded. In addition, political pressures upon the Regulatory agency for communications – that should, among other duties, defend ethical and other professional standards as an independent body-have resulted in the dependence of a number of public broadcasters on the centre of the political power.

62. Privatni mediji u velikom broju slučajeva izražavaju uske poslovne ili političke interese svojih vlasnika, određenih lobija, a nerijetko su u funkciji vjerskih vođa. Ti uži interesi nerijetko stoje ispred obaveze da se ispoštuju standardi profesionalnog žurnalizma.
63. Bilježi se porast fizičkog nasilja nad novinarima, a novinari i pojedine redakcije izloženi su stalnim pritiscima, bilo kroz verbalne prijetnje i pokušaje zastrašivanja bilo kroz podnošenje tužbi od strane visoko pozicioniranih političara koji nisu u stanju da se pomire sa ulogom medija u demokratskom društvu. Ovi pritisci ozbiljno dovode u pitanje slobodu izražavanja i prijete gašenjem malobrojnih medija koji imaju kritički diskurs prema nekim društvenim pojavama.
64. Slobodu izražavanja ozbiljno dovodi u pitanje zatvorenost pojedinih izvora informisanja i pored postojanja Zakona o slobodnom pristupu informacijama. Paradoks je da su neke važne informacije nedostupne, čak i poslanicima, što utiče i na karakter odluka koje se donose, i što otvara mogućnost manipulisanja građanima i javnim mnijenjem.
65. U širem smislu, sloboda izražavanja ozbiljno je ugrožena kada je u pitanju iskazivanje sopstvenog identita. Ovo pravo je posebno ugroženo prilikom iskazivanja nacionalnog identita koji se ne poklapa sa podjelom na tri konstitutivna naroda i nacionalne manjine. Uskraćena je mogućnost iskazivanja identiteta kao što je „Bosanac“, „Hercegovac“ i slično. Isto vrijedi za poslni i rodni identitet. Uprkos ličnog izjašnjavanja, neki društveni autoriteti nameću svoje poimanje identita kao važeće, što je u direktnoj suprotnosti sa pravom na sopstveni identitet.
62. In the vast number of cases, private media demonstrates narrow-minded business or political interest of their owners, certain lobbies, and are, more often dependent of religious leaders' disposal. Standards of professional journalism are often sacrificed for the sake of these narrow interests.
63. An increase of physical violence against journalists has been noticed, and journalists and some editorial staff have been subjected to a constant pressure through verbal threats, attempt to instil fear and having charges threats against them by high ranking politicians that are enabled to reconcile themselves to the role of media in a democratic society. Those pressures cast a serious doubt over the freedom of expression and threaten to extinguish the few media organizations that take a critical discourse on some events in the society.
64. Freedom of expression is further questionable on the grounds of clannishness of certain information sources, irrespective of the Law on free access to information. Paradoxically, certain items of important information are inaccessible even for the member of the Parliament, which influences the character of decisions made and in turn enables manipulation of citizens and the public opinion.
65. Freedom of expression is, in the broad sense, seriously jeopardized when it comes to stating own identity. This right is particularly imperilled in cases of declaring an ethnic identity that does not comply with the division among the three constitutional ethnicities and ethnic minorities. The possibility of once declaring as a 'Bosnian', 'Herzegovinian', or similar is denied. The same goes for the identity as per sex and gender. Despite personal declaring, certain social authorities are imposing their understanding of identity as valid, which directly opposes the right to an own identity.

3.12. Sloboda udruživanja

66. Broj udruženja građana i fondacija, kako je zakonski određena denominacija oblika udruživanja, prelazi cifru od 8000 i moglo bi se kazati da nije mali. Organizacije civilnog društva su atomizirane, rascjepkane, znatno oslabljene, te bazirane na etničkim principima. Nevladine organizacije se tako ohrabruju da se registruju na entitetskom ili kantonalnom nivou, no ne i na nivou čitave države. Politika dekuražira i otvoreno ometa formiranje organizacija civilnog društva koje žele da se registruju na nivou cijele BiH. Procedure za registraciju su dugotrajne i komplikovane, i kroz njih mogu proći samo snažnije i kadrovski ekipirane nevladine organizacije. Na dalje, samo organizacije registrovane na nivou entiteta Republika Srpska, primjera radi, mogu aplicirati za finansijska sredstva iz budžeta tog entiteta, što predstavlja samo jedan od načina da se nevladine organizacije privole da se registruju na nivou entiteta.
67. Na posebne prepreke nailaze sindikati koji praktično ne mogu da se registruju na nivou cijele zemlje.
68. Kao nastojanje vlasti da oslabe i kompromituju nevladin sektor, sve češće se pribjegava osnivanju takozvanih „Vladinih nevladinih organizacija“ koje stvaraju nesporazume i pometnju među nevladinim organizacijama, ali i među građanima.

3.14. Korupcija i ljudska prava

69. Bosna i Hercegovina zauzima 92. do 95. mjesto na listi od 180 zemalja prema percepciji korupcije, a prema Transparency International. Sama ova činjenica pokazuje na to da se u Bosni i Hercegovini ne poštuju zakoni, što ukazuje i na to da se ne poštuju ni one zakonske odredbe koje se odnose na ljudska prava i slobode. Karakter i rasprostranjenost ko-

3.12. Freedom of Association

66. Number of citizens' associations and foundations, as some denominations legal forms of association, exceeds the figure of an 8000 and it can be said not to be small. However, civil society organizations are atomized, fragmented, considerably weakened and based on ethnical principles. The NGOs are encouraged to register at entity or cantonal level, but not at the level of the whole country. The politics of discouragement openly interferes with formation of civil society organizations that want to register at the level of the whole of BiH. The procedures of registration are lengthy and complicated, and only stronger NGOs and those well equipped personnel can pass them. Furthermore, only organizations registered in the Republic of Srpska entity level, for example, can apply for funding from the budget of the entity, which is only one way to non-governmental organizations permission to register at the entity level.
67. Special obstacles that trade unions face in practice are that they can not be registered at the level of the entire country.
68. As authorities attempt to weaken and discredit the NGO sector, are increasingly establishing "Governmental non-governmental organizations" that create misunderstanding and confusion among non-governmental organizations, and among citizens.

3.14. Corruption and Human Rights

69. Bosnia and Herzegovina is placed in 92nd-95th position on the list of 180 countries as per perception of corruption, according to Transparency International. This fact alone shows that in Bosnia and Herzegovina there is not respect for the law, which indicates that it does not even respect those legal provisions relating to human rights and civil liberties. Character and extent of

rupcije, involviranost nosilaca političke vlasti, uzrokovali su da se i pitanje korupcije nađe među ljudskopravaškim temama. Nekažnjivost visokorangiranih političara, činjenica da su u korupcionaške poslove uložena ogromna sredstva, čine korupciju važnim generatorom kršenja ljudskih prava. Samo u oblasti okoliša, korupcija podržana višemilionskim investicijama, direktno uskraćuje pravo građana da iskažu svoju volju i utiču na razvojne i investicione politike.

70. Pitanje korupcije najdirektnije je vezano za pravo na razvoj. Sredstva koja se slijevaju u džepove pojedinaca mogla bi biti, u zemlji kao što je BiH, iskorištena za razvojne investicije, za zapošljavanje i bolju socijalnu politiku.
71. Kritički odnos prema korupciji ozbiljno je doveo u pitanje slobodu izražavanja, i doveo u opasnost zaštitnike ljudskih prava.
72. Na temelju ovog Izvještaja, vlastima u Bosni i Hercegovini, nevladine organizacije upućuju slijedeće:

corruption, and involvement of the holders of political power, have caused the issue of corruption to enter the human-rights agenda. Immunity of high-ranking politicians, the fact that enormous resources invested in business made corruption an important generator of violations of human rights. Only in the area of environment, corruption, supported by multimillion investments, directly denied the right of citizens to express their will and influence the development and investment policy.

70. The issue of corruption is directly related to the right to development. Funds that flow into the pockets of individuals could be in a country like Bosnia, used for development investment, employment and better social policy.
71. Critical attitude towards corruption has seriously brought into question the freedom of expression, and brought into danger defenders of human rights.
72. Based on this report, the non-governmental organizations suggest the authorities in Bosnia and Herzegovina, the following:

IV

PREPORUKE

1. Što prije ratifikovati Konvenciju o pravima osoba sa invaliditetom ;
2. Provesti popis stanovništva i uspostaviti statističke podatke koji su, između ostalog, elementi ocjene stanja ljudskih prava;
3. Dati svu potrebnu zakonsku i materijalnu podršku Ombudsmenima BiH kao nacionalnoj instituciji za zaštitu ljudskih prava. Ovo podrazumijeva, između ostalog, stvaranje kadrovskih i finansijskih pretpostavki kako bi se Zakon o zabrani diskriminacije mogao početi primijenjivati. Snaženje institucije Ombudsmena, kao nezavisne, nepristrasne i kompetentne institucije od ogromnog je značaja za budućnost ljudskih prava u BiH;
4. S obzirom na ogroman raskorak između međunarodno preuzetih obaveza i posojećih zakona s jedne strane i prakse s druge strane, neophodno je učiniti temeljitu analizu primjene ratifikovanih međunarodnih konvencija te uspostaviti konkretne programe njihove primjene;
5. Sve teži položaj aktivista na polju borbe za ljudska prava i njihove zaštite, nužno nameće potrebu senzibiliziranja svih agencija za provođenje zakona, medija i javnog mnijenja kako bi se stvorilo okruženje u kome će biti moguće da građani i njihove organizacije nesmetano djeluju na polju ljudskih prava. Neophodno je uspostaviti zakonsku regulativu kojom bi se garantovala prava i lična sigurnost zaštitnika ljudskih prava

IV

RECOMMENDATIONS

1. Ratify, as soon as possible, the Convention on the Rights of Persons with Disabilities.
2. Conduct a national census and establish statistical data that are, among other things, elements of assessment of human rights.
3. Provide all necessary legal and material support to BiH Ombudsman as a national institution for human rights. This implies, among other things, a creation of human and financial preconditions to start implementing the Law on prohibition of discrimination. Strengthening institution of Ombudsman, as an independent body, as impartial and competent institution will be of enormous importance to the future of human rights in BiH.
4. Given the immense discrepancy between the assumed international obligations and existing law on the one hand and on the other, its practice, it is necessary to do a thorough analysis of the implementation of ratified international conventions and establish specific programs for their application.
5. Increasingly difficult positions of defenders in the field of human rights and their protection, necessarily imposes the need for sensitization of law enforcement agencies, the media and public opinion in order to create an environment in which it will be possible for citizens and their organizations to operate freely in the field of human rights. It is necessary to establish a legal framework which would guarantee the rights and personal safety for defenders of human rights.

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**KUĆA LJUDSKIH
PRAVA SARAJEVO**



**HUMAN RIGHTS
HOUSE OF SARAJEVO**



Švicarska.



**HUMAN
RIGHTS
HOUSE
NETWORK**



**NORWEGIAN MINISTRY
OF FOREIGN AFFAIRS**