



**2016 ANNUAL REPORT**  
**ON THE RESULTS OF THE ACTIVITIES OF THE**  
**INSTITUTION OF THE HUMAN RIGHTS OMBUDSMAN OF**  
**BOSNIA AND HERZEGOVINA**

**Press:**  
TMP Društvo za zapošljavanje slijepih i slabovidih lica doo, Sarajevo  
**Circulation:**  
80

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## I INTRODUCTION

In order to follow up the human rights situation in Bosnia and Herzegovina, the Human Rights Ombudspersons of Bosnia and Herzegovina (hereinafter referred to as: Ombudspersons), pursuant to the provisions of Articles 34 and 35 of the Law on Human Rights Ombudsman of Bosnia and Herzegovina have the obligation to submit the results of their activities taken during the reporting period at the beginning of each year to the Presidency of Bosnia and Herzegovina, the House of Representatives and the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina.

The Annual Report on the Results of the Ombudsman's Activities in 2016 includes all relevant statistical indicators on the number and nature of the filed complaints in the previous year, results of their processing, and recommendations earmarked to redress detected human rights violations, or to prevent their re-occurrence. Data related to the preparation of special reports, legislative amendments initiatives and analyses of human rights situation in the various fields, along with data on co-operation with other institutions, NGOs and media are also presented in the Annual Report.

As a separate part of the Annual Report, Ombudspersons presented data on occurrences of discrimination, in accordance with provisions of the Law on the Prohibition of Discrimination in Bosnia and Herzegovina, along with information on activities undertaken under the Ombudsman Institution's mandate in the area of freedom of access to information.

Structure of this Annual Report is somewhat different this year, so it includes a Summary in which the most important facts related to the human rights situation in the various areas, on the actions made by Ombudspersons in the course of processing complaints lodged by citizens are presented. Thematic chapters of the Annual Report include detailed information by human rights groups, as well as general information on actions made by Ombudspersons in human rights prevention and promotion. Annexes containing the relevant statistical data are attached to the Annual Report.

For the purposes of this Annual Report and in sense of the Law on Human Rights Ombudsman of Bosnia and Herzegovina means three persons composing the Institution. During the reporting period this duty was discharged by: Ms Jasminka Džumhur, PhD, Ms Nives Jukić and Mr. Ljubinko Mitrović, PhD.

### Ombudspersons of Bosnia and Herzegovina

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Jasminka Džumhur, PhD

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Nives Jukić

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Ljubinko Mitrović, PhD





## II SUMMARY

The Institution of Human Rights Ombudsman of Bosnia and Herzegovina is established by the provisions of the Agreement on Human Rights, that is, Annex 6 of the General Framework Agreement for Peace in Bosnia and Herzegovina, the Institution of Human Rights Ombudsman of Bosnia and Herzegovina and it constitutes the fundamental guarantor for the realization of the rule of law and protection of human rights and fundamental freedoms in Bosnia and Herzegovina. The Institution has special jurisdiction determined by the Law on Prohibition of Discrimination, Freedom of Access to Information Act, and the Laws on Ministerial, Government and Other Appointments in Bosnia and Herzegovina, of the Federation of Bosnia and Herzegovina and of the Republika Srpska.

Variety of the powers of the Institution, its limited resources, human rights situation in Bosnia and Herzegovina, and obligations arising from Paris Principles governing the functioning of national mechanisms for the protection of human rights and fundamental freedoms promulgated by the United Nations General Assembly Resolution 48/134, are the factors that created the need for the adoption of a document defining the comprehensive strategic directions of the Ombudsman's actions. To this end, in February 2016 Ombudspersons adopted the Operational Strategy of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina for the period of 2016 (hereinafter referred to as: Strategy). This document was a result of consultations with other institutions, NGOs, the media, and international organizations. The Operational Strategy defines the objectives and priorities to be achieved in order to improve the situation of human rights and fundamental freedoms in Bosnia and Herzegovina through the action of the Ombudsman, which include: strengthening the capacity of the Ombudsman Institution, effective protection and promotion of human rights, cooperation with the governmental institutions and authorities at all levels in Bosnia and Herzegovina, ensuring the international and institutional cooperation, cooperation with non-governmental organizations and citizens, cooperation with the media, and cooperation with academic community. Achievement of the objectives defined in the Strategy can be monitored through follow-up of the Ombudsman activities' results, which is important since Ombudspersons have the obligation to report on the results of their activities taken during the reporting period to the Presidency of Bosnia and Herzegovina, the House of Representatives and the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina. The title of this Report emphasizes the activities of Ombudspersons and their results, which is logical given the mandate of the Ombudsman to protect and promote human rights in Bosnia and Herzegovina.

In the framework of their mandate Ombudspersons act reactively: by processing complaints lodged by the citizens or initiated *ex officio*, on their own motion, whenever they identify human rights violations, or pro-actively: through the lobbying for the implementation of the international human rights standards, primarily in respect of human rights instruments ratified by Bosnia and Herzegovina. Reactive function of the Ombudsman demands it to be so structured to enable its visibility, accessibility to citizens and efficiency. In respect of the efficiency, it is important to distinct between the efficiency in complaint processing and the efficiency in enjoyment of the rights by the citizens in cases when the violation of their rights is established by the Ombudsman and appropriate recommendations to rectify it given to the responsible

authority. In the first case the efficiency requires the Ombudsman to be as opened to citizens as possible, to process their complaints in the shortest possible time, to enable them to file their complaints in writing, electronically or by direct contact with the Ombudsman's staff including during their outreach visits. The Law on Human Rights Ombudsman of Bosnia and Herzegovina precisely designates Banja Luka as the Seat of the Ombudsman, with regional offices in Sarajevo, Mostar and Brčko. Recognizing the importance of their outreach presence, Ombudspersons opened their Field Office in Livno. Owing to support of the local community the Ombudsman established the office days in Tuzla, and with the support of the OSCE Mission to BiH (hereinafter referred to as: the OSCE) it maintained its presence in the following communities: Glamoč, Drvar and Grahovo. During 2016, with support of the Mayor of Bijeljina and the OSCE the office days were established and maintained in Bijeljina as well. The intention of Ombudspersons is to extend this practice to the cities of Bihać and Doboј, but this activity is delayed due to limitations in financial resources.

Reactive actions of Ombudspersons take place primarily upon the lodged complaints of the citizens or on their own motion. During 2016 registered were 11,981 contacts with citizens, either in direct interviews, or telephone calls and electronic mail. In the last couple of years there is a certain constant in number of filed complaints, for instance in 2016 received was 2,977 complaints, and in 2015 the number was 2,966. The most of complaints relate to civil and political rights (1,718 or 57.7%), economic, social and cultural rights (738), the rights of prisoners and detainees (168), discrimination (152), the rights of the child (139), violation of the rights of persons with disabilities (53) and rights of ethnic and religious minorities (9). Complaints indicating the violation of civil and political rights relate to the right to life, freedom of religion, freedom of speech, freedom of association, electoral rights and the right to a fair trial, efficiency of administration, prosecution, police etc. Analysis of the complaints received by the Ombudsman shows that citizens are mostly complaining of the excessive length of proceedings before the court (144), inefficiency in enforcement of court decisions (58), complaints of work of individual judges for violation of procedural law provisions (27). A total of 340 complaints relate to other rights violations in respect of the court procedures (violation of the principle of impartiality failure to issue court decisions in a way and within deadlines as prescribed by the law, or to non-consistency of the case-law). Evident is an increase of complaints in which the prosecution is designated as a responsible party (57), and in five such cases the Ombudsman issued appropriate recommendations. In their complaints citizens complain of failure of prosecution to initiate investigation on reported criminal offences, excessive length of the proceedings before rendering the prosecutorial decision, failure to inform the suspect or the injured party about prosecutorial decision.

During 2016 Ombudspersons registered 358 citizens' complaints against the work of administration and issued recommendations in 31 cases. Most of the cases involve complaints of citizens for violation of principles to be followed in the course of administrative proceedings and decision making as prescribed in the Law on Administrative Procedure of the Federation of Bosnia and Herzegovina and the Law on General Administrative Procedure of the Republika Srpska. It is mostly related to the violation of the following principles: the principle of legality, protection of the rights of the parties, hearing of the parties, efficiency of the proceedings, along with the principle of truthfulness and assistance of the lay party. Complaints filed within the Ombudsman relate to the enjoyment of the rights in administrative proceedings mostly violated

for the following reasons: lengthy decision-making procedures in the first instance, as well as the second instance, failing of the second instance body to decide on merits as provided by law, instead of multiple return of cases to the first-instance (playing ping-pong with applicants) and silence of administration.

Inspection oversight as a form of the overall oversight is extremely important in law implementation procedures as it constitutes a guarantee ensuring the rights of physical and legal bodies. Through the inspection oversight the authorities monitor law implementation, provide redress in cases of established law violations and sanctioning of the responsible parties. In respect of the inspections citizens complain of failure of the inspections to act upon reports of citizens, failure to act timely, failure of the inspections to take legally provided measures, failure to act properly for understaffing etc. Ombudspersons of Bosnia and Herzegovina indicate that failure on the part of the authorities to ensure law implementation renders the regulations non-efficient.

During 2016 the Ombudsman registered 738 complaints related to the violation of economic, social and cultural rights in which field there was an increase of 5.73% compared to 2015. Most of complaints relate to labor rights (328 complaints), which is an increase of 13.89% compared to 2015. Reasons compelling citizens to complain are public competition procedures, particularly in education, unpaid work outside working hours, mobbing, non-payment of contributions for health, pension and unemployment insurance. Back in 2014 necessity that emerged for recruitment to all the positions in public administration funded from the budget to be done following public vacancy announcements was the reason for Ombudspersons to launch before the competent authorities an initiative to regulate this issue in detail. Issue of discrimination in employment area is also a frequent reason for complaints where lack of statistic indicators and non-existence of the register of employees, in particular in the institutions funded from the public budget makes the identification of discrimination cases on ethnic or gender basis more difficult.

Complaints pertaining to the right to pension were about the length of processing pension applications, second-instance proceedings, failure to make decisions on appeals within the prescribed deadlines, and irregularities in calculation of the pension amount in addition to difficulties encountered in recognition of work experience gained in other countries. Given that spouses and common-law spouses have equal rights pursuant to family legislation, Ombudspersons indicate to inequality of common-law spouses to exercise the right to a survivor's pension according to the provisions the Law on Pension and Disability Insurance of the Federation of Bosnia and Herzegovina and the Law on Pension and Disability Insurance of Republika Srpska for which they launched their initiative to amend the mentioned legislation.

During 2016 the Ombudsman registered 44 complaints for violation of the right to health care, and 86 complaints of violation of the social rights. Received complaints were related to the exercise of children with mental difficulties of the right to health care, copayment, list of medicines and quality of health care in general. Ombudspersons particularly emphasize that all actions of the competent authorities taken in order to protect the integrity of persons, including the placement to the institutions, must be taken strictly in accordance with legally prescribed procedures, as indicated in judgments of the European Court of Human Rights in cases

Hadžimejlić, Busovača and others. Failure to observe procedures can put in question a legitimate aim pursued by these actions.

Complaints in the field of the children's rights related to the situation of children in conflict divorce cases, health care, social rights, peer violence, abuse of children via Internet, education, use of mother tongue and getting diplomas with mother tongue named according to the child's designation etc.

In respect to returnees, Ombudspersons state that the issue of the implementation of Annex VII that stipulates that all refugees and displaced persons have the right to freely return to their homes of origin, the right to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any such property that cannot be restored to them, even today, 20 years after the end of war, is still actual. The provisions of Annex VII are closely related to the issue of the protection of private property in the way as envisaged by the European Convention on Human Rights and Fundamental Freedoms, and also enjoyment of reparative rights.

In 2016 the Ombudsman registered 150 cases of discrimination and a large portion of it was resolved already in the course of investigation, before the issuance of a recommendation, either through mediation, encouraging a friendly settlement or by undertaking mediation between the disputed parties, or in some cases the responsible public body corrected its actions after the first communication from the Ombudsman. In the reporting period, Ombudspersons issued 27 recommendations, most often in cases of mobbing, discrimination based on affiliation with a national minority, education and other grounds. Cases involving discrimination indicate to the existence of a series of factors leading to a systemic violation of rights, to mention only some, such as the names of the streets, impossibility of mother tongue use, issuance of documents in languages and scripts enshrined by the Constitution etc. Based on request of the Parliamentary Assembly of Bosnia and Herzegovina Joint Commission on Human Rights, Ombudspersons plan in 2017 to make a special report on official symbols used in Bosnia and Herzegovina which are leading to discrimination of citizens.

In a case when Ombudspersons establish a violation of a citizen's rights they issue a recommendation to the competent authority. The effectiveness of the exercise of rights of citizens depends on the readiness of the authorities to cooperate with the Ombudsman. Statistics show that there still exist cases of lack of co-operation of the competent authorities with the Ombudsman, even in the investigation stage, and in such cases Ombudspersons issue a recommendation that the authority establishes cooperation and if it fails to do so, Ombudspersons inform the higher authority on non-cooperation. This kind of behavior of a body is an indicator of its attitude towards human rights, the rule of law, but above all, towards the citizens. Another form of non-cooperation takes place when Ombudspersons establish the violation of rights and recommend the competent authority to take action in order to eliminate the violation of law and it fails to redress it. In 2016 Ombudspersons issued 267 recommendations in total. There is a number of bodies which fully complied with the Ombudsman's recommendations (84), some bodies complied partially (14), or established cooperation with the Ombudsman (48), while a part of the bodies did not establish any communication with the Ombudsman in relation to the issued recommendations (59) or

responded that the recommendations would not be complied with (62). A significant number of the recommendations was issued to the authority for failure of a body to co-operate with the Ombudsman.

Such behavior of the authorities indicates to the insufficient degree of democracy in the society, which are the recommendations issued and a challenge, not only for the Ombudsmen, but for society as a whole, and especially for governments that are most responsible for the actions of institutions, through dialogue, to find a solution for the efficient implementation of the Ombudsman's recommendations, including the establishment of accountability mechanisms for individuals in institutions that fail to act according to the recommendations of the Ombudsman. Exactly 2017 should be a year of dialogue Ombudsman and the government for finding modalities for more effective joint action on the elimination and prevention of human rights violations

Proactive action requires the establishment of a continuous, long-term co-operation with key partners, above all, legislative bodies, competent ministries, NGOs, media and academia. During 2016 Ombudspersons had a series of meetings with competent ministries, in particular with regard to the field of economic and social rights since their activities reflect to the lives of the citizens the most. In addition to that, Ombudspersons maintained regular visits to the institutions accommodating persons with intellectual difficulties, prisons, juvenile prisons, and social welfare centers. The Ombudsman also did monitoring in a number of court proceedings.

Ombudspersons devote a great deal of attention to their co-operation with non-governmental organizations, as this form of organization constitutes an expression of the active civic participation in the community, and for that reason NGOs are seen as an important source of information on human rights. Cooperation with NGOs is taking place in accordance with the Platform for Co-operation of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina with NGOs, as well as guidelines and criteria for cooperation with the Ombudsman. The cooperation is materialized through regular consultative meetings with NGOs, and participation of the Ombudsman's representatives in the activities implemented by NGOs. Cooperation with NGOs and international organizations dealing with transparency, freedom of access to information, the rights of persons with disabilities, the rights of women, children, and minorities is particularly close. In 2016 a number of activities directly resulting from the NGO initiatives was implemented, including the preparation of the Special Report on the accessibility of the premises of legislative bodies in Bosnia and Herzegovina to persons with disabilities, the Special report on the rights of LGBT persons in BiH, as well as initiatives related to the amendment of legislation governing the equalization of marriage and common law marriage partners as it comes to their enjoyment of the right to pension and initiatives aimed at securing the privileges related to operating a motor vehicle for children with disabilities etc.

Convinced that cooperation with academic community is a key for strategic strengthening of human resources which capacitates them to meet the challenges faced in the protection and promotion of human rights, during 2016 Ombudspersons signed the memoranda of cooperation with all public and private universities in Bosnia and Herzegovina. This document is the basis for the work on joint projects of interest, internship and research within the Institution of the Ombudsman, organization of joint thematic meetings and conferences, etc.

Media are globally seen to be a natural partner of the national institutions for human rights because the problems of citizens requiring the Ombudsman's attention and intervention are made public. At the same time, Ombudspersons use media for the promotion of human rights. In 2016 Ombudspersons responded to 140 media requests, which is by 12 more than in 2015. Media expressed the strongest interest in the activities falling within the mandate of the Ombudsman or the findings of the Ombudsman arising from handling complaints of the citizens, as well as measures taken in order to redress established human rights violations. Areas of law in which the journalists were interested the most are: rights of the child (27), civil and political rights (21) out of which the highest number related to the functioning of judiciary and freedom of access to information, economic and social rights of the citizens (17) etc. As for media, it was electronic media which have shown the strongest interest in statements of Ombudspersons and their assistants, primarily television (60), while number of the print media interested in the opinions of Ombudspersons and their assistants was twice as less (31), then portals (20), radio stations (18), and news agencies (11). A media outlet which has expressed the strongest interest in the activities of the Ombudsman was BHRT, in addition to noticed appearances of Ombudspersons in programs of RTV F BiH and RTRS. There follow televisions Aljazeera, N1, TV1, as well as „Glas Srpske“, Radio Slobodna Evropa and many other media outlets. Ombudspersons also increasingly respond to the requests of portals such as: diskriminacija.ba, Buka portal etc. RTVUSK, Semberske novine, TV City and other media gave an important contribution in informing the local communities on the human rights situation and activities of the Ombudsman.

Ombudspersons are also informing the general public on their activities through the official web site of the Ombudsman on which 176 pieces of information were posted during 2016 and the web-site had 39,418 hits and 121,394 views of the posted contents. There were 24,717 different visitors from Bosnia and Herzegovina, Serbia, Croatia and a significant number of visits were recorded from Russia, USA, Germany, United Kingdom, Kenya, South Africa etc.

As the number of attacks on journalists is increasing, the Council of Ministers on its 43<sup>rd</sup> session that took place on 26 January 2016 adopted a conclusion to ask the Ombudsman to prepare a Special Report on the situation of journalists and cases of threats against the journalists. This was also in line with the Action Plan for the implementation of the priorities defined in the Report of the European Commission on Bosnia and in 2015. This report will be referred to the competent authorities for further action.

Given that the Ombudsman represents a channel of communication between the citizens and government, and also between the citizens, authorities and the international bodies, it is important to point out that during 2016, Ombudspersons paid a lot of attention to cooperation with international and regional human rights bodies, as well as cooperation with international organizations active in the country, first of all, the OSCE, the Council of Europe, the UN agencies, Save the Children, and the embassies of the United States, United Kingdom, Switzerland and others.

After years of negotiations, in 2016 the Ombudsman became a full member the European Network of Equality Bodies – EQUINET, with the headquarters in Brussels, which opens many possibilities for training of the Ombudsman's employees and exchange of experiences and financial support by the European Commission.

In 2016 Ombudspersons marked 20 years of operation of the Ombudsman Institution. It was the opportunity to review the efficiency of this mechanism for the promotion and protection of human rights, in particular in light of the fact that the Ombudsman of Bosnia and Herzegovina was established 3 years after the adoption of Paris Principles, which constitute a general standard for all national human rights institutions. The fact that the Institution of Human Rights Ombudsman of Bosnia and Herzegovina is established by the Dayton Peace Agreement through a special annex, and that it started functioning in a post-conflict and transitional society are an additional dimension of the Institution. Recently, the European Group of National Human Rights Institutions – ENHRI decided to particularly survey the functioning of national human rights institutions in post-conflict societies in order to identify best practices. It shows how important this aspect is.

During the whole year a series of the activities were taken to mark 20<sup>th</sup> anniversary of the work of the Ombudsman. With support of OSCE Mission to Bosnia and Herzegovina two special events were organized. Since Ombudspersons pay particular attention to the regional co-operation and joint activities of the similar institutions operating in the region convinced that it creates a good foundation for further promotion of EU integrations in the Western Balkans countries and based on the Statement of Co-operation signed in May 2010 in Sarajevo, the Regional conference of Ombudsman institutions and equality bodies (of Croatia, Serbia, Montenegro, Albania, Slovenia and Macedonia) was organized on procedure followed in cases involving discrimination. The aim of this conference was to create a space for exchange of experience between the equality bodies and the Ombudsman on tackling the cases of discrimination, and the possibilities for future joint action since the implementation of anti-discrimination legislation has placed a number of questions before practitioners. The second event was the International Conference entitled "Equal in Diversity". This conference was attended by representatives of legislative and executive authorities in Bosnia and Herzegovina, representatives of the diplomatic corps, the European Union in Bosnia and Herzegovina and international organizations, representatives of human rights and equality bodies in the region, and the previous Ombudsman function-holders including the first appointed Ombudsperson of Bosnia and Herzegovina, Ms Gret Haller from Switzerland. The conference was an opportunity to examine, through the example of the Ombudsman of Bosnia and Herzegovina, the importance of national human rights institutions in realization of the rule of law, peace, security and tolerance, whereby its role in the protection of vulnerable groups of society, such as children, persons with disabilities, elderly persons, returnees, minorities (Roma, LGBT) is particularly emphasized. The conclusions of the conference constitute the guidance as to how to improve the human rights situation through improving the functioning of the Ombudsman.

In 2016 Ombudspersons submitted to the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI), formerly known as the International Coordinating Committee (ICC) its application for re-accreditation of the Institution, which was granted "A" status in 2010 by this body with an obligation to implement given recommendations by the next accreditation cycle (2015). These recommendations are related to the insurance of financial independence, cooperation with civil society and the election of Ombudspersons. Accreditation in „A“ status indicates that the Institution fully functions in accordance with the Paris Principles used as a basis in accreditation process. Since 2015 was a transitional year pending the appointment of new Ombudspersons, the Ombudsman asked for re-

accreditation postponement. At the same time an initiative was submitted to the Parliamentary Assembly of Bosnia and Herzegovina for the amendments to the Law on Human Rights Ombudsman of Bosnia and Herzegovina. The Parliamentary Assembly entrusted the Ministry of Human Rights and Refugees (hereinafter: the Ministry) to draft the mentioned amendments. Following the recommendations of the ICC, and other UN human rights bodies, the Ministry prepared a draft Law on Human Rights Ombudsman and sent it to the parliamentary procedure. However, the draft did not acquire support of the House of Peoples on which the GANHRI Subcommittee on Accreditation was informed and based on this information review of the application of Bosnia and Herzegovina was postponed to November 2016 while the GANHRI asked the authorities to take activities to implement earlier given recommendations. Failure to adopt the Law on Ombudsman had a negative impact to the assumed international obligations related to the establishment of the National Preventive Mechanism (NPM). Notwithstanding the importance of establishing a national preventive mechanism and the fact that the authorities in Bosnia and Herzegovina in the last six years have undertaken certain measures and activities to its formation, it has not been established yet, in violation of the obligations assumed under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading punishment or Treatment.

The issue of re-accreditation of the Ombudsman is important in the context of the accession of Bosnia and Herzegovina to the European Union (EU), since in 2016 Bosnia and Herzegovina filed an application for membership in the EU following which it received the questionnaire based on which the EU will decide whether the country is ready to join the bloc as a member. The questionnaire contains a detailed list of questions structured so to follow the structure of the criteria for EU membership, and the goal is to get a comprehensive insight into the political, legal, social, economic and administrative system of the country which has applied for membership. The answers will also be used to assess the compatibility of the country with the system and the values that exist in the EU and EU member states. The questionnaire contains a significant number of issues related to the level human rights protection in Bosnia and Herzegovina, where a key role in assessing the situation and drafting the answers was entrusted to the Human Rights Ombudsman of Bosnia and Herzegovina. At the same time, the 2016 Progress Report of the European Commission related to Bosnia and Herzegovina reads as follows: *„The Ombudsman’s Office continued to lack adequate human resources and faced serious financial constraints, which were detrimental to its overall performance. This makes it harder for the office to carry out its functions, including on the implementation of the antidiscrimination legislation. Systematic cooperation between the Ombudsman’s Office and the civil sector remained limited. The new Ombudsmen were appointed in November through a transparent and fair parliamentary selection process that included civil society representatives and was compliant with European standards and the Paris Principles“*.

For Ombudspersons to be able to fulfill all the tasks set before the Institution, with a focus on the protection of each disenfranchised individual falling within the jurisdiction of authorities at all levels of government in the country, which is an ambitious and a very demanding target, it has to possess necessary strength, capacity and support. Guided by the same idea, the European Commission against Racism and Intolerance (ECRI), based in Strasbourg, recommended to the authorities to strengthen the Institution of Human Rights Ombudsman of Bosnia and



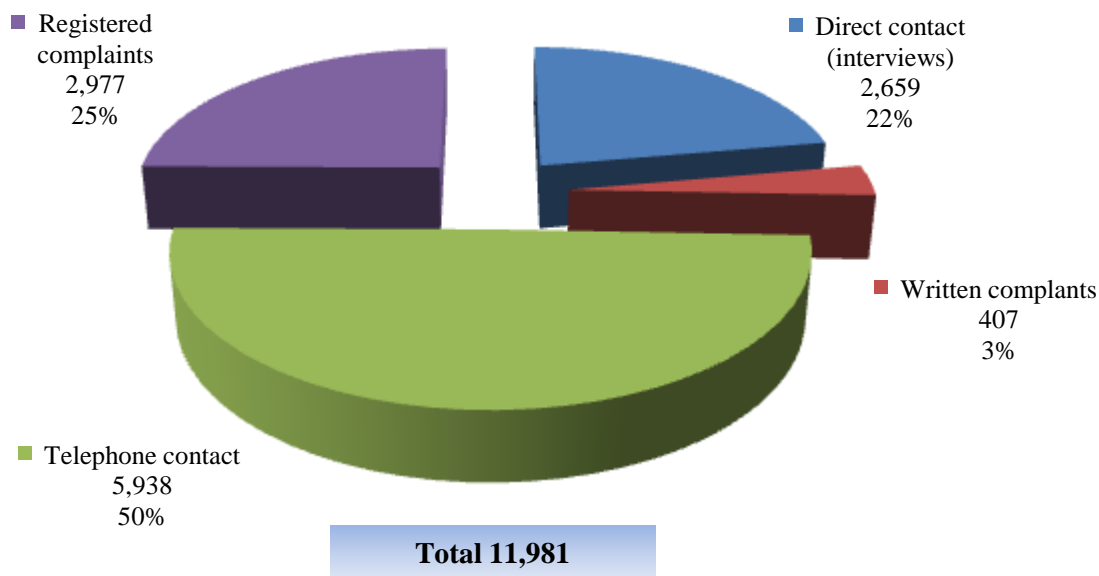
Herzegovina in the field of combating discrimination as a matter of priority. This recommendation should be implemented in the next two years.

As it is evident from the above, human rights enjoyment level and the effectiveness of the Ombudsman Institution is essential for the successful completion of the process of European integrations, but above all for the realization of citizens' rights, and the rule of law in reaching a level which guarantees the equality of all citizens.

### III STATISTICS ON THE ACTIVITIES OF THE HUMAN RIGHTS OMBUDSMAN OF BOSNIA AND HERZEGOVINA IN 2016

In 2016, the Ombudsman Institution registered 2,977 citizens’ complaints. Compared to 2015, this is an increase by 11 complaints. During the reporting period, 11,981 citizens contacted the Ombudsman (direct contacts, telephone contacts, electronic mail and written complaints).

Together with cases carried forward from the previous year, 4,611 complaints were processed in total. In 2016, 2,816 cases were completed. The majority of complaints were related to violations of civil and political rights – 1,718. These are followed by complaints related to: violation of economic, social and cultural rights (738), rights of prisoners and detainees (168), all forms of discrimination (152), rights of the child (139), rights of persons with disabilities (53), and violation of the rights of religious and other minorities (9).



**Chart 1**

During the reporting period, the Ombudsman Institution issued 250 recommendations in 267 cases. Level of implementation is presented in Table 1.

Method of implementation of issued recommendations	Number of cases with an issued recommendation
Implemented	84
Co-operation established	48
Partially implemented	14
No feedback	59
Not implemented	62
<b>Total number of cases with issued recommendations issued</b>	<b>267</b>

**Table 1**

In the reporting period Ombudspersons made the following special reports:

- Special report titled: Accessibility of premises of the legislative bodies in Bosnia and Herzegovina to persons with disabilities<sup>1</sup>;
- Special report on violation of human rights and labor rights by the Company „Boksit“ Milići<sup>2</sup>;
- Ex-officio special report – court fees<sup>3</sup>,
- Special report on the rights of LGBT persons in Bosnia and Herzegovina<sup>4</sup>;
- Special report on violation of human rights of convicted persons in Zenica Prison<sup>5</sup> and
- Ex-officio Special report/Recommendation related to discrimination of children with diabetes in Bosnia and Herzegovina<sup>6</sup>.

In addition to that, the Ombudsman prepared an „Analysis of situation in institutions accommodating the minors in conflict with law in Bosnia and Herzegovina“<sup>7</sup>.

The Ombudsman also made the following legislative amendments initiatives:

- Ex officio - initiative/suggestion for the adjustment of fees payable for citizenship acquisition<sup>8</sup>;
- Initiative to amend the Law on Criminal Sanctions Execution in the Federation of Bosnia and Herzegovina<sup>9</sup> and the Law on Criminal Sanctions Execution of Republika Srpska<sup>10</sup>;
- Ex-officio – initiative to amend the Law on Pre-School Education of Tuzla Canton<sup>11</sup>
- Ex-officio – initiative to amend the Law on Inheritance of Republika Srpska<sup>12</sup>;
- Ex-officio – initiative to amend the Law on Pension and Disability Insurance of Republika Srpska<sup>13</sup>.

<sup>1</sup>Ž-BL-02-620/15, P-12/16, see [http://www.ombudsmen.gov.ba/documents/obudsmen\\_doc2016021011073606bos.pdf](http://www.ombudsmen.gov.ba/documents/obudsmen_doc2016021011073606bos.pdf)

<sup>2</sup> Ž-BL-06-711/15, 800/15 and 761/15, P-18/16, see [http://www.ombudsmen.gov.ba/documents/obudsmen\\_doc2016030415144708bos.pdf](http://www.ombudsmen.gov.ba/documents/obudsmen_doc2016030415144708bos.pdf)

<sup>3</sup>Ž-SA-05-324/16, P-60/16

<sup>4</sup> Ž-SA-06-337/16, P-197/16, see [http://www.ombudsmen.gov.ba/documents/obudsmen\\_doc2016110413333704bos.pdf](http://www.ombudsmen.gov.ba/documents/obudsmen_doc2016110413333704bos.pdf)

<sup>5</sup> Ž-SA-07-513/16

<sup>6</sup> Ž-MO-04-35/16, P-109/16, see [http://www.ombudsmen.gov.ba/documents/obudsmen\\_doc2016062712004500bos.pdf](http://www.ombudsmen.gov.ba/documents/obudsmen_doc2016062712004500bos.pdf)

<sup>7</sup> Ž-BL-01-589/16, see [http://www.ombudsmen.gov.ba/documents/obudsmen\\_doc2016100610154998bos.pdf](http://www.ombudsmen.gov.ba/documents/obudsmen_doc2016100610154998bos.pdf)

<sup>8</sup> Ž-SA-05-761/16)

<sup>9</sup> “Official Gazette of the Federation of Bosnia and Herzegovina”, no.: 44/98, 42/99, 12/09 and 42/11

<sup>10</sup> Ž-SA-07-107/16

<sup>11</sup> Ž-BL-05-622/16

<sup>12</sup> Ž-BL-05-697/16

<sup>13</sup> Ž-BL-04-761/16

## IV CIVIL AND POLITICAL RIGHTS

The International Covenant on Civil and Political Rights<sup>14</sup> poses the obligation before Bosnia and Herzegovina to observe civil and political rights of the individuals including the right to life, the right to freedom of religion, freedom of speech, assembly, electoral rights and the right to fair trial.

Most of the total number of complaints registered by the Institution of Human Rights Ombudsman of Bosnia and Herzegovina in 2016 related to civil and political rights. In numbers it is 1,718 complaints or 57.7%.

Ombudspersons indicate to a wide range of action in processing of complaints of the citizens for violation of civil and political rights, as it is presented in Table 2.

<b>Violations</b>	<b>Number of violations in 2016</b>
Court	569
Administration	358
Access to information	291
Property rights	178
Police	138
Prosecutor's Office	57
Government and ministerial appointments	47
Public documents	23
Other	58
<b>Total</b>	<b>1718</b>

**Table 2**

### 4.1. Judicial system and legal aid

#### 4.1.1. Courts

International human rights standards in proceedings for determination of civil rights and obligations or of any criminal charge against any person, guarantee the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

In the reporting period the Ombudsman registered 569 complaints about the work of courts.

Analysis of the received complaints shows that citizens address the Ombudsman for violation of the guaranteed rights, that is, the excessive length of a court proceeding (144), ineffective enforcement of court decisions (58), complaints against judges for violation of procedural law provisions (27), violation of the principle of impartiality in addition to 340 complaints related to

<sup>14</sup> The International Covenant on Civil and Political Rights is a multilateral agreement adopted by the General Assembly of the United Nations on 16 December 1966 which entered into force on 23 March 1976

the violation of other rights related to the court procedure (violation of the principle of impartiality, failure to issue court decisions in a way and within deadlines as prescribed by the law, or to non-consistency of the case-law).

Most complaints were lodged about the work of the following courts: Municipal court Livno (Drvar Department one complaint and Tomislavgrad 12 (86), Cantonal court Livno (58), Municipal court Sarajevo (51), Basic court Banja Luka (48), Cantonal court Sarajevu (36), Supreme court of the Federation of Bosnia and Herzegovina (25), Municipal court Tuzla (25), Cantonal court Tuzla (20), Regional court Banja Luka (17), Supreme court of the Republika Srpska (15), Municipal court Mostar (15), The Constitution court of Bosnia and Herzegovina (15) and Cantonal court Mostar (15). Much less complaints related to the work of other courts compared to the above listed ones, detailed data of which can be found in the part of the Annual report related to statistic indicators.

First instance courts in most cases following the Ombudsman's inquiry take the statutory procedural actions. Second-instance courts, however, keep sending generic replies, confirming that they have not reached a decision in a specific case, and that cases are heard according to the Case Management Plan for the current year, following the chronological order according to case filing date pursuant to the instructions of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina.

Rulebook on Orientation Criteria for the Performance of Judges and Legal Associates in Courts in BiH<sup>15</sup> provide criteria for monitoring and evaluation of performance and results of work of judges, legal associates, presidents of courts, presidents of court departments, presidents of court panels, municipal/basic courts, cantonal/regional courts, regional commercial courts, supreme courts of the entities, Basic court of Brčko District of Bosnia and Herzegovina, Appellate court of Brčko District, Higher commercial court in Banja Luka and the Court of Bosnia and Herzegovina, as well as other issues important for follow-up and evaluation of performance of courts in Bosnia and Herzegovina. These criteria are defined based on principles of work of courts in Bosnia and Herzegovina, types of court cases and methods of court case resolution within a certain type of cases, where the initial point is the assumption of a legal, regular and timely resolution of the cases within the calendar year.

It is evident that even when proceedings go in accordance with the prescribed criteria full efficiency still cannot be ensured, which is a reason why so many complaints lodged to the Ombudsman relate to the excessive length of court proceedings.

**Example:** A lawyer, M.T., as a complainant's proxy, addressed the Ombudsman indicating to a large number of cases before the Municipal court in Lukavac in which no required procedural action was taken for a prolonged time period, emphasizing that some of the cases are labor disputes. The reply of the Court<sup>16</sup> reads as follows: *“Please find a report on the stages of the procedure in the mentioned cases as follows:*

<sup>15</sup>Book of Rules on Orientation Criteria for the Performance of Judges and Legal Associates in Courts in BiH, Official Gazette of BiH, no. 43/12, 38/13 and 2/14

<sup>16</sup> Document of the Municipal court in Lukavac, no.: 126-0-Su-16-000 266 dated 19 August 2016

1. 126 0 P 117563 12 P – inaccurate address of the respondent party – petition not served for reply, the Court asked for accurate address to be established and after its obtaining service attempted to the mentioned address on 20 May 2016
2. 126 0 112289 12 P – action pending, the file re-assigned from the judge E.O. to another judge on 23 May 2016, proceedings will go on pursuant to the provisions of the Civil Procedure Act
3. 126 0 P 147359 12 P – civil action commenced, petition served for reply, reply served on 03 December 2012, the case will be heard according to the initial document date.
4. 126 0 Rs 145668 12 Rs – civil action commenced, petition served for reply, reply served on 17 December 2012, the case will be heard according to the initial document date
5. 126 0 Rs 145670 12 Rs – civil action commenced, petition served for reply, reply served on 07 May 201, the case will be heard according to the initial document date
6. 126 0 Rs 145671 12 Rs – civil action commenced, petition served for reply, reply served on 09 May 2013, the case will be heard according to the initial document date
7. 126 0 P 148425 13 P – civil action commenced, petition served for reply on 08 February 2013 – pleading served on 12 March 2013
8. 126 0 P 109465 12 P – service of petition for reply aggravated, the proxy informed - the case will be heard according to the initial document date.
9. 126 0 P 111193 12 P – civil action commenced, petition served for reply, reply served on 15 February 2012 the case will be heard according to the initial document date.

...

*The acting judges will hear the cases according to the initial document date, in light of the fact that no P case is urgent, which would grant it priority over other cases, while Rs cases the court takes procedural steps according to the date when the court registered the initial act pursuant to the criteria of the High Judicial and Prosecutorial Council for the assessment of work of the judges and Backlog cases Case Management Plan.*<sup>17</sup>

Above examples show that the substance of this problem is: failure to implement procedural law, that is, the excessive length of a court proceeding, which is particularly worrisome in labor disputes.

Invoking the provisions of Article 6 of European Convention and taking in consideration the criteria established by the European Court of Human Rights case-law<sup>18</sup>, Ombudspersons are aware of the fact that reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the criteria, particularly: the complexity of the case, the conduct of the applicant and of the relevant authorities and what was at stake for the applicant in the dispute.

For many years now Ombudspersons call on the authorities to honor the obligation of the state to organize the judicial system in a way allowing the observance of these standards. According to the case-law of the European Court of Human Rights<sup>19</sup>, in spite of certain difficulties in the

<sup>17</sup> Ž-BR-05-18/16

<sup>18</sup> European Court of Human Rights, Vernillo v. France, judgment dated 20 February 1981, series A no.198.

<sup>19</sup> Judgment of 07 October 2004 in the case of Baumann v. Austria, B 45.

conduct of the proceedings, the court procedure is not an end in itself but it provides procedural safeguards for the realization of a series of civil rights.

As in previous years, non-enforcement of the court decisions is still a reason why citizens address the Ombudsman, in particular for the following:

- Inability to enforce judgments when respondent party is a municipality, canton or entity. Enforcement of court decisions entailing payment of damages or other payments is possible only from budget lines earmarked for such purposes. In a situation of continuous budgetary restrictions, budget allocations for the above purposes are subject to permanent cuts;
- Complaints of citizens who were awarded pecuniary damages by the court in cases against Republika Srpska and the Federation of Bosnia and Herzegovina where the method of payment is governed by provisions of the Law on Establishment and Mode of Settlement of Internal Obligations of FBiH and the Law on Establishment and Mode of Settlement of Internal Debt of the Republika Srpska;
- Non-enforcement of court decisions in labor disputes where citizens are unable to collect their claims due to insolvency of their former employers.

Non-enforcement of court decisions also results in violation of Article 6 of European Convention on Human Rights and Fundamental Freedoms guaranteeing individuals the right to a fair trial. The European Court's judgment reads that this right: *"would be illusory if a Contracting State's domestic legal system allowed a final, binding judicial decision to remain inoperative to the detriment of one party."*<sup>20</sup>

**Example:** A complainant<sup>21</sup> could not collect her claims determined based on a decision on enforcement issued by the Municipal court in Bosanska Krupa ordering the debt collection from the respondent party the High School „Safet Krupić“ Bosanska Krupa in the amount of 53,907.04 BAM with default interest to be calculated from the judgment date till the enforcement date. Ombudspersons recommended to the Government of Una-Sana Canton to take all the measures as necessary to consider possibilities to modify the applicable commercial code thus increasing the limit of the funds planned for the enforcement of court decisions for 2016. This recommendation was implemented.

**Example:** a complaint relates<sup>22</sup> to the actions of the Municipal court in Bihać for non-enforcement of this Court's decision originating from 2010. Ombudspersons emphasized that a situation that enforcement proceedings took six years without being finished for which the Municipal court had no any justification is unacceptable pointing out the standpoint of the Constitutional court of Bosnia and Herzegovina<sup>23</sup> that any „decision-making period in enforcement proceedings lasting for more than four years cannot be regarded as reasonable in sense of Article 6 paragraph 1 of the European Convention“. The court was recommended to take measures falling with its mandate to finish the mentioned proceedings at once, following

<sup>20</sup> European Court of Human rights, Jeličić v. BiH, §38, (2006.)

<sup>21</sup> Ž-BL-05-206/16, a recommendation no.: P-64/16

<sup>22</sup> Ž-BL-05-127/16, a recommendation no.: P-223/16 of 28 November 2016

<sup>23</sup> Decision of the Constitutional court of Bosnia and Herzegovina AP- 2473/07

which the Ombudsman received a reply from the Court that the acting judge took necessary procedural steps.

**Example:** the Ombudsman registered a complaint<sup>24</sup> of the Environment Protection Center which contained a suggestion that amendments to the Law on Court Fees aimed at exoneration from payment the court fees in civil actions for associations (NGOs) at all the levels in Bosnia and Herzegovina be adopted as it would be beneficial for the protection of human rights and freedoms of the citizens of Bosnia and Herzegovina. Ombudspersons issued a recommendation to the Ministry of Justice of Bosnia and Herzegovina to take measures from their remit to review the mentioned initiative and refer it to all 14 laws on court fees applicable in Bosnia and Herzegovina. The Ministry of Justice of Bosnia and Herzegovina<sup>25</sup> it a letter dated 09 June 2016 informed the Ombudsman that its recommendation was: “...referred to all competent ministries for their information and it was suggested by the Ministry that each institution designates its representative to take part at a meeting to be organized by the Ministry in order to harmonize activities and discuss the issue in order to find the acceptable solution for implementation of this recommendation”.

#### 4.1.2. Special report on court fees in Bosnia and Herzegovina

In the reporting period Ombudspersons prepared a Special Report on court fees in Bosnia and Herzegovina.

Media outlets, NGOs and network of free legal aid centers emphasized the importance of this issue pointing out that court fees in Bosnia and Herzegovina are the highest in the region, that citizens often are not able to pay it, which deprives them from possibility to seek realization of their rights before the court.

Given the fact that a large part of labor force in Bosnia and Herzegovina cannot find employment, while out of those employed many do not earn enough for decent living, the question of flexibility of the court fees and their adjustment to the real standard of living can be raised. For this reason Ombudspersons conducted the investigation, in order to make a comprehensive review of the domestic relevant legislation governing the area of court fees and tariffs, its compliance with international standards and the real standard of the citizens of Bosnia and Herzegovina.

Ombudspersons compared economic indicators furnished by the relevant institutions (wages, pensions, unemployment) and amount of court fees and concluded that while economic situation of citizens in the different parts of the country is approximately similar, court fees and tariffs are not adjusted, and there are differences in their amounts.

In their Special report Ombudspersons recommended to:

- the High Judicial and Prosecutorial Council of Bosnia and Herzegovina and the ministries of justice in Bosnia and Herzegovina in accordance with Article 6 of

<sup>24</sup> Ž-BL-05-193/16, recommendation no.: P-78/16 dated 26 April 2016

<sup>25</sup> Letter of the BiH Ministry of Justice dated 03 June 2016 no. 06-07-14-5392/16



European Convention on Human Rights to adjust and harmonize the amount of court fees and tariffs on the territory of Bosnia and Herzegovina having in mind the facts presented in this Special report,

- to the High Judicial and Prosecutorial Council of Bosnia and Herzegovina to ensure that all the courts on the territory of Bosnia and Herzegovina publish their guides for implementation of the Law on Court Fees and Tariffs (e.g. the Municipal court in Zenica, Zenica – Dobož Canton).

The Ombudsman follows-up the implementation of the given recommendations.

#### 4.1.3. High Judicial and Prosecutorial Council

The High Judicial and Prosecutorial Council is an independent institution of Bosnia and Herzegovina<sup>26</sup> (hereinafter referred to as: the Council) established by the Law on the High Judicial and Prosecutorial Council with a mandate to establish and preserve independence, efficiency and accountability of the judicial sector in Bosnia and Herzegovina.

The Law established the following powers of the Council: the appointment of judges, prosecutors and expert associates, disciplinary liability, court administration and statistics, budgets of judicial institutions, supervision of trainings, the introduction of ICT, as well as a leading role in the implementation and coordination of reform activities in the justice sector of Bosnia and Herzegovina.

On 05 April 2016 Ombudspersons had a working meeting with president of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina<sup>27</sup>. At the meeting they discussed the issues related to the work of judicial institutions of Bosnia and Herzegovina, primarily the length of the proceedings before the courts in Bosnia and Herzegovina, ineffective enforcement of court decisions, especially in the light of decisions taken by the European Court of Human Rights which holds that the non-enforcement of court decisions results in human rights violation. Special attention was paid to treatment of discrimination cases, as well as the necessity of carrying out the summary proceedings in cases involving labor relations, family law and discrimination.

The meeting was the opportunity for exchange of opinions on different issues relevant to the functioning of the judicial system and modalities of further co-operation between the Ombudsman and the Ombudsman of Bosnia and Herzegovina were agreed upon.

<sup>26</sup> Integral text of the Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina", no. 25/04) that entered into force on 1 June 2004, the Law on Amendments to the Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina („Official Gazette of BiH“, no. 93/05) that entered into force on 7 January 2006 and , the Law on Amendments to the Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina („Official Gazette of BiH“, no. 15/08) imposed based on a decision of the High Representative on 15 June 2007 („Official Gazette of BiH“, no. 48/07) that entered into force on 3 July 2007

*The integral text is only for internal use and cannot be invoked officially.*

<sup>27</sup> Ombudspersons of Bosnia and Herzegovina Jasminka Džumhur, PhD, Nives Jukić and Ljubinko Mitrović, PhD, President of the Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina, Milan Tegeltija, Deputy Head of Cabinet of the HJPC Admir Katica and Head of HJPC Legal Issues Tatjana Petrović-Jovanović attended the meeting

#### 4.1.4. The Constitutional court of Bosnia and Herzegovina

The Constitutional court of Bosnia and Herzegovina was established pursuant to Article IV the Constitution of Bosnia and Herzegovina as an independent guardian of the Constitution of BiH and an institutional guarantor of human rights and fundamental freedoms protection as set out in the Constitution of BiH and in instruments listed in Annex I to the Constitution. As such it is not a part of the regular court system, and thus cannot be subject to the Ombudsman's monitoring, yet it received 15 complaints in which the Constitutional court was designated as a responsible party.

However, co-operation between the two institutions in process of human rights and freedoms protection is a prerequisite for the protection of human rights in Bosnia and Herzegovina.

Provisions of Article 6 of the Law on Human Rights Ombudsman of Bosnia and Herzegovina provides that an Ombudsman may refer cases of alleged human rights violations to the highest judicial authorities of Bosnia and Herzegovina competent in human rights matters, pursuant to the rules concerning appeals to these authorities, whenever he or she finds that this is necessary for the effective performance of his or her duties.

*Paris Principles*<sup>28</sup> relating to the status of the national institutions for the promotion and protection of human rights (hereinafter referred to as: the Paris Principles) adopted by the United Nations General Assembly in 1993 set out the minimum of the international standards for the establishment of the national institutions for human rights. They provide for the national institutions to be given „as broad a mandate as possible“ and that it should be „clearly set forth in a constitutional or legislative text“ and vested with competence „to promote and protect human rights“ listing the specific responsibilities that such an institution should have.

Pursuant to Article 16 of the Rules of the Constitutional court of Bosnia and Herzegovina<sup>29</sup>

*(1) The parties to the proceedings shall be as follows:*

*a) the initiators of disputes referred to in Article VI(3)(a) of the Constitution and Amendment I and the authors of the acts which are the subject of dispute;*

*b) the parties to the proceedings that ended in a decision challenged by an appeal and the court or body that rendered the judgment or the decision challenged by an appeal (Article VI(3)(b) of the Constitution);*

*c) the Chair of the House of Peoples, where a dispute has been initiated under Article IV(3)(f) of the Constitution;*

*d) the court that referred the issue to the Constitutional Court, and the author of the law on which validity a court decision depends (Article VI(3)(c) of the Constitution).*

*(2) The Constitutional Court may, in each particular case, designate other parties to the proceedings in respect of whom the principle of adversary procedure will be applied.*

<sup>28</sup> Paris Principles, section A.1 i A.2., and A.3, [http://www.ombudsmen.gov.ba/documents/obmudsmen\\_doc2014012212054704bos.pdf](http://www.ombudsmen.gov.ba/documents/obmudsmen_doc2014012212054704bos.pdf) downloaded on 11 January 2017

<sup>29</sup> Rules of the Constitutional court of Bosnia and Herzegovina, <http://www.ccbh.ba/osnovni-akti/pravila-suda/uvod/?title=uvod&second=true>, downloaded on 03 February 2017

*(3) The Constitutional Court, i.e. the Judge Rapporteur may request other bodies and organizations to submit expert opinions in writing or the Registrar may request other information relevant to the decision of the Constitutional Court in each particular case.*

The Ombudsman of Bosnia and Herzegovina as a central institution for the protection of human rights and fundamental freedoms in Bosnia and Herzegovina has no opportunity to file an appeal to the Constitutional Court of Bosnia and Herzegovina if Ombudspersons deem it necessary.

There are some contrary opinions presented in this Report. For instance the European Commission for Democracy Through Law, that is, the Venice Commission (which is the Council of Europe's consultative body for constitutional issues<sup>30</sup>) reviewed in a couple of occasions issue of functioning of the national human rights institutions and issued a number of recommendations in this regard. Given the recognized importance of these institutions in the protection and promotion of human rights the Venice Commission prepared a Compilation of its recommendations related to the national human rights institutions. In these recommendations the Venice Commission indicated to the necessity that the mandate of national human rights institutions should include the possibility of applying to the constitutional court of the country for an abstract judgment on questions concerning the constitutionality of laws and regulations or general administrative acts which raise issues affecting human rights and freedoms<sup>31</sup>. The Venice Commission holds that the Ombudsman should be able to do this of his/her own motion or triggered by a particular complaint made to the institution.

While processing a complaint<sup>32</sup> Ombudspersons received a letter of the Constitutional court<sup>33</sup> which reads as follows:

*„In reply to a letter of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina to the Constitutional court of Bosnia and Herzegovina with request to the Court to state its opinion on certain cases, which raises the issue of the relationship between the Constitutional court and the Ombudsman, that is, whether the Ombudsman has the mandate to ask the Constitutional court to state its opinion on its proceedings in certain cases, or whether the Constitutional court has the obligation to reply to such requests, the Constitutional court discussed this issue at its session held on 10 April 2013.*

*The Constitution reviewed this issue in light of the relevant provisions of Articles II and VI of the Constitution of Bosnia and Herzegovina, provisions of Annex VI of the General Framework Agreement for Peace in Bosnia and Herzegovina, and its opinion expressed in the Decision no. U 7/98 dated 26 February 1999 where the relationship between the Constitutional court and the Human Rights Chamber was analyzed.*

*Namely, in this Decision, the Constitutional court held the following:*

*„It is very important to have in mind certain provisions of the Constitution of Bosnia and Herzegovina and the Agreement on Human Rights governing the legal effects of the decisions of the Constitutional court of Bosnia and Herzegovina and the Human Rights Chamber of Bosnia*

<sup>30</sup> Compilation of the recommendations of the UN bodies issued to Bosnia and Herzegovina, the UN Resident Coordinator's Office in Bosnia and Herzegovina, June 2007

<sup>31</sup> CDL-AD(2010)039rev – Study on individual access to constitutional justice adopted by the Venice Commission at its 85th Plenary Session (Venice, 17-18 December 2010), par. 64.

<sup>32</sup> Ž-SA-05-707/16

<sup>33</sup> Letter of the Constitutional court no.: AP-4553/15 dated 26 July 2016

*and Herzegovina. Pursuant to Article Vi/4 of the Constitution of Bosnia and Herzegovina, decisions of the Constitution of Bosnia and Herzegovina are final and binding. Since these two decisions were adopted simultaneously, correct interpretation must be that the authors did not intend to give either one of these institutions the competence to review the decisions of the other, but rather considered that, in regard to human rights issues, the Constitutional Court and the Human Rights Chamber should function as parallel institutions, neither of them being competent to interfere in the work of the other and it being left in some cases to the discretion of applicants to make a choice between these alternative remedies”.*

*Since the Institution of Human Rights Ombudsman of Bosnia and Herzegovina was mentioned in Annex VI, while the status and mandate of the Constitutional court of Bosnia and Herzegovina are governed by the Constitution of Bosnia and Herzegovina which does not include provisions related to the Ombudsman Institution, the Constitutional court concluded that the above cited opinion of the mentioned Decision has to be applied to the relationship between the Constitutional court and the Ombudsman Institution.*

*Therefore, the Constitutional court holds that it is neither competent nor obligated to state its position when asked by the Ombudsman Institution for the purposes of Article 4 of the Law on Human Rights Ombudsman of Bosnia and Herzegovina since the Constitutional court and the Ombudsman should function as parallel institutions neither of them being competent to interfere in the work of the other and it being left in some cases to the discretion of applicants to make a choice between these alternative remedies.*

*This does not preclude exchange of information between these two institutions when it is in the interest of the protection of human rights and freedoms“.*

The Ombudsman reiterates its position that it would be important for Ombudspersons of Bosnia and Herzegovina to have the mandate to initiate motions for constitutionality review before the Constitution of Bosnia and Herzegovina in accordance with the opinion of the Venice Commission and position of the Paris Principles in respect of giving the Ombudsman as broad a mandate as possible.

#### **4.1.5. Prosecutor’s Office**

Prosecutor is an independent authority acting within the framework of its legally granted powers in respect of investigations and prosecution of persons suspected of commitment of criminal offences and other legally defined actions. Within the legal system of Bosnia and Herzegovina prosecutor’s offices are organized on the state level pursuant to the Law on Prosecutor’s Office of Bosnia and Herzegovina, and at entity level pursuant to the respective entity laws, in addition to the Law on Prosecutor’s Office of Brčko District.

In the reporting period, the Ombudsman Institution received 57 complaints against the work of prosecutor’s offices, and issued five recommendations. Complaints about the work of the Prosecutor’s Office relate, like in the previous periods, to failure to take action upon receiving criminal reports and to the length of prosecutorial decision making procedures.

Ombudspersons think that non-determination of deadlines by which the prosecutorial proceedings should be finished puts the citizens in legal uncertainty, for which they complain.

In most cases, relevant prosecutor's offices adopted adequate decisions upon the Ombudsman's intervention.

**Example:** A complainant<sup>34</sup> addressed the Ombudsman claiming that proceedings against her were ongoing before the Cantonal Prosecutor's Office of Sarajevo Canton based on criminal report dated 22 March 2010 and that a final prosecutorial decision had not been rendered yet. Ombudspersons recommended the Cantonal Prosecutor's Office of Sarajevo Canton to take measures and render prosecutorial decision in this case in accordance with positive legislation. This recommendation was accepted and implemented.

#### 4.1.6. Complaints against the work of lawyers/bar associations

In the reporting period, the Ombudsman Institution received complaints against the work and actions of lawyers, either those engaged by the complainants personally or appointed by the court, but also lawyers within the free legal aid system. In their complaints the citizens express their dissatisfaction with the way of their legal representation, lack of efforts during legal representation, poor communication with lawyers in sense of lack of information about the actions taken in their cases and before competent authorities, as well as non-abiding with the deadlines for individual legal actions within their proceedings.

Citizens allegations also relate to the work of bar associations in which they claim that the bar associations do not carry out disciplinary proceedings following clients' reports. In addition to that, citizens claim that their reports of the work of lawyers do not result in objective and impartial proceedings, but only formal proceedings.

Given a wide range of powers of the bar associations, legal regulation and grounds for those powers, having in mind the high level of independence and autonomy of this professional association, Ombudspersons express their concern for increasing level of citizens' dissatisfaction and think that it would be necessary to re-examine methods of their work and professional ethics of members and bodies of bar associations.

**Example:** On 20 October 2015 a complainant<sup>35</sup> filed a report asking for disciplinary proceedings to be initiated against a lawyer practicing in Mostar, but she did not receive any answer by the date of filing her complaint within the Ombudsman. During the Ombudsman's investigation, received was a reply of the Regional Bar Association of Mostar<sup>36</sup> and its decision<sup>37</sup> rejecting the report and halting the disciplinary proceedings against the lawyer. The mentioned decision was referred to the Bar Association of the Federation of Bosnia and Herzegovina. Ombudspersons asked the opinion of the Federation Bar Association on whether or not Federal Prosecutor on receipt of the mentioned decision had heard the complainant's case pursuant to the Rules on Disciplinary Liability, Article 8. Since no answer was received, Ombudspersons issued their recommendation<sup>38</sup> recommending the Bar Association of the Federation of Bosnia and Herzegovina to establish co-operation with the Institution of Human Rights Ombudsman of

<sup>34</sup> Ž-SA-05-113/15, recommendation no. P-139/16

<sup>35</sup> Ž-MO-05-179/15, P-4/16

<sup>36</sup> Letter of the Regional Bar Association of Mostar no. 56/15 dated 20 October 2015

<sup>37</sup> Decision of the Regional Bar Association of Mostar no.37/14 dated 30 September 2015

<sup>38</sup> P-4/16 dated 28 December 2015

Bosnia and Herzegovina and furnish it with their reply according to the Law on Human Rights Ombudsman of Bosnia and Herzegovina. This recommendation was not implemented.

#### **4.1.7. Free legal aid**

Free legal aid system in Bosnia and Herzegovina is organized as follows: in the Federation of Bosnia and Herzegovina, free legal aid institutes are established in eight cantons (they do not exist in Canton 10 and Central Bosnia Canton), while in Republika Srpska, free legal aid is provided by the Free Legal Aid Center with headquarters in Banja Luka, and offices in Doboj, Bijeljina, Trebinje and East Sarajevo. The Office for the Provision of Free Legal Aid is active in Brčko District of Bosnia and Herzegovina.

On 27 October 2016 the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina adopted the Law on Free Legal Aid<sup>39</sup> drafted by the Ministry of Justice of Bosnia and Herzegovina. Adoption of the Law on Free Legal Aid is very important for citizens of Bosnia and Herzegovina since it enables them to have equal access to justice before the Court of Bosnia and Herzegovina, administrative bodies and other bodies of Bosnia and Herzegovina to all citizens, irrespective of their property status.

Services provided to citizens by free legal aid centers include filling in the forms, writing the submissions (petitions, complaints), and legal representation before the court.

## **4.2. Freedom of expression, assembly and association**

### **4.2.1. Freedom of access to information**

Freedom of access to information constitutes a part of the right to freedom of expression enshrined by Article 10 of European Convention on Human Rights and Fundamental Freedoms.

Issue of free access to information is governed in Bosnia and Herzegovina at the state and entity level<sup>40</sup>.

Pursuant to the provisions of the Law, any natural or legal person has the right to access information under the control of a public authority, and each public authority has a corresponding obligation to reveal this information. The right of access to information may be limited in the manner and under the conditions laid down by law.

In 2016 the Ombudsman registered 291 complaints, which is an increase compared to the previous year by 30.49%.

<sup>39</sup> Law on Free Legal Aid of Bosnia and Herzegovina "Official Gazette of Bosnia and Herzegovina", no. 83/16

<sup>40</sup> Freedom of Access to Information Act "Official Gazette of Bosnia and Herzegovina", no. 28/00, 45/06, 102/09, 62/11 and 100/13, Freedom of Access to Information Act ("Official Gazette of the Federation of BiH", no. 32/01 and 48/11 and Freedom of Access to Information Act of Republika Srpska ("Official Gazette of Republika Srpska", no. 20/01, Guide to Implementation of Law on Freedom of Access to Information in Bosnia and Herzegovina and Brčko District of Bosnia and Herzegovina, "Official Gazette of Brčko District of Bosnia and Herzegovina, no. 36/04

Analysis of the received complaints indicates that the public authorities in applying the Freedom of Access to Information Act still manifest some weaknesses to which Ombudspersons have indicated before, such as the stall of decision-making process in both first and second instance, adoption of decisions that do not contain all the legally specified elements (reasoning, instruction on legal remedy), formal compliance with the request with absence of a real access to information, as well as the ever more present practice of public authorities to deny access to information invoking the personal data protection, or protection of commercial interests of third parties, without performing the public interest test.

Ombudspersons express their concerns about situations when competent public authorities issue decisions refusing the access to information on grounds that requested information comprises confidential third parties commercial interests, while reasoning of said decisions do not include proof that relevant legal provisions were observed which provide that where a competent authority reasonably determines that a request for access to information involves the confidential commercial interests of a third party, the competent authority should at once notify the third party in writing of the specifics of the request, or inform the third party that the disclosure of the information is imminent unless the third party, within 15 days of receipt of the notice, responds in writing that it considers the information to be confidential and gives reasons as to why harm would result from disclosure.

**Example:** A complainant<sup>41</sup> claims that he addressed the Ministry of Spatial Planning, Construction and Ecology of Republika Srpska with request to access to information related to construction and exploitation permit for a business unit in Banja Luka. Since he was not granted access, he resubmitted his request. Acting upon a new request, the Ministry of Spatial Planning, Construction and Ecology of Republika Srpska replied as follows<sup>42</sup>: *„Procedure for issuance of construction and exploitation permits is done in accordance with the Ministry of Spatial Planning, Construction and Ecology of Republika Srpska (‘‘Official Gazette of Republika Srpska’’, no. 40/13) and the Law on General Administrative Proceedings. Provisions of the said legislation clearly define who as a party to proceedings can participate in certain stages of procedure. When this Ministry participates in the proceedings as a first-instance body, it should strictly take care to include in proceedings all the entitled persons according to mentioned legislation...‘‘*. Ombudspersons recommended the Ministry to act upon request of the complainant pursuant to Law on Freedom of Access to Information of Republika Srpska. This recommendation was not implemented.

**Example:** A complainant<sup>43</sup> claims that he addressed the Municipality of Novi Grad Sarajevo asking to be granted access to information and be allowed to see the file comprising the documents based on which the location permit for certain locations in Sarajevo was granted. Acting upon the request on 11 January 2016 a decision was adopted to deny access to information. Reasoning of this Decision reads as follows: *„... Department of Property and Legal Affairs, Land Survey and Cadastre which was a respondent party in this case replied to the Ombudsman’s inquiry claiming that it was not possible to establish based on the complainants*

<sup>41</sup>Ž-BL-05-140/16, recommendation no. P-3/16 dated 26 April 2016

<sup>42</sup> Letter of the Ministry of Spatial Planning, Construction and Ecology of Republika Srpska no. 15.3-053-649/15 dated 05 August 2015

<sup>43</sup> Ž-SA-05-130/16, recommendation no. P-89/16 dated 13 May 2016

*request what things and documents it was about since the Department keeps evidence based on number and name of a person who submits request. It was also established that the requested information contains confidential commercial interests of a third party which gave rise to invoking the exemption pursuant to Article 7 Law on Freedom of Access to Information of the Federation of Bosnia and Herzegovina.*“ The mentioned decision was appealed from within the Mayor of the Novi Grad Sarajevo Municipality, who refused it as not having grounds upon which Ombudspersons recommended him to cancel the mentioned decision dated 18 January 2016 and adopt a new one in accordance with provisions of Law on Freedom of Access to Information of the Federation of Bosnia and Herzegovina having in mind the fact that the first-instance decision later upheld by the second-instance body does not specify the character of confidential commercial data of a third party and that public interest test was not conducted in decision-making process. The Municipality of Novi Grad Sarajevo replied to that<sup>44</sup> claiming the following: „...*in acting upon request of the Cantonal court in Sarajevo this body referred the case file to the mentioned Court and therefore we cannot act in accordance with your recommendation ...*“ This recommendation was not implemented.

The Ministry of Justice of Bosnia and Herzegovina opened the process of consultations on a new Law on Freedom of Access to Information of Bosnia and Herzegovina<sup>45</sup>.

Public consultation process was opened from 24 November to 12 December 2016, in accordance with Rules on consultations during the drafting of legislative acts in the institutions of Bosnia and Herzegovina. At the beginning of 2017 Ombudspersons received an invitation to take part in the additional consultations related to this Law.<sup>46</sup>

Ombudspersons have found that the proposed law repeals the current Law on Freedom of Access to Information adopted in 2000 with all amendments made with the participation of legal experts of the international community and from Bosnia and Herzegovina, in which international standards relating to the fundamental rights and freedoms, freedom of expression, access to information and access to official documents are incorporated. The existing Law contains provisions based on the highest international standard "public interest test", which is a means for determining the proportionality between the public interest in relation to the harm to the protected interests. In the proposed law this test is omitted, which is a potential danger of abuse and denial of disclosure of information in the public interest. Furthermore, in the proposed law there is no even an indication that the access to information constitutes a guaranteed human right, protected by a number of international documents, starting with the European Convention on Human Rights, which is directly applicable in Bosnia and Herzegovina according to the Constitution of Bosnia and Herzegovina. A part related to the powers of the Ombudsman Institution is also left out.

It should be noted that in their Annual Report on the results of the activities of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina for 2015 Ombudspersons sent a recommendation to the competent authorities to co-operate in regulating the issue of decision-

<sup>44</sup> Letter of the Municipality Novi Grad Sarajevo no. 02/05-13-13367/16 dated 30 May 2016

<sup>45</sup> <http://www.mpr.gov.ba/aktuelnosti/vijesti/default.aspx?id=5605&langTag=bs-BA>

<sup>46</sup> the Ministry of Justice of Bosnia and Herzegovina, Invitation to additional consultations on Law on Freedom of Access to Information of Bosnia and Herzegovina dated 09 February 2017



making in two instances, that is, the appellate instance in the process of exercising the right of access to information. The proposed Law on Freedom of Access to Information of Bosnia and Herzegovina provides that the competent public authority in possession of the requested information is in charge in the first-instance, while the provision that the decision of the public authority rendered in the first instance upon request to access the information can be appealed within the Council of Ministers of Bosnia and Herzegovina Appeals Chamber, within 15 days of receipt of the decision constitutes a significant change.

Amendments to the entity laws during the last year were not adopted. It is necessary to indicate to the flaws of these laws, primarily absence of penalty provisions. Furthermore, Law on Freedom of Access to Information of Republika Srpska does not provide for the obligation of a public body to issue a decision on request for access to information, but the party gets informed on decision in a letter, which is not an administrative document. Even back in 2011 Ombudspersons initiated the adoption of the amendments to Law on Freedom of Access to Information of Republika Srpska<sup>47</sup> in sense that institutions should be obliged to issue a decision, instead of sending a notification letter. This initiative was not accepted although it is worth mentioning that some public bodies in Republika Srpska, while acting on requests for information refer to the Law on General Administrative Proceedings and adopt a decision, but these are isolated cases.

**Example:** In a case<sup>48</sup> handled by the Ombudsman it registered a letter of the Banking Agency of Republika Srpska which reads as follows<sup>49</sup>: *„In accordance with your recommendation no. P-152/16 dated 23 August 2016 we hereby inform you that we have accepted it, and that we have changed our "reply to complaint" no. 03-101-6/15, dated 30 September 2015 addressing the Health Insurance Fund of Brčko District of Bosnia and Herzegovina in a part related to the instruction on legal remedy and on the same date, that is, 19 September 2016 forwarded the changed part which now reads: Pursuant to Article 12 paragraph 4 of the Law on General Administrative Procedure ("Official Gazette of Republika Srpska" no. 13/02, 17/07 and 50/10), this decision is final and binding and it cannot be appealed from, but an administrative dispute can be initiated before the Regional court in Banja Luka, 12 Petra I Karađorđevića St., 78 000 Banja Luka, within 30 days from the date of this letter's service. Costs of proceedings are governed by the Law on Court Fees.“*

All the above mentioned indicates to the need of the adoption of amendments to Law on Freedom of Access to Information of Republika Srpska in order to ensure legal certainty for all the citizens of Bosnia and Herzegovina, regardless to their residence.

#### **Recommendation: To the National Assembly of Republika Srpska**

- **consider possibilities for amending the RS Law on Freedom of Access to Information in a part related to notification of requestors about granting or denying them access to information, to define that institutions shall be obliged to issue a decision, instead of sending a notification letter.**

<sup>47</sup> Ž-BL-03-196/11

<sup>48</sup> Ž-BR-05-214/15 recommendation no. P-152/16 dated 23 August 2016

<sup>49</sup> Letter of the Banking Agency of Republika Srpska no.: 03-1538-4/15 dated 20 September 2016

#### 4.2.2. Freedom of expression

In the reporting period, the Ombudsman was contacted by the citizens who complained of appearance public figures in the media, noting that it has elements of hate speech, discrimination, and that these statements by certain categories of citizens inflicts mental pain.

Ombudspersons emphasize that the right to freedom of expression is guaranteed by Article II paragraph 3, item h) of the Constitution of Bosnia and Herzegovina and Article 10 of the European Convention on Human Rights and Fundamental Freedoms, which is a foundation for development of a democratic society.

The right to freedom of expression is not an absolute right, and it may be subject to limitations which are necessary for: respect of the rights or reputation of others, protection of national security, public order, public health or morals. The right to freedom of expression may also be limited if it endangers one of the rights and freedoms guaranteed by the European Convention on Human Rights and Fundamental Freedoms, which are: the right to life, prohibition of torture, inhuman and degrading treatment, the prohibition of slavery and forced labor, the right to liberty and security, the right to a fair trial, no punishment without law, right to respect for private and family life, freedom of thought, conscience and religion, freedom of expression, freedom of assembly and association, right to marry, right to an effective remedy, prohibition of discrimination, and in case of violation of Article 17 of the European Convention on Human Rights and Fundamental Freedoms<sup>50</sup>, that is, the abuse of the right to protection and it cannot be a justification for any form of discrimination or hate speech.

In this part of the Report Ombudspersons will give their observations on hate speech as a form of human rights violation.

The notion “hate speech” is to be understood as covering: “... *all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin*<sup>51</sup>”.

Hate speech is the expression of ideas, views and opinions in public, in a negative context and it includes incitement and propagation of hatred and violence towards a group of persons based on some real or supposed characteristics of a person or a group of individuals to which such speech relates (race, color, language, religion, ethnicity, disability, age, national or social origin, association with a national minority, political or other opinion, property status, membership in a trade union or any other association, education, social status, gender, sexual orientation, gender identity, sexual characteristics, as well as any other circumstance), which that person can not or do not want to relinquish.

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<sup>50</sup> Article 17 of the European Convention on Human Rights and Fundamental Freedoms reads: “*Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.*”

<sup>51</sup>Council of Europe Committee of Ministers, Recommendation 97/20

**Examples:** In two cases the complainants<sup>52</sup> asked the public authority holders to apologize for their statements given at a press conference which reads as follows: „*We would prefer that games of chance and betting would not exist at all, despite the fact that they employ more than 4,000 workers. We see it harmful for the society. We are the leaders in European by number of sports betting facilities. And sports betting facilities are an evil just like drugs and prostitution.*” The complainant asked the person responsible for the above statement to apologize in public claiming that the statement is offensive, slandering and inflicting emotional pain to more than 850 employees engaged in the complainant’s business, that it has elements of hate speech and violates the right to work. Ombudspersons analyzed the complaints from the aspect of protection against discrimination and prohibition of hate speech dissemination and found that one element is missing for this statement to be considered as discriminatory and hate speech. This element is the existence of a personal characteristic a person or a group exposed to discrimination or hate speech. In the concrete case, practicing a certain industry or provision of certain services cannot be regarded as a personal characteristic as it relates to all the natural and legal persons that are in the same situation. Therefore, Ombudspersons did not establish that this statement has elements of discrimination and hate speech, so these files were closed, but responsible party, however, was advised to avoid public use of similar expressions that can be offensive for certain groups of persons in Bosnia and Herzegovina.

**Example:** A complainant<sup>53</sup>, a journalist, turned to the Ombudsman since a representative of a political party verbally threatened him claiming that he would publish compromising photographs of the management of a public outlet employing that journalist. Two days before that, during taking his statement this representative said to the journalist that he knew “*where he lived and with whom he socialized.*” As Ombudspersons analyzed this complaint in light of criminal legislation, the complainant was advised to seek protection of his rights in judicial system and turn to the competent Prosecutor’s office.

Ombudsmen emphasize that public officials during their public appearances influence the public opinion on all important social issues. Fully respecting freedom of expression and commitment in terms of presenting personal views about certain social phenomena, Ombudsmen are of the view that it is necessary to take all measures that responsible persons of relevant institutions as far as possible refrain in public communication from using the terms which may be offensive to any person or a group of persons in Bosnia and Herzegovina, or can turn into hate speech.

In several occasions in 2016 Ombudspersons condemned verbal attacks on journalists in their public statements indicating the harm caused by restriction of freedom of media as a pillar of a democratic and pluralistic society<sup>54</sup>. For the fact that labeling the journalists can aggravate their task to inform the public and for an increase of frequency of such incidents, Ombudspersons are preparing s Special report on the status of journalism and cases of threats against them, which will be finalized during 2017.

#### **Recommendation to public office holders**

- **in their public appearances to use more appropriate language since their statements have far more influence when said in media.**

<sup>52</sup> Ž-SA-05-920/16, Ž-SA-06-1045/16

<sup>53</sup> Ž-SA-05-1264/16

<sup>54</sup> Last public statement was published on 03 January 2017

### 4.3. The right to property

The right to property is enshrined by the European Convention on Human Rights and Fundamental Freedoms, Protocol 1, Article 1 which reads: „ *Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*” Pursuant to the opinion of the European Court of Human Rights expressed in the ruling in case *Sporrong and Lönnroth v. Sweden*<sup>55</sup>, Article 1 contains three different rules. First rule is general in its nature and contains the principle of the peaceful enjoyment of possessions. The second rule concerns the deprivation of property and it sets out requirements and general principles for expropriations, while the third one recognizes that the Contracting States are entitled, amongst other things, to control the use of property in accordance with the general interest. The second and third rules, which are concerned with particular instances of interference with the right to peaceful enjoyment of property, must be construed in the light of the general principle laid down in the first.<sup>56</sup>

An interference of the state must achieve a fair balance between the demands of the general interest of the community and the requirements of the protection of the individual’s fundamental rights. The concern to achieve this balance is reflected in the structure of Article as a whole, including the second paragraph: there must therefore be a reasonable relationship of proportionality between the means employed and the aim pursued.”<sup>57</sup>

Ombudspersons highlight that any interference in peaceful enjoyment of property is only allowed if prescribed by the law, made in the public interest and absolutely necessary in a democratic society.

In the reporting period Ombudspersons have registered 178 complaints for violation of the property rights of the citizens. .

**Example:** A complainant<sup>58</sup> claims that his aunt who owns an apartment in Sarajevo, suffered a brain stroke in 2006, after which the Social Protection Department of the Novi Grad Municipality on her request placed her to the Public Institution „Gerontology Center“ Sarajevo on 18 December 2006. The costs were covered from her pension and the assignment of her apartment to the Novi Grad Municipality Social Protection Department, which was the subject to the appropriate agreement. The complainant’s aunt died in 2014, and the complainant was designated as a legal heir on the second tier pursuant to decision of the Municipal Court in Sarajevo. The Social Protection Department of the Novi Grad Municipality failed to handover the apartment keys to the complainant for a long period since it was occupied by a beneficiary of the Department. When they handed him over the keys, he found that there remained a huge unpaid amount for utilities such as heating, water, electricity etc. amounting at 4,000.00 BAM. The complainant asked the Novi Grad Municipality Social Protection Department to pay this debt since they were using the apartment, but in vain. Following the investigation,

<sup>55</sup> *Sporrong and Lönnroth v. Sweden* (23 September 1982) Series A no. 52

<sup>56</sup> *S.A. Dangeville v. France* (16 August 2002)

<sup>57</sup> *Gasus Dosier und Fördertechnik GmbH v. the Netherlands* (23 February 1995) Series A no. 306-B; paragraph 62

<sup>58</sup> Ž-SA-05-478/16, P-239/16

Ombudspersons recommended to the Public Institution “Cantonal Social Welfare Center” Sarajevo, the Novi Grad Municipality Social Protection Department to make good defects present on the complainant’s property originating from the period of their use of the apartment in question according to the agreement concluded with the complainant’s aunt. There was no reply to this recommendation by the date of this Report writing.

Ombudspersons think it important to emphasize that actions initiated by citizens for the protection of their property rights must be conducted in accordance with relevant legislation and international standards of property rights protection.

**Example:** A complainant <sup>59</sup> initiated proceedings for his apartment purchase through the privatization process. During the investigation Ombudspersons have found that *the Sarajevo Centar Municipality*, that is, its *Administration and Housing Department* acted in violation of provisions of the Law on Administrative Proceedings of the Federation of Bosnia and Herzegovina when it issued its Information no.: *03-23-2703/11 dated 11 May 2015* to the complainant without the right to appeal or use other legal remedies. In this way the right to decision making in two instances in administrative proceedings is violated, which implicates legal uncertainty and prevents the complainant to benefit from legal remedies in concrete case in the field of property rights. According to the recommendation of the Council of Europe good administration means the exercise of discretionary powers by the administrative authorities for purpose of achieving results that fulfill the needs of citizens, having in mind that institutions are accountable to those to whom these measures or decisions are intended.<sup>60</sup> Ombudspersons recommended the Municipality of Center Sarajevo Administration and Housing Department in accordance with the Law on Administrative Procedure to serve to the complainant a decision on the outcomes of the proceedings before it including the information on available legal remedies. The recommendation was not implemented.

#### 4.4. Administration

Ombudspersons think that it is necessary to improve the services through the public administration reform in order to make it more efficient, accessible and transparent.

Back in 2006 the Strategy of Public Administration Reform along with Action Plan for its implementation was adopted by the Government of the Federation of Bosnia and Herzegovina, the Government of Republika Srpska, the Government of Brčko District of Bosnia and Herzegovina, and the Council of Ministers of Bosnia and Herzegovina. The governments have also adopted the Joint Platform on principles and methods of implementation of the Action Plan 1 and the Strategy of Public Administration Reform in Bosnia and Herzegovina, which was supposed to ensure the political and legal framework, and create a basis for co-operation of the administrative authorities at all the levels and work of their representatives in the joint bodies monitoring the implementation of the Action plan 1.

<sup>59</sup> Ž-BR-05-148/16, recommendation no. P-250/16 dated 17 October 2016

<sup>60</sup> Recommendation of the Council of Europe Committee of Ministers no. R(80)2 dated 11 March 1980

In 2016 the Ombudsman registered 358 complaints related to actions of the administrative bodies, and issued 31 recommendations. Like in previous years, most of complaints related to the violation of principles prescribed by the Law on Administrative Procedure of the Federation of Bosnia and Herzegovina<sup>61</sup> and the Law on General Administrative Procedure of Republika Srpska<sup>62</sup>, which is binding for the competent administrative authorities in processing the claims and decision making in administrative matters. Most frequently it is about violation of the following principles: legality, providing assistance to a lay client, hearing of a client, efficiency and cost-effectiveness of the proceedings and protection of the rights of the clients.

Most of the cases registered in 2016 in respect of realization of the rights in administrative proceedings related to the length of the administrative proceedings in the first-instance, length of deciding on appeals, failure to use legally provided possibility to decide on merits in appellate proceedings, and instead of that multiple return of cases to the first-instance (playing ping-pong with applicants) and silence of administration. This year is also noticeable practice of the courts in administrative actions, which accept the petition claims of a citizen and render the administrative decision complained of null and void, but instead of deciding, return it to the administrative body, which then again adopts an administrative act contrary to the instructions of the court and its jurisprudence, so that a citizen has no any other solution available but to initiate administrative proceedings from the beginning. As a consequence, they have to wait for years for their administrative matters to be solved. It is evident that such inefficient and costly behavior of relevant authorities including the courts, endless shift of responsibility from one body to another, and lack of reaching decisions instead of return to repeated proceedings had lowered level of the citizens' protection to a minimum. Therefore it is not surprising that citizens in their complaints to the Ombudsman claim that administrative bodies are inefficient, that they cause denial of their rights and constantly deal with the same or similar matters. This was the reason why Ombudspersons in the case no. Ž-BL-05-213/16 dated 13 October 2016<sup>63</sup> issued a recommendations to the District court in Banja Luka *asking it to render its decision on merits and adopt judgment in the administrative matter at hand without returning it to the administrative body for another round of proceedings*. This recommendation was implemented.

Analysis of lodged complaints show that in a significant number of cases, the Ombudsman's intervention is required, sometime more than once, before the competent body ends administrative proceedings and reach decisions in accordance with their legal powers. This makes us ask ourselves how long these proceedings would have lasted should the Ombudsman not intervened. There is also the issue of accountability of responsible officials who often cause adoption of illegal and wrong decisions by their passivity. This goes to detriment of citizens, while the responsible persons bear no responsibility, nor suffer consequences. This is particularly manifested in proceedings involving legalization of illegally constructed buildings.

**Example:** A complainant<sup>64</sup> was lodged for length of proceedings for legalization of illegally build property held before the Town of Banja Luka Department for Spatial Arrangement.

<sup>61</sup> The Law on Administrative Procedure of the Federation of BiH, Official Gazette of FBiH" no. 2/98 and 48/99

<sup>62</sup> The Law on General Administrative Procedure of Republika Srpska ("RS Official Gazette", no. 13/02, 50/10 and 87/07

<sup>63</sup> Ž-BL-05- 2013/16 recommendation no. P- 182 /16 dated 13 October 2016

<sup>64</sup> Ž-BL-04-308/16.

Proceedings were initiated in 2013. Following the intervention of the Ombudsman, more precisely after its third call, the proceedings reached conclusion and decision was rendered.

Regretfully, a lot of registered complaints<sup>65</sup> show that sometimes even the Ombudsman's intervention is not enough to have the proceedings ended. Namely, some administrative bodies are persistent in violation of human rights and failure to decide on claims of the citizens, even after repeated interventions of the Ombudsman or after the issuance of its recommendation, which is in violation of the provisions of the Law on Human Rights Ombudsman of Bosnia and Herzegovina.

**Example:** The Municipality Velika Kladuša failed to end administrative proceedings although the proceedings commenced in 2006<sup>66</sup>. Since it was not done even after the intervention of the Ombudsman, it decided to issue a recommendation asking the responsible party to render its decision in the administrative matter subject to complaint without further delay in the framework of its legal powers, to re-initiate proceedings and then end the case in legally prescribed deadlines. There was no reply to this recommendation.

**Example:** A complainant<sup>67</sup> addressed the Ombudsman asking for the protection of his identity in proceedings related to non-transparent allocation of funds from the Republika Srpska Solidarity Fund for Reconstruction to the business entities in Dobož Town. The complainant designated the Dobož Town and the Republika Srpska Solidarity Fund. After the investigation the Ombudsman issued a recommendation asking the Fund, as a responsible party, with no delay to inform the members of its Management Board about the contents of the Ombudsman's recommendation in order for them to objectively assess the damages caused by floods to be covered by the Fund and in future allocations of funds for reconstruction to take in consideration recommendations of the Ombudsman. There was no reply to this recommendation.

## 4.5. Inspections

Inspection is very important for the implementation of a range of regulations that underpin the protection of the rights of individuals and legal entities. Through inspection the authorities monitor the implementation of regulations, eliminate possible violations and sanction responsible persons. Without inspection there would not be guarantees of the implementation of legislation, and without these guarantees it would not be possible to talk about good governance, the rule of law and protection of individual rights. It is therefore essential to conduct the inspection control in an efficient and timely manner and in accordance with the applicable legislation.

In the reporting period, the Ombudsman received 56 complaints related to failure of the inspection authorities to act upon citizen's reports, non-conducting inspection in due time, failure to take legally provided actions and absence of action due to the limitations in human resources.

<sup>65</sup> Ž-BL-05-290/15, Ž-BL-05-545/15

<sup>66</sup> Ž-BL-05-290/15, recommendation no. P-284/15 dated 31 December 2015

<sup>67</sup> Ž-BL-05-545/15, recommendation no.: P-249/15 dated 09 November 2015

Ombudspersons indicate that if the authorities are unable to ensure supervision over the implementation of the regulations, these regulations in any field are essentially with no effect. Irrespective of the eventual outcome of the inspection conducted following a report, or whether the inspection will reveal a violation, the fact that the inspection is not carried out constitutes a violation and failure to execute positive obligations assumed by the government regardless of whether these obligations arise from the law and the constitution, or are based on a number of international documents.

**Example:** A complainant<sup>68</sup> addressed the Municipality of Gračanica in respect of illegal burial of the dead by a physical person H.E. on a private land plot. The Entrepreneurship, Local development and Finance Administration of the Municipality of Gračanica<sup>69</sup> replied as follows: „*The Municipality of Gračanica functions without a sanitary inspector for a long time.... We are going to contact the municipalities which have a sanitary inspector to send him/her to the field to resolve this issue.*“ Ombudspersons recommended the Municipality of Gračanica within 30 days from the date of their receipt of this recommendation to initiate proceedings to fill in the position of sanitary inspector. To the date of this report preparation no reply to this recommendation was received.

Analyzing the replies of the responsible persons Ombudspersons concluded that it would be necessary to make an analysis on situation in inspections, establish professional capacity of their staff and organize additional training in order to achieve legality of their work.

**Example:** A complainant<sup>70</sup> claimed that she filed a report to the Cantonal Administration for Inspections in Tuzla against a business subject dealing with passenger transportation and received a reply<sup>71</sup> in which they claimed that they were not a body in charge to act upon a report, and failed to provide any information as to which body would be in charge to act and decide upon a report. Ombudspersons emphasized that, according to the positive regulations, the inspections are obligated to co-operate with other public bodies, legal entities, associations, media, citizens and other subjects in issues relevant to the efficient implementation of legislation subject to inspection in issues important for the efficient implementation of legislations subject to inspection and in order to prevent and redress detrimental consequences. Cantonal inspector is obligated to inform the competent body if he observe lack of clarity and faults in implementation of cantonal laws and other regulation during the inspection. Cantonal Administration for Inspections was recommended to enable the cantonal inspectors to act in accordance with provisions of the Law on Inspections of Tuzla Canton<sup>72</sup> and take additional measures as necessary for their training in order to strengthen legality of their actions. To the date of this report preparation no reply to this recommendation was received.

<sup>68</sup> Ž-BR-05-40/16, P-204/16 dated 08 November 2016

<sup>69</sup> Document of the Entrepreneurship, local development and finance administration of the Municipality of Gračanica no. 05-27-03281/15 dated 06 November 2015

<sup>70</sup> Ž-BR-05-271/15, P-249/16 dated 20 December 2016

<sup>71</sup> Document of the Cantonal Administration of Inspection Issues Tuzla no. 17/4-III-27-003514/15

<sup>72</sup> Article 190 of the Law on Inspections of Tuzla Canton (“Official Gazette of Tuzla Canton, no. 10/12, 13/15 and 09/16) reads: *Cantonal inspections are obligated to co-operate with state and other authorities, legal bodies, mass media, citizens and other subjects in issues important for the efficient implementation of legislations subject to inspection and in order to prevent and redress detrimental consequences. Cantonal inspector is obligated to inform the competent body if he observe lack of clarity and faults in implementation of cantonal laws and other regulation during the inspection.*



Ombudspersons underline that untimely and ineffective action of the inspection bodies can produce far-reaching consequences not only in terms of violations of the right to legal protection, but also a violation of property rights of citizens. Such is the case with inspection bodies that failed to act on reports related to the illegal construction of residential and commercial buildings. Since inspections took no action on due time in order to halt the construction works on the buildings, the time has passed and construction was completed, then the owners started legalization process, which sometimes lasts for several years due to the weaknesses of the administrative apparatus, but whatever the outcome, the principle of legality and efficiency in the work of the administration was brought into question.

**Example:** A complainant<sup>73</sup> expressed dissatisfaction with the work of the Inspection of the Tuzla Town claiming that the inspectors did nothing on her report related to illegal construction nearby her house. The complainant claimed that the construction was continued, although the relevant authorities refused the application for legalization of the object subject to complaint. The Inspection Administration of Tuzla Town did nothing in this respect and the Ombudsman initiated its investigation.

#### 4.6. Status issues of citizens

Identity is a group of individual characteristics and distinctive features by which a citizen is recognized as a subject of rights in the legal system. For this very reason the issue of achieving and ensuring the protection of citizens' identity is of particular importance.

Set of personal data (name, identification number, etc.) of a citizen determines his identity. In Bosnia and Herzegovina legislation defines general rules for the processing and protection of personal data that must be respected by all subjects of rights. Therefore the protection of personal data is gaining in importance, not only as a right of an individual but also as a public interest.

Ombudspersons note that abuse of personal data is possible and that they have dealt with it insofar as that there was a case that one citizen in the name of another, without his knowledge or consent, file an appeal asking the Ombudsman to intervene.

In addition to that, Ombudspersons emphasize that the Personal Data Protection Act<sup>74</sup> aims at protection of human rights and fundamental freedoms of all citizens on the territory of Bosnia and Herzegovina, particularly the right to their personal data protection. Article 6 provides that the controller may process data without the consent of a data subject *if certain conditions have been fulfilled*. When the data subject finds or suspects that the controller or processor breached the data subject's right, or that there is a direct risk of breach of right, the data subject may file a complaint with the Agency, which is established for the purposes of personal data protection. The Agency issues a decision, which should be submitted to the complainant and the controller. Pursuant to the Personal Data Protection Act, the Agency for Personal Data Protection is obligated to ensure

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<sup>73</sup> Ž-BR-05-287/16.

<sup>74</sup> Personal Data Protection Act, "Official Gazette of Bosnia and Herzegovina", no. 49/06 and 76/11.

supervision over the implementation of this Law and other laws on personal data processing and act on data subject's complaints.

**Example:** Ombudspersons were asked<sup>75</sup> to exert their influence on inspection bodies so they do inspection as soon as possible. Following the registration of the complaint, a person on whose behalf the complaint was lodged explained that he neither lodged complaints nor wishes the Ombudsman to do anything in this regard. In accordance with the wish of the citizen, the case was closed.

This year, like in previous ones, Ombudspersons handled complaints of citizens in respect of status issues, mostly related to errors in the registry books or in issued documents in respect of citizens' personal data such as the data of birth, citizenship, marriage, death etc.

**Example:** Ombudspersons were informed of a problem<sup>76</sup> involving the registration of birth or death into the registry books for conflict of mandates. A document of the Government of Brčko District of Bosnia and Herzegovina<sup>77</sup> reads „... *that the Law on Amendments to the Law on Registry Books of the Federation of Bosnia and Herzegovina* (*Official Gazette of the Federation of Bosnia and Herzegovina*”, no. 80/14), provides, among other things, that fact of a child's birth is to be registered in books kept for the place of mother's residence or abode, while the fact of a death is to be registered in in books kept for the place of a deceased' residence or abode, instead of practice to register the above facts in places of their occurrence.“ Further in its document the Government of Brčko District of Bosnia and Herzegovina points out „...*that so far there is five cases of a negative conflict of mandates related to five persons who had the place of abode on the territory of Brčko District of Bosnia and Herzegovina and who died in Tuzla, which cannot be registered in the Registry book kept for Brčko District of Bosnia and Herzegovina since the Law on Registry Books of Brčko District of Bosnia and Herzegovina provides for registration of the death to take place in the place of incidence of death.*“ In its complaint the Government of Brčko District of Bosnia and Herzegovina emphasizes that such a legal solution on the territory of the Federation of Bosnia and Herzegovina should be restricted only to persons with the place of abode on the territory of the Federation of Bosnia and Herzegovina, while legal possibility should be left to register facts related to the death of persons who died on the territory of the Federation of Bosnia and Herzegovina who cannot, according to the applicable law, be registered on the territory of Brčko District of Bosnia and Herzegovina and the Republika Srpska. According to the claims of the complainant, the Federation of Bosnia and Herzegovina is in this way directly prejudicing the legal solutions of Brčko District of Bosnia and Herzegovina. Acting on this complaint Ombudspersons took a series of activities and sent a lot of letters to the competent authorities indicating to the mentioned problems and emphasizing the need to resolve it. In May 2016 Ombudspersons received a document issued by the Public Registry of the Government of Brčko District of Bosnia and Herzegovina under number: 10-0211MI-008/16, file no. 12-017119/14, which reads „...*we hereby inform you that the issue of a negative conflict of mandates is overcome in a way that Tuzla started to register in*

<sup>75</sup> Ž-BL-05-277/16

<sup>76</sup> Ž-SA-05-1136/14

<sup>77</sup> Document of the Government of Brčko District of Bosnia and Herzegovina, file no.: 12-017119/14, no.: 10-1084SM-004/13 dated 24 October 2014

*its registry books persons who died in Tuzla and have residence on the territory of Brčko District of Bosnia and Herzegovina.* “ The case was successfully solved.

Ombudspersons note that the acting authorities in their work should, in accordance with applicable legislation, take all necessary steps for the citizens not only achieve their guaranteed right, but also their duty of having an identity card.

If a citizen does not meet requirements foreseen by positive legislation of Bosnia and Herzegovina for the enjoyment of a right, or obtaining of a document, they deserve to be adequately instructed as to the ways of realizing of the individual right by an official person. Decisions on requests of citizens should be made in writing respecting legally provided deadlines to allow the citizens to use legal possibility to appeal if non-satisfied by mentioned decisions.

**Example:** Ombudspersons<sup>78</sup> established violation of the complainant’s right to possession of personal documents (ID card and passport). Although he once had documents issued by the official authorities of Bosnia and Herzegovina, he was denied the right to renew the documents. Ombudspersons issued their recommendations reminding the competent authorities that citizens should not carry a burden of lack of co-ordination between the official authorities and administrative departments. Recommendations were directed to the Bosnia and Herzegovina Ministry of Civil Affairs of Bosnia and Herzegovina – Citizenship and Passports Department, the Federal the Ministry of Interior of Tuzla Canton, the Ministry of Interior of Republika Srpska, Police Station Zvornik, the Municipality of Zvornik, Administrative Department, General Administration Department; the Tuzla Town, General Administration Department and Joint Services to co-ordinate actions and take efficient measures aimed at realization of the complainant’s right to personal documents. This recommendation was fully implemented during 2016.

The Ombudsman emphasizes the obligation of all bodies of keep different records based on which they issue public documents to citizens (certificates and extracts), and to put accurate and complete information in those documents so that citizens as subjects of rights can use it in legal transactions. In the case of a public document containing any errors, the authorities should rectify it on their own initiative, efficiently, promptly and without imposing additional financial costs. Namely, citizens’ complaints lodged within the Ombudsman indicate that in a number of cases, errors are rectified only after the intervention of the Ombudsman.

**Example:** Mother of a child<sup>79</sup> complained to the Ombudsman alleging violation of the right of her child to a personal name by the secondary school which the child attends. The merits of dispute are that the name of the child include the Latin letter „x“, while the school he attends only issues school certificates in Cyrillic script, so they used Cyrillic letter “h” instead of Latin „x“ as Cyrillic script does not have the letter „x“. But, in this way the child’s name is changed and it is not pronounced in the same way. After the investigation, Ombudspersons recommended the school to respect the child’s name and issue the school certificate in accordance with his birth certificate and primary school certificate. It was also recommended that in the future all

<sup>78</sup> Ž-BR-05-9/14, recommendation no.: P-93/165 dated 26 April 2016

<sup>79</sup> Ž-BL-01-754/15, recommendation no. P-74/16 dated 28 April 2016

documents issued by the school be written in Latin script to avoid similar situations. This recommendation was implemented.

## 4.7. Police

Police is a public body in Bosnia and Herzegovina that should be a guarantor of public safety. Police tasks are numerous: protection of people and property, ensuring the applicable law implementation, protection of fundamental rights and freedoms of citizens, prevention and combating crimes, maintaining the public safety and order, and provision of assistance to citizens.

Work of the police officers is based primarily on the provisions of the Law on Border Police of Bosnia and Herzegovina, the Law on Police Officials of Bosnia and Herzegovina, laws on internal affairs of the Federation of Bosnia and Herzegovina (and laws on internal affairs of the cantons) and the Republika Srpska, the Law on Police of the Brčko District of Bosnia and Herzegovina, laws on police officers of the Federation of Bosnia and Herzegovina, Republika Srpska and the Brčko District of Bosnia and Herzegovina, and cantonal laws on police officers.

In 2016, 138 complaints were received, indicating that police members often go beyond the limits of their legal powers, that the internal control system which is in place often only has a formal role and that there is no efficient mechanism of control over the work of the police bodies.

On the other hand, the Ombudsman also received a number of complaints lodged by police officers alleging violation of their rights in the area of labor law, disciplinary proceedings against them with no grounds<sup>80</sup>, stripping of their ranks<sup>81</sup>, discrimination, mobbing, miscalculation of special work experience, use of unpaid leave etc.

During the reporting period the Ombudsman registered multiple complaints filed by police officers complaining of mobbing.<sup>82</sup>

**Example:** A complainant<sup>83</sup> alleges that the Traffic Unit police officers have not been treated equally as other police officers in Brčko District since there is audio and video surveillance equipment installed in the official cars of the traffic police and they are subject to the constant surveillance in the discharge of their duties. They also claim that Professional Standards Unit constantly interrogates them for poor *quality of audio records, or failure to record some material or a car*. Audio and video surveillance systems are not installed in vehicles of other organizational units of the Brčko District of Bosnia and Herzegovina Police although they are engaged in similar jobs like the Traffic Police Unit officers. Having analyzed the allegations of the complaint and the attached documentation in light of the international human rights protection standards and provisions of the applicable domestic legislation Ombudspersons have found that the allegations of the complainants of discrimination and unequal treatment are ill-founded. They were satisfied that reasons for audio and video surveillance in the vehicles of

<sup>80</sup> Ž-BR-04-60/16

<sup>81</sup> Ž-BR-04-61/16

<sup>82</sup> Ž-BL-06-69/16, Ž-BL-06-79/16 and Ž-BR-06-42/16

<sup>83</sup> Ž-BR-06-42/16

Brčko District Police are the following: *safeguarding of legality, regularity, professionalism, and safety, facilitating the work of the police officers in documenting of their official activities and reduced possibility of corruptive actions* and these actions are objectively justified, based on law and done in the interest of the community. Finally, video surveillance cameras are also for safety reasons installed in shopping malls, public and educational institutions and nobody objects to that. The Basic and the Appellate court of Brčko District are technically equipped and use the audio and video recording systems in the courtrooms in order to ensure transparency and legality of the proceedings. Sessions of the Brčko District Assembly, as well as the state, entity and cantonal assemblies are sometimes fully recorded and directly broadcasted through TV, radio and electronic media. Therefore allegations on negative influence of audio and video recording systems to health of police officers cannot be considered acceptable.

Organizational units/offices/departments within the ministries of interior<sup>84</sup> monitor and control legality in work of the police in respect of abuse of office, and they also follow-up the cases of overstepping the authority and possible involvement of police officers in criminal activities, carry out investigations and internal proceedings aimed at prevention and detection of illegal acts perpetrators. As a result of conducted internal proceedings and establishment of the veracity of claims and allegations found in complaints of citizens related to the actions of police officers and suggest appropriate measures. They also take care that police actions are in line with relevant legislation and done in the interest of legality, professionalism, service to community and co-operation between the police and community.

In their addresses citizens express lack of trust into these internal control mechanisms, as they see the conducted proceedings as being formal and inefficient. In most cases internal control finds their complaints ill-founded and informs complainants about it in a document which can be appealed of.

**Example** of an answer received during the proceedings upon the complaint<sup>85</sup>:

*„We hereby inform you that Professional Standards Unit, the Ministry of Interior of Sarajevo Canton Internal Control Unit conducted investigation on allegations presented in your complaint ... and could not with certainty confirm the veracity of these allegations. Therefore in accordance with Article 35 of the Rulebook on work of the Professional Standards Unit of the Ministry of Interior of Sarajevo Canton was closed with a conclusion – Insufficient evidence<sup>86</sup>.“*

**Recommendation to the Ministry of Interior of the Federation of Bosnia and Herzegovina, the Ministry of Interior of Republika Srpska, Police of Brčko District of Bosnia and Herzegovina and the ministries of interior of the cantons:**

- **address and improve real independence of the internal control monitoring the work of police officers, and re-examine independence of work of the police control bodies;**
- **ensure decision-making in two-instances in proceedings upon citizens' complaints against the work of police officers;**
- **ensure systemic and continuous education of police officers on human rights.**

<sup>84</sup> Professional Standards Unit within the cantonal ministries of interior Professional Standards Unit within the Federal Ministry of Interior, Public Complaints Office within the Federal Police Administration, Department for the Protection of Integrity and Legality of the Republika Srpska the Ministry of Interior work.

<sup>85</sup> Ž-SA-06-1072/16

<sup>86</sup> Document of the Ministry of Interior of the Sarajevo Canton, Police Administration, Professional Standards Unit no. 02/4-1-99/16 dated 03 February 2017

## 4.8. Governmental and ministerial appointments

Ombudspersons have the mandate to reassess appointments made in accordance with the Law on Ministerial Appointments, Appointments of the Council of Ministers and Other Appointments in Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina Law on Ministerial, Government and Other Appointments and the Republika Srpska Law on Ministerial, Government and Other Appointments.

In the reporting period Ombudspersons registered 47 complaints for alleged violations of the mentioned law provisions. They issued 19 recommendations. Allegations of these complaints relate to violation of the fundamental principles in the process of appointment and dismissal of management and supervisory boards in economic and public companies<sup>87</sup>.

**Example:** A complainant<sup>88</sup> addressed the Ombudsman complaining about the selection and appointment of a director of the Public Institution National Theatre Sarajevo following the public vacancy notice published in the Official Gazette of the Federation of Bosnia and Herzegovina”, no. 43/16 dated 03 June 2016., and challenging the opinion of the Management Board of the Public Institution National Theatre Sarajevo that the appointed candidate did not meet the criteria for the appointment to that position. In the course of the proceedings initiated in respect of this complaint Ombudspersons of Bosnia and Herzegovina in their letter dated 20 July 2016 asked the Management Board to give their opinion about the allegations from this complaint stating the regulations based on which the appointment of a director of the Public Institution National Theatre Sarajevo was done and all relevant documents related to the appointment process. Since there is no answer, Ombudspersons recommended the Management Board to start co-operation with the Ombudsman at once. Acting on this recommendation President of the Management Board of the PI National Theatre Sarajevo on 02 November 2016 answered that the Management Board was appointed by the Government of Sarajevo Canton therefore they could not reply to the Ombudsman earlier. Having analysed the relevant documentation they furnished, Ombudspersons concluded that the complaint was ill-founded and allegations had no grounds as the appointed candidate met all the criteria.

**Example:** A complainant<sup>89</sup> filed his complaint about the final appointment of the president and a member of the Management Board from the ranks of the Founder of the Public Institution „Social Welfare Cente” Tuzla. Following the investigation it was revealed that the public advertisement published in daily newspaper “Oslobodenje” and the Official Gazette of the Federation of Bosnia and Herzegovina, no. 20/16 dated 16 March 2016, Item IV states the following: *„During the evaluation of the candidates’ qualifications and experience the following criteria will be taken in consideration: 1. Work experience in the area of the Institution’s core business, 2. professional in the area of the Institution’s core business, 3. Achieved results in the candidates’ business career, 4. Minimum knowledge on organization of the Institution and its core business and 5. Ability of conscientious and responsible discharge of the duties and tasks as required for the vacated position and propensity to team work”*. During the selection process

<sup>87</sup> Ž-MO-05-10/15, recommendation no. P-29/16 dated 18 February 2016, Ž-LI-05-3/16, recommendations no. P-50/16 dated 26 February 2016

<sup>88</sup> Ž-SA-05-733/16, recommendation no. P-187/16 dated 05 October 2016

<sup>89</sup> Ž-BR-05-138/16, Findings, conclusion and recommendation no. P-192/16 dated 17 October 2016

work experience in the area of the Institution's core business had not been established in any way, as well as the professional training in the Institution's core business. Ombudspersons formulated their findings, conclusion and recommendation to the Tuzla Town, City Council and Economic Development Department recommending them to cancel this appointment of the president and a member of the Management Board from the ranks of the Founder of the Public Institution „Social Welfare Center” Tuzla and take all necessary measures to ensure that the mentioned appointment is done with full respect of procedures and principles established in the Federation of Bosnia and Herzegovina Law on Ministerial, Government and Other Appointments. President of the Tuzla City Council replied as follows<sup>90</sup>: *„.....in capacity of President of the Tuzla City Council I have referred to the Mayor of Tuzla Town an initiative to take necessary measures to implement recommendations of the Ombudsman Institution given in the Recommendation no. P-192/16, that is, that the body which adopted the mentioned decision on appointment cancels this appointment and refer to the City Council suggestions as to the documents to be used to repeat the procedure and ensure that appointment of the president and members of the Management Board of Tuzla Social Work Center be in line with the Federation of Bosnia and Herzegovina Law on Ministerial, Government and Other Appointments...”*

Ombudspersons emphasize that meeting of both general and special conditions in public competitions constitutes a basic and eliminatory factor in selection procedures. Conditions are set out in order to enable that evaluation and selection of candidates be done in an objective manner establishing the qualifications of the candidates who applied for a certain position. Any departure from the predefined criteria is a violation of the selection procedure and the rights of the candidates to a legal, non-biased and transparent selection process.

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<sup>90</sup> Document of President of the City Council of Tuzla Town no. 01-0-8073-2016./MN dated 30 November 2016

## V ECONOMIC AND SOCIAL RIGHTS

In handling complaints about violation of economic and social rights of citizens, Ombudspersons acted within the framework of the positive regulations and standards of the human rights protection set out in the International Covenant on Civil and Political Rights<sup>91</sup> and the Revised European Social Charter<sup>92</sup>.

Ombudspersons have a wide range of possibilities in the field of protection of the rights falling within this category, including: the right to work, the rights of children and young persons to protection, the right of employed women to maternity leave, the right to health care, the right to social security, the right to social and medical assistance, the right to use social welfare services, the right of persons with disabilities to independence, social integration and participation in community life, the right of the elderly to social protection, the right to protection in the event of termination of employment, the right to housing...

During 2016, the Ombudsman Institution registered 738 complaints pertaining to violation of economic, social and cultural rights. Compared to 2015, when it received 698 complaints, it is evident that the number of complaints of citizens has increased by 5.73%.

### 5.1. The right to work

In 2016 the Ombudsman registered 328 complaints of violation of the labor. Compared to 2015 it is evident that the number of complaints of citizens has increased by 13.89%.

The most common reasons for addressing the Ombudsman in 2016 were: irregularities in recruitment procedures<sup>93</sup>, illegal work/failure to register employees at pension and disability insurance funds, including the failure to pay legally prescribed contributions into the pension, disability and health insurance funds, as well as the unemployment insurance<sup>94</sup>.

Work is directly related to human dignity and one's need to participate in social life through work, but it is important to emphasize that the legal formulation of "the right to work" does not imply a guarantee of this right. Unemployment is a phenomenon faced by every country in the world to a greater or lesser extent and it is almost impossible to achieve absolute employment in the territory of a state. Therefore, the right to work should be viewed in terms of the right to equal access to work, and that there is an obligation of the states - parties to international instruments to take concrete steps in order to enable achievement of this right.

Ombudspersons remind to the definition of discrimination given in the International Labor Organization Convention 111 related to discrimination in employment and profession: *„the term of “discrimination” includes any distinction, exclusion or preference made on the basis of race,*

<sup>91</sup> The International Covenant on Economic, Social and Cultural Rights adopted 1976

<sup>92</sup> European Social Charter (revised) signed by Bosnia and Herzegovina on 11 May 2004, and ratified on 7 November 2008, Bosnia and Herzegovina is considered not bound by 12 articles (articles 3,10, 15, 18, 19, 24, 25, 26, 27, 29 and 31)

<sup>93</sup> Ž-BL-04-17/16, Ž-BL-04-43/16, Ž-BL-04-57/16, Ž-BL-04-88/16, Ž-SA-04-123/16 (P-85/16)

<sup>94</sup> Ž-BL-04-45/15



*color, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation; such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies“.*

**Examples:** A complainant<sup>95</sup> addressed the Ombudsman about the hiring of an employee with a university degree to the Public Utility Komunalno d.d. Živinice without a public vacancy notice and public competition, and above all, in violation of ethnic structure of the employees. Acting on complaint, Ombudspersons recommended the PU „Komunalno“d.d. Živinice *during the hiring to take care on transparency of the proceedings and ethnic representation of the employees.* No reply was received.

Ombudspersons point out that one of the features of regulations governing the labor relations is their flexibility owing to which the economic entities can hire staff without public advertising the vacancy. In such a situation it is obvious that persons who are hired without public announcement are in more favorable position compared to those who have not had the opportunity to apply for these jobs. In this way, staff structure does not reflect the acceptable proportionality between the means (employees receiving mode) and the aim sought to be realized (fill in the vacancies). In the opinion of the Ombudsman publicly advertising the vacancies will allow a larger number of interested candidates to participate equally in the selection, and provide filling of vacancies with objectively best candidates.

Even in 2014 Ombudspersons sent to the Parliament of the Federation of Bosnia and Herzegovina<sup>96</sup> their initiative for amendments to the Labor Law of the Federation of Bosnia and Herzegovina and the Law on Public Enterprises of the Federation of Bosnia and Herzegovina in sense that hiring procedure should be governed in more detail including the obligation of the bodies and companies in which the owner or the funder is the state. This initiative was not taken into consideration during the adoption of the new Labor Law of the Federation of Bosnia and Herzegovina.

Ombudsmen reiterate the necessity of adopting amendments to the entity labor laws, in terms of prescribing the obligation of the bodies and enterprises in which the owner or the funder is the entity, canton, city and municipality to define the mode of hiring staff members, with the aim of eliminating corruption and nepotism in employment and facilitating the employment of the highest quality staff.

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<sup>95</sup> Ž-BR-04-288/15, recommendation no. P-227/16 dated 02 December 2016

<sup>96</sup> Initiative in case Ž-SA-05-269/14

**Recommendation:**

- 1. to the Parliament of the Federation of Bosnia and Herzegovina**
  - **to start procedure for amending the Law on Public Companies of the Federation of Bosnia and Herzegovina in sense to make public advertizing of vacancies mandatory.**
  
- 2. to the Parliament of the Federation of Bosnia and Herzegovina and the National Assembly of Republika Srpska**
  - **to start procedure for amending the Labor Law in sense of making the public advertizing of vacancies in bodies and enterprises in which the owner or the funder is the entity, canton, city and municipality mandatory.**

Ombudspersons draw the attention to the request of the Committee on Economic, Social and Cultural Rights, asking the requests the State party *to include updated statistical data, disaggregated by age, ethnic group, social and other relevant status, on the representation of women in the public and private employment sectors, as well as on the salaries received by women as compared to those received by men for equal work*<sup>97</sup>, while the Committee for elimination of racial discrimination suggested the country to *continue its efforts to ensure efficient methods of collection of data that will give complete and reliable disaggregated statistics on the ethnic composition of its population* and establish adequate mechanisms for monitoring (follow-up) of ethnically motivated discrimination and violence among different ethnic groups<sup>98</sup>.

Non-existence of such evidence is an aggravating circumstance in determining the existence of discrimination based on gender, ethnicity, or any other affiliation in employment.

In the reporting period citizens addressed the Ombudsman<sup>99</sup> indicating the violation of labor rights and more concretely, the right to get paid for work.

**Example:** A complainants<sup>100</sup> identify themselves as employees of PE „Mostar Parking“ d.o.o Mostar claiming that on 05 May 2016 they addressed the Mayor of the Mostar Town asking for his assistance in finding the way of settling their earned and unpaid salaries. The Tax Administration of the Federation of Bosnia and Herzegovina blocked the transaction account of the Enterprise „Mostar Parking“ d.o.o. Mostar on 18 January 2016 for their outstanding debts for taxes and contributions. Book-keeping agency also terminated their contract with the Enterprise for non-payment and there is no one to calculate salaries. P.E. „Mostar Parking“ d.o.o. Mostar owes to the employees an amount of their cumulated outstanding salaries since December 2015. Given the situation and the fact that they live for months without any income the employees decided to distribute money collected from parking machines to all the employees in equal shares. In order to do it, they need the appropriate decision to be signed by the P.E. „Mostar Parking“ d.o.o. Mostar director, which he refuses to do without the consent of the Mayor. In order to establish the facts in this case, Ombudspersons sent a letter to the Mostar Town Mayor

<sup>97</sup>E/C.12/BIH/CO/1, Concluding observations of the Committee on Economic, Social and Cultural Rights, Item 33.

<sup>98</sup>CERD/C/BIH/CO/6, Concluding observations of the Committee for Elimination of Racial Discrimination, Item 8.

<sup>99</sup>Ž-MO-04-63/16,

<sup>100</sup>Ž-MO-04-63/16, recommendation no. P-194/16 dated 30 November 2016

asking his opinions on the allegations from this complaint. Since there was no reply to this letter, on 19 October 2016 Ombudspersons sent their recommendation to the Mayor of Mostar asking him to establish co-operation with the Ombudsman Institution. After this the Mayor of Mostar Town replied to the Ombudsman as follows<sup>101</sup>: “...on 24 May 2016 Mayor of Mostar, Ljubo Bešlić sent a letter to the Tax Administration of the Federation of Bosnia and Herzegovina asking for temporary unfreeze of the transaction accounts of the P.E. „Mostar Parking“ d.o.o. Mostar and suggested the conclusion of a debt settlement agreement including the possibility of payment in installments. On 06 June 2016 an agreement was concluded on deferred debt payment between the Cantonal Tax Administration Mostar and the P.E. „Mostar Parking“ d.o.o. Mostar. In order to financially support the employees of the P.E. „Mostar Parking“ d.o.o. Mostar the municipal administration of the Mostar Town concluded temporary work contracts with the employees based on which they were paid certain amounts of money...”

**Example:** A complainant<sup>102</sup> alleges that from 13 October 2010 until 23 February 2016 she was employed by the Public Health Institution Health Center “Ozren” Petrovo, as a medical doctor with permanent work contract. On 24 February 2016 she filed a written request asking the consensual termination of her work contract. She claims that in that occasion she was told that her request will be approved if she signed an obligation not to sue the Institution for reduction of her salary and unpaid fringe benefits pursuant to the Labor Law and her work contract. On 26 April 2016 Ombudspersons sent a letter to the Republika Srpska Inspection Administration to which the Republic Inspection Administration, that is, its Labor Inspection Department – Doboj Section<sup>103</sup> in which they inform that: “... on 03 May 2016 an extraordinary inspection was carried out in the above mentioned Institution. In their Decision dated 04 May 2016 they ordered the mentioned Institution to furnish their employee with all the requested documentation within 8 (eight) days.”

Ombudspersons initiated an ex officio investigation<sup>104</sup> following the entry into force of the *Law on Amendments to the Law on Civil Service of the Federation of Bosnia and Herzegovina*<sup>105</sup> related to the implementation of Article 37 paragraph 1 of the *Law on Civil Service of the Federation of Bosnia and Herzegovina*<sup>106</sup>. Namely, Article 37 paragraph 1 of the *Law on Civil Service of the Federation of Bosnia and Herzegovina* in its relevant part reads: “1) Head of civil service authority can ask the Agency to carry out public competition procedure for hiring trainees into the civil service.” This Article rendered null and void provision that reads as follows: “1) Head of civil service authority can ask the Agency to hire into the civil service a trainee being hired based of the public competition advertisement published by the Agency.”

After the amendment of the mentioned Article it remained unclear whether the hiring is still done based on the public competition, and entry into force of the mentioned amendment of the Law on Civil Service in the Federation of Bosnia and Herzegovina implementation of the Rulebook on

<sup>101</sup> Document of the Secretariat of the Mostar Town no. 02-05-7307/16 dated 19 December 2016

<sup>102</sup> Ž-SA-04-470/16

<sup>103</sup> Document of the Republika Srpska Administration for Inspections no. 24.100/173-196-38-5/16 dated 05 May 2016

<sup>104</sup> Ž-SA-04-9/16

<sup>105</sup> Law on Amendments to the Law on Civil Service of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina no 99/15).

<sup>106</sup> the Law on Civil Service of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina no. 29/03, 23/04, 39/04, 54/04, 67/05, 8/06, 4/12 and 99/15).

uniform criteria, rules and procedures for selection and appointment of trainees with University degree in the civil service of the Federation of Bosnia and Herzegovina<sup>107</sup> seized and thus also the application of criteria such as the period of unemployment following the graduation or disability status. The fact is that legal provision, which entered into force explicitly does not prohibit the admission of trainees without public competition to the civil service authorities, which can lead to abuses and bringing in unequal position other persons who would be denied the opportunity to apply for positions of trainees in civil service. Also, the aforementioned legal provision does not clearly specify what criteria will guide the civil service authorities to carry out the admission of trainees in the civil service, record-keeping and data collecting methods as to the proportional representation of the constituent peoples and others, and will the length of unemployment after the graduation will be taken in consideration, as well as disability criterion.

Having the above in mind, on 29 February 2016 Ombudspersons sent their recommendation P-24/16 to the Government of the Federation of Bosnia and Herzegovina asking them to regulate the method of hiring the trainees into the public service authorities of the Federation of Bosnia and Herzegovina as public competition. Ombudspersons received the reply of the Government of the Federation of Bosnia and Herzegovina<sup>108</sup> informing them that their recommendation was referred to the Federal the Ministry of Justice to further action.

**Example:** A complainant<sup>109</sup> claimed that in the process of public competition for a position of an expert associate in judicial bodies of Republika Srpska all the candidates were asked to submit their medical certificate on good health without the notification that such certificate should only be furnished by the selected candidate during the hiring process. Ombudspersons remind that this practice is in violation of the recommendation of the Ombudsman no. P-66/12 from 2012 whereby it was established that health condition data fall within personal data category and requiring of such information constitutes an unnecessary administrative burden to citizens. In this regard the High Judicial and Prosecutorial Council of Bosnia and Herzegovina was recommended to issue an instruction to all the judicial authorities in Bosnia and Herzegovina to ask only the selected candidate to present the health certificate in public competitions procedures and only during the hiring process. No reply was received to this recommendation.

## 5.2. Severance pay in Republika Srpska and in the Federation of Bosnia and Herzegovina

The Ombudsman Institution still receives complaints from persons<sup>110</sup> who meet requirements under Article 143 of the Labor Law of the FBiH and Article 152 of the RS Labor Law, that is Article 182 of consolidated Labor Law of the RS<sup>111</sup> who were employed on 31 December 1991 and who addressed their former employers within the legally prescribed deadline seeking the establishment of their previous employment status, since they did not conclude a new work

<sup>107</sup> Rulebook on uniform criteria, rules and procedures for selection and appointment of trainees with University degree in the civil service of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina”, no. 4/13).

<sup>108</sup> Document of the Government of the Federation of Bosnia and Herzegovina no.: 03-02-60-1/2016. dated 03 March 2016

<sup>109</sup> Ž-BL-06-7/16, P-119/16 dated 16 June 2016

<sup>110</sup> Ž-BL-04-132/15, Ž-BL-05-74/16.

<sup>111</sup> Labor Law of Republika Srpska ("RS Official Gazette", no. 55/07)

contract in the meantime. According to decisions of commissions in charge of the implementation of Article 143 of the Labor Law of the FBiH and Article 152 of the RS Labour Law, that is, Article 182 of consolidated RS Labor Law, they were recognized the status of employees “on a waiting list”. However, their former employers never followed the aforementioned decisions. Although their employment has been terminated and they are entitled to severance pay, this right was denied to them and they never received such payments.

In addition to unjustifiably long decision making on claims of citizens related to severance pay, Ombudspersons also receive a lot of complaints related to problems in payment of recognized cases of severance pay due to the lack of funds for that purpose.

It is worth mentioning that Ombudspersons are for a longer period now, dealing with the issue of citizens turning to entity commissions (established in accordance with labor laws of Republika Srpska and the Federation of Bosnia and Herzegovina). For instance, adopted was a Resolution<sup>112</sup> indicating the excessive length of the proceedings before these commission, then there were two special reports<sup>113</sup> related to the implementation of Article 182, that is, 143 labor laws of Republika Srpska and the Federation of Bosnia and Herzegovina whereby it was recommended that measures should be taken to improve organizational and financial potentials of the Commissions, all of it in order to speed up the decision making.

**Example:** A complainant<sup>114</sup> addressed the Ombudsman for non-payment of severance pay recognized on 10 June 2011. On request of the Ombudsman, the RS Ministry of Labor, War Veterans and Disabled Persons Protection, replied saying the following<sup>115</sup> among other things: *„...Payment of severance pay pursuant to the decision of the Commission for Implementation of Article 152 of the Labor Law, shall be done according to the chronological order of the Decision, and the applicants are informed about it. In this regard, we herewith mention that the funds for severance pay are secured in the budget of the Republika Srpska regularly (every year), and this ministry makes payments according to chronological order of the relevant decisions. Due to the large number of submitted claims (approximately 60,000) and the amount of funds to be annually allocated from the budget of the Republika Srpska, this Ministry was not able to settle all claims and payment immediately after making the decision, which is why it was said that severance pay be paid as soon as the funds for these purposes are provided. Your complainant was included on the list of the Ministry for severance payment from the month of December 2015, but, unfortunately, due to lack of funds, has not been implemented, and implementation of which is expected ...“*

**Example:** A complainant<sup>116</sup> turned to the Ombudsman alleging that the decision adopted on 19 September 2005 by the Commission for Implementation of Article 143 of the Labor Law of the Federation of Bosnia and Herzegovina according to which she was granted the right to severance pay and her employer ordered to regulate her employment status. The Federal Ministry of Labor

<sup>112</sup> Resolution no. 6/03

<sup>113</sup> Special report no. SP-01/04 and Special report no. SP-09/07

<sup>114</sup> Ž-SA-04-352/16

<sup>115</sup> Document of the Republika Srpska Ministry of Labor, War Veterans and Disabled Persons Protection no.: 16-126-59/16 dated 22 April 2016

<sup>116</sup> Ž-BL-05-74/16

and Social Affairs has submitted a response<sup>117</sup> which reads: "... we hereby inform you that the Federal Commission for Implementation of Article 143 of the Labor Law does not have information about the execution of individual decisions adopted by this commission on appeals from decisions of the Cantonal Commission for Implementation of Article 143 of the Labor Law. The decisions of the Cantonal and Federal Commission for Implementation of Article 143 of the Labor Law does not generate any rights or obligations of the Commission, but it is a procedure which solves the rights of workers, where depending on the established factual and legal situation, decisions made may establish the rights of workers or obligations of employers who are solely obliged to enforce these decisions. This is important because the provision of Article 174 paragraph 2 of the Labor Law (Official Gazette of the Federation of Bosnia and Herzegovina", no. 26/16) stipulates that the final decision of Federal or Cantonal Commission for Implementation of Article 143 of the Labor Law are final and binding."

### 5.3. Utilities

Following the adoption of the Bosnia and Herzegovina Consumer Protection Act<sup>118</sup> the Institution of the Ombudsman for Consumer Protection in Bosnia and Herzegovina, which acts as an independent body with the aim to promote good and efficient implementation of consumer protection policy in Bosnia and Herzegovina. Having that fact in mind, a large number of complaints in this area are referred to this Institution for action<sup>119</sup>.

In the reporting period the Ombudsman Institution registered 91 complaints related to the public utilities, which is by 24,66% more than in the previous year.

Complaints handled by the Ombudsman related to lack of provision of services by the public utility companies, denial of the right to have the billing based on consumer meters readings, irregularities in billing for services provided, bringing the causes of action in a court of law for uncollected utility bills falling within the statute of limitation etc.

Practice of billing for water consumption based on lump sum amounts depending on number of household members currently applied by utility service providers is raising concerns of Ombudspersons. Service-providers prefer joint water meters in multi-apartment buildings or a larger number of consumers, which is contrary to legal provisions of the Bosnia and Herzegovina Consumer Protection Act, which prescribes the following: "Sale of energy (electric power, heating, gas, etc.) and water is to be charged in accordance with actual deliveries as read from the consumer's meters." This creates legal uncertainty for citizens who often do not even know about the establishment of a joint water meter since nobody informs them about it, neither the representative of the tenants association nor the building manager.

**Example:** Complainants<sup>120</sup> claim that potable and waste water bill for December 2015 amounting at more than one hundred BAM provided by local utility company KJKP "Vodovod i

<sup>117</sup> Document of the Federal Ministry of Labor and Social Policy no. 03-34/11-1596/16 dated 15 March 2016

<sup>118</sup> Bosnia and Herzegovina Consumer Protection Act, Official Gazette of Bosnia and Herzegovina, no. 25/06.

<sup>119</sup> Ž-SA-05-1178/16, Ž-SA-04-850/16, Ž-SA-05-436/16, Ž-SA-04-203/16

<sup>120</sup> Ž-SA-04-/16; P - 97/16

kanalizacija” d.o.o. Sarajevo are not real, are excessively high, and do not correspond their consumption. They argue that their bills in the previous period were varying from 31.00 to 36.00 BAM a month. Ombudspersons recommended to the KJKP “Vodovod i kanalizacija” d.o.o. Sarajevo to make bill based on consumption read on their water meter and inform the Ombudsman within 30 days on taken measures. This recommendation was not implemented.

**Example:** A complainant<sup>121</sup> claims that he received a bill from the KJKP “Vodovod i kanalizacija” d.o.o. Sarajevo for unsettled debt for water amounting at 156.35 BAM. He replied to the utility company informing them that statute of limitation had passed for this debt. However, on 14 January 2016 he received a letter from the KJKP “Vodovod i kanalizacija” d.o.o. Sarajevo comprising a warning on the planned cut of communal services supply due to the unpaid debt. Ombudspersons intervened and were informed afterwards, in a letter dated 02 August 2016, signed by the company manager, that the Bills Correction Committee decided to reduce the bill of the complainant in which way his rights were protected.

**Example:** A complainant<sup>122</sup> complained to the Ombudsman from actions of electro-distribution company ZEDP „Elektro-Bijeljina“ ad Bijeljina, RJ „Elektrodistribucija“, Vlasenica, claiming that they do not get electric power since March 2016. Ombudspersons asked the mentioned company to reinstate electric power supply to the complainant as soon as possible. After a repeated intervention they received a reply which reads as follows: *„Having obtained a consent from the Municipality of Šekovići, which is the owner of VP Šekovići – Bišina, defects on this electric power facility were remedied, and the client was re-connected to electro-distribution network on 16 April 2016 and has an intermittent supply since.“*

In the reporting period the Ombudsman registered a number of complaints<sup>123</sup> in which citizens indicated that actions of administrative bodies and utility companies restricted their access to potable water.

**Example:** A complainant<sup>124</sup> addressed the Ombudsman expressing his dissatisfaction with work of utility company JKP “Vodovod i kanalizacija“ d.o.o. Sanski Most, since his house has not been connected to water supply network yet. A couple of times he contacted the mentioned company in writing. Also, in his complaint he claims that he constructed the access road, dug the channel and even put water supply pipes, emphasizing that he is ready to pay all necessary fees. The mentioned company informed the Ombudspersons<sup>125</sup> that the complaint never applied to be connected to water supply network and emphasized the following: *„As we have been informed, the above named resides in the settlement of Kamičak, the Municipality of Ključ, which is in vicinity of the settlement fo Vrhpolje, Municipality of Sanski Most.“* Then the complaints wrote to the public utility company JKP „Vodovod i kanalizacija“ Sanski Most, asking them to temporarily connect him to the water supply network. JKP „Vodovod i kanalizacija“ Sanski Most replies to the Ombudsman and to the client asking to be connected to water supply network<sup>126</sup>: *„As far as we know, you live in the settlement of Kamičak, the Municipality of Ključ, which is in vicinity of the settlement fo Vrhpolje, Municipality of Sanski Most.“* For this

<sup>121</sup>Ž-SA-04-176/16

<sup>122</sup>Ž-BL-04-199/16

<sup>123</sup>Ž-SA-04-240/16; Ž-SA-04-156/16; Ž-SA-04-131/16

<sup>124</sup>Ž-BL-04-469/16, recommendation no. 234/16 dated 15 December 2016

<sup>125</sup> Document no. 02-1803/16 dated 20 September 2016

<sup>126</sup> Document no.: 02-2056/16 dated 25 October 2016

circumstance, your connection to the water supply network cannot take place, since „JKP „Vodovod i kanalizacija“ d.o.o. Sanski Most only supplies the inhabitants living on the territory of Sanski Most Municipality pursuant to the decisions of the Sanski Most Municipal Council.“ Since the complainant had the documents proving that his place of abode in on the territory of the Municipality of Sanski Most, JKP „Vodovod i kanalizacija“ d.o.o Sanski Most was recommended to *take all the measures to establish the facts of this case and find without doubt what is the exact place of abode of the complainant instead of deciding based on “being informed” and then repeat its decision making process on the complainant’s application.* The Ombudsman follows up the implementation of this recommendation.

**Example:** A complainant<sup>127</sup> claims that the pipe in her well moved due to the floods, so she remained without her only access to water since she is not connected to the public water supply network. In May 2015 she addressed the Municipality of Gračanica, but did not receive any reply. Ombudspersons recommended the public utility „Vodovod i kanalizacija“ Gračanica to take measures to connect the complainant’s household to the public water distribution network and to investigate possibilities of connecting the other households to the public network.

## 5.4. The right to pension

Complaints registered within the Ombudsman in 2016 related to the right to pension were about the length of processing pension applications, second-instance proceedings, failure to make decisions on appeals within the prescribed deadlines, and irregularities in calculation of the pension amount and difficulties related to establishment of length of service in other countries<sup>128</sup>.

As in the previous years, problem is related to slow procedures of granting the right to pension, especially in cases when the complainant completed required years of service in other countries.<sup>129</sup> More specifically, it is related to the determination of the proportional part of the pension amount payable by different insurance holders, pursuant to social security agreements concluded between Bosnia and Herzegovina and other countries. Although in concrete cases there is an obligation of official cooperation between the funds/institutes for pension and disability insurance, procedures in practice sometimes last longer depending on the complexity of the process of collecting the documents used as the basis to determine the length of service and for payment of contributions.

In 2015 the Ombudsman submitted an Initiative<sup>130</sup> to the Parliament of the Federation of BiH, the Ministry of Labor and Social Policy of FBiH, the Federal Institute for Pension and Disability Insurance, proposing amendments to Article 6 of the Law on Pension and Disability Insurance of the Federation of Bosnia and Herzegovina aimed at equalization of marital and ex-marital partners in enjoyment of the right to survivor’s pension. This initiative was not accepted.

<sup>127</sup> Ž-BR-05-154/16, recommendation no. P:247/16 dated 19 December 2016

<sup>128</sup> Ž-SA-04-327/16, Ž-SA-04-490/16, Ž-SA-04-331/16, Ž-BR-04-54/16, Ž-BL-04-330/16

<sup>129</sup> Ž-BL-05-424/16

<sup>130</sup>P-134/15 dated 29 June 2015



Ombudspersons also lodged<sup>131</sup> the Initiative for amendments to the Law on Pension and Disability Insurance of Republika Srpska<sup>132</sup> in a way that in Article 70 Item a) after the words “marital partners“ be added the words „*and extramarital partners*“, and in Item b) the words „*or extramarital partners*“ to be deleted.

In accordance with provisions of the family and inheritance law of the Federation of Bosnia and Herzegovina and Republika Srpska, spouses and common-law spouses have equal rights, as a result of harmonization of the underlying law with the international standards and with the Law on Gender Equality of Bosnia and Herzegovina.

Law on Pension and Disability Insurance of the Federation of Bosnia and Herzegovina<sup>133</sup> and Law on Pension and Disability Insurance of Republika Srpska<sup>134</sup> should follow trends of social development and progress and ensure the right of common-law spouses to exercise the right to a survivor’s pension. Ombudspersons are aware that proving the existence of a common law marriage is complicated and demanding in certain legal situations, but if the parties are able to demonstrate the continuity of their factual, and not merely a formal union, the implementation of the right to survivor’s pension should not be questioned at all.

**Example:** A complainant<sup>135</sup> addressed the Ombudsman claiming that she filed before the Supreme Court of Republika Srpska a motion for extraordinary judicial review of the judgment of the Regional court in Banja Luka dated 28 May 2014 on which no decision has been rendered yet. From the lodged complaint it arises that decision of the Pension and Disability Fund of Republika Srpska, Banja Luka Branch refused a request of the complainant to be granted a survivor’s pension. This decision was appealed and appeal refused by decision of Pension and Disability Fund of Republika Srpska, the Department for Decision-Making on the Rights in Second-Instance. An appeal from this decision was filed before the Regional Court in Banja Luka and refused as ill-founded according to its judgment dated 28 May 2014. This judgment was appealed by a motion for extraordinary judicial review before the Supreme court of Republika Srpska on 26 June 2014. The mentioned decision reveals that the complainant initiated proceedings for realization of her right to survivor’s pension following the death of her common law partner with whom she had a child. The case file shows that the deceased was 33 years old when he died and he had 11, 1 month and 15 days years of work experience at the time of his death, and he met conditions for disability pension according to the provisions of Article 60 Law on Pension and Disability Insurance - consolidated<sup>136</sup>. The complainant, however, does not meet prerequisites set out in Articles 69-78 of this Law in order to be entitled to survivor’s pension, since she does not have a judgment granting her the right to maintenance. She points out that according to the provisions of the Family Law of Republika Srpska marital and extramarital union is completely equal, and she thinks that the Regional Court took too strict and formal stance in refusing her petition. She furthermore emphasizes that her union with the

<sup>131</sup> Ž-BL-04-761/16 dated 26 December 2016

<sup>132</sup> “Official Gazette of Republika Srpska”, no.: 134/11, 82/13 i 103/15

<sup>133</sup> Law on Pension and Disability Insurance of the Federation of Bosnia and Herzegovina, Official Gazette of the Federation of Bosnia and Herzegovina”, no. 29/98, 49/00, 32/01, 29/03, 73/05, 59/06 and 4/09.

<sup>134</sup> Law on Pension and Disability Insurance of Republika Srpska, Official Gazette of Republika Srpska, no. 134/11, 82/13 and 103/15.

<sup>135</sup> Ž-BL-05-563/16, recommendation no. P-225/16 dated 12 December 2016

<sup>136</sup> Law on Pension and Disability Insurance - consolidated, „ Official Gazette of Republika Srpska” no. 134/11

deceased had all the characteristics of matrimony, with the only difference that it was not registered in the Registry Office. The complainant had no need for any kind of maintenance and for this reason she failed to initiate formal court proceedings in that sense, since her union out of wedlock had all the features of marriage. With reference to a decision of the Constitutional Court Ombudspersons sent a recommendation to the Supreme Court of Republika Srpska to take necessary measures to establish relevant facts in order to renew its deliberation on request of the complainant having in mind the opinion of the Ombudsman. No reply was received in respect of this recommendation.

Ombudspersons refer to the following decision of the the Constitutional Court of Bosnia and Herzegovina<sup>137</sup> which reads:

*„...The Constitutional Court holds that the appellant can not suffer the consequences of the relevant laws not being previously harmonized to effect of translation into practice the consistent commitment of the legislator to eliminate discrimination in the treatment of extramarital and marital partners in inheritance relations. The Constitutional Court considers that the application of the Law on Inheritance in a way applied by the courts in the disputed decisions did not have a reasonable and objective justification. Therefore, the appellant is in a discriminatory manner deprived of the opportunity of acquiring the status of the legal heir of the first order and participation in probate proceedings after the deceased. The Constitutional Court concludes that the courts applying the law on inheritance without taking into account commitments of the Family Law of the Federation of Bosnia and Herzegovina on a consistent equalization of common-law marriage, which lasted for more than three years with formal marriage in all rights and obligations, including property rights and rejecting the appellant's request to be recognized as legal heir of the first order and to participate in the probate proceedings as such, violated the prohibition of discrimination..”*

**Recommendation: To the Parliament of the Federation of Bosnia and Herzegovina, the Federal Ministry of Labor and Social Policy, the Federal Pension and Disability Insurance Institute, the National Assembly of Republika Srpska, the Ministry of Labor, War Veterans and Disabled Persons Protection of Republika Srpska, the Republika Srpska Pension and Disability Fund, the Assembly of Brčko District of Bosnia and Herzegovina to:**

- **amend positive legislation to ensure equal rights for common law partners in the field of pension and disability insurance as it was done for marital partners.**

**Example:** A complainant<sup>138</sup> addressed the Ombudsman complaining about the work of the the Federal Pension and Disability Insurance Institute, Cantonal Administration Tuzla, related to the implementation of the right to old-age pension. It claims that on 26 February 2016 the Republic of Serbia Pension and Disability Fund, Čuprija Branch, Jagodina Field Office sent to the Federal Pension and Disability Insurance Institute, Cantonal Administration Tuzla a document titled – *File: S.C.– related to your document no. 109-74650-39 old-age pension*, attached to which was the filled-in the statement of the named party asking to be granted the right to old-age pension, but he could not realize this right to the date of filing his complaint to the Ombudsman. Having

<sup>137</sup> Decision on Admissibility and Merits no. AP 4207/13 dated 30 September 2016

<sup>138</sup> Ž-SA-04-330/16

conducted its investigation, Ombudspersons received a letter from the Federal Pension and Disability Insurance Institute<sup>139</sup> which reads as follows: “...we herewith inform you that the Cantonal Administration Tuzla adopted its decision no. 109 74650 39 dated 24 May 2016 ...”, recognizing the complainant’s right to old-age pension.

**Example:** Ombudspersons registered a complaint<sup>140</sup> of ex-war veterans of Republika Srpska and ex professionals serving in the Army of Republika Srpska, now the Armed Forces of Bosnia and Herzegovina. Since 01 September 2010 they are in the status of retired military servants who, however, for more than four years now, cannot realize their acquired entitlements enshrined by law. The Parliamentary Assembly of Bosnia and Herzegovina adopted the Law on Amendments to the Law on Service in Armed Forces of Bosnia and Herzegovina<sup>141</sup> thus governing the right to the early old-age pension. Article 3 of the Law foresees that the missing funds for implementation of the right to early pension for those meeting conditions will be secured by the budget of the institutions of Bosnia and Herzegovina and remunerated to the entity pension and disability insurance funds and institutes. Provisions of this Law are implemented in the Federation of Bosnia and Herzegovina, but in *Republika Srpska the Pension and Disability Insurance Fund asked citizens falling into this category to sign the declarations that they would not seek their entitlements arising from this Law of Bosnia and Herzegovina from the Republika Srpska Pension and Disability Insurance Fund, and the funds received from the Pension and Disability Insurance Fund would be considered as settlement of obligations related to early-age pension*. All the veterans who refused to sign this declaration had initiated court proceedings and won since regional courts in Republika Srpska<sup>142</sup> adopted final and binding judgments granting recognizing their claims and making the challenged document null and void. Given that Republika Srpska the Pension and Disability Insurance Fund failed to implementation legal provisions based on which the members of Armed Forces can realize their right to early old-age pension, as it failed to implement judgments of the regional courts of Republika Srpska. For that reason Ombudspersons recommended to the Government of Republika Srpska and the Republika Srpska the Pension and Disability Insurance Fund to enable unconditional enjoyment of the vested rights to professional soldiers, and demobilized war veterans and to enforce decisions of the courts in Republika Srpska. This recommendation is not implemented.

## 5.5. The right to health and social care

European Social Charter (Revised) sets out the rights to health care<sup>143</sup>. Issue of health care in Bosnia and Herzegovina is governed in an extremely complicated way, at the level of the

<sup>139</sup> Document of the Federal Pension and Disability Insurance Institute no. FR6/2-49-4-3254-2/16 dated 03.06.2016

<sup>140</sup> Ž-BL-04-257/16 recommendation no. P-104/16 dated 16 May 2016

<sup>141</sup> Law on Amendments to the Law on Service in Armed Forces of Bosnia and Herzegovina, Official Gazette of Bosnia and Herzegovina, no. 74/10.

<sup>142</sup> Regional court in Banja Luka, decision no. 11 0 U 009916 12 U dated 03 December 2013, Regional court in Doboj, decision no. 13 0 U 003300 14 U dated 27/2015, judgment no. 13 0 U 002786 13 U dated 29 April 2014

<sup>143</sup> European Social Charter, Article 11 „With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organizations, to take appropriate measures designed inter alia: to remove as far as possible the causes of ill-health; to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health; to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.“

entities: the Federation of Bosnia and Herzegovina<sup>144</sup>, that is, its cantons, Republika Srpska<sup>145</sup> and Brčko District of Bosnia and Herzegovina<sup>146</sup>, which makes the implementation of citizens' rights and entitlements in the area of health care because of non-harmonization of relevant legislation.

During 2015, the Ombudsman Institution registered 34 complaints in the field of health care, and 86 complaints about the violation of social rights. Registered complaints relate to non-enjoyment of the right of children to health care, health care of persons with mental disabilities, participation payment, definition of List of Medicines and quality of health care in general.

**Example:** Allegations from this complaint<sup>147</sup> indicate the possible torture and inhuman treatment by the police and health institutions of a minor person with mental disabilities. It includes use of force by the police and forcible accommodation into the Psychiatric Ward of the Sveti apostol Luka Hospital in Doboј, without informing the family members. After the conducted investigation, Ombudspersons recommended the relevant health institution to enable the victim further diagnostic tests, treatment and rehabilitation aimed at protection and improvement of his health, for his treatment to be organized in a way involving the least possible degree of his rights and freedoms restriction or physical or psychological inconvenience, his treatment to include regular check-ups, evaluation and reviews and in case that any such evaluation shows that his psychological condition and diagnosis require appointment of a guardian, to initiate activities to this end.

Ombudspersons of Bosnia and Herzegovina emphasize that the people with mental disabilities constitute one of the most vulnerable groups of citizens, significantly more exposed to possible human rights violations irrespective of whether they are in the hospital or outside it. It is a social group that is very often uninformed about their rights and possibilities of their protection. Therefore, there is a fear that these rights might be violated with no reaction by any party. Ombudspersons point out that the placement in a psychiatric hospital either voluntarily or forcibly should be carefully monitored and be in the spotlight all the services conducting these procedures.

Ombudspersons felt obliged to intervene on the occasion of decisions of the relevant health institutions affecting the work of privately owned legal persons.

**Example:** Following the conducted investigation<sup>148</sup>, it was established that Health Insurance Institute of Una-Sana Canton imposed an obligation on pharmacies on the territory of Una-Sana Canton to charge so-called "operating tax" for their account from all the insurees in the amount of 1.00 BAM for each prescription, that an provision to this end was included into the Contract referring to the Decision of the Management Board of the Institute<sup>149</sup>, about which neither the insured persons, nor the Government of Una-Sana Canton, relevant ministry of health and social

<sup>144</sup> Law on Health Care, Official Gazette of the Federation of Bosnia and Herzegovina, no. 46/10, Law on Health Insurance, Official Gazette of the Federation of Bosnia and Herzegovina, no. 30/97, 7/02, 70/08 and 48/11

<sup>145</sup> Law on Health Care, Official Gazette of Republika Srpska no. 106/09, Law on Health Insurance, Official Gazette of Republika Srpska no. 18/99, 70/01, 51/01, 17/08, 1/09 and 106/09

<sup>146</sup> Law on Health Care, Official Gazette of Brčko District of Bosnia and Herzegovina, no. 38/11, <sup>146</sup> Law on Health Insurance, Official Gazette of Brčko District of Bosnia and Herzegovina, no. 1/02, 7/02, 19/07, 2/08 i 34/08.

<sup>147</sup> Ž-SA-05-161/16, recommendation no. P-231/16 dated 24 March 2016

<sup>148</sup> Ž-BL-04-253/16, recommendation no. P-176/16 dated 21 October 2016

<sup>149</sup> No. 01-37-1773/16 dated 16 February 2016

policy or the Assembly of Una-Sana Canton were informed, and which was not published on the official web-site of the Institute or the Official Gazette of Una-Sana Canton or public information media. Ombudspersons concluded that by imposing of a tax burden on the insured persons not consistent with the applicable relevant legislation in the area of health care, the Institute jeopardized full enjoyment of health care for many vulnerable categorized such as children, persons with disabilities or social welfare beneficiaries who are otherwise exempted from payment of participation fee. For that reason the Ombudsman recommended to the Management Board of the Health Insurance Institute of Una-Sana Canton to render the challenged decision null and void. Director of the Institute informed<sup>150</sup> the Ombudsman that this recommendation would be taken in consideration in the process of planning of 2017 budget since the funds for 2016 have already been planned and allocated and that reduction of the income collected also from this source would render the enjoyment of health care impossible for all the insured persons.

**Example:** A complainant<sup>151</sup> claims that she was supposed to undergo diagnostic tests during the months of September and October at the University Clinic Center Sarajevo – UCC Sarajevo in order to have her hormonal status determined, however, she was informed on absence of reagents for some hormones therefore it was not possible to run tests. She contacted the Health Insurance Institute of Sarajevo Canton asking if she will have her costs reimbursed if she made these tests elsewhere since it was not possible in the public health institutions. She was told that it was possible, but she needed to attach to her request for reimbursement a written confirmation that the health institution had no reagents in the period when she had to run tests and she had to do it in a private health institution. After that she submitted her request to the UCC Sarajevo for cost reimbursement attaching the original fiscal receipt and the original referral letter from her doctor asking them to provide her with a letter to confirm that the required reagent was missing at the time of her tests, but she was refused. Then she addressed the Ombudsman who initiated its investigation. During the process of investigation following the initial contacts between the Ombudsman and the UCC Sarajevo, the Ombudsman received a letter<sup>152</sup> from the UCC Sarajevo in which they said that: “...on 26 September 2016 and 21 October 2016 the UCC Sarajevo sent a letter to the complainant to inform her that required analyses could not be done for the absence of reagent. Based on this confirmation she was able to file request for costs reimbursement to the Health Insurance Institute of Sarajevo Canton, which is her insurer.”

Ombudspersons also received complaints of citizens related to the actions of the Health Insurance Institute of Sarajevo Canton.

**Example:** A complainant<sup>153</sup> claims that 12 October 2015 she bought a medicine “Immunorhon 300 micro amp. 1 amp” as recommended by the medical facility in which she is treated. She was told that she was entitled to reimbursement of that medicine costs so she turned to the Health Insurance Institute of Sarajevo Canton with such a request. On 28 January 2016 she received a letter<sup>154</sup> from the Institute by which her request for reimbursement of costs for the medicine “Immunorhon 300 micro amp 1 amp” was refused since that medicine, according to *the Decision*

<sup>150</sup> Document of the Director of the Health Insurance Institute of Una-Sana Canton no. 01-49-9585/16 dated 12 November 2016

<sup>151</sup> Ž-SA-04-1100/16

<sup>152</sup> Document of the University Teaching Clinical Center Sarajevo no.: 0203-53919 dated 15 February 2016

<sup>153</sup> Ž-SA-04-240/16

<sup>154</sup> Reply of the Health Insurance Institute of Sarajevo Canton no.: 05-19586/15 dated 19 January 2016.

on List of Medicines of Sarajevo Canton<sup>155</sup> was taken off the List of Medicines since 16 October 2015 when the new *Decision on Positive, Hospital and Magisterial List of Medicines of Sarajevo Canton*<sup>156</sup> was adopted. The complainant, however, thinks that she is entitled to reimbursement as she bought the medicine on 12 October 2015 and paid 114,05 BAM based on then applicable regulations. During the Ombudsman's intervention the Institute replied<sup>157</sup> indicating that: *"Acting of the complainant's appeal, the Management Board of the Health Insurance Institute of Sarajevo Canton at its session held on 22 February 2016 considered the said appeal and adopted its decision no.: UO/04-3678-6/16 accepting the appeal and approving the reimbursement of the requested funds."*

As it could be seen from the above examples it is evident that the citizens face multiple problems. First, health care institutions do not have the necessary means to carry out all diagnostic tests, nor they have available all drugs which are in certain situations indispensable. Second, citizens are forced to procure drugs and certain medical supplies from their own resources, while at the same time Health Insurance Institute of Sarajevo Canton is not ready to reimburse them, despite of the fact that these citizens are covered by insurance and whose rights are guaranteed by the Law on Health Insurance<sup>158</sup> and the Law on Health Care<sup>159</sup>.

**An example** of a positive way to handle a case<sup>160</sup> during the intervention of the Ombudsman is a case of a three years old girl born with multiple grave medical conditions which falls within the category of children with special needs. Since the girl does not have swallowing reflex her feeding must be adjusted to her sickness as it requires insertion of a PEG tube into her stomach, among other procedures. She needs a nutritional supplement Frebini energy drink in quantity of 30 bottles a month, but the Health Insurance Fund of Brčko District of Bosnia and Herzegovina refused to give it on prescription as it was not on the List of Medicines. After the Ombudsman's intervention the Health Insurance Fund of Brčko District of Bosnia and Herzegovina decided to put the mentioned supplement on the List of Medicines since March 2017.

**Example:** Kidney Transplant/Dialysis Association of the Federation of Bosnia and Herzegovina<sup>161</sup> complained about the actions of the Health Center Čitluk which failed to organize transportation of five dialysis patients to Mostar. After the Ombudsman's intervention the Kidney Transplant/Dialysis Association of the Federation of Bosnia and Herzegovina sent a letter<sup>162</sup> to the Ombudsman in which they state:

*"...these patients now have transportation from their homes to Mostar and back home after dialysis, which is normal and as they are entitled according to all regulations, along with other 2,000 dialysis patients in the Federation of Bosnia and Herzegovina.*

*We would like to seize this opportunity to express our GREAT gratitude for your efforts and engagement in finding solution for this problem facing the patients from Čitluk for more that a half year.*

*We are convinced that the engagement of your Institution was a decisive factor in this case."*

<sup>155</sup> Decision on List of Medicines of Sarajevo Canton, Official Gazette of Sarajevo Canton. 36/13, 50/13 and 51/13

<sup>156</sup> Decision on Positive, Hospital and Magisterial List of Medicines of SC, Official Gazette of Sarajevo Canton, no. 39/15

<sup>157</sup> Reply of the Health Insurance Institute of Sarajevo Canton, no.: 03-02-I-L.B. 6075/16 dated 14 April 2016

<sup>158</sup> Law on Health Insurance, Official Gazette of the Federation of Bosnia and Herzegovina no. 30/97, 7/02, 70/08 and 48/11

<sup>159</sup> Law on Health Care, Official Gazette of the Federation of Bosnia and Herzegovina no. 46/10

<sup>160</sup> Ž-BR-01-199/16

<sup>161</sup> Ž-MO-04-158/16

<sup>162</sup> Document of Kidney Transplant/Dialysis Association of the Federation of Bosnia and Herzegovina of 12 January 2017

## VI THE NOTION OF TORTURE AND ESTABLISHED OF A NATIONAL PREVENTIVE MECHANISM IN BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina has ratified the 2002 Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the United Nations General Assembly, which foresees that all signatories establish national mechanisms for the prevention of torture which will put in place a system of regular visits to institutions where people are deprived of liberty in order to prevent torture and other cruel, inhuman or degrading treatment or punishment<sup>163</sup>. The Option Protocol has established a Sub-Committee for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>164</sup>, which has a mandate to carry out regular visits to institutions where people are deprived of liberty and gives advice to Member States about the treatment of persons deprived of liberty.

By ratifying the Optional Protocol, Member States have confirmed that torture, inhuman, degrading treatment or punishment are prohibited and constitutes a serious violation of human rights<sup>165</sup>. They also agreed to establish a system of regular visits by international and national bodies of the places where the persons deprived of liberty (e.g. prisons, police stations, psychiatric hospitals, psychiatric wards in general hospitals, clinical centers, social care institutions, asylum centers).

Namely, the objective of establishment of the national preventive mechanism (hereinafter referred to as: NPM) is by continuous visits to places of detention of persons deprived of liberty prevent torture, regularly check the treatment of persons deprived of liberty, make recommendations to the competent authorities in order to improve the treatment and status of persons deprived of their liberty and to prevent torture, cruel, inhuman or degrading treatment and punishment, taking into consideration the relevant norms of the United Nations, and submit proposals and provide opinions regarding existing or draft legislation.<sup>166</sup>

Irrespective of the importance of the establishment of NPM, and the facts that domestic authorities in Bosnia and Herzegovina employed some efforts, and took measures and activities for the NPM establishment the NPM has not been established yet.

The fact is that new Law on Human Rights Ombudsman of Bosnia and Herzegovina, which clearly stipulates the establishment of a NPM within the Ombudsman Institution, was not adopted in 2016.

### 6.1. Monitoring the rights of prisoners/detainees

Criminal sanctions execution system is particularly complex in Bosnia and Herzegovina, as the positive legislation governing this field, in accordance with the constitutional structure of Bosnia

<sup>163</sup> Optional Protocol, Article 3

<sup>164</sup> Optional Protocol, Article 2 paragraph 1

<sup>165</sup> Optional Protocol, Preamble

<sup>166</sup> Optional Protocol, Article 19

and Herzegovina, is spread out over three levels of government. Namely, legislation of Bosnia and Herzegovina regulating the execution of criminal sanctions is in place at three government levels and falls within the jurisdiction of the Ministry of Justice of Bosnia and Herzegovina, the Federal Ministry of Justice, Ministry of Justice of Republika Srpska and the Judicial Commission of Brčko District of Bosnia and Herzegovina. This system including four legislative acts governing the criminal sanctions execution<sup>167</sup>, is resulting in the existence of different legal norms governing the same area (same issue) in different ways, which leads to its different implementation. This situation leads to the unequal treatment of the convicted persons, depending on the prison establishment, or the entity in which they serve their sentence. Ombudspersons also note the fact that different rules contained in different rulebooks and other by-laws are applied to persons deprived from liberty, which also contributes to their unequal treatment. It depends on the court which pronounced the sentence, for instance, whether it is the Court of Bosnia and Herzegovina or the court of the entities.

In 2016, the Ombudsman received 166 complaints of prisoners, which is an increase of 58.10% compared to the previous period. Such increase influx of complaints is certainly a result of more intense activities of the staff of the Department for the protection of the rights of detainees/prisoners who carried out visits to all correctional facilities throughout Bosnia and Herzegovina. For instance, in the framework of their regular activities and based on complaints lodged by the convicted persons, Ombudspersons paid visits to the following establishments Zenica Prison (three times), Foča Prison, Trebinje Prison, Bijeljina Prison, Sarajevo Prison, Doboј Prison and Banja Luka Prison. These visits yielded two reports<sup>168</sup> which will be elaborated in more detail later.

A significant number of complaints lodged by convicted persons (as in previous years) were related to the contents/merits of final and binding court decisions, which cannot be reviewed by Ombudspersons about which they inform the complainants either in writing or orally.

Ombudspersons agree that the need has emerged for them to revisit all the establishments for criminal sanctions execution in Bosnia and Herzegovina (as it was done in 2009 and 2012 after which the Ombudsman issued its special reports on the situation in criminal sanctions execution institutions) in order to analyze the human rights situation and compare it with that of 2012. Ombudspersons state that limited capacities, that is, the fact that the Department for the protection of the rights of detainees/prisoners has only two staff members, prevented them from implementation of this activity in 2016.

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<sup>167</sup> Law of Bosnia and Herzegovina on Execution of Criminal Sanctions, Detention and Other Measures, Official Gazette of Bosnia and Herzegovina”, no. 22/16, Law on Execution of Criminal Sanctions in the Federation of Bosnia and Herzegovina, Official Gazette in the Federation of Bosnia and Herzegovina, no. 44/98, 42/99, 12/09 and 42/11, Law on Execution of Criminal Sanctions in Republika Srpska, Official Gazette of Republika Srpska no. 2/10, 98/13 and 44/16 and Law on Execution of Criminal Sanctions in Brčko District of Bosnia and Herzegovina, Official Gazette of Brčko District of Bosnia and Herzegovina no. 31/11.

<sup>168</sup> Report on visits of the Ombudsman to the semi-open prison Sarajevo and its Special report on violation of human rights of convicted persons in Zenica Prison



In 2016 representatives of the Ombudsman participated in various conferences and round tables with representatives of prison facilities<sup>169</sup>. These are the special activities of the Department to which the Institution attaches a great deal of importance since they analyze the current situation and the degree of implementation of the rights of convicts in the institutions for execution of criminal sanctions and exchange experiences that could be translated to their daily work and handling of complaints of violation of the rights of prisoners.

### 6.1.1. Health care

In 2016 a number of complaints of convicted persons related to their enjoyment of their rights to health care. Most of these complaints relate to quality of health care services and to their availability to some extent. In addition to that, to the primary health care level, it is very important to enable the prisoners to have specialist examinations.

According to data available to Ombudspersons, the situation related to the provision of health care has not changed in 2016 in the institutions for the execution of criminal sanctions in Bosnia and Herzegovina in full capacity as foreseen by the European Prison Rules, Part III related to health care. Namely, this is particularly linked to the fact that no prison facility has at least one qualified general medical practitioner in prison according to the provisions of Item 41.1 of the European Prison Rules<sup>170</sup>, but they all use the possibility provided by Item 41.3 of these Rules<sup>171</sup>, that is, they engage a part-time medical practitioner who visits the facilities. Such a medical practitioner is usually hired based on a service contract and s/he is obliged to be available and regularly visit the establishment. In addition, every prison shall have personnel suitably trained in health care.

According to the data obtained from the Ministry of Justice of Republika Srpska the following prison establishments have a permanently employed doctor: Banja Luka Prison, Foča Prison and Istočno Sarajevo Prison, while the prisons in Doboj, Trebinje and Bijeljina do not have any. The Federal Ministry of Justice informed the Ombudsman that only prisons in Zenica and Tuzla have permanently engaged doctor within the facility, while the other establishments in the Federation of Bosnia and Herzegovina do not have any.

When examining complaints pertaining to the health care of prisoners, Ombudsmen insist on the submission of figures which show the number of required and conducted regular medical check-ups, then specialist examinations and medical documentation to that effect. Analysis of these data enable Ombudspersons to assess whether the health services are sufficiently available to this category of persons, although they are aware that these figures do not constitute always a real measure of quality of health care provided.

<sup>169</sup> On 11 and 12 February 2016 the second round table was organized for wider professional community aimed at promotion of treatment of vulnerable categories of prisoners; 29 and 30 November 2016 the Conference of NPM of the South East Europe took place etc.

<sup>170</sup> European Prison Rules, Part III governing the Health Care, Item 41.1 foresee that „Every prison shall have the services of at least one qualified general medical practitioner.“

<sup>171</sup> European Prison Rules, Part III governing the Health Care, Item 41.3 foresee that: „Where prisons do not have a full-time medical practitioner, a part-time medical practitioner shall visit regularly.“

Therefore, Ombudspersons think that it is necessary to make a comprehensive analysis of the situation in the area of health care in the institutions for the execution of criminal sanctions.

**Example:** A complainant<sup>172</sup> claims that he was not provided with adequate health care in Detention Unit of Tuzla Prison. Acting on that complaint, Ombudspersons asked the written reply of prison management as to these claims. From this letter Ombudspersons learned that the complainant sought medical attention 22 times since he had arrived to the Unit. Out of this he was referred to see the prison psychiatrist six times. Ombudspersons took some additional investigative measures, but could not establish violation of the complainant's rights, particularly having in mind the opinion of the resident doctor and urgent medicine specialist.

**Recommendation to the ministries of justice of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and Republika Srpska:**

- in accordance with the European Prison Rules to establish health care policy in the establishments for execution of criminal sanctions and provide material and technical capabilities for the implementation of this policy;
- ensure training in order to make the persons deprived from liberty familiar with health risks and their exposure to illness and methods of communication of transmissible diseases in order to prevent it.

### 6.1.2. Use of privileges out of the establishments

In 2016 Ombudspersons processed complaints of convicted persons about their dissatisfaction by procedures involving the approval and use of privileges outside the prison establishments. When discussing this issue, it should keep in mind the fact that these privileges are to be earned by good behavior and exemplary conduct, and not the right of the prisoners, which must be observed.

Most complaints in this area relate to the practice that the use of privileges outside the prison depend on opinion of the competent police station and social welfare authorities, so that convicted persons in their complaints claim that police officers are not objective enough, and do not conduct sufficient field investigations, but give a negative opinion automatically. As for approval of the convicts' requests for use of these privileges, they mostly depend on prison management whether it is willing to grant it or not.

**Example:** A convicted person<sup>173</sup> points out in his complaint that Police Administration Živinice gave a positive opinion in respect of his potential use of privileges outside the establishment, while the correctional officer in Zenica Prison claims that this opinion is negative. He emphasizes that he had never seen this opinion and that he could not understand the reasons why he could not use privileges outside the establishment. After the investigation the Ombudsman found this complaint unfounded.

<sup>172</sup> Ž-BL-07-471/16

<sup>173</sup> Ž-SA-07-95/16

**Example:** A convicted person<sup>174</sup> claims in his complaint that he is accommodated in pavilion V-1 and engaged to work. His complaint is related to the prison management since he, according to his claims, was given a positive opinion from the Police Station Vitez. Despite this, the Prison management asked the Police Station Travnik for their opinion and they gave partially positive opinion, so that the complainant could go out of the Prison, but not to go to Novi Travnik. He was dissatisfied with this situation since, in his opinion, the Prison management should not ask the Police Station in Novi Travnik for their opinion at all given that he already had a positive opinion from the Police Station Vitez, and the both cities are in the same canton. In this respect he asked the Prison management to decide on his right as soon as possible. In order to find facts related to this claim, the Ombudsman sent an inquiry to the management of Zenica Prison. Zenica Prison Treatment Department replied<sup>175</sup> on 23 March 2016 providing the Ombudsman with a detailed explanation and reasoning for the action of the Prison management.

### 6.1.3. Conditions of accommodation

Ombudspersons emphasize, based on available information<sup>176</sup> that in 2016 lack of accommodation capacities was only present in the establishments for execution of criminal sanctions in the Federation of Bosnia and Herzegovina, while in Republika Srpska the current capacities are sufficient. For overcrowding of prison facilities in the Federation of Bosnia and Herzegovina, a certain number of convicted persons has to wait to be sent to serve their sentence. Ombudspersons point out, however, that this problem, although still present, is not so pressing as it was in the previous periods as it is evident that the courts also tried to alleviate this issue by pronouncing alternative sanctions<sup>177</sup> as appropriate instead of the prison sentence.

In order to collect accurate data on the availability of accommodation capacities in institutions for execution of criminal sanctions in the Federation of Bosnia and Herzegovina and Republika Srpska Ombudspersons sent a letter<sup>178</sup> asking for the following information:

1. *„Statistic data on number of available and occupied accommodation capacities in the criminal sanctions execution facilities in Republika Srpska and the Federation of Bosnia and Herzegovina on 01 December 2016. Information on whether the current capacities are sufficient to accommodate all the convicted persons and if not, how many convicted persons are currently waiting to serve the prison sentence“ and*

<sup>174</sup> Ž-SA-07-96/16

<sup>175</sup> In reply to the Zenica Prison Treatment Department dated 23 March 2016 it was said „..In this concrete case at hand, B.B: has served more than a half of his prison sentence. Since he is an exemplary prisoner, opinion of the competent police stations and Social Welfare Center in Novi Travnik (where the convict committed the criminal offence and where the injured party lives) and in Vitez (the convict has changed his place of abode while serving the sentence). The convict received documents with positive opinion from the Police Station in Vitez. However, since he had to get positive opinion in place of commitment the criminal offence, it was necessary for him to get also a positive opinion from the relevant police station in Novi Travnik. The distance between the former place of abode of the convict and his current place of abode was also considered (that is, the place where he committed the criminal offence). Police Station Novi Travnik gave a negative opinion two times based on the interview with the family of the injured party ... and the fact that they oppose to the convict B's use of privileges outside the prison facility as they fear that he might repeat the same or similar offence. Since positive opinion of the PS Novi Travnik is still missing, use of privileges outside the prison is not yet possible. The convicts are entitled to some other privileges as well including counseling and various types of institutional assistance. As for the mentioned case, on 18 December 2015 the Prison asked the opinion of the PS Novi Travnik for the third time, but did not receive the answer.“

<sup>176</sup> Report of the second round table aimed at promotion of the Training manual on additional skills of prison officers

<sup>177</sup> Ž-SA-07-407/15 – the case of the complainant who was pronounced sentence of 50 working days of socially beneficial work by the Municipal court in Sarajevo

<sup>178</sup> Document issued by the Ombudsman no: Oi-K-BL-500/16, dated: 30 November 2016.

2. „Information on whether and how much funds were earmarked for the adaptation, that is, improvement of accommodation quality in 2016 and which works were completed so far?”

Reply of the Ministry of Justice of Republika Srpska<sup>179</sup> reads as follows:

*„The existing capacities fully meet the needs of the imprisonment, juvenile imprisonment, referral to a correctional facility, and the needs for the execution of detention measure.*

*We do not have the data on number of convicts awaiting to be referred to prison, but we are certain that in Republika Srpska there has never been the case that a convicted person could not be referred to a prison for its being fully occupied. Accommodation capacity of prisons as at 31 December 2015 were as follows: the average occupancy rate of all capacities on the day 31 December 2015 amounted to 51.55%, out of which the occupancy rate for convicted persons was 56.33% and 32.15% for detained persons. The highest occupancy rate during the year, as in previous years was recorded in Banja Luka Prison, Foča and Bijeljina.”*

*In 2016 allocations for reconstruction and adaptation of buildings and facilities and procurement of equipment from the budget earmarked to prisons were the following: Banja Luka Prison 250,000.00 BAM, Foča 80,000.00 BAM, Bijeljina Prison 1460.00 BAM, Istočno Sarajevo Prison 1,600.00 KM and Doboj Istočno 1,200,286.68 BAM (1,188,000.68 BAM from the funds of the World Bank for the rehabilitation of flooded areas +12286.00 BAM from the budget of Doboj Prison). “*

As the obtained data show, significant funds were invested for the purpose of improvement the living conditions in prisons, and after the visits to the prisons in Banja Luka, Foča and Doboj the Ombudsman’s representatives could see for themselves that it was really achieved. Therefore Ombudspersons stress the importance of proactive action of the Ministry of Justice of the Republika Srpska in 2016 because there is no doubt that the additional investment improved imprisonment conditions in the penal institutions of this entity. They also invite the authorities to continue with the activities related to the construction of a new building in which the Bijeljina Prison will be located as planned.

Reply of the Federal Ministry of Justice Sarajevo, no.: 04-49-5186/16 dated 15 December 2016 includes a table showing the total capacity of the correctional facilities in the Federation of Bosnia and Herzegovina and its occupancy rate. This reply reads as follows:

*„According to the data obtained from the municipal courts in the Federation of Bosnia and Herzegovina as of 31 December 2015 there was 196 persons awaiting to be referred to prison to serve their sentence. New data will be collected for 2016, but we already have the information of the Municipal Court in Sarajevo (the largest court in the Federation of Bosnia and Herzegovina) that they have nobody anymore on the waiting list in respect of referral to serving the prison sentence. From the above data it could be seen that there is over-crowdedness in Sarajevo Prison in the accommodation of detainees, not prisoners, and Busovača Prison where there is 19 convicted persons superficial in respect of the foreseen capacity.*

*In Bihać Prison funds are ensured in the amount of 27,000 BAM for the building reconstruction (reconstruction of canopy, ceiling structure installation, reconstruction of detention unit), and in*

<sup>179</sup> Reply of the Ministry of Justice of Republika Srpska<sup>179</sup> no.: 08. 030/052-8507/16 dated 06 December 2016

*Busovača Prison in the amount of 20,000 BAM for capital investments during 2016 (ventilation system reconstruction, illumination installation along the Prison fence, green house procurement). For the procurement of necessary equipment foreseen is the amount of 270,000 BAM (Zenica Prison 70,000, Sarajevo Prison 22,000 BAM, Tuzla Prison 33,000 BAM, Mostar Prison 60,000 BAM, Bihać Prison 30,000, Orašje Prison 25,000 BAM and Busovača Prison 30,000 BAM). We would like to add that since 01 October 2016 a new correctional facility in Orašje is functional. In Busovača Prison a new building accommodating 60 convicted persons is finished, but not yet functioning for the lack of staff in the areas of security and treatment.”*

Data provided in the above answer also confirm that the issue of over-crowdedness has not been so expressed anymore in all the prisons in the Federation of Bosnia and Herzegovina as well. It is also commendable that the responsible ministry of this entity has provided funds earmarked to the improvement of accommodation conditions in its prisons.

Ombudspersons remind that in their Special report on human rights situation in the institutions for criminal sanctions execution in Bosnia and Herzegovina<sup>180</sup>, as well as in the related recommendation<sup>181</sup> they warned of poor living conditions in Sarajevo Prison. In their other Special report Ombudspersons also turn attention to the situation in Sarajevo Prison describing it as the worst in the whole criminal sanctions execution system<sup>182</sup>, arguing that the competent ministry failed to take in consideration the real needs based on population density in the area gravitating to this institution. This situation has not been changed yet, as it was proven in the Ombudsman’s visit done on 11 February 2016 on request of Deputy Director of Sarajevo Prison who addressed the Ombudsman mentioning over-crowdedness in this Institution asking for urgent reaction of the competent authorities and the Ombudsman’s assistance in this issue. Situation established on the day of the Ombudsman’s visit was the following: there was 135 persons in total, out of which 126 men, six women and three detainees in the health department of this Institution. These data are alarming given that the capacity of this Institution is 88 places. Following the visit which included discussion with the Prison management, visit to the detention unit, inspection of the official registers, interviews with detainees who were able to provide data relevant to the subject of this visit, or who randomly happened to be present in visited parts of the Prison (indoors or outdoors), the Ombudsman produced a report on visit to semi-opened Sarajevo Prison that included recommendations<sup>183</sup> to the Government of the Federation of Bosnia and Herzegovina, Federal Minister of Justice and Director of Sarajevo Prison.

<sup>180</sup> Published in September 2009

<sup>181</sup> Recommendation in case Ž-SA-07-1381/11, no.: P-209/11

<sup>182</sup> Published in August 2012

<sup>183</sup> In the Ombudsman’s report following the visit of the semi-open Prison in Sarajevo the Ombudsman issued to the Government of the Federation of Bosnia and Herzegovina, the Federal Ministry of Justice and Director of Sarajevo Prison the following recommendations:

- to take all necessary measures at once aimed at the improvement in quality of prisoners’ life and well-being, primarily by securing enough living space for everybody, lightning, heating, fresh air, access to fresh water and building maintenance In addition to that, to keeping the prison hygiene;
- to take measures to dislocate prison accommodation facilities to the locations Igman or Ustikolina;
- to indicate to the competent courts until the above mentioned conditions are meet, to restrain from referring the suspects to detention in Sarajevo Prison and to refer them to other facilities instead;
- to resolve or alleviate issue of understaffing and hire experts dealing with the convicted persons as soon as possible;
- to enable convicted persons access to fresh air for two hours a day at once;
- - in co-operation with the Federal the Ministry of Health to resolve the issue of scabies that affected a couple of prisoners in the facility;
- in co-operation with the Ministry of Interior, and Police Administration to resolve the issue of police assistance in taking prisoners out of the prison in order to receive medical services.

Ombudspersons regret the fact that the competent Ministry failed to reply to this recommendation and inform the Ombudsman on taken measures. Ombudspersons concluded that issue of over-crowdedness should be resolved as it causes many other problems aggravating the functioning of this Institution. Namely, many difficulties in organization and functioning of this Institution related to the safety of convicted persons and employees, ensuring of adequate hygiene in prison, organization of health care and increased risk of threats, riots and violence arise from its over-crowdedness.

Ombudspersons think that this issue will be significantly better once the State prison located in Vojkovići, the Municipality of Istočna Ilidža is put in function<sup>184</sup>. Construction of all parts of this Institute for the execution of criminal sanctions, detention and other measures of Bosnia and Herzegovina is fully completed including all ten buildings whereby buildings A, B, C and D are earmarked for accommodation of prisoners and detainees. According to the data available on the official web-site of the Ministry of Justice of Bosnia and Herzegovina, construction of the State Prison will be finished until the planned deadline and commencement of its work is expected to take place in 2017.

#### 6.1.4. Work

In respect of work by the prisoners, Ombudspersons indicate that additional efforts should be taken in order to improve work engagement of persons serving their sentence in all prisons in Bosnia and Herzegovina in line with obligations assumed under the European Prison Rules, Part VII – work by sentenced prisoners<sup>185</sup> as a contribute to realization of a complete treatment program and re-socialization of these persons. In many direct contacts of the Ombudsman's staff with prisoners, they always emphasize the importance of their work as it enables them to earn some funds, fills-in their time and positively affects their re-socialization process.

Ombudspersons point out that they are aware of the fact that many citizens of Bosnia and Herzegovina are unemployed, which makes meeting of this obligation harder, but it cannot be justification for inadequate reaction of the relevant authorities to this segment of protection of the rights of the prisoners.

**Recommendation: To all correctional facilities in Bosnia and Herzegovina, in accordance with the objective possibilities, to improve work engagement of persons serving prison sentence.**

<sup>184</sup> According to the data taken from the official web site of the Ministry of Justice of Bosnia and Herzegovina, total area of the state prison will be 24.000 m<sup>2</sup> and every cell accommodating one prisoner will have the area of 12 m<sup>2</sup>. Construction and functioning of the future state prison is fully harmonized with the rules and standards set out in European Prison Rules. Implementation of the planned project will provide Bosnia and Herzegovina with prison capacities of 348 places, out of which 298 for prisoners and 50 for detainees. This will bring a significant release to the entity prison capacities and solve the issue of their overcrowdedness and contribute to re-socialization of „minor“ criminal offenders. Accommodation facilities will include medical block (primary medical care), while a separate building is earmarked for educational activities. Works on installations are ongoing and internal arrangement of all ten prison complex buildings, including the carpentry, flooring etc, and there is also in intense activity on installation of equipment. It was planned to hire 250 new staff members (policeman, technical staff, administration...).

<sup>185</sup> European Prison Rules, Part VII – work by sentenced prisoners, 105.10 „A systematic programme of works shall seek to contribute to meeting the objective of the regime for convicted prisoners.“

### 6.1.5. Transfer

Issue of transfer of prisoners in Bosnia and Herzegovina is very important and it relates to the transfer of prisoners from a collective to another within the same prison establishment or from a prison to another within the same entity, as well as transfer from a prison to another in the other entity.

**Example:** A complainant<sup>186</sup> asked for transfer within the same institution. In his complaint he claims that he is currently accommodated in the Pavilion IV, but that he was promised to be transferred to the Pavilion I, since he belongs to the “A” group of prisoners already seven months now. Director of Zenica Prison informed the Ombudsman that this prisoner had already been transferred in Pavilion I since the reasons for his accommodation in Pavilion IV existed no more.

Ombudspersons note that transfer of sentenced persons is a complex issue in Bosnia and Herzegovina, especially since legislation in this area is not harmonized, that is, this benefit is not prescribed on equal grounds, especially in the part relating to the transfer of convicted persons from an institution in one entity to the institution in another entity. The Law on Criminal Sanctions Execution in the Federation of Bosnia and Herzegovina does not prescribe the possibility of transfer of sentenced persons to serve their sentence in another entity. On the other hand, the Law on Criminal Sanctions Execution in the Republika Srpska, as amended in May 2016, provides for a possibility of transfer from one prison to another located in the other entity, but only when it is necessary due to security considerations, but the Ombudsman is of the opinion of the Ombudsman, that security considerations should be only one of criteria for a transfer. The absence of provisions in the Law on Execution of Criminal Sanctions of the Federation of Bosnia and Herzegovina related to the transfer of convicted persons from a prison to another located in the other entity has created a situation that the above mentioned provisions of the Law on Criminal Sanctions Execution in the Republika Srpska cannot be applied in practice.

Ombudspersons think that legal gaps and lack of clarity in respect of transfer of prisoners from a prison to another in the other entity go to the detriment of the prisoners who have residence of the place of abode in the other entity, since they lose contact with their families, in particular having in mind the difficult economic situation prevailing in the country. Eventually this situation results in aggravated rehabilitation of prisoners which takes wrong direction in such situation. For this reason and in order to secure more consistency in law implementation, based on a complaint filed within the Ombudsman<sup>187</sup>, on 07 March 2016 Ombudspersons addressed the Parliament of the Federation of Bosnia and Herzegovina, the Federal Ministry of Justice and the Ministry of Justice of Republika Srpska with an initiative to amendments of the Law on Execution of Criminal Sanctions of the Federation of Bosnia and Herzegovina<sup>188</sup> and the Law on Criminal Sanctions Execution in the Republika Srpska<sup>189</sup>.

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<sup>186</sup> Ž-SA-07-823/16

<sup>187</sup> Ž-BL-07-107/16

<sup>188</sup> Official Gazette of the Federation of Bosnia and Herzegovina no. 44/98, 42/99, 12/09 and 42/11

<sup>189</sup> Official Gazette of Republika Srpska no. 12/10, 117/11 and 98/13

Since no reply to this initiative was received from the Parliament of the Federation of Bosnia and Herzegovina, Ombudspersons sent a letter<sup>190</sup> to this legislative institution asking for the information on whether this initiative was received, if yes whether it was discussed and if not when it would be considered. In the same letter Ombudspersons asked the Ministry of Justice of the Federation of Bosnia and Herzegovina about the measures taken in order to consider the above initiative. A reply<sup>191</sup> of the Parliament of the Federation of Bosnia and Herzegovina reads as follows: *„We herewith inform you that the Government of the Federation of Bosnia and Herzegovina launched regular Parliamentary procedure with regard to the Draft Law on Amendments to the Law on Criminal Sanctions Execution in the Federation of Bosnia and Herzegovina. The draft was reviewed on 11<sup>th</sup> session of the the Parliament of the Federation of Bosnia and Herzegovina House of Representatives on 18 May 2016 which resulted in a decision to accept the suggested draft as a basis for the legislative proposal.“*

The Ministry of Justice<sup>192</sup> of the Federation of Bosnia and Herzegovina replied: *„that preliminary draft had been prepared of the Law on Amendment of the Law on Criminal Sanctions Execution in the Federation of Bosnia and Herzegovina as suggested by the Government of the Federation of Bosnia and Herzegovina on 22 April 2016 and sent to the parliamentary procedure. Once the House of Representatives and the House of Peoples of the Parliament of the Federation of Bosnia and Herzegovina accepted this draft as a basos for a legislative proposal it was referred to the Federal Ministry of Justice to final wording to include a provision on transfer of convicted persons to the other entity in which the convicted person has his residence or his abode.“*

On the other hand, the National Assembly of Republika Srpska on its session held in May 2016 adopted a new Law on Amendment of the Law on Criminal Sanctions Execution in the Republika Srpska<sup>193</sup> whereby provisions of Article 122a foresee the following: *„(1) Governor of the Prison Establishment, with a written consent of a convicted person, for reasons involving safety or organization of imprisonment sentence, can file a motion with the Minister asking for transfer of the convicted person to serve his sentence in the other entity in which this person has his residence or abode (2) The above reasons involving safety or organization of imprisonment sentence should be clearly explained and proven. (3) Decision on transfer referred to in paragraph 1 of this Article shall be adopted by the Minister having obtained a prior consent of the Minister of Justice of the entity to which the convicted person is being transferred (4) An appeal from the decision referred to in paragraph 3 of this Article is not permitted and no administrative dispute can be initiated in this regard (5) If the motion of the Governor is refused, a new motion can be filed after six months from the date on which this decision is served (6) Costs arising from transfer referred to in paragraph 1 of this Article shall be borne by the Prison Establishment doing the transfer.“*

<sup>190</sup> Document issued by the Ombudsman no.: 0i-k-bl-514/16 dated 20 December 2016

<sup>191</sup> Document of the Parliament of the Federation of Bosnia and Herzegovina no.: 01-02-1098/16 dated 27 December 2016

<sup>192</sup> Document issued by the Federal the Ministry of Justice no. 04-4-5545/16 dated 08 January 2017

<sup>193</sup> Official Gazette of Republika Srpska no. 44/16



### 6.1.6. Safety of persons deprived from liberty

Ombudspersons express their concerns regarding safety issues of prisoners mainly because of understaffing of almost all correctional facilities. This is especially true of the security and treatment departments as the most important departments in the process of social reintegration of prisoners. The lack of staff in the security department do not correspond to the number of convicts leads to a situation that the prison administration is unable to provide adequate protection to these persons, while the lack of professional staff in correctional segment negatively affects the quality of re-socialization process which puts in question the achievement of the objective sought to be accomplished by the criminal sanctions execution.

The responsible officials must comply with the European Prison Rules Part IV - *Security and safety* which clearly define what measures and actions should be taken to ensure the safety of prisoners. The most common form of endangering the safety of prisoners by other prisoners is manifested in various forms e.g. blackmail, disrespect, physical and psychological harassment, provocation on ethnic and religious grounds, etc.

An example of such a behavior is an incident that took place on Orthodox Easter in Zenica, Prison when inmates of Serbian ethnic background were attacked by some inmates of Bosnian ethnic background. After that incident, Ombudspersons visited Zenica Prison on 01 May 2016 in a fact finding mission. Following the visit they prepared their Special report on violation of human rights of convicted persons in Zenica Prison which included recommendations<sup>194</sup> to the Federal Minister of Justice and Governor of Zenica Prison. In his reply<sup>195</sup> to the Special report, Zenica Prison Governor emphasizes the following: *„... I emphasize that I have already initiated disciplinary proceedings against the responsible officer who failed to timely inform the Prison Governor on this incident.....I point out that as a Prison Governor I shall keep insisting on hiring sufficient number of staff members, in particular the prison police – guards and correctional officers thus addressing the understaffing issue ... as I assume the obligation along with my associates to further improve the applicable procedures in order to ensure safety to all convicted persons, which will reduce risk of violence among them, but I have to mention that inadequate accommodation buildings and lack of staff and equipment create a „bottleneck“ in the mentioned activities ...for taking all necessary measures and activities to provide safety and equal treatment to all convicted persons, that is, prevention of phychological and physical abuse along with my associates I will try to give an adequate contribution in order to prevent or completely avoid such incidents from happening.“*

Having the above in mind, Ombudspersons conclude that they are aware that the Zenica Prison Administration face problems in their work in terms of ensuring the safety of the persons

<sup>194</sup> Recommendations of the Ombudsman were referred to the following: 1. the Federal Ministry of Justice - to take measures and activities to shed some light to this event, take adequate activities to sanction all staff members responsible for this grave incident; 2. Director of Zenica Prison – to take adequate activities to sanction all staff members responsible for this grave incident; 3. to Federal minister of justice and director of closed – type Zenica Prison – to resolve issue of understaffing particularly in respect of prison policemen – guards; 4. director of closed – type Zenica Prison – to establish procedures to ensure total safety to the convicted persons, that is, procedures to minimize risk of violence and other incidents that could threaten safety of convicted persons, in particular convicts of Serbian ethnicity; 5. Director of Zenica Prison – to take necessary measures and activities to ensure equal treatment of all the convicted persons and to prevent cases of physical and psychological abuse, in particular convicts of other ethnic origin

<sup>195</sup> Document issued by Director of Zenica Prison no.: 01-12-3431/16 dated 10 June 2016

accommodated in this institution, given the large number of prisoners, inadequate space that does not meet the needs of so many convicted persons, and because of the lack of professional staff. It cannot be a justification, however, for situations that prisoners suffer violence. In this regard, Ombudspersons welcome the fact that the Administration is aware of the problem and therefore commend the listed activities aimed to be taken by the Governor in order to overcome and solve these issues, as it is stated in his reply. For this reason, once again Ombudspersons call on the competent Ministry to actively participate and assist the management of the relevant institutions in overcoming the difficulties they are currently facing in their work.

### 6.1.7. Communication with the outside world

The Ombudsmen note that convicts' communication, written, oral or through telephone, with the Institution of the Ombudsman should not be subject to any restrictions or control. European prison rules<sup>196</sup>, stipulate: *„prisoners have the right to communicate without restrictions, through letters, phone or otherwise, with his family, other persons or representatives of outside organizations and to receive visits from them ”*

The Ombudsmen in the report again notes with concern that their recommendations has not been complied with, which is addressed in the annual reports for 2013, 2014 and 2015 to ensure the confidentiality of written shipments that prisoners sent for further processing to the Institution of Ombudsman by the prisons of the Republic of Srpska. Delivery of written items in open envelopes and with a cover letter delivered to institutions already contains some data of a convict (personal data and the offence that was done) is an obvious example of persistent disregard of the Ombudsman's recommendations and violations of the rights of prisoners.

**Example:** Complainant<sup>197</sup> points out that her husband was detained 05.08.2016 and is currently in custody prison of correctional institution in Doboj. According to information at the disposal, the court approved his phone calls to his wife, however, for unknown reasons before the submission of the complaint it was not possible to achieve this form of communication. The case is successfully completed, as 08.19.2016 the complainant informed the Ombudsmen that her husband telephoned from the prison in Doboj.

The Ombudsmen this year again commend the good practices of the Correctional Facility in Doboj, which was continued during 2016. The guards of this institution, at the request of prisoners, and if they assess that there is a need, provide direct telephone contact with the Institution of Ombudsman. In this way the convicts are in the short term given the necessary legal advice, and if there are reasons for treatment, Ombudsmen can take this action without delay<sup>198</sup>. With disappointment the Ombudsmen ascertain that positive practice of such behavior is not taken by other prisons in Bosnia and Herzegovina, although it was one of the recommendations contains in the annual report of 2015.

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<sup>196</sup> European Prison Rules , part II Communication with the outside world

<sup>197</sup> Ž-SA-07-837/16

<sup>198</sup> Ž-BL-07-364/16

- **Recommendation: to the Ministry of Justice of the Republic of Srpska and correctional institutions in the Republic of Srpska:**
- **- In accordance with the European Prison Rules to ensure the confidentiality of written shipments that persons deprived of liberty send to the Institution of Ombudsman;**
- **- Examine the possibility of taking positive practices of the Correctional Facility in Doboj.**

## 6.2. The situation in institutions for people with intellectual difficulties

The Institution of Ombudsman for Human Rights of Bosnia and Herzegovina back in 2009 already published *the Special Report on the situation in institutions for persons with mental disabilities in Bosnia and Herzegovina*, which addressed to specific recommendations to all levels of government in Bosnia and Herzegovina aimed at improving the quality of accommodation and care in institutions and to increase the awareness of competent authorities on the state of human rights in this area.

The question of the work of these institutions has been once again actualized by the adoption of the decision of the Constitutional Court of Bosnia and Herzegovina and the European Court of Human Rights in Strasbourg in the case *Hadžimejlić and Others vs. Bosnia and Herzegovina*<sup>199</sup>. The European Court in this case found a violation of Article 5 (right to liberty and security) of the European Convention on Human Rights, and ordered that to the applicants must be paid just monetary compensation on the basis of non-pecuniary damage, EUR 21,250 for Mrs. Hadžimejlić, EUR 27,500 for Mr. Crepulja and EUR 32,500 for g. Busovača for non-pecuniary damage.

The Ombudsmen have recognized the need to re-visit these institutions in order to compare the situation in comparison with 2009, especially having in mind that the preventive mechanism in Bosnia and Herzegovina, which would be obliged to do so, and has not yet been established. The Ombudsmen, although limited in material and financial resources in 2016, started the activity of re-visiting, as a part of which have so far visited the following institutions: Institute for the protection of youth "Pazarić", Institute for accommodation of mentally disabled persons "Bakovići", Institute for mentally disabled persons in Fojnica "Drin" public health institution Psychiatric hospital "Sokolac"<sup>200</sup>, Home for social and health care for people with disabilities

<sup>199</sup> Complainants: Zuhra Hadžimejlić, Marcel Crepulja and Esad Busovača, lodged complaint no. 3427/13, 74569/13 and 7157/14. The complainants had been treated for schizophrenia, stripped of legal capacity and placed under guardianship, either relatives or representative of the social work, before or after their placement in a social care home Drin. Ms. Hadžimejlić and Mr. Crepulja in separate cases filed with the Constitutional Court of Bosnia and Herzegovina challenged the legality of their detention in a social care home. The Constitutional Court of Bosnia and Herzegovina is determined in both cases, in the month of April and June 2013, that the detention of the complainants was illegal, since they were kept in the psychiatric ward without the decision of a competent court, and that their rights have been violated due to a lack of judicial review of the lawfulness of their detention in the home

<sup>200</sup> From the case of Z-BL-05-288 / 14 registered in the institution derives the following: „Ba its Act number 07-15-1-3468 / 15 Ministry of Justice of Bosnia and Herzegovina shall inform the Ombudsman of the activities of the Council of Ministers in previous years, in Bosnia and Herzegovina to have one forensic institution. As they say, have the information that on 04.11.2014. officially opened the Institute of Forensic Psychiatry Sokolac, as a specific health institution within the health system of the Republic of Srpska, under the direct authority of the Ministry of Health and Social Protection of the Republic of Srpska, and the Government of the Republic of Serbian. However, there is no information on whether the Department actually started the reception of the first forensic patients. Subsequently, at the request of the Ombudsman, the Ministry of Health and Social

and other persons "Stolac", PI Psychiatric Hospital of Canton Sarajevo Jagomir, Institute for Special Education and Care of Children Mjedenica and University Clinical Center of the Republic of Srpska, Department of Psychiatry. In addition, it is planned another visit to the Institute for treatment, rehabilitation and social protection of chronic mental patients "Jakeš" Modrića, Institute for the Protection of Female Children and Youth "Višegrad" Home for Children and Youth with Special Needs "Prijedor" and Center for acceptance the elderly and infirm and homeless persons Duje, municipality Doboj Istok. After completion of all visits and analysis of findings in the field, the situation in institutions where they are placed persons with intellectual difficulties, will be shown in detail in the special report.

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Protection of the Republic of Srpska referred document No. 11 / 04-059-297-1 / 15 of 21.12.2015 that the Government adopted the Conclusion No. 04 / 1-012-2-2446 / 15 of 10.29.2015, in order to eliminate delays in the commencement of the Institute for Forensic Psychiatry Sokolac. The Ombudsmen in 2016 visited Sokolac Psychiatric Clinic, during the preparation of the Special Report on the situation in institutions for persons with mtelectual difficulties. On 10.31.2016. there was telephone contact with the director of the Psychiatric Clinic Sokolac. According to her, Director of the Institute for Forensic Psychiatry Sokolac was going tomorrow (09. 11. 2016) to signed contracts with the selected operating personnel, and the first patients were expected to come on 11/15/2016".

## VII CHILDREN'S RIGHTS

The children as human beings have a special place in society and it is therefore necessary for the state to take all necessary measures and actions in terms of protection, care and guidance the realization of children's rights<sup>201</sup>. In this way, it pays due attention to the growth and development of children and enables protection and makes them equal members of society.

The Ombudsmen stress that UN Convention on the Rights of the Child<sup>202</sup> sets standards and emphasizes the universal principles and norms for the protection of the rights of children and highlights four basic principles. These are: the best interests of the child should be a priority, the protection of children from any form of discrimination, the right to survival, development and participation of children and respect their views. The Ombudsmen also note that the UN Convention on the Rights of the Child is an integral part of the Constitution of Bosnia and Herzegovina and therefore constitutes a document which must be applied by all citizens (teachers, professors, social workers, doctors, etc.), in the best interests of the child.

Statistical data in 2016 show that the Department for protection of children's rights received 138 complaints and issued 11 recommendations.

### 7.1. The best interest of the child

This year, too, the largest number of complaints<sup>203</sup> registered in the Department for monitoring the rights of children referred to the protection of children's rights during conflict divorce (the inability to establish contacts of the child with both parents, the right to child support, etc.). In such situations, the role of social work centers is of great importance.

Every child has the right to maintain contact with both parents, because it is undisputed that for the proper growth of the child is useful to regularly and adequately be in contact with the parent who the child does not live with. In situations where the parents cannot agree about the contact, monitoring of the exercise of parental rights takes center for social work. It is then that the role of the center is of particular importance and can be double, preventive (when the guardianship

<sup>201</sup> The Ombudsmen in the case Z-BL-06-534 / 15, T-259/15 of 30.11.2015 discussed question of giving preference in employment and realizing social rights for the children of fallen soldiers on the territory of Bosnia and Herzegovina. The regulations of the Republic of Srpska enable the exercise of rights on the basis of social status, family members of fallen soldier of Defensive-Liberation War of the Srpska, but not other military units that participated in the conflict in Bosnia and Herzegovina. On the other hand, in the Federation of Bosnia and Herzegovina, the applicable rules also provide for additional rights of veterans and their families, and do not include the veterans who participated on all sides of the conflict, and their descendants. After reviewing the situation in Bosnia and Herzegovina as a whole, it can be, therefore, concluded that certain persons, can not exercise these rights in the territory where they are permanently housed or where they work (eg. A child of a killed soldier of the Army of the Republic of Srpska in Glamoč and Drvar, as a child of a killed soldier of the Army of Bosnia and Herzegovina in Srebrenica or the Croatian Council of Defense in Derventa), due to the territorial limits of validity of the said regulations. These are persons who are in the same difficult situation, whose loss as painful and have a legal basis for obtaining the required status, and are not able to exercise their rights, and this is not his/her fault. The Ombudsman sent a recommendation to the Ministry of Civil Affairs of Bosnia and Herzegovina, the Ministry of Education and Culture of the Republic of Srpska and the Federational Ministry of Education to take measures to amend the existing regulations to children of fallen soldiers acknowledged social status and other related rights in the entire territory of Bosnia and Herzegovina, regardless of what armed forces are in question. Ombudsman's recommendations has been accepted and designated authorities are committed to further action in the implementation of concrete measures to implement the recommendations.

<sup>202</sup> Adopted at the UN General Assembly of 1989.

<sup>203</sup> Ž-BL-01-297/16, Ž-BL-01-604/15

authority through its decisions ensures the proper exercise of parental rights) and also corrective (when the guardianship authority corrects parents' decisions: warns of failures, suggesting parents to talk with professional institutions, etc.). In this regard, the Ombudsmen always try to support activities of the center, and encourage parents for cooperation and agreement in the best interests of the child. Also, parents try to remind that they have the right, duty and obligation to take care of the upbringing and education of their child. Exactly because of social control and social components of parental rights, norms of family law are of imperative character. The legislator or state through any imperative norm seeks to provide a minimum of well-being for children, parents and harmony in the functioning of the family.

For all these reasons the Ombudsmen urge the authorities to make further efforts and allocate the necessary funds to improve the scope and quality of services that social work centers provide. Due to limited material and financial resources centers are not always able to make the full capacity of their job.

**Example:** Father of a chilled filled complaint with the Ombudsmen<sup>204</sup> due to impossibility of contact with his son. Representatives of the Center for Social Work Banja Luka has been contacted, but in the meantime, the mother of the child has changed residence to the municipality of Laktaši, and in that direction the Ombudsmen supported the initiative of the Banja Luka center to hold a joint meeting with the parents in Laktaši. Subsequently, the Institution of Ombudsman has been informed that on 10.05.2016 the meeting was held with the parents of a minor child, and that a progress in achieving the contact between father and child has been noticed. It is also stated that the Center for Social Work Laktaši shall take all actions that are in the best interests of the child, concerning the establishment of a quality of the relationship between father and child. On 13.07.2016 the interview was conducted with the complainant. It was found that the meetings take place regularly; the child is staying with his father even more than anticipated by decision of the Center for Social Work Laktaši.

The Ombudsmen are still addressed by citizens pointing to the problem of lack of coordination in the social work centers in situations of determination and ensuring contacts between parents and children when the former spouses live in different entities or cantons. Family Law of the Republic of Srpska<sup>205</sup> provides that if a child does not live in the community with both parents, parents will agree on how to maintain personal relations with the child. If such an agreement is not reached, the decision will be made by the guardianship authority, and an identical solution is provided for by provisions of the Family Law of the Brčko District of Bosnia and Herzegovina<sup>206</sup>. Family Law of the Federation of Bosnia and Herzegovina<sup>207</sup> prescribes that both parents are obliged to maintain personal relations and direct contact with the child and respect the connection with the other parent, unless the court determines otherwise.

The problem occurs in practice when the parents live in the territory of the different entities, accordingly with different laws and regulations, or in the territory of the different cantons, without established cooperation of the competent social work centers, which ultimately results in

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<sup>204</sup> Ž-BL-01-538/15

<sup>205</sup> Porodični zakon Republike Srpske, Službeni glasnik Republike Srpske, br. 54/02, 41/08 i 63/14.

<sup>206</sup> Porodični zakon Brčko distrikta BiH, Službeni glasnik Brčko distrikta BiH, broj 23/07.

<sup>207</sup> Porodični zakon Federacije BiH, Službene novine Federacije Bosne i Hercegovine, br. 35/05 i 31/14.

jeopardizing the child's best interests and the impossibility of contact with both parents. The above is proved through the claims from the act of PI "Cantonal Center for Social Work", Social Protection Service of the Municipality of Novo Sarajevo<sup>208</sup>, which was sent to the Municipal Court in Sarajevo: *"...due to certain legal ambiguities that required a longer period of time for the resolving resulted in threat and still threats both the child's right and parents right to have direct contact with his/her child and also to carry out other activities of their parental care that are not limited by court decision"*.

**Example:** Complainant<sup>209</sup> states that in 2010, the Municipal Court in Sarajevo took a judgment establishing contacts between him and his minor son. At the time of the judgment the mother and child stayed in the Municipality of Novo Sarajevo, after which she moved to the territory of the Municipality of East Ilidža, which changed the territorial jurisdiction of the center for social work. Because of this, the complainant from the judgment date has not made any direct contact with minor son. The Ombudsman sent a recommendation to the Center for Social Work East Ilidža to take all available measures (to ensure conditions) which will result in exercise of non-disturbed contacts between the complainant and minor son. The recommendation was not implemented.

Additionally, the Ombudsmen acted in a case<sup>210</sup> where the complainant, dissatisfied with the work of the competent center, requested the second instance organ's or inspection authority's supervision over the work of the competent center. And this case shows how important is the role of centers in the protection of children's rights, but also the control mechanisms that monitor the operation of the centers. Namely, it is evident that in certain cases the parents neglect the best interests of the child, because in the first place parents put their wishes and needs, which is why in such situations the protection of children's rights depends solely on the appropriate response of competent authorities.

**Example:** The complainant alleges that on several occasions he requested the Federation Ministry of Labor and Social Policy and the inspector in charge to conduct inspection in the Center for Social Work Bosanski Petrovac concerning "abuse of position of employees and director" of this Public institution and protection of the rights and interests of his minor son. He states that the inspector informed that the inspection was carried out; however, at his request of receiving a decision issued to the Social Work Center Bosanski Petrovac, complainant received no response. The competent inspector in the case has taken measures to protect the rights and interests of the child. Namely, the warnings regarding failures in taking care of the child issued by the Center for Social Work Bosanski Petrovac at the inspector's order, it follows that the complainant with his actions has a negative impact on the psychological development of the child and in the first place puts his satisfaction and the dispute with the mother of the child, which is why the child mostly suffers. By the same act Center for Social Work proposes assessing of the mental state of both parents and their current partners to be done by a certified expert in order to improve the functioning and care of the minor child.

<sup>208</sup> Document of the Social Work Center of the Municipality of Novo Sarajevo, no. 35/III-10-544-740/15 dated 28.09.2015

<sup>209</sup> Ž-SA-04-601/15, Recommendation no. P-1/16 dated 19.01.2016

<sup>210</sup> Ž-SA-05-797/15

**Recommendations to:****1. The Government of the Federation of Bosnia and Herzegovina, the Government of the Republic of Srpska, the Government of the Brčko District of Bosnia and Herzegovina and cantonal authorities to:**

- make further efforts to strengthen the material and human capacities of social work centers;

**2. The Ministry of Civil Affairs of Bosnia and Herzegovina, together with the Ministry of Health and Social Protection of the Republic of Srpska and the Federation Ministry of Labor and Social Policy to:**

- consider the possibility of establishing a mechanism for resolving conflicts of jurisdiction between social work centers from territories of different entities/cantons;
- Identify ways of establishing cooperation in procedures ensuring the establishment of contacts between parents and children...

**7.2. Health care and education of children**

UN Convention on the Rights of the Child in the area of health and health care for children provides: *“The child has the right to the highest attainable standard of health and health care. The state will pay special attention to primary health care and prevention, health education and the reduction of infant mortality and children. In this sense, the state will be involved in international cooperation and strive that no child is deprived of opportunities of effective health care”*

Already in 2012 the Ombudsmen in cooperation with Save the Children conducted a study in the field of health care for children in Bosnia and Herzegovina with special attention to equal access and opportunity to exercise health care for every child. Ombudsman research within the Special Report, „Health of children in Bosnia and Herzegovina“ has shown that health care for children in Bosnia and Herzegovina is not satisfactory, and legislation in this area is not fully in line with the UN Convention on the Rights of the Child, and in this document is presented the minimum rights and standards that the state would have to provide to every child in Bosnia and Herzegovina. In connection, the Ombudsmen in this, as in the Annual Report of 2015, conclude that the legislation in the field of health care is not in line with the UN Convention on the Rights of the Child, as there is a permanent problem regarding definition of a child and the problem of achieving health care for children 15-18 years.

**Example:** The Ombudsmen determined<sup>211</sup> that there are a number of obstacles to the exercise of the right of access to health care to the children, that they are required to meet various administrative procedures, such as presentation of a certificate of school attendance, parents' health insurance, and so on. The Ombudsmen noted that such kind of procedures is contrary to the provisions of the UN Convention, which regulates the issue of health care, and this protection must be provided to all children up to 18 years. In this case the Ombudsmen issued a

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<sup>211</sup> Ž-BR-01-290/15



recommendation<sup>212</sup> to the Assembly and the Government of Tuzla Canton: to take appropriate and effective measures to ensure unconditional and free health care for all children in the Canton and the Institute of health insurance of Tuzla Canton: to ensure that all children in the Canton area to be freed of direct personal participation in the form of annual premiums - stamps. The recommendation was not implemented.

**Example:** Acting *ex officio*, the Ombudsmen initiated investigation<sup>213</sup> on the occasion of findings from a newspaper article about the discrimination of children with diabetes in Bosnia and Herzegovina because all of them are not entitled to free insulin pump, depending on which entity or canton they live in. Accordingly, they asked all health insurance institutions in Bosnia and Herzegovina to provide written explanations and on the basis of the submitted responses found that there are differences in the availability of medical tools. Insulin pump is a medical instrument that enables a continuous supply of insulin in the body necessary doses for 24 hours. Based on the submitted submissions, it was found that there are differences in the availability of supplies. Despite the fact that some cantons did not have patients, and children with diabetes who require insulin pump, the Ombudsmen consider it necessary to conduct preventive action and by-laws ensuring insulin pumps. In connection, the authorities have been sent specific recommendations, and the Health Insurance and Reinsurance of the Federation of Bosnia and Herzegovina and the Health Insurance of Herzegovina-Neretva canton - to take measures in order to ensure complete health services and all necessary appliances for all children with diabetes in the Federation of Bosnia and Herzegovina, regardless of their insurance.

The Ombudsmen stress that education has an important function in society, particularly in the growing up and development of children, and constitutes a functional element through which the identity of the children is ensured. There is no doubt that the government directing the education system has the possibility of changing the structure of society, because it is through education that the social norms and values are determined.

Through education children develop a sense of their own culture and belonging to their community or social group, accepting the norms and values of the society they grow up in<sup>214</sup>.

Additionally, the UN Convention on the Rights of the Child states what the goals of education are, prescribing: *Education will aim at developing the child's personality, talents and mental and physical abilities to their fullest potential. Education shall prepare the child for an active life in*

<sup>212</sup> Recommendation no.: P-53/16 dated 04. 05. 2016

<sup>213</sup> Ž-MO-04-36/16

<sup>214</sup> For all the complexity of the operations and actions of the Institution indicates the complaint number Z-BL-06-718 / 15 with which the Ombudsman addressed the citizens of the town of Prijedor on the occasion of the initiative to build a memorial for the children brethren lost in Prijedor in 1992-1995. After the procedure of the investigation the Ombudsman on 03.29.2016 issued recommendation no: P-40/16 to the President of the Assembly of Prijedor to take measures within its competence to include the mentioned initiative in the agenda of the Assembly. On 07.12.2016, President of the City Assembly informed the Ombudsmen that the recommendation was implemented in a way that the initiative discussed on 29/06/2016, that the representatives did not support it on the grounds of disputed site of the required construction of the monument, it was not adopted amendment of the regulatory plan of the central area of Prijedor, and that the conclusion adopted in accordance with the Law on Spatial Planning of the Republic of Srpska, Decision on Spatial Planning and construction land and the Decision on the Organization of the central area of Prijedor. By issuing recommendations, the Ombudsmen exhausted the possibilities of action in acting on individual complaints of citizens. On the other hand, the Ombudsman also pointed to a wider problem, namely the lack of memorialization as part of the right to reparation and the segment of transitional justice, as well as the possibility of reaching a compromise on this issue in the nearest future in all cities, and parts of Bosnia and Herzegovina.

*a free society and foster in him respect for his parents, his cultural identity, language and values and respect for the cultural background and values of others."*

**Example:** A child's parents filled complaint<sup>215</sup> against the work of a professor of secondary school. During the procedure the school has submitted a declaration stating the earlier remarks coming from the majority of the professor regarding pupil/child who "at the school lessons often used a cell phone, eat, walks around the classroom without the permission of the professor", etc., and the school acknowledged request by parents that the teacher against whom the complaint was lodged would not conclude the school mark to the pupil in question and established a committee for taking class exam. Also, attached to the file submitted there was a copy of the minutes of the education inspector, which shows that the indicated professor was a subject to disciplinary measure of written warning.

The right to education is particularly important in terms of ensuring the education of children with special needs and difficulties in psychophysical development. This year, too, the Ombudsmen with special attention handle cases relating to this issue.

The Ombudsmen indicate a positive example of action in case<sup>216</sup> of "teacher from Sarajevo on which were written by the world's media: She explained the world the essence of inclusion." The teacher of the elementary school "Osman Nakaš" in Sarajevo, in the first class in her department had a child/pupil who does not hear of his birth. He has a hearing aid, but because of hearing difficulty, has slowed speech, and certainly his need for communication was no less than that of its peers in the classroom. The teacher met the child on the first day of classes, and before that she talked with the parents of the child. Aware of the problem, the teacher accepted the challenge, further work home, creating her way of working and learning sign language. All the time there was successful cooperation of all parents of children in the classroom with the school and the teacher. This cooperation has resulted in that that all students learned sign language. Representatives of the Ombudsman Institution interviewed the teacher who showed exceptional professional responsibility and high degree of sensibility, and during the International Children's Week<sup>217</sup> the Ombudsmen held a workshop with the pupils of this class.

The Ombudsmen conclude that the authorities have to devote the necessary attention to the problems, demands and challenges of inclusive education. Children cannot wait, because the more time passes without adequate reaction, the more the children suffer harmful consequences for their physical and mental development.

**Example:** A mother of a child addressed<sup>218</sup> competent Ministry of Education and Culture of the Republic of Srpska, respecting the instructions of elementary school "Vuk Stefanović Karadžić" from Banja Luka, in order to obtain approval for the election of teaching assistants for the child. Namely, from the submitted documentation of findings and opinions of the Clinical Center of Banja Luka, Department of Psychiatry of 18. 04. 2016 comes that the child with registered disorders of autistic spectrum and that it is recommended enrollment in primary school with

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<sup>215</sup> Ž-BL-01-239/16

<sup>216</sup> Ž-BL- 01-280/16

<sup>217</sup> International Children's Week, held in the period from 03 to 10/10/2016

<sup>218</sup> Ž-BL-01-525/16

teaching assistants. As the Ministry did not respond to the request of the mother, she requested help from the Ombudsmen. During the intervention of the Ombudsmen, the Ministry gave consent for the child, which automatically means that it will bear the cost of teaching assistants.

**Example:** According to the findings of the Ombudsmen<sup>219</sup>, eight-year-old boy, by the competent authorities of the municipality and the Center for Social Work Stolac, was not enabled to use transport vehicle from Stolac to Mostar to school Los Rosales and vice versa van owned by the municipality. In fact, it is a child with special needs who because of the alleged discrimination cannot attend school. *Ex officio* investigation was initiated and of the competent authorities (social work center and municipality), were requested the written statement, as well the Ministry of Education, Science and Culture of the Government of the Herzegovina-Neretva Canton. The Government of the Herzegovina-Neretva Canton, and the Ministry of Education, Science, Culture and Sport were sent a recommendation to cooperate with the Ombudsman in the manner prescribed by the Law on Human Rights Ombudsman of Bosnia and Herzegovina, and to submit the required statement, and consider every possibility to ensure the child the right to undisturbed education, as the Ombudsmen demanded in their acts. The recommendation was not implemented.

### 7.3. Participation of children

Article 12 of the UN Convention on the Rights of the Child introduces the child's right to have his opinion taken into account in all matters that concern it directly.

Participation of children/young people is a process of active right involvement of children and young people in issues that affect them and the actions that they are up, whether they are initiated by children or adults. It's not the independent action but rather participation is a collaboration, information exchange, dialogue based on mutual respect and sharing information. Adults and children in the process of working together but each of them has a role to play, and the goal is to complement each other. In certain decision-making it is not necessary that children are involved at any cost, to simply increase their participation, but to find opportunities for them as meaningful involvement in the issues that are really important to children and where they can contribute.

As to Public Institution Primary School „Jala" Tuzla, the Ombudsmen, in connection with the organization of school trips, pointed<sup>220</sup> the importance of and the need for the school in its future work at full capacity to seek to ensure adequate participation of children and their parents when making decisions regarding the exercise of the rights and interests of children.

**Example:** The Ombudsmen requested the Center for Social Work Prijedor<sup>221</sup> before making a decision on entrusting the child, to find all relevant facts and circumstances which are relevant for taking the decision and to allow the parties to exercise and protect their rights and legal interests, provided that it is shown in this particular case, they must primarily take into account

<sup>219</sup> Ž-BL-01-348/16, P-185/16 od 19.10.2016.godine

<sup>220</sup> Ž-BL-01-646/15

<sup>221</sup> Ž-BL-01-781/14

the interests of child, all in accordance with the law on administrative procedure of the Republic of Srpska and Family Law of the Republic of Srpska. The Ombudsmen have insisted on conducting a special test procedure because the mother of the child, who is entrusted with the execution of parental right, is imposed measure of intensified supervision over the exercise of parental rights. In the opinion of the decision the Center explains and in detail provides all the reasons for its decision, and it is of great importance as in the process it upheld the opinion of the child because the expert team of the Center primarily took into consideration the rights and interests of the child.

## 7.4. Bullying

Besides the general division of violence on physical, psychological, sexual and neglect, bullying is a specific form of violence against children. There are different definitions of bullying, but the generally accepted is *„that bullying violent behavior (physical or psychological), aimed at children by their peers with the aim of injury, with the noting that such behavior is repeated in the same form and that certainly implies an unequal relation of force, a group against an individual, the stronger against the weaker.“* Bullying is not usual children's fight, brief incidents, but really there is an intention, desire of a child to inflict harm to another child.

The Ombudsmen find that the problem of bullying is still pronounced, which is evident from the cases registered in the Institution of Ombudsman. Bullying usually happens at school and in the rest time in the classroom, in the hallway or in the yard. Although children are the perpetrators, the role of adults responsible for these children is crucial in all attempts to appropriately react and prevent such violence, also taking into account that these measures do not deteriorate even more violence, taking the punitive attitude and using violence against violence.

Situations where teachers, other school employees and the entire society do not respond adequately to the violent behavior of pupils, absence of conviction or failure of adequate supervision of pupils who are prone to violence, favors the creation of it, and is therefore necessary that all members of society foster an atmosphere of respect, understanding and tolerance. They must provide effective procedures for preventive action and the prevention of violence and in situations where violence occurs must be defined fast and clear procedures for treatment. Prevention should be focused on raising awareness about the problem of violence, and it is necessary about the issue to sensitize and educate children, parents and the general public.

The Ombudsmen with disappointment state that, although they had intention to re-examine the problem of bullying during 2016, so as to analyze the legislation and current practice in this area, they failed to implement this activity due to limited material and financial resources. Activities of the Ombudsmen during 2016 in this part of the protection of the rights of children were related exclusively to the action on individual complaints.

**Example:** A parent of a child addressed the Ombudsmen<sup>222</sup> because of bullying, stating that his child has suffered bullying in elementary school, and that is still suffering from the consequences

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<sup>222</sup> Ž-BL-01-79/15

(in secondary school). In the process of research the Ombudsmen primarily wanted to set up a way to help the child. Also, it was found that the child has a mental health problem or diagnosis of adolescent crisis. The Ombudsmen requested the Center for Social Work in Prijedor to monitor the family and to intensify counseling.

**Example:** Parents of a child lodged complaint<sup>223</sup> alleging, that their son, pupil of the first class of Gymnasium in Mostar, without any cause, physically assaulted at class of physical and health culture by present male person, whose identity and status are unknown to the victim. He immediately reported the incident to his teacher of physical training who did not adequately protect the pupil. Parents have expressed dissatisfaction because of the events in the educational institution and sent an application regarding pupils' abuse to the Minister and Education Inspectorate in the Ministry of Education, Science, Culture and Sport of Herzegovina-Neretva Canton although they requested urgent procedure, the authorities did not immediately respond to a specific case. Following intervention of the Ombudsmen, the requested answers were submitted by the Gymnasium and the Ministry of Education, Science, Culture and Sport of HNC. From above mentioned, it clearly follows that the actions have been taken to eliminate the identified irregularities. Inspection has issued a resolution ordering the initiation of disciplinary proceedings against volunteer/bully and his mentor. Parents informed that the responsible persons were imposed appropriate sanctions.

## 7.5. The children and the Internet

The Ombudsmen stress that they are familiar with the problems related to the abuse of the rights of children on the Internet, both regarding individual cases registered in the Institution of the Ombudsman and due to assessment of situation of children's rights in Bosnia and Herzegovina in general, through cooperation with local and international non-governmental organizations and work in various regional and international networks of ombudsmen. The Ombudsmen insist that all competent authorities in the provision of child protection, first of all, understand the abuse of children on the Internet, as well as any other abuse of children's rights and emphasize particularly that competent authorities must take into account the worst form of this type of abuse that is "the recruitment of children over the Internet for sexual exploitation".

**Example:** The Ombudsmen decided *ex officio* to initiate a procedure<sup>224</sup> regarding certain media allegations that through the social networks across Bosnia and Herzegovina rights of the children are violated. Namely, during 2016 the Ombudsmen through the media, particularly the written media, noticed that the media dealt with the problem of the existence of numerous "controversial" images of children on social networks and the existence of so-called face book profile under different names (*e.g. the biggest whores in Kotor Varoš or biggest sluts of primary and secondary schools, etc.*). During the process of investigation in the context of the present case, the Ombudsmen addressed all competent ministries of internal affairs in Bosnia and Herzegovina in order to first of all get relevant information about the case, if such cases exist and if such information is possessed. Information required by the Ombudsmen was required only

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<sup>223</sup> Ž-MO-04-50/16

<sup>224</sup> Ž-BL-01-239/15

appreciating the best interests of the child, as well as to consider every possibility, within the mandate and competence, to improve the protection of children's rights. The Ombudsmen received the responses by interior ministries<sup>225</sup>, and summarized them in the act of 15. 12. 2016, concluding that it is certainly necessary and essential that the authorities continue to work on improving the legal framework and mechanisms for the protection of children's rights in cases of violations of their rights on the Internet.

## 7.6. Juveniles in conflict with the law

In the frame of the activities of the Department for Monitoring the Rights of the Child, the Ombudsmen in 2016 visited all the institutions in which juveniles carry penalties of institutional character in the Federation of Bosnia and Herzegovina and the Republic of Srpska. After finishing the visit, the Ombudsmen made a document entitled „*Analysis of the situation in institutions accommodating minors in conflict with the law in Bosnia and Herzegovina*”<sup>226</sup>, the production of which comes from the need for better protection of children in conflict with the law that would result in their re-socialization and reintegration into the local community, not their exclusion and stigmatization.

The goal of made Analysis was, in addition to promoting the rights and safety of minors in institutions for execution of institutional sanctions, to try to look at the results of treatment

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<sup>225</sup> The Ministry of Internal Affairs of Bosnia - Podrinje Canton, document No. 07-01-32-1847/15 of 14.05.2015. The Ombudsmen informs that there were no registered events relating to the violation of the rights of children through abuse of children on the Internet, which is determined by examining the available records of the Criminal Police of Goražde Canton.

The Ministry of Internal Affairs of Herzegovina-Neretva Canton, the act number 02-02 / 03-2-04-604/15 of 19. 08.2015. The plea of no registered cases related to the abuse of children via the Internet.

The Ministry of the Interior of the Zenica-Doboj Canton, act number 08-04 / 6-3-04-2-2364-1 / 15 of 18.05.2015, also stated that they had no registered cases of any form of abuse of the rights of children on the Internet, relating their sexual exploitation.

Act No. 05-04/01-2-274/15 of 01.06.2015. The Ministry of Internal Affairs of Una-Sana Canton states that do not have any information regarding the requested information.

The competent authorities of Internal Affairs of the Canton of Sarajevo, document No. 02 / 2-3-04-11-8596 of 03.06.2015, have reported events related to the controversial photographs of children on social networks and the existence of inappropriate Facebook profile in 2015.

In the area covered by the Ministry of Internal Affairs of West Herzegovina Canton there were no registered cases of violation of children's rights in social networks of Bosnia and Herzegovina, as follows from its act number 2.3.02/4-910/15-6 of 11.06.2015.

The competent authorities of Internal Affairs of Tuzla Canton act number 08-05/04.2-3-1450/15 of 18.06.2015, state that in 2015 (up to the date of the decision) had no reported cases of abuse of children via the Internet, especially not the kind of sexual abuse - the so-called recruitment of children over the Internet for sexual exploitation.

The Ministry of Internal Affairs of Canton 10, document No. 02-4/4-237/14 of 24.06.2015, informs Ombudsmen that in the past had no recorded cases in connection with the "controversial photographs of children or that they are recruited through the Internet for sexual exploitation" from the area of its responsibility, or for the period 2014 and 2015, an exhaustive and chronological specified cases that they reported for abuse on social networks, while being handicapped children.

In the area of Posavina Canton there were no controversial events that could lead to the requested information, as it comes from the act number 02-2 / 3-1-04-5-202 / 15 of 01.06.2015.

The Ministry of Internal Affairs of Central Bosnia Canton, document No. 02/ 3-3-04-2-395/15 of 13.05.2015, informs Ombudsmen to have had only one case - the application of a similar nature and that a full report forwarded to the competent prosecutor's office (the deed is qualified as a criminal offense unauthorized optical recording under Article 189, paragraph 3 of the Criminal Code of the Federation of Bosnia and Herzegovina and the criminal offense damaged is a minor).

The Federal Ministry of the Interior, document No. 10-11/8-04-3-3065/15 of 25.05.2015, in detail inform the Ombudsman of the observed events and problems in daily activities and concerns of child abuse on the Internet. Certainly, in those cases where there are elements of the crimes, of all inform the competent prosecutor's office. As pointed out, it is evident that the various facebook profiles are photos of young females and minors, but that these photos are hard to characterize as "child pornography". The Ministry also states its concerns about the concept of "child pornography".

<sup>226</sup> Analysis of the situation in institutions accommodating minors in conflict with the law in Bosnia and Herzegovina, is created as a result of cooperation between the Ombudsman for Human Rights and UNICEF in Bosnia and Herzegovina, established with the aim of providing a concrete contribution to the improvement of the institutional treatment of juveniles in conflict with the law.

achieved by the current solutions in the system of execution in Bosnia and Herzegovina, point out examples of good practice in dealing with minors and identify factors that have a negative influence on the functioning of this system, such as lack of material resources, lack of trained staff engaged in working with juvenile offenders and others. The Ombudsmen through analyzing tried to provide presentation of the real situation in terms of accommodation facilities and manner of conducting the treatment of children in conflict with the law, with regard to their specific educational and social needs. Based on the best interests of children, the Ombudsmen sought to identify the main shortcomings and problems in the current structure of the institutional treatment of children, serving a sentence or measure in this regard to offer solutions and recommendations to the competent authorities that the substantial and pragmatic way contributed to improving the situation of minors in conflict with the law and provided support for the process of reform of their institutional treatment.

The Analysis is intended for all state authorities, institutions dealing with the execution of sanctions imposed on juveniles in conflict with the law, as well as health, social, educational institutions, non-governmental organizations as well as minors, their parents and other interested citizens.

After summarizing all the information and data collected by visiting these institutions, the Ombudsmen issued concrete and practical recommendations<sup>227</sup> to competent authorities (individual recommendations to certain institutions and general recommendations for all institutions) and institutions are asked to submit their replies within indicated limits on the ways of implementation thereof.

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<sup>227</sup> [http://www.ombudsmen.gov.ba/documents/obmudsmen\\_doc2016100610154998bos.pdf](http://www.ombudsmen.gov.ba/documents/obmudsmen_doc2016100610154998bos.pdf)

## VIII PARTICULARLY VULNERABLE GROUPS OF CITIZENS

### 8.1. Persons with disabilities

On 12 March 2010 Bosnia and Herzegovina ratified the UN Convention on the Rights of Persons with Disabilities and the Optional Protocol<sup>228</sup>. These international instruments oblige Bosnia and Herzegovina to establish standards and rules for access to public institutions and private buildings intended for public use, deadlines and gradual progress towards its elimination, and then monitoring the application of these rules and sanctions for their non-compliance. In this way, its direct application is provided, which in practice is often not achieved. Through adoption of new laws or by-laws many issues are regulated differently because they are mainly the responsibility of entities and cantons, and as such represent a potential basis for discrimination.

In the reporting period were received 54 complaints and issued five recommendations. The analysis of complaints found that these complaints were submitted due to problems of accessibility, delay payment of benefits based on disability, the length of the procedure for deciding on appeals against second instance bodies, the right to social protection, the exercise of rights to health care, the protection of persons with disabilities from all forms of discrimination and other rights as well.

The Ombudsmen indicate that there is still a problem with the collection of data relating to the exercise of the rights of persons with disabilities. In fact, statistics and special records of persons with disabilities were to be available to the public after the census of 2013. However, the census results which were published in July 2016 did not provide this information (problem exists in terms of non-acceptance of census data by one entity, namely the Republic of Srpska made the decision not to recognize the results of the census, and has developed its own, separate law on census on its territory), so there is no possibility to form records by gender or age (children, women and elderly people with disabilities), which could serve as a good indicator of financial allocations, both for basic and for specific needs of these people, as well as monitoring the respect of their fundamental human rights.

**Recommendation: to the Ministry of Human Rights and Refugees of Bosnia and Herzegovina and relevant Entity ministries:**

- **to take the necessary measures to establish a comprehensive and uniform records of persons with disabilities.**

A certain number of complaints addressed to the Institution of Ombudsman points out that the promotion of human rights and making persons with disabilities familiar with their rights is the first step in achieving them, as evidenced by the actions of Ombudsman in individual cases<sup>229</sup>.

The role of the Ombudsman in promoting the rights of people with disabilities is of great importance especially given the fact, and it is through work on complaints confirmed, that a large number of persons with disabilities only after addressing the Ombudsmen, orally, in writing or

<sup>228</sup> "Official Gazette of BiH - International Treaties", No. 11/09.

<sup>229</sup> Ž-BL-02-766/15, Ž-BL-02-202/16, Ž-BL-02-595/16



by phone, were informed about the ways and procedures of exercising their rights (e.g., purchase of medicines for patients suffering from multiple sclerosis, exemption from customs duty on import of vehicles intended as orthopedic devices for people with disabilities, etc.).

Work on individual complaints shows that during the adoption of the regulations in Bosnia and Herzegovina, governing the exercise of the rights of persons with disabilities, it is of particular importance to enable the representatives of people with disabilities to actively participate in making of such regulations.

The Ombudsmen are of the opinion that the consultations carried out must be effective, otherwise they do not contribute to the legal security of citizens, according to which the principle of public hearings is mandatory.

**Example:** Federation of Associations of mentally underdeveloped persons of the Republic of Srpska<sup>230</sup> addressed the Ombudsman with the complaint against the National Assembly of the Republic of Srpska stating that it did not accept any of their argument in the process of adopting the Law on Amendments to the Law on Social Protection of the Republic of Srpska. The National Assembly of the Republic of Srpska, during the procedure of investigation, informed the Ombudsmen that the representatives of the Federation, as accredited representatives in monitoring the work of the National Assembly, were called to make representatives familiar with their positions, because at the time of the Federation speech, amendments were being drafted.

**Example:** Paraplegic Association of Doboj Municipality lodged a complaint<sup>231</sup> against the procedure of passing the Rulebook on the marking of vehicles managed by people with disabilities or which transports persons with disabilities. Ombudsmen' investigation determined that the changes introduced in the Regulation were result of the initiative of the Council for Persons with Disabilities in Bosnia and Herzegovina.<sup>232</sup> In this connection, the Ombudsmen had a meeting with the Council of Persons with Disabilities, which indicated the need for greater consultation and coordination between Association of People with Disabilities and the Council.

The issue of participation of persons with disabilities in decision-making processes affecting them was elaborated by the Ombudsmen as well in their submission in the context of international cooperation, which was sent to the Special Rapporteur of the UN.<sup>233</sup>

This year the Ombudsmen again dealt with this issue within the special Department mainly engaged in the issue of accessibility of persons with disabilities to the physical environment, transportation, information and communication technologies, other facilities and services,. The issue of accessibility is of particular importance and significance because it allows people with disabilities realization of many other rights. As part of their activities during 2016, the

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<sup>230</sup> Ž-BL- 02-289/16

<sup>231</sup> Ž-BL-02-778/15

<sup>232</sup> The Council for Persons with Disabilities was established by the Council of Ministers of Bosnia and Herzegovina, decision of 30.09.2003, to support the monitoring and reporting on the UN Convention on the Rights of PWD and coordination among different levels of government and non-governmental organizations. The Council of 10 representatives of non-governmental organizations. The Council provides a formal dialogue between non-governmental organizations dealing with disabilities and state institutions

<sup>233</sup> September of 2015.

Ombudsmen determined the existence of discriminatory provisions relating to the accessibility sign for families of persons with disabilities. This puts children with disabilities at a disadvantage because obtaining of the mark of accessibility is conditioned by possession of the car, unlike adults that this requirement is not required<sup>234</sup>. In connection, and in order to equalize the rights of persons with disabilities according to the degree of disability, the Ombudsmen initiated the amendment to the Rulebook on the marking of vehicles managed by people with disabilities or which transports persons with disabilities<sup>235</sup>.

**Example:** The Ombudsman issued a recommendation<sup>236</sup> to the Ministry of Communications and Transport of Bosnia and Herzegovina No. 117/16 of 06.13.2016, to initiate the procedure for amending this Rulebook. Recommendation has found that the Rulebook on the labeling of vehicles managed by people with disabilities or which transports persons with disabilities contains discriminatory provisions regarding the conditions for acquiring sign of accessibility for minors with disabilities in relation to adults with disabilities. The provisions of the applicable Rulebook stipulate as a condition for acquiring the sign of accessibility for adults determined the degree of disability, which fully meets the purpose to be achieved by issuing symbol of accessibility. However, in addition to the degree of disability the minors are required to claim ownership of the vehicle by parent or guardian of a minor. Such legal solution, in the opinion of the Ombudsman it is groundless distinguish between adults and minors, which is set to 100% disability, and that are only transported by vehicle. The Ministry of Transport and Communications of Bosnia and Herzegovina, the act of 10.07.2016, informed the Ombudsman that, taking into account the statements from the Recommendation, through amendments to the Rulebook would equalize conditions for acquiring symbol of accessibility.

Inconsistent application of legislation and regulations, as well as the lack of adequate sanctions for violators of prescribed norms prevented a complete physical accessibility of disabled persons to facilities for public use and other urban buildings<sup>237</sup> (e.g. residential buildings - purpose-made for families of fallen soldiers and war invalids in Zvornik do not have access to people who use wheelchairs). In the system of design, construction and supervision there is not enough developed awareness of the importance of accessibility standards, so it occur that accessibility standards are applied partially or not at all.<sup>238</sup> Because of all above mentioned and the fact that the building where, since May 2015, has been permanently located the seat of the Institution of Ombudsman for Human Rights in Banja Luka and did not have adapted access for people with disabilities (there is a one single stair that makes impossible for people with physical disabilities to have easy access to the offices) the Ombudsmen have conducted investigations *ex officio*<sup>239</sup> to determine whether there were „omissions" during the construction of the building and on this occasion to remind the competent authorities on obligation to respect the principles defined in the UN Convention on the Rights of Persons with Disabilities. Having regard to the submitted documents and expresses by the authorities, the Ombudsmen issued a recommendation to the

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<sup>234</sup> P-117/16 of 16.06.2016.

<sup>235</sup> Rulebook on the labeling of vehicles managed by people with disabilities or which transports persons with disabilities, Official Gazette of Bosnia and Herzegovina, number 92/15)

<sup>236</sup> Ž-BL-02-195/16, Recommendation no. P-117/16 dated 13.06.2016

<sup>237</sup> Ž-BL-02-733/15, Ž-BL-02-152/14

<sup>238</sup> Special report on the accessibility of the working space of legislative bodies in Bosnia and Herzegovina points to the fact that many objects are only seemingly accessible, and that the interior of the buildings is not adapted for people with disabilities.

<sup>239</sup> Ž-BL-02-733/15

Department of Planning of City Banja Luka and Development Institute a.d. Banja Luka that, in the exercise of activities within its jurisdiction and scope of work, in future pay due attention to the existence of conditions for free movement of persons with physical disabilities. A copy of the recommendation was also forwarded to the construction contractor GP "Krajina" a.d. Banja Luka. On 22 04 2016 the workers of ,GP "Krajina" a.d. Banja Luka removed the architectural barriers in a way that granted free access to the headquarters building of the Ombudsman Institution in Banja Luka for people with physical disabilities.

Also, after the release of the Special Report entitled *„Accessibility to workspaces of legislative bodies in Bosnia and Herzegovina for persons with disabilities“*<sup>240</sup> of January 2016, and acting on the Conclusion of the Parliamentary Assembly of Bosnia and Herzegovina, the Ombudsmen decided to carry out additional activities including a tour of work premises of legislative bodies that are covered by the mentioned Special Report, and in order to determine the actual situation and the measures taken in order to realize the recommendations given in Special Report. It is important to emphasize that the monitoring of implementation of recommendation contained in the Special Report was performed in a way that representatives of the Association of paraplegics were invited who, together with representatives of the Ombudsmen on the spot determined the existence of architectural barriers, and gave their suggestions and comments solely on the basis of their needs. Comparing the situation in the premises in which are located legislative bodies in Bosnia and Herzegovina, given in the Special Report, with the condition that has been established through direct insight, it can be concluded that there are clear indications on the activities aimed at the integration of people with disabilities, and to enable their movement without barriers. Through monitoring the implementation of recommendation given in Special Report, the Ombudsmen stress that it is necessary to point out the implementation of the standards laid down in the applicable laws, to question the accessibility which should be well resolved in accordance with the purpose to be achieved.

As to the exercise of the rights of persons with disabilities, the Ombudsmen in 2016 also dealt with the issue of exemption from the obligation to pay RTV taxes for the blind and deaf persons<sup>241</sup>. The Ministry of Communications of Bosnia and Herzegovina in its information of 19.02.2016, requested the Ombudsman Institution to prepare an analysis of the Public Broadcasting System of Bosnia and Herzegovina, in order to amend existing law and regulate issues concerning exemption from RTV taxes paid by disabled persons. From information derived, *that it has been formed a working group with the task of producing a report on conformity and the measures taken to achieve harmonization of the Public Broadcasting System of Bosnia and Herzegovina with legal solutions of the EU*". A new case has been created in order to seek information on the activities undertaken in the mentioned report.

Additionally, the Ombudsmen in accordance with Article 32 of the Law on Human Rights Ombudsman of Bosnia and Herzegovina, and in order to enable persons with disabilities the right to timely and complete access to information, in 2016 issued a recommendation<sup>242</sup>, to TV services within the available capacity to consider the possibility of hiring a sign language

<sup>240</sup> Accessibility to workspaces of legislative bodies in Bosnia and Herzegovina for persons with disabilities, No. P-12/16 January 2016.

<sup>241</sup> Ž-BL-02-242/15

<sup>242</sup> P-156/15

interpreter to adjust informative programs for the hearing impaired persons and that all news should have titles of the most important news at the bottom of the TV screen. After the analysis of positions delivered by TV services in the process of investigation, the Ombudsmen have expressed concern that the hearing impaired are deprived of access to information mainly due to lack of funds. Unfortunately, registered complaints indicate that lack of funding significantly limits the rights of persons with disabilities on an equal possibility of independent living, and that all the needs of persons with disabilities are "viewed" exclusively from the social aspect. The above recommendation of the Ombudsmen was addressed to the TV services that are not only covered by the Law on Public Broadcasting System of Bosnia and Herzegovina, but are organized as public companies in accordance with applicable laws and perform activities of general interest, where local governments have a stake in property, and their names contain the name of the place/town in Bosnia and Herzegovina. Reply to the recommendation of the Ombudsmen showed cooperation with the Institution of Ombudsman and the commitment of TV services to adjust programs for the hearing impaired.

In carrying out the activities of the Institution's mandate, the Ombudsmen pay special attention to application of Article 8 of the UN Convention on the Rights of Persons with Disabilities (awareness). In such cases<sup>243</sup> when deciding on complaints related to administrative proceedings or petitions related to the resolution of the status of persons with disabilities, the Ombudsmen remind the competent authorities of the need to make decisions in the best interests of persons with disabilities, especially in order to raise awareness of the rights of persons with disabilities. In the examples that follow, it is evident that after the intervention of the Ombudsman complaints were respected.

**Example:** Complaint<sup>244</sup> is related to non-payment of allowance for others care and assistance by the municipality Lopare. The complainant states that for nine months municipality did not pay for others care and assistance. In this regard, after determining all the facts, on 19.05.2016 the Ombudsmen issued recommendation<sup>245</sup> to Municipality of Lopare, without delay and in accordance with the applicable legal regulations, to ensure regular payment of the right to allowance for others care and assistance. On 09.08.2016, Municipality of Lopare sent the reply<sup>246</sup>, in which it states: "*... persons who are eligible for the payment of allowance for others care and assistance, the allowances for this purpose are paid regularly, or every month. According to records from the disposal, beneficiaries were paid allowances on 07.07.2016. All debts from the previous period are duly recorded and will be paid to beneficiaries in accordance with the influx of funds in the budget of the municipality Lopare.*"

Citizens' addressing to the Ombudsman Institution<sup>247</sup> show that in cases where the procedure is conducted on deprivation of legal capacity, persons with disabilities have not been informed that after deprivation of legal capacity they will not be able to make independent decisions, they will not have the option of using their own money, decide on where they will live, with whom can socialize, etc.

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<sup>243</sup> Ž-BL-02-688/16, Ž-BL-02-668/16

<sup>244</sup> Ž-BR-04-4/16

<sup>245</sup> Recommendation no: 100/16 dated 19. 05. 2016

<sup>246</sup> Municipality of Lopare, act no: 02/3-014-1/169 dated 04.08.2016

<sup>247</sup> Ž-SA-02-702/16

Current regulations prevent a person who is deprived of legal capacity to be involved in the process. Also, in certain cases, although there are conditions for restoration of legal capacity, it does not appear due to lack of funds<sup>248</sup>. Namely, in the Republic of Srpska there is no legal basis for exemption from payment of court fees and the cost of expert testimony in cases of initiating these procedures *ex officio*. On the other hand, Bosnia and Herzegovina has not taken measures to ensure implementation of the judgment of the European Court of Human Rights<sup>249</sup> in terms of ensuring measures requiring obligatory revision of the rulings by which certain persons are deprived of legal capacity.

**Example:** Complainant<sup>250</sup> is partially deprived of legal capacity by decision of the Basic Court in Modriča, based on proposals of the Social Welfare Center Modriča. The complaint alleged dissatisfaction with the work of the Center, considering that they do not act in his/her interest. During the process of investigation, the Center informed that the requirements to submit a proposal for the restoration of legal capacity are met, but they do not have available necessary funding to cover the cost of expert testimony. After that the recommendation was issued<sup>251</sup> to Center for Social Work Modriča to obtain the means necessary for expertise and to submit a proposal for the return of the seized legal capacity. The Center informed the Institution that the proposal has been submitted and that they provided funds for expertise. Appointment procedure of the guardian is now in progress.

Provision of services to persons with disabilities as defined by the laws on social protection and which are primarily done at local/municipal level creates a system of social protection in the local community according to their financial possibilities. Previous work on the cases registered in the Institution shows that on the level of both entities more attention paid to providing financial rights of persons with disabilities and their institutional care than other types of services, particularly the assessment, care and home help, personal assistance, etc. In organizations and institutions of social protection still exist and are not eliminated traditional approaches that emphasize and stress the financial benefits, ignoring the professional assistance which should lead to the independence and integration of people with disabilities. For a different attitude, organizations and institutions need additional training and learn new approaches, and persons with disabilities as well need help in different understanding of the role of organizations and institutions in the public and NGO sector.

The Ombudsmen again point to the problem of the functioning of the Institute for Medical Expertise of State of Health of the Federation of Bosnia and Herzegovina, which assesses and determines the level of disability, and emphasize the need for review of the situation in this area, in accordance with the best interests of persons with disabilities.

The Ombudsmen are of the opinion that people with disabilities, due to the existing laws and regulations, and the organization of institutions involved in the assessment of disability, are subject to additional costs, which are in most cases borne by them or even they are not able to either provide necessary funds that would eventually ensure access institutions. It was observed

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<sup>248</sup> Ž-BL-04-429/15

<sup>249</sup> The case Hadžimejlić and others vs. Bosne i Hercegovine, judgement of 03.11.2015.

<sup>250</sup> Ž-BL-04-429/15

<sup>251</sup> Recommendation-41/16, of 23.03.2016.

untimely action on a request for a medical assessment or evaluation of the working ability of citizens due to lack of funds of relevant institutions.

**Example:** The complainant<sup>252</sup> states that on 01.02.2016 the Federation Institute for Pension Fund, Cantonal Administrative Service Tuzla, filed a request for the assessment of working ability, but that until the day of addressing the Ombudsman Institution, his request was not processed. Following their intervention, the Ombudsman received a reply<sup>253</sup> stating: *"... we inform you that the complainant's request will be referred to the Institute for evaluation of working ability in the first following contingent items for which we get approval and funding by the FZ PIO Sarajevo to pay for services of medical expertise. FZ PIO/KAS Tuzla because of the limited possibilities of payment services for medical assessment could not earlier send the relevant file for the assessment."*

**Example:** The complainant<sup>254</sup> on 06.04.2016 sent a request for the assessment of working ability and accompanying documentation to the Federation Institute for Pension Fund, Cantonal administrative service Zenica, but the request was not forwarded to the Institute for Medical Expertise of Health Status of the Federation of Bosnia and Herzegovina. After their intervention the Ombudsman received a reply of the Federation Institute for Pension and Disablement Insurance, Cantonal administrative service Zenica<sup>255</sup>, which states: *"on this occasion we inform you that that request of G.A. for evaluating of work ability filed on 06.04.2026 having passed the procedure of payment of these services, on 29.09. 2016. was sent to the Institute for Medical Expertise of Health Status Sarajevo, Department of first instance procedure Sarajevo "*.

Acting on complaints relating to this issue, the Ombudsmen note that the competent authorities after the intervention of the Ombudsmen take the necessary action and the complainants entered the procedure of assessment of work ability. The question is what happens to the demands of citizens who do not use the mechanism of protection of their rights in the form of addressing the Ombudsman and how long are procedures as per their requirements.

### 8.1.1. Professional rehabilitation of persons with disabilities

The existing entity laws on vocational rehabilitation<sup>256</sup> have established the quota system, as well as measures to encourage employment of persons with disabilities in the open labor market. However, the by-laws have not yet standardized the most appropriate mechanisms for the implementation of these laws. On the other hand, are not formed centers for vocational training of persons with disabilities in either entity?

The Federation Ministry of Labor and Social Policy<sup>257</sup> informed the Ombudsmen on the following: *"... the Federation of Bosnia and Herzegovina still has not fully built system of*

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<sup>252</sup> Ž-BR-04-193/16

<sup>253</sup> Document of the Federal Institute for Pension and Disability Insurance, Cantonal Administrative service of Tuzla FZ6/2-49-4-5440-2/16 dated 12.10.2016

<sup>254</sup> Ž-SA-02-794/16

<sup>255</sup> Document of the Federal Institute for Pension and Disability Insurance, Cantonal Administrative service of Zenica, no. FZ7/1-49-4-5965-2/16 dated 31.10.2016

<sup>256</sup> Official Gazette of Republika Srpska, no. 37/12 and 82/15 and Official Gazette of the Federation of Bosnia and Herzegovina, no. 09/10.

<sup>257</sup> Document of the Federal the FBaH Ministry of Labor and Social Policy no. 05-35/16-99/17 dated 24.01.2017

*vocational rehabilitation and training of persons with less diminished work ability, but there are laws and regulations and part of the infrastructure in the form of companies for professional rehabilitation of persons with disabilities OSI, associations involved in this activity, as well as educational institutions. It also founded the Institution for the implementation of professional rehabilitation of persons with reduced intellectual capacity PRO-REHA, which already provides initial results in the field of rehabilitation."*

Although the planned incentives for employers who hire persons with disabilities, insufficient promotion possibilities of incentives has resulted in low interest of employers to start companies that would employ such persons.

There are few employment programs for persons with disabilities, although in such cases employers as stimulating measure receive funding for their employment, because in practice happens that they do not to employ persons with disabilities, but a completely different person<sup>258</sup>. In such cases lacks adequate response by the institutions responsible for the allocation of funds to projects of employment and there are no sanctions for the circumvention and non-purpose spending. Consequently, persons with disabilities are not employed.

## **8.2. Rights of the minorities**

The Framework Convention on the Protection of National Minorities Rights<sup>259</sup> stipulates that the protection of national minorities, their rights and freedoms, is an integral part of international protection of human rights for which the Contracting Parties are obligated to guarantee to national minorities equality before the law. This means prohibition of any discrimination on the basis of belonging to a national minority. This Convention further requires the adoption of appropriate measures to promote effective equality between persons belonging to national minorities and those belonging to the majority, in all areas of economic, social, political and cultural life.

During the reporting period nine complaints were treated, in which the complainants referred to the violation of the rights of national and religious minorities. Allegations were related to the participation of representatives of national minorities in the work of governmental organs<sup>260</sup>, the process of constituting the Council of National Minorities of the Federation of Bosnia and Herzegovina<sup>261</sup>, and the question was raised<sup>262</sup> whether there are obstacles to national minorities when voting allow the use of the mother tongue.

The Ombudsmen are of the opinion that the number of complaints received does not reflect the real situation, that is, the actual position of minorities in Bosnia and Herzegovina, which makes necessary to ensure a greater presence of the Ombudsman in the field or in local communities,

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<sup>258</sup> Ž-BL-02-713/14

<sup>259</sup> The Convention was signed and ratified on 24.02.2000.

<sup>260</sup> Ž-BL-03-260/16, Ž-SA-03-538/16, Ž-BL-03-660/16,

<sup>261</sup> Ž-SA-03-614/16

<sup>262</sup> Ž-SA-03-1036/16

yet it is difficult because of the limited human and material capacities of the Ombudsman Institution.

### 8.3. The returnees

The Ombudsmen state that even now, twenty years after the war, are still present question of the implementation of Annex VII of the General Framework Agreement on Peace in Bosnia and Herzegovina, which provides that all refugees and displaced persons have the right freely to return to their homes, then right on the return of property that was taken from them in the course of hostilities since 1991, as well as the right to compensation for property that cannot be restored. The provisions of Annex VII are closely related to the issue of protection of private property in the way envisaged by the European Convention.

**Example:** The Ombudsmen determined<sup>263</sup> violation of property rights by the Municipality of Derventa in connection with the lack of implementation of occupancy rights. During investigation the Ombudsmen found that the Ministry of Physical Planning, Construction and the Environment of the Republic of Srpska forwarded to the municipality of Derventa an act<sup>264</sup> which states the following: *"In order to resolve the housing of persons whose apartments were destroyed during the war, the Decision was taken on the apartments owned by the municipality Derventa, and Rulebook was adopted, too, on the approval of the lease of apartments without occupancy rights, which prescribes priority of allocation of these apartments to above mentioned persons, which is in accordance with the provisions of Article 14 of the Law on Privatization of State-Owned Apartments. Pursuant to Article 6 of the aforementioned Regulations, the Housing Commission was formed to lease the apartments. There are ongoing preparations for the competition for the lease of apartments at disposal of municipality Derventa,"* while the act<sup>265</sup> of Derventa municipality shows that *"Derventa municipality currently has 46 vacant apartments most of which are in uninhabitable or devastated, or partly- devastated state"*. The fact that the Law on Amendments to the Law on Privatization of State-Owned Apartments envisaged deadline for meeting the requirement was extended to 06/30/2018 does not mean that the obligation for allocation of apartments is due only upon the expiry of the deadline, especially as municipalities Derventa has at this disposal a certain number of apartments, the Ombudsmen took the view that it is necessary that the procedures for award of apartments should be executed as soon as possible. In this connection, and in order to achieve the right of the complainant, the Ombudsmen issued a recommendation to the Mayor of Derventa<sup>266</sup> that, taking into account the opinion of the Ombudsman in the matter, as soon as possible carry out the procedure for concluding contracts on the purchase and lease of apartments without occupancy rights. The monitoring of implementation of the recommendations is being performed.

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<sup>263</sup> Ž-BL-05-547/16

<sup>264</sup> Reply of the Ministry of Spatial Arrangement, Construction and Ecology of Republika Srpska no.: 02-372-64 dated 29.09.2016

<sup>265</sup> Document of Derventa Municipality no.: 06-053-13 dated 22.08.2016

<sup>266</sup> Recommendation no.: P-211/16 dated 28. 10. 2016



The Ombudsmen warn that an individual cannot and must not suffer the consequences of the unwillingness of the local community to take steps aimed at solving some of its existential issues.

Nonperformance of obligations creates a failure in the work of the local government which has the effect of creating legal uncertainty, making difficult the legal position of citizens and violation of their rights.

The principles of good governance require public authorities to respect and implement justified expectation that is created among the citizens by the procedures and actions of these organs themselves. The standard of good governance does not allow for inaction and passivity but requesting an active or engaged attitude of the authorities towards performing tasks within their scope of activities and lawful exercise of those activities in order to achieve the objective for which the authorities are given public powers.

**Example:** There is ongoing Ombudsmen's action<sup>267</sup> from which it is evident that the complainant repossessed apartment in the municipality of Drvar, but the building in which the apartment is devastated and therefore unsuitable for apartment life. Drvar municipality in its response<sup>268</sup> noted that in the framework of its powers and in accordance with available resources would take part in the reconstruction of residential buildings damaged by war. In this connection, the Ombudsmen requested of the Municipality information as to whether and when the planned reconstruction of the building in which the apartment of the complainant is. The above shows that in some cases citizens formally exercise their right to return of property, the property returned, but it cannot be used in full scale. Therefore, the question arises whether a citizen really exercised the right to property.

#### 8.4. Women's rights

Following the recommendations of the CEDAW Committee addressed to the institutions of Bosnia and Herzegovina in 2013, Bosnia and Herzegovina has made limited efforts towards the improvement and harmonization of the legal framework, public policies, as well as the effective implementation of specific systemic gender-responsive affirmative measures for the effective advancement of women's position and protection of their basic human rights.

The Council of Ministers of Bosnia and Herzegovina has ratified the Convention of the Council of Europe on preventing and combating violence against women and domestic violence (2013) without reserve and adopted a framework strategy for the implementation of this Convention for the period 2015-2018, and stressed the priority commitment to its full implementation in the light of assuming the role of presidency of the Committee of Ministers of the Council of Europe (2015), which points to positive steps towards strengthening the commitment to the application of international instruments to protect women's human rights in Bosnia and Herzegovina.<sup>269</sup>

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<sup>267</sup> Ž-BL-04-621/16

<sup>268</sup> Reply no: 02.05-3713/16 dated 22. 11. 2016

<sup>269</sup> Alternative CEDAW Report, Report of the civil society organizations on the implementation of the concluding observations and recommendations of the CEDAW Committee for Bosnia and Herzegovina 2013 to 2017, November 2016.

The entity governments have adopted strategies which are detailed defined objectives in the planning and operation in the fight against domestic violence: A strategy for preventing and combating domestic violence in the Federation of Bosnia and Herzegovina from 2013 to 2017<sup>270</sup> and Strategy for Combating Domestic Violence of the Republic of Srpska 2014-2019<sup>271</sup>.

However, despite the ratification of the most important international documents related to the exercise of the electoral rights of women, Bosnia and Herzegovina failed to ensure the actual mechanisms of implementation and monitoring, without qualitative indicators of progress, as shown by the data presented to the institution of Ombudsman in the course of meetings held on this subject in the reporting period. More specifically, Bosnia and Herzegovina has maintained the basic legislative framework which partially ensures the representation of women in the electoral process, however, no systemically regulated affirmative measures in cases where the law guarantees the participation of women were not implemented in practice, raising the possibility that women would continue to be marginalized in the process of governance and management of institutions at all levels.

In the area of employment, labor and social protection of women's rights, during the period covered by this report, there was not achieved real progress in achieving true equality between men and women in the labor market. In many cases, dismissal of pregnant women and women who work in the "gray economy" are not integrated into the formal labor market. There are indications that women are not paid equally for equal work, and on the territory of Bosnia and Herzegovina has not been established equal system of protection of the rights of women using maternity leave, which also applies to remunerations during maternity leave.

Despite the efforts of public institutions, through regulations, strategies and policies in the areas of prevention and health care, to focus special attention at the prohibition of discrimination and the promotion of gender equality, the practice shows that these regulations are basically of declarative and formalistic nature and that women, especially women from marginalized groups such as women with disabilities, rural women, victims of war or Roma women, have not equal and non-discriminatory access to health care in all parts of Bosnia and Herzegovina. Key problems identified include lack of health services tailored to the needs of women and insensitive approach of health workers providing services for prevention and protection of health. Topics related to sexual and reproductive health are not part of the compulsory curriculum and are limited to occasional training for a limited number of pupils, carried out by non-governmental organizations, without systematic approach to training of teaching staff.

Returnee women are mostly employed in agriculture, as a rule, without regulated employment status and ability to exercise social and other rights, have not unimpeded access to health care, as well as equal access to resources for employment and self-employment, which is predominantly allocated to men.

Country women are particularly affected by poverty, predominantly engaged in unpaid care economy, extremely limited mobility, without unhindered access to health care and support in

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<sup>270</sup> Government of the Federation of BiH, Strategy for the prevention and combating family violence in the Federation of BiH 2013–2017

<sup>271</sup> Government of Republika Srpska, Strategy for the prevention and family violence in Republika Srpska no. 2014-2019

cases of domestic violence. There are no official data on the situation of multiple marginalized women in rural communities, such as Roma women, LGBT women, single mothers, widows, and elderly women, women with disabilities and women exposed to domestic violence. Support for women in rural communities in access to and the exercise of rights is limited available through the activities of NGOs and dependent on international funds, without systemic and strategic orientations of public institutions.

Women with disabilities are extremely exposed to discrimination; they face a greater risk of violence and have limited access to social resources, employment and decision-making positions, as well as support services and assistance that are provided for women without disabilities. Problems requiring special attention and urgent action of institutions at all levels in Bosnia and Herzegovina, are the provision of widely available access to health services tailored to women with disabilities with trained medical staff to provide such services, the launch employment programs for women with disabilities, as well as ensuring access to social services and determination of rights in the field of social protection, taking into account the real needs of women with disabilities.

Roma women in Bosnia and Herzegovina continue to be exposed to multiple forms of discrimination, affected by poverty and lack of access to social resources. There is not progress in the planning and implementation of systemic and targeted affirmative action by institutions of Bosnia and Herzegovina at all levels in favor of the real improvement of the situation of Roma women and protection of their basic human rights, and areas of particular threat remains a lack of access to housing and health care, as well as protection from domestic violence, exposure to early marriages, difficult access of Roma girls to schools and kindergarten, as well as the absence of affirmative measures aimed at solving the issue of unemployment of Roma women.

## IX DISCRIMINATION

Discrimination is an extremely negative phenomenon from the social aspect, because it leads to the feeling of inequality among the human beings, and from the legal aspect because it is prohibited by the basic legal acts in force in Bosnia and Herzegovina.

The Law on Prohibition of Discrimination in Bosnia and Herzegovina<sup>272</sup> introduced innovations in the legal system of Bosnia and Herzegovina because it defines forms of discrimination and introduces safeguards mechanisms in which the central role is entrusted to the Human Rights Ombudsman of Bosnia and Herzegovina.

Anti-Discrimination Law of Bosnia and Herzegovina entrusted to the Institution of Ombudsman for Human Rights of Bosnia and Herzegovina status "of the central institution responsible for the protection against discrimination" and to that end provides for the establishment and operation of a special department with the sole task of considering the cases of alleged discrimination that is committed by any legal or natural person in any area of life<sup>273</sup>.

The Law provides a wide range of competence of the Ombudsman, which range from promotional activities, research in the area of discrimination, to act upon the complaints of individuals claiming to be victims of discrimination and taking an active role in misdemeanor proceedings for protection against discrimination, and to a large extent, follow the international standards relevant to working of the body for protection of equality.

Nevertheless, for efficient fight against discrimination is not enough to adopt legal solutions in line with international standards. The key is to ensure efficient and proper implementation of the Law (which is in Bosnia and Herzegovina currently rated low), primarily through the strengthening of institutions that can respond to the new important task for protection against discrimination.

The adoption of amendments to the Law on Prohibition of Discrimination in Bosnia and Herzegovina at the session of the Parliamentary Assembly of 14.07.2016, improved the legal framework for protection against discrimination. Through the changes to the Law, sexual orientation and gender identity are terminologically correctly marked as grounds on which discrimination is prohibited. In addition, as prohibited grounds of discrimination are listed „sexual characteristics", whereby Bosnia and Herzegovina becomes the first country in Southeast Europe, which through its comprehensive anti-discrimination law of Bosnia and Herzegovina provides for the protection of intersexual/intersex persons from discrimination in all spheres of life. The law finally properly regulates the protection of lesbian, gay, bisexual, transsexual and intersexual (LGBTI) persons from discrimination.

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<sup>272</sup> The Law on Prohibition of Discrimination in Bosnia and Herzegovina, Official Gazette of Bosnia and Herzegovina, no. 59/09 and 66/16.

<sup>273</sup> Department for elimination of all forms of discrimination has been established in January 2009 with the primary objective to ensure standardization of approach in the implementation and protection of the rights of citizens in the entire territory of Bosnia and Herzegovina and take effective measures to prevention of any form of discrimination. Through work on individual complaints or procedures in investigations *ex officio*, the Ombudsmen seek to stress the importance of consistent application of the prohibition of discrimination, contained in international conventions and national legislation, as well as the importance of harmonization of domestic legislation with international human rights standards. Through recommendations and other decisions to responsible institutions and services, the Ombudsmen point to factors disabling equal legal treatment to all BiH citizens and propose appropriate measures for effective legal intervention aimed at protecting the rights of citizens.

The Law on Amendments to the Law on Prohibition of Discrimination in Bosnia and Herzegovina introduces other innovations as well:

- explicit reference to age and disability as basis on which discrimination is prohibited (Article 2),
- prohibition of discrimination on the basis of association with vulnerable groups (Article 2)<sup>274</sup>,
- improved definition of harassment and sexual harassment (Article 4);
- Definition of severe forms of discrimination (Article 4)<sup>275</sup>.

Procedural aspects of the Law are improved as follows:

- in terms of the provisions of the urgency procedure (Article 11)<sup>276</sup>,
- specific claims (Article 12)<sup>277</sup>,
- jurisdiction of the courts and deadlines (Article 13)<sup>278</sup>,
- prescribing security measures (Article 14)<sup>279</sup>,
- redistribution of the burden of proof (Article 15)<sup>280</sup>,
- participation of third parties (Article 16)<sup>281</sup>,
- possibility of submitting collective claims (Article 17)<sup>282</sup>.

<sup>274</sup> Article 2, paragraph 1, reads: "Discrimination, in terms of this Law, shall be every different treatment including every exclusion, restriction or preference based on real or assumed towards any person or group of persons and those who are with them in kinship or other ties on the basis of their race, color, language, religion, ethnicity, disability, age, national or social origin, association with a national minority, political or other opinion, property status, membership in a trade union or any other association, education, social status and gender, sexual orientation, gender identity, sexual characteristics, as well as any other circumstance with a purpose or a consequence to disable or endanger recognition, enjoyment or exercise on an equal footing, of rights and freedoms in all spheres of life".

<sup>275</sup> Article 4 paragraphs 1 and 2 shall read as follows: "Harassment is any unwanted behavior caused by one of the grounds referred to in Article 2, paragraph (1) of this Act which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment. Sexual harassment is any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of harming the dignity of a person, especially when it creates an intimidating, hostile, degrading, humiliating or offensive environment. Paragraph 6 reads: "The major form of discrimination will be considered discrimination committed against a specific person on several grounds under Article 2, paragraph (1) of this law (multiple discrimination), discrimination committed several times (repeated discrimination) and discrimination that exists for a long time (extended discrimination)".

<sup>276</sup> Article 11, paragraph 4 and 5 as follows: "The Court and other bodies apply the principle of urgency in all proceedings in which it examined allegations of committing discrimination. In accordance with the general rules, the court and other authorities are obliged to take all necessary measures to ensure that the procedures in which they are investigating claims of discrimination committing implement urgently and end as soon as possible"

<sup>277</sup> Article 12, paragraph 2 reads: "The requirements of paragraph (1) of this Article may be brought together with the requirements for the protection of other rights to be decided upon in legal proceedings if all the claims are interrelated, regardless of whether it is for and the requirements laid down in the resolution of regular or special legal proceedings, except in cases of trespassing. In this case the relevant rules for the type of dispute in question, unless this law provides otherwise"

<sup>278</sup> Article 13, paragraph 1 shall read as follows: "If this law is not otherwise provided, in accordance with the laws on courts in both entities and the Brcko District of Bosnia and Herzegovina, for disputes upon a lawsuit from Article 12 of this Law shall be responsible in the first and second degree, except for court of general territorial jurisdiction, the court in whose territory the plaintiff has permanent or temporary residence, and the court in the place where it occurred damage or discrimination occurred "and paragraph 4 of" the deadline for bringing an action under Article 12 of this law is three years after finding about violation of a right, but no longer than five years after a violation was committed. In the case of continuous discrimination, the period is calculated from the date of the last actions made. Deadlines do not count in cases of systemic discrimination. The deadline for submitting an application for review is three months from the date of delivery of the Appeal Judgment".

<sup>279</sup> Article 14. Of the Law reads: "Before starting and during the proceedings on the request from Article 12 paragraph (1) the court may on the proposal of the proponent to determine the court security measure, or a temporary security measure, according to provisions of the Civil Procedure applicable in Bosnia and Herzegovina ..."

<sup>280</sup> Article 15, paragraph 1 shall read as follows: "When a person or group of persons in all procedures provided by this law, on the basis of the evidence available to them, it is probable that there has been discrimination, the burden of proof that there was no discrimination lies on the opposite side"

<sup>281</sup> Article 16, paragraph 1 reads: "In the process of being set up in accordance with Article 12 of this Law may, in accordance with the rules of civil procedure, as intervener on the person or group of persons claiming to be victims of discrimination of a body, organization, institution, association or other person within the framework of activities includes protection from discrimination against persons or groups of persons whose rights are decided in the process"

<sup>282</sup> Article 17, paragraph 1, reads: "Association or other organizations established in accordance with the law dealing with the protection of human rights or the rights of certain groups of persons may bring an action against a person who has violated the

Based on the foregoing, the Ombudsmen can conclude that, among other things, based on activities of the Institution of Ombudsman for Human Rights of Bosnia and Herzegovina as well, the Law on Prohibition of Discrimination of Bosnia and Herzegovina is improved.

In future it will be necessary to work on the promotion and implementation of the new provisions of this Law, especially when it comes to the provisions relating to the protection against discrimination based on sexual orientation, gender identity and sexual characteristics and protect LGBTI people against discrimination. The Ombudsmen also indicated that it would be useful to draw up a comprehensive commentary of the Law, and organize specialized training for civil servants, judges and prosecutors.

### **9.1. Assessment of the situation according to the complaints lodged, drafting bylaws, special reports**

Handling of individual citizens' complaints is the most important aspect of human rights protection. The Institution of Ombudsman in 2016 registered a total of 150 cases of discrimination. Ombudsmen point out that certain matters were resolved positively and before the issuance of recommendations, through negotiation, encouraging a friendly settlement or undertaking mediation between the parties, either in the way that the responsible organ corrects its action following first addressing of the Institution of Ombudsman, which will in the following chapters be illustrated by concrete examples.

During the reporting period, the Ombudsmen issued 27 recommendations, most often in cases of mobbing, discrimination based on belonging to a national minority, on the basis of education as well as on other bases.

Failure to comply with the Ombudsman's recommendations concerning the violation of the Anti-Discrimination legislation entails misdemeanor charges against natural and legal entities, as well as their fines of up to 10,000 KM, the imposition of a security measure of prohibition of activity, as well as other sanctions provided for in Article 19 and 20 of the Law. The Ombudsmen resort to initiating court proceedings only as an extreme measure, as there are expectations that the recommendations will ultimately be respected due to the fact that such a solution is in the interest of all parties.

During 2016 continued promotional activities and information campaigns that are aimed at relevant institutions and the public. Limited resources and capacity of the Institution of Ombudsman reduced the possibility of action of the Institutions in the promotion, so this action in 2016 as in previous years has mainly been within the activities that were organized by other organizations and institutions. Detailed chronological overview of activities and promotion in the area of discrimination is contained later in this Report.

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*right to equal treatment of a larger number of persons who predominantly belong group whose rights are protected by a plaintiff."*

## 9.2. Review of the situation– a comparison in relation to the previous period

The largest number of complaints in the reporting period, refers to mobbing, as a special form of discrimination in the workplace (55), followed by complaints of discrimination based on ethnic origin (7), on the basis of sexual expression or sexual orientation (7), discrimination on the basis of national or social origin (6), on the basis of social status and gender (5), on the basis of religion (2), segregation (2), and one complaint respectively about harassment, discrimination on the basis of language, connections with a national minority, political or other opinion, property and education. According to assessment by the Ombudsman, this data is still not reflecting a real scale of discrimination, because there are still unreported cases, due to the general lack of confidence in institutions, as well as for fear of potentially negative consequences on the status of victims.

In this regard, the Ombudsmen note that is constantly present high number of complaints on mobbing<sup>283</sup>, that regularly appear complaints regarding ethnic discrimination<sup>284</sup> yet in a slightly decreasing number, however, that increased number of cases is opened relating to the allegations of discrimination based on sexual orientation<sup>285</sup> (LGBT population) or cases related to hate speech, although the number of complaints from the last two categories is almost negligible compared to the total number of cases in the Institution.

## 9.3. Special Report on the rights of LGBT persons in Bosnia and Herzegovina

In 2013, Sarajevo Open Center (SOC), together with several other organizations dealing with human rights, proposed preparation of Special Report on the human rights of LGBT persons in Bosnia and Herzegovina, and in the Strategy of the Institutions for the period 2016- 2021 is planned preparation of this Report. Also, the Joint Commission for Human Rights of the Parliamentary Assembly of Bosnia and Herzegovina in June 2015 adopted conclusions which called on the Institution of the Ombudsman for Human Rights of Bosnia and Herzegovina to create a special report on the rights of LGBT persons in Bosnia and Herzegovina. As a result of a year of work Special report on the rights of LGBT persons in Bosnia and Herzegovina has been made, which was presented at the 32 special session of the Joint Commission for Human Rights in Bosnia and Herzegovina, held on 12.06.2016 in Sarajevo. Among other things, at the presentation was said that the aim of the Special Report on the rights of LGBT persons in Bosnia and Herzegovina is to determine the current status and real access to human rights by members of the LGBT community, pointing to the competent authorities that measures should be taken to improve the situation of this population, as well as raising awareness of citizens of Bosnia and Herzegovina and informing the public about the current level of exercise of the rights of LGBT people.

As noted in the Report itself, *preparation of the Special Report on the situation of LGBT people in Bosnia and Herzegovina presents a comprehensive study of the status and rights of LGBT persons in Bosnia and Herzegovina and the data and information obtained from public*

<sup>283</sup> Ž-SA-06-315/15 (P-282/15), : Ž-BL-06-750/14(P-246/15), Ž-SA-06-1258/14

<sup>284</sup> Ž-BR-06-18/14 (P-42/15), Ž-BL-05-83 i 84/15 (P-225/15)

<sup>285</sup> Ž-BL-06-676/14 (P-60/15), Ž-BL-06-90/15 (P-227/15), Ž-SA-06-104/15

*authorities, non-governmental organizations, academic experts, as well as practices of Ombudsman Institution.*

For any democratic country it is imperative to ensure equal treatment of each person, who is under its jurisdiction, regardless of affiliation. The absence of this principle leads to inequalities, exclusion, marginalization and intolerance, which ultimately results in social divisions."

A special chapter of the Report is dedicated to the media and reporting on the LGBT community. As stated, *public attitudes about LGBT people is created by the very same factors that influence the formation of public perception of any other social issue. Thus, the formation of positive or negative attitudes is influenced by: a way of reporting on LGBT issues in the media, comments related to them, which can sometimes turn into hate speech, lack of public condemnation of such appearances, appearances of public figures and representatives of political parties, as well as attitudes of people from educational and academic community. In the same chapter there is a recommendation to public services as well as all media houses, print and electronic media in Bosnia and Herzegovina to work on raising awareness and promotion of the rights of LGBT people in order to sensitize the public and raise awareness about their rights.*

When it comes to the recommendations of the Report, one should emphasize recommendations to the public officials who are required more openly to act in the protection of LGBT population regarding individual incidents and generally, and to political parties to include in their programs themes of protection against discrimination based on sexual orientation and gender identity.

Having in mind the recent step forward taken by government institutions in the adoption of legal solutions, as well as public policies that affect or involve the rights of LGBT people, the Report contains three very important recommendations that should be implemented as soon as possible. These recommendations are concerning resolving the costs of sex adjustments through healthcare for trans persons, the issue of adequate protection of the right to assembly for LGBT people, and the issue of legal recognition of same-sex community life in Bosnia and Herzegovina.

The reactions that followed the publication of the Report states that the institution of Ombudsman for Human Rights in Bosnia and Herzegovina recognized the problems of LGBT people in Bosnia and Herzegovina and gave very clear recommendations in many areas.

In accordance with the conclusions of the meeting of the Joint Commission for Human Rights, the Ombudsman seize this occasion to underline the importance of presenting the Report to entity parliaments and the Brčko District Assembly as well, forwarding recommendations to the competent authorities, and reporting to the Joint Committee on Human Rights by the Institution on implementation of recommendations on the six-month basis.

All undertaken and planned activities are aimed at a stronger and more systematic progress in the field of human rights of lesbian, gay, bisexual and transgender people throughout Bosnia and Herzegovina, as well as generally strengthening the position and influence of civil society, which is one of the basic pillars of democratic order.



The Ombudsmen express hope that the Report draw attention to the situation of LGBT persons in BiH society because *the way in which the society treats LGBT people reflects the way society treats everything that is different, and exactly in diversity is reflected the wealth and progress of the society.*

**Recommendation:**

- **More open appearances of public officials, for the sake of breaking prejudices, prevention of all forms of violent behaviors and hate speech in order to protect the rights of the LGBT population.**

#### **9.4. Manual for actions of Ombudsman for Human Rights of Bosnia and Herzegovina in discrimination cases**

In the second half of 2015 and during 2016, and after more than six years from the entry into force of the Law on Prohibition of Discrimination of Bosnia and Herzegovina, the Ombudsmen of Bosnia and Herzegovina in cooperation with the OSCE Mission to Bosnia and Herzegovina, in a special way joined the process of critical observation of the achieved standards level with regard to the consideration and resolution of cases of discrimination, with a clear task on the basis of the challenges and lessons learned from the previous time to assess standards achieved and improve significantly. As a result of this process, in October of 2016 was made public *Manual for actions of Ombudsman for Human Rights of Bosnia and Herzegovina in cases of discrimination*<sup>286</sup>. This Manual presented significant practice of actions of the Ombudsman in cases in the area of discrimination, and defined standards of conduct in all cases of discrimination. The Ombudsmen of Bosnia and Herzegovina believe that standards achieved in this Institution could be useful for other protection mechanisms in Bosnia and Herzegovina, and that, according to the available knowledge, had fewer cases compared to the number of cases processed by this Institution.

The reason for adoption of the Manual for actions of Human Rights Ombudsmen of Bosnia and Herzegovina in discrimination cases is in the fact that there is occurrence of inconsistent treatment in cases of discrimination, that there is no bylaw that elaborates or makes operational certain provisions of the Law, and that the different authorities or responsible persons acting on reports of discrimination in the uneven, sometimes contradictory and for citizens often uncertain way.

Following seven-years of practice in the implementation of the Law, the Ombudsman on the basis of critical observation of the challenges in the area of anti-discrimination protection defined standards of treatment in cases of discrimination that are precisely and vividly explained in this Manual.

In this process, the Ombudsmen have found important foothold for the modalities of their actions in practice of judicial institutions, primarily the European Court of Human Rights, the European

<sup>286</sup> Manual for actions of Ombudsman for Human Rights of Bosnia and Herzegovina in discrimination cases, see [http://ombudsmen.gov.ba/documents/obmudsmen\\_doc2016101419280006bos.pdf](http://ombudsmen.gov.ba/documents/obmudsmen_doc2016101419280006bos.pdf)

Court of Justice and the Constitutional Court of Bosnia and Herzegovina. Since the judicial institutions are in significantly different position in relation to the Ombudsman, with different mechanisms of examination of the case and drawing conclusions, their practice only partially respond to the needs of the Ombudsman to examine the case or complaint on the grounds of discrimination. Therefore, the standards of treatment that takes into account the peculiarity of the Institution as an independent institution for the protection of human rights and jurisdiction in accordance with the Law on Human Rights Ombudsman of Bosnia and Herzegovina, the Institution independently developed.

## 9.5. Individual examples of general significance

### 9.5.1. Determining of national origin of candidates in competitions

One of the frequent questions with which many public institutions in Bosnia and Herzegovina face is the issue of the nationality of candidates in open competitions, since there is doubt about the authenticity of national orientations.

The Institution of Ombudsman for Human Rights of Bosnia and Herzegovina was addressed, among others, by the Ministry of Defense of Bosnia and Herzegovina on 17.02.2016, with the question about determining of belonging to nationality for the candidates in the competition procedure for admission to professional military service.

On this occasion the Ombudsmen have taken the following position:

*Article II of the Constitution of Bosnia and Herzegovina provides that all persons within the territory of Bosnia and Herzegovina have the right to freedom of thought, conscience and religion. The Constitution, as the laws of Bosnia and Herzegovina, do not prescribe the manner in which is established national or ethnic belonging to particular nation or a national minority. Entity Laws on Registers provides for the possibility that belonging to a particular nation entered in the registers at birth by their parents, taking into account the child's best interests, and that it can change in the acquisition of legal age, but laws allow for the possibility that this feature will remain unfilled. Election rules in Bosnia and Herzegovina imposes an obligation of the same national declaration in a single election cycle, and consistently comply with this obligation follows the Central Election Commission of Bosnia and Herzegovina. On the other hand, manipulation of candidates changing national affiliation an abuse of rights and prevent the constituent peoples in exercising their rights, and the candidates who are sanctioned due to the change of belonging to the people cannot be considered victims of discrimination<sup>287</sup>.*

Accordingly, the Ombudsmen believe that any natural person resident in the territory of Bosnia and Herzegovina has the full right of national citizenship, which entail a change of nationality. On the other hand, there is no basis for anybody to determine the validity of such a commitment, but we can talk about the abuse of rights in the case of clear indications of manipulation of the law, (but not the doubts, too), as above reasoned in detail.

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<sup>287</sup> In support of the position of Ombudsman is the opinion of the Constitutional Court of Bosnia and Herzegovina in the case under number AP-66/15.

### 9.5.2. Names of streets and institutions

During the reporting period the Ombudsmen have demonstrated to the law-based possibility that anti-discriminatory protection also covers the issue of street names, public institutions names and the general use of offensive symbols, names and associations in public. Article 2, paragraph 4 of the Constitution stipulates that all persons in Bosnia and Herzegovina enjoy the rights and freedoms provided by the Constitution of Bosnia and Herzegovina or international agreements without discrimination on any grounds.

Fully respecting freedom of expression and commitment in terms of honoring certain historical events, Human Rights Ombudsmen took the uniform position that it is necessary to take all measures to make the competent institutions and responsible persons as far as possible to refrain from naming streets, public institutions or general use of symbols in public communication which may be offensive to any ethnic community or group in Bosnia and Herzegovina. Also, in view of the complex ethnic and political structure of Bosnia and Herzegovina, the Ombudsmen calling for increased use of neutral names, acceptable to all sides, as such naming would not be perceived as a provocation, and in order to establish a greater degree of stability, mutual respect and tolerance.

### 9.5.3. Use of language in the educational process

The Ombudsman of Bosnia and Herzegovina, acting on several complaints received or *ex officio*, during 2016<sup>288</sup> investigated how is inscribed the name of the school subject "Bosnian-Bosniaks language" in school certificates and pupils' booklets of primary schools in the Republic of Srpska.

The Ombudsmen of Bosnia and Herzegovina on this occasion repeatedly pointed out that every child should have equal access and equal opportunity for participation in appropriate education, which must be in accordance with established standards, by which a child should be ensured to have the best way to develop its potential, and that means ensuring equal opportunities and circumstances for all children.

The Ombudsmen of Bosnia and Herzegovina remind of their press release<sup>289</sup> through which they pointed the competent authorities on the duty to take measures with the aim to enable every child in any part of Bosnia and Herzegovina to enjoy equal access to education, which is especially related to areas with significant returnee population, in both entities, and remind them that any failure to act in this regard, according to the Law on Prohibition of Discrimination in Bosnia and Herzegovina, raises the question of misdemeanor and civil liability.

Bearing in mind the severity of that problem<sup>290</sup>, the Ombudsmen of Bosnia and Herzegovina in the second half of 2016 started preparation of the Special Report on the use of official languages

<sup>288</sup> Ž-SA-06-854/15, Ž-SA-06-13/16, Ž-BL-06-359/16 Recommendation no P-107/16 of 20.06.2016, Ž-BR-06-225/16.

<sup>289</sup> <http://ombudsmen.gov.ba/Novost.aspx?newsid=497&lang=HR> od 08.06.2016. godine.

<sup>290</sup> Vice-President of the Federation of Bosnia and Herzegovina, too, in its act number 02-10-356-01/15 of 14.10.2015 requested preparation of the Report on the use of official languages in Bosnia and Herzegovina, the entities and cantons of the Federation of Bosnia and Herzegovina

and scripts in Bosnia and Herzegovina, or in both entities and cantons in the Federation of Bosnia and Herzegovina, which will be presented to the public in the first quarter of 2017.

#### 9.5.4. Boksit Milići

During the last quarter of 2015, the Ombudsmen have opened an investigation *ex officio*, and in connection with information which pointed to the violation of workers' rights in the company "Boksit" ad Milići.<sup>291</sup> After the statements of all relevant parties it has been established that there has been a manifestation of practices and activities that constitute violations of workers' rights and contain elements of non-physical harassment in the workplace, better known as mobbing.

Human Rights Ombudsmen of Bosnia and Herzegovina used this case to highlight opposition to the use of polygraph in the context of solving labor relations and stressed that the present case did not result in criminal proceedings or criminal investigation by the competent authority, but the polygraph test was used as a method disciplining the workers, contrary to the Labor Law and other general regulations governing the field of labor relations, which is why forcing the workers to polygraph testing is perceived as mobbing.

The Ombudsmen have also found that on the official website of the Company was published the ban on movement of certain individuals, that closing on 08.01.2015 there were listed 13 people, first and family names, prohibiting the entry and stay in the buildings and premises of the Company "Boksit" a.d. Milići, provision of services of any kind, and that the ban included restaurants, means of transport (buses), bus station, Home of the Miners etc., on the grounds that these buildings are private property, owned by the shareholders of the Company. The Ombudsmen found this type of conduct to be unacceptable, given that this is a limitation of basic human rights, that it is a public facility, regardless of the ownership structure, which according to their nature must be available to all citizens without discrimination. The mentioned example indicates the active role of non-governmental entities whose behavior leads to violations of human rights, while national authorities or show an unwillingness or inability to respond to such phenomena.

Following the procedure of investigation, the Ombudsman drafted a *Special Report on the (lack of) respect for human rights and labor rights in the Company „Boksit“ Milići*<sup>292</sup>, containing the recommendation to the Management Board of the Company to take all necessary measures to bring out their business practices eliminate all those acts that lead or could have resulted in harassment of employees or causing a sense of insecurity and fear.

In the reporting period the Report was submitted to the Joint Committee of House of Representatives and House of Peoples of the Human Rights of the Parliamentary Assembly of Bosnia and Herzegovina, containing allegations of the use of polygraph and prohibitions of stay in the facilities and in locations which are owned by the Company. Unanimously adopted Conclusion of the Joint Committee on Human Rights at its meeting of 07.03.2016, it was envisaged that the Special Report was to be referred to the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina for the further procedure to the House of

<sup>291</sup> Ž-BL-711/15, Ž-BL-06-761/15, Ž-BL-06-800/15 - P-18/16 of 15.01.2016.

<sup>292</sup><http://ombudsmen.gov.ba/Default.aspx?id=0&lang=SR>

Representatives, and was adopted by the House where one of the conclusions was that the case should be referred to the prosecutor's office for the further processing.

The Ombudsmen repeat and emphasize that companies of such capacity must with special degree of responsibility treat employees' rights, as well as other citizens, because it is an important exercise of existential rights, whereby management of companies should not use a position of superiority and authority. Any animosity, hostility or disagreements must be overcome in a professional manner.

### **9.5.5. Mobbing**

One of the most serious cases of mobbing treated by the Institution in 2016 was related to the work of the Indirect Taxation Authority of Bosnia and Herzegovina Regional Center Tuzla, where the complainants were victims of continuous mobbing and victimization. Upon the recommendation of the Ombudsmen, the complainant were returned to managing positions, but are still subject to disciplinary proceedings and violations of their labor rights. To protect their rights, the complainants have launched proceedings before the Court of Bosnia and Herzegovina, monitored by the Institution of Ombudsman at the request of the complainants.

The Ombudsmen hereby draw attention to the provisions of the Law on Prohibition of Discrimination in Bosnia and Herzegovina, which provides that no person who reported discrimination or participated in legal proceedings for protection against discrimination shall suffer the consequences of such report or participation. The provisions of the same Law provide that the victimization is a particular form of discrimination, which entail higher fines and other penalties provided by law.

### **9.5.6. The use of unpaid leave for going abroad**

In 2016 the Institution of Ombudsman for Human Rights registered several cases that were related to the rejection of the application for unpaid leave from work of a police officer of the Ministry of Internal Affairs of the Republic of Srpska<sup>293</sup>.

The Ombudsmen generally consider that request for unpaid leave for a period of one year, in order to participate in international missions related to European security, does not represent a long-term engagement abroad, but quite a common time frame for which the majority of public institutions not only approved, but also stimulates the absence of employees for the purpose of acquire new and useful experience. The Ombudsmen also emphasize that granting unpaid leave does not constitute a financial burden for the parent institution, and it is often unclear what criteria is applied to the individuals as to approval or rejection of such a request.

<sup>293</sup> According to one of the complaints, complainant's request for unpaid leave was rejected, which he/she would use for engagement in the OSCE Mission in Ukraine. After the procedure of the investigation, the Ombudsmen on 23.03.2016 issued recommendation No. P-36/16 that the Minister of Internal Affairs of the Republic of Srpska recommending that in accordance with its powers to approve to the complainant the engagement during the period for which it is applied, and that when making future decisions related to this issue certainly uphold the finding and the opinion of the Ombudsman of Bosnia and Herzegovina. Act No. 06/2-127-86/16 of 22.07.2016. The Ministry submitted a response to the recommendation issued. It stated the reasons due to which said recommendation cannot be realized, due to which the Ombudsman decided to monitor the proceedings before the court, which was launched on this occasion. These cases will serve as a good example of the effectiveness of the Ombudsman's recommendations in court proceedings, given that the allegations of the complaint are in part based on the findings of the recommendations.

## X RECOMMENDATIONS OF THE OMBUDSMEN

The Ombudsmen, in accordance with Article 32 of the Law on Human Rights Ombudsman of Bosnia and Herzegovina, after considering a complaint, or the procedure *ex officio*, can make recommendations to the responsible organ with a view to eliminate the identified violations of human rights. The authorities who receive such recommendation are obliged to reply in writing and inform the Ombudsmen of the effect of the recommendation within time limit determined by the Ombudsman.

If the responsible organ fails to take measures from the recommendations, or fails to inform the Ombudsmen of the reasons for its inaction, the Ombudsmen inform immediately superior organ indicating the flow of cases and on the recommendations. For the successful functioning of the Institution is particularly important building of good relations between the institutions in Bosnia and Herzegovina and the Ombudsmen, which includes the establishment of cooperation with the Institution in the manner prescribed by the Law on Human Rights Ombudsman of Bosnia and Herzegovina and the implementation of recommendations without any conditions.

By analyzing the recommendations issued and ways of their implementation can be concluded that the responsible authorities after receiving the recommendations, proceed as follows: a) comply with the recommendation in full, b) partially implement the recommendation, c) the establishment of a specific form of cooperation with the Institution, d) does not comply with a recommendation with expressly stating the reasons for failure, or e) does not submit feedback to the Institution. A significant number of issued recommendations were due to non-cooperation of the authorities with the Ombudsmen.

<b>Manner of implementation</b>	<b>Number of cases</b>
Partially implemented	14
No answer	59
Not implemented	62
Achieved cooperation	48
Implemented	84
<b>Total</b>	<b>267</b>

## XI COOPERATION WITH THE MEDIA

Aware of the role that the media play in the promotion of human rights, informing the general public about their violations and possibilities of protection, The Ombudsmen of Bosnia and Herzegovina in their work, pay special attention to cooperation with the media.

Cooperation between the Ombudsmen and the media takes place for the purpose of systematic, continuous, timely and accurate information to the public through print and electronic media, on events and issues of importance for exercise of human rights in Bosnia and Herzegovina through work and activities of the Institution of Ombudsman for Human Rights of Bosnia and Herzegovina.

On the other hand, media reports about life situations of the citizens, their needs and interests, are the best ways to detect violations of the rights of citizens. These findings in a certain number of cases serve as a basis for opening cases *ex officio* in order to examine the accuracy of the allegations and take action in accordance with the Institution's mandate to eliminate any possible violations of the rights of citizens.

The Institution of Ombudsmen for Human Rights of Bosnia and Herzegovina shall apply standard procedures in relations with the media, including provision of answers regarding the activities and matters within the competence of the Institutions, the participation of representatives of the Institution in the media (interviews, statements, guest appearances in TV and radio broadcasts), the organization of press conferences, publishing press releases, presentation of the activities of the Institution through the distribution of promotional materials, and participation in promotional campaigns and the like.

At the same time, the Ombudsmen of Bosnia and Herzegovina estimate that the citizens' right to timely and accurate information directly depends on the environment in which journalists should have adequate and uninterrupted working conditions. In this connection, the Ombudsmen of Bosnia and Herzegovina consider unacceptable and strongly condemn all attacks and unseemly or inappropriate behavior towards journalists and all workers in the media that took place recently in Bosnia and Herzegovina. At the same time urge the authorities to take all measures in order to investigate all actions that have the effect of endangering the safety of journalists and limit press freedom.

Through their work, journalists actualize the issues and problems faced by a society, contribute to the opening of debate, the possibilities for all stakeholders to express their attitude and thus inform the public contributing to the level of democracy in a society, building societies which tolerate and accept other opinions and beliefs, and striving towards full equality of all individuals and groups.

The society, in which journalists are in any way prevented from doing so, is faced not only with limiting the degree of freedom of expression, but also by limiting all other human rights and freedoms.

Due to the frequent incidents of this kind the Ombudsmen of Bosnia and Herzegovina prepared a Special Report on the situation of journalists and cases of threats against journalists, and the public will be duly informed.

In the reporting year has been intensified cooperation between the Ombudsmen of Bosnia and Herzegovina and the media, which certainly contributes to the strengthening of trust in the Institution and opens the possibility of updating of topics of importance to the exercise of human rights.

The media, as in previous years, in accordance with its editorial policy, with considerable interest viewed the work of the Ombudsmen of Bosnia and Herzegovina. The media reported based on the statements of the Ombudsmen, their assistants and other staff, then based on reports from events and conferences, and also reported on the attitudes and reactions of the Ombudsmen that they presented in their press releases.

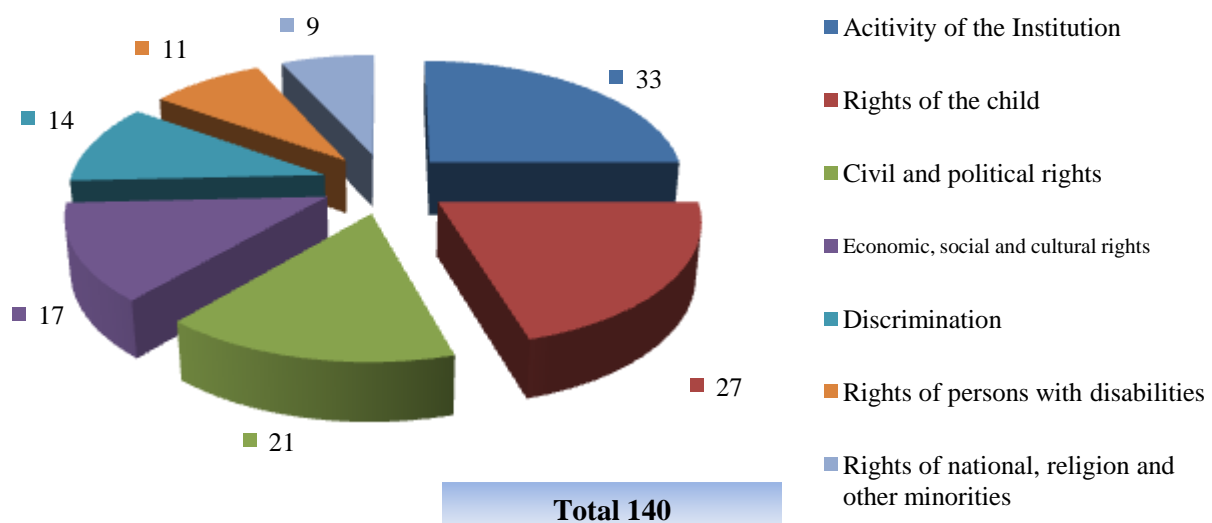
In 2016 the Institutions of Ombudsman for Human Rights of Bosnia and Herzegovina has responded to a total of 140 media requests, which are 12 more than in 2015.

These activities included hosting Ombudsmen and their assistants in the radio and television shows, interviews, statements and provision of answers in writing for print and electronic media.

Since the published newspaper articles and broadcast TV programs of local media throughout Bosnia and Herzegovina are not covered by the processed statistics, it should be noted that these media have made a significant contribution to informing citizens about the possibility of addressing the Institution of Ombudsman as a mechanism for the protection of their rights, and what is of the special importance in establishing of office days in Bijeljina.

In the reporting period, the Ombudsmen issued 38 press releases in which the current events in the society and the activities of the Institution were considered from the standpoint of protection and promotion of human rights in Bosnia and Herzegovina.

In the same way the Ombudsman sought to contribute to the affirmation of rights, especially of vulnerable groups of the population, on the occasion of important dates in the field of human rights in Bosnia and Herzegovina in 2016.



**Chart 1: Overview of media requests in various fields of human rights**



In the previous year the media were most interested in the activities and issues of general jurisdiction of the Institutions, namely the findings that the Ombudsmen established acting on citizens' complaints and the measures taken to remedy the established violations of their rights. In these statements, the Ombudsmen of Bosnia and Herzegovina have also commented on other indicators to evaluate the general situation of human rights in Bosnia and Herzegovina. Mentioned issues were treated in 33 requests.

Regarding the categories of infringement of the rights, although the percentage is smaller than in previous years, analysis of media requests received in 2016 shows that the largest number of these requests was related to the field of protection of children's rights (27).

The Ombudsmen and their assistants were giving statements to the media in connection with issues treating children's rights in the field of education, implementation of health care, but also cases of bullying, exploitation of children and other issues related to exercise of children's rights in Bosnia and Herzegovina.

In the area of civil and political rights, the Ombudsman responded to 21 requests of the media, of which the largest number was related to the functioning of the judiciary and freedom of access to information.

In somewhat lesser extent the request of the media referred to the economic and social rights of citizens (17). Within this area were treated topics in the field of social protection and employment rights, etc.

Compared to 2015, about the same proportion of the total number of requests was received by the media in 2016 covered topics from the jurisdiction of the Department for Elimination of All Forms of Discrimination (14). However, the media certainly should be recognized through contribution to informing citizens regarding the existence of protection against discrimination, as well as putting in the focus of public interest topics related to discrimination based on sexual orientation (LGBT), mobbing, as well as other forms of discrimination, which means that the media recognized the importance of these topics.

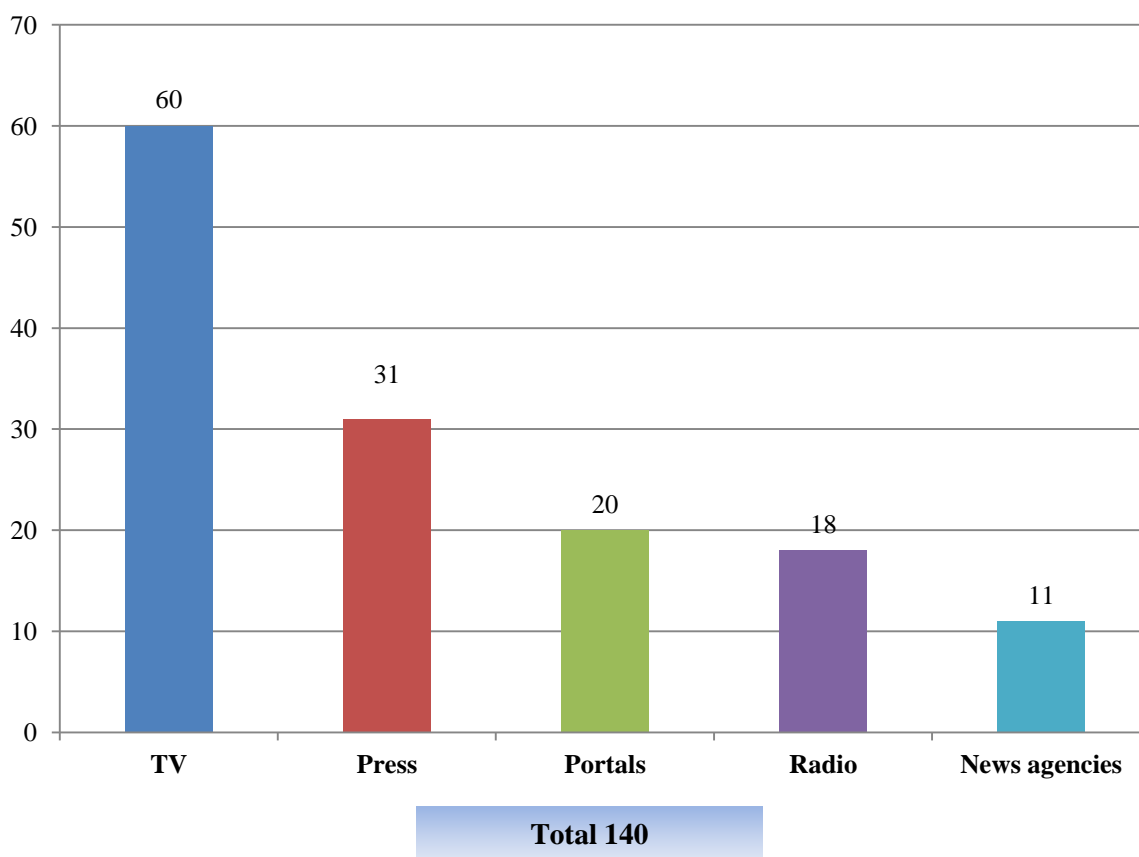
Increased media interest in the reporting year, compared to the previous year, was related to questions of the rights of persons with disabilities (11), which is still, however, a low level of representation in the total number of addresses and indicates the need for updating of questions concerning the exercise of the rights of these population groups in media environment of Bosnia and Herzegovina.

Taking into account, among other things, this fact, too, the Ombudsmen of Bosnia and Herzegovina have sought to inform the public about the visits to institutions in which there are people with intellectual and mental disabilities, activities aimed to removal of the barriers to accessibility, as well as other issues whose resolution would enable the improvement of the status of rights of persons with disabilities.

In the field of exercise of national, religious and other minority rights the Institution of Ombudsman responded to the nine requests of the media, while the rights of detainees and

prisoners was eight times the subject of addressing of the media to the Institution. It was discussed about conditions in correctional facilities in Bosnia and Herzegovina, addressing the Institution and the measures taken, and other observations of the Ombudsmen when it comes to exercise of the rights of prisoners and detainees.

In addition to presentation of observations and actions taken with regard to these topics, this year the Ombudsmen of Bosnia and Herzegovina, in the field of promotion, paid special attention to the celebration of 20th anniversary of the work of the Institution of Ombudsman of Bosnia and Herzegovina, and established the office days of the Ombudsman Institution in Bijeljina. On the occasion of this significant anniversary, with the support of the OSCE Mission to Bosnia and Herzegovina, was produced a promotional movie about the 20 years of Ombudsmen of Bosnia and Herzegovina. The film was shown at the Regional Conference, 18 October 2016, and was published on the website of the institution.



**Diagram 1: The media interest in the work of the Institution according to media types**

Observed by types of media, in the reporting year there were no significant changes in media interest in the work of the Institution of Ombudsman in relation to 2015.

As can be seen from the diagram, by far the largest share in the total number of press releases, the Ombudsmen and their assistants realized in television programs (60), while half the statements were carried by the request of the print media (31). Observed by types of media to which representatives of the Institution gave statements in the reporting year were followed by portals (20) and radio stations (18), and news agencies (11).

The Ombudsmen and other relevant interlocutors from the Ombudsman Institution, the largest number of statements they gave to BHRT, due to the current developments in society and the activities of the Institution. Notable guest appearances the Ombudsmen of Bosnia and Herzegovina have made on the RTV FBiH and RTRS. In special thematic shows the Ombudsmen introduced the audience with the mandate and responsibilities of the Ombudsman Institution, and they talked also about current issues in the field of protection and promotion of human rights.

The interest in the work of the Ombudsmen of Bosnia and Herzegovina have shown by TV Aljazeera, N1, TV1, as well as the "Voice of Serbian", Radio Free Europe and many other media outlets. The Ombudsmen of Bosnia and Herzegovina in increasing numbers corresponded to the demands of the portals, such as diskriminacija.ba, Buka portal and others.

A significant contribution to informing the public in local communities gave RTVUSK, Semberske novine, TV City and others.

In the reporting year, as in previous years, the majority of press releases have been realized from the headquarters of the Institution in Banja Luka and regional office in Sarajevo, while the significantly lesser extent in these activities involved other regional offices.

As a mechanism for promotion and informing citizens about the work of the Institution and issues of importance for the protection and exercise of their rights, the Ombudsmen of Bosnia and Herzegovina this year, too, paid special attention to the content of the official website of the Institution of Ombudsman for Human Rights of Bosnia and Herzegovina: [www.ombudsmen.gov.ba](http://www.ombudsmen.gov.ba)

In addition to the regular activities of the Ombudsmen of Bosnia and Herzegovina, on the website are published special reports, analysis and recommendations, as well as publications and promotional video materials, and visitors are in a possibility to take the form of complaint.

Number of the information published on this web presentation is by far the largest so far, and in relation to 2015 is even twice as high.

During 2016 in this Internet presentation were published 176 individual items, and was visited 39,418 times, and total of 121,394 pages with amenities were viewed. This visit was reported by 24,717 different visitors who were, on average, stayed two minutes and forty-five seconds on the Web site. Most visits were from Bosnia and Herzegovina, followed by Serbia and Croatia, a significant number of visits was recorded from Russia, USA, Germany, Great Britain, Kenya, South Africa, etc.

In 2016, too, cooperation with the media continued through the participation of representatives of the Institution at conferences devoted to issues of media freedom, as well as regular contacts with media houses and officials for information from other agencies and institutions.

## **XII COOPERATION WITH ORGANS AND INSTITUTIONS**

### **12.1. Cooperation with organs and institutions in Bosnia and Herzegovina**

The Ombudsmen, during adoption of the strategy of the Institution of Ombudsman for Human Rights of Bosnia and Herzegovina for the period from 2016 to 2021, defined their thematic priorities, and on the basis of their competence under the Law on Human Rights Ombudsman of Bosnia and Herzegovina have developed strategic objectives, and these are: strengthening the capacity of the Institution of Ombudsman; effective protection and promotion of human rights; cooperation with the institutions and organs of Bosnia and Herzegovina; international and institutional cooperation; cooperation with non-governmental organizations and citizens; cooperation with the media and cooperation with the academic community.

Following exactly this direction, in 2016 has been significantly intensified cooperation with organs and institutions of Bosnia and Herzegovina, and in particular it should be noted cooperation with the legislative authorities in Bosnia and Herzegovina and opening of dialogue and space for cooperation on important issues in the field of human rights. Strategic and sectorial approach to cooperation with the Joint Commission for Human Rights of the Parliamentary Assembly of Bosnia and Herzegovina, that in 2016 proved to be a successful way in which to talk and find appropriate courses of action in the field of prevention of violations and protection of human rights of citizens of Bosnia and Herzegovina. This cooperation was concretized through the consideration of special reports drafted by the Ombudsmen in 2016, and the Joint Committee on Human Rights of the Parliamentary Assembly of Bosnia and Herzegovina reviewed and adopted concrete conclusions in terms of implementation of the recommendations from these reports.

Important talks with representatives of the Parliamentary Assembly of Bosnia and Herzegovina were conducted in respect of the adoption of the new Law on Human Rights Ombudsman of Bosnia and Herzegovina, and the process of re-accreditation of the Institution of Ombudsman for Human Rights of Bosnia and Herzegovina by the Sub-Committee on Accreditation of Global Alliance of National Institutions for Protection of Human Rights (SCA GANHRI) which took place in November of 2016.

There was continued cooperation with specialized parliamentary bodies, entities Gender Centers, social work centers, National Minorities' Councils, the Council for Persons with Disabilities, mostly in the area of the fight against discrimination, gender equality, LGBT rights, children's rights and the rights of persons with disabilities. We especially stress the conference held on 23 May 2016, organized by the Gender Center - Center for Gender Equality of the Government of the Republic of Srpska with the support of the Sarajevo Open Center and the European Union, on the occasion of the adoption of the Annual Operational Plan for the implementation of the Gender Action Plan (GAP), which, among other things, includes concrete measures for the promotion and protection of the rights of LGBT people, and adopted by the Government of the Republic of Srpska in December 2015. Special attention in this context was given to the recommendation of the Council of Europe CM/Rec (2010)5 on combating discrimination based on sexual orientation and gender identity, which also applies to Bosnia and Herzegovina, which

provides a variety of legislative and administrative measures to ensure equality of LGBTI people in all spheres of social life.

It was successfully implemented the conference entitled "The role of the institutions of the Brčko District of Bosnia and Herzegovina in the fight against discrimination", held on 30.06.2016, as a collaborative effort between the BiH Ombudsman, the Commission on Human Rights of the Assembly of Brčko District of Bosnia and Herzegovina and the OSCE Mission to Bosnia and Herzegovina, at which they discussed the mechanisms and recommendations to combat discrimination in the Brčko District of Bosnia and Herzegovina.

Joint thematic session on the situation in the field of maternity and parental rights and benefits in the Federation of Bosnia and Herzegovina, held on 20 June 2016, organized by the Commission for Gender Equality of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, the Commission for Gender Equality of the House of Representatives of the Federation of Bosnia and Herzegovina and the Commission for Gender equality of the House of Peoples of the Federation of Bosnia and Herzegovina, in cooperation with the institution of Ombudsman for Human rights of Bosnia and Herzegovina and the Club of ladies MPs of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina, and the Federation Ministry of Labor and Social Welfare, Gender Center of the Government of the Federation of Bosnia and Herzegovina and NGO Women to Women, resulted in the opening of dialogue and proposals of the best solutions in the field of public policy for mothers/new mothers.

A special step forward the Ombudsmen have made in the area of promoting cooperation with representatives of judicial institutions, especially bearing in mind that precisely the largest number of complaints was related to poor functioning of the judiciary. In April the Ombudsmen held a working meeting with the President of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (HJPC BiH), Mr. Milan Tegeltija, where they talked about the length of judicial proceedings before the courts in Bosnia and Herzegovina, ineffective enforcement of court decisions, particularly in the light of decisions taken by European Court, confirming occurrence of non-execution of court decisions on violation of human rights. Special attention was given to an interview on the subject of the treatment of cases of discrimination, as well as the necessity of carrying out emergency procedures in cases of labor relations, family law and discrimination. During the meeting, they agreed further modalities of cooperation between the HJPC of Bosnia and Herzegovina and the Institution of Ombudsman for Human Rights of Bosnia and Herzegovina.

The Ombudsmen held a series of meetings with the presidents of courts at all levels in Bosnia and Herzegovina, and participated in the Conference of Court Presidents and Chief Prosecutors in Bosnia and Herzegovina held on 30 and 31 May in Teslić, where they discussed the efficiency, quality and measures for improvement of judiciary. In accordance with their capacities, the Institution of Ombudsman for Human Rights has continued to monitor the trials in cases where there had been a request of a party or where it was assessed that it was necessary.

The Ombudsmen dedicated special importance, as in previous years, to presence in the local community and cooperation with the local self governance, and during 2016, meetings were held with mayors/municipalities of Bijeljina, Dobož and Mostar.

Dialogue with the academic community was intensified. During the reporting period the Ombudsmen talked with students of several faculties on the protection, promotion and the importance of human rights, and the invested efforts and open dialogue resulted in the signing of the cooperation between the Ombudsman and public and private universities in Bosnia and Herzegovina in November in Banja Luka.

## **12.2. Cooperation with international institutions and organizations**

For the Institution of Ombudsman for Human Rights in Bosnia and Herzegovina 2016 was especially important, for it was the year in which it was scheduled re-accredited of the Institution before the Subcommittee of the Global Alliance of National Human Rights Institutions (GANHRI) in Geneva, which is a particular confirmation and affirmation of the status of Ombudsman Institution at international level and in national context marks its independence and confirms the operation in accordance with the Paris principles. At the same time, 2016 was the year in which the Institution celebrated 20 years of work and activities through a series of activities that included the intensification of cooperation with all international actors and organizations in the country and abroad.

As in previous years, one of the most important partners of the Ombudsman Institution is OSCE Mission to Bosnia and Herzegovina, which universally provides support for building and strengthening capacity of the institutions, its significant presence in the local community, as well as implementation of its special mandate in accordance with the Law on Prohibition of Discrimination. In 2016 special focus was placed on promoting the work of the Ombudsmen of Bosnia and Herzegovina and their recommendations. As a major donor in the implementation of activities by which the Ombudsmen of Bosnia and Herzegovina celebrated 20 years of existence, the OSCE Mission in Bosnia and Herzegovina remained a true partner of the Ombudsman Institution in the fight for a more tolerant Bosnia and Herzegovina society in which human rights are respected.

Thanks to the support of the OSCE Mission to Bosnia and Herzegovina, the Ombudsmen participated in the twenty-nine annual general meeting of the Global Alliance of National Human Rights Institutions (GANHRI) which was held from 21-23. March in Geneva, where was discussed the current challenges in the protection of human rights, and one of the key issues was the question of migration crisis and the role of the Ombudsman in crisis situations.

It should also be particularly pointed out the support provided by OSCE Mission in the implementation of activities aimed at establishing of office days in local communities, and with whose help on 7 June has begun the work of office days in Bijeljina, with the plan of opening office days in Dobož and Bihać. Direct contact with citizens in the field remains a priority for the Ombudsmen, with positively assessed cooperation with local authorities that are approachable; provide space and technical prerequisites for the successful implementation of office days.

The Ombudsmen in 2016 held a series of bilateral meetings with heads of international organizations, embassies and high delegations, such as the regional coordinator for the Western Balkans, the International Organization for Migration (IOM), Mr. Gianluca Rocco, UN Resident Coordinator and UNDP Resident Representative in Bosnia and Herzegovina, Sezin Sinanoglu, HE Heinrich Maurer, Swiss Ambassador to Bosnia and Herzegovina, Ambassador of the United States, Maureen Cormack, who in all these meetings expressed support to the Ombudsmen of Bosnia and Herzegovina and their work and showed great interest in cooperation with the Institution.

Significant is also the visit of the delegation of US Bureau for combat international drug trafficking and law enforcement (INL) to the Institution of Ombudsman for Human Rights of Bosnia and Herzegovina which was aimed to talks about the current criminal justice system, and above all the legislation in Bosnia and Herzegovina, as well as to analysis of the situation in the light of future cooperation and assistance of the United States of America to Bosnia and Herzegovina in this field.

During 2016 the Ombudsmen have made a strong step forward in cooperation with the Council of Europe through the start of implementation of a two-year project in the framework of a joint initiative of the European Union and the Council of Europe, as an integral part of the horizontal instrument of the Framework Program of cooperation of the European Union and the Council of Europe supporting South-East Europe and Turkey entitled "Strengthening of the Institution of Ombudsman for Human Rights in the fight against discrimination", which is aimed to strengthen the capacity of staff of the Institution in the field of discrimination.

In April the Ombudsmen received the delegation of the Secretariat of the Council of Europe which visited Bosnia and Herzegovina in the light of the preparation of the 18th Report on compliance with obligations and duties of Bosnia and Herzegovina and the implementation of post-accessional program of cooperation, and made them aware of the situation of human rights and concerns regarding proposal of the new Law on Ombudsmen with a brief review of the opinion of the Venice Commission in relation to this proposal.

In 2016 the Institution of Ombudsman was visited by representatives of the European Commission against Racism and Intolerance (ECRI), which with the Ombudsmen discussed the position and status of the Institution, but also the obligations of Ombudsman Institution under the Law on Prohibition of Discrimination. Furthermore, representatives of the Commission were interested in the situation of national minorities, in particular Roma in Bosnia and Herzegovina, persons with disabilities, but also on the activities of Ombudsman Institution in relation to LGBT rights.

At the same time, the Ombudsmen attended the seminar which was organized by the European Commission against Racism and Intolerance (ECRI) in Strasbourg on 26 and 27 May 2016 for specialized bodies to combat racism and racial discrimination in 47 member states, at which was discussed the important advisory role of specialized bodies towards legislative and executive authorities.

Cooperation with the Office of the Council of Europe in Bosnia and Herzegovina was continued in the area of execution of criminal sanctions in the framework of two complementary projects aimed at improving the rule of law and human rights, and a new step forward in the way of adopting European standards in Bosnia and Herzegovina. It is a joint program of the European Union and the Council of Europe entitled "Harmonization of penal policy and practice in Bosnia and Herzegovina with the European standards".

As to cooperation with the UN Agencies in Bosnia and Herzegovina, in 2016 it was developed in the light of international obligations of Bosnia and Herzegovina, that is, first of all, implementation of recommendations of UN committees and recommendations of the Universal Periodic Report, where the Ombudsmen of Bosnia and Herzegovina initiated creation of Compilation of recommendations of the UN treaty bodies, which may be the basis for creation of the Action Plan for human rights in Bosnia and Herzegovina.

Additionally, it is important to emphasize cooperation with UNICEF in the field of protection of children's rights and support provided to the Institution of the Ombudsman in preparation of document titled: "Analysis of the situation in institutions accommodating minors in conflict with the law in Bosnia and Herzegovina."

In 2016 the Ombudsmen continued with active participation in international networks and associations in which the Institution achieves full membership, and it should be noted that on 30 September 2016 the Institution of Ombudsman for Human Rights of Bosnia and Herzegovina became a full member of the European network of equality bodies (EQUINET), which brings together 45 organizations from 33 European countries that are empowered, as a national body for equality, to fight against discrimination. EQUINET promote equality in Europe through support to national bodies for equality, especially in their independence and effectiveness of the mechanism which should provide more equal society. Below is a review of several major meetings and expert meetings in the framework of these networks:

The annual conference and meeting of the Assembly of the European Network of Ombudsmen for Children (ENOC), was held from 20 to 22 September 2016 in Vilnius, Lithuania. The conference theme was "Equal educational opportunities for all children", where were exchanged best practices and information on the activities in the field of equality of children in education, and other topics related to the best interests of children.

Meeting of the Advisory Group of the European Network of National Human Rights Institutions (ENNHRI) in the framework of project regarding human rights of older persons, which was held on 27 and 28 September 2016 in Brussels, which also was celebration of the International Day of the Elderly in the European Parliament. The Advisory Group is organized with the aim of considering a draft report on the human rights of elderly persons placed in institutions, which is compiled on the basis of the monitoring performed by the national human rights institutions in six pilot countries: Croatia, Lithuania, Romania, Germany, Hungary and Belgium. This report contains recommendations for improving the human rights situation of elderly persons in institutions, as well as an instrument to promote the establishment of standards for institutional care for the elderly.



The annual meeting of the General Assembly of the European Network of National Human Rights Institutions (ENNHRI), held on 27 and 28 October in Zagreb, at which members of the Network discussed the current challenges and developments in the field of protection and promotion of human rights, as well as plans for further activities of the Network. Special attention during the two-day meeting was devoted to human rights in the context of the fight against terrorism, and the General Assembly, in addition to ENNHRI members, was attended by representatives of the European Commission, the Council of Europe, EQUINET, the EU Agency for Human Rights (FRA), UN Committee on the elimination of racial discrimination (CERD), the OSCE and Amnesty International.

The Conference of the network of National Preventive Mechanisms of Southeast Europe on the occasion of the tenth anniversary of the adoption of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT), which was held on 29 and 30 November in Zagreb, with special emphasis on the lessons learned and improving the system of monitoring the implementation of recommendations of the NPM.

The conference of the European network of equality bodies (EQUINET) entitled "Different, inclusive and equal: Innovations in the intersectionality of gender equality" was held on 7 December 2016 in Brussels. The conference was aimed to put into focus groups that are often invisible in the existing legal framework and jurisprudence, as well as to exchange experiences about the challenges of the actual application intersectional approach to equality.

Annual Conference of Ombudsman for Children of South East Europe (CRONSEE) entitled "The role of the Ombudsman in the protection of refugee and migrants' children" was held in Skopje on 14 and 15 December 2016. The theme of the two-day conference was to protect the rights and interests of migrants' children, obstacles in determining the best interests of children on the move, especially for unaccompanied children, the risks of abuse, violence and neglect, cases of discrimination and identification of the minors and problems of family separation.

In accordance with their obligations and mandate of national institutions for the protection of human rights accredited in the status "A", the Ombudsmen continued interaction with the treaty bodies of the UN and the Office of the High Commissioner for Human Rights of the UN, through the drafting of submissions and making contributions, filling questionnaires and through direct contacts on issues relevant for Bosnia and Herzegovina.

In parallel with these activities, the Ombudsman Institution was also a part of the global initiatives and it participated in important meetings at the global level. Some of these meetings are:

Conference "The conflict in relation to sexual violence - Lessons Learned from Bosnia and Georgia", organized by UNICEF, through the IASC Child Protection Sub Cluster and Kvinna till Kvinna, held on 23 May in Kiev, with the aim to open discussion on the topic of sexual violence during the conflict, in connection with the conflict in eastern Ukraine, and making recommendations for the next steps in the fight against sexual violence during the conflict.

The conference on the prevention of human trafficking for labor exploitation in the supply chain was held on 7 and 8 September in Berlin. The theme of the conference, organized by the Office of the Special Representative of the OSCE and Coordinator for Combating Trafficking in Human Beings, was related to the prevention of human trafficking in the supply chain with a focus on practice and measures of the governments.

Regional Conference organized by the UNDP, which was held on 5 December in Istanbul, and was dedicated to the role of national human rights institutions in the implementation of Agenda 2030 on sustainable development and the goals of sustainable development.

### **12.3. Regional cooperation**

Commitment of the Ombudsmen to strengthening regional cooperation has over the years resulted in significant progress especially in the resolution of individual complaints of human rights violations in issues that have a regional dimension and cross national borders. There has been rapid and effective co-operation that enables the citizens of Bosnia and Herzegovina, through the Institution of Ombudsman of Bosnia and Herzegovina, to address the competent institutions outside the borders of Bosnia and Herzegovina.

At the same time, the Ombudsmen continue with the development of good and productive relations with ombudsmen from the region by maintaining a series of bilateral meetings and extending this cooperation to specialized bodies as well, and in this sense we stress visiting the headquarters of the Institution of Ombudsman of Bosnia and Herzegovina in Banja Luka by Commissioner for Equality of Serbia, Brankica Janković with associates in April, which was aimed at exchange of experience in dealing with cases of discrimination and the establishment of a regional forum for discussion of issues of combating discrimination.

Lack of regional cooperation in the fight against discrimination created the need for maintenance of even wider professional debate and therefore, in the framework of the Program of celebrating twenty years of existence and work of the Ombudsman for Human Rights of Bosnia and Herzegovina in Sarajevo on 17 October 2016, with the support of the OSCE Mission to Bosnia and Herzegovina, was held Regional Conference of ombudsmen and equality bodies of treatment in cases of discrimination at which was introduced the Manual for treatment in cases of discrimination made by the Institution of Ombudsman for Human rights of Bosnia and Herzegovina. At the same time, this was an opportunity for the participants to the conference, the ombudsman and representatives of regional equality bodies from the Croatian, Serbia, Montenegro, Albania, Slovenia and Macedonia, to discuss the future directions of mutual cooperation and the possibilities of realization of joint activities. The continuation of this cooperation was maintenance of "First Regional Forum for Equality Bodies of Southeast Europe", on 16 November in Belgrade, organized by the CPE of the Republic of Serbia, in the light of the International Day of Tolerance, where was signed Declaration on cooperation between the regional equality bodies and the ombudsmen that have this mandate.

Topics and activities in 2016 that were particularly interesting for equality bodies were related to migrations and the rights of refugees, the rights and protection of children on the move,

strengthening of active transparency and the fight against corruption in transitional societies, execution of criminal sanctions and best practices of national preventive mechanisms. The Ombudsmen and representatives of the Institutions actively participated in professional meetings to offer their knowledge and share experiences with practitioners from the region, and below we list just some of the conferences:

Workshop: "The use of force by the police", which was held in Skopje on 30 and 31 March, organized by the European Commission (TAIEX) in cooperation with the Office of the Ombudsman of the Republic of Macedonia.

XXVIII International Scientific Conference entitled "Criminal and misdemeanor sanctions and measures: imposing, execution and parole." Scientific Conference was organized by the Institute for Criminological and Sociological Research, held from 2 to 3 June 2016, at Palić, Serbia, which has brought together eminent experts and scholars from the countries in the region and other countries of Europe and the world.

The international conference entitled "Protection of human rights in Montenegro: The application of domestic remedies, judicial and non-judicial mechanisms by legal experts" was held on 28 June 2016 in Podgorica, Montenegro.

"Legal protection in the field of discrimination in South East Europe" conference organized by the German GIZ, was held in Budva from 27 to 30 June 2016, at which was presented regional study on the situation in the countries regarding the fight against discrimination, the capacity of institutions, instruments of legal protection and the application of anti-discrimination legislation.

Regional Conference for national preventive mechanisms, organized by the Ombudsman of the Republic of Macedonia, with the support of the High Commissioner for Human Rights of the United Nations, which took place on 3 and 4 November 2016 in Ohrid. The focus of the conference was right to asylum and the formal and informal return of migrants and refugees. Special attention during the conference was dedicated to accessing asylum, procedure carried out in each country on the migration route, as well as the issue of non-return and protection of vulnerable groups such as unaccompanied minors, women and elderly.

### **XIII COOPERATION WITH NON-GOVERNMENTAL AND CIVIL SECTOR**

In 2016 the Ombudsmen have registered and made significant number of requests for cooperation and participation in various activities of non-governmental organizations. As in previous years, the Institution of the Ombudsman, in relation to the limited capacity and implementation of numerous activities, sought to answer most calls, with the aim of maintaining a high degree of cooperation with the civil sector.

Recognizing the importance of this cooperation, in early 2016 the Ombudsmen held two consultative meetings in Sarajevo and Banja Luka with representatives of non-governmental organizations. The main objectives of these meetings were the exchange of information and experiences in the protection and promotion of human rights with special emphasis on cooperation between the Institution of Ombudsman for Human Rights and non-governmental organizations. The meetings were also important for creation of a list of priorities and issues that require greater involvement of the Ombudsman, which are incorporated into the strategy of action and work plans for the period 2016-2021. Also, on this occasion were discussed further models of cooperation and measures for improvement of cooperation with NGOs. These consultations with civil society help the Institution to adequately organize its priorities for action and concretely establish cooperation with individual NGOs or coalitions.

During 2016 the field in which Ombudsmen mostly cooperated with non-governmental organizations related to the issues of protection of marginalized groups, persons with disabilities, women's rights, the rights of children belonging to minority groups and the fight against discrimination. As in previous years, the Ombudsmen continued its successful cooperation with organizations My Rights, Coalition for strategy and equalization of opportunities and rights of persons with disabilities of Una-Sana Canton, the Coalition of marginalized groups (KOMA), Your Rights of Bosnia and Herzegovina, and it was enhanced cooperation with the Association for democratic initiatives (ADI), Sarajevo open Centro (SOC) and others.

In the area of strengthening and promoting the establishment of a system of access to justice and establishment of an efficient system of free legal aid, the Institution of Ombudsman has continued to cooperate with the organization Your Rights of Bosnia and Herzegovina. Cooperation with Your Rights of Bosnia and Herzegovina was demonstrated through the participation of representatives of the Ombudsman Institution in the conference on the theme: "The Rule of Law and Access to Justice in Bosnia and Herzegovina" organized by the Association "Your Rights of Bosnia and Herzegovina" and Royal Embassy of Holland in Bosnia and Herzegovina. The aim of the conference was to exchange views on the legal and institutional framework for the establishment of a comprehensive system of free legal aid in Bosnia and Herzegovina, in order to create a more efficient and open justice sector, and to help the people of Bosnia and Herzegovina and its institutions to meet obligations in the EU integration. Special emphasis was placed on strengthening the rule of law and access to justice in Bosnia and Herzegovina. In the context of continuing cooperation with the Association Your Rights representatives of the Ombudsman Institution have contributed to the seminar that was related to labor-legal disputes and protection of the rights of workers-mobbing, harassment and

discrimination, at which were considered the most effective mechanism to protect workers, the possibility of providing legal aid to workers regarding the practical problems that are present in particular in disputes about proving discrimination and mobbing.

In the field of protection of children's rights the Institution has continued to cooperate with the coalition of NGOs network for children's rights "Stronger voice for children" and Save the Children. During 2016 the Ombudsmen together with Save the Children started activities on the project LYRA "Young Roma Leaders in Action" program that aims to strengthen young Roma and non-Roma activists to take action at the local, national and regional levels, in order to ensure social inclusion, non-discrimination and protection of the Roma population.

In order to protect the rights of children, at the headquarters of the Institution of Ombudsman for Human Rights of Bosnia and Herzegovina in Banja Luka, a reception was held for children and representatives of the NGO "Hi There". On this occasion, the children got familiar with the role of the Institution of Ombudsman for Human Rights of Bosnia and Herzegovina in the realization of children's rights, especially when it comes to activities of the Department for monitoring the rights of the child, which is active within this Institution, and the perceived problems in their implementation.

The Institution of Ombudsmen for Human Rights of Bosnia and Herzegovina, taking into account the specific mandate and enhanced competencies in accordance with the Law on Prohibition of Discrimination, in 2016 achieved a successful cooperation with nongovernmental organizations dealing with discrimination through participation at their conferences, round tables, expert gatherings and promotional activities. For a number of activities during 2016, as significant may be highlighted activities of the Department for elimination of all forms of discrimination in the realization and protection of human rights of LGBT people at the conference entitled "Human Rights of LGBT people: presentation of the Pink report 2016." The conference on the occasion of 17 May, the International Day against Homophobia and Transphobia was organized by the Youth Center "KVART" from Prijedor and "Oštra Nula" from Banja Luka, in cooperation with Sarajevo Open Center. Representatives of the Ombudsman Institution took part in the annual conference of the Coalition "Equality for all" entitled: "The fight against discrimination in Bosnia and Herzegovina: Do we have effective mechanisms? The conference under the project" Equality for All: Civil Society Coalition against Discrimination ", was organized by Mediacentar Sarajevo in partnership with three organizations: the Center for social research, Analitika, Rights for All and Your rights of Bosnia and Herzegovina. The main objective of the conference was to contribute to the understanding of key concepts and activities, as well as challenges in establishing an effective system of protection against discrimination in Bosnia and Herzegovina. The conference discussed issues related to the role that the Institution of Ombudsman, courts and activities for collecting statistical data on discrimination, have in the efficient provision of rights of each individual to protection against discrimination.

The work of the Institution during 2016 was marked by the continuation of activities related to the initiative Open Government Partnership - *Open Government Partnership* (OGP) through participation at the conference entitled: "The launch of the Open Government Partnership in Bosnia and Herzegovina: (in)possible mission?". The conclusion of the conference was that the Bosnia and Herzegovina authorities should take actions in order to openness and transparency in

the work of the authorities, in particular through the improvement of Freedom of Access to Information Act, training civil servants, enhanced website of public institutions, the implementation of the commitments in the framework of initiatives Partnership for Open Government, debate and publication of the budgets of institutions in order to establish a credible and effective mechanisms, ensuring better views of the legislative authority over the process of planning and execution of the budget and the establishment of mechanisms of direct democracy and strengthening the influence of citizens.

A significant number of activities of representative of the Ombudsman Institution was related to participation in conferences in relation to the free media and open access to information such as: "Swedish Media Freedom Day: open access to information" organized by "Civil rights defenders," the Swedish Institute and the Embassy of the Kingdom of Sweden, and conference "Access to information and open data" in organization of "Transparency international Bosnia and Herzegovina."

## XIV OTHER IMPORTANT EVENTS

Human Rights Ombudsman of Bosnia and Herzegovina began its work in 2016 with a New Year's reception for representatives of the media, and thus underlined the important role that journalists and the media play in the affirmation and prevention of human rights violations. In an interview with reporters the Ombudsmen reiterated their commitment to strengthening partnerships with the media community and joint work on promotion of human rights.

Children's Week from 3 to 7 October 2016 was celebrated by a series of activities of Human Rights Ombudsman of Bosnia and Herzegovina that included: Meeting with young Roma advisors in the context of joint activities on the implementation of the project LYRA, which is led by Save the Children. Project LYRA "Young Roma in Action" is aimed at strengthening the skills and capacities of young leaders to identify common factors of exclusion and discrimination faced by the Roma, and then to prepare feasible and applicable action plans to address these problems through facilitating interstate exchange and networking and cooperation with civil society organizations.

Conference on mechanisms for the protection of children's rights in Bosnia and Herzegovina, jointly organized with the Network of NGOs for children in Bosnia and Herzegovina "Stronger Voice for Children," with the support of Save the Children, with the primary objective of improving the application of international standards and mechanisms for the protection of children in Bosnia and Herzegovina with special emphasis on the need to ratify the third optional protocol on communication procedures (OP3) with the United Nations Convention on the Rights of the Child.

The thematic session of the Joint Commission for Human Rights of the Parliamentary Assembly of Bosnia and Herzegovina and representatives of the Human Rights Ombudsman of Bosnia and Herzegovina at which was presented a document entitled: "Analysis of the situation in institutions accommodating minors in conflict with the law in Bosnia and Herzegovina", created as a result of cooperation between the Ombudsman Institution and UNICEF to provide a concrete contribution to the improvement of the institutional treatment of juveniles in conflict with the law.

Holding of a workshop on "Peer violence and violence on the Internet" in Electrical Engineering School "Nikola Tesla" in Banja Luka, Department for monitoring the rights of the child within the Institution of Ombudsman for Human Rights of Bosnia and Herzegovina.

Visit of the Ombudsmen and representatives of the Department for monitoring children's rights of the Institution of Ombudsman for Human Rights of Bosnia and Herzegovina to Elementary School "Osman Nakaš" in Sarajevo.

Visits of members of the group of children "In spe" that operates in non-governmental organization "Hi There" from Banja Luka and members of the group of children who are active in non-governmental organization "Our Children" from Sarajevo to offices of the Institution of Ombudsman for Human Rights of Bosnia and Herzegovina in Banja Luka and Sarajevo.

Celebration of 20 years of work and activities of the Institution of Ombudsman for Human Rights, under the motto "Equal in Diversity", was marked by a series of activities during 2016, which in the focus put problems faced today by vulnerable categories of society: children, the disabled, the elderly, returnees, minorities (Roma, LGBT) women and the like. The Final event of celebration was held on 17 and 18 October, with the organization of two major conferences, the first of regional character which brought together ombudsmen and commissioners for equality in the region and the second one of international character which brought together international experts and practitioners in the field of human rights, lawyers, judges, representatives of legislative and executive authorities, civil society organizations, international organizations, representatives of the academic community and all those who in the last 20 years in any way contributed to the work of the Ombudsman for Human rights of Bosnia and Herzegovina.

The signing of the Agreement on Cooperation between the Institution and public and private universities in Bosnia and Herzegovina, in November in Banja Luka was a step forward and formalization of cooperation with the academic community in order to increase the level of information and education of students in the field of exercise, protection and promotion of human rights. The Agreement establishes a framework for the development of partnership cooperation of the parties to the Agreement through various forms of activities and assistance, as well as exchange of information and mutual consultation in the implementation of projects and activities. At the same time, all interested students of the final year of law faculties are offered not only theoretical knowledge acquired during their education, but also to acquire practical knowledge in the Institution of Ombudsman for Human Rights of Bosnia and Herzegovina.

Participation of the Ombudsman at the conference "Where begins hate speech, stops freedom of speech" on the occasion of 10 December - International Human Rights Day organized by the Ministry of Human Rights and Refugees of Bosnia and Herzegovina with support of the European Union project "Support to providers of social welfare and improvement of the capacities for monitoring – EU SOCEM“.



**XV TABLE OF RECOMMENDATIONS**

<b>NUMBER OF RECOMMENDATION</b>	<b>NUMBER OF COMPLAINT</b>	<b>ADDRESSED TO THE AUTHORITY</b>	<b>VIOLATION OF RIGHT</b>	<b>DATE OF RECOMMENDATION</b>	<b>IMPLEMENTATION</b>	<b>ANSWER RECEIVED</b>
P-1/16	Ž-SA-04-601/15	CENTER FOR SOCIAL WORK EASTERN ILIDŽA, EASTERN ILIDŽA, Attn. DIRECTOR	24 - SOCIAL PROTECTION	4.1.2016	NOT COOPERATION ACHIEVED	YES
P-2/16	Ž-SA-05-166/15, Ž-SA-05-569/15,	MUNICIPALITY NOVO SARAJEVO Attn. HEAD OF MUNICIPALITY, ATTN. CHAIR OF MUNICIPAL COUNCIL	19 - ADMINISTRATION	4.1.2016	COOPERATION ACHIEVED	YES
P-3/16	Ž-MO-05-194/15	CITY OF MOSTAR, Attn. MAYOR OF MOSTAR	03 – ACCESS TO INFORMATION	7.1.2016	PARTIALLY IMPLEMENTED	YES
P-4/16	Ž-MO-05-179/15	BAR ASSOCIATION OF FBIH ATTN. DISCIPLINARY PROSECUTOR SARAJEVO	15 – PROPERTY ISSUES	7.1.2016	NO ANSWER	NO
P-5/16	Ž-SA-01-14/16	CANTONAL PROSECUTOR'S OFFICE OF CANTON SARAJEVO, CANTON SARAJEVO, SIPA EAST SARAJEVO	13 – RIGHTS OF THE CHILD	19.1.2016	COOPERATION ACHIEVED	YES
P-6/16	Ž-BR-05-167/15,	SPORT FISHING ASSOCIATION OF BRČKO DISTRICT OF BIH	03 - ACCESS TO INFORMATION -- 03-1 - FAILURE TO DECIDE WITHIN LEGAL DEADLINE	27.1.2016	PARTIALLY IMPLEMENTED	YES
P-7/16	Ž-BL-04-17/16	AGENCY FOR CIVIL SERVICE OF THE REPUBLIC OF SRPSKA, MINISTRY OF ADMINISTRATION AND LOCAL SELF-GOVERNANCE OF THE REPUBLIC OF SRPSKA	10 - LABOR RELATIONS	21.1.2016	IMPLEMENTED	YES
P-8/16	Ž-SA-05-1366/14	MUNICIPALITY HADŽIĆI – CIVIL PROTECTION SERVICE – ATTN. HEAD OF MUNICIPALITY HADŽIĆI	19 - ADMINISTRATION	27.1.2016	IMPLEMENTED	YES
P-9/16	Ž-LI-05-181/15	FEDERATION MINISTRY OF VETERANS AND DISABLED VETERANS OF DEFENSIVE-LIBERATION WAR, SARAJEVO	19 - ADMINISTRATION	28.1.2016	IMPLEMENTED	YES
P-10/16	Ž-LI-05-339/15	CANTONAL COURT OF LIVNO	09 - COURTS	28.1.2016	IMPLEMENTED	YES

P-11/16	Ž-LI-04-362/15	MINISTRY OF LABOR, HEALTH, WELFARE AND DISPLACED PERSONS OF CANTON 10	10 - LABOR RELATIONS	28.1.2016	COOPERATION ACHIEVED	YES
P-12/16	Ž-BL-02-620/15	LEGISLATIVE BODIES OF BOSNIA HERZEGOVINA	12 - PERSONS WITH DISABILITIES	29.1.2016	COOPERATION ACHIEVED	YES
P-13/16	Ž-BL-06-533/15	MINISTRY OF INTERNAL AFFAIRS OF THE REPUBLIC OF SRPSKA	01 - DISCRIMINATION -- 01-12 – ON THE GROUND OF NATIONAL OR SOCIAL ORIGIN	29.1.2016	NOT IMPLEMENTED	YES
P-14/16	Ž-BL-06-780/14	MINISTRY OF TRANSPORT AND COMMUNICATIONS OF BOSNIA AND HERZEGOVINA	01 - DISCRIMINATION -- 01-15 – ON THE GROUND OF FINANCIAL STATUS	29.1.2016	IMPLEMENTED	YES
P-15/16	Ž-SA-06-422/15	GOVERNMENT OF THE FEDERATION OF BOSNIA AND HERZEGOVINA, SARAJEVO	01 - DISCRIMINATION -- 01-18 – ON THE GROUND OF SOCIAL STATUS AND GENDER	29.1.2016	COOPERATION ACHIEVED	YES
P-16/16	Ž-BL-01-346/15	MIXED SECONDARY SCHOOL SANSKI MOST	13 – THE RIGHTS OF THE CHILD	1.2.2016	NOT IMPLEMENTED	YES
P-17/16	Ž-SA-04-851/15	UNIVERSITY OF BIHAĆ, ECONOMY FACULTY ATTN. FACULTY COUNCIL, ATTN. UNIVERSITY DEAN OF BIHAĆ UNIVERSITY SENATE, ATTN. SENATE MEMBERS	11 - EDUCATION	1.2.2016	NO ANSWER	NO
P-18/16	Ž-BL-05-800/15, Ž-BL-06-711/15, Ž-BL-06-761/15	„BOKSIT“ MILIĆI DOO	01 - DISCRIMINATION -- 01-03 - MOBBING	4.2.2016	NO ANSWER	NO
P-19/16	Ž-BL-06-719/15	MUNICIPALITY JAJCE	01 - DISCRIMINATION -- 01-11 – ON THE GROUND OF ETHNICITY	18.2.2016	IMPLEMENTED	YES
P-20/16	Ž-BL-04-494/15	REPUBLIC ADMINISTRATION FOR INSPECTIONS BANJA LUKA	10 - LABOR RELATIONS	24.2.2016	IMPLEMENTED	YES
P-21/16	Ž-BL-04-722/14	PRIMARY SCHOOL "DOSITEJ OBRADOVIĆ" KNEŽEVO, MINISTRY OF EDUCATION AND CULTURE OF THE REPUBLIC OF SRPSKA	11 - EDUCATION	25.2.2016	IMPLEMENTED	YES

P-22/16	Ž-BL-04-132/15	MINISTRY OF LABOR AND SOCIAL POLICY FEDERATION OF BOSNIA AND HERZEGOVINA THE GOVERNMENT OF THE FEDERATION OF BOSNIA AND HERZEGOVINA	10 – LABOR RELATIONS	25.2.2016	IMPLEMENTED	YES
P-23/16	Ž-BL-05-651/15	MUNICIPALITY JEZERO	19 - ADMINISTRATION	25.2.2016	NO ANSWER	NO
P-24/16	Ž-SA-04-9/16	GOVERNMENT OF THE FEDERATION OF BOSNIA AND HERZEGOVINA, SARAJEVO	10 - LABOR RELATIONS	26.2.2016	COOPERATION ACHIEVED	YES
P-25/16	Ž-SA-05-1226/15	PRIMARY SCHOOL " DŽEMALUDIN ČAUŠEVIĆ" SCHOOL BOARD SARAJEVO	15 – PROPERTY ISSUES	26.2.2016	NO ANSWER	NO
P-26/16	Ž-SA-04-117/16	UNIVERSITY OF SARAJEVO, FACULTY OF MEDICINE SARAJEVO, FACULTY SENATE SARAJEVO	10 - LABOR RELATIONS	26.2.2016	IMPLEMENTED	YES
P-27/16	Ž-SA-04-891/15	CANTON SARAJEVO MINISTRY OF EDUCATION, SCIENCE AND YOUTH ATTN. MINISTER, SARAJEVO	10 - LABOR RELATIONS	26.2.2016	NO ANSWER	NO
P-28/16	Ž-MO-04-203/13	GOVERNMENT OF THE FEDERATION OF BOSNIA AND HERZEGOVINA, SARAJEVO	10 - LABOR RELATIONS	29.2.2016	NO ANSWER	NO
P-29/16	Ž-MO-05-10/15	MUNICIPALITY NEUM, MUNICIPAL COUNCIL NEUM	22 - GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	29.2.2016	NO ANSWER	NO
P-30/16	Ž-BL-04-781/15	MINISTRY OF LABOR AND VETERANS AND DISABLEMENT PROTECTION OF THE REPUBLIC OF SRPSKA	10 - LABOR RELATIONS	2.3.2016	IMPLEMENTED	YES
P-31/16	Ž-BL-06-695/15	MINISTRY OF HEALTH AND SOCIAL WELFARE OF THE REPUBLIC OF SRPSKA	01 - DISCRIMINATION - 01-03 - MOBBING	2.3.2016	NOT IMPLEMENTED	YES
P-32/16	Ž-BL-05-728/14	MUNICIPALITY PRNJAVOR MINISTRY OF SPATIAL PLANNING, CONSTRUCTION AND ECOLOGY OF THE REPUBLIC OF SRPSKA	19 - ADMINISTRATION	2.3.2016	COOPERATION ACHIEVED	YES

P-33/16	Ž-LI-05-131/15	FEDERATION MINISTRY OF AGRICULTURE, WATER MANAGEMENT AND FORESTRY SARAJEVO	19 - ADMINISTRATION	5.4.2016	IMPLEMENTED	YES
P-34/16	Ž-BL-05-611/15	PRIMARY SCHOOL, „JALA“ TUZLA	03 - ACCESS TO INFORMATION -- 03-1 - FAILURE TO DECIDE WITHIN LEGAL DEADLINE	7.3.2016	IMPLEMENTED	YES
P-35/16	Ž-BL-05-782/15	MINISTRY OF SPATIAL PLANNING CONSTRUCTION AND ECOLOGY OF THE REPUBLIC OF SERBIAN	19 - ADMINISTRATION	9.3.2016	IMPLEMENTED	YES
P-36/16	Ž-BL-04-31/16	MINISTRY OF INTERNAL AFFAIRS OF THE REPUBLIC OF SRPSKA	10 - LABOR RELATIONS	28.3.2016	NOT IMPLEMENTED	YES
P-37/16	Ž-BL-05-523/14	REPUBLIC ADMINISTRATION FOR GEODETIC AND PROPERTY AFFAIRS, BRANCH NOVI GRAD	19 - ADMINISTRATION	15.3.2016	IMPLEMENTED	YES
P-38/16	Ž-BL-06-738/15	ADMINISTRATION FOR INDIRECT TAXATION	01 - DISCRIMINATION - 01-03 - MOBBING	29.3.2016	IMPLEMENTED	YES
P-39/16	Ž-BL-06-142/16	CITY OF DOBOJ	01 - DISCRIMINATION	29.3.2016	IMPLEMENTED	YES
P-40/16	Ž-BL-06-718/15	CITY OF PRIJEDOR	01 - DISCRIMINATION -- 01-11 – ON THE GROUND OF ETHNICITY	29.3.2016	IMPLEMENTED	YES
P-41/16	Ž-BL-04-429/15	CENTER FOR SOCIAL WORK MODRIČA	24 - SOCIAL PROTECTION	29.3.2016	COOPERATION ACHIEVED	YES
P-42/16	Ž-BL-04-735/14	REPUBLIC ADMINISTRATION OF INSPECTION, EDUCATION INSPECTION MINISTRY OF EDUCATION AND CULTURE OF THE REPUBLIC OF SRPSKA	10 - LABOR RELATIONS	29.3.2016	NOT IMPLEMENTED	NO
P-43/16	Ž-BL-05-204/15	REPUBLIC ADMINISTRATION FOR GEODETIC AND PROPERTY AFFAIRS KNEŽEVO	26 – PROSECUTOR'S OFFICES	29.3.2016	COOPERATION ACHIEVED	YES
P-44/16	Ž-BL-04-43/16,	CENTER FOR SOCIAL WORK PRNJAVOR	10 - LABOR RELATIONS I	29.3.2016	NOT IMPLEMENTED	YES
P-45/16	Ž-BL-05-406/15	MUNICIPALITY HAN PIJESAK	15 – PROPERTY ISSUES	29.3.2016	NO ANSWER	NO

P-46/16	Ž-BL-05-25/16	RADIO TELEVISION OF THE REPUBLIC OF SRPSKA BANJA LUKA	03 – ACCESS TO INFORMATION -- 03-2 - REFUSAL OF ACCESS TO INFORMATION	29.3.2016	NO ANSWER	NO
P-47/16	Ž-BL-02-733/15	CITY OF BANJA LUKA	12 - PERSONS WITH DISABILITIES	4.4.2016	IMPLEMENTED	NO
P-48/16	Ž-SA-04-1080/15	FEDERATION PENSION AND DISABILITY INSURANCE MOSTAR CANTONAL ADMINISTRATIVE SERVICE ZENICA SECTION SETTling THE RIGHTS PDI ZENICA	25 - PENSIONS	7.4.2016	COOPERATION ACHIEVED	YES
P-49/16	Ž-SA-05-112/16	MUNICIPALITY ILIDŽA ATTN. HEAD OF MUNICIPALITY SARAJEVO	15 - PROPERTY ISSUES	7.4.2016	NOT IMPLEMENTED	YES
P-50/16	Ž-LI-05-3/16	MUNICIPAL COUNCIL DRVAR	22 - GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	22.4.2016	IMPLEMENTED	YES
P-51/16	Ž-SA-05-781/15	GOVERNMENT OF ZENICA-DOBOJ CANTON ATTN. PRIME-MINISTER, MINISTRY OF HEALTH OF ZENICA-DOBOJ CANTON, ATTN. MINISTER	22 - GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	4.4.2016	COOPERATION ACHIEVED	YES
P-52/16	Ž-SA-05-1072/15	CANTON SARAJEVO MINISTRY OF EDUCATION, SCIENCE AND CULTURE SARAJEVO, ATTN. MINISTER	19 - ADMINISTRATION	13.4.2016	IMPLEMENTED	YES
P-53/16	Ž-BR-01-290/15	1- CANTONAL ASSEMBLY TUZLA ATTN PRESIDENT 2- GOVERNMENT OF CANTON TUZLA ATTN. PRIME-MINISTER 3-HEALTH INSURANCE FUND OF CANTON TUZLA, ATTN. DIRECTOR	13 - THE RIGHTS OF THE CHILD	24.5.2016	NOT IMPLEMENTED	YES
P-54/16	Ž-SA-05-521/15	GOVERNMENT OF CANTON TUZLA, ATTN. PRIME-MINISTER	22 GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	11.5.2016	NOT IMPLEMENTED	NO

P-55/16	Ž-SA-06-1126/15	ADMINISTRATION FOR INDIRECT TAXATION OF BOSNIA AND HERZEGOVINA, ATTN. DIRECTOR, CENTRAL OFFICE BANJA LUKA	01 - DISCRIMINATION	12.5.2016	IMPLEMENTED	YES
P-56/16	Ž-SA-06-1088/13, Ž-SA-06-167/12	FEDERATION INSTITUTION FOR PENSION AND DISABILITY INSURANCE, ATTN. DIRECTOR, MOSTAR	01 - DISCRIMINATION - 01-03 - MOBBING	13.5.2016	IMPLEMENTED	YES
P-57/16	Ž-SA-01-26/16	CENTER FOR SOCIAL WORK JAJCE, JAJCE	13 – THE RIGHTS OF THE CHILD	13.5.2016	COOPERATION ACHIEVED	YES
P-58/16	Ž-SA-05-558/15	CLINICAL CENTER OF UNIVERSITY OF SARAJEVO, DEPARTMENT FOR PUBLIC RELATIONS, SARAJEVO	03 – ACCESS TO INFORMATION	13.5.2016	NO ANSWER	NO
P-59/16	Ž-SA-05-1383/14	MUNICIPALITY TRAVNIK, GENERAL ADMINISTRATION, ATTN. HEAD OF MUNICIPALITY	03 - ACCESS TO INFORMATION	13.5.2016	IMPLEMENTED	YES
P-60/16	Ž-SA-05-324/16	HIGH JUDICIAL AND PROSECUTORIAL COUNCIL OF BOSNIA AND HERZEGOVINA AND THE MINISTRIES OF JUSTICE OF BOSNIA AND HERZEGOVINA	09 - COURTS	27.5.2016	COOPERATION ACHIEVED	YES
P-61/16	Ž-BL-05-119/16	MUNICIPAL COURT OF VELIKA KLADUŠA	09 - COURTS -- 09-2 - DURATION OF PROCEEDINGS (ARTICLE 6)	17.5.2016	IMPLEMENTED	YES
P-62/16	Ž-BL-04-88/16	TAX ADMINISTRATION BANJA LUKA	10 – LABOR RELATIONS	17.5.2016	IMPLEMENTED	YES
P-63/16	Ž-BL-05-56/16	HEALTH INSTITUTION HEALTH CENTER BIHAĆ	03 – ACCESS TO INFORMATION -- 03-2 - REFUSAL OF ACCESS TO INFORMATION	17.5.2016	NO ANSWER	NO
P-64/16	Ž-BL-05-206/16	MINISTRY OF FINANCE OF UNASANA CANTON	09 - COURTS -- 09-3 - EXECUTION OF JUDGMENTS	17.5.2016	IMPLEMENTED	YES
P-65/16	Ž-BL-05-740/15	MUNICIPALITY ZENICA	15 – PROPERTY ISSUES	17.5.2016	NO ANSWER	NO

P-66/16	Ž-BL-04-15/16	PUBLIC COMMUNAL COMPANY "COMB" DOO BUŽIM	10 – LABOR RELATIONS	17.5.2016	IMPLEMENTED	YES
P-67/16	Ž-BL-05-737/14	CITY OF BANJA LUKA	19 - ADMINISTRATION	17.5.2016	NOT IMPLEMENTED	YES
P-68/16	Ž-BL-05-125/16	AGENCY FOR CIVIL SERVICE OF THE REPUBLIC OF SRPSKA	03 – ACCESS TO INFORMATION -- 03-2 - REFUSAL OF ACCESS TO INFORMATION	17.5.2016	NOT IMPLEMENTED	YES
P-69/16	Ž-BL-04-95/16	WATER SUPPLY AND SEWERAGE A. D. BROD	10 - LABOR RELATIONS	17.5.2016	Not IMPLEMENTED	YES
P-70/16	Ž-BL-05-140/16	MINISTRY OF SPATIAL PLANNING, CONSTRUCTION AND ECOLOGY OF THE REPUBLIC OF SRPSKA	03 – ACCESS TO INFORMATION -- 03-2 - REFUSAL OF ACCESS TO INFORMATION	17.5.2016	NO ANSWER	NO
P-71/16	Ž-BL-05-193/16	MINISTRY OF JUSTICE OF BOSNIA AND HERZEGOVINA	28 – CORRUPTION CASES	17.5.2016	IMPLEMENTED	YES
P-72/16	Ž-BL-05-102/16	MINISTRY OF LABOR AND VETERANS DISABLEMENT PROTECTION OF THE REPUBLIC OF SRPSKA	03 - ACCESS TO INFORMATION - 03-1 - FAILURE TO DECIDE WITHIN LEGAL DEADLINE	17.5.2016	NOT IMPLEMENTED	YES
P-73/16	Ž-BL-05-471/15	CITY OF BIHAĆ, FEDERATION ADMINISTRATION FOR GEODETIC AND PROPERTY AFFAIRS	15 –PROPERTY ISSUES	17.5.2016	NO ANSWER	NO
P-74/16	Ž-BL-01-754/15	SECONDARY SCHOOL CENTER "NIKOLA TESLA" BROD	13 – THE RIGHTS OF THE CHILD	17.5.2016	IMPLEMENTED	YES
P-75/16	Ž-BL-04-725/14	MINISTRY OF HUMAN RIGHTS AND REFUGEES OF BOSNIA AND HERZEGOVINA MINISTRY OF REFUGEES AND DISPLACED PERSONS OF THE REPUBLIC OF SRPSKA	24 – SOCIAL PROTECTION	17.5.2016	COOPERATION ACHIEVED	YES
P-76/16	Ž-SA-05-36/16	MUNICIPALITY DOBOJ JUG	15 - PROPERTY ISSUES	17.5.2016	COOPERATION ACHIEVED	YES
P-77/16	Ž-BL-06-97/16	UNIVERSITY OF BANJA LUKA FACULTY OF AGRICULTURE	01 - DISCRIMINATION - 01-03 - MOBBING	30.5.2016	PARTIALLY IMPLEMENTED	YES

P-78/16	Ž-BL-05-650/15	MINISTRY OF REFUGEES AND DISPLACED PERSONS OF THE REPUBLIC OF SRPSKA	15 – PROPERTY ISSUES	30.5.2016	NO ANSWER	NO
P-79/16	Ž-BL-06-64/16	UNIVERSITY OF TUZLA FACULTY OF PHILOLOGY	01 - DISCRIMINATION - 01-03 - MOBBING	30.5.2016	IMPLEMENTED	YES
P-80/16	Ž-BL-04-674/15	HEALTH INSURANCE FUND OF THE REPUBLIC OF SRPSKA	23 – HEALTH CARE	30.5.2016	NOT IMPLEMENTED	YES
P-81/16	Ž-BL-06-445/15	TAX ADMINISTRATION OF THE REPUBLIC OF SRPSKA	01 - DISCRIMINATION - 01-14 – ON GROUND OF POLITICAL OR OTHER OPINION	17.5.2016	IMPLEMENTED	YES
P-82/16	Ž-BL-04-57/16	GYMNASIUM FRA GRGE MARTIĆA POSUŠJE MINISTRY OF EDUCATION, SCIENCE, CULTURE AND SPORTS OF WEST HERZEGOVINA CANTON	10 – LABOR RELATIONS	17.5.2016	NOT IMPLEMENTED	YES
P-83/16	Ž-BL-05-180/16	VOCATIONAL SECONDARY SCHOOL POSUŠJE	03 – ACCESS TO INFORMATION -- 03-2 - REFUSAL OF ACCESS TO INFORMATION	17.5.2016	NOT IMPLEMENTED	YES
P-84/16	Ž-SA-05-295/14	CANTONAL PROSECUTOR'S OFFICE ZENICA-DOBOJ CANTON ZENICA	26 – PROSECUTOR'S OFFICES	23.5.2016	COOPERATION ACHIEVED	YES
P-85/16	Ž-SA-04-123/16	CENTER FOR CHILDREN AND YOUTH WITH SPECIAL NEEDS "LOS ROSALES" MOSTAR, ATTN. DIRECTOR, MOSTAR	10 - LABOR RELATIONS	23.5.2016	PARTIALLY IMPLEMENTED	YES
P-86/16	Ž-SA-05-48/16	CENTRAL BOSNIA CANTON, MINISTRY OF HEALTH AND SOCIAL POLICY TRAVNIK, ATTN. MINISTER	03 - ACCESS TO INFORMATION	23.5.2016	IMPLEMENTED	YES
P-87/16	Ž-SA-05-121/16	MUNICIPALITY NOVI GRAD SARAJEVO, SARAJEVO, ATTN HEAD OF MUNICIPALITY	03 - ACCESS TO INFORMATION	23.5.2016	IMPLEMENTED	YES
P-88/16	Ž-SA-05-549/15	HEALTH CENTER VITEZ, VITEZ	10 – LABOR RELATIONS	23.5.2016	IMPLEMENTED	YES
P-89/16	Ž-SA-05-130/16	MUNICIPALITY NOVI GRAD SARAJEVO, SARAJEVO, ATTN. HEAD OF MUNICIPALITY	03 - ACCESS TO INFORMATION	23.5.2016	NOT IMPLEMENTED	YES



P-90/16	Ž-SA-05-1082/14	MUNICIPALITY NOVI GRAD SARAJEVO, SARAJEVO, ATTN. HEAD OF MUNICIPALITY	03 - ACCESS TO INFORMATION -- 03-1 - FAILURE TO DECIDE WITHIN LEGAL DEADLINE	23.5.2016	IMPLEMENTED	YES
P-91/16	Ž-SA-05-737/15	GOVERNMENT OF FBIB SARAJEVO	19 - ADMINISTRATION	23.5.2016	NOT IMPLEMENTED	YES
P-92/16	Ž-SA-05-1187/15	CENTRAL BOSNIA CANTON, MINISTRY OF URBAN PLANNING, CONSTRUCTION, ENVIRONMENTAL PROTECTION, RETURN AND HOUSING AFFAIRS TRAVNIK, ATTN. MINISTER	03 - ACCESS TO INFORMATION -- 03-1 - FAILURE TO DECIDE WITHIN LEGAL DEADLINE	23.5.2016	NOT IMPLEMENTED	YES
P-93/16	Ž-BR-05-9/14	1- MINISTRY OF CIVIL AFFAIRS, DEPARTMENT OF CITIZENSHIP AND TRAVEL DOCUMENTS SARAJEVO 2- MINISTRY OF INTERNAL AFFAIRS OF TUZLA CANTON 3-MUNICIPALITY ZVORNIK, ADMINISTRATIVE SERVICE, DEPARTMENT OF GENERAL ADMINISTRATION ZVORNIK 4-CITY OF TUZLA, GENERAL ADMINISTRATION AND COMMON SERVICES TUZLA	17 - PUBLIC DOCUMENTS	24.5.2016	PARTIALLY IMPLEMENTED	YES
P-94/16	Ž-BR-04-59/15	1-MUNICIPALITY BANOVIĆI BANOVIĆI 2-MUNICIPALITY ŽIVINICE ŽIVINICE	24 – SOCIAL PROTECTION	24.5.2016	PARTIALLY IMPLEMENTED	YES
P-95/16	Ž-BR-05-257/15	GOVERNMENT OF BRČKO DISTRICT OF BOSNIA AND HERZEGOVINA -DEPARTMENT OF HEALTH AND OTHER SERVICES –SUB-DIVISION FOR SOCIAL PROTECTION BRČKO	19 - ADMINISTRATION	24.5.2016	Not IMPLEMENTED	YES
P-96/16	Ž-BR-01-92/15	1-MUNICIPALITY TEOČAK “SOCIAL WORK CENTER” TEOČAK 2-MUNICIPAL COURT KALESIJA KALESIJA	13 – THE RIGHTS OF THE CHILD	24.5.2016	COOPERATION ACHIEVED	YES

P-97/16	Ž-SA-04-200/16	“WATER SUPPLY AND SEWERAGE” D.O.O. SARAJEVO ATTN. DIRECTOR	21 – COMMUNAL SERVICES	24.5.2016	IMPLEMENTED	YES
P-98/16	Ž-SA-04-251/16	HEALTH CENTER OF SARAJEVO CANTON ATTN. DIRECTOR GENERAL	09 - COURTS	24.5.2016	IMPLEMENTED	YES
P-99/16	Ž-BR-05-226/15	RAILWAYS OF THE FEDERATION OF BOSNIA AND HERZEGOVINA LIMITED LIABILITY COMPANY SARAJEVO, BUSINESS AREA TUZLA	03 - ACCESS TO INFORMATION -- 03-1 - FAILURE TO DECIDE WITHIN LEGAL DEADLINE	24.5.2016	IMPLEMENTED	YES
P-100/16	Ž-BR-04-4/16	MUNICIPALITY LOPARE LOPARE	24 – SOCIAL PROTECTION	24.5.2016	PARTIALLY IMPLEMENTED	YES
P-101/16	Ž-SA-05-409/16	FEDERATION MINISTRY OF ENVIRONMENT AND TOURISM SARAJEVO	03 - ACCESS TO INFORMATION	30.5.2016	NO ANSWER	NO
P-102/16	Ž-SA-05-289/16	PUBLIC HEALTH INSTITUTE OF FBIH ATTN. DIRECTOR, SARAJEVO, FEDERATION MINISTRY OF HEALTH, ATTN. DIRECTOR, SARAJEVO	03 – ACCESS TO INFORMATION -- 03-2 - REFUSAL OF ACCESS TO INFORMATION	30.5.2016	IMPLEMENTED	YES
P-103/16	Ž-SA-02-902/15	FEDERATION INSTITUTE OF PENSION AND DISABILITY INSURANCE MOSTAR, CANTONAL ADMINISTRATIVE SERVICE ZENICA DEPARTMENT FOR SETTLEMENT OF THE RIGHTS OF PIO ZENICA	12 – PERSONS WITH DISABILITIES	30.5.2016	IMPLEMENTED	YES
P-104/16	Ž-BL-04-257/16	GOVERNMENT OF THE REPUBLIC OF SRPSKA PENSION AND DISABILITY INSURANCE FUND OF THE REPUBLIC OF SRPSKA	25 - PENSIONS	30.5.2016	NOT IMPLEMENTED	YES
P-105/16	Ž-BL-05-134/16	MUNICIPALITY GRADIŠKA	03 – ACCESS TO INFORMATION -- 03-2 - REFUSAL OF ACCESS TO INFORMATION	30.5.2016	IMPLEMENTED	YES

P-106/16	Ž-LI-04-391/15, Ž-LI-05-395/15, Ž-LI-05-40/16	MUNICIPAL COURT LIVNO	09 - COURTS -- 09-2 - DURATION OF PROCEEDINGS (ARTICLE 6)	14.6.2016	NOT IMPLEMENTED	YES
P-107/16	Ž-BL-06-359/16, Ž-SA-06-13/16, Ž-SA-06-615/15, Ž-SA-06-854/15	MINISTRY OF EDUCATION AND CULTURE OF THE REPUBLIC OF SRPSKA BANJA LUKA FEDERATION MINISTRY OF EDUCATION AND SCIENCE MOSTAR	01 – DISCRIMINATION 01-09-ON THE BASIS OF LANGUAGE	20.6.2016	COOPERATION ACHIEVED	YES
P-108/16	Ž-MO-05-12/15	MINISTRY OF INTERNAL Affairs OF ZENICA-DOBOJ CANTON, ATTN. MINISTER, ZENICA	03 – ACCESS TO INFORMATION -- 03-2 - REFUSAL OF ACCESS TO INFORMATION	21.6.2016	NOT IMPLEMENTED	YES
P-109/16	Ž-MO-04-35/16	HEALTH INSURANCE AND RE- INSURANCE FUND OF FBIH, SARAJEVO HEALTH INSURANCE INSTITUTE OF HNC, MOSTAR HEALTH INSURANCE FUND BD BIH, BRČKO HEALTH INSURANCE FUND CBC, TRAVNIK HEALTH INSURANCE INSTITUTE OF HBC, LIVNO HEALTH INSURANCE INSTITUTE OF ZDC, ZENICA HEALTH INSURANCE BPC GORAŽDE HEALTH INSURANCE INSTITUTE OF USC, BIHAĆ HEALTH INSURANCE WHC, GRUDE	23 – HEALTH CARE	22.6.2016	PARTIALLY IMPLEMENTED	YES
P-110/16	Ž-MO-05-175/15	MINISTRY OF HUMAN RIGHTS AND REFUGEES, SARAJEVO FEDERAL MINISTRY OF DISPLACED PERSONS AND REFUGEES, SARAJEVO MUNICIPALITY ČAPLJINA, ČAPLJINA	20 – WAR DAMAGES	22.6.2016	PARTIALLY IMPLEMENTED	YES
P-111/16	Ž-SA-05-308/15	SARAJEVO CANTON SARAJEVO CANTON GOVERNMENT, OFFICE OF THE PRIME MINISTER, ATTN. PRIME MINISTER	09 - COURTS -- 09-3 - EXECUTION OF JUDGMENTS	24.6.2016	NOT IMPLEMENTED	YES

P-112/16	Ž-BL-05-272/16	MUNICIPALITY NEVESINJE	22 – GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	26.9.2016	COOPERATION ACHIEVED	YES
P-113/16	Ž-BL-05-382/15	MINISTRY OF ADMINISTRATION AND LOCAL SELF-GOVERNANCE OF THE REPUBLIC OF SRPSKA	28 – CORRUPTION CASES	29.6.2016	IMPLEMENTED	YES
P-114/16	Ž-SA-05-276/16	MINISTRY OF FORESTRY, AGRICULTURE AND WATER MANAGEMENT OF CBC TRAVNIK	03 - ACCESS TO INFORMATION -- 03-1 - FAILURE TO DECIDE WITHIN LEGAL DEADLINE	29.6.2016	IMPLEMENTED	YES
P-115/16	Ž-SA-05-495/16	FEDERATION MINISTRY OF ENVIRONMENT AND TOURISM SARAJEVO	03 - ACCESS TO INFORMATION -- 03-1 - FAILURE TO DECIDE WITHIN LEGAL DEADLINE	29.6.2016	NOT IMPLEMENTED	YES
P-116/16	Ž-SA-05-163/16	GOVERNMENT OF SARAJEVO CANTON SARAJEVO ATTN. PRIME-MINISTER	19 - ADMINISTRATION	28.6.2016	IMPLEMENTED	YES
P-117/16	Ž-BL-02-195/16	MINISTRY OF COMMUNICATIONS AND TRANSPORT OF BOSNIA AND HERZEGOVINA	12 – PERSONS WITH DISABILITIES	1.7.2016	IMPLEMENTED	YES
P-118/16	Ž-BL-06-773/15	MUNICIPALITY JAJCE	01 - DISCRIMINATION -- 01-03 - MOBBING	4.7.2016	NO ANSWER	NO
P-119/16	Ž-BL-06-7/16	HIGH JUDICIAL AND PROSECUTORIAL COUNCIL OF BOSNIA AND HERZEGOVINA	01 - DISCRIMINATION -- 01-15 – ON GROUND OF FINANCIAL STATUS	7.7.2016	NO ANSWER	NO
P-120/16	Ž-BL-04-34/16	SOCIAL WORK CENTER DRVAR	24 – SOCIAL PROTECTION	4.7.2016	IMPLEMENTED	YES
P-121/16	Ž-BL-06-774/15	UNIVERSITY OF EAST SARAJEVO	01 - DISCRIMINATION	7.7.2016	IMPLEMENTED	YES
P-122/16	Ž-MO-05-204/15	MUNICIPALITY LJUBUŠKI LJUBUŠKI	22 GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	6.7.2016	NOT IMPLEMENTED	YES
P-123/16	Ž-MO-04-19/16	GOVERNMENT OF HNC, ATTN. PRESIDENT OF MOSTAR	10 – LABOR RELATIONS	6.7.2016	NO ANSWER	NO

P-124/16	Ž-MO-05-64/16	GOVERNMENT OF THE FEDERATION OF BOSNIA AND HERZEGOVINA SARAJEVO. ATTN PRIME-MINISTER	22 - GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	6.7.2016	NO ANSWER	NO
P-125/16	Ž-LI-05-13/16	ASSEMBLY OF CANTON 10, COMMISSION FOR ELECTION AND APPOINTMENTS	22 GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	13.7.2016	NOT IMPLEMENTED	YES
P-126/16	Ž-LI-04-103/16	DIRECTORATE FOR INSPECTION LIVNO	10 - LABOR RELATIONS	13.7.2016	NOT IMPLEMENTED	NO
P-127/16	Ž-LI-05-307/15	CANTONAL COURT LIVNO	09 - COURTS	13.7.2016	IMPLEMENTED	YES
P-128/16	Ž-SA-05-474/16	MINISTRY OF FINANCE-TAX ADMINISTRATION OF THE REPUBLIC OF SRPSKA, REGIONAL CENTER EAST SARAJEVO, REGIONAL UNIT OF EAST SARAJEVO, EAST SARAJEVO	03 - - ACCESS TO INFORMATION	20.7.2016	NO ANSWER	NO
P-129/16	Ž-SA-05-744/15	MUNICIPALITY PROZOR-RAMA, DEVELOPMENT, COMMERCIAL, CRAFTS AND FINANCE SERVICE, PROZOR- RAMA	03 - - ACCESS TO INFORMATION	20.7.2016	COOPERATION ACHIEVED	YES
P-130/16	Ž-SA-05-745/15	MUNICIPALITY LJUBUŠKI, BUDGET AND FINANCE DEPARTMENT UL. ZRINSKO-FRANKOPANSKA 71 88 320 LJUBUŠKI	03 - - ACCESS TO INFORMATION	20.7.2016	NO ANSWER	NO
P-131/16	Ž-BL-01-297/16	COUNTY PROSECUTOR'S OFFICE BANJA LUKA BASIC COURT BANJA LUKA CENTER FOR SOCIAL WORK BANJA LUKA	13 – THE RIGHTS OF THE CHILD	25.7.2016	COOPERATION ACHIEVED	YES
P-132/16	Ž-BL-05-130/16	FEDERATION MINISTRY OF DISPLACED PERSONS AND REFUGEES	15 – PROPERTY ISSUES	25.7.2016	IMPLEMENTED	YES
P-133/16	Ž-BL-04-742/15	MUNICIPALITY BUŽIM, MUNICIPAL COUNCIL	19 - ADMINISTRATION	25.7.2016	NOT IMPLEMENTED	YES

P-134/16	Ž-BL-05-434/15	GOVERNMENT OF THE FEDERATION OF BOSNIA AND HERZEGOVINA FEDERATION MINISTRY OF ENERGY, INDUSTRY AND MINING	22 - - GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	25.7.2016	NOT IMPLEMENTED	NO
P-135/16	Ž-BL-04-175/16, Ž-BL-04-176/16	RAILWAYS OF THE REPUBLIC OF SRPSKA	10 - - LABOR RELATIONS	25.7.2016	COOPERATION ACHIEVED	YES
P-136/16	Ž-BL-05-73/16, Ž-BL-05-74/16	MINISTRY OF FINANCE OF THE REPUBLIC OF SRPSKA	19 - ADMINISTRATION	25.7.2016	NO ANSWER	NO
P-137/16	Ž-BL-05-337/16	CENTER FOR SOCIAL WORK BANJA LUKA	03 – ACCESS TO INFORMATION -- 03-2 - REFUSAL OF ACCESS TO INFORMATION	25.7.2016	IMPLEMENTED	YES
P-138/16	Ž-LI-05-131/16	DEPARTMENT FOR VETERANS ISSUES TOMISLAVGRAD	03 - ACCESS TO INFORMATION	10.10.2016	NOT IMPLEMENTED	YES
P-139/16	Ž-SA-05-113/15	CANTONAL PROSECUTOR'S OFFICE OF CANTON SARAJEVO	26 – PROSECUTOR'S OFFICES	16.8.2016	NOT IMPLEMENTED	NO
P-140/16	Ž-BL-05-317/16	ELECTRIC TRANSMISSION OF BOSNIA AND HERZEGOVINA A.D. BANJA LUKA	03 – ACCESS TO INFORMATION -- 03-2 - REFUSAL OF ACCESS TO INFORMATION	23.8.2016	IMPLEMENTED	YES
P-141/16	Ž-BL-05-461/16	COUNCIL OF MINISTERS OF BOSNIA AND HERZEGOVINA	03 – ACCESS TO INFORMATION -- 03-2 - REFUSAL OF ACCESS TO INFORMATION	23.8.2016	NO ANSWER	NO
P-142/16	Ž-BL-06-331/16	UNIVERSITY HOSPITAL FOČA	01 - DISCRIMINATION -- 01-03 - MOBBING	23.8.2016	NO ANSWER	NO
P-143/16	Ž-BL-04-324/16	INDIRECT TAXATION ADMINISTRATION	10 – LABOR RELATIONS	23.8.2016	IMPLEMENTED	YES
P-144/16	Ž-BL-01-586/13	BASIC COURT MRKONJIĆ GRAD	13 – THE RIGHTS OF THE CHILD	23.8.2016	NOT IMPLEMENTED	YES
P-145/16	Ž-BL-05-212/16	UNIVERSITY OF BANJA LUKA OFFICE FOR QUALITY ASSURANCE	03 - ACCESS TO INFORMATION -- 03-1 - FAILURE TO DECIDE WITHIN LEGAL DEADLINE	24.8.2016	IMPLEMENTED	YES

P-146/16	Ž-SA-05-325/16, Ž-SA-05-326/16	GOVERNMENT OF THE FEDERATION OF BOSNIA AND HERZEGOVINA "BH POST" LTD SARAJEVO, SUPERVISORY BOARD	22 - - GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	25.8.2016	NOT IMPLEMENTED	YES
P-147/16	Ž-BL-04-55/16	MUNICIPALITY OŠTRA LUKA	25 - PENSIONS	30.8.2016	NOT IMPLEMENTED	YES
P-148/16	Ž-SA-05-454/16, Ž-SA-05-455/16	GOVERNMENT OF ZENICA-DOBOJ CANTON ATTN. THE PRIME MINISTER, MINISTRY OF LABOR, SOCIAL POLICY AND REFUGEES ATTN. MINISTER	22 - - GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	31.8.2016	COOPERATION ACHIEVED	YES
P-149/16	Ž-SA-04-1080/15	TAX ADMINISTRATION OF THE FEDERATION OF BIH SARAJEVO	25 - PENSIONS	5.9.2016	NOT IMPLEMENTED	YES
P-150/16	Ž-SA-05-1218/15	MINISTRY OF FOREIGN AFFAIRS OF BOSNIA AND HERZEGOVINA SARAJEVO	03 - ACCESS TO INFORMATION	31.8.2016	IMPLEMENTED	YES
P-151/16	Ž-SA-05-331/16	GOVERNMENT ZENICA-DOBOJ CANTON ATTN. PRE-MINISTER ZENICA MINISTRY OF SPATIAL PLANNING, TRANSPORT AND COMMUNICATIONS AND ENVIRONMENT PROTECTION OF ZE-DO CANTON ATTN. MINISTER ZENICA	19 - ADMINISTRATION	31.8.2016	IMPLEMENTED	YES
P-152/16	Ž-BR-05-214/15	BANKING AGENCY OF THE REPUBLIC OF SRPSKA, VASE PELAGIĆA 11 A 78000 BANJA LUKA	03 – ACCESS TO INFORMATION -- 03-2 - REFUSAL OF ACCESS TO INFORMATION	7.9.2016	IMPLEMENTED	YES
P-153/16	Ž-BR-04-159/14	CORRECTIONAL FACILITY OF HALF-OPENED TYPE, ORAŠJE	10 – LABOR RELATIONS	7.9.2016	IMPLEMENTED	YES
P-154/16	Ž-BR-04-204/15	GOVERNMENT OF THE REPUBLIC OF SRPSKA MINISTRY FOR REFUGEES AND DISPLACED PERSONS BANJA LUKA	24 – SOCIAL PROTECTION	7.9.2016	NO ANSWER	NO
P-155/16	Ž-BL-05-366/16	CITY OF BANJA LUKA MINISTRY OF SPATIAL PLANNING, CONSTRUCTION AND ECOLOGY OF THE REPUBLIC OF SRPSKA	19 - ADMINISTRATION	5.9.2016	IMPLEMENTED	YES

P-156/16	Ž-BL-02-732/15	RTV SERVICES OF BOSNIA AND HERZEGOVINA	12 – PERSONS WITH DISABILITIES	5.9.2016	COOPERATION ACHIEVED	YES
P-157/16	Ž-SA-05-526/16	COUNCIL OF MINISTERS OF BOSNIA AND HERZEGOVINA MINISTRY OF TRANSPORT AND COMMUNICATIONS ATTN. MINISTER	03 - ACCESS TO INFORMATION	27.9.2016	IMPLEMENTED	YES
P-158/16	Ž-SA-05-575/16,	"THIRD PRIMARY SCHOOL" - ILIDŽA SCHOOL BOARD ATTN. DIRECTOR OF SCHOOL ILIDŽA	03 - ACCESS TO INFORMATION	14.9.2016	NOT IMPLEMENTED	YES
P-159/16	Ž-SA-05-75/16	PRIMARY SCHOOL BAŠIGOVCI ŽIVINICE	03 - ACCESS TO INFORMATION	14.9.2016	NO ANSWER	NO
P-160/16	Ž-SA-05-388/15	UNIVERSITY CLINICAL CENTER OF SARAJEVO ATTN. CHAIR OF THE BOARD	03 - ACCESS TO INFORMATION	14.9.2016	NO ANSWER	NO
P-161/16	Ž-SA-05-182/16	REGIONAL CENTER FOR WASTE MANAGEMENT GORNJI VAKUF-USKOPLJE	03 - ACCESS TO INFORMATION		NOT IMPLEMENTED	YES
P-162/16	Ž-SA-05-183/16	MUNICIPALITY GORNJI VAKUF-USKOPLJE GORNJI VAKUF-USKOPLJE ATTN. HEAD OF MUNICIPALITY	03 - ACCESS TO INFORMATION	14.9.2016	IMPLEMENTED	YES
P-163/16	Ž-SA-05-1037/14	MUNICIPALITY ILIDŽA ILIDŽA ATTN. HEAD OF MUNICIPALITY	15 – PROPERTY ISSUES	14.9.2016	NOT IMPLEMENTED	YES
P-164/16	Ž-SA-05-1009/15	GOVERNMENT OF THE FEDERATION OF BOSNIA AND HERZEGOVINA SARAJEVO	22 - - GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	14.9.2016	NOT IMPLEMENTED	YES
P-165/16	Ž-SA-05-263/16	COUNTY COMMERCIAL COURT EAST SARAJEVO, EAST SARAJEVO	09 - COURTS	14.9.2016	NOT IMPLEMENTED	YES
P-166/16	Ž-BL-05-630/15	FEDERATION ADMINISTRATION FOR GEODETIC AND PROPERTY AFFAIRS	19 - ADMINISTRATION	26.9.2016	IMPLEMENTED	YES
P-167/16	Ž-BL-04-346/16	MINISTRY OF LABOR AND VETERANS-DISABLEMENT PROTECTION OF THE REPUBLIC OF SRPSKA	10 – LABOR RELATIONS	26.9.2016	NO ANSWER	NO
P-168/16	Ž-SA-01-915/16	CANTONAL COURT SARAJEVO	13 – THE RIGHTS OF THE CHILD	10.10.2016	IMPLEMENTED	YES



P-169/16	Ž-BL-06-258/16	FACULTY OF MEDICINE BANJA LUKA	01 - DISCRIMINATION -- 01-03 - MOBBING	10.10.2016	COOPERATION ACHIEVED	YES
P-170/16	Ž-SA-06-227/16	MUNICIPALITY ŽIVINICE, ŽIVINICE ATTN HEAD OF MUNICIPALITY	01 - DISCRIMINATION	13.10.2016	IMPLEMENTED	YES
P-171/16	Ž-SA-05-291/16	MUNICIPALITY DRVAR, DRVAR ATTN. HEAD OF MUNICIPALITY	03 - ACCESS TO INFORMATION -- 03-1 - FAILURE TO DECIDE WITHIN LEGAL DEADLINE	13.10.2016	NO ANSWER	NO
P-172/16	Ž-SA-05-388/16	MUNICIPALITY KUPRES-NOVO SELO NOVO SELO-KUPRES, ATTN. HEAD OF MUNICIPALITY	03 - ACCESS TO INFORMATION -- 03-1 - FAILURE TO DECIDE WITHIN LEGAL DEADLINE	13.10.2016	NO ANSWER	NO
P-173/16	Ž-BL-05-379/16, Ž-BL-05-380/16,	ASSEMBLY OF ZENICA-DOBOJ CANTON MINISTRY OF FINANCE OF ZENICA-DOBOJ CANTON	15 – PROPERTY ISSUES	17.10.2016	NOT IMPLEMENTED	YES
P-174/16	Ž-BL-05-654/15	MUNICIPALITY ČAPLJINA	19 - ADMINISTRATION	20.10.2016	NO ANSWER	NO
P-175/16	Ž-BL-05-403/16	MINISTRY OF AGRICULTURE, FORESTRY AND WATER MANAGEMENT OF THE REPUBLIC OF SRPSKA	19 - ADMINISTRATION	20.10.2016	NO ANSWER	NO
P-176/16	Ž-BL-04-253/16	HEALTH INSURANCE INSTITUTE OF UNA SANA CANTON	06 - PUBLIC REVENUE	20.10.2016	PARTIALLY IMPLEMENTED	YES
P-177/16	Ž-BL-06-220/16	JU GIMNAZIJA GRADIŠKA	01 - DISCRIMINATION	20.10.2016	NOT IMPLEMENTED	YES
P-178/16	Ž-BL-05-281/16	COUNTY COMMERCIAL COURT	09 - COURTS - 09-2 - LENGTH OF PROCEEDINGS (ARTICLE 6)	20.10.2016	NO ANSWER	NO
P-179/16	Ž-SA-06-571/16	UNIVERSITY OF ZENICA, RECTOR, SENATE ZENICA	01 - DISCRIMINATION	24.10.2016	PARTIALLY IMPLEMENTED	YES

P-180/16	Ž-SA-04-1214/15, Ž-SA-04-823/16, Ž-SA-04-824/16, Ž-SA-04-825/16	MINISTRY OF URBAN PLANNING, CONSTRUCTION AND ENVIRONMENTAL PROTECTION OF SARAJEVO CANTON ATTN. MINISTER SARAJEVO ILIDŽA ATTN. HEAD OF MUNICIPALITY ILIDŽA	21 – COMMUNAL SERVICES	24.10.2016	COOPERATION ACHIEVED	YES
P-181/16	Ž-SA-05-347/16	GOVERNMENT OF FBH "BH POST" LTD SARAJEVO SUPERVISORY BOARD	22 - GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	24.10.2016	COOPERATION ACHIEVED	YES
P-182/16	Ž-BL-05-213/16	COUNTY COURT BANJA LUKA	09 - COURTS	25.10.2016	IMPLEMENTED	YES
P-183/16	Ž-BL-05-236/15	MINISTRY FOR REFUGEES AND DISPLACED PERSONS OF THE REPUBLIC OF SRPSKA	15 – PROPERTY ISSUES	25.10.2016	NO ANSWER	NO
P-184/16	Ž-BL-04-248/16	HEALTH INSTITUTE OF PHARMACY SANSKI MOST	10 – LABOR RELATIONS	18.10.2016	NOT IMPLEMENTED	NO
P-185/16	Ž-BL-01-348/16	GOVERNMENT HERZEGOVINA- NERETVA CANTON MINISTRY OF EDUCATION, CULTURE AND SPORTS OF HERZEGOVINA- NERETVA CANTON	13 – THE RIGHTS OF THE CHILD	25.10.2016	NOT IMPLEMENTED	NO
P-186/16	Ž-SA-05-519/16	PARLIAMENT OF THE FEDERATION OF BOSNIA AND HERZEGOVINA, HOUSE OF REPRESENTATIVES, HOUSE OF PEOPLES	22 – GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	26.10.2016	COOPERATION ACHIEVED	YES
P-187/16	Ž-SA-05-733/16	NATIONAL THEATER SARAJEVO BOARD OF DIRECTORS	22 – GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	26.10.2016	IMPLEMENTED	YES
P-188/16	Ž-BR-04-12/16	CITY OF TUZLA - CIVIL PROTECTION –COMMUNAL SERVICE FOR UTILITIES, CONSTRUCTION AND OPERATIONS OF LOCAL COMMUNITIES TUZLA	24 – SOCIAL PROTECTION	27.10.2016	IMPLEMENTED	YES
P-189/16	Ž-BR-05-92/16	GOVERNMENT OF TUZLA CANTON MINISTRY OF EDUCATION, CULTURE AND SPORT TUZLA	19 - ADMINISTRATION	27.10.2016	IMPLEMENTED	YES

P-190/16	Ž-BR-05-51/15	CANTONAL PROSECUTOR'S OFFICE OF CANTON TUZLA	26 – PROSECUTOR'S OFFICES	27.10.2016	NO ANSWER	NO
P-191/16	Ž-BR-04-27/16	GOVERNMENT OF BRČKO DISTRICT OF BOSNIA AND HERZEGOVINA, EDUCATION DEPARTMENT	11 - EDUCATION	27.10.2016	IMPLEMENTED	YES
P-192/16	Ž-BR-05-138/16	CITY OF TUZLA - CITY COUNCIL -SERVICE FOR ECONOMIC DEVELOPMENT AND SOCIAL ACTIVITIES	22 – GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	27.10.2016	NOT IMPLEMENTED	YES
P-193/16	Ž-BR-04-127/15	GOVERNMENT OF TUZLA CANTON-MINISTRY OF LABOR, SOCIAL AFFAIRS AND RETURN PUBLIC INSTITUTION CENTER FOR SOCIAL WORK TUZLA - ATTN. TUZLA	24 – SOCIAL PROTECTION	27.10.2016	NOT IMPLEMENTED	YES
P-194/16	Ž-MO-04-63/16	CITY OF MOSTAR ATTN. MAYOR	10 - LABOR RELATIONS	27.10.2016	PARTIALLY IMPLEMENTED	YES
P-195/16	Ž-MO-04-176/15	SOKO TRANSMISSION FACTORY D.O.O.MOSTAR	10 - LABOR RELATIONS	27.10.2016	NO ANSWER	NO
P-196/16	Ž-LI-04-183/16	GOVERNMENT OF CANTON 10 - APPEALS COUNCIL	10 - LABOR RELATIONS	1.11.2016	NO ANSWER	NO
P-197/16	Ž-SA-06-337/16	LEGISLATIVE BODIES OF THE STATE, ENTITY AND BRČKO DISTRICT	01 - DISCRIMINATION - 01-19 – ON GROUND OF SEXUAL EXPRESSION OR ORIENTATION	2.11.2016	COOPERATION ACHIEVED	YES
P-198/16	Ž-BL-05-381/16	ASSEMBLY OF ZE-DO CANTON	15 - PROPERTY ISSUES	7.11.2016	NOT IMPLEMENTED	YES
P-199/16	Ž-BL-05-271/16	CITY OF ZENICA - SERVICE FOR GENERAL ADMINISTRATION AND HOUSING	15 - PROPERTY ISSUES	8.11.2016	IMPLEMENTED	YES
P-200/16	Ž-SA-05-208/14	SUPREME COURT OF FBiH SARAJEVO	19 - ADMINISTRATION	9.11.2016	COOPERATION ACHIEVED	YES
P-201/16	Ž-LI-05-189/16	INTERIOR MINISTRY OF CANTON 10 DEPARTMENT OF INTERNAL CONTROL LIVNO	05 - POLICE	16.11.2016	NOT IMPLEMENTED	YES

P-202/16	Ž-MO-05-136/16	CITY OF MOSTAR, ATTN. MAYOR, MOSTAR, CITY OF MOSTAR, DEPARTMENT OF URBAN PLANNING AND CONSTRUCTION, ATTN. MAYOR, MOSTAR	19 - ADMINISTRATION	18.11.2016	NO ANSWER	NO
P-203/16	Ž-SA-05-988/16	FEDERATION GOVERNMENT OF BOSNIA AND HERZEGOVINA ATTN. PRIME MINISTER	03 - ACCESS TO INFORMATION	18.11.2016	NOT IMPLEMENTED	NO
P-204/16	Ž-BR-05-40/16	MUNICIPALITY GRAČANICA, ATTN HEAD OF MUNICIPALITY GRAČANICA	15 - PROPERTY ISSUES	1.12.2016	NO ANSWER	NO
P-205/16	Ž-BR-04-266/14	GOVERNMENT OF TUZLA CANTON, MINISTRY OF FINANCE	24 – SOCIAL PROTECTION	1.12.2016	NOT IMPLEMENTED	DA
P-206/16	Ž-BR-05-184/15	MUNICIPALITY TEOČAK	19 - ADMINISTRATION	1.12.2016	NO ANSWER	NO
P-207/16	Ž-BR-05-71/16	1- MINISTRY OF INDUSTRY, ENERGY AND MINING OF TUZLA CANTON 2- EMPLOYMENT SERVICE OF CANTON TUZLA, TUZLA	09 - COURTS	1.12.2016	IMPLEMENTED	YES
P-208/16	Ž-BR-05-252/15	MUNICIPAL COURT IN TUZLA ATTN. PRESIDENT, TUZLA	09 - COURTS	1.12.2016	PARTIALLY IMPLEMENTED	YES
P-209/16	Ž-BR-04-87/16	CENTRAL HEATING D. D. TUZLA, TUZLA	21 – COMMUNAL SERVICES	1.12.2016	IMPLEMENTED	YES
P-210/16	Ž-SA-04-929/15	ZENICA-DOBOJ CANTON, GOVERNMENT OF ZENICA-DOBOJ CANTON ZENICA, PRIVATIZATION AGENCY ATTN. DIRECTOR, ZENICA	10 - LABOR RELATIONS	30.11.2016	COOPERATION ACHIEVED	YES
P-211/16	Ž-BL-05-547/16	MUNICIPALITY DERVENTA	15 - PROPERTY ISSUES	30.11.2016	NO ANSWER	NO
P-212/16	Ž-BL-05-422/16	MUNICIPALITY LUKAVAC	20 – WAR DAMAGES	30.11.2016	COOPERATION ACHIEVED	YES
P-213/16 <sup>294</sup>	Ž-BL-04-152/16	MINISTRY OF EDUCATION AND CULTURE OF THE REPUBLIC OF SRPSKA	10 – LABOR RELATIONS	30.11.2016	NO ANSWER	NO

<sup>294</sup> Until the finalization of the Annual Report did not expire a deadline for notification about the effects of the Recommendation

P-214/16	Ž-SA-05-1184/15	MUNICIPAL SERVICE ILIDŽA SERVICE PROPERTY, HOUSING, GEODETIC AND CADASTRAL OF REAL ESTATES, ILIDŽA	15 - PROPERTY ISSUES	30.11.2016	COOPERATION ACHIEVED	YES
P-215/16	Ž-BL-05-349/16	FUND OF PENSION AND DISABILITY INSURANCE OF THE REPUBLIC OF SRPSKA, BRANCH BANJA LUKA	03 - ACCESS TO INFORMATION -- 03-1 - FAILURE TO DECIDE WITHIN LEGAL DEADLINE	1.12.2016	NO ANSWER	NO
P-216/16	Ž-SA-05-406/16	CITY OF TREBINJE, TREBINJE	03 - ACCESS TO INFORMATION -- 03-1 - FAILURE TO DECIDE WITHIN LEGAL DEADLINE	16.12.2016	IMPLEMENTED	YES
P-217/16	Ž-SA-05-11/16	MUNICIPALITY CENTER, CABINET OF HEAD OF MUNICIPALITY - INSPECTION - SARAJEVO	03 – ACCESS TO INFORMATION	16.12.2016	IMPLEMENTED	YES
P-218/16	Ž-SA-04-370/16	UNIVERSITY OF SARAJEVO, OBALA KULINA BANA BROJ 7/II 71000 SARAJEVO ATTN. RECTOR, MINISTRY OF EDUCATION, SCIENCE AND YOUTH OF CANTON SARAJEVO, REISA DŽEMALUDINA ČAUŠEVIĆA BROJ 1 71000 SARAJEVO, ATTN. MINISTER	11 - EDUCATION	29.12.2016	IMPLEMENTED	YES
P-219/16	Ž-SA-04-1019/16	SCHOOL OF ELECTRICAL ENGINEERING SARAJEVO, ATTN. DIRECTOR	10 - LABOR RELATIONS	16.12.2016	IMPLEMENTED	YES
P-220/16	Ž-BL-04-602/16	UNIVERSITY OF BANJA LUKA FACULTY OF POLITICAL SCIENCE	10 – LABOR RELATIONS	9.12.2016	COOPERATION ACHIEVED	YES
P-221/16	Ž-BL-04-413/16	„ZZ POLJOPROM“ IN BANKRUPTCY PROCEDURE	25 - PENSIONS	29.11.2016	NO ANSWER	NO
P-222/16	Ž-BL-05-268/16	MINISTRY OF HUMAN RIGHTS AND REFUGEES OF BOSNIA AND HERZEGOVINA	20 – WAR DAMAGES	9.12.2016	NO ANSWER	NO
P-223/16	Ž-BL-05-768/15	PROSECUTOR'S OFFICE OF BOSNIA AND HERZEGOVINA	26 - PROSECUTOR'S OFFICES	9.12.2016	IMPLEMENTED	DA

P-224/16	Ž-BL-05-590/16	SUPREME COURT OF THE REPUBLIC OF SRPSKA	09 - COURTS	9.12.2016	NOT IMPLEMENTED	YES
P-225/16	Ž-BL-05-563/16	SUPREME COURT OF THE REPUBLIC OF SRPSKA	09 - COURTS -- 09-2 – DURATION OF PROCEEDINGS (ARTICLE 6)	9.12.2016	NO ANSWER	NO
P-226/16	Ž-BR-05-255/15	MUNICIPALITY LUKAVAC - MUNICIPAL ATTORNEY OFFICE - INSPECTION SERVICE - GEODETIC AND PROPERTY AFFAIRS, ATTN. HEAD OF MUNICIPALITY - LUKAVAC	19 - ADMINISTRATION	9.12.2016	IMPLEMENTED	YES
P-227/16	Ž-BR-04-288/15	PUBLIC COMMUNAL COMPANY „KOMUNALNO“ D.D. ŽIVINICE	10 - LABOR RELATIONS	9.12.2016	NO ANSWER	NO
P-228/16	Ž-SA-05-575/16	"THIRD PRIMARY SCHOOL" - ILIDŽA SCHOOL BOARD ATTN. DIRECTOR OF SCHOOL ILIDŽA	03 – ACCESS TO INFORMATION	12.12.2016	NOT IMPLEMENTED	YES
P-229/16	Ž-SA-05-844/16	"MARKETS" LTD SARAJEVO	03 - ACCESS TO INFORMATION -- 03-1 - FAILURE TO DECIDE WITHIN LEGAL DEADLINE	19.12.2016	IMPLEMENTED	YES
P-230/16	Ž-SA-05-25/16	SUPERVISORY BOARD "BOSNIAN-PODRINJE FORESTS"D.O.O. GORAŽDE	22 - GOVERNMENTAL AND MINISTERIAL APPOINTMENTS	13.12.2016	NO ANSWER	NO
P-231/16	Ž-SA-05-161/16	CENTER FOR SOCIAL WORK BROD, ATTN. DIRECTOR OF HOSPITAL "SVETI APOSTOL LUKA" IN DOBOJ ATTN. DIRECTORS	05 - POLICE	24.3.2016	PARTIALLY IMPLEMENTED	NO
P-232/16	Ž-BL-05-127/16	MUNICIPAL COURT BIHAĆ	09 - 09 - COURTS -- 09-2 – DURATION OF PROCEEDINGS (ARTICLE 6)	9.12.2016	COOPERATION ACHIEVED	YES
P-233/16	Ž-BL-04-517/16	BASIC COURT BIJE LJINA	10 – LABOR RELATIONS	20.12.2016	COOPERATION ACHIEVED	YES
P-234/16	Ž-BL-04-469/16	„WATER SUPPLY AND SEWERAGE "D.O.O. SANSKI MOST	21 – COMMUNAL SERVICES	15.12.2016	IMPLEMENTED	YES

P-235/16	Ž-BL-05-588/16	REPUBLICAN ADMINISTRATION FOR GEODETIC AND PROPERTY AFFAIRS OF THE REPUBLIC OF SRPSKA	15 - PROPERTY ISSUES	16.12.2016	NO ANSWER	NO
P-236/16	Ž-BL-04-165/16	FUND OF PENSION AND DISABILITY INSURANCE OF THE REPUBLIC OF SRPSKA	25 - PENSIONS	5.12.2016	NOT IMPLEMENTED	YES
P-237/16	Ž-SA-05-508/16	CITY OF BIHAĆ	19 - ADMINISTRATION	28.12.2016	IMPLEMENTED	NO
P-238/16	Ž-SA-05-891/16	GOVERNMENT OF THE FEDERATION OF BOSNIA AND HERZEGOVINA SARAJEVO ATTN. PRIME MINISTER	03 – ACCESS TO INFORMATION	28.12.2016	NOT IMPLEMENTED	YES
P-239/16	Ž-SA-05-478/16	CANTONAL CENTER FOR SOCIAL WORK SARAJEVO, SOCIAL PROTECTION SERVICE OF MUNICIPALITY NOVI GRAD SARAJEVO	19 - ADMINISTRATION	28.12.2016	NO ANSWER	NO
P-240/16	Ž-SA-05-1002/16	SERVICE OF GENERAL AFFAIRS AND SOCIAL AFFAIRS OF MUNICIPALITY SANSKI MOST	03 – ACCESS TO INFORMATION	28.12.2016	COOPERATION ACHIEVED	YES
P-241/16	Ž-SA-05-741/16	GOVERNMENT OF THE FEDERATION OF BOSNIA AND HERZEGOVINA, CONTRACTOR CUSTODIANSHIP FOR LJUBLJANSKA BANKA SARAJEVO	19 - ADMINISTRATION	28.12.2016	NO ANSWER	NO
P-242/16	Ž-SA-04-726/16	ZRAK D.D. SARAJEVO ATTN. DIRECTOR, SARAJEVO	10 - LABOR RELATIONS	28.12.2016	NO ANSWER	NO
P-243/16	Ž-BR-05-205/16	MINISTRY OF INTERNAL AFFAIRS OF TUZLA CANTON, POLICE STATION ŽIVINICE	05 - POLICE	29.12.2016	COOPERATION ACHIEVED	YES
P-244/16	Ž-BR-04-90/16	BRČKO DISTRICT GOVERNMENT DEPARTMENT FOR OTHER SERVICES SUBSECTION FOR SOCIAL PROTECTION	23 – HEALTH CARE	29.12.2016	NOT IMPLEMENTED	YES

P-245/16	Ž-BR-04-146/15	BRČKO DISTRICT GOVERNMENT DEPARTMENT FOR AND OTHER SERVICES; MINISTRY OF HEALTH AND SOCIAL PROTECTION GOVERNMENT OF SRPSKA; INSTITUTE FOR MEDICAL EXPERTISE HEALTH CONDITION OF THE FEDERATION OF BOSNIA AND HERZEGOVINA; FEDERATION MINISTRY OF HEALTH; FEDERATION MINISTRY FOR SOCIAL POLICY;	24 – SOCIAL PROTECTION	29.12.2016	COOPERATION ACHIEVED	YES
P-246/16	Ž-BR-05-18/16	MUNICIPAL COURT LUKAVAC	09 - COURTS -- 09-2 – DURATION OF PROCEEDINGS (ARTICLE 6)	29.12.2016	IMPLEMENTED	YES
P-247/16	Ž-BR-05-154/16	MUNICIPALITY OF GRČCANICA PUBLIC COMPANY "WATER SUPPLY AND SEWERAGE" GRAČANICA	19 - ADMINISTRATION	29.12.2016	NO ANSWER	NO
P-248/16	Ž-BR-05-220/16	MINISTRY OF INTERIOR OF TUZLA CANTON POLICE STATION ŽIVINICE	05 - POLICE	29.12.2016	IMPLEMENTED	YES
P-249/16	Ž-BR-05-271/15	CANTONAL ADMINISTRATION FOR INSPECTION TUZLA	19 - ADMINISTRATION	29.12.2016	NO ANSWER	NO
P-250/16	Ž-BR-05-148/16	MUNICIPALITY CENTER SARAJEVO ADMINISTRATIVE SERVICES FOR HOUSING	15 - PROPERTY ISSUES	29.12.2016	NOT IMPLEMENTED	YES



## ANNEX I 2016 BUDGET OVERVIEW

0304 Institution of Human Rights Ombudsmen of Bosnia and Herzegovina

Overview of expenditures and expenses by economic category, reporting period: from 1.1.2016 to 31.12.2016

Form 2.

No.	Description	Econ. Cod	Budget	Amendments (rebalancing, restructuring, Redistribution, reserve, earmarked funds, etc.).	The corrected budget	The cumulative amount of the total costs and expenses	The cumulative amount of the same period last year	Percent 7/6 x 100	Percent 7/8 x 100
1	2	3	4	5	6 (4+5)	7	8	9	10
1	<b>Total expenditure and expenditure (2+16)</b>		<b>2.368.000</b>	<b>0</b>	<b>2.368.000</b>	<b>2.279.371</b>	<b>2.328.369</b>	<b>96,3%</b>	<b>97,9%</b>
2	<b>Total Operating Expenses (3+6)</b>	<b>610000</b>	<b>2.343.000</b>	<b>-23.700</b>	<b>2.319.300</b>	<b>2.231.420</b>	<b>2.272.002</b>	<b>96,2%</b>	<b>98,2%</b>
3	<b>Salaries and allowances for employees (4+5)</b>	<b>611000</b>	<b>1.875.000</b>	<b>-14.000</b>	<b>1.861.000</b>	<b>1.821.595</b>	<b>1.836.709</b>	<b>97,9%</b>	<b>99,2%</b>
4	Gross salaries and wages	611100	1.691.000	0	1.691.000	1.676.270	1.656.592	<b>99,1%</b>	<b>101,2%</b>
5	Reimbursement of costs to employees	611200	184.000	-14.000	170.000	145.325	180.117	<b>85,5%</b>	<b>80,7%</b>
6	<b>Expenses for materials, inventory and services (7+.....+15)</b>	<b>613000</b>	<b>468.000</b>	<b>-9.700</b>	<b>458.300</b>	<b>409.825</b>	<b>435.293</b>	<b>89,4%</b>	<b>94,1%</b>
7	Travel expenses	613100	83.000	14.000	97.000	88.677	65.103	<b>91,4%</b>	<b>136,2%</b>
8	Acquisition of telephone and postal services	613200	60.000	-2.700	57.300	47.376	47.199	<b>82,7%</b>	<b>100,4%</b>
9	energy costs and COMMUNAL SERVICES	613300	12.000	0	12.000	4.555	11.270	<b>38,0%</b>	<b>40,4%</b>
10	Procurement of materials and inventory	613400	52.000	-11.000	41.000	39.871	37.503	<b>97,2%</b>	<b>106,3%</b>
11	Expenditure on transport services and fuels	613500	35.000	-10.000	25.000	15.237	20.417	<b>60,9%</b>	<b>74,6%</b>
12	Renting property and equipment	613600	132.000	0	132.000	131.583	181.307	<b>99,7%</b>	<b>72,6%</b>
13	Regular maintenance costs	613700	30.000	0	30.000	26.231	33.870	<b>87,4%</b>	<b>77,4%</b>
14	Expenditure for insurance, banking services and payment services	613800	7.000	0	7.000	3.874	2.843	<b>55,3%</b>	<b>136,3%</b>
15	Contracted and other special services	613900	57.000	0	57.000	52.421	35.781	<b>92,0%</b>	<b>146,5%</b>
16	<b>Total capital expenditures</b>		<b>25.000</b>	<b>23.700</b>	<b>48.700</b>	<b>47.951</b>	<b>56.367</b>	<b>98,5%</b>	<b>85,1%</b>
17	<b>Expenditures for fixed assets</b>	<b>821000</b>	<b>25.000</b>	<b>23.700</b>	<b>48.700</b>	<b>47.951</b>	<b>56.367</b>	<b>98,5%</b>	<b>85,1%</b>
18	Purchase of equipment	821300	25.000	23.700	48.700	47.951	56.367	<b>98,5%</b>	<b>85,1%</b>

## ANNEX II REVIEW OF COMMITMENTS ACCORDING TO FREEDOM OF ACCESS TO INFORMATION ACT

### 1. Public authorities at the level of Bosnia and Herzegovina that fulfilled the obligation of appointing an information officer and provided Guide and Index register in accordance with Article 19 and 20 of Freedom of Access to Information Act

No.	The name of the institution	No.	The name of the institution
1	Police Support Agency of Bosnia and Herzegovina	37	He Institute for Intellectual Property of Bosnia and Herzegovina
2	Civil Service Agency of Bosnia and Herzegovina	38	The Institute for Standardization of Bosnia and Herzegovina
3	The Agency for forensic examination of Bosnia and Herzegovina	39	Commission for concessions of Bosnia and Herzegovina
4	The Agency for Identification Documents, Registers and Data Exchange of Bosnia and Herzegovina	40	Commission for Preservation of National Monuments of Bosnia and Herzegovina
5	Public Procurement Agency and Procurement Review Office of Bosnia and Herzegovina	41	Commission for mine clearance in Bosnia and Herzegovina
6	The Agency for Medicinal Products and Medical Devices of Bosnia and Herzegovina	42	Competition Council of Bosnia and Herzegovina
7	The Agency for Market Surveillance of Bosnia and Herzegovina	43	The Ministry of Civil Affairs of Bosnia and Herzegovina
8	Deposit Insurance Agency of Bosnia and Herzegovina	44	The Ministry of Finance and Treasury of Bosnia and Herzegovina
9	Insurance Agency of Bosnia and Herzegovina	45	The Ministry of Communications and Transport of Bosnia and Herzegovina
10	The Agency for postal traffic of Bosnia and Herzegovina	46	The Ministry of Defense of Bosnia and Herzegovina
11	The Agency for preschool, primary and secondary education of Bosnia and Herzegovina	47	The Ministry of Justice of Bosnia and Herzegovina
12	The Agency for prevention of corruption and coordination of fight against corruption of Bosnia and Herzegovina	48	The Ministry of Security of Bosnia and Herzegovina
13	Agency for Labor and Employment of Bosnia and Herzegovina	49	The Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina
14	The Agency for Development of Higher Education and Quality Assurance of Bosnia and Herzegovina	50	The Ministry of Foreign Affairs of Bosnia and Herzegovina
15	Food Safety Agency of Bosnia and Herzegovina	51	He Ministry of Human Rights and Refugees of Bosnia and Herzegovina
16	The Agency for Statistics of Bosnia and Herzegovina	52	Intelligence and Security Agency of Bosnia and Herzegovina
17	The Agency for Education and Professional Training of Bosnia and Herzegovina	53	State Commission for Appeals of Bosnia and Herzegovina
18	The Agency for Foreign Investment Promotion of Bosnia and Herzegovina	54	Parliamentary Assembly of Bosnia and Herzegovina
19	The Agency for Protection of Personal Data of Bosnia and Herzegovina	55	Public Attorney's Office of Bosnia and Herzegovina
20	Archive of Bosnia and Herzegovina	56	Communications Regulatory Agency of Bosnia and Herzegovina
21	The Center for Information and Recognition of Qualifications in Higher Education of Bosnia and Herzegovina	57	The Presidency of Bosnia and Herzegovina
22	Mine Action Center of Bosnia and Herzegovina	58	Service for Foreigners' Affairs of Bosnia and Herzegovina
23	Central Bank of Bosnia and Herzegovina	59	Service for common affairs of the Institutions of Bosnia and Herzegovina
24	The Central Election Commission of Bosnia and Herzegovina	60	The Court of Bosnia and Herzegovina
25	Directorate for Coordination of Police Bodies of Bosnia and Herzegovina	61	The Prosecution of Bosnia and Herzegovina
26	Directorate of Civil Aviation of Bosnia and Herzegovina-BHDCA	62	Administration of Bosnia and Herzegovina for protection of health and plants
27	Directorate for Economic Planning of Bosnia and Herzegovina	63	Indirect Taxation Administration of Bosnia and Herzegovina
28	Directorate for European Integration of Bosnia and Herzegovina	64	Office of the Coordinator for Public Administration Reform in Bosnia and Herzegovina
29	State Investigation and Protection Agency of Bosnia and Herzegovina	65	Audit Office for Institution of Bosnia and Herzegovina
30	State Regulatory Agency for Radiation and Nuclear Safety of Bosnia and Herzegovina	66	Veterinary Office of Bosnia and Herzegovina
31	State Regulatory Commission for Electricity of Bosnia	67	The Constitutional Court of Bosnia and Herzegovina

	and Herzegovina		
32	Elektroprivreda of Bosnia and Herzegovina	68	Foreign Trade Chamber of Bosnia and Herzegovina
33	Return Fund of Bosnia and Herzegovina	69	Legislative Office of Bosnia and Herzegovina
34	Border Police of Bosnia and Herzegovina	70	The Council of Ministers of Bosnia and Herzegovina
35	Institution of Ombudsman for Consumer Protection in Bosnia and Herzegovina	71	The High Judicial and Prosecutorial Council of Bosnia and Herzegovina
36	The Institute for Accreditation of Bosnia and Herzegovina		

## 2. Public authorities of Bosnia and Herzegovina that during 2016 submitted statistical data in accordance with Article 20 of Freedom of Access to Information Act

No.	The name of the institution	No.	The name of the institution
1	Civil Service Agency of Bosnia and Herzegovina	16	The Ministry of Communications and Transport of Bosnia and Herzegovina
2	The Agency for Identification Documents, Registers and Data Exchange of Bosnia and Herzegovina	17	The Ministry of Defense of Bosnia and Herzegovina
3	Public Procurement Agency of Bosnia and Herzegovina	18	The Ministry of Justice of Bosnia and Herzegovina
4	The Agency for Market Surveillance of Bosnia and Herzegovina	19	The Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina
5	Food Safety Agency of Bosnia and Herzegovina	20	The Ministry of Foreign Affairs of Bosnia and Herzegovina
6	Insurance Agency of Bosnia and Herzegovina	21	The Ministry of Civil Affairs of Bosnia and Herzegovina
7	Agency for Labor and Employment of Bosnia and Herzegovina	22	Ombudsman for consumers protection of Bosnia and Herzegovina
8	Agency for Development of Higher Education and Quality Assurance of Bosnia and Herzegovina	23	Parliamentary Assembly of Bosnia and Herzegovina-Secretariat
9	Agency for Protection of Personal Data of Bosnia and Herzegovina	24	The Presidency of Bosnia and Herzegovina -Secretariat
10	Directorate of Civil Aviation of Bosnia and Herzegovina-BHDCA	25	Office of the Coordinator for Public Administration Reform in Bosnia and Herzegovina
11	Directorate for Economic Planning of Bosnia and Herzegovina	26	Appeal Office of Bosnia and Herzegovina
12	Border Police of Bosnia and Herzegovina	27	The Constitutional Court of Bosnia and Herzegovina
13	Return Fund of Bosnia and Herzegovina	28	The Council of Ministers of Bosnia and Herzegovina - The General Secretariat
14	Institute for Intellectual Property of Bosnia and Herzegovina	29	The High Judicial and Prosecutorial Council of Bosnia and Herzegovina
15	Commission for Preservation of National Monuments of Bosnia and Herzegovina		

When talking about the submission of statistics by the public authorities of Bosnia and Herzegovina, the Institution of Ombudsman for Human Rights in the reporting year notes that 29 public bodies regularly fulfill their obligation. During 2015, this obligation was fulfilled by 39 public bodies.

## 3. Public authorities of the Federation of Bosnia and Herzegovina that during 2016 submitted statistical data in accordance with Freedom of Access to Information Act

No.	Entity level	No.	Cantonal level	No.	Municipal level
1	The Government of the Federation of Bosnia and Herzegovina	1	Cantonal Court in Tuzla	1	Municipality Bosansko Grahovo
2	Federation Hydro meteorological Institute	2	Cantonal Prosecutor's Office of Canton Sarajevo	2	Municipality Hadžići
3	Securities Commission of the Federation of Bosnia and Herzegovina	3	Cantonal Prosecutor's Office of Ze-Do Canton	3	Municipality Lukavac
4	The Ministry of Internal Affairs of the Federation of Bosnia and Herzegovina	4	Cantonal Prosecutor's Office of Una-Sana Canton	4	Municipality Sapna
		5	Ministry of Internal Affairs of Canton Sarajevo		
		6	PI Olympic Swimming Pool Otoka		
		7	University of Tuzla		

In 2016 four public organs at the level of the Federation of Bosnia and Herzegovina regularly fulfilled their obligation to submit statistical data, which is two less than in 2015 when that obligation was fulfilled by six public organs. At cantonal level within the Federation of Bosnia and Herzegovina in 2016 this obligation was fulfilled by seven public organs, while in 2015 this obligation was fulfilled by 11 public organs. When we talk about municipalities of the Federation of Bosnia and Herzegovina, statistics in 2016 were regularly delivered by four public organs, while in 2015 this obligation was fulfilled by 17 public organs at the municipal level.

**4. Public authorities of the Republic of Srpska, which during 2016 provided statistical data in accordance with Freedom of Access to Information Act**

No.	Entity level	No.	County level	No.	Municipal level
1	Fund for Pension and Disability Insurance of the Republic of Srpska	1	County Commercial Court Dobož	1	Municipality Milići
2	Republic Prosecutor's Office	2	County Court Dobož	2	Municipality Prnjavor
		3	County Prosecutor's Office Dobož	3	Municipality Rudo
		4	County Prosecutor's Office Banja Luka	4	Municipality Ugljevik
				5	Municipality Gradiška
				6	Municipality Foča
				7	Basic Court Teslić

At the level of the entity of the Republic of Srpska in 2016, compared to 2015, there has been an increase in the number of public organs at the municipal level that fulfilled their obligation to submit statistics.

During 2016 the following public organs have fulfilled the obligation of providing Decisions on Information Officer, the Guide and Index Register in accordance with Freedom of Access to Information Act:

1. The Commission for Protection and Preservation of National Monuments of Bosnia and Herzegovina (Guide, Index Register, Decision on the Information Officer)
2. Public Directorate of regional roads USC (Decision on Information Officer)
3. The Agency for Identification Documents, Registers and Data Exchange of Bosnia and Herzegovina (Guide)
4. Health Insurance Institute of Canton Sarajevo (Decision of Information Officer, Guide)
5. Cantonal Prosecutor's Office of Canton West Herzegovina (Decision on Information Officer)
6. "Water supply" Ltd. Mostar (Decision on Information Officer)
7. The Parliamentary Assembly of Bosnia and Herzegovina (Guide, Index Register)
8. Federation Ministry of Physical Planning (Decision on Information Officer, Guide)
9. Federation Inspection Administration (Decision on Information Officer)
10. Federation Ministry of Labor and Social Policy (Decision on Information Officer)
11. The Presidency of Bosnia and Herzegovina (Decision on Information Officer)
12. County Commercial Court of East Sarajevo (Decision on Information Officer)
13. Municipal Court Zenica (Decision on Information Officer)

## ANNEX III TABLE OF STATISTICAL INDICATORS

### Dealing with complaints on department-to-department basis in 2016.

DEPARTMENT	Received in 2016	Carried over from previous years	Total processed in 2016	Total completed in 2016	Carried over to 2017
01 - Department for monitoring the rights of the child	139	101	240	121	119
02 - Department for monitoring the rights of persons with disabilities	53	49	102	55	47
03 - Department for monitoring the rights of ethnic, religious and other minorities	9	9	18	10	8
04 - Department of economic, social and cultural rights	738	340	1078	713	365
05 - Department for monitoring of political and civil rights	1718	907	2625	1630	995
06 - Department for elimination of all forms of discrimination	152	129	281	142	139
07 - Department for protection of the rights of detainees/prisoners	168	99	267	145	122
<b>TOTAL</b>	<b>2977</b>	<b>1634</b>	<b>4611</b>	<b>2816</b>	<b>1795</b>

**Number of complaints on office-to-office basis in 2016.**

<b>Department</b>	<b>Number</b>
01 - Department for monitoring the rights of the child // SA	72
02 - Department for monitoring the rights of persons with disabilities // SA	22
03 - Department for monitoring the rights of ethnic, religious and other minorities // SA	6
04 - Department for monitoring economic, social and cultural rights // SA	319
05 - Department for monitoring political and civil rights // SA	679
06 - Department for elimination of all forms of discrimination // SA	71
07 - Department for monitoring the rights of detainees/prisoners // SA	140
<b>Total number of cases in Sarajevo</b>	<b>1309</b>
01 - Department for monitoring the rights of the child // BL	51
02 - Department for monitoring the rights of persons with disabilities // BL	26
03 - Department for monitoring the rights of ethnic, religious and other minorities // BL	3
04 - Department for monitoring economic, social and cultural rights // BL	197
05 - Department for monitoring political and civil rights // BL	447
06 - Department for elimination of all forms of discrimination // BL	69
07 - Department for monitoring the rights of detainees/prisoners // BL	27
<b>Total number of cases in Banja Luka</b>	<b>820</b>
01 - Department for monitoring the rights of the child // Brčko	5
02 - Department for monitoring the rights of persons with disabilities // Brčko	1
04 - Department for monitoring economic, social and cultural rights // Brčko	129
05 - Department for monitoring political and civil rights // Brčko	163
06 - Department for elimination of all forms of discrimination // Brčko	9
<b>Total number of cases in Brčko</b>	<b>307</b>
01 - Department for monitoring the rights of the child // Mostar	10
02 - Department for monitoring the rights of persons with disabilities // Mostar	3
04 - Department for monitoring economic, social and cultural rights // Mostar	54
05 - Department for monitoring political and civil rights // Mostar	105
06 - Department for elimination of all forms of discrimination // Mostar	1
<b>Total number of cases in Mostar</b>	<b>173</b>
01 - Department for monitoring the rights of the child // Livno	1
02 - Department for monitoring the rights of persons with disabilities // Livno	1
04 - Department for monitoring economic, social and cultural rights // Livno	39
05 - Department for monitoring political and civil rights // Livno	324
06 - Department for elimination of all forms of discrimination // Livno	2
07 - Department for monitoring the rights of detainees/prisoners // Livno	1
<b>Total number of cases in Livno</b>	<b>368</b>
<b>Total number of cases in the Institution</b>	<b>2977</b>

### Number of complaints received under subcategories in 2016.

Violation of the right	Subcategory	Number of cases
01 - Discrimination	00 - Other	60
01 - Discrimination	01-01 - Harassment	1
01 - Discrimination	01-03 - Mobbing	55
01 - Discrimination	01-04 - Segregation	2
01 - Discrimination	01-09 - On the basis of language	1
01 - Discrimination	01-10 - On the basis of religion	2
01 - Discrimination	01-11 - On the basis of ethnicity	7
01 - Discrimination	01-12 - On the basis of national or social origin	6
01 - Discrimination	01-13 - On the basis of connections with a national minority	1
01 - Discrimination	01-14 - On the basis of political or other opinion	1
01 - Discrimination	01-15 - On the basis of financial status	1
01 - Discrimination	01-17 - On the basis of education	1
01 - Discrimination	01-18 - On the basis of social status and sex	5
01 - Discrimination	01-19 - On the basis of sexual expression or orientation	7
<b>01 - Discrimination</b>	<b>AMOUNT</b>	<b>150</b>
<b>02 - The media and freedom of information</b>	<b>AMOUNT</b>	<b>13</b>
03 - Access to information	00 - Other	138
03 - Access to information	03-1 - failure to decide within the legal deadline	98
03 - Access to information	03-2 - refusal of access to information	53
03 - Access to information	03-3 - the right to two instances	2
<b>03 - Access to information</b>	<b>AMOUNT</b>	<b>291</b>
<b>04 - Religious freedom / religion</b>	<b>AMOUNT</b>	<b>7</b>
<b>05 - Police</b>	<b>AMOUNT</b>	<b>138</b>
<b>06 - Public revenues</b>	<b>AMOUNT</b>	<b>5</b>
07 - Prisons	00 - Other	140
07 - Prisons	07-1 - use of prison benefits and visits	20
07 - Prisons	07-2 - health care and hygienic conditions	4
07 - Prisons	07-4 - pardons	2
<b>07 - Prisons</b>	<b>AMOUNT</b>	<b>166</b>
<b>08 - Gender equality</b>	<b>AMOUNT</b>	<b>1</b>
09 - Courts	00 - Other	340
09 - Courts	09-1 - complaints about the work of judges	27
09 - Courts	09-2 - duration of the procedure (Article 6)	144
09 - Courts	09-3 - execution of judgments	58
<b>09 - Courts</b>	<b>AMOUNT</b>	<b>569</b>
<b>10 - Labor relations</b>	<b>AMOUNT</b>	<b>328</b>
<b>11 - Education</b>	<b>AMOUNT</b>	<b>27</b>
<b>12 - Persons with disabilities</b>	<b>AMOUNT</b>	<b>54</b>
<b>13 - The right of the child</b>	<b>AMOUNT</b>	<b>138</b>
<b>14 - Ecology environmental protection</b>	<b>AMOUNT</b>	<b>4</b>
<b>15 - Property issues</b>	<b>AMOUNT</b>	<b>178</b>
<b>16 - Violence</b>	<b>AMOUNT</b>	<b>3</b>

<b>17 - Public documents</b>	<b>AMOUNT</b>	<b>23</b>
<b>18 – Minorities</b>	<b>AMOUNT</b>	<b>6</b>
<b>19 – administration</b>	<b>AMOUNT</b>	<b>358</b>
<b>20 – War damages</b>	<b>AMOUNT</b>	<b>22</b>
<b>21 – Communal services</b>	<b>AMOUNT</b>	<b>91</b>
<b>22 – Governmental and ministerial appointments</b>	<b>AMOUNT</b>	<b>47</b>
<b>23 – Healthcare</b>	<b>AMOUNT</b>	<b>44</b>
<b>24 – Social protection</b>	<b>AMOUNT</b>	<b>86</b>
<b>25 – Pensions</b>	<b>AMOUNT</b>	<b>161</b>
<b>26 – Prosecutor's offices</b>	<b>AMOUNT</b>	<b>57</b>
<b>27 - Public attorney's offices</b>	<b>AMOUNT</b>	<b>4</b>
<b>28 – Corruption cases</b>	<b>AMOUNT</b>	<b>6</b>
<b>AMOUNT</b>	<b>AMOUNT</b>	<b>2977</b>



**Number of complaints that have been completed // the way of the completion of the complaints in 2016.**

No.	The way of the completion	Cases in 2016	Cases from previous years	Total
1	During Ombudsman intervention	635	528	1163
2	Through Ombudsman recommendations	71	166	237
3	Disinterest of complainant for further procedure	238	158	396
4	Inadmissible complaint	491	174	665
5	In some other manner	178	123	301
6	Incompetence and referral of the case to the competent authority	33	4	37
7	Forwarded to another office of the Ombudsman	8	1	9
8	Through Special reports	1	5	6
9	Repeated processing	2	0	2
10	<b>Total</b>	<b>1657</b>	<b>1159</b>	<b>2816</b>

**FOR INADMISSIBLE COMPLAINTS ONLY - SUBCATEGORIES**

00 – other	<b>55</b>	<b>9</b>
01 - anonymous complaint	<b>3</b>	<b>0</b>
02 - malicious complaint	<b>2</b>	<b>1</b>
03 - unfounded complaint	<b>369</b>	<b>146</b>
04 - complaint does not contain any claim	<b>4</b>	<b>1</b>
05 - violation of the legitimate rights of third parties	<b>0</b>	<b>0</b>
06 – complainant's delay of one year after the facts, events or decisions	<b>12</b>	<b>1</b>
07 - not exhausted all legal remedies	<b>13</b>	<b>7</b>
08 - complaint is incomplete or incomprehensible (not subsequently amended)	<b>5</b>	<b>3</b>
09 - withdrawal of complaint	<b>5</b>	<b>1</b>
10 - complaint already reviewed (duplication of appeal)	<b>22</b>	<b>5</b>
11 - the facts prior to 14 December 1995	<b>1</b>	<b>0</b>
<b>Total</b>	<b>491</b>	<b>174</b>

**Number of complaints with recommendations issued in 2016 by categories of infringement and implementation**

<b>No.</b>	<b>Violation of the right</b>	<b>Number of cases with recommendation</b>
1	01 – Discrimination	27
2	03 - Access to information	49
3	05 – Police	5
4	06 - Public Revenue	1
5	09 – Courts	18
6	10 - Labor Relations	36
7	11 – Education	4
8	12 - Persons with disabilities	5
9	13 – The rights of the child	11
10	15 – Property issues	21
11	16 – Violence	1
12	17 - Public documents	1
13	19 – Administration	31
14	20 - War damage	3
15	21 – Communal services	7
16	22 - Government and ministerial appointments	19
17	23 – Healthcare	3
18	24 - Social Protection	11
19	25 – Pensions	7
20	26 – Prosecutor's Offices	5
21	28 – Corruption cases	2
22	<b>TOTAL</b>	<b>267</b>

<b>Implementation</b>	<b>Number of cases</b>
Partially implemented	14
No answer	59
Not implemented	62
Cooperation achieved	48
Implemented	84
<b>Total</b>	<b>267</b>

**Number of complaints with recommendation issued by the departments in 2016**

<b>DEPARTMENT</b>	<b>Number of complaints with recommendations issued in 2016</b>
Department for monitoring political and civil rights	153
Department for economic, social and cultural affairs	70
Department for monitoring the rights of persons with disabilities	5
Department for monitoring the rights of national, religious and other minorities	0
Department for monitoring the rights of detainees/prisoners	0
Department for monitoring the rights of the child	10
Department for elimination of all forms of discrimination	29
<b>TOTAL</b>	<b>267</b>

**Number of recommendations issued in 2016 on department-to-department basis**

<b>Name of department</b>	<b>Number of recommendations issued in 2016</b>
01 - Department for monitoring the rights of the child	10
02 - Department for monitoring the rights of persons with disabilities	5
03 - Department for elimination of all forms of discrimination	0
04 - Department for economic, social and cultural affairs	65
05 - Department for monitoring political and civil rights	146
06 - Department for elimination of all forms of discrimination	24
07 - Department for monitoring the rights of detainees/prisoners	0
<b>TOTAL</b>	<b>250</b>

**Number of complaints with recommendation issued in 2016 on office-to-office basis**

<b>Office</b>	<b>Number of complaints with recommendation issued in 2016</b>
<b>Sarajevo Office</b>	<b>96</b>
<b>Banja Luka Office</b>	<b>111</b>
<b>Brčko Office</b>	<b>33</b>
<b>Mostar Office</b>	<b>13</b>
<b>Livno Office</b>	<b>14</b>
<b>TOTAL</b>	<b>267</b>

**Number of recommendations issued in 2016 on office-to-office basis**

<b>Office</b>	<b>Number of recommendations issued in 2016</b>
<b>Sarajevo Office</b>	<b>86</b>
<b>Banja Luka Office</b>	<b>106</b>
<b>Brčko Office</b>	<b>33</b>
<b>Mostar Office</b>	<b>13</b>
<b>Livno Office</b>	<b>12</b>
<b>TOTAL</b>	<b>250</b>

**20 opposing parties in the area of the courts for which the institution received the most complaints**

<b>No.</b>	<b>Name of the authority</b>	<b>Number of cases</b>	<b>The seat of the authority</b>
1	MUNICIPAL COURT LIVNO (Department: Drvar 1, Tomislavgrad 12)	86	LIVNO
2	CANTONAL COURT LIVNO	58	LIVNO
3	MUNICIPAL COURT SARAJEVO	51	SARAJEVO
4	BASIC COURT BANJA LUKA	48	BANJA LUKA
5	CANTONAL COURT SARAJEVO	36	SARAJEVO
6	SUPREME COURT OF THE FEDERATION OF BOSNIA AND HERZEGOVINA	25	SARAJEVO
7	MUNICIPAL COURT TUZLA	25	TUZLA
8	CANTONAL COURT TUZLA	20	TUZLA
9	COUNTY COURT BANJA LUKA	17	BANJA LUKA
10	SUPREME COURT OF THE REPUBLIC OF SRPSKA	15	BANJA LUKA
11	MUNICIPAL COURT MOSTAR	15	MOSTAR
12	CONSTITUTIONAL COURT OF BOSNIA AND HERZEGOVINA	15	SARAJEVO
13	CANTONAL COURT MOSTARU	13	MOSTAR
14	MUNICIPAL COURT VISOKO	13	VISOKO
15	BASIC COURT OF BRČKO DISTRICT OF BOSNIA AND HERZEGOVINA	11	BRČKO DISTRICT
16	BASIC COURT GRADIŠKA	11	GRADIŠKA
17	MUNICIPAL COURT TRAVNIK	10	TRAVNIK
18	CANTONAL COURT BIHAĆ	9	BIHAĆ
19	BASIC COURT PRIJEDOR	9	PRIJEDOR
20	COURT OF BOSNIA AND HERZEGOVINA	9	SARAJEVO

**20 opposing parties for which the institution received the most complaints without field of judiciary**

<b>No.</b>	<b>Name of the authority</b>	<b>Number of cases</b>	<b>The seat of the authority</b>
1	FEDERATION INSTITUTE OF PENSION AND DISABLEMENT INSURANCE	57	TUZLA
2	PRISON ZENICA	56	ZENICA
3	PENSION AND DISABLEMENT FUND OF THE REPUBLIC OF SRPSKA	32	BIJELJINA
4	MINISTRY OF LABOR AND VETERANS DISABLEMENT PROTECTION OF THE REPUBLIC OF SRPSKA	30	BANJA LUKA
5	CITY OF BANJA LUKA	24	BANJA LUKA
6	MINISTRY OF INTERNAL AFFAIRS OF THE REPUBLIC OF SRPSKA	20	BANJA LUKA
7	MINISTRY OF EDUCATION AND SCIENCE OF CANTON SARAJEVO	19	SARAJEVO
8	FEDERATION INSTITUTE OF PENSION AND DISABLEMENT INSURANCE, CANTONAL SERVICE TUZLA	18	TUZLA
9	FEDERATION MINISTRY OF DISPLACED PERSONS AND REFUGEES	17	SARAJEVO
10	MINISTRY OF INTERNAL AFFAIRS OF UNSKO-SANSKI CANTON	16	BIHAĆ
11	MINISTRY OF INTERNAL AFFAIRS OF CANTON SARAJEVO	16	SARAJEVO
12	CENTER FOR SOCIAL WORK BANJA LUKA	15	BANJA LUKA
13	MUNICIPALITY NOVI GRAD SARAJEVO	15	SARAJEVO
14	FEDERATION MINISTRY OF LABOR AND SOCIAL POLICY	13	SARAJEVO
15	MINISTRY OF DEFENSE OF BOSNIA AND HERZEGOVINA	13	SARAJEVO
16	FEDERATION MINISTRY OF VETERANS AND DISABLED OF FEDERATION OF BOSNIA AND HERZEGOVINA	13	SARAJEVO
17	CITY OF TUZLA	12	TUZLA
18	CANTONAL PROSECUTOR'S OFFICE OF SARAJEVO	12	SARAJEVO
19	MUNICIPALITY NOVO SARAJEVO	12	SARAJEVO
20	REPUBLIC INSPECTION ADMINISTRATION	12	BANJA LUKA



