

**BOSNA I HERCEGOVINA**  
Institucija ombudsmena/ombudsmana  
za ljudska prava  
Bosne i Hercegovine



**БОСНА И ХЕРЦЕГОВИНА**  
Институција омбудсмена/омбудсмана  
за људска права  
Босне и Херцеговине

***2020 Annual Report***  
*on the results of the activities of*  
*The Institution of The Human Rights*  
*Ombudsman of Bosnia and Herzegovina*

*Banja Luka, March 2021*



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**ANNUAL REPORT**  
**ON THE RESULTS OF THE ACTIVITIES OF**  
**HUMAN RIGHTS OMBUDSMAN INSTITUTION**  
**OF BOSNIA AND HERZEGOVINA FOR 2020**

Banja Luka, March 2021.

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## I. FOREWORD

The Institution of the Human Rights Ombudsman of Bosnia and Herzegovina (hereinafter: the Institution) is an independent institution established with the task of promoting good governance and the rule of law, i.e., to protect human rights and fundamental freedoms. It was established in accordance with Annexes IV and VI of the General Framework Agreement for Peace in Bosnia and Herzegovina<sup>1</sup> (hereinafter: the Dayton Agreement) and began operations in 1996.

The institution is accredited in "A" status before the Global Alliance of National Human Rights Institutions (GANHRI), formerly the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). The last accreditation was performed on November 24, 2017 and represents a confirmation of the independence and functioning of the Institution in accordance with the Paris Principles<sup>2</sup>, and gives the Ombudsmen the opportunity to vote within GANHRI.

The institution operates on the basis of the Constitution of Bosnia and Herzegovina and the Law on the Human Rights Ombudsman of Bosnia and Herzegovina (hereinafter: the Law on the Ombudsman)<sup>3</sup>, by which the independence and frameworks for the structural organization of the Institution related to the promotion and protection of human rights and fundamental freedoms are guaranteed. The Law on the Ombudsman defines the mandate, competencies, powers as well as the rules of conduct of the Ombudsman of Bosnia and Herzegovina. The mandate of the Institution is additionally determined by the following laws: The Law on Prohibition of Discrimination of Bosnia and Herzegovina, which stipulates that the Human Rights Ombudsman of Bosnia and Herzegovina is the central institution for protection against discrimination, and that it can treat all natural and legal persons<sup>4</sup>; laws according to which the Ombudsmen are competent to take appropriate measures aimed at respecting the rules of access to information and laws on governmental, ministerial and other appointments (for the level of Bosnia and Herzegovina, but also the entity levels of government)<sup>5</sup> according to which the Ombudsmen are responsible for taking appropriate measures aimed at respecting the rules of access to information and laws on government, ministerial and other appointments (for the level of Bosnia and Herzegovina, but also the entity levels of government)<sup>6</sup> and according to which the

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<sup>1</sup> Adopted on 21 November 1995 and ratified on 14 December 1995

<sup>2</sup> The Paris Principles, adopted by the United Nations General Assembly in 1993 at the suggestion of the 1992 Human Rights Committee, relate to the status of human rights institutions with regard to the promotion and protection of human rights and provide for broad competence in the field of human rights. These are minimum standards that provide guidance for the establishment, competencies, duties, composition, including pluralism, independence, mode of operation and quasi-judicial activities of human rights institutions.

<sup>3</sup> Official Gazette of Bosnia and Herzegovina, no. 32/2000, 19/2002, 35/2004 and 32/2006. The Law on the Ombudsman was passed in 2000 and has been amended three times to date - in 2002, 2004 and 2006.

<sup>4</sup> Article 7 of the Law on Prohibition of Discrimination of Bosnia and Herzegovina, Official Gazette of Bosnia and Herzegovina, no. 59/2009 and 66/2016.

<sup>5</sup> Art. 16 and 17 of the Law on Ministerial Appointments, Appointments of the Council of Ministers and Other Appointments of Bosnia and Herzegovina, Official Gazette of Bosnia and Herzegovina, no. 7/2003 and 37/2003; Articles 16 and 17 of the Law on Ministerial, Governmental and Other Appointments of the Federation of Bosnia and Herzegovina, Official Gazette of the Federation of Bosnia and Herzegovina, no. 12/2003, 34/2003 and 65/2013 and Art. 16 and 17 of the Law on Ministerial, Governmental and Other Appointments of the Republika Srpska, Official Gazette of the Republika Srpska, No. 41/2003.

<sup>6</sup> Art. 16 and 17 of the Law on Ministerial Appointments, Appointments of the Council of Ministers and Other Appointments of Bosnia and Herzegovina, Official Gazette of Bosnia and Herzegovina, no. 7/2003 and 37/2003; Articles 16 and 17 of the Law on Ministerial, Governmental and Other Appointments of the Federation of Bosnia and Herzegovina, Official Gazette of the Federation of Bosnia and Herzegovina, no. 12/2003, 34/2003 and 65/2013 and Art. 16 and 17 of the Law on Ministerial, Governmental and Other Appointments of the Republika Srpska, Official Gazette of the Republika Srpska, No. 41/2003.

Ombudsmen are responsible for monitoring the implementation of the principles during the mentioned appointments, i.e., issuing measures for annulment of decisions, etc.

The institution is organized according to the territorial and functional principle. The seat of the Institution is in Banja Luka, and the regional offices are located in Sarajevo, Mostar and Brčko, and the Field Office in Livno. According to the principle of organizing office days, the lawyers of the Institution work three days a week in Tuzla and twice a month they are in direct contact with citizens in Bijeljina, Doboј, Grahovo, Drvar, Kupres, Glamoč and Bihać.

According to the functional principle, the Institution is organized into eight departments, in the areas of human rights: Departments for monitoring the exercise of children's rights, Departments for monitoring the exercise of the rights of persons with disabilities, Departments for monitoring the rights of national, religious and other minorities. and civil rights, Departments for monitoring the exercise of economic, social and cultural rights, Departments for the elimination of all forms of discrimination, Departments for monitoring the exercise of the rights of persons deprived of their liberty and Departments for monitoring the exercise of rights in the judiciary and administration. Given the large number of cases registered in previous years in the Institution, and related to the work of the judiciary and administration, the Ombudsmen decided to improve the electronic database of the Institution so that cases in this area are kept separately and establish new departments, so that from 2019 the Institution has eight departments.

In order to protect the rights of citizens, Ombudsmen have the obligation to act on individual and group complaints of citizens or act ex officio, conduct investigations into human rights violations, issue recommendations to the responsible authorities to eliminate human rights violations, take measures to implement issued recommendations and eliminate obvious human rights violations and fundamental freedoms, inform natural and legal persons about their rights and obligations, inform natural and legal persons about the possibilities of judicial and other forms of their protection, propose to the parties in the investigation procedure to initiate mediation proceedings, etc.

In accordance with the Law on Ombudsman, the Institution submits to the Presidency of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, the National Assembly of the Republika Srpska and the Parliament of the Federation of Bosnia and Herzegovina an annual report on the results of the Institution's activities. The annual report is also publicly presented and submitted to the professional public, professional organizations, domestic and international organizations, civil society, the media and citizens. The annual report must state the total number and nature of complaints received, the number of complaints that the Ombudsmen did not consider, as well as the reasons for that, and the number of complaints that were the subject of the investigation, as well as the findings of lawyers. The annual report also presents data on the number of issued recommendations of the Ombudsman that were accepted by the responsible authorities, as well as statistical data related to the number of issued recommendations that were not accepted by the responsible authorities. unrealized recommendations.

The structure of the Annual Report on the Results of the Activities of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina for 2020 (hereinafter: the Annual Report for 2020) consists of the following chapters in the field of human rights, namely: Realization of

civil and political rights - within this The chapters also provide basic information regarding the preparation of the Special Report on the Role of Inspection Bodies in the Protection of Human Rights in Bosnia and Herzegovina and the Special Report on the Right to Freedom of Peaceful Assembly; Monitoring and exercising human rights in the field of justice and administration; Exercise of economic, social and cultural rights; Exercising the rights of persons deprived of their liberty; Exercising children's rights; Exercising the rights of persons with disabilities; Elimination of all forms of discrimination in accordance with the Law on Prohibition of Discrimination of Bosnia and Herzegovina - within this chapter the most important parts of the Special Report on the Representation of Constituent Peoples and Others in Institutions, Administrative Organizations and Regulatory Bodies of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina are briefly presented. The Republika Srpska, Brčko District of Bosnia and Herzegovina and the cantons of the Federation of Bosnia and Herzegovina (according to budget units), with the exception of police and security structures and the exercise of the rights of national, religious and other minorities.

Given the limited financial resources, the Ombudsmen decided to include the report on discrimination in a separate unit in this Annual Report, in accordance with the provisions of the Law on Prohibition of Discrimination.

In addition to these chapters, the Annual Report contains a preface, a summary, and statistical data on the institution's actions in 2020 (within this chapter, data on the number of issued recommendations are presented), a chapter on the Institution's cooperation with the media, and a special section refers to the cooperation of the Institution with bodies and institutions, NGOs and the civil sector.

Ombudsmen in terms of this Annual Report and the Law on Ombudsman are three persons who make up the Institution. This duty in the time covered by this Report was performed by Prof. Dr. Ljubinko Mitrović, Dr. Jasminka Džumhur and Mrs. Nives Jukić.

Ombudsmen of Bosnia and Herzegovina

prof. dr. Ljubinko Mitrović

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Nives Jukić

## II. SUMMARY

In 2020, the Ombudsmen registered the largest number of complaints related to violations of civil and political rights, including the judiciary and administration, and economic and social rights. Complaints indicate that citizens have difficulty accessing efficient justice, employment, and social rights, and that these violations are often caused by high levels of poverty<sup>7</sup>, corruption and population migration. When it comes to migration processes, there are more and more indicators that indicate leaving of young and educated citizens of Bosnia and Herzegovina, which requires taking adequate and urgent measures to stop this process<sup>8</sup>. Bosnia and Herzegovina continues to face a huge influx of irregular migrants as a transit country<sup>9</sup>, which also requires the authorities in Bosnia and Herzegovina to take more effective measures to improve the situation in this area.

The data available to the Ombudsmen indicate that today in Bosnia and Herzegovina the most vulnerable are young people, especially due to the inability to find employment, and then retirees<sup>10</sup>, persons with disabilities, single-parent families, children, especially in certain life situations such as conflicting divorces of their parents, and employees in certain branches of the economy with extremely low incomes, such as catering, trade, some production activities, etc.

According to the records from the database of the Institution, during 2020, a total of 2,716 complaints were registered, which is a decrease of 502 complaints, or 15.6%, compared to 2019, when 3,218 complaints were registered. In the reporting period, a total of 270 recommendations were issued (in 312 cases), which compared to 2019 when 304 recommendations were registered in 374 cases represents a decrease of 62 complaints or 16.6%, of which 98 were fully implemented, 6 partially implemented and 67 recommendations according to which cooperation with the Institution was achieved.

The most important recommendations of the Ombudsman to the authorities of all levels and competent institutions relate to the urgent undertaking of additional (especially prenatal) measures aimed at ensuring the stay of young and educated citizens in Bosnia and Herzegovina,

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<sup>7</sup> As a consequence of high unemployment rates, low pensions, the lowest or average wages that are far below the official consumer basket, VAT rates that are equally taxable and basic foodstuffs and the most luxurious goods, large social differences between the largest population and a small group of citizens who have extremely large incomes, unequal social benefits that depend on the place of residence, etc.

<sup>8</sup> In addition to the above, there are also problems related to the need for complete de-politicization of the employment process, the urgency of education reform, a significant increase in the level of assistance and support to underdeveloped municipalities.

<sup>9</sup> UNHCR Spokesperson for Southeast Europe Neven Crvenković defined migrants and refugees who entered the country in an irregular manner, without the necessary approval or documents required by immigration regulations as irregular migrants, not illegal, which has a certain, and incorrect, somewhat "criminal" connotation. The term irregular migrant is used by all bodies and institutions of the UN, the EU and the Council of Europe. For most of these persons, the Ombudsmen in the Special Report on the Situation in the Field of Migration in Bosnia and Herzegovina adopted the term irregular migrants because in most cases they are foreign nationals who entered or enter Bosnia and Herzegovina without any identification documents, in places that are not intended for crossing the state border, which is a violation of the legal regulations of Bosnia and Herzegovina and is not in accordance with the procedures of the competent authorities in Bosnia and Herzegovina regarding the entry of foreigners into the country.

<sup>10</sup> The trend of young people leaving, this category of the population will feel a little later when pension funds become empty.

namely: allocation of additional funds for youth employment. their employment, their housing security, significantly higher benefits from parents based on parenthood, ie the birth of two or more children, for families with more children - increasing the amount for child allowance, i.e., abolishing the threshold for child allowance must be a priority of the authorities, birth incentives must be part population strategies and demographics. Certain recommendations, given their complexity, require a longer period of implementation. However, the Ombudsmen are concerned about the fact that there is still a significant number of recommendations to which there is no response (141) from the responsible authority.

The Department for Monitoring the Exercise of Political and Civil Rights registered 785 complaints and issued 153 recommendations, and given the number of cases from previous years, the department had a total of 1508 pending cases. Complaints were registered according to the violation of the right to which they refer, namely: access to information 231, police 145, property relations 110, inspections 84, government and ministerial appointments 75, public documents 31, migration and asylum 20, war damages 16, freedom gatherings 14, media and freedom of information 11, free legal aid 9, religious freedom and religion 6 and corruption cases 3.<sup>11</sup>

In this year of the COVID-19 pandemic, the authorities took measures to combat the spread of the virus, which also led to restrictions on human rights. The consequences have been felt in all spheres of life, which is why in this report we consider it necessary to present all our activities separately by chapters. We informed the public about all general recommendations at the same time<sup>12</sup>.

During the pandemic, the public was particularly interested in information related to the decisions made by the authorities in connection with cases of violation of the obligation of self-isolation and citizens positive for corona virus, as well as issues related to crossing the country's border. In these cases, the Ombudsmen reacted as promptly as possible precisely because of the timely action of assistance to citizens, because of the decisions and measures taken to protect the population.

There are various factors in the increase in the number of complaints in the field of access to information: more frequent violations of the right to access information by public authorities in Bosnia and Herzegovina, better information of citizens on mechanisms to protect the right to access information, but certainly the result of the Law on Freedom of Access to Information in Bosnia and Herzegovina.

Complaints related to the violation of the right to property were mostly related to the inefficiency of the state mechanisms that are obliged to ensure the unhindered enjoyment of these rights, the work of administrative bodies and the judiciary.

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<sup>11</sup> Human rights belong to every person, regardless of citizenship, residence, gender, national or ethnic origin, skin color, religion, language or any other status.

<sup>12</sup> Web-posts.

Complaints about the work of the police referred to the unprofessional treatment of citizens by police officers, i.e., exceeding of police powers during the performance of official duties, and to the work of internal control mechanisms upon reports of citizens against police officers.

There are also complaints related to non-compliance of inspection bodies on citizens' reports, untimely inspection, failure to take prescribed legal actions by inspection bodies, failure to submit or submit a citizen's complaint to the competent authority in case of incompetence, failure to implement measures determined by decisions and non-enforcement of the enforcement procedure.

This year, which limited the possibility of movement due to epidemiological measures, the Ombudsmen were not able to visit the centers where migrants are accommodated, which they did in previous years.

At the same time, there is a growing dissatisfaction of citizens with the behavior of migrants, which is why they also filed complaints with the Ombudsmen.

The Department for the Exercise of Rights in the Judiciary and Administration received 701 cases. Given the number of cases transferred from previous years, this department had a total of 1,048 cases pending.

In the area of justice, the general distrust of citizens towards judicial institutions is still noticeable. The parties generally focused their dissatisfaction on the inefficiency of the judicial system, inefficient work of the prosecutor's office, distrust in the work of the High Judicial and Prosecutorial Council, inadequate treatment of the HJPC when it comes to disciplinary responsibility of judges, length of appointment of judges ...

When it comes to courts, the largest number of received cases referred to the length of proceedings, most often before cantonal courts, appeals against the work of acting judges for failure to make decisions and actions on the submissions of parties, difficulties in obtaining information on the status of cases and appeals against decisions of courts.

Ombudsmen for a long time now<sup>13</sup> point out the problem of difficult implementation of final court judgments, in situations where the executor is a municipality, canton or entity, in which cases enforcement can be carried out only on the funds provided for that purpose, and in the amount provided by the budget of a particular public body purpose, for a specific budget year and in accordance with the established order of collection.

The Ombudsmen also emphasize that the High Judicial and Prosecutorial Council, despite all the activities undertaken so far to resolve the length of proceedings, should react more efficiently, conduct a detailed analysis before courts with a large number of pending cases, and order more efficient measures to resolve backlogs.

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<sup>13</sup> Annual reports on the results of activities of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina 2015-2019.

In the reporting period, 292 complaints were received related to the work of administrative bodies, and 33 recommendations were issued. The complaints referred to the duration of the administrative procedure, the silence of the administration, the failure of the administrative bodies to comply with the decisions with indications/enforcement clauses, the failure of the administrative bodies to comply with court requests, and the inefficiency of inspection services. The problem of the so-called ping-pong balls, which is why items don't end up over the years.

The Department for Economic, Social and Cultural Rights received 622 cases. Considering the number of cases transferred from previous years, this department had a total of 1089 cases in progress.

Complaints received related to violations of employment rights 211, followed by complaints related to pension 131, utilities 103, social protection 68, health 53, education 36, ecology and environmental protection 15 and public revenues 3.

The largest number of issued recommendations by categories referred to the violation of rights from labor relations, violation of rights from health insurance, pension insurance, ecology and environmental protection, utilities, social protection and education.

During the corona virus pandemic COVID-19, the Ombudsmen, in order to protect the rights and freedoms of vulnerable categories of citizens, pointed out to the competent public authorities<sup>14</sup> notwithstanding the COVID-19 pandemic, the Ombudsperson Institution considered complaints regarding access to health care, problems related to reimbursement of medical expenses abroad, and other health insurance rights. Especially during March and April, when there were general prohibition measures, citizens sought help for adequate treatment.

Complaints in the field of pensions most often referred to the slowness of the first and second instance bodies in the procedures for recognizing the right to a pension, both in cases when the appellant worked in Bosnia and Herzegovina and in cases when the same was done in other countries. with the recognition of a proportionate part of the pension, which is borne by the various insurance carriers, in accordance with the agreements on social insurance that Bosnia and Herzegovina has signed with other countries.

The situation in the field of social protection was extremely difficult in 2020, given the fact that the COVID-19 pandemic led to the dismissal of a significant number of workers in the private sector, the closure of smaller companies, restrictions on service facilities, which although it aims to prevent and limit the spread of the infection, it still has a major impact on the economic prosperity of citizens and brings them to a state of social need.

The registered complaints in the field of communal services referred to requests for connection to the water supply network, untimely provision of communal services by companies and ignoring citizens' requests, and in the field of ecology to problems of garbage disposal, slag and ash disposal in the vicinity of Tuzla and unresolved problems of sewage disposal.

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<sup>14</sup> Act number Oi-K-SA-55/20 dated 31 March 2020.

The activities of the Ombudsperson Institution in the field of monitoring the exercise of the rights of persons deprived of their liberty in 2020 were largely limited to measures established within the prevention of the pandemic caused by the COVID-19 virus, which primarily refers to visits to penitentiary institutions. Intellectual and mental difficulties, etc. In the reporting period, the Department for Monitoring the Exercise of the Rights of Persons Deprived of Liberty received a total of 92 complaints, which is a decrease of 37 complaints or 28.68% compared to 2019. According to the records, complaints were filed due to: use of institutional facilities and visits; health care and hygiene conditions; accommodation of persons with mental disabilities and disability, dissatisfaction with court decisions; dissatisfaction with parole decisions; resolving the status issues of convicted persons, and in a number of cases a visit of a representative of the Ombudsman Institution was requested. In order to prevent human rights violations, the Ombudsmen issued several recommendations addressed to crisis staffs and other competent bodies, in which special attention was paid to the issue of treatment of persons deprived of their liberty in institutions. A special statement was made regarding persons in penitentiary institutions, and an act of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) was forwarded to all ministries of justice in order to take measures within its competence and inform management of all penitentiary institutions in Bosnia and Herzegovina.

Bosnia and Herzegovina has not yet fulfilled its obligation under Article 15 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to establish an independent body with a mandate to visit all places of detention in order to improve the position of persons deprived of their liberty, in particular with regard to the determination of possible torture and other forms of cruel and inhuman treatment. Amendments to the Law on the Human Rights Ombudsman of BiH, which would establish a mechanism, defined by the provisions of the Optional Protocol, within the Institution of the Human Rights Ombudsman of BiH, have been in the parliamentary procedure for almost four years. At the session of the House of Representatives of the Parliamentary Assembly of BiH on February 26, 2020, this proposal was not accepted and it is unclear what will happen next in terms of fulfilling this obligation. Bosnia and Herzegovina is the only country that is not a member of the Network of National Preventive Mechanisms of Southeast European Countries. In 2020, a total of 185 complaints were registered in the Department for Monitoring the Exercise of Children's Rights, which is a decrease of 13 complaints or 6.57% compared to 2019, when 198 complaints were registered. In 17 cases in which violations of children's rights were established, the Ombudsmen issued 16 recommendations.

Analyzing the complaints received during the reporting year, it is evident that the complaints most often referred to the work of social work centers, then the work of courts, prosecutor's offices, educational institutions, inspection bodies, but also other competent administrative bodies. A significant number of complaints in the reporting year also concerned the exercise of children's rights during the pandemic.

In their work, the ombudsmen pay special attention to the protection of children's rights through the work of the Department for Monitoring the Exercise of Children's Rights. The work of this Department is in the function of protection, i.e., realization and affirmation of the rights and freedoms of children.

The catalog of children's rights as defined by the UN Convention is regulated by a number of laws and bylaws adopted at the levels of the entities, Brčko District of BiH and cantons, such as the law on primary, secondary and higher education, health care law, social protection law, treatment with children and juveniles in criminal proceedings law, etc. All this creates additional difficulties in achieving the principle of equal access to the rights of every child in BiH, which is especially pronounced in the Federation of BiH (most of the rights of the child are prescribed by cantonal laws).

Within this chapter, we presented two initiatives to change the law, which, in our opinion, deserve special attention.

A total of 40 cases were registered in the Department for Monitoring the Exercise of the Rights of Persons with Disabilities in 2020 (48 complaints were registered in 2019). 11 recommendations were issued in 13 cases.

The protection of persons with disabilities is one of the most sensitive and specific elements of social development, economic and, above all, social policy in general. Today, the situation of persons with disabilities must be seen primarily as a human rights issue. Disability is a complex social phenomenon that affects virtually all areas of modern life and requires a multisectoral approach and cooperation between different authorities, local governments, the civil sector and people with disabilities and their organizations. Emphasis is placed on guaranteeing the equality of persons with disabilities, non-discrimination and their full participation in society.

The position of persons with disabilities in Bosnia and Herzegovina is regulated by numerous laws and bylaws, so the provisions related to the rights of persons with disabilities are found in all important laws adopted by parliaments of all levels of government in Bosnia and Herzegovina. Almost every legal act in at least one of its articles speaks of some right of persons with disabilities. On the other hand, the position of persons with disabilities is also regulated by international conventions ratified by Bosnia and Herzegovina, which have made some of them part of domestic law and as such can be directly applied.

Cases received in the reporting period relate mainly to problems in exercising rights in the field of social and health care, then rights in pension and disability protection, the right to education, employment, accommodation in social protection institutions and the issue of accessibility of public transport. With a significant number of complaints, citizens have repeatedly expressed dissatisfaction with the work of the Institute for Medical Expertise of the Health Condition in the Federation of Bosnia and Herzegovina. In addition to the above, the following problems are evident: in the Federation of Bosnia and Herzegovina there is no single definition of disability, and the terminology is different and not in line with the UN Convention; for the level of the Federation of Bosnia and Herzegovina there is no single register/database on persons with disabilities with relevant data (age, gender, socio-economic status, type and degree of disability, locality, educational level, etc.); numerous barriers are present/inaccessibility (construction, information, psychological in the "heads" of people, traffic, etc.); support services are insufficient/inadequate, especially in rural areas; there are no available formats or techniques to provide access to information for people with disabilities, in accordance with their needs, which prevents communication (schools, hospitals, municipalities, pharmacies, shops, etc.); this

includes the Internet accessibility; there are no mechanisms for monitoring the implementation of the UN Convention, nor established punitive measures for those responsible for the implementation of various international instruments; sound traffic signs are rare in BiH; in some cantons people with disabilities are rarely involved in the adoption of policies, strategies and other documents ...

Recommendations issued in the reporting period relate to the issue of eliminating accessibility to educational institutions and the teaching process, the issue of availability and accessibility of transport in Canton Sarajevo, execution of court judgments in which one of the parties is a person with disabilities, as well as funding of associations.

The existence of differences and discrimination against persons with disabilities in Bosnia and Herzegovina is not new, and their situation is further complicated by the corona virus pandemic. Unfortunately, there are still problems in exercising the rights of persons with disabilities, such as architectural barriers, inaccessibility to public transport, inadequate health care, chronic lack of jobs, i.e., jobs for persons with disabilities, etc. Without systemic solutions, it is difficult to ensure the accessibility of services for people with disabilities. The ombudsmen also point to a great lack of information and communication for people with hearing, vision, intellectual or physical disabilities, and for these reasons these people are deprived of key information on prevention and assistance in relation to the COVID-19 virus. It is also of particular concern that facilities intended for quarantine or transport in connection with the COVID-19 virus are not suitable for people with disabilities. The Ombudsmen emphasize that the exercise of the rights guaranteed by the UN Convention, ratified by Bosnia and Herzegovina, implies the obligation of the state to do everything to facilitate the life of persons with disabilities and enable full participation in all aspects of life, work and inclusion in the community. In view of all the above, the Ombudsmen call on all competent authorities in Bosnia and Herzegovina to make efforts and take concrete measures to ensure equal treatment of persons with disabilities without discrimination on any grounds.

In 2020, the Ombudsman Institution registered a total of 288 cases in which citizens invoked discrimination and violation of the provisions of the Law on Prohibition of Discrimination in Bosnia and Herzegovina, which is compared to 2019 when 206 cases were registered, more by 82 complaints or 39.81%. The reason for this increase is contained in the fact that 113 individual complaints related to the City of Prijedor were registered at the Headquarters of the Human Rights Institution in Banja Luka, where the factual and legal basis is identical. According to the records of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina, the most frequently stated basis for discrimination in complaints is the mobbing - 35 complaints, followed by hate speech, seven complaints and four complaints based on language. 205 complaints with a subcategory were registered in the database due to the fact that the grounds for discrimination could not be clearly defined from the complaint allegations.

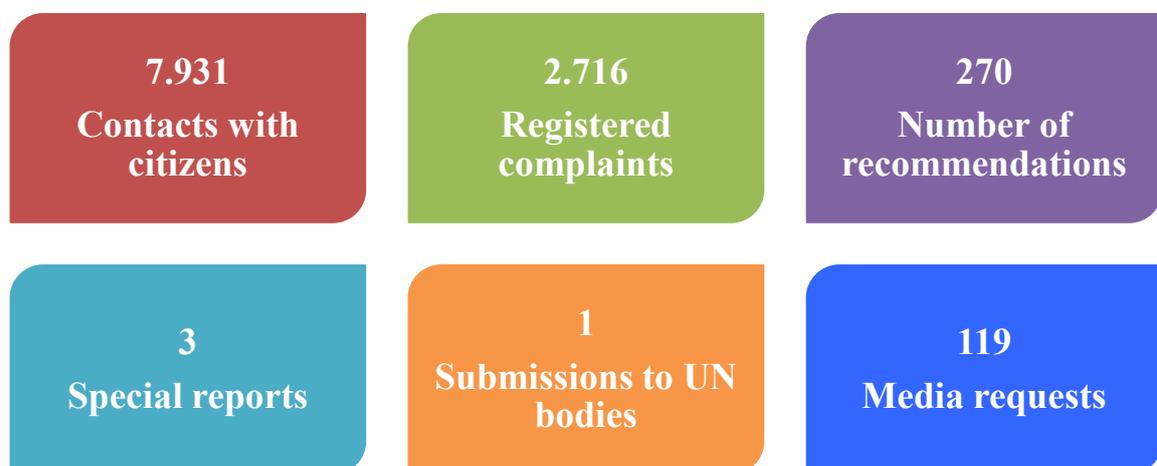
In relation to the complaints registered in the Department for the Elimination of All Forms of Discrimination, 23 recommendations were issued in relation to 31 cases, but this does not mean that discrimination was found in all these cases because the research conducted by the Ombudsperson Institution showed some other right, and that the case, with regard to the appellate allegations, is registered in the Department for the Elimination of All Forms of

Discrimination. Out of the total number of issued recommendations, seven cases were implemented; two partial realizations; in 14 there was cooperation with the responsible authority, in six there were no answers, while in two cases there was no implementation by the responsible authority.

The Ombudsmen point out that the situation of women during the COVID-19 virus pandemic has become more complex because the economic consequences of the pandemic disproportionately affect women, given that the transition to business information technology does not affect men and women equally, especially given the fact that women predominantly employed in a service sector such as trade. The situation of women in rural areas is also worrying, and the state has not taken adequate measures to protect them during a pandemic. The Ombudsmen note that the crisis staffs have had limited consultations on planned measures with line ministries, especially the Ministry of the Interior, Social and Health Care, social work centers, and citizens' associations, which would be important for exercising the rights of members of the most vulnerable groups, including women.

The Law on Protection of the Rights of Persons Belonging to National Minorities of Bosnia and Herzegovina sets out the rights and obligations of persons belonging to national minorities in BiH and the obligations of BiH authorities to respect and protect, preserve and develop the ethnic, cultural, linguistic and religious identity of citizens of BiH. The Council of Europe Framework Convention for the Protection of National Minorities is directly applicable and is an integral part of the legal system of BiH and the entities in BiH. The provision of Article 3 of the said Law provides a definition of a national minority and a list of national minorities. Consequently, a national minority is a part of the population - citizens of BiH who do not belong to any of the three constituent peoples, and are people of the same or similar ethnic origin, the same or similar traditions, customs, beliefs, language, culture and spirituality and recent or related history other features.

In the reporting period, three complaints were registered in this Department, and one recommendation was issued.

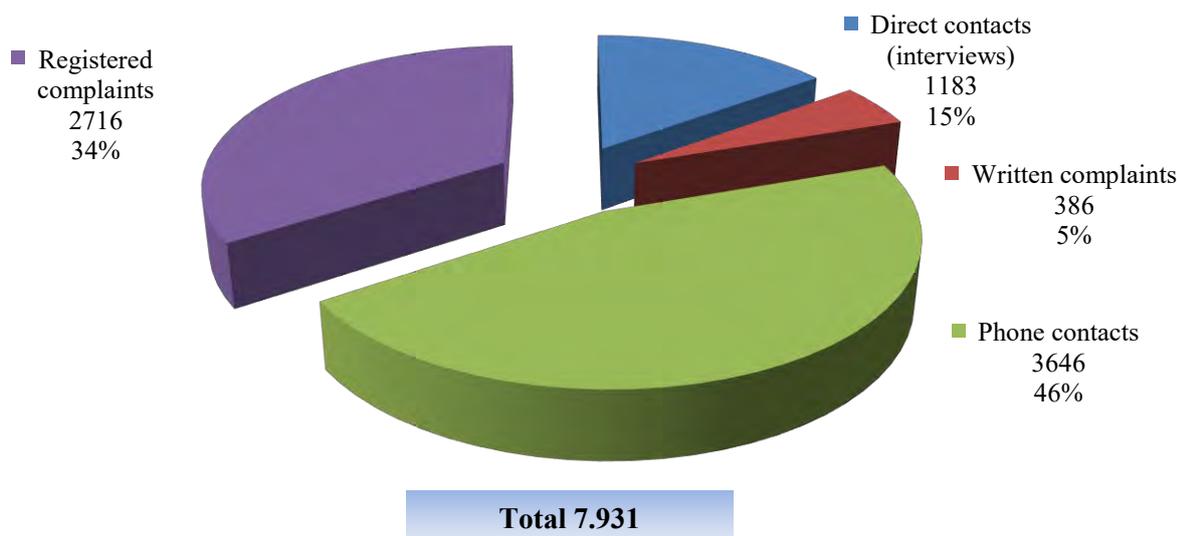


### III. DATA ON THE PROCEDURE OF THE INSTITUTION OF HUMAN RIGHTS OMBUDSMAN OF BOSNIA AND HERZEGOVINA IN 2020

During 2020, the Institution received a total of 2716 complaints. Compared to 2019, 502 fewer complaints were registered. During the reporting period, the Institution was approached by a total of 7931 citizens (direct contacts, telephone calls, e-mails and written complaints).

Together with the cases transferred from previous years, a total of 4747 complaints were recorded. In 2020, 2859 cases were completed.

The largest number of complaints related to violations of civil and political rights (785) cases, followed by complaints related to violations of rights in the judiciary and administration (701), economic, social and cultural rights (622), all forms of discrimination ( 288), violations of children's rights (185), violations of the rights of persons deprived of their liberty (92), violations of the rights of persons with disabilities (40) and, finally, violations of the rights of national and religious minorities (3).



**Graph 1**

In the reporting period, the Ombudsmen issued 270 recommendations in 312 cases. The degree of implementation of recommendations is shown in Table 1.

The manner of implementation of recommendations in cases	Number of cases with a recommendation issued in 2020	Number of cases with a recommendation issued in 2019
Implemented	98	105
Cooperation achieved	67	7
Partially implemented	6	9
No answer	80	124
Not implemented	61	59
<b>Total number of cases with issued recommendation</b>	<b>312</b>	<b>374</b>

**Table 1**

## SPECIAL REPORTS CARRIED OUT IN 2020:

- Special report on the role of inspection bodies in the protection of human rights in Bosnia and Herzegovina
- Special report on the right to freedom of peaceful assembly
- Special report on the representation of constituent peoples and others in institutions, administrative organizations and regulatory bodies of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republika Srpska, Brčko District of Bosnia and Herzegovina and the cantons of the Federation of Bosnia and Herzegovina (by budget units), except for police security structures

Special Report on the Role of Inspection Bodies in the Protection of Human Rights in Bosnia and Herzegovina

Special Report on the Right to Freedom of Peaceful Assembly

Special Report on the Representation of Constituent Peoples and Others in Institutions, Administrative Organizations and Regulatory Bodies of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina, the Republika Srpska, Brčko District of Bosnia and Herzegovina and Cantons of the Federation of Bosnia and Herzegovina (by Budget Units), with the exception of Police and Security structures

### Legislation amendments initiatives

1. Initiative for amendment of the Labor Law of the Federation of Bosnia and Herzegovina
2. Initiative for amendments to the Law on Child Protection of the Brčko District of Bosnia and Herzegovina
3. Initiative for amendments to the Law on the Constitutional Court of the Republika Srpska
4. Initiative to amend Art. 22 to 25 of the Law on Employees in Civil Service Bodies in the Federation of Bosnia and Herzegovina related to the work of the Commission for Selection and Filling of Vacancies of State Employees in Civil Service Bodies in the Federation of Bosnia and Herzegovina.
5. Initiative sent to the Assembly of Una-Sana Canton for amendments to the Law on the Manner of Financing the Cantonal Fund for Construction of Apartments for Members of Families of Martyrs and Killed Soldiers, War Invalids, Demobilized Soldiers and displaced persons

## IV. CIVIL AND POLITICAL RIGHTS

### 4.1. Introduction

The International Covenant on Civil and Political Rights obliges Bosnia and Herzegovina to respect the civil and political rights of the individual, including the right to life, freedom of religion, freedom of speech, freedom of assembly, suffrage and the right to a fair trial.

In 2020, 785 complaints were registered within the Department for Monitoring the Exercise of Political and Civil Rights and 153 recommendations were issued, which is 193 fewer cases and 22 fewer recommendations compared to 2019.

723 cases were transferred from previous years, so that there were a total of 1508 cases in progress. 943 cases were completed.

The registered complaints were considered according to the violation of the right to which they refer, namely: access to information 231, police 145, property relations 110, inspections 84, government and ministerial appointments 75, public documents 31, migration and asylum 20, war damages 16, freedom of assembly 14, media and freedom of information 11, free legal aid 9, religious freedom and religion 6 and corruption cases 3.<sup>15</sup>

This year, the year of the COVID-19 pandemic, measures have been taken by the authorities to combat the spread of the virus, which has led to human rights restrictions. The consequences have been felt in all spheres of life, which is why we consider it necessary to present all our activities separately by chapters in this report. We informed the public about all general recommendations at the same time.<sup>16</sup>

<b>Violation</b>	<b>Number of cases</b>
Access to information	231
Police	145
Property-legal relations	110
Inspections	84
Ministerial and Government appointments	75
Public documents	31
Migration and asylum	20
War damage	16
Freedom of assembly	14
Media and freedom of information	11
Free legal aid	9
Religious freedoms/religion	6
Cases of corruption	3

<sup>15</sup> Human rights belong to every person, regardless of citizenship, residence, gender, national or ethnic origin, skin color, religion, language or any other status.

<sup>16</sup> Web posts.

## 4.2. The right to information vs. Privacy protection during the COVID-19 pandemic

The COVID-19 coronavirus pandemic in Bosnia and Herzegovina brought a number of challenges, both for citizens and for the authorities, who were obliged to respond in a timely and efficient manner. During the pandemic, the public was particularly interested in information related to the decisions made by the authorities, cases of violation of the obligation of self-isolation and cases of citizens positive for coronavirus, as well as issues related to crossing the border. In these cases, the Ombudsmen reacted promptly, as far as possible, precisely because of the timely action of assistance to citizens, because of the decisions and measures taken to protect the population.

In early April 2020, the ombudsmen sent a recommendation<sup>17</sup> Crisis Headquarters at all levels of government to take the necessary measures in accordance with their powers to publish all decisions of Crisis Headquarters in all media and on the websites of institutions in a completely simple and understandable way, understandable to all citizens of Bosnia and Herzegovina in order to avoid unnecessary unnecessary interpretations. The recommendation was made on the basis of the Law on Freedom of Access to Information, regarding the monitoring of the implementation of obligations under Article 10 of the European Convention on Human Rights.

The Ombudsmen remind that in connection with the publication of personal data of persons suffering from coronavirus COVID-19 and persons who are in isolation, the Agency for Personal Data Protection issued a decision dated 24 March 2020, prohibiting the competent authorities at all levels of government in Bosnia and Herzegovina, including the entity and cantonal civil protection headquarters, as well as other bodies operating in an emergency situation related to the coronavirus pandemic, from publishing personal data on persons who are positive for coronavirus, as well as persons who have been assigned isolation and self-isolation measures.<sup>18</sup>

**Example:** The Ombudsmen acted upon complaint<sup>19</sup> by Association "BH Journalists" Sarajevo to consider the decisions of the Crisis Staff of the Federation of Bosnia and Herzegovina, the Crisis Staff of the Sarajevo Canton and the Crisis Staff of the Herzegovina-Neretva Canton, which relate to the presence of journalists and media at press conferences. It was pointed out that it is an indisputable fact that it is necessary to take measures to protect the health of both the population and media workers, but organizing conferences without journalists, as well as excluding the possibility of their direct dialogue with public officials during the conference, can lead to censorship and incomplete information. . Furthermore, they stated that the practices of crisis headquarters also vary from time to time, from the presence of, for example, three journalists, sending questions via e-mail, to complete bans. The Ombudsmen of Bosnia and Herzegovina considered this case in the context of promoting good governance and the rule of law, freedom of expression as well as proactive transparency, and a recommendation was made to these bodies,<sup>20</sup> inviting them to review their practice regarding the presence of journalists and

<sup>17</sup> Oi-K-BL-114/2020 of 13 April.2020.

<sup>18</sup>Decision of the Agency for Personal Data Protection of 24 March 2020 available at [http://azlp.ba/rjesenja/Archive.aspx?langTag=bs-BA&template\\_id=149&pageIndex=1](http://azlp.ba/rjesenja/Archive.aspx?langTag=bs-BA&template_id=149&pageIndex=1)

<sup>19</sup> Ž-SA-05-345/20

<sup>20</sup> P-68/20 of 30 April 2020.

media workers at press conferences in order to ensure the greatest possible involvement of journalists, and in this regard to consider the possibility of using information technology, without compromising, in any way, anyone's health.

### 4.3. Access to information

Institution of the Human Rights Ombudsman of Bosnia and Herzegovina in accordance with the provisions of the Law on the Human Rights Ombudsman of Bosnia and Herzegovina<sup>21</sup> and applicable laws on freedom of access to information<sup>22</sup> handles complaints related to the violation of the right to access information, conducts investigations ex officio, and has the authority to draft and submit guides and general recommendations related to the implementation and application of laws in this area. The Ombudsman is also obliged to include in the annual report a special part related to the application of the Law on Freedom of Access to Information at all levels of government in Bosnia and Herzegovina.

The Ombudsmen continuously point out that freedom of access to information is part of freedom of expression and as such is the basis for building a democratic system in every state and an integral part of the rule of law. Therefore, it is important to point out the importance of effective mechanisms for protection of the right to access information that provide citizens with an adequate opportunity to be included in the process of controlling the work of public bodies, which contributes to strengthening the principles of transparency and openness of citizens.

When it comes to the current legislation, the Ombudsmen point out that even in 2020 there were no significant changes in terms of improvements in this area of legislation. Namely, despite the Ombudsman's recommendations from the Special Report on Experiences in the Application of the Law on Freedom of Access to Information in Bosnia and Herzegovina<sup>23</sup>, The Ministry of Justice of Bosnia and Herzegovina has not yet taken concrete action to adopt a new Law on Freedom of Access to Information in BiH. Also, the Law on Freedom of Access to Information of the Republika Srpska has not been amended yet.

As in previous years, there has been an increase in the number of complaints in the Ombudsman Institution, caused by various factors, namely: more frequent violations of the right to access information by public authorities in Bosnia and Herzegovina, better information of citizens on mechanisms to protect the right to access to information, the result of the operation of the Ombudsperson Institution as a body that monitors the implementation of the Law on Freedom of Access to Information in Bosnia and Herzegovina.

During 2020, 231 complaints were received in this area, and a recommendation was issued in 82 cases. The largest number of complaints referred to the area of the rest - 185, while 22

<sup>21</sup> Law on the Human Rights Ombudsman of Bosnia and Herzegovina, Official Gazette of BiH 32/00, 19/02, 35/04 and 32/06 ;

<sup>22</sup> Law on Freedom of Access to Information of BiH, "Official Gazette of BiH", no. 28/00, 45/06, 102/09, 62/11 and 100/13, Law on Freedom of Access to Information of the FBiH "Official Gazette of the FBiH", no. 32/01 and 48/11, and the Law on Freedom of Access to Information of the Republika Srpska, "Official Gazette of the Republika Srpska", No. 20/01;

<sup>23</sup> Available at: [https://www.ombudsmen.gov.ba/documents/obudsmen\\_doc2020020515415139hrv.pdf](https://www.ombudsmen.gov.ba/documents/obudsmen_doc2020020515415139hrv.pdf)

complaints referred to non-decision within the legal deadline, 20 to the denial of access to information and 4 to the right to two-stage procedure

The Ombudsmen, before pointing out the shortcomings in this area, point out the positive examples of actions after the intervention of the Institution. We also point out that there is still a positive practice of public authorities to contact the Institution in case of dilemmas regarding the manner of application of regulations in this area.

**Example:** The complainant addressed the Institution stating that he had submitted a request for access to information to the Institute of Metrology of Bosnia and Herzegovina requesting information regarding the legality of the work of the designated laboratory. The Institute issued a decision on partially granted access to information, while access to information was denied for item 1 of the request, referring to Article 7 of the Law on Freedom of Access to Information of Bosnia and Herzegovina (information includes confidential commercial interests of third parties) and the Institute's Access to Information Guide for Metrology of Bosnia and Herzegovina. Following the inquiry procedure, the Ombudsmen issued a recommendation<sup>24</sup> to the Appeals Chamber of the Council of Ministers of Bosnia and Herzegovina as the second instance body with which the procedure was ongoing, having in mind the provisions of Articles 7, 9 and 14 of the Law on Freedom of Access to Information of Bosnia and Herzegovina, annul the decision of the Institute. The recommendation has been fully implemented.

**Example:** Ombudsmen received a request from the University Clinical Center in Sarajevo<sup>25</sup> to issue instructions/opinions on how to deal with requests for access to information provided by the International Institute for Public Procurement. Namely, KCUS had a dilemma regarding the method of application, stating that *"Requests are not signed and certified, and KCUS has already tried to contact the senders where we requested that requests should be submitted signed and certified by mail or courier to KCUS. However, the International Institute for Public Procurement does not respond to our requests, but continues to make requests for access to information and documentation for each published Public Procurement Procedure."*

In the issued opinion, the Ombudsmen pointed out the condition that the request for access to information must meet in terms of Article 11, paragraph 2 of the Law on Freedom of Access to Information of the Federation of Bosnia and Herzegovina.

Furthermore, the Ombudsmen pointed out in their opinion that *"Article 13, paragraph 1 of the Law on Freedom of Access to Information of the Federation of Bosnia and Herzegovina within eight days from the day of receipt of the request, notifies the applicant by a decision, when such notification is possible, that the request cannot be processed for the stated reason ... When it comes to requests for access to information submitted electronically, we emphasize that the current Law does not regulate this issue, but the current practice has shown that a large number of public authorities accept requests for access to information submitted in this way. However, we emphasize that this, as well as all similar issues should be regulated available to citizens."*

<sup>24</sup> Recommendation number P-192/20 od 18.09.2020. godine;

<sup>25</sup> Complaint no. Ž-SA-05-419/20;

Although the Ombudsmen achieved exceptionally good cooperation with public authorities during 2020, there are still cases in which no cooperation has been achieved, or inadequate cooperation with public authorities has been achieved.

**Example:** The Republic Public Prosecutor's Office of the Republika Srpska - Special Department for the Suppression of Corruption, Organized and Serious Forms of Economic Crime (hereinafter: the Special Department of the Prosecutor's Office) forwarded a complaint to the Institution regarding the alleged violation of the right to access information.<sup>26</sup> The mentioned act states that in accordance with the provision of Article 14, paragraph 3, item b) of the Law on Freedom of Access to Information, the Special Department of the Prosecutor's Office is not competent to act on the said complaint and that it forwarded the mentioned complaint to the Institution for competent action. Upon inspection of the submitted documentation, it was established that the complainant submitted a request to the responsible authority for access to the information to which the answer was submitted. Dissatisfied with the mentioned answer, the complainant filed a complaint with the responsible party, which the responsible party forwarded to the Institution for competent action. The ombudsmen issued a recommendation<sup>27</sup> *da to respond to the complainant immediately upon receipt of the recommendation in accordance with the provisions of the Law on Freedom of Access to Information in the Republika Srpska*. The recommendation was not implemented, the responsible party did not submit a response regarding the issued recommendation.

**Example:** The Ombudsmen of BiH considered the issue of violation of the complainant's right to access information in accordance with the Law on Freedom of Access to Information in the Federation of Bosnia and Herzegovina<sup>28</sup> by the Operator for Renewable Energy Sources and Efficient Cogeneration.<sup>29</sup> During the investigation, the Ombudsperson Institution sent letters to the responsible authority on several occasions, but it did not comment on the allegations in the complaint. The Ombudsmen of BiH issued a recommendation to the Operator<sup>30</sup> calling on the Director of the Renewable Energy and Efficient Cogeneration Operator to take appropriate activities and measures to establish cooperation with the Ombudsmen of Bosnia and Herzegovina. As the recommendation was not implemented, on October 28, 2020, the Ombudsmen sent a notification on non-implementation of the recommendation to the Federation Ministry of Energy, Mining and Industry.

**Example:** The complainant addressed the Ombudsmen, stating that he had submitted a request to the Municipality of Rogatica for access to information, requesting information on the amount of salaries of municipal officials: the mayor, deputy mayor, heads of all departments, the president of the assembly committee and the vice president of the assembly committee. The Municipality of Rogatica provided the complainant with a notice stating that the information could not be provided because it was personal data, in accordance with the Law on Personal Data Protection in Bosnia and Herzegovina. After the investigation procedure, the Ombudsmen issued a

<sup>26</sup> Complaint no. Ž-BL-05-274/20;

<sup>27</sup> Recommendation no. P-111/20 of 1 June.2020.

<sup>28</sup> "Official Gazette of FBiH", No. 32/01, 48/11;

<sup>29</sup> Case no. Ž-SA-05-270/20;

<sup>30</sup> Recommendation no P-182/20 of 2 November 2020;

recommendation to the Mayor of Rogatica<sup>31</sup> to reconsider the request for access to information and make a new decision in accordance with the provisions of the Law on Freedom of Access to Information of the Republika Srpska, as well as to authorize the Information Officer to decide in the first instance, in terms of Article 19 of the Law on Freedom of Access to Information of the Republika Srpska. Considering that the answer was not received even after the urgencies were sent, the Ombudsmen informed the Assembly of the Municipality of Rogatica about the non-implementation of the recommendation.

The institution also received complaints in cases of silence of the administration, ie when public authorities do not act upon requests or in cases when they act outside the legally prescribed deadline.

**Example:** The complainant alleged a violation of the right of access to information, in accordance with the Law on Freedom of Access to Information of the Republika Srpska<sup>32</sup> by the City of Trebinje. After the research procedure, by the City of Trebinje. After the investigation, the Ombudsman issued a recommendation to the Mayor of the City of Trebinje<sup>33</sup> recommending that it immediately take effective measures and actions to decide on requests for access to information; to appoint an information officer, in accordance with Article 19 of the Law on Freedom of Access to Information of the Republika Srpska, and to submit the decision on appointment to the Ombudsman Institution for inspection. From the received answer of the City of Trebinje<sup>34</sup> and it is indisputable that the responsible body did not act on the recommendations of the Ombudsman Institution.

The Ombudsmen of Bosnia and Herzegovina believe that bodies dealing with requests for access to information should make their decisions in a form that meets legal requirements, and that special attention should, in this case, be paid to making a decision refusing access to information, in whole or in part, by stating the legal basis for the information exclusion status as well as notifying the applicant of the right to appeal.

**Example:** The complainant approached the Ombudsman Institution<sup>35</sup> stating that he submitted a request to the Commission for Technical Inspection of Business Premises of the City of Livno for access to information requesting a copy of the decision on noise protection measures based on measurements by an authorized surveyor, which includes two measurements: noise measurement (reported noise-music sources, etc. .) and the measurement of sound insulation according to the prescribed forms and the noise studies themselves made on the basis of their measurement, all in accordance with the Law on Noise Protection<sup>36</sup>. According to the available documentation, the responsible body did not act within the legally prescribed deadline, and the Ombudsmen issued a recommendation<sup>37</sup>, after which a decision was received from the City of Livno, which shows that the above recommendation has been implemented.

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<sup>31</sup> Recommendation number P-88/20 of 28 May 2020.

<sup>32</sup> Complaint no. Ž-SA-05-863/19;

<sup>33</sup> Recommendation number P-114/20 of 12 February 2020;

<sup>34</sup> Act of the City of Trebinje number 11-053-354/20 of 24 August 2020.

<sup>35</sup> Complaint no. Ž-LI-05-168/20;

<sup>36</sup> "Official Gazette of the Federation of BiH", no. 110/12;

<sup>37</sup> Recommendation number P-194/20 of 21 September 2020.

**Example:** The institution considered a complaint due to non-submission of information on the request for access to information as well as non-decision within the legal deadline by the City of Srebrenik.<sup>38</sup> In her complaint, the complainant pointed out that her request had not been acted upon until the day she addressed the Ombudsperson Institution. Upon inspection of the submitted documentation, it was established that the appellant also filed a complaint with the City of Srebrenik due to the administration's silence. The Ombudsmen of Bosnia and Herzegovina issued a recommendation to the City of Srebrenik<sup>39</sup>, after which a response was received from the City of Srebrenik - Professional Services of the Mayor<sup>40</sup> from which it is evident that the above recommendation has been implemented.

**Example:** Ombudsmen acted on a complaint<sup>41</sup> in which the Presidency of Bosnia and Herzegovina is designated as the responsible party, in connection with the violation of the right to access information. The complaint points out that a request for access to information was submitted, which was not answered until the moment of addressing the Ombudsman of Bosnia and Herzegovina. Conducting the investigation procedure, the Ombudsman of Bosnia and Herzegovina addressed the responsible party on two occasions, however, the responsible party did not submit the requested statement on any of the submitted requests. A recommendation was issued to the BiH Presidency<sup>42</sup> to establish cooperation with the Ombudsman of Bosnia and Herzegovina in the manner prescribed by Article 25 of the Law on the Ombudsman of Bosnia and Herzegovina and submit the requested statement, to respond to the complainant's request for access to information and to inform the Ombudsman of Bosnia and Herzegovina within 30 days on its realization. The responsible party did not submit a response to the recommendation.

When dealing with citizens' complaints, the Ombudsmen continuously point out that citizens are obliged to use legal remedies, otherwise no violation of a certain right can be established.

**Example:** Ombudsmen acted on a complaint<sup>43</sup> expressing dissatisfaction with the decision deciding on access to information by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina. The competent public authority refused access to information on employees of courts, prosecutor's offices and the High Judicial and Prosecutorial Council of Bosnia and Herzegovina who are by marriage, related or otherwise related because the requested information is not in the index of the register of information under the control of the HJPC of Bosnia and Herzegovina. It is stated that *"the HJPC BiH does not have the requested data nor is it competent to collect them in accordance with Article 17 of the Law on the High Judicial and Prosecutorial Council of BiH."* The appellant against this decision did not appeal to the second instance body, assuming the remedy was ineffective. The Ombudsmen issued a decision on the inadmissibility of the case stating that, in this particular case, it is not disputed that there is an index register that does not contain the information requested by the request, but pointed out that collecting the requested information is not legally binding on competent public authorities. The ombudsmen concluded that the failure to declare a legal remedy was not justified.

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<sup>38</sup> Complaint no. Ž-BR-05-21/20;

<sup>39</sup> Recommendation number P-132/20 of 12 June 2020.

<sup>40</sup> Act no. 07-45-305/20 of 11 December 2020;

<sup>41</sup> Ž-BL-05-214/19;

<sup>42</sup> P-52/20, of 25 February 2020.

<sup>43</sup> Complaint no Ž-BL-08-278/20;

#### 4.4. The right to property

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.<sup>44</sup> In the legal system of Bosnia and Herzegovina, the enjoyment of this right is guaranteed by the Constitution of Bosnia and Herzegovina, the Constitutions of the Entities<sup>45</sup> and the Statute of the Brčko District of BiH.<sup>46</sup>

In the reporting period, the Ombudsmen received 110 complaints related to violations of property rights, mostly related to the inefficiency of state mechanisms that are obliged to ensure the smooth enjoyment of these rights, the work of administrative bodies and the judiciary. Proceedings before the competent authorities are still conducted for an unjustifiably long time, decisions are annulled on appeals, due to which the case is returned for a new procedure, and all this lasts for years. These are the items of returnees whose purchase of an apartment takes years. Property law cases refer, among other things, to the non-issuance of the necessary permits necessary to ensure the unhindered use and enjoyment of property.

**Example:** one of the complaints<sup>47</sup> referred to the violation of the right to undisturbed enjoyment of property due to the impossibility of obtaining urban consent for rehabilitation, reconstruction and extension of a residential and business building in the old town of Počitelj. On 13 December 2016, the Federation Ministry of Physical Planning issued a conclusion<sup>48</sup> which terminates the procedure for issuing urban consent for rehabilitation, reconstruction and extension of a residential and business building in the old town of Počitelj, until the previous issue is resolved, i.e., until the adoption and adoption of the Regulatory Plan of the historic city area Počitelj. The Ombudsmen of BiH, having in mind the previous actions of the authorities (Government of the Federation of BiH and the Parliament of FBiH), the time period from the submission of the complainant's original request, as well as the time since the Federation Ministry of Physical Planning started activities on preparation, development and adoption of the Regulatory Plan. of the historic city area Počitelj, and the fact that even after considering and adopting the Regulatory Plan 2008 to 2018, the purpose for which the procedure before the Ombudsman Institution was initiated would not be achieved, assessed as necessary to start drafting a new ten-year plan, respecting legal deadlines of adoption. Due to the above, a recommendation was issued<sup>49</sup> Parliament of the Federation of Bosnia and Herzegovina and the Government of FBiH, on 25 September 2020. Insight into the video link of the online broadcast of the 15th regular session of the House of Representatives of the Parliament of the Federation of BiH of 15 October 2020. It follows that the proposal of the decision on the adoption of the Regulatory Plan of the historic city area Počitelj for a period of ten years was adopted at the session with 57 votes in favor, no votes against and abstentions.<sup>50</sup>

<sup>44</sup> Article 1 of Protocol No. 1 to the European Convention on Human Rights

<sup>45</sup> Article II 3. k) of the Constitution of the Federation of BiH, Article 54 of the Constitution of the Republika Srpska

<sup>46</sup> Article 13, paragraph 5 of the Statute of the Brčko District of BiH

<sup>47</sup> Ž-SA-08-268/20;

<sup>48</sup> No. UPI/03-23-2-354/16;

<sup>49</sup> Recommendation number P-183/20 of 13 August 2020;

<sup>50</sup> Followed on the basis of a notification submitted by the Parliament of the Federation, the House of Representatives, the Speaker, Act No. 01/c,02/c-02-972/20 dated 5 October 2020.

**Example:** How long the procedure can take is shown by the complaint<sup>51</sup> to the Human Rights Ombudsmen of Bosnia and Herzegovina, which was received in 2017 due to dissatisfaction with the actions of the Municipality of Novi Grad Sarajevo in connection with the request for the purchase of land located in the municipality of Novi Grad. The complainant stated, *inter alia*, that “*by adopting the Spatial Plan of Sarajevo Canton for the period 2003-2023. in August 2006, a violation of the civil rights of all landowners was committed*” which are reserved for the Historical-Memorial Complex Žuč. He also states that “*not all deadlines for the implementation of the spatial plan have been met, and the purpose was set in 2006, and nothing has been done so far.*” Following the investigation, the BiH Ombudsmen referred<sup>52</sup> Sarajevo Canton Assembly, Sarajevo Canton Government, Novi Grad Sarajevo Municipality and Sarajevo Canton Development Planning Institute, *taking into account the Ombudsman's opinion from the recommendation, to undertake activities within their competence to adopt the Urban Plan of the Sarajevo Urban Area in accordance with decision number: 01-05-31248/16 dated 26/10/2016 to take all other actions that may contribute to the effective resolution of the complainants' claims; and to notify the Human Rights Ombudsman of Bosnia and Herzegovina of the implementation of this recommendation within thirty (30) days from the date of receipt of the recommendation.* Following the recommendation, the BiH Ombudsmen received a response from the Sarajevo Canton Development Planning Institute. Considering that the other designated bodies did not submit the requested statement, the Ombudsmen of BiH, on 07 July 2020 sent notice of non-compliance with the recommendation of the Sarajevo Canton Assembly and the Municipal Council of Novi Grad Sarajevo. The BiH Ombudsmen did not receive the requested answers.

**Example:** Ombudsmen acted on a complaint<sup>53</sup> which referred to the City of Tuzla-Service for Inspection Affairs for failure to act upon the request of the tenants in Bosna Srebrena Street in Tuzla, to take active actions and measures within its competence. The appellants informed the Inspection Service that in Ulica Bosne Srebre at the number:... in Tuzla, the investor in the construction of residential buildings "Dženex" d.o.o Tuzla, in violation of applicable law, traces, i.e., builds a road over the green area and close proximity to residential facilities newly built settlement "Oasis". Such conduct not only violates existing legal regulations but also jeopardizes the safety and peaceful enjoyment of the appellant's property, however, no legally prescribed actions have been taken to address this issue. The Ombudsmen of Bosnia and Herzegovina, deciding on the complainant's complaint, made a recommendation<sup>54</sup> to City of Tuzla, Inspection Service: to take, without delay, the necessary measures and actions to prevent illegal actions / construction of roads on the site and residents of Bosna Srebrena Street in Tuzla to ensure peaceful enjoyment of property, as guaranteed by the Constitution of Bosnia and Herzegovina and international human rights instruments contained in the annex to the Constitution. The City of Tuzla, Service for Inspections Affairs-Inspectorate of Urban - Construction, Tourist - Catering and Road Activities submitted an act<sup>55</sup> informing about the manner of acting on the recommendation.

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<sup>51</sup> Ž-SA-05-206/17;

<sup>52</sup> On 13 March 2020, Recommendation number 62/20;

<sup>53</sup> Ž-SA-05-7/20;

<sup>54</sup> P-112/20 of 15 May .2020

<sup>55</sup> Act of the City of Tuzla, Inspection Affairs Service-Inspectorate of Urban - Construction, Tourism - Catering and Road Activities number 08-19-s./20-HMZ;

## 4.5. Police

Protection of the constitutionally guaranteed rights of every citizen, personal security, maintenance of public order and peace, prevention and fight against crime is one of the most important tasks of a democratic state, and the police is the most important instrument available to the state for this purpose.

In 2020, 145 complaints related to the work of the police were received, and 9 recommendations were issued.

Complaints received at the Ombudsperson Institution referred to the unprofessional treatment of citizens by police officers, ie exceeding police powers in the performance of official duties, and to the work of internal control mechanisms on citizens' complaints against police officers.

A special problem is the fact that after the control of the complaint against the actions of police officers, the citizen is informed about the results by an act to which there is no possibility to file a complaint. The ombudsmen note that in earlier periods<sup>56</sup> ministries of the Interior at all levels of government pointed to the need to improve the work and review the existence of real independence of internal control and ensure two-tiered procedures in citizens' complaints against police officers, however, the Ombudsman's efforts did not bear fruit.

**Example:** Ombudsmen acted on a complaint<sup>57</sup> relating to the Teslić Police Station, Blatnica Station Department. The complainant alleges that since 2013 she has been attacked by a local resident, her neighbor from Blatnica, who in various ways endangers the safety and peace of her and her family reported all events, due to which she lost confidence in the work of the police in the municipality of Teslić. The ombudsmen issued a recommendation<sup>58</sup> to the Teslić Police Station to take all measures within its competence with the aim of establishing public order and peace in the local community of Blatnica in accordance with the opinion of the Ombudsman of Bosnia and Herzegovina. The complainant informed that the address to the Institution gave significant results and after the recommendation there was a shift in the Blatnica Police Station, the commander was replaced at the end of 2019 and the state of public order and peace, according to locals, has improved considerably. Several talks were held with the current commander, who expressed readiness to cooperate in the case in question, in compliance with all legal regulations of the Republika Srpska.

**Example:** Ombudsmen acted on complaints<sup>59</sup> by family members from Foča who refer to the actions of police officers of the Foča Police Administration. They allege that near their family house in Foča, they were physically and verbally attacked by two police officers from the Foča Police Department, who were not on duty that night. The complainants informed the Foča Police Department about the attack, ie the police officers who came to the scene upon the report of harassment. The police officers then informed them that they would make an official note about the stated harassment and provocations, and that they would inform their superior police officers about everything. They sent a letter to the Ministry of Internal Affairs of the Foča Police

<sup>56</sup> Annual reports on the results of activities of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina from 2015-2019;

<sup>57</sup> Ž-BL-05-498/19;

<sup>58</sup> Recommendation number P-236/19 of 23 September 2019;

<sup>59</sup> Ž-SA- 05-692/20, Ž-SA- 05-693/20, Ž-SA- 05-694/20, Ž-SA- 05-695/20;

Department and the Ministry of Internal Affairs of the Republika Srpska, the Service for the Protection of Integrity and Legality in Work, requesting that the above-mentioned actions of police officers of the Foča Police Administration be investigated. A statement was requested regarding the appellate allegations<sup>60</sup> from the Unit for Professional Standards in the Service for Protection of Integrity and Legality of the Ministry of Internal Affairs of the Republika Srpska and a response was received<sup>61</sup> that an internal proceeding is pending.

**Example:** Ombudsmen acted on complaints<sup>62</sup> relating to the unprofessional conduct of three police officers in connection with the event of 1 April 2020 that took place in the municipality of Novi Grad, in connection with which the complainants and a number of other persons complained about the work of police officers. Following the investigation, a response was received<sup>63</sup> in which it is stated *that the conducted internal investigation established that there are grounds for suspicion that the police officer.... by his actions committed a serious violation of official duty under Article 103, paragraph 1, item a), (failure to perform, unscrupulous, untimely or negligent performance of official duties) of the Law on Police Officers of Sarajevo Canton, so the investigation is in accordance with Article 35, paragraph 2) item a), of the Rulebook on the work of the Unit for Professional Standards, Ministry of Internal Affairs of Sarajevo Canton, concluded with the grade "ESTABLISHED". The investigation established that there were not enough facts on the basis of which it could be confirmed or rejected that there was a violation of duty by police officers during the intervention. The Public Appeals Board of the Sarajevo Canton Assembly... confirmed the above assessment of the conducted internal control. The report on the conducted internal investigation with the collected operational material was submitted to the disciplinary prosecutor of the Police Administration of the Ministry of the Interior of the Sarajevo Canton for competent action."*

## 4.6. Inspections

Inspection supervision is a special mechanism of administrative supervision through which the authorities supervise the implementation of regulations, eliminate possible violations of the same and sanction the responsible persons. Without inspection, it is impossible to talk about good governance, the rule of law and the protection of individual rights. Therefore, it is extremely important that the actions of inspection bodies be efficient, timely and in accordance with positive legal regulations.

In the reporting period, the Ombudsmen received 84 complaints related to non-compliance of inspection bodies with citizens' reports, untimely inspection, failure to take prescribed legal actions by inspection bodies, failure to submit or submit a citizen's complaint to the competent authority in case of incompetence, failure to implement measures. determined by the issued decisions and non-implementation of the enforcement procedure.

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<sup>60</sup> On 6 November 2020.

<sup>61</sup> No. CM-1-059-515/20 od 17.11.2020;

<sup>62</sup> Ž-SA-05-278/20 i Ž-SA-05-335/20;

<sup>63</sup> Act of the Police Directorate of the Ministry of the Interior of the Sarajevo Canton under number 02/7-1-29/20 of 7 August 2020;

The ombudsmen point out that in cases of illegal construction of residential and business buildings, it is important that inspectors act in a timely and effective manner, because during the time when no legal actions are taken, construction works on buildings are completed, and produce unforeseeable consequences and violation of citizens' rights.

Non-implementation of enforcement measures adopted in the procedure before the competent inspectorate is the subject of a significant number of complaints that have been considered by the Ombudsman. Namely, it was determined that during the procedure, the inspectors ascertain the violation of rights, make a decision determining the omission, order the legally prescribed measure and end their work there. However, the mere adoption of a decision, the execution of which will not be monitored or all measures provided by law will not be taken, does not represent adequate protection of the rights of citizens, which rightly calls into question the purpose of inspection supervision.

Also, the Ombudsperson Institution received complaints in which citizens stated that they were not informed about the results of inspections upon the submitted application, ie that they were not allowed to obtain a record and use a legal remedy if they were dissatisfied with the inspection body's actions. in the process.

The Ombudsmen of Bosnia and Herzegovina point out that a new Law on Inspections of the Republika Srpska was passed this year<sup>64</sup>. The mentioned Law, among other things, introduces a new category - inspector of special and internal control and regulates the manner and procedure of performing inspection supervision, deciding on appeals against the inspector's decision, execution of inspectors' decisions, special procedures in inspection supervision, special and internal control procedure, misdemeanor liability and other significant issues for performing inspection supervision in accordance with the applicable regulations of the Republika Srpska.

The reasons for the citizens' appeals refer to the inaction, untimely and inefficient actions of the inspection bodies upon the submitted petitions that referred to the report of illegal construction of residential and business buildings.

**Example:** Ombudsmen acted on a complaint<sup>65</sup> in which it is stated that the Administration for Inspection Affairs of the Canton 10 on 3 December 2019, a request was submitted for inspection supervision, which was not acted upon until the day of addressing the Human Rights Ombudsmen of Bosnia and Herzegovina. The responsible party submitted a notice attached to the minutes of the inspection and a decision<sup>66</sup> ordering the Road Administration of Canton 10 to, in order to remedy the identified deficiencies, clean the drainage channels to a tubular culvert on the regional road R 426, of which the appellant was informed. The recommendation was followed.

**Example:** Ombudsmen acted on a complaint<sup>67</sup> which pointed out the inaction of the Government of Sarajevo Canton on the proposal to resolve conflicts of jurisdiction between the Cantonal

<sup>64</sup> "Official Gazette of the Republika Srpska", no. 18/20;

<sup>65</sup> Ž-LI-08-3/20;

<sup>66</sup> No. UP-1/19-03-23-1-0005/20-001 of 7 January 2020.

<sup>67</sup> Ž-SA-08-873/19;

Administration for Inspection Affairs of Sarajevo Canton - Inspectorate of Labor, Occupational Safety and Social Welfare and the Ministry of Justice and Administration of Sarajevo Canton - Administrative Inspection on 22 April 2019 sent to the Government of the Sarajevo Canton, in accordance with Article 34, paragraph 1 of the Law on Administrative Procedure<sup>68</sup>. In the case, after the procedure, a recommendation was made<sup>69</sup> by which the Prime Minister of the Sarajevo Canton Government was proposed to consider the possibility of annulling the disputed conclusion of the Sarajevo Canton Government<sup>70</sup> and making a new decision. From the notification of the Government of Sarajevo Canton<sup>71</sup> It follows that the Government of the Sarajevo Canton, in the process of assessing the factual situation, found that in this case there is no negative conflict of jurisdiction between the cantonal administrative bodies and that on that basis it issued a conclusion of 10 October 2019. The case was closed by the decision of the Ombudsman of BiH, and the party initiated an administrative dispute before the court.

**Example:** Ombudsmen acted on a complaint<sup>72</sup> in which the City of Doboj is marked as the responsible party, and it is stated that the procedure for execution of the decision is in progress at the Department for Inspection Affairs of the City of Doboj<sup>73</sup> of 5 January 2017 which ordered the demolition of the canopy which bothers the appellant during the performance of daily tasks. The Mayor of the City of Doboj submitted a statement<sup>74</sup> which clearly shows that adequate actions have not been taken in order to implement the measures ordered by the solution in the easiest and most efficient way possible. The ombudsmen made a recommendation<sup>75</sup> to take appropriate measures according to the competent Department for Inspection Affairs of the City of Doboj in order to take all adequate actions until the execution of the ordered decision<sup>76</sup>.

**Example:** Ombudsmen acted on a complaint<sup>77</sup> which refers to the municipality of Rudo, and the appellant alleges that since the middle of 2012, heavy machinery of the trucking company "Sila" from Rudo has been operating on the road above their house. Excavators and trucks with two and three axles, loaded with gravel, sand or earth, weigh up to 30 tons each, have been driving along the narrow rural road for years; if a trailer is attached, even more. As a result, the asphalt road was destroyed, the culvert under the asphalt, also, from vibrations and shaking of the ground due to the movement of heavy machinery, the house cracked in many places (facade, interior walls and ceilings), when it is dry, trucks raise a lot of dust and when it is wet they are afraid of slipping and hitting the house because the curve the road makes is right above it. The mentioned carrier demolished a part of the fence with an excavator to the road on October 22, 2016. The shallow canals, which were on the side of the once asphalt road, were covered with earth and gravel in order to widen the road and be able to exit the curve with mechanization. That is why the water, when it rains heavily, flows down the house and the yard. He states that because of the mentioned problem, they addressed all the competent bodies, but none of the competent ones

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<sup>68</sup> "Official Gazette of FBiH", No. 2/98, 48/99;

<sup>69</sup> Recommendation number P-1/20 of 11 December 2019.

<sup>70</sup> No. 02-05-9126/19 of 10 October 2019;

<sup>71</sup> No. 02-05-9126/19 of 20 February 2020.

<sup>72</sup> Ž-BL-05-579/20;

<sup>73</sup> No. 09/362-N-SL-761.10/15;

<sup>74</sup> Act no. 02-022-1-296/20, of 11 February 2020;

<sup>75</sup> Recommendation number P-107/20 of 3 June 2020;

<sup>76</sup> No. 09/362-N-SL-761.10/15, of 5 January 2017;

<sup>77</sup> Ž-BL-05-369/19;

reacted and the problem was not solved. During the investigation, the ombudsmen determined that the allegations in the complaint were well-founded and made a recommendation<sup>78</sup> to the Municipality of Rudo and the Republic Administration for Inspection Affairs to take all measures within their competence with the aim of complete rehabilitation of the asphalt road, cleaning of canals and drainage of surface waters, on the disputed Gojavaska Street. The recommendation was partially complied with.

**Example:** Ombudsmen received a complaint<sup>79</sup> due to non-execution of the decision on removal of the facility and the conclusion on the permit of execution by forced manner of inspection of the Municipality of Bugojno in the procedure of removal of the illegally constructed chimney and boiler room by one company. Following the investigation, the Ombudsmen recommended that the urban and construction inspector of the Municipality of Bugojno, in accordance with Article 128 of the Law on Organization of Administrative Bodies in the Federation of Bosnia and Herzegovina, take all prescribed measures to complete the demolition of illegally constructed buildings located nearby. real estate owned by the complainant and to inform the Ombudsperson about the implementation of the recommendation within 30 days<sup>80</sup>. In connection with the implementation of the above recommendation, the Institution received an act from the Municipality of Bugojno<sup>81</sup> in which, among other things, it is stated that *"... On 9 April 2020, the urban planning and construction inspector received from the party Hifa-Petrol d.o.o. Sarajevo submission stating that the decision on removal number: 07-23-00952-11 of 13 September 2012 was fully executed, after which the urban-construction inspector of the Municipality of Bugojno with a control inspection of 18 May 2020. stated that the disputed chimney at the location located at the address... was removed as ordered by the decision. The facility that is currently used as a boiler room, and which is not planned in the investment-technical documentation on the basis of which the permit was obtained, is in the process of removal. During the control inspection, no additional illegal construction was recorded at the location in question ... "The Urban and Construction Inspector of the Municipality of Bugojno submitted an act to the Institution stating, among other things:" ... the decision on removal number 07-23-00952-11 of 13 September 2012 was completely executed and that the boiler room and chimney at the address... in Bugojno were completely removed as ordered by the decision on removal number 07-23-00952-11 of 13 September 2012. ..."*<sup>82</sup> by this is the recommendation<sup>83</sup> was implemented in full since after the intervention of the Ombudsman, the decision on removal<sup>84</sup> is executed in full.

#### **4.6.1. Acting of inspection bodies upon submitted requests for access to information**

During 2020, the Ombudsmen had several complaints related to the conduct of inspection bodies on requests for access to information by which citizens request copies of the minutes of the

<sup>78</sup> Recommendation No. P-35/20 of 5 March 2020;

<sup>79</sup> Ž-SA-05-1232/18;

<sup>80</sup> Recommendation no 77/19 of 24 April 2019;

<sup>81</sup> No. 01-31-02630-17 of 26 June 2020;

<sup>82</sup> Urban and Construction Inspector of the Municipality of Bugojno act number 07TČ-028 of 13 August 2020;

<sup>83</sup> No. P-77/19;

<sup>84</sup> No. 07-23-00952-11 of 13 September 2012;

inspection. There was a difference in the actions of the inspection bodies of the cantons, but also the inspection bodies within the same canton, and even the municipality.

**Example:** Ombudsmen are on complaint<sup>85</sup> issued a recommendation to the Mayor of Novo Sarajevo to reconsider the request for access to information and issue a decision in accordance with Article 14 in conjunction with Article 9 of the Law on Freedom of Access to Information of the Federation of Bosnia and Herzegovina. In the recommendation, the Ombudsmen stated that the determination of exceptions does not necessarily mean that access to information will be denied or granted, but that the public body approaches the public interest test, which serves as a weight in assessing the reasons for granting or denying access to information. Public authorities are obliged to prove in each individual case whether there is a public interest in publishing information. The explanation of the decision must contain a description of all the facts and reasons that determined the public body to make a decision on the request, including instructions on the right to object. The same recommendation indicated that the Law on Inspections cannot be the sole reason for restricting the right to access information. The positive practice of the Cantonal Administration for Inspection Affairs of the Sarajevo Canton was highlighted.

**Example:** The complainant addressed the Institution stating that he had submitted a request to the Municipality of Centar for access to information requesting access to the file of the Inspectorate case.<sup>86</sup> The Municipality of Centar issued a decision granting access to information in such a way that the attached decision is accompanied by a notification on the request for delivery of files, which states that "the chief inspector to all inspectors in the Inspectorate of the Municipality of Center on 02.11.2018. In the above-mentioned instruction, it is further stated that despite the stated instruction, there are no legal grounds for obscuring personal data, so the Inspectorate cannot enable copying. requested files, all with the aim of preventing violation of the Law on Freedom of Access to Information of the Federation of Bosnia and Herzegovina as well as the obligation to keep official and other secrets prescribed by Article 25 of the Law on Inspections of Sarajevo Canton. Following the investigation procedure, the ombudsmen issued a recommendation to the Municipal Center with the aim of eliminating the identified shortcomings.<sup>87</sup> Based on the response of the Municipality of Centar, it follows that the recommendation has been fully implemented.

#### **4.6.2. Special report on the role of inspection bodies in the protection of human rights in Bosnia and Herzegovina**

In the past few years, the Institution has registered an increasing number of complaints in which inspection bodies appear as the responsible body. This fact, as well as the specificity of the complaints, was the reason why the Ombudsmen decided to make a Special Report on the role of inspection bodies in the protection of human rights in Bosnia and Herzegovina.

The structural complexity of inspection bodies, and especially the thematic and territorial division of competencies of inspection bodies, also determined the methodological approach to writing reports. In addition to the analysis of the applicable domestic legislation and other

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<sup>85</sup> Complaint no. Ž-SA-05-440/20;

<sup>86</sup> Complaint no Ž-SA-05-139/19;

<sup>87</sup> Recommendation no. P-124/20 dated 3 July 2020;

available documents, a questionnaire was prepared for the purposes of preparing the Special Report<sup>88</sup> the subject of supervision in the inspection procedure, which the inspector will initiate ex officio) and for that reason did not receive a record of the performed supervision, but information in the form of a notification that the supervision he initiated was performed.

In the event that a party in accordance with the provisions of the Freedom of Access to Information Act addresses the information officer, the officer shall conduct the procedure, in accordance with the said law and, accordingly, decide whether to submit the requested record. Only the subject of supervision to whom the inspector has ordered an appropriate administrative measure by a decision has the possibility of declaring a legal remedy.<sup>89</sup>

The Ombudsmen sent a set of recommendations to the Council of Ministers of Bosnia and Herzegovina, the Government of the Federation of Bosnia and Herzegovina, the Government of the Republika Srpska, the Government of the Brčko District of Bosnia and Herzegovina, the governments of all cantons in the Federation of Bosnia and Herzegovina, mayors in the municipalities of the Federation of Bosnia and Herzegovina and the Republika Srpska to:

- *in accordance with their competencies and authorities, take the necessary measures with the aim of eliminating weaknesses in the functioning of inspection bodies, achieving more efficient operation of inspection bodies and strengthening inspection bodies;*
- *continuously analyse their own legislation governing the functioning of inspection bodies and accordingly work on their improvement.*
- *continuously harmonize their own legislation governing inspection supervision, especially having in mind the issues of competence of the body responsible for decision-making in the second instance procedure and the application of positive legislation with modern international standards.*
- *adopt a legislative framework that will regulate the conduct of inspections in cantons where the law has not been adopted at the cantonal level.*
- *consider the possibility of providing financial resources necessary for the optimal and professional functioning of inspection bodies, with the aim of strengthening capacity through the employment of a certain number of executors in order to efficiently perform tasks and modernize equipment.*
- *continuously work on the improvement and establishment of new information technologies, and especially on the introduction of electronic databases for all inspection bodies.*
- *equalization of salary supplements at all levels of government.*
- *provide the necessary funds for the purpose of organizing specialized trainings in administrative areas for inspectors, in accordance with the expressed needs;*
- *adjust the working premises of inspection bodies to the number of employees and provide access to persons with disabilities.*

The purpose of the Report is to serve as an informative tool for policy makers and lawmakers when creating measures aimed at improving the functioning of inspection supervision as an element of the rule of law and thus ensure more effective protection of citizens' rights.

<sup>88</sup> Act of the Ombudsman of Bosnia and Herzegovina number Ž-SA-05-1042/19 dated 7 October 2019;

<sup>89</sup> For more information see: On the role of inspection bodies in the protection of human rights in Bosnia and Herzegovina, available at: <https://www.ombudsmen.gov.ba/Download.aspx?id=310&lang=HR>

## 4.7. Government and ministerial appointments

In the reporting period, the BiH Ombudsmen received 75 complaints related to violations of the Law on Ministerial Appointments, Appointments of the Council of Ministers and Other Appointments of BiH, the Law on Ministerial, Governmental and Other Appointments of the Federation of BiH and the Law on Ministerial, Governmental and Other Appointments of Republika Srpska. In the reporting period, the Ombudsmen of BiH issued 10 recommendations.

The allegations in the complaint refer to the violation of basic principles during the procedure of appointment and dismissal of members of management and supervisory boards in public companies and institutions. In the reporting period, the Ombudsmen of BiH received a number of complaints related to the appointment procedure<sup>90</sup>, before the final appointment process is completed. The Law on Ministerial Appointments, Appointments of the Council of Ministers and Other Appointments of BiH, the Law on Ministerial, Governmental and Other Appointments of the Federation of BiH and the Law on Ministerial, Governmental and Other Appointments of the Republika Srpska give BiH Ombudsmen only the authority to review legality of the procedure after the final appointment has been made.

There has been a noticeable increase in the number of complaints related to the dismissal of directors of public companies and presidents and members of management and supervisory boards.<sup>91</sup> A particularly emphasized problem is the unavailability of the right to a legal remedy in the dismissal procedure, as well as the lack of judicial protection and review of dismissal in civil proceedings because, according to the Law on Ministerial, Governmental and Other Appointments of the Federation of BiH, judicial review is not prescribed.

**Example:** Ombudsmen received a complaint<sup>92</sup> on the decision on the appointment of the Commission for Concessions of the Bosnian-Podrinje Canton of Goražde<sup>93</sup>. The complainant designated the Government of the Bosnia-Podrinje Canton as the responsible party, alleging that it was contrary to the provisions of Article 83, paragraphs 1 and 2 of the Law on Administrative Procedure of the Federation of BiH (“Official Gazette of the Federation of BiH” No. 2/98) relating to personal delivery of the letter was prevented from participating in the election procedure for the president or deputy or member of the Commission for Concessions of the BPK of Goražde, due to which he was prevented from the constitutional right to be elected. Following the investigation, the BiH Ombudsmen made a recommendation<sup>94</sup> to the Government of the Bosnian-Podrinje Canton of Goražde - *To annul the final decision on the appointment of the Commission for Concessions of the Bosnian-Podrinje Canton of Goražde No. 03-05-101/18, as well as to take all necessary measures and actions to ensure that the entire procedure (at all stages) reappointment to that position with consistent application of binding principles from the Law on Ministerial, Governmental and Other Appointments of the Federation of Bosnia and Herzegovina. After the recommendation was issued, the Ombudsmen of BiH received a response*

<sup>90</sup> Ž-SA-05-641/20;

<sup>91</sup> Ž-SA-05-340/20; Ž-SA-05-201/20; Ž-SA-05-828/20;

<sup>92</sup> Ž-SA-05-347/18;

<sup>93</sup> No. 03-05-101/18 dated 29 January 2018;

<sup>94</sup> Recommendation No. P-277/19 dated 26 November 2019;

from the Government of the Bosnian Podrinje Canton of Goražde on January 30, 2020<sup>95</sup> stating that the Government of BPK Goražde at its 32nd regular session passed a decision on dismissal of the President and members of the Commission for Concessions of BPK Goražde and that the conclusion<sup>96</sup> instructed the Ministry of Economy of BPK Goražde to initiate the procedure of selection and appointment of the Commission for Concessions of the Bosnian - Podrinje Canton of Goražde. The recommendation was followed.

**Example:** Ombudsmen received a complaint<sup>97</sup> at the election of the director of the Public Institution National Library of Education Rudo, where the Ministry of Education and Culture of the Republika Srpska is designated as the responsible party. Following the investigation, the BiH Ombudsmen issued a recommendation<sup>98</sup> ordering that *upon receipt of this recommendation, without delay, annul the Public Competition for the Selection and Appointment of the Director of the Public Institution National Library "Prosvjeta" Rudo, dated 14 October 2019, published in the Official Gazette of Republika Srpska No. 88/19 and the decision on the appointment of the director of PI National Library "Prosvjeta" Rudo number 07.06/620-191-9/19, of 15 November 2019 to, without delay, conduct a new procedure for the election and appointment of the director of PI National Library "Prosvjeta" Rudo, in accordance with the provisions of Law on Library and Information Activity of the Republika Srpska.* Following the recommendation, the BiH Ombudsmen received a response from the Republika Srpska Ministry of Education and Culture<sup>99</sup> by which they inform the Ombudsmen of BiH ... *that an administrative dispute is being conducted before the District Court in Banja Luka against the decision of the Ministry on the appointment of the director number 07.06/620-191-9/19 of 15 January 2019, and that after the procedure they will act in accordance with the recommendation.*

**Example:** Ombudsmen acted on a complaint<sup>100</sup> which referred to the monitoring of the work of the Municipal Council of Drvar, after the objection to the decision on dismissal of the President of the Management Board of the Public Institution "Center for Culture and Sports" Drvar. After initiating the investigation procedure, the Municipal Council of Drvar, in the process of reviewing the legality of the adopted acts, issued a decision annulling the decision on dismissal of the President and members of the Management Board of the Public Institution "Center for Culture and Sports" Drvar from The appellant exercised his right, the case was closed.

## 4.8. Migration and asylum

During 2020, the Ombudsmen registered a total of 20 cases related to the issue of asylum and migration.

The submitted complaints refer to the legal status of migrants, the conditions of their accommodation, the dissatisfaction of citizens with the accommodation of migrants in their environment, the procedure for asylum applications.

<sup>95</sup> Act No. 03-05-2006-3/ 19 of 27 January 2020;

<sup>96</sup> No. 03-05-2006-2/19 of 19 December 2019;

<sup>97</sup> Ž-BL-05-927/19;

<sup>98</sup> Recommendation No. 175/20;

<sup>99</sup> Act no. 07.06/052-7763/20 of 9 October 2020;

<sup>100</sup> Ž-LI-05-60/20;

We remind you that back in 2018, the Ombudsmen prepared a Special Report on the situation in the field of migration with a set of recommendations addressed to the relevant authorities and which we continuously repeat in our work, both on cases and reporting to the public.

This year, which limited the possibility of movement due to epidemiological measures, the Ombudsmen were not able to visit the centers where migrants are accommodated, which they did in previous years.

There is a growing dissatisfaction of citizens with the behavior of migrants, which is why they also complained to the Ombudsmen.

**Example:** Complaint<sup>101</sup> in which the responsible party is the Service for Foreigners Affairs of the Ministry of Security of Bosnia and Herzegovina in relation to the issue of migrants in the municipality of Novi Grad Sarajevo. The building, in the mentioned street, illegally accommodates over 150 migrants who live in inhumane conditions, without water and heating. The complaint points out that migrants cause problems to the local population in this settlement on a daily basis, that they continuously disturb public order and peace, and that the police intervene. The complainant alleges that at the end of February there was a police operation about which all the media wrote, that over 150 migrants were found and accommodated in the same facility, that only a few hours after the police intervened they returned to the mentioned location, visibly upset and that they are not allowed to go out for fear, that two new buildings are mostly inhabited by young married couples with small children, that, given the upcoming weather conditions (spring), they are not able to use parks, green areas. The statement of the Service for Foreigners Affairs of the Ministry of Security of Bosnia and Herzegovina was requested, and the answer<sup>102</sup> was received on 30 June 2020 in which it is stated that several times the control was performed by the Service for Foreigners with the support of the MUP of Sarajevo Canton and on that occasion migrants were found in the facility who were placed in the Temporary Reception Camp Ušivak, and handed over to the owner is a misdemeanor warrant for a misdemeanor prescribed by the Aliens Act. The case is closed.

**Example:** Ombudsmen acted in a case<sup>103</sup> in which the responsible party is the Service for Foreigners - Field Center Sarajevo of the Ministry of Security of Bosnia and Herzegovina. The complaint points out that a family<sup>104</sup> expressed its intention to submit a request for asylum, that the Service for Foreigners - Field Center Sarajevo issued a certificate of expressed intention with a validity period until 27 March 2019, that until 25 June 2019 the Asylum Sector did not receive a request for asylum, which is contrary with Article 35 of the Asylum Act. In order to verify the allegations of the complainant, on July 29, 2019, a statement was requested from the Asylum Sector of the Ministry of Security of Bosnia and Herzegovina. The answer was received on August 14, 2019<sup>105</sup>, was delivered to the complainants on October 21, 2019, so that the procedure for receiving asylum applications was performed and the family was registered on July 22, 2019.

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<sup>101</sup> Ž-SA-05-238/20.

<sup>102</sup> Act no. 18.8-50-700/20 of 22 June 2020.

<sup>103</sup> Ž-SA-05-741/19.

<sup>104</sup> Complaint filed through the Association "Vaša prava BiH", proxy of asylum seekers..., citizens of Syria, with registered residence in Bosnia and Herzegovina at the address Vreoce to number 3 Ilidža, on March 13, 2019.

<sup>105</sup> Act no. UP-1-07/1-41-1-5774-5/19/RM of 7 August 2019;

## 4.9. Freedom of assembly

Freedom of assembly (or freedom of peaceful assembly) is a basic human right that can be enjoyed independently or as part of a group, unregistered associations, legal entities and corporate bodies. Gatherings can serve many purposes, including expressing different, unpopular, or minority views or opinions. This freedom can be one of the important ways to develop culture and to protect and preserve minority identities. Protecting the freedom of peaceful assembly is crucial to creating a tolerant and pluralistic society in which groups with different beliefs, practices and policies can live together.

In Bosnia and Herzegovina, freedom of assembly is guaranteed by the BiH Constitution<sup>106</sup>, constitutions of the entities<sup>107</sup>, The Statute of the Brčko District of BiH and many laws and bylaws, namely the laws on public assembly at the cantonal level (10 in total, while in the Zenica-Doboj Canton the procedure for adopting laws is underway), at the level of Brčko District of BiH and at the level of the Republika Srpska. Speaking of the Federation of Bosnia and Herzegovina, it should be noted that the Federation Ministry of Interior is working on a draft law on the Public Assembly of the Federation of BiH, to which the OSCE Office for Democratic Institutions and the Rule of Law (ODIHR) has prepared a Comment. The Commentary addresses key issues and identifies areas of concern. In order to achieve conciseness, attention is focused more on those provisions that require improvement than on the positive aspects of the preliminary draft of the Law. Recommendation 24 is based on international standards and practices regarding public gatherings. The Commentary also requests that good practices of other OES member states in this area be highlighted, as appropriate. The Assembly of the Brčko District of Bosnia and Herzegovina, at its 66th regular session held on July 29, 2020, adopted a new Law on Peaceful Assembly<sup>108</sup>. The Law on Peaceful Gathering refers to gatherings that are not organized for business purposes, and it is in accordance with that, and taking into account the fact that the Law on Public Gathering of the Brčko District of BiH, which was repealed by the adoption of this Law prescribed norms for public events. Assembly of the Brčko District of BiH, in order to avoid creating a legal gap, also adopted the Law on Public Events of the Brčko District of BiH, which prescribes the manner of organizing public events in the Brčko District of Bosnia and Herzegovina.

During the reporting period, the Ombudsmen received 14 complaints concerning the freedom of peaceful assembly.

**Example:** During 2018 and 2019, the ombudsmen received several individual complaints from the citizens of Banja Luka, as well as members of the informal group of citizens "Justice for David"<sup>109</sup>. In the complaints in question, the citizens' complaints related to *"violation of the right to assembly, excessive use of coercive means by police officers and obstruction of the*

<sup>106</sup> Article II para. 3 i), the Constitution of Bosnia and Herzegovina.

<sup>107</sup> Article II A. 2. 1 (I), the Constitution of the Federation of Bosnia and Herzegovina and Article 30, the Constitution of the Republika Srpska;

<sup>108</sup> <https://skupstinabd.ba/3-zakon/ba/Zakon%20o%20mirnom%20okupljanju/01B29-20%20Zakon%20o%20mirnom%20okupljanju.pdf>, accessed 10 November 2020.

<sup>109</sup> Ž-BL-05-12/19, Ž-BL-05-1032/18, Ž-BL-05-1034/18, Ž-BL-05-7/19, Ž-BL-05-17/19, Ž-BL-05-19/19, Ž-BL-05-20/19, Ž-BL-05-21/19, Ž-BL-05-32/19, Ž-BL-05-59/19, Ž-BL-05-70/19, Ž-BL-05-146/19, ŽBL-05-1012/18, Ž-BL-05-461/19 i Ž-BL-05-655/19;

*professional duties of journalists by police officers".* Following the investigation, the Ombudsmen issued a recommendation on 5 February 2020<sup>110</sup> to the Ministry of Internal Affairs of the Republika Srpska. The recommendation calls on the Ministry of the Interior to: *"take into account in all future actions international and domestic standards relating to the use of force in the exercise of police powers; in all future cases, adheres to the opinion of the Ombudsman expressed in this recommendation, i.e., that police officers, in the exercise of their powers, take care not to interfere with the performance of the professional duties of the representatives of any media house; review once again all decisions made on the occasion of public gatherings held on December 26 and 30, 2018; within the framework of their professional training programs for police officers, organize professional training for police officers in the field of public gatherings and treatment of journalists, especially in relation to the importance of prosecuting criminal offenses and misdemeanors committed against journalists; training and development should include the exchange of good practices and experiences, and if necessary with the participation of representatives of international organizations, non-governmental organizations and journalists; submit feedback to the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina on the implementation of the given recommendation within 30 days"*. On March 9, 2020, the Ministry of Internal Affairs of the Republika Srpska submitted a response stating that it will adhere to the issued recommendations when performing regular tasks and activities and implementing operational-tactical measures and actions.

**Example:** Ombudsmen received a complaint<sup>111</sup> informal group of citizens "Justice for David" stating that *their member in the capacity of organizer and leader of a peaceful protest walk to the Ministry of Internal Affairs of the Republika Srpska, Police Administration Banja Luka-Center, submitted a request for a peaceful public gathering (protest walk) is planned for September 10, 2020. As an organizer, she submitted a request to hold a public meeting in accordance with Articles 9 and 10 of the Public Assembly Act<sup>112</sup>, and having regard to the current epidemiological situation in the city of Banja Luka, in the Republika Srpska and Bosnia and Herzegovina, and respecting all the measures adopted and in force.*<sup>113</sup>.

They state that *"the Banja Luka-Centar Police Administration has so far submitted three requests to the Ministry of Internal Affairs of the Republika Srpska for a peaceful protest march, but none of them has been approved by the Banja Luka Police Department. However, this did not discourage her and she again submitted a request for a public gathering, the occasion of which is to mark exactly 900 days from the day of the gathering of the Dragičević family and other citizens on Krajina Square."* In the investigation of this case, the Republika Srpska, Banja Luka Police Department and requested the submission of information on the decision made by the Banja Luka Police Administration in this particular case. The case is still pending.

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<sup>110</sup> No. P-15/20;

<sup>111</sup> Ž-SA-05-754/20;

<sup>112</sup> Official Gazette of Republika Srpska, No. 118/08;

<sup>113</sup> The request specifies the program of the gathering, the goal of the peaceful protest walk, the route of the protest walk, the duration, the estimated number of participants, the responsible person and the measures taken by the organizer to maintain order, peace and security.

#### 4.9.1. Special report on the right to freedom of peaceful assembly

During 2020, the Ombudsmen of BiH prepared a Special Report on Freedom of Peaceful Assembly in Bosnia and Herzegovina, with the aim of determining the situation in the field of freedom of assembly in Bosnia and Herzegovina, which included checking the degree of harmonization of domestic legislation with international standards. The organizers of public gatherings, on the one hand, and the police and security agencies, on the other hand, meet during the organization and holding of public gatherings. The report was prepared by analyzing the content of relevant domestic and international regulations as well as the method of collecting information through special questionnaires sent to civil society organizations and ministries of the interior.<sup>114</sup> The report found, based on an analysis of existing laws in force in Bosnia and Herzegovina, that there are differences in the legal solutions in force in Bosnia and Herzegovina, which are reflected in the content of defining public gatherings, registration of public gatherings, deadlines, space, recognition of spontaneous gatherings, envisaged prohibitions on gatherings, use of legal remedies as well as non-compliance with international standards in the field of freedom of assembly.

Although this is a basic human right guaranteed by the Constitution of BiH and the constitutions of the entities and cantons, the exercise of this right depends on legal solutions and practices that differ in individual entities and cantons where a restrictive approach is evident.

Most laws in Bosnia and Herzegovina refer to an appropriate and accessible place in the definition of public assembly, citizens as participants and organizers of public assembly. In the introductory provisions, all laws contain terminology that laws regulate the right to freedom of peaceful assembly, while according to international standards, this area needs to be regulated as little as possible, while the state has the obligation to actively contribute to exercising citizens' right to peaceful assembly.

Also, in relation to events that take place at places (spaces) used by other institutions, i.e., legal entities, their holding is conditioned by the consent of those who use those places and who give their consent based on their own risk assessment. This practice enables institutions and legal entities that do not have the authority to regulate the freedom of assembly, to restrict and violate it, invoking that they made such a decision based on an assessment of a violation of public order, which is not their job.

The Ombudsmen sent a set of recommendations to the competent authorities at all levels of government, as well as to representatives of the non-governmental sector, as follows:

To the National Assembly of the Republika Srpska, the Parliament of the Federation of Bosnia and Herzegovina, the Assembly of the Brčko District of Bosnia and Herzegovina to the Assembly of Cantons in the Federation of Bosnia and Herzegovina:

- *The definition of gathering should be harmonized with the definition prescribed by international standards, according to which a public gathering is defined as the*

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<sup>114</sup> To the Ministry of Interior of the Republika Srpska, to the Ministries of Interior of ten cantons in the Federation of Bosnia and Herzegovina (Una-Sana Canton, Posavina Canton, Tuzla Canton, Zenica-Doboj Canton, Bosnia-Podrinje Canton, Central Bosnia Canton, Herzegovina-Neretva Canton, West Herzegovina Canton, Sarajevo Canton and Canton 10) and the Police of the Brčko District of BiH.

*intentional and temporary presence of two or more individuals in a public place in order to express a common opinion.*

- *The existing application and de facto approval systems do not represent an adequate application of the presumption principle in favor of holding a meeting.*
- *Anything that is not explicitly prohibited should be considered permissible and persons who wish to exercise this right should not be asked for special permits.*
- *The presumption in favor of the exercise of this freedom should be clearly prescribed by law and recognized as such in practice.*
- *The content of the application and application deadlines are excessively bureaucratic in all laws, and in a certain part encroach on the domain of personal data protection, and may have a deterrent effect since the organizers are required to submit documentation such as security plan, appointment of managers, lists of wardens with all personal data, providing sanitary, fire and other protection, and failure to provide all necessary data may result in a ban on the requested gatherings.*
- *It is necessary to simplify the application procedures by introducing good practices and recommendations of international bodies, which include prescribing the application form and introducing e-mail communication and appointing a police officer who will be in charge of coordination and further communication with organizers and third parties.*
- *In accordance with international standards, deadlines should be as short as possible, but to give police officers enough time to take measures to secure the rally.*
- *The space for holding a peaceful gathering is especially important, taking into account that the purpose of the gathering is often related to a specific location, ie that the gathering is held and the message is sent in the sight of the target audience. The principle of "sight and hearing" is not adequately reflected in the laws of Bosnia and Herzegovina because it does not attach importance to the location that the organizers had in mind when organizing the public gathering, in a way that the decisions of the city/municipality for public gathering.*
- *There is a noticeable practice (which should be avoided) in some parts of Bosnia and Herzegovina that it is necessary to obtain the consent of local communities, or public institutions or private companies to hold a meeting at a particular location. Every public space, as well as every private space, to which the public has access, is adequate for holding public gatherings, and the practice of determining the space that is suitable and accessible for public gatherings by decisions of the city / mayor's office, ie the mayor should have been reconsidered.*
- *The envisaged sanctions against participants, organizers, leaders and wardens are strict and disproportionate to the nature of the omission. Such legal provisions could discourage people from participating in rallies and thus limit their right.*
- *It is necessary to harmonize the policy of sanctions with the goal and purpose of the right to freedom of public assembly, while taking into account the principle of individual responsibility in case of violation of the law or endangering the property or safety of others.*

To the Ministry of Internal Affairs of the Republika Srpska, the Ministry of Internal Affairs of the Federation of Bosnia and Herzegovina, the Police of the Brčko District of Bosnia and Herzegovina, the Cantonal Ministries of the Interior:

- *Ensure the application of the standards related to peaceful assembly presented in this Report.*
- *Take measures with the aim of providing systematic and permanent education of police officers on the right to freedom of assembly and the role of the police in exercising this right and prohibiting all forms of torture.*
- *Ensure that the use of coercive means is in line with standards.*
- *It is necessary, assessing each individual situation depending on the circumstances of the case, to abolish all types of restrictions on the duration of public gatherings as well as restrictions on gatherings at certain times of the day. At the same time, persons who have been imposed a measure prohibiting public appearances cannot automatically be denied the right to organize or participate in public gatherings.*

To prosecutor's offices:

- *To take into account the views expressed in this Report in matters relating to freedom of assembly.*

To organizers of public gatherings, individuals and non-governmental organizations:

- *When organizing meetings, consider the prescribed procedures and the need to protect the rights and interests of third parties.*

## V. JUDICIARY AND ADMINISTRATION

### 5.1. Introduction

The Department for the Exercise of Rights in the Judiciary and Administration received 701 cases. Given the number of cases transferred from previous years, this department had a total of 1048 cases pending.

Based on the cases received by the Ombudsperson Institution and direct contacts with the parties, in the field of justice, the general distrust of citizens towards judicial institutions is still noticeable. The parties generally expressed their dissatisfaction with the inefficiency of the judicial system, inefficient work of the prosecutor's office, distrust in the work of the High Judicial and Prosecutorial Council, inadequate conduct of the HJPC when it comes to disciplinary responsibility of judges, length of appointment of judges ...

When it comes to courts, the largest number of received cases related to the length of proceedings, most often before cantonal courts, appeals against the work of acting judges for failure to make decisions and actions on parties' submissions, difficulties in obtaining information on the status of cases and appeals against court decisions.

There has also been an increase in the number of requests for monitoring, ie monitoring of court proceedings, because the complainants believe that the presence of a representative of the Ombudsperson Institution will ensure a timely and impartial procedure.

When it comes to the work of the prosecution, the complaints mostly concerned the length of investigative proceedings, failure to make prosecutorial decisions, failure to file an indictment after the proceedings, as well as failure to inform the parties about the course of the proceedings.

<b>Violation</b>	<b>Number of cases</b>
Judiciary	368
Administration	292
Prosecution	66
Attorney General's Offices	2
Lawyers	7

### 5.2. Availability of laws and other general legal acts

During August and September 2020, the Human Rights Ombudsmen of Bosnia and Herzegovina had a number of appeals from citizens and citizens' associations concerning the availability of laws and other general legal acts.<sup>115</sup> The mentioned subjects addressed the Ombudsman of Bosnia and Herzegovina in parallel with the address to the Council of Ministers of Bosnia and Herzegovina, the governments of the entities and the Brčko District of Bosnia and Herzegovina. General legal acts at all levels of government in Bosnia and Herzegovina stipulate that they

<sup>115</sup> Ž-BL-05-526/20, Ž-BL-05-561/20, Ž-BL-05-566/20, Ž-BL-05-567/20, Ž-BL-05-568/20, Ž-BL-05-574/20, Ž-BL-05-589/20;

cannot enter into force before they are published in the official gazettes. All official gazettes in Bosnia and Herzegovina have been established by the executive. In order for citizens to be able to comply with the regulations that apply to them, it is necessary for them to be familiar with their content. Editions of official gazettes are available only to those persons who have subscribed to their printed or electronic editions. Bearing in mind the fact that a large number of citizens of Bosnia and Herzegovina, the Republika Srpska, the Federation of Bosnia and Herzegovina and the Brčko District of Bosnia and Herzegovina live on the brink of poverty, and given the new situation regarding the COVID-19 virus, most of them are unable to afford some kind of publication of official messengers. Official gazettes in Bosnia and Herzegovina are established as public companies or as public institutions. Their exclusive activity is of general interest. The general interest is achieved by ensuring that all natural and legal persons, ie all citizens, are acquainted with laws, other regulations and general acts. Some official messengers provide funds for work from the funds they generate through their business. However, despite this fact, the Ombudsmen consider that, in terms of their availability, the general interest is of much greater importance.

In view of the above, the Ombudsmen consider that it would be expedient to find technical possibilities in order to make electronic editions of official gazettes available on websites. Based on the above, the Council of Ministers of Bosnia and Herzegovina, the entity governments and the Brčko District of Bosnia and Herzegovina were issued a recommendation.<sup>116</sup> According to the issued recommendation, the response of the Council of Ministers of Bosnia and Herzegovina number 04-02-2-807-3/20 was submitted, dated 30 November 2020. In the mentioned act, among other things, it is stated that JP NIO Official Gazette of Bosnia and Herzegovina by letter number 4-0-04-1-388/2-20, dated 18 November 2020, informed them that, in accordance with the Law on Official Gazette of Bosnia and Herzegovina, every interested person is provided with free access to the complete content of electronic editions from 1 January 2010.

### 5.2.1. Default interest rate

In 2017, the Ombudsmen sent an initiative to the House of Representatives and the House of Peoples of the Parliament of the Federation of Bosnia and Herzegovina<sup>117</sup>, proposing: "*Within 60 days from the date of receipt of this initiative to adopt the Law on Amendments to the Law on Default Interest Rates in terms of deleting paragraph (3) in Article 2, which reads: "Exceptionally from paragraph 1 of this article on the amount principal determined by executive documents (court judgments and court settlements) and out-of-court settlements based on employment, default interest is paid at the rate of 0.2% per year."* The Parliament of the Federation of Bosnia and Herzegovina did not accept the submitted Initiative.

Regarding this problem, it is important to point out that the Constitutional Court of the Federation of Bosnia and Herzegovina, deciding on the request of the Vice President of the Federation of Bosnia and Herzegovina, to review the constitutionality of the Law on Amendments to the Law on Default Interest, pursuant to Article IV.C.3.10.a) of the Constitution of the Federation of Bosnia and Herzegovina, at its session held on September 25, 2018,

<sup>116</sup> P-176/20, dated 16 September 2020.

<sup>117</sup> Initiative no. P-35/17.

rendered a judgment establishing that the Law on Amendments to the Law on Default Interest Rate (Official Gazette of the Federation of BiH, No. 101/16) is not in accordance with the Constitution Bosnia and Herzegovina, which confirmed the position of the Ombudsman in this case.<sup>118</sup> In its response, the Federation Ministry of Finance pointed out that the identical provision has been applied for many years in the Republika Srpska and that the Constitutional Court of Bosnia and Herzegovina did not find a violation of rights in the judgment AP 401/08 of 15 June 2010.

The Ombudsmen of Bosnia and Herzegovina are concerned about this provision, which, although in line with the decision of the BiH Constitutional Court, raises the issue of government accountability. In the specific case, the question arises in what time frame the obligations from the employment relationship should be fulfilled in the case when the amount of default interest has become equal to the principal debt. The Ombudsmen of Bosnia and Herzegovina will continue to monitor this issue and, if necessary, indicate to the authorities the ways in which they should address this issue.

### **5.3. Judiciary**

An analysis of 368 complaints received by the Institution related to the field of justice, it can be concluded that citizens turn to the Ombudsmen for violation of the following rights:

- inappropriate length of court proceedings (57)
- inefficient enforcement of court decisions (39)
- complaints against the work of judges due to violations of the provisions of procedural laws (8)
- complaints relating to other violations of the rights related to the conduct of courts (violation of the principle of impartiality, failure to make court decisions in the manner prescribed by law and within the time limit, inconsistency of court practice) (256)..

#### **5.3.1. Length of proceedings**

The largest number of complaints is due to the unreasonable length of court proceedings. These are cases where proceedings before individual courts, due to the overload of cases, are conducted in the first and second instance for many years.

However, the overburdening of individual courts cannot be a justification for excessive length of proceedings.

The ombudsmen also wrote recommendations in these cases because every citizen is guaranteed the right to a trial within a reasonable time during the determination of his civil rights and obligations or the merits of any criminal lawsuit.

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<sup>118</sup> Ž-SA-05-681/20;

The state is obliged to organize its legal system in such a way as to enable all people not only a fair trial in relation to their civil rights and obligations, but also to guarantee a "reasonable time" in accordance with Article 6 of the European Convention on Human Rights and Freedoms.

The problem of timely resolution or non-resolution of cases is present in other countries as well. However, in Bosnia and Herzegovina, this has been the most common reason for violations of citizens' rights for years, as shown by cases not only in the Institution but also by decisions of the BiH Constitutional Court and the European Court of Human Rights.

For example, an administrative dispute before the Cantonal Court in Sarajevo was finally resolved in this year, 2020, and the party initiated an administrative dispute in 2017.<sup>119</sup> How long it actually takes to resolve an appeal in second instance courts with a large number of cases, in addition to the plan for resolving old cases, is shown by our cases.

On the other hand, courts with a large number of cases resolve them *in accordance with the Instruction of the High Judicial and Prosecutorial Council of BiH. In accordance with the Case Resolution Plan, the court is obliged to resolve cases as a matter of priority according to the age of the initial act by which the procedure was initiated, unless it is an urgent case.*

The question arises when it will be the turn to decide at all, after how long or years if the court as in one case<sup>120</sup>, the Cantonal Court in Mostar submitted a response to resolve cases from 2016, and the appellant's appeal was received in 2018. No one has a response.

**Example:** Ombudsmen acted in a case<sup>121</sup> in which the responsible party is the Cantonal Court in Tuzla, for violation of the duration of the court proceedings. The case was registered with the Cantonal Court in Tuzla<sup>122</sup> in a legal matter for damages. The Lukavac Municipal Court issued a first instance verdict<sup>123</sup>. The complaint was considered under Article 6 § 1 of *the European Convention for the Protection of Human Rights and Fundamental Freedoms*. The appellant filed an appeal which was submitted to the Cantonal Court in Tuzla for resolution on 2 February 2018. Article 6 of the European Convention positively obliges the state to organize its legal system in such a way as to enable all people not only a fair trial in relation to their civil rights and obligations, but also to guarantee a "reasonable time" for the course of the proceedings. The response of the Cantonal Court in Tuzla was submitted<sup>124</sup>, and it follows that the decision of the

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<sup>119</sup> Ž-SA-08-810/20;

<sup>120</sup> Ž-MO-05-122/18;

<sup>121</sup> Ž-SA-08-1396/19;

<sup>122</sup> Number of cases before the Cantonal Court in Tuzla...

<sup>123</sup> Judgment of 20 December 2017 no

<sup>124</sup> In the response of the Cantonal Court in Tuzla, which states, among other things, that *"this court has a large number of unresolved cases in the civil office and that it resolves cases in accordance with the Instructions of the High Judicial and Prosecutorial Council of BiH. In accordance with the Case Resolution Plan, the court is obliged to resolve cases as a matter of priority according to the age of the initial act initiating proceedings before the municipal court, and this year according to the age of the initial act initiating proceedings before the Cantonal Court, in the same proportion. This means that priority in resolving cases will be given to old cases in which the initial act was filed in earlier years in relation to the initial act initiating the procedure in a specific case, in which you are seeking an urgent solution. The case of this court... came to the Cantonal Court in Tuzla to be resolved on appeal on 02.02.2018. and the initial act in this case was submitted to the Municipal Court on 19.08.2014. so, given the year when the case was initiated, we are not able to currently assess when the case will be put into operation, in accordance with the Case Resolution Plan which is a binding act for this court when it comes to taking the case into operation, because priority we solve cases from previous years."*

Cantonal Court in Tuzla was not rendered. In the specific legal matter, the Ombudsmen concluded that there had been a violation of the complainant's human rights and fundamental freedoms and issued a recommendation.<sup>125</sup> which was complied with by taking the case to the Cantonal Court in Tuzla.

**Example:** Ombudsmen acted in a case<sup>126</sup> in which the responsible party is the Municipal Court in Velika Kladuša and the Cantonal Court in Bihać. The ombudsmen received a complaint stating that it related to the merits decisions of the Municipal Court of Velika Kladuša and the Cantonal Court in Bihać. The ombudsmen requested a supplement to the complaint. The appellant's response states: *“The case file of my appeal contains evidence that unequivocally indicates a violation of my legal rights to a fair and equitable trial of both the first instance court in Velika Kladuša and the Cantonal Court in Bihać because the same courts rendered verdicts, not on the basis of the original documentation, by not calling witnesses at the appellant's request and by refusing to confront the proposed witnesses ...”* In accordance with the provision of Article 4 of the Law on the Human Rights Ombudsman of Bosnia and Herzegovina<sup>127</sup>, it is beyond the competence of the Ombudsperson Institution to review court decisions. Decisions of courts can be reviewed only in proceedings on legal remedies before the competent second instance court, which was done in this case.

**Example:** The BiH Ombudsmen acted on a complaint<sup>128</sup> in which the Basic Court of Banja Luka is designated as the responsible party. The complaint refers to the length of civil proceedings for violation of employment rights in a lawsuit filed in mid-2017. The Ombudsmen of BiH sent a recommendation to the Basic Court in Banja Luka<sup>129</sup> to take all necessary action with a view to reaching a decision in the appellant's case. Four preparatory hearings and twelve main hearings were held, but no decision was made until the recommendation was written.

### 5.3.2. Execution of budget funds

Ombudsmen for a long time<sup>130</sup> emphasize the problem of difficult implementation of final court judgments in situations where the executor is a municipality, canton or entity, in which cases enforcement can be carried out only on the funds provided for that purpose, and in the amount provided by the budget of a public body for that purpose for a specific budget year and in accordance with the established order of collection.

In these cases, the BiH Ombudsmen insisted that the responsible authorities provide the necessary information regarding the amount of funds provided for the execution of final court decisions, whether there is a payment plan and the regular location of the complainant.

Ombudsmen demand greater transparency of this information so that citizens have complete information on the implementation of court decisions. When it comes to the implementation of

<sup>125</sup> P-47/20;

<sup>126</sup> Ž-SA-08-1281/19;

<sup>127</sup> “ Official Gazette of Bosnia and Herzegovina “no. 19/02, 35/04, 32/06;

<sup>128</sup> Ž-BL-05-811/18;

<sup>129</sup> P-252/20 of 26 November 2020.

<sup>130</sup> Annual reports on the results of activities of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina 2015-2019.

final court decisions at the expense of the budget, especially municipalities, a much larger allocation is needed than the current one, depending on the number of executors waiting to be paid.

It is especially worrying if there are municipalities that do not have the minimum funds prescribed by law in their budget.

**Example:** Ombudsmen on complaint<sup>131</sup> relating to the Municipality of Pale in the Federation of Bosnia and Herzegovina due to the delay of the enforcement procedure and the settlement of the claimant after the investigation procedure issued a recommendation<sup>132</sup> recommending that the Municipality of Pale undertake all legally prescribed activities and plan funds for the payment of executive court decisions at the expense of the budget in the amount of at least 0.3% of the total planned revenues in the budget, pursuant to the Law on Enforcement Procedure; to take all legally prescribed measures and activities in order to make a plan for the payment of monetary claims - compensation for the expropriated real estate of the complainant. In response<sup>133</sup> On the recommendation, it was pointed out that the Municipality of Pale every year, including in the budget for 2021, for the execution of court decisions from the total planned budget revenues provided a legal amount of 0.3%, as prescribed by Article 138, paragraph 6 of the Law on Enforcement Procedure.

**Example:** Complainant<sup>134</sup> designated the District Court in Banja Luka as the responsible party regarding the enforcement proceedings No. 71 0 I 300149 19 I. During the investigation, the Ombudsperson Institution received a response from the Basic Court in Banja Luka<sup>135</sup> in which, among other things, it is stated: *“This court on 27 July 2020 submitted to the Ministry of Finance of the Republika Srpska the decision of the District Court in Banja Luka. Please note, the Ministry of Finance of the Republika Srpska makes payments according to the established order of receipt, i.e., when it is the turn to collect”* The case is pending.

**Example:** Ombudsmen acted in a case<sup>136</sup> in which the responsible party is the Municipal Court in Sarajevo and the Government of Sarajevo Canton (Ministry of Finance). In this particular case, it is about the execution of final court decisions on budget funds<sup>137</sup>. The complaint points out that, until the day the complaint was submitted to the Ombudsmen, the court's decisions were not followed, that the single database of executive decisions of the main transaction account of Sarajevo Canton contained 6 (six) executive decisions of the Municipal Court in Sarajevo on behalf of the complainant. The response of the Ministry of Finance was delivered to the appellant on 10 September 2020 (act no. 08-10-1018-3/19 of 18 August 2020) in which, among other things, it is stated *“... Respecting the legally prescribed obligation from Article 2 of the Law on Amendments and Amendments to the Law on Enforcement Procedure of the FBiH ("Official Gazette of the FBiH" No. 46/16) The Government of the Sarajevo Canton in the budget*

<sup>131</sup> Ž-SA-05-255/20;

<sup>132</sup> P- 181/20 of 10 September 020;

<sup>133</sup> Act of the Municipality of Pale number 01-14-1-81-5 / 20 from 18.12.2020;

<sup>134</sup> Ž-BR-08-49/20;

<sup>135</sup> Act of the Basic Court in Banja Luka number 071-0-Su-20-002299 dated 27 July 2020;

<sup>136</sup> Ž-SA-08-41/20;

<sup>137</sup> Rulings of the Municipal Court in Sarajevo No. 65 0 I 343367 13 I; 65 0 I 757083 19 I; 65 0 I 757081 19 I; 65 0 I 734291 18 I; 65 0 I 734288 18 I;

*of the Sarajevo Canton for 2020 for the payment of court enforcement decisions planned funds in the amount of 2,907,405.26 KM. The Ministry of Finance of Sarajevo Canton sent a request to BBI Bank to submit data on the enforcement decisions. According to the data received from BBI Bank, which maintains a single database of court enforcement decisions, on 18 August 2020 based on the submitted data, it is evident that there was a reduction in the order for payment of the decision on execution in the name of ... which is made on the basis of the invitation to conclude an out-of-court settlement published by the Government of Sarajevo Canton.... We note that the Government of Sarajevo Canton issued an invitation in 2016 to conclude an out-of-court settlement and that the mentioned persons applied and that they were paid based on the annex to the Out-of-Court Settlement Agreement No. 02-14-29530-916." Having in mind the content of the submitted response of the Ministry of Finance, provisions of the Law on Amendments to the Law on Enforcement Procedure of the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of Bosnia and Herzegovina" No. 46/16), the Ombudsmen closed the case.*

#### **5.4. Prosecution**

In the reporting period, 66 complaints related to the work of prosecutor's offices were received, and three recommendations were issued, two of which were implemented, and no response was received for one.

The filed complaints refer to the failure to take action in connection with the filed criminal charges and to the duration of the proceedings until the prosecutor's decision is made. The Ombudsmen believe that citizens should have timely information, what was done with the report, whether the work is as well as other possible available information, because these are the most common reasons for dissatisfaction with the work of the prosecution.

**Example:** Ombudsmen acted in a case<sup>138</sup> in which the responsible party is the District Public Prosecutor's Office of Banja Luka, to which the appellant filed a criminal complaint against the person and others on June 18, 2019. Until the day of filing the complaint, as stated, the complainant had not received information about the activities undertaken by the prosecution. After information on the status of the case was requested, a response was provided<sup>139</sup>. Considering that the prosecutor's decision in the case of the appeal was made, that the appeal was submitted to the second instance body on July 8, 2020, the statement of the District Public Prosecutor's Office in Banja Luka was requested again. The response was submitted to the Ombudsmen on 20.07.2020, which states, inter alia, that *"... the complaint against the order not to conduct an investigation was rejected as unfounded, in connection with which a decision was made to reject the complaint on 11 June 2020, an act addressed to the complainant."*

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<sup>138</sup> Ž-SA-08-526/20;

<sup>139</sup> Responses were received, 15 November 2019, act number T13 0 KTA 0048775 19 and 6 March 2020, act number T13 0 KTA 0048775 19 stating *"On 17 January 2020 the District Public Prosecutor's Office of Banja Luka received your act in which you request that you information is provided on whether a prosecutorial decision has been made in a specific legal matter. In this regard, we would like to inform you that on 28 February 2020. issued an order not to conduct an investigation, which will be delivered to the applicant by post. "The answers were delivered to the complainant. The complainant again addressed the Ombudsman Institution, during which he submitted a copy of the complaint submitted to the District Public Prosecutor's Office in Banja Luka, filed on March 10, 2020.*

**Example:** Ombudsmen acted in a case<sup>140</sup> in which the Cantonal Prosecutor's Office of Sarajevo Canton is the responsible party. On October 4, 2018, the complainant filed a criminal report against the Public Institution Center for Culture Sarajevo, the Ministry of Culture and Sports of Sarajevo Canton and unknown persons, for the criminal offense of theft, unscrupulous business operations and abuse of power by joint and individual actions of the Public Institution Center for culture of Sarajevo and officials of the relevant ministry. The complainant requested the Ombudsperson Institution to conduct the proceedings on the above-mentioned criminal report in accordance with the principles of criminal procedure. The ombudsmen requested a statement from the Sarajevo Cantonal Prosecutor's Office. The answer was received on August 12, 2019, an act of the Cantonal Prosecutor's Office<sup>141</sup>, in which, among other things, it is stated: "*... that the acting prosecutor in the case file took certain actions, requested the collection of material evidence and the examination of witnesses*), in order to make a final prosecutorial decision ... On 07 October 2019 the answer was delivered to the complainant.

**Example:** Ombudsmen acted on a complaint<sup>142</sup> by a group of students of the "International College" Cazin. Due to the suspicion of committing criminal offenses, the official premises of the School were sealed and the teaching process in all departments was suspended. Due to such a situation, students were prevented from coming into possession of their documents found on the premises of that School, which is why they are not able to continue their education. That was the reason why the students with their submission from 30.06.2020. year, asked the Cantonal Prosecutor's Office of Una-Sana Canton for help in resolving this problem. In the investigation procedure, and by order of the Chief Cantonal Prosecutor, the prosecutor in charge is, on July 10, 2020. issued an order for the return of temporarily seized items, ie, documentation by order of the Cantonal Court in Bihać during the search of the premises of the Cazin International College. The same order was submitted to the Agency for Investigation and Protection of BiH, Regional Office Banja Luka, which together with the Prosecutor's Office is conducting an investigation in this case. The appellants, on 11.09.2020. informed the Ombudsperson Institution that all students had taken over the necessary certificates and other documentation. The case is closed.

**Example:** Ombudsmen acted on a complaint<sup>143</sup> expressing dissatisfaction with the conduct of the Sarajevo Cantonal Prosecutor's Office on the criminal report filed by the appellant against the doctor, due to negligent treatment which resulted in the removal of reproductive organs, which made the appellant unable to conceive again. The complainant alleges that at the beginning of 2017 she filed a criminal complaint with the Sarajevo Cantonal Prosecutor's Office and that to date there is no information regarding the course of the proceedings or information on the deadline within which the prosecutor's decision can be expected. The ombudsmen considered the complaint in terms of the length of the investigation into the complainant's criminal report. The case has been considered in the light of Article 6 in conjunction with Article 13 of the European Convention on Human Rights and Fundamental Freedoms. Following the research procedure, a recommendation was issued<sup>144</sup> The Cantonal Prosecutor's Office of Sarajevo Canton to intensify work in the case so that the prosecutor's decision is made within a reasonable time, in terms of

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<sup>140</sup> Ž-SA-05-101/18;

<sup>141</sup> No. A-V-20/19 of 6 August 2019;

<sup>142</sup> Ž-LI-08-161/20;

<sup>143</sup> Ž-SA-05-1320/19;

<sup>144</sup> P-84/20 of 28 May 2020.

guarantees under Article 6, in conjunction with Article 13 of the European Convention on Human Rights and Fundamental Freedoms. The recommendation was implemented in such a way that an order was issued to the acting prosecutor to take over the case as a matter of priority and an expert advisor of this prosecutor's office was assigned.

**Example:** The Ombudsmen were approached by the Office for the Provision of Legal Aid to Members of the Veterans' Population at the HNS BiH, on behalf of... with a complaint<sup>145</sup> due to the length of the investigation, before the Prosecutor's Office of Bosnia and Herzegovina for a war crime committed on 4 July 1993, in Fojnica, against the complainant's father. The institution of the Human Rights Ombudsman requested a statement from the Prosecutor's Office of Bosnia and Herzegovina. The statement of the Prosecutor's Office of Bosnia and Herzegovina No. T20 0 KTRZ 0002487 11 dated 5 August 2020 states: *"We would like to inform you that intensive work is being done on this case, and a number of investigative activities have been undertaken with the aim of identifying perpetrators of war crimes against civilians. damage... and other injured parties in this case. In order to protect the objectives of the investigation, the Prosecutor's Office of BiH is not able to provide information on the content of the actions taken or the actions currently being taken."*

## 5.5. High Judicial and Prosecutorial Council

This year as well, the Ombudsmen received 8 complaints related to the High Judicial and Prosecutorial Council. Citizens very often complained to the Ombudsmen and the High Judicial and Prosecutorial Council about the dissatisfaction and untimely work of the courts in their cases.

The Ombudsmen also emphasize that the High Judicial and Prosecutorial Council, despite all the activities undertaken so far to resolve the length of proceedings, should react more efficiently, perform a detailed analysis before courts with a large number of pending cases and order more efficient measures to resolve backlogs.

There is also a problem with the length of appointments of judicial office holders.

Example: One such example is an appeal in a case<sup>146</sup> relating to the lengthy procedure for the appointment of judges in the Municipal Court in Sarajevo and the Cantonal Court in Sarajevo, contrary to Article 37 of the Rules of Procedure of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina<sup>147</sup> as well as the problem of calculating the annual norm. In the specific case, the investigation procedure was conducted, and the response of the High Judicial and Prosecutorial Council number 08-12-656-2/2020 dated 26 February 2020 was received. This act states that the procedure for selection and appointment of judicial office holders is prescribed by the Rules of Procedure of the HJPC.<sup>148</sup> while the procedure for testing candidates for positions of judicial office in Bosnia and Herzegovina is prescribed by the Rulebook on

<sup>145</sup> Ž-MO-08-99/20.

<sup>146</sup> Ž-SA-08-119/20;

<sup>147</sup> "Official Gazette of BiH", no. 55/13 to 41/18;

<sup>148</sup> "Official Gazette of BiH", no. 55/13, 96/13, 46/14, 61/14, 78/14, 27/15, 46/15, 93/16, 48/17, 88/17, 41/18 and 64/18;

Qualification and Written Testing of Candidates for Positions of Judicial Functions in the Judiciary of Bosnia and Herzegovina<sup>149</sup>. The act also states that the appointment procedure itself is significantly complicated because the procedure takes place in several phases and a number of vacancies are currently announced for the admission of judges, additional judges and expert associates in the Municipal Court in Sarajevo and the Cantonal Court in Sarajevo. In relation to the second issue that arose during the procedure, and relates to the calculation of the annual norm, the act states that the orientation court norm is prescribed as the optimal number of cases to be performed annually, and the calculation is based on system data. for case management in courts and prosecutors' offices and other records.

**Example:** Ombudsmen acted in a case<sup>150</sup> in which the responsible party is the District Commercial Court in Dobož and the Office of the Disciplinary Prosecutor of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina. The complaint states that the complainants filed a lawsuit on April 8, 2008 and that the decision of the first instance court had not been made by the day the complaint was filed with the Ombudsmen. It appears from the documentation provided that the appellants filed a complaint with the Office of the Disciplinary Counsel of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina. They did not receive a response. On November 28, 2019, a statement was requested from the Office of the Disciplinary Prosecutor of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, on February 24, 2020, in the District Commercial Court in Dobož. Answers<sup>151</sup> were received and delivered to the complainants on 13 January 2020 and 8 June 2020. From the content of the submitted response of the District Commercial Court in Dobož and the Office of the Disciplinary Prosecutor of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, it follows that the violations related to the length of civil proceedings have been eliminated. The case is closed.

## 5.6. Lawyers

Ombudsmen are addressed by citizens dissatisfied with the work of authorized lawyers in terms of lack of satisfactory contact with lawyers, insufficient information about the actions taken in their cases. In addition to the above, dissatisfaction was expressed with the work of bar associations regarding citizens' complaints related to the inappropriate conduct of lawyers.

**Example:** Ombudsmen acted in a case<sup>152</sup> in which the appeal relates to the merits of the court decision (judgment of the Municipal Court in Tešanj), to the unprofessional and unethical attitude of the lawyers who represented the appellant and to other participants in the proceedings. The appellant was instructed to address the Zenica-Dobož Canton Bar Association.

<sup>149</sup> "Official Gazette of BiH", no. 78/14, 45/15, 48/16, 12/18 and 51/18;

<sup>150</sup> Ž-SA-05-1020/19;

<sup>151</sup> Act of the District Commercial Court Dobož number 60-0-Su-20-000 064-1 from 03.03.2020. and act number 60 0 Ps 016504 19 Ps 3 dated 2 March 2020, Act of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina number UDT DI 009895 19 dated 4 December 2019.

<sup>152</sup> Ž-SA-08-1323/19;

**Example:** Ombudsmen acted on a complain<sup>153</sup> in which the Bar Association of the Federation of Bosnia and Herzegovina is designated as the responsible party. It is stated that until the day of filing the appeal, the appellant did not receive a response from the Bar Association of the Federation of Bosnia and Herzegovina to the inquiry of 15.05.2019. nor was the appellant's complaint dated 9 July 2019 addressed to the Bar Association of the Federation of Bosnia and Herzegovina acted upon. Given the lack of co-operation during the proceedings, the Ombudsmen issued a recommendation<sup>154</sup> To the Bar Association of the Federation of Bosnia and Herzegovina, immediately after receiving the recommendation, the Bar Association of the Federation of Bosnia and Herzegovina to establish cooperation with the Ombudsmen of Bosnia and Herzegovina in the manner prescribed by the Law on the Human Rights Ombudsman of Bosnia and Herzegovina. No response received.

## 5.7. Administration

In the reporting period, 292 complaints were received related to the work of administrative bodies, 33 recommendations were issued, of which 8 were implemented, 7 achieved cooperation, 8 were not implemented, 1 was partially implemented and 9 recommendations did not respond.

Complaints registered in the Institution referred to the duration of administrative proceedings, silence of the administration, failure of administrative bodies to comply with decisions with indications/enforcement clauses, failure of administrative bodies to comply with court requests, inefficiency of inspection services.

The problem of the so-called ping-pong balls, which is why items don't end up in years. When returning the case for retrial, the Ombudsmen in their recommendations point out to the administrative bodies the application of the law on administrative procedure where the first instance body is obliged to eliminate the irregularities assessed by the second instance body and issue a new decision.

The ombudsmen also point out the principle of efficiency, which is prescribed by Article 6 of the Law on Administrative Procedure of BiH, which obliges administrative bodies to ensure the effective exercise of the rights and interests of citizens, companies, institutions and other legal entities.

**Example:** Ombudsmen acted in a case<sup>155</sup> in which the Service for Economy and Inspection of the Municipality of Tomislavgrad was mentioned as the responsible party, and related to non-compliance with the decision of the Directorate for Inspection Affairs of Canton 10, which upheld the appellant's appeal, annulled the decision of the responsible party and returned the case for retrial and decision. In its response to the Ombudsmen, the responsible party stated that it had controlled the execution of the first instance decision and stated that it had been fully complied with. In their re-appeal, the Ombudsmen pointed out to the responsible party that the second-instance body annulled the first-instance decision and returned it for a new procedure, and

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<sup>153</sup> Ž-SA-05-1066/19;

<sup>154</sup> Recommendation number P-133/20 dated 20 July 2020.

<sup>155</sup> Ž-LI-05-151/20;

assessed that the provisions of the Law on Construction of Canton 10 had been violated in the first-instance procedure<sup>156</sup> and the provisions of the FBiH Law on Administrative Procedure<sup>157</sup>. As the responsible party did not act on the instructions of the second instance body, did not conduct a retrial and issued a new decision, the Ombudsmen issued a recommendation<sup>158</sup> to urgently conduct a retrial and issue a new decision in accordance with the instructions given by the Directorate for Inspection Affairs of Canton 10. The recommendation was not implemented, the case was closed.

**Example:** Ombudsmen acted on a complaint<sup>159</sup> which pointed to the unreasonable length of the proceedings, the repossession of the apartment before the Sarajevo Canton Housing Administration as the first instance body, and the Ministry of Physical Planning, Construction and Environmental Protection of the Sarajevo Canton as the second instance body<sup>160</sup>. On 22 May 2017 before the Cantonal Court in Sarajevo, the appellant re-initiated an administrative dispute which was not concluded. The ombudsmen made a recommendation<sup>161</sup> by which the Cantonal Court in Sarajevo was proposed to, taking into account the appellate allegations and the length of the proceedings in the administrative matter in question, to make a decision on the merits, without returning the case for retrial. In the case, after the issuance of the recommendation, two urgencies were sent to the Cantonal Court in Sarajevo for the procedure and implementation of the recommendation, but to date no response has been received.

**Example:** Ombudsmen acted on a complaint<sup>162</sup> which was declared for the work of the Municipality of Drvar, which did not decide on the request for the issuance of a copy of the cadastral plan - sketch dated 2 September 2019. In the investigation, the Municipality of Drvar offered evidence that the submitted request was decided and an appropriate sketch was issued on September 2, 2019.

**Example:** Ombudsmen received a complaint<sup>163</sup> stating that the applicant's son died on 24 July 2019, that he was a member of the category of war invalids with a determined percentage of disability of 100% of category II, on the basis of which he was a beneficiary of disability

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<sup>156</sup> "Official Gazette of Canton 10", no. 3/16;

<sup>157</sup> "Official Gazette of FBiH", no. 2/98,48/99;

<sup>158</sup> P-162/20;

<sup>159</sup> Ž-SA-05-796/17;

<sup>160</sup> In this case the proceedings were conducted for several years, initially at the request of the father (request for repossession of the apartment filed on 15 September 1998), then the mother who continued the proceedings after the death of her husband, and after her death the proceedings were continued by the appellant. After the decision No. 23-04/I-23-280/05 of 10 January 2013 established that the appellant was a member of the family household of the occupancy right holder and that he had the right to repossess the apartment in question, the appellant submitted a request for a conclusion on permission to execute the said decision, but the request was rejected by the decision of the Housing Administration of Sarajevo Canton number 23-04/I-23-280/05 dated 7 March 2013. The procedure was then conducted before the second-instance body, and then in an administrative dispute before the Cantonal Court in Sarajevo, which returned the case to the administrative bodies for reconsideration. After that, the procedure was conducted again before the first instance and then the second-instance body, which returned the case for retrial. The Housing Administration of Sarajevo Canton, by Decision No. 23-04/I-23-280/05 of 9 February 2017, again rejected the appellant's request. The appellant filed an appeal against this decision, which was rejected by the decision of the Ministry of Physical Planning, Construction and Environmental Protection of the Sarajevo Canton No. 05/02-23-597/17 of 13 April 2017

<sup>161</sup> Recommendation number P-80/20 dated 21 May 2020.

<sup>162</sup> Ž-LI-08-78/20.

<sup>163</sup> Ž-SA-05-251/20;

benefits and allowance for care and assistance from another person. The appeal also states that, after the divorce from his wife, the deceased lived with the appellant in a joint household for many years. After the death of her son, the appellant was granted the right to a family disability allowance by a decision of the Service for General Administration and Veteran-Disabled Protection. In the ex officio review procedure, the Travnik Cantonal Office for Defense Counsel issued a decision annulling the first-instance decision and rejecting the appellant's request for recognition of her rights, explaining that, in terms of Article 21a. According to the Law on the Rights of Veterans and Members of Their Families of the Federation of Bosnia and Herzegovina, the right to family disability benefits after the death of a war invalid has a wife and children, ie the said right does not belong to parents. Deciding on the lawsuit, the Cantonal Court in Novi Travnik issued a verdict accepting the lawsuit, annulling the decision and returning the case to the Cantonal Administration for Defense Counsel Travnik for retrial with clear instructions on how to proceed in the retrial. The complainant addressed the Ombudsperson Institution stating that, until the day the complaint was lodged with the Institution, the Travnik Cantonal Administration had not conducted a retrial and had issued a new decision following the instructions of the Novi Travnik Cantonal Court. The ombudsmen issued a recommendation<sup>164</sup> The Cantonal Administration for Defense Counsel to act upon the judgment of the Cantonal Court of Novi Travnik immediately upon receipt of the recommendation and issue a new decision recognizing the appellant's right to family disability benefits. The ombudsmen received the act<sup>165</sup> from which it is evident that a decision was issued recognizing the appellant's right and the recommendation was fully implemented.

**Example:** Ombudsmen acted on a complaint<sup>166</sup> in which the Department for Traffic and Roads of the City of Banja Luka (hereinafter: the Department) is designated as the responsible party. The complainants allege that on 23 June 2020, through a proxy, they addressed the Department with a request for reconstruction - continuation of works on the part, i.e. on the other half of the street in which they live. Upon request, the Department provided them with a notice<sup>167</sup> in which the reasons due to which the works on the other half of the street will not be continued are stated, and as requested by the request. Conducting a research procedure, a recommendation was issued to the Department<sup>168</sup> *to take all necessary actions in order to complete the complete rehabilitation of Lazarička Street in Banja Luka, as provided by the work program of the Department for 2020, and to inform the Ombudsman of Bosnia and Herzegovina within 30 days of the activities undertaken on its implementation.* The department provided notice<sup>169</sup> in which, among other things, he states that in the draft program of joint communal consumption for 2021, he planned the continuation of investment maintenance works on parts of Lazarička, Jovice Savinovića, Golub Babića streets, etc. Bearing in mind that this is a draft act that does not necessarily mean that it will be adopted as such, and in addition, the work program of the

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<sup>164</sup> P-65/20 dated 17 March 2020.

<sup>165</sup> Act of the Service for General Administration and Veterans' and Disabled Protection of the Municipality of Fojnica number 06-37-sl/20 dated 21 December 2020.

<sup>166</sup> Ž-BL-08-450/20;

<sup>167</sup> Notification of the Department of Traffic and Roads of the City of Banja Luka number 13-370-4384/2020, dated 3 Julz 2020.

<sup>168</sup> P-148/20, dated 3 August 2020.

<sup>169</sup> Act of the Department of Traffic and Roads of the City of Banja Luka number 13-370-4384/2020, dated 21 September 2020.

Department for 2020 already envisages the renovation of the asphalt road in Lazarička Street, and not its individual parts, issued a recommendation is considered non-compliant.

**Example:** Ombudsmen acted in a case<sup>170</sup> in which the Municipality of Centar/Inspection is designated as the responsible party, and the case refers to the silence of the administration on the submitted request for inspection supervision. On March 8 and April 3, 2019, the Ombudsmen requested information on the performed inspection supervision at the indicated address, as well as a copy of the minutes on the performed supervision at the indicated address. After the urgency, the Ombudsmen received a response<sup>171</sup>. The ombudsmen requested information on whether the enforcement proceedings in the case had been completed<sup>172</sup>. No response received. The ombudsmen made a recommendation<sup>173</sup> recommending that the designated responsible authority establish cooperation with the Ombudsmen. The Ombudsmen of BiH received an act from the Government of the Sarajevo Canton<sup>174</sup> with a copy of the excerpt from the minutes from the 51st session of the Government of Sarajevo Canton held on 13 December 2019 and 19 December 2019 as well as a copy of the minutes for item 28 of the adopted agenda and a proposal for a decision to dismiss the director of the Cantonal Civil Protection Administration. The case is closed.

**Example:** Ombudsmen acted in a case<sup>175</sup> in which the responsible party is the Service for Foreigners Affairs of the Ministry of Security of Bosnia and Herzegovina for non-compliance with the request for permanent residence submitted in November 2018. The answer was received and delivered to the complainant, act number 18.1.1-50-791-2/20 of 8 July 2020, which states, inter alia, "*... During the procedure of granting permanent residence for the person in question, this body was information submitted by the Agency for Investigation and Protection of BiH that may be an obstacle to the approval of permanent residence to the person concerned. Considering that the submitted information was marked with a degree of secrecy, and that it was not sufficiently specified, the Service for Foreigners Affairs again sent a request to the competent agency for security checks for the person in question, with the aim of resolving the request. After this body receives a response from the competent agency and in relation to the person concerned, it will make a final decision on the application of the person concerned for permanent residence permits in Bosnia and Herzegovina.*" The answer was received, act number 18.1.1-50-791-4/20 dated 28 September 2020, from which it follows that after the Ombudsman's action in the subject of the complaint, a permanent residence permit was issued.

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<sup>170</sup> Ž-SA-05-1419/18;

<sup>171</sup> Act number 06-23-1168/18 dated 9 December 2019. The submitted act, among other things, states "*... case number 06-23-9747/18 refers to the air conditioner that is placed on the facade of the building in Mejtaš Street no. 3 (facade of the building towards Kevrin Potok Street). The inspector issued a decision on demolition number 06-23-9747/18 dated 12 February 2002 and the conclusion on the execution permit number 06-23-9747/18 dated 18 March 2019 for the air conditioner in question.*"

<sup>172</sup> No. 06-23-9747/18;

<sup>173</sup> Recommendation No. P-177/20.

<sup>174</sup> No. 16-45-37761/20 dated 29 September 2020.

<sup>175</sup> Ž-SA-05-254/20;

### 5.7.1. Revocation of an urban permit under the right of supervision

The ombudsmen acted on the complaint<sup>176</sup> registered in the Department for Monitoring the Exercise of Economic, Social and Cultural Rights (Ecology and Environmental Protection) on the address of citizens on behalf of the residents of Malo Polje, Blagaj, near Mostar, due to illegal construction on land in the Buna River. The investor started construction on the land along the river Buna, based on the decision of the Department of Urbanism and Construction of the City of Mostar, which is a few meters from the river itself, with two sources of drinking water. The institution of the ombudsman conducted an investigation, in which it was determined that the obtained permits were obtained without the water consent of the competent ministry, which were needed in this case.

At the request of the complainants, the Institution of the Human Rights Ombudsman submitted to the Ministry of Construction and Physical Planning of the Herzegovina-Neretva Canton, on February 18, 2020, a request for annulment of the decision on the right of supervision, pursuant to Art. 260. paragraph 1 item 3 of the Law on Administrative Procedure of the Federation of Bosnia and Herzegovina, considering that the consent of another body was not requested when issuing the urban and construction permit - in this case the water consent of the Ministry of Agriculture, Water Management and Forestry of Herzegovina-Neretva Canton.

Ministry of Construction and Physical Planning of the Herzegovina-Neretva Canton by decision<sup>177</sup> annulled, under the right of supervision, the final decision of the Department of Urbanism and Construction of the City of Mostar<sup>178</sup>.

## 5.8. Legislation amending initiatives

This year, from this Department, the Ombudsmen also sent the following initiatives:

### 5.8.1. Initiative for amendments to the Law on the Constitutional Court of the Republika Srpska<sup>179</sup>

On August 24, 2018, the Human Rights Ombudsmen of Bosnia and Herzegovina received a complaint<sup>180</sup> in which the complainant alleges that on 18 August 2018 he submitted to the Constitutional Court of the Republika Srpska an initiative to initiate proceedings to assess the constitutionality and legality of the Law on Legalization of Illegally Constructed Buildings<sup>181</sup>.

After receiving the appeal, the Institution addressed the Constitutional Court, which on 5 August 2019 submitted a response to the Institution stating "... *The Constitutional Court issued a decision on its initiative at its 243rd session held on 22 May 2019, suspending the proceedings due to the fact that the submitter of the initiative passed away ...* "

<sup>176</sup> Ž-MO-04-165/19;

<sup>177</sup> No. UP-2-09-02-19-25/20, of 29 May 2020;

<sup>178</sup> No. UPI-07/2-25-9090/18, of 18 December 2018. (urban permit);

<sup>179</sup> P-4/20 of 26 December 2019;

<sup>180</sup> Ž-BL-05-735/18;

<sup>181</sup> "Official Gazette of the Republika Srpska", No. 62/18.

The Ombudsmen of Bosnia and Herzegovina, considering the case under the above number, note certain contradictions.

Analyzing the Law on the Constitutional Court of the Republika Srpska, the Ombudsmen note that in accordance with Article 57, the Court suspends the proceedings if the procedural preconditions for conducting the proceedings cease during the proceedings ... which is the case in the present case.

In the decision on the suspension of the procedure<sup>182</sup> at the initiative of the complainant, it is stated that the procedure for assessing the constitutionality and legality of the Law on Legalization of Illegally Constructed Buildings is suspended<sup>183</sup> because the applicant passed away after the submission of the initiative and because the procedural preconditions for conducting the procedure ceased.

The ombudsmen point out that the second reason is for the suspension of the procedure in Article 57, item b) if the proposal is withdrawn during the procedure or the initiative for assessing the constitutionality or legality of the general act is abandoned, and the court does not find grounds to continue the procedure on its own initiative.

The ombudsmen are of the opinion that if the second part is envisaged in case of withdrawal or withdrawal from the initiative *"... and the court does not find grounds to continue the procedure on its own initiative ..."* the same should be provided under item e) - termination of procedural presumptions.

The essence of the withdrawal, withdrawal of the initiative and the death of the party has the same meaning in the sense that the Constitutional Court will suspend the proceedings, unless the court finds grounds to continue the proceedings on its own initiative. In this regard, the Ombudsmen consider that it is necessary to amend the existing law, by adding an identical sentence - in case of cessation of procedural obstacles.

On the other hand, the Ombudsmen are of the opinion that the Constitutional Court, even without the mentioned provision, was obliged to consider whether there were grounds to continue the proceedings on its own initiative in the specific case, as well as in other submitted initiatives.

The role of the Constitutional Court of the Republika Srpska is to protect constitutionality and legality as the supreme principles of a legal order and society as a whole.

The Ombudsmen are of the opinion that the assessment of constitutionality and legality is a general goal and should not be linked to the withdrawal, withdrawal or death of a party. In particular, it should not be reduced to the role of strictly assessing whether a party has given up, withdrawn or died during the proceedings and that this is the only reason to suspend the proceedings and close the case, without assessing whether there are grounds for further proceedings. Also, Article 42, paragraph (1) itself stipulates ... in the procedure for assessing constitutionality and legality ... The court is not limited by the request of the proposer, i.e. the

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<sup>182</sup> of 22 May 2019.

<sup>183</sup> "Official Gazette of the Republika Srpska", No. 62/18.

submitter of the initiative (2). If the proposer, i.e. the submitter of the initiative withdraws from the proposal or initiative, the court will continue the procedure for assessing the constitutionality or legality of the general act, if it finds a basis for that.

For the same reasons, the Law on the Constitutional Court stipulates that anyone can take the initiative to initiate proceedings to review constitutionality and legality. Also, the Court may itself initiate proceedings to review constitutionality and legality.

Suspension/termination of proceedings due to the death of a party, as well as other procedural obstacles, is of decisive importance in proceedings deciding on specific rights or obligations of parties such as litigation, administrative and other proceedings, but in the context of the Constitutional Court significance. The administrative procedure also provides for the possibility that if the party withdraws its request, the body will continue to conduct the procedure if it is in the public interest<sup>184</sup>. On January 17, 2020, a recommendation was sent<sup>185</sup> -The Constitutional Court of the Republika Srpska to state in all future similar cases when making a decision on suspension of the procedure/rejection of the proposal the reasons why it did not find a basis for continuing the constitutionality procedure, having in mind its role in the legal system, as well as Art. 42 st. 1 of the Law on the Constitutional Court of the Republika Srpska, which prescribes that ... The court is not limited by the request of the proposer, i.e., the submitters of initiatives ... and

- The National Assembly of the Republika Srpska to take this recommendation into consideration as an initiative to amend the Law on the Constitutional Court of the Republika Srpska in terms of specifying the termination of procedural presumptions and the authority of the Constitutional Court to continue the procedure ex officio, if it finds grounds for that.

In its response of September 21, 2020, the National Assembly of the Republika Srpska stated that the initiative was submitted to the Committee on Political System, Judiciary and Administration, as well as to the competent parliamentary working body and the Legislative Committee of the National Assembly and the Government of the Republika Srpska.

### **5.8.2. Initiative to amend Articles 22 to 25 of the Law on Employees in Civil Service Bodies in the Federation of Bosnia and Herzegovina<sup>186</sup> related to the work of the Commission for Selection and Filling of Vacancies of State Employees in Civil Service Bodies in the Federation of Bosnia and Herzegovina.**

The Institution of the Human Rights Ombudsman of Bosnia and Herzegovina received a complaint<sup>187</sup> in which the complainant states that he applied for the Public Competition of the Tax Administration of the Federation of Bosnia and Herzegovina to fill vacancies for employees, published on 25 July 2019, and the Commission for Admission of Employees reviewed applications and made a list of candidates who meet all the requirements of the Public Competition and a list of candidates who do not meet all the requirements of the Public Competition.

<sup>184</sup> Article 119 of the Law on General Administrative Procedure;

<sup>185</sup> No. P-4/20;

<sup>186</sup> "Official Gazette of the Federation of BiH", No. 49/05.

<sup>187</sup> Ž-BL-08-418/20;

After receiving the complaint, the institution addressed the Tax Administration of the Federation of Bosnia and Herzegovina, which submitted a response<sup>188</sup> stated that Article 25 of the Law on Employees in Civil Service Bodies in the Federation of Bosnia and Herzegovina stipulates that the head of civil service bodies decides on hiring employees from the list of candidates who meet all the conditions of the public competition.

Based on the submitted complaints and documentation in the file, the Ombudsmen performed a more detailed analysis of the regulations governing the procedure for the election of employees in the civil service bodies in the Federation of Bosnia and Herzegovina.

The ombudsmen point out the fact that the legal solution according to which the mentioned Law does not prescribe criteria for selection of candidates for appointment and the head of the body has the possibility to appoint any candidate from the list of successful candidates, prevents the realization of the purpose of public competition.

The purpose of conducting a public competition should be to choose the best candidate, and this is prevented in this way because the head of the body is given the right to decide which candidate from the list of successful candidates to choose, without the obligation to explain or justify his choice. Also, no ranking of candidates is performed on any basis, all candidates who meet the required conditions are placed on the list of successful candidates, ie the only condition is a complete application. Namely, as currently defined, *the manager has the opportunity to appoint a candidate from the list of candidates who meet all the conditions of the public announcement*. The Ombudsmen consider that Article 25 defined in this way is subject to abuse, manipulation and leads to legal uncertainty. Also, in the opinion of the Ombudsman, conducting the competition in the manner defined, greatly diminishes the importance of the selection committee, which is authorized only to determine the list of successful candidates who meet the requirements of the competition, or the list of unsuccessful candidates whose applications are rejected. ranking candidates in any other way.

Given all the above, and with the aim of selecting the most successful candidate from the list during the election of employees in the civil service bodies in the Federation of BiH, the Ombudsmen are of the opinion that it is necessary to amend Articles 22-25. Law on Employees in Civil Service Bodies in the Federation of Bosnia and Herzegovina<sup>189</sup> so that the obligations of the selection commission are regulated in more detail and less authority is given to the head of the body in order to prevent abuse in the election of employees to the civil service bodies in the Federation of BiH.

In its reply of 11 November 2020, the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina stated that the Government of the Federation of Bosnia and Herzegovina had submitted its opinion on the initiative to the Legislative and Legal Commission of the House of Representatives of the Federation of Bosnia and Herzegovina. The opinion states, in essence, that accepting the initiative would increase transparency in the process of electing employees and thus reduce abuses in the selection of employees in the civil service

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<sup>188</sup> Of 12 August 2020.

<sup>189</sup> "Official Gazette of the Federation of BiH", No. 49/05.

bodies in the Federation of Bosnia and Herzegovina. In addition, the purpose of the public announcement would be achieved, to select the best candidate, which is in the interest of the civil service bodies in the Federation of Bosnia and Herzegovina and the overall public interest. It is also stated that the Federation Ministry of Justice will take this initiative into consideration in the coming period and propose amendments to the Law on Employees in Civil Service Bodies in the Federation of Bosnia and Herzegovina.

**5.8.3. Initiative sent to the Assembly of Una-Sana Canton for amendments to the Law on the manner of financing the Cantonal Fund for the construction of apartments for members of the families of martyrs and fallen soldiers, war invalids, demobilized soldiers and displaced persons<sup>190</sup>**

The complainant addressed the institution of the Human Rights Ombudsman of Bosnia and Herzegovina<sup>191</sup> received on 19 August 2020, which refers to the procedure during the registration of motor vehicles in the Una-Sana Canton.

The complaint states that the Ministry of the Interior of the USC has been requesting *proof for a longer period of time during the registration of motor vehicles, a payment slip of 10.00 KM (for individuals), or 20.00 KM (for legal entities), in favor of the Cantonal Fund apartments for members of the families of martyrs and fallen soldiers, war invalids, demobilized soldiers and displaced persons.*"

In the opinion of the Ombudsman, the procedure for registration of motor vehicles is clearly foreseen, as well as what evidence can be required during registration. Relevant regulations in these proceedings are the Law on Fundamentals of Road Traffic Safety of Bosnia and Herzegovina, the Law on Misdemeanors and the Rulebook on Registration of Motor Vehicles in Bosnia and Herzegovina. None of the relevant regulations governing the motor vehicle registration procedure provides proof of payment of the fee for financing the Cantonal Fund for the construction of apartments for members of the families of martyrs and fallen soldiers, war invalids, demobilized soldiers and displaced persons as a condition for registration.

It is indisputable that the obligations imposed on the citizens of Una-Sana Canton during the registration of motor vehicles in a specific case are not obligations related to the use of motor vehicles, nor are they a consequence of the imposed misdemeanor sanctions. The ombudsmen are of the opinion that the establishment of the Cantonal Fund for the construction of apartments for members of the families of martyrs and fallen soldiers, war invalids, demobilized soldiers and expelled persons of human character, but its financing by persons registering motor vehicles is mandatory, which is not justified. Accordingly, the financing of the fund has nothing to do with the use of vehicles and can in no way be linked to or serve as a condition for vehicle registration.

Taking into account the above, the Ombudsmen of Bosnia and Herzegovina are of the opinion that it is necessary to amend the Law on the Manner of Financing the Cantonal Fund for Housing

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<sup>190</sup> Official Gazette of Una-Sana Canton, No. 5/2000.

<sup>191</sup> Ž-BL-04-540/20.

for Members of Families of Martyrs and Killed Soldiers, War Invalids, Demobilized Soldiers and Displaced Persons so that Article 2 is deleted. legal and natural persons when registering motor vehicles as contributors. In this connection, Article 5 is deleted.  
No response received.

## VI. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

### 6.1. Introduction

The Department of Economic, Social and Cultural Rights received 622 cases. Considering the number of cases transferred from previous years, this department had a total of 1089 pending cases.

Complaints received related to violations of employment rights 211, followed by complaints related to pensions 131, utilities 103, social protection 68, health 53, education 36, ecology and environmental protection 15 and public revenues 3.

The largest number of issued recommendations by categories referred to the violation of rights from labor relations, violation of rights from health insurance, pension insurance, ecology and environmental protection, utilities, social protection and education.

It is important to point out that an increasing number of citizens turn for help in writing a submission to the competent authorities, which is why the Ombudsmen have been pointing out for years the need for better organization of free legal aid for better accessibility to all citizens in BiH.

Violation	Number of cases
Labor relations	211
Pensions	131
Communal services	103
Social protection	68
Health	53
Education	36
Ecology and environmental protection	15
Public revenues	3

#### 6.1.1. Recommendations to public authorities - COVID-19

During the COVID-19 coronavirus pandemic, the Ombudsmen, in order to protect the rights and freedoms of vulnerable categories of citizens, pointed out to the competent public authorities<sup>192</sup> to the need for increased supervision and taking as effective measures as possible in relation to risky and vulnerable groups of citizens (the elderly, people with disabilities, children, single parents), persons who due to chronic diseases, autoimmune diseases and/or other health problems belong to the risk group.

The ombudsmen also recommended that employers provide work from home, in all situations where this is possible for people with disabilities, parents of children and adults with disabilities, or people caring for the same, single parents. If it is not possible to organize work from home in

<sup>192</sup> Act no. Oi-K-SA-55/20 of 31 March 2020.

some cases, we recommend that the most appropriate conditions be provided that will ensure health protection and prevention.

The public authorities are aware of the position of the United Nations Special Rapporteur on the Rights of Persons with Disabilities that: *“Restricting contact with close persons leaves persons with disabilities completely unprotected from any form of violence or neglect in institutions”*. The elderly and infirm, people with disabilities, often cannot function independently and are forced to use various forms of support such as food, medicine, various forms of assistance, and accordingly the view is expressed that it is necessary to consider the possibility and make additional efforts to enable all the above categories to continue providing services. Protective equipment should be provided to those providing assistance and support.

## 6.2. Labor relations

As in previous years, the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina received a large number of complaints related to violations of employment rights, irregularities related to the implementation of tender procedures, problems related to irregular payment of pension and health insurance contributions, illegal dismissals, employment contracts, illegalities in regulating rights due to termination of employment contracts (severance pay, compensation for unused annual leave), long-term bankruptcy proceedings on which ultimately depends on the realization of pensions, etc.

Although the global coronavirus with the coronavirus COVID-19, which affected the whole world, is primarily a health problem, at the same time it has a huge impact on the economic sphere, labor market and capital and has greatly affected the quality of life of Bosnia and Herzegovina. Unemployment growth was caused by reduced economic activity due to the COVID-19 pandemic, and unemployment has increased by 23,364 people or 5.8% since the beginning of the pandemic<sup>193</sup>.

As the competence of the Ombudsman refers to the authorities in Bosnia and Herzegovina<sup>194</sup>, and not private companies, the Ombudsman Institution has no data on the number of complaints related to the termination of employment due to the pandemic, however, during the period in which there was a reduction and suspension of catering, service and tourism facilities that were most affected by the measures taken with the aim of protecting against the spread of the virus, a larger number of telephone calls from unemployed citizens have been noticed. Also, in connection with the above, the length of waiting for the realization of the related unemployment benefits can be pointed out as a problem that has arisen, due to the increased inflow of requests to the competent unemployment offices.

The current labor legislation in Bosnia and Herzegovina does not provide for legal solutions to be applied in times of crisis, such as emergencies and natural disasters, caused by the COVID-19 pandemic. Precisely for these reasons, the Government of the Federation of Bosnia and Herzegovina and the Government of the Republika Srpska, after declaring a state of natural

<sup>193</sup> <http://arz.gov.ba/statistika/mjesecni/default.aspx?id=4879&langTag=bs-BA>

<sup>194</sup> Article 1 of the Law on Human Rights Ombudsman of Bosnia and Herzegovina;

disaster, i.e. a state of emergency, adopted a number of measures and recommendations to ensure implementation of orders of the competent civil protection crisis headquarters. employers and workers. Due to the ban on work and reduced workload, employers organized work outside the business premises (work from home), the use of annual leave and / or leave, and in some cases the employment contract was terminated. The Law on Mitigation of Negative Economic Consequences has been adopted in the Federation of Bosnia and Herzegovina<sup>195</sup>. Measures to mitigate the harmful effects of the coronavirus pandemic on the economy of the Republika Srpska have been adopted in the form of several decrees<sup>196</sup>. The Law on Mitigation of Negative Economic Consequences Caused by the State of Natural Disaster Due to COVID-19 was adopted in the Brčko District of Bosnia and Herzegovina<sup>197</sup>. It remains to be seen to what extent these laws and regulations have responded to the needs of employers, ie companies and businessmen, and to what extent the competent institutions have responded to the request to preserve jobs and the economy.

The Federation of Independent Trade Unions of Bosnia and Herzegovina has prepared a brochure *"Basic workers' rights during a pandemic"*, which contains basic information on the rights of workers in relation to the employer<sup>198</sup>.

Judgment of the Constitutional Court of the Federation of Bosnia and Herzegovina published on 3 April 2020<sup>199</sup> it was determined that Article 9 of the Law on Amendments to the Labor Law<sup>200</sup> is not in accordance with the FBiH Constitution. The mentioned article regulates the obligation of the employee to demand from the employer the realization of the right which he considers to have been violated, and only if the employer would not satisfy the employee's request and an agreement on peaceful settlement of the dispute was reached, the employee would have the right to file a lawsuit. An exception to this obligation is the case of termination of the employment contract when the employee's address to the court is not conditioned by the previous address to the employer. The court found that the disputed article restricts the right of workers to access to court, which is not in line with the right to a fair trial under Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. With the announcement of the verdict, Article 9 of the Law on Amendments to the Labor Law will not apply and it is the discretionary right of the employee to address the employer with a request for exercising the right, before addressing the court.

On July 28, 2020, the House of Representatives of the FBiH Parliament adopted the Draft Amendments to the Labor Law. The Government of the Federation of Bosnia and Herzegovina is in charge of organizing a public debate within 60 days in order to draft a Proposal for Amendments to the Labor Law. The law was originally proposed by urgent procedure, which was not supported by the deputies, so it was returned to the regular procedure. During the debate, the majority of MPs considered that the proposed amendments to the Labor Law violate the position of workers.

<sup>195</sup> "Official Gazette of FBiH", No. 28/20;

<sup>196</sup> <https://www.vladars.net/sr-sp-cyrl/Pages/default.aspx>

<sup>197</sup> "Official Gazette of the Brčko District of BiH", No. 17/20;

<sup>198</sup> <https://www.sssbih.com/wp-content/uploads/2020/04/Osnovna-radnicka-prava-u-vrijeme-pandemije-Koronavirusom.pdf>

<sup>199</sup> Published in the "Official Gazette of FBiH" No. 23/20;

<sup>200</sup> "Official Gazette of FBiH", No. 89/18.

At its 5th regular session held on September 24, 2020, the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina adopted the Draft Law on Occupational Safety in FBiH, which was confirmed by the House of Peoples at its 7th session held on October 1, 2020.

During 2020, 211 complaints were registered in the field of labor relations, and 25 recommendations were issued. The analysis of complaints assessed that they relate to violations of competitive procedures in employment, illegalities related to termination of employment contracts, dismissals due to termination of the company due to the COVID-19 pandemic, problems in exercising the right to severance pay, non-payment of pension and disability insurance contributions, non-payment of wages to workers by employers and denial of the right to unemployment benefits.

**Example:** Ombudsmen acted on a complaint from the Association of Hookah Bars and Hookah Water Pipes<sup>201</sup> requesting an opinion/position regarding the issued orders of the Federation Crisis Staff relating to the operation of hookah bars. It is pointed out that the order of the Crisis Staff of the FBiH of 1 June 2020 prohibits the operation of hookah bars indoors and that hookah bars are forced from 1 June 2020 to work exclusively in the open. The petition states that the winter period is approaching, which will condition the operation of hookah bars. In response, the ombudsmen pointed out that any restriction of rights must be in accordance with the law, pursue some of the legitimate goals and be necessary in a democratic society. In this regard, the Law on Protection and Rescue of People and Material Goods from Natural and Other Disasters in the Federation of Bosnia and Herzegovina<sup>202</sup> regulates the system of protection and rescue of people and material goods from natural disasters (Article 1), and that natural disaster, among other things, includes "mass occurrences of human, animal and plant diseases" (Article 3, paragraph 1). Law on Protection of the Population from Infectious Diseases in the Federation of Bosnia and Herzegovina<sup>203</sup> determines what are infectious diseases and measures to protect the population from these diseases. These regulations indicate that there is a legal basis for restrictions. Furthermore, "protecting the health of a large number of people and preventing the spread of an epidemic in society" can be accepted as a legitimate aim to restrict rights. When it comes to the criterion of proportionality<sup>204</sup>, The ombudsman pointed out that the Federation Crisis Staff reviews the orders issued every 14 days and that there are a number of orders that apply to catering facilities, as well as to educational, health institutions, social protection institutions, etc., which were issued with the aim of protecting health. more people and preventing the spread of the epidemic in society. No violation of rights has been established in this regard. The fact that

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<sup>201</sup> Complaint no. Ž-SA-04-776/20;

<sup>202</sup> "Official Gazette of the Federation of BiH", no. 39/03, 22/06 and 43/10.

<sup>203</sup> "Official Gazette of the Federation of BiH", No. 29/05.

<sup>204</sup> The Decision of the Constitutional Court of Bosnia and Herzegovina on Admissibility and Merits on Appeal No. AP-1217/20 of 22 April 2020 states the following: "... the adoption of any measure must take care that they do not violate human and constitutional rights to a greater extent than is necessary, and in particular that the measures be of limited duration, that they be reviewed and adapted to the current situation within a reasonable time, and that they do not place an excessive burden on those concerned. The measures imposed, especially those that significantly infringe on the human rights guaranteed by the Constitution of Bosnia and Herzegovina and the European Convention, must be strictly limited in time, ie they can only last as long as necessary. In addition, the time limit places an obligation on the body ordering the measures, in this case the FBiH Government and the Federation Crisis Staff, to review these measures regularly and, in accordance with the situation, to mitigate or repeal the ordered measures.

hookah bars are only forbidden to serve hookah indoors, but not other drinks, is especially appreciated. In view of the above, a decision was made on the inadmissibility of the complaint, and the Ombudsman had no grounds for action.

**Example:** Ombudsmen acted in a case<sup>205</sup> in which the appellants addressed due to the observed irregularities during the competition with the subject JP Elektroprivreda HZ HB d.d. Mostar, The Ombudsmen made a recommendation<sup>206</sup> to act in accordance with the principle of transparency, the Constitution of BiH and international standards guaranteed by the Constitution of BiH when conducting tender procedures. Namely, the appellants pointed out that the tender procedure was not transparent, that the principle of publicity was not respected, that the appellants did not receive relevant information in time, that they were informed by telephone, that they did not have the opportunity to use a legal remedy.

**Example:** Ombudsmen acted on a complaint<sup>207</sup> which referred to the implementation of the competition for the award of specialization published by the University Clinical Center of the Republika Srpska, because the selection of the best candidate is based on criteria that are not clearly prescribed. The complainant claims that she has so far applied for 31 specializations published by the UCC of the Republika Srpska, none of which has been approved, although she meets the conditions. less favorable position of all other registered candidates. Acting on the complaint, the Ombudsmen issued a recommendation<sup>208</sup> sent to the Ministry of Health and Social Welfare of the Republika Srpska to define in the Rulebook on the plan and program of specializations and sub-specializations the criteria that are taken into account when selecting candidates for the award of specialization/sub-specialization. In response to the recommendation<sup>209</sup> It is stated that the drafting of the said rulebook is in the process, so that the Ministry will consider the recommendation in accordance with that, and in accordance with the provision of Article 90 of the Law on Health Care of the Republika Srpska.

**Example:** Ombudsmen acted in a case<sup>210</sup> in which the responsible party is the Cantonal Public Utility Company "RAD" d.o.o. Sarajevo for violating the regulations for conducting a public announcement for employment for a certain period of time, in which the complainant also participated as an interested candidate, as well as the violation of regulations in the field of the Law on Access to Information. The complainant points out that he applied for a public advertisement for hiring workers in KJKP "RAD" d.o.o. Sarajevo for a certain period of time from October 26, 2019. to the position of auto electrician - defector for electronics. The complaint states that after the completion of the procedure, written and oral testing, he was informed that he had not been hired. The appellant submitted a request for access to information, pointing out that the request for information was granted in part. The complainant addressed a petition to the Cantonal Administration for Inspection Affairs of the Sarajevo Canton for the purpose of conducting an inspection, that an inspection had been carried out in this regard. In the

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<sup>205</sup> Ž-MO-04-82/19; Ž-MO-04-86/19 i Ž-MO-05-106/19;

<sup>206</sup> Recommendation No. P-220/20 of 05.11.2020;

<sup>207</sup> Ž-BL-04-310/20;

<sup>208</sup> Recommendation No. P-143/20 of 27.07.2020;

<sup>209</sup> Dated 31.08.2020.;

<sup>210</sup> Ž-SA-08-68/20;

case of the complaint, the Ombudsmen issued a recommendation<sup>211</sup> by which they requested from KJKP "RAD" d.o.o. Sarajevo to immediately, after receiving the recommendation, bring into the legal framework the procedure and admission of candidates according to the Public announcement for hiring workers in KJKP "RAD" d.o.o. Sarajevo for a fixed period of up to one year, published on October 26, 2019. in the daily newspaper "Dnevni Avaz", on the official website of the Public Institution "Employment Service of the Canton of Sarajevo" and on the official website of the company, based on the previously obtained consent of the Government of the Canton of Sarajevo (number 27-34-25586/19 of 1 July 2019), to inform the Ombudsmen about the manner of implementation of this recommendation as soon as possible, and at the latest within 7 days. A response has been received<sup>212</sup> The recommendation was not followed.

Example: One of the positive examples of addressing and prompt action of the Ombudsperson Institution is the case<sup>213</sup> which refers to the tender procedure before the Prosecutor's Office of Bosnia and Herzegovina and the failure to submit notifications during the tender procedure. Namely, the appellant alleges that he applied for the Public Competition of the Prosecutor's Office of BiH, dated 11 October 2019, to the position of senior expert associate-analyst. On December 30, 2019, he was notified by the Prosecutor's Office of BiH about the completed written and oral testing, as well as which candidates were selected. Furthermore, the Appellant alleges that he was not informed by the Prosecutor's Office of BiH of the date of the written and/or oral test either by landline, mobile phone, SMS, e-mail or post, although he duly provided all contact details. information. From the submitted statement of the Prosecutor's Office of Bosnia and Herzegovina<sup>214</sup> an unintentional omission was evidently made against a candidate who was not invited for a written test, the Chief Prosecutor accepted the candidate's appeal and made a decision to annul the decisions on admitting the candidate to the position of senior associate-analyst, two executors. advertisement to re-invite all candidates with complete and timely submitted documentation and to re-perform written and oral testing.

This year, a large number of citizens in the private sector were fired due to termination of work.

**Example:** Ombudsmen acted in two complaints<sup>215</sup> related to the closure of the Hotel Park Livno, which is privately owned. Namely, the appellants received decisions on termination of employment contracts for an indefinite period of time, which do not regulate the rights that appellants have in such cases (severance pay, compensation for unused annual leave, etc.), and in accordance with the FBiH Labor Law<sup>216</sup>. The appellants were instructed to object to the said decision. Ombudsmen, in accordance with the provisions of the Law on the Human Rights Ombudsman of Bosnia and Herzegovina do not have the authority to deal with private companies, after giving adequate instructions to the party on how to exercise their rights, the case is closed.

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<sup>211</sup> Recommendation no. P-138/20.

<sup>212</sup> Act No. 15046/20 of 31 August 2020, KJKP RAD "d.o.o. Sarajevo;

<sup>213</sup> Ž-SA-04-19/20;

<sup>214</sup> Act of the Prosecutor's Office of Bosnia and Herzegovina No. A-24/20 dated 29 January 2020.

<sup>215</sup> Ž-LI-04-213/20, Ž-LI-04-214/20;

<sup>216</sup> "Official Gazette of the Federation of BiH", No. 26/16 and 89/18.

**Example:** Ombudsmen handled two complaints<sup>217</sup> relating to the termination of the employment contract at the Zenica Cantonal Hospital for refusing the complainants to work in the COVID ward established at the Hospital. Upon completion of the investigation, the Ombudsperson Institution stated that the allegations in the complaint and the statement of the responsible party were contradictory and that the Ombudsperson Institution did not have the capacity and mechanism to determine the merits of each individual allegation, especially given the complexity of the case employment contracts are resolved through the competent court.

**Example:** Complainant<sup>218</sup> states that she is a doctoral student at a university in China, points to a problem she has and which is related to obtaining the continuation of the acquired right to financial compensation from the Employment Bureau, ie denial and deprivation of the right to the same. She alleges that her employment was terminated a year ago and she duly reported to the Employment Service of Sarajevo Canton and acquired the right to financial compensation, given that she worked for 17 years and paid all contributions properly. Upon applying to the Employment Service of Sarajevo Canton, she was notified that she had received a full scholarship for doctoral studies in China. However, due to the COVID-19 pandemic, she had to return to BiH and thus stop receiving scholarships. She alleges that immediately upon her return, she contacted the Employment Bureau of the Sarajevo Canton in order to continue her already acquired right to compensation as well as health care. Deciding on her request, the Office issues a decision<sup>219</sup> rejecting her claim for the right to receive cash benefits, to which the appellant lodged an appeal with the Federation Employment Agency Sarajevo. Acting on the complainant's complaint, the Ombudsperson Institution requested a statement from the Sarajevo Canton Employment Service and the Sarajevo Federation Employment Service. From the response of the Federation Employment Agency<sup>220</sup> and the response of the Public Institution "Employment Service of Sarajevo Canton" Sarajevo<sup>221</sup> it is evident that the Federation Employment Agency has issued a decision<sup>222</sup> by which he annulled the decision of the Public Institution "Employment Service of the Sarajevo Canton" Sarajevo<sup>223</sup> and returned the case for retrial and decision. The Federation Employment Bureau found that the first-instance body erroneously and incompletely established the factual situation and incorrectly applied the provisions of substantive and procedural law, with the instruction that the first-instance body in the renewed procedure establish all relevant facts for deciding on the continued use of the right to financial compensation fees. On September 29, 2020, the Public Institution "Employment Service of the Sarajevo Canton" Sarajevo issued a decision<sup>224</sup> by which the appellant was granted the right to continue to use the monetary compensation.

**Example:** Ombudsmen also point to the work on complaints as a positive example<sup>225</sup> which was stated due to the impossibility of obtaining a certificate of work experience from the Public Institution Elementary School "Hasan Kikić" in Sanski Most. The ombudsmen issued a

<sup>217</sup> Ž-SA-04-653/20 and Ž-SA-04-654/20;

<sup>218</sup> Ž-SA-04-682/20.

<sup>219</sup> No. 06/3-35-6588-2/19 DL of 5 August 2020.

<sup>220</sup> Act no. 04/31-7652/20;

<sup>221</sup> Act no. 01/01-34-3653/20 of 29 September 2020.

<sup>222</sup> No. 04/1-31/1-453/20 of 25 September 2020

<sup>223</sup> No. 06/3-35-6588-2/19 DJ of 5 August 2020.

<sup>224</sup> No. 06/3-35-6588-3/19 DJ.

<sup>225</sup> Ž-BL-04-265/19;

recommendation<sup>226</sup> to enable the appellant issue of a certificate relating to the length of service from 1992 to 1996, which was done.

**Example:** Complainant<sup>227</sup> who was employed in JP "Komunalac" d.o.o. Glamoč terminated his employment due to retirement, but he has not been paid severance pay for several months due to the unfavorable financial situation, although in previous cases it was paid within a month. After the initiation of the investigation, the appellant was paid severance pay.

**Example:** Ombudsmen acted on a complaint<sup>228</sup> which referred to violations of employment rights at the University of East Sarajevo and the Faculty of Physical Education and Sports in Pale due to non-implementation of the decision to appoint the complainant to the academic title of full professor at the Faculty of Physical Education and Sports in Pale. Following the investigation, the Ombudsmen of Bosnia and Herzegovina issued a recommendation<sup>229</sup> to Dean of the Faculty of Physical Education and Sports Pale to immediately take all activities in organizing a meeting with the appellant in order to overcome the disturbed interpersonal relations and lack of communication between the management of the Faculty of Physical Education and Sports and the appellant so as to try to find causes, consequences and common solutions. The recommendation has been sent to the authority, and a response to it has not yet been received.

**Example:** Ombudsmen acted on a complaint<sup>230</sup> in which the applicant stated that he had difficulties in certifying the decision on administrative prohibition by the employer. After the intervention of the Ombudsman Institution, the complainant was certified by an administrative ban, i.e. the loan application was approved by the employer, considering that he met the legal requirements for the same.

### 6.3. Health care

The provision of health services and health care in Bosnia and Herzegovina during the COVID-19 pandemic was a particular challenge. In addition to the fact that the competent authorities issue measures and recommendations aimed at preventing the spread of the virus, the quality of health care as well as the availability of services are hampered and conditioned by the measures implemented by the competent health institutions.

Notwithstanding the COVID-19 pandemic, the Ombudsperson Institution considered complaints regarding access to health care, problems related to reimbursement of medical expenses abroad, and other health insurance rights. Especially during March and April, when there were general prohibition measures, citizens sought help for adequate treatment.

In 2020, the Department registered 68 cases in the field of health care, and a recommendation was issued in one case.

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<sup>226</sup> Recommendation No. P-237/19.

<sup>227</sup> Ž-LI-04-179/20.

<sup>228</sup> Ž-SA-04-868/18;

<sup>229</sup> P-184/20 od 25.09.2020.

<sup>230</sup> Ž-SA-04-102/20;

On this occasion, we especially want to point out the importance of health care, which must be organized in a way that will most effectively provide protection to the citizen.

The following is an overview of the cases that are actually the best indicator of the reasons for addressing and our actions when it comes to the right to health care and related to COVID-19 this year.

**Example:** Ombudsmen opened a case ex officio, based on the addresses of several people<sup>231</sup> under the name "Isolatorij Ortiješ/Mostar - COVID-19". The complaints related to accommodation in the Ortiješ isolation facility in Mostar at the height of the coronavirus pandemic. Namely, some people, after returning from abroad and receiving instructions from the border police, went to self-isolation and after a few days were brought to the Ortiješ isolation facility, although they adhered to self-isolation measures in their home. Those persons complained about the conditions in the isolation ward itself, hygiene, accommodation of several people in the same room, bad food and inadequate health care. After the Ombudsman's intervention, they were provided with health care, tested for COVID-19 and separated into separate rooms. By order of the Cantonal Civil Protection Headquarters<sup>232</sup> all isolation facilities in the Federation of BiH are closed.

**Example:** Ombudsmen acted on a complaint<sup>233</sup> in which the applicant alleges that her husband had had an accident in Zagreb and that he had been in a coma for two months at the Department of Traumatology of the KBC Sestara milosrdnica. She points out that before leaving for Zagreb, her husband went to a family doctor who did not inform him of the obligation to carry a bilingual BH/HR3 form, nor did the doctor know how to clarify what documentation was needed the day after the accident. By the act of the Health Insurance Institute of Zenica-Doboj Canton<sup>234</sup> sent to the Croatian Health Insurance Institute, Regional Office Zagreb: *„...refuses to give consent to subsequently issue a BH/HR3 form to regulate his treatment in KBC Sestre milosrdnice starting from 8 June 2020 until discharge from hospital, since the appointee before going abroad has not obtained the said form...”*

The Health Insurance Institute of Zenica-Doboj Canton informed the Ombudsmen<sup>235</sup>: *“... Inspecting the official records of the Health Insurance Institute ZDK, it was determined that the appointed person was issued a form BH/HR3 from 9 March 2020 in the duration of 21 days (for the period from 5 May 2020 to 25 May 2020), and upon request submitted before departure abroad on 12 February 2020. Accordingly, the appointee was acquainted with the procedure for exercising the right to health care during his stay abroad, so that the complainant's allegations “that her husband went to a family doctor in Crkvice before leaving for Zagreb, who did not inform him of the obligation to have carry a bilingual BH/HR3 form ”... In addition, we point out that the nominee as a high-risk person at the age of 75 traveled abroad in the midst of a pandemic without prior regulation of the right to health insurance abroad so it can be considered a trip to own risk. In the past two years, 6 requests for subsequent issuance of the BH*

<sup>231</sup> Ž-MO-04-56/20;

<sup>232</sup> No. 12-40-6-148-144/20, od 24.04.2020.

<sup>233</sup> Ž-SA-04-668/20;

<sup>234</sup> Act no. 05/0-33-520/20 (U,S) of 28 July 2020.

<sup>235</sup> Act no. 03-33-8728/20 (U.S) of 19 August 2020.

*/ HR3 form were submitted, and in all cases after the procedure, the above form was issued to insured persons, with the proviso that in 2020, given the epidemiological situation caused by coronavirus, (COVID-19) no form.” The case is closed.*

**Example:** Acting on a case<sup>236</sup> of the complainant whose daughter suffers from cerebral palsy and who needs a companion due to 100% disability for spa treatment, after conducting an investigation against the Health Insurance Fund of the Brčko District of Bosnia and Herzegovina, the Ombudsperson Institution sent a recommendation<sup>237</sup> to review their decision regarding the approval of the escort during the approval for inpatient physical treatment in one of the institutions that provide these treatments. The Health Insurance Fund of the Brčko District of Bosnia and Herzegovina submitted a response to the Ombudsperson Institution stating that it is justified to allow an insured person to accompany another person (companion) when approving inpatient physical treatment in intensive care for neurological diseases in contracted health facilities and to contact the insured immediately to restart the procedure for referral for treatment outside the health care institutions of the Brčko District of BiH so that the commission can make a decision as soon as possible<sup>238</sup>. The case is closed.

**Example:** Appellant<sup>239</sup> states that the mother of a minor girl who was supposed to have health insurance as a family member through her mother as an insured, and who was registered for compulsory health insurance on 15 July 2020. Furthermore, the appellant alleges that the minor girl was referred for a medical examination to the Clinical Center of the University of Sarajevo and that she was charged for the minor child with the explanation that she was not insured. On 24 July 2020, a request was sent for a statement to the Health Insurance Institute of Sarajevo Canton, i.e., information was requested as to why the underage girl was not entered into the health insurance system on 15 July 2020. Also, information was requested on how it was provided until 15 July 2020. On July 29, 2020, the complainant informed the Ombudsperson Institution that the application of a minor child was approved on July 15, 2020 (the date that was primarily disputed), i.e., that she had achieved the protection of the rights of a minor child.

**Example:** Ombudsmen received a complaint<sup>240</sup> relating to the Health Insurance Fund of the Republic of Srpska in connection with the request for reimbursement of treatment costs in health care institutions from July 8, 2019. During the proceedings before the Ombudsperson Institution, the Fund informed the complainant and the Ombudsman Institution that the request was terminated by issuing a decision of 3 March 2020.

**Example:** Ombudsmen acted on a complaint<sup>241</sup> Dental Chamber of Sarajevo Canton stating that the Inspectorate of Sanitary, Health and Pharmaceutical Inspection and Food Inspection of Sarajevo Canton submitted to the Dental Chamber of Sarajevo Canton information informing that dermal filler and Botox injection services can be performed only by specialists in plastic, aesthetic and reconstructive surgery, maxillofacial surgery and subspecialists in head and neck plastic surgery, but not dentists, based on the opinion of the Federation Ministry of Health.

<sup>236</sup> Ž-BR-04-198/19;

<sup>237</sup> P-296/19 of 23 December 2019.

<sup>238</sup> Act of the Health Insurance Fund of the Brčko District of Bosnia and Herzegovina number 015-180/1-1110/20 dated 14 April 2020

<sup>239</sup> Ž-SA-04-600/20;

<sup>240</sup> Ž-BL-05-667/19;

<sup>241</sup> Ž-SA-04-339/18;

During the review of the complaint, an act was sent to the Federation Ministry of Health and the Law on Dental Activity of the Federation of Bosnia and Herzegovina was inspected<sup>242</sup>, as a *lex specialis*. It was established that it does not prohibit the injection of fillers and / or Botox for the correction of facial contours for aesthetic purposes, but the law lists dental activities, including the injection of fillers and/or Botox for the correction of facial contours for aesthetic purposes. could conclude that it was allowed to perform the said procedure.<sup>243</sup> No violation of rights was established in the case in question.

**Example:** Ombudsmen acted on a case<sup>244</sup> in which the appellant states that he has been a beneficiary of a disability pension since 1991, when he was diagnosed with a 90% disability, that he was operated on in Ljubljana in 1998 for Crohn's disease when he had a terminal ileostomy implanted for many years. However, in recent years, without the help of others, he has not been able to maintain it, which is why he only needs medical help. A recommendation has been issued<sup>245</sup> to Director of the Public Institution Health Center Vitez, in terms of Articles 86 and 87 of the Law on Health Care of the Federation of Bosnia and Herzegovina<sup>246</sup>, and having regard to the international standards set out in the recommendation, take all necessary measures to provide the complainant with medical assistance with a view to facilitating the replacement of discs on the implanted terminal ileostomy. The recommendation has been implemented.

**Example:** Ombudsmen acted on a case<sup>247</sup> in which it was requested to monitor the work of the Commission for Patients' Rights of the Bugojno General Hospital, to which a complaint was sent stating that health services are provided to patients by doctors who do not have an adequate professional title. During the investigation, the Commission informed that it was not competent to comment or take any measures because, in accordance with Article 46 of the Statute of the Public Institution General Hospital Bugojno, it has no authority over the organization of the work process of the Public Institution General Hospital Bugojno. The complainant informed the Ombudsperson Institution that he would "inform the competent inspection bodies" and requested that the Ombudsmen monitor their work, however, he did not contact the Ombudsmen after that and the case was closed.

## 6.4. Pensions

In the reporting period, the Ombudsmen received 131 complaints related to violations of pension insurance rights, of which 5 recommendations were issued.

The complaints most often referred to the slowness of the first and second instance bodies in the procedures for recognizing the right to a pension, both in cases when the appellant had

<sup>242</sup> "Official Gazette of FBiH" No. 37/12;

<sup>243</sup> Article 2, paragraph 1 of the Law on Dental Activity of the Federation of Bosnia and Herzegovina stipulates that "dental activity, in terms of this Law, is a part of health activity of special interest to the Federation of BiH performed at all levels of health care and includes a system of social, group and individual measures, services and activities for the preservation and improvement of oral health, disease prevention, early detection of diseases, treatment and for health care and rehabilitation, as well as the application of health technologies in the field of dentistry."

<sup>244</sup> Ž-SA-04-1316/19;

<sup>245</sup> P-137/20 of 17 July 2020.

<sup>246</sup> "Official Gazette of FBiH" no. 46/10 and 75/13.

<sup>247</sup> Ž-LI-04-124/20;

completed his length of service in Bosnia and Herzegovina and in cases when the same was achieved in other countries. part of the pension, which is borne by various insurance carriers, in accordance with the agreements on social insurance that Bosnia and Herzegovina has signed with other countries.

Similar to the exercise of some other rights, in this segment the COVID-19 pandemic has brought some difficulties or concerns<sup>248</sup> pensioners in exercising their rights, which referred to “raising checks during COVID-19. Namely, pensioners have the obligation to withdraw checks in the bank within 90 days, if they receive their pension through a current account.

The Ombudsmen determined that the Federation Pension and Disability Insurance Institute had taken measures to reduce bank congestion as a significant risk of spreading the infection and that, after declaring the state of accident caused by coronavirus in the Federation of Bosnia and Herzegovina to prevent the spread of the virus and protect health. pensioners, payment of pensions adjusted to the new situation. A press release was issued according to which pension beneficiaries are not obliged to withdraw pension checks in banks until 31 May 2020, and the payment of pensions was not suspended for beneficiaries who did not withdraw checks in that period.

After the expiration of this deadline, the Federation Institute for Pension and Disability Insurance addressed a new press release which extends the deadline for another two months, i.e. to 31 July 2020. Also, on the website of the Federation Institute for Pension and Disability Insurance, a press release on the issue of withdrawing checks is available<sup>249</sup> which states, inter alia: “... *In order to prevent the spread of coronavirus (COVID-19) and protect the health of pensioners, the Federation Institute of PIO informs pension beneficiaries that the period in which our beneficiaries are not obliged to withdraw checks at banks is extended for another three months, which means that our customers until 31 December 2020. are not obliged to withdraw pension checks in banks. Beneficiaries who do not withdraw checks in that period will not be suspended from paying their pensions ...*”

**Example:** Ombudsmen acted on a complaint<sup>250</sup> in which the Pension and Disability Insurance Fund of the Republic of Srpska was designated as the responsible party. It was pointed out that the Pension and Disability Insurance Fund of the Republika Srpska - Prijedor branch, in a repeated procedure, issued a decision determining the new amount of disability pension for the appellant starting from 01.02.2012. The appellant expresses his dissatisfaction with the fact that the amount of his pension was reduced and in that way his acquired right was endangered and the subsequently amended legal regulation was applied retroactively. At the request of the Ombudsman, the response of the Pension and Disability Insurance Fund of the Republika Srpska<sup>251</sup> was submitted in which it is stated: “... *from the day of exercising the right to disability pension until the day of issuing the appellate decision, the Law on PIO RS was changed several*

<sup>248</sup> Ž-SA-04-385/20;

<sup>249</sup> [https://www.fzmiopio.ba/index.php?option=com\\_content&view=article&id=479%3AAsaoptenje-za-javnost-pitanju-podizanja-ekova&catid=35&Itemid=64&lang=ba](https://www.fzmiopio.ba/index.php?option=com_content&view=article&id=479%3AAsaoptenje-za-javnost-pitanju-podizanja-ekova&catid=35&Itemid=64&lang=ba)

<sup>250</sup> Ž-SA-04-109/19;

<sup>251</sup> Pension and Disability Insurance Fund of the Republic of Srpska, act number O-289/2019-14 from May 22, 2019.

*times, so the realized benefits based on the status of a first category fighter were abolished, which is the reason for reducing variable category. The provisions of Art. 172, paragraph 4 of the Law on Pension and Disability Insurance of the RS (Official Gazette of the RS No. 134/11) stipulates that for a beneficiary of a pension determined from the pension base in accordance with Art. 87 of the Law on PIO RS (Official Gazette of RS No. 32/00, 40/00, 37/01, 32/02, 40/02, 47/02, 110/03, 67/05, 20/07, 33/08, 1/09, 71/09, 106/09 and 108/09) ex officio to issue a decision on determining the new amount of pension from the pension base in accordance with Art. 77-86 of the previously valid Law ... Pursuant to the aforementioned legal provision, the appellant was ex officio determined a new amount of pension ...* “ The ombudsmen also determined that the disputed issue was the subject of consideration by the Constitutional Court of the Republika Srpska. On that occasion, by the decision of the Constitutional Court of the Republika Srpska<sup>252</sup> the initiative for assessing the constitutionality of Article 172 para. 1, 2, 3 and 4 of the Law on Pension and Disability Insurance, and the explanation states that in the opinion of the Court, prescribing as in Article 172, paragraph 4 and paragraph 5 of the Law is a matter of legislative policy, ie determining for which pension beneficiaries the Pension and Disability Insurance Fund will disability insurance of the Republika Srpska, after the entry into force of the Law, to issue a decision on determining the new amount of pension, for which the pension will not be determined again, is a matter of expediency for the assessment of which the Constitutional Court is not competent.<sup>253</sup> In accordance with the above, no violation of the right to a pension has been established.

**Example:** Ombudsmen acted on a complaint<sup>254</sup> in which the applicant states that on 07.03.2015. year, she turned 65 years of age and over 20 years of work experience, thus fulfilling the conditions for old-age pension, however, until the appeal was filed, she was not recognized the right to a pension. In the statement submitted by the Federation Institute for Pension and Disability Insurance, they point out that the appellant is obliged to establish M-4 forms for the period when she was engaged in independent commercial activity, from 1999-2009. As the appellant stated that she was unable to act upon the Fund's request, the Fund offered the appellant to sign an out-of-court settlement in a letter, for the period in which it did not settle the obligation to pay contributions.

**Example:** Ombudsmen acted on a complaint<sup>255</sup> in which it is stated that the appellant, after the death of her son, submitted to the Federation Institute for Pension and Disability Insurance a request for the realization of the funeral expenses. The inspection of the documentation established that the Federation Institute for Pension and Disability Insurance - Cantonal Administrative Service Travnik issued a decision not approving the reimbursement of funeral expenses due to failure to meet the conditions prescribed by the Ordinance on reimbursement of

<sup>252</sup> Decision of the Constitutional Court of the Republika Srpska number U-20/12 dated 26 June 2013.

<sup>253</sup> In addition, in Decision No. U-58/05 of 27 February 2007, the Court has already taken the position that the Constitution of the Republika Srpska does not guarantee the scope of social security rights and thus the right to a pension, so that prescribing the manner of adjusting pensions determined by its height is a reflection of the purposeful assessment of the legislator in regulating these legal relations and depends on the material capabilities of society in a given period.

<sup>254</sup> Ž-MO-04-31/20;

<sup>255</sup> Ž-SA-05-251/20;

funeral expenses in case of death of the pension beneficiary.<sup>256</sup> She points out that due to the high costs of treatment, she did not regularly pay the bills for communal conditions, electricity supply and other bills, and that she is now threatened with water and electricity, she is older, which makes it even harder for her to bear the problems she faces.

The Ombudsmen issued a recommendation to the Federation Institute for Pension and Disability Insurance and the Government of the Federation of Bosnia and Herzegovina<sup>257</sup> *"To amend the Rulebook on Reimbursement of Funeral Expenses in Case of Death of a Pension Beneficiary as soon as possible in order to ensure compliance of the provisions of the Rulebook with Article 147 of the Law on Pension and Disability Insurance, Family Law and Law on Inheritance of the Federation of Bosnia and Herzegovina"*<sup>258</sup>. The Ombudsmen of Bosnia and Herzegovina reminded that the bylaw cannot derogate from the provisions of the law, as an act of greater legal force. It was also pointed out that the Family Law of the Federation of Bosnia and Herzegovina stipulates that a family is a living community of parents and children and other blood relatives, in-laws, adoptive parents and adopted persons and persons from an extramarital union if they live in a joint household. In addition to the above, according to the provisions of the Law on Inheritance of the Federation of Bosnia and Herzegovina, there is no doubt that the legal heirs and parents, or brothers and sisters of the deceased. The recommendation has not been implemented.<sup>259</sup>

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<sup>256</sup> Rulebook on reimbursement of funeral expenses in case of death of the pension beneficiary number UOFZ-554/18 from 27 February 2018

<sup>257</sup> Recommendation number P-64/20 from 19 March 2020.

<sup>258</sup> The Ombudsmen found that the complainant-mother of the deceased and the brother of the deceased were not granted the right to reimbursement of funeral expenses because Article 3 of the Ordinance on Reimbursement of Funeral Expenses in Case of Death of a Pension Beneficiary does not provide parents, siblings or beneficiaries. right. In this regard, it was pointed out that Article 147 of the Law on Pension and Disability Insurance stipulates that, in case of death of a pension beneficiary residing in the Federation or Brcko District of Bosnia and Herzegovina, the heir-member of the immediate family costs in the amount of the average pension paid in the month before the death of the pension beneficiary. On the other hand, the Ordinance on compensation of funeral expenses in case of death of a pension beneficiary significantly narrows the circle of beneficiaries of this benefit and it is completely unclear for what reasons Article 3 of the Ordinance omits other close family members, ie heirs of the deceased/pension beneficiary.

<sup>259</sup> On 1 April 2020, the act of the Federation Institute for Pension and Disability Insurance number FZ3/5/1-49-9-6930-5/19 dated 27 March 2020 was received, in which, among other things, it is stated: *"... the area of pension and Disability Insurance in the Federation of Bosnia and Herzegovina is completely regulated by the Law on Pension and Disability Insurance. The same Law fully determines and regulates the rights from pension and disability insurance and the conditions for exercising these rights, as well as all other elements related to the exercise of these rights. It is stated that the same Law did not leave unresolved issues for exercising certain and regulated rights in order to apply other legal solutions, except for some implementing acts that are only administrative-technical in nature and not essential, so that they materially regulate pension and disability insurance rights. Thus, Article 39 of the Law on Pension and Disability Insurance determined the rights from pension and disability insurance, and under point c) it is explicitly stated "in case of death of the insured, ie beneficiary of old-age or disability pension - family pension and the right to compensation of funeral expenses in accordance with this Law". Article 4, paragraph 2 of the Law on Pension and Disability Insurance stipulates that "rights from pension and disability insurance are exercised and used under the conditions prescribed by this Law." Article 5, paragraph 1 of the Law on Pension and Disability Insurance stipulates that "rights from pension and disability insurance and disability insurance are inalienable, personal and material rights and cannot be transferred to another nor can they be inherited". There is no doubt that the Federation Institute acted in accordance with the regulations governing the field of pension and disability insurance and that it did not voluntarily omit other family members covered by the Family Law of the Federation of Bosnia and Herzegovina ..."*

**Example:** Ombudsmen acted on a complaint<sup>260</sup> which referred to the actions of the Federation Institute for Pension and Disability Insurance related to the request for a family pension, which was submitted on November 26, 2019 to the Cantonal Administrative Service in Tuzla. Following the intervention of the Ombudsman Institution, the complainant exercised her right.

Finally, the Ombudsmen point out that they generally have very good cooperation with the entity pension and disability insurance institutes, which in most cases respond promptly to the Ombudsman's request or recommendations, eliminating perceived human rights violations to the mutual satisfaction and satisfaction of our service users. It is especially important having in mind the fact that it is about exercising the rights necessary for the existence of a population of citizens of Bosnia and Herzegovina. The following addresses of citizens testify to this:

*"I am addressing you with great respect and gratitude for helping me finally get my pension. The payment was made on Friday, more precisely on August 7. Without your commitment and help, this would never have happened. For many of us, it means a lot that there is an institution that helps us helpless, to exercise our rights and to prevent illegal actions ... "*<sup>261</sup>

*"I thank you for your assistance in resolving the case for recognition of the right to an old-age pension. "*<sup>262</sup>

*"I thank you for enabling me to receive an old-age pension because both KS and FPIO / MIO persistently rejected me ... Certainly your institution helped me in the most difficult moment when I was unfairly brought in by unprofessional and incompetent staff of the Pension and Disability Insurance Institute and saved me ... "*<sup>263</sup>

#### **6.4.1. Issue of retirement of police officers of the Ministry of Internal Affairs of the Republic of Srpska**

Bosnia and Herzegovina's human rights ombudsmen have repeatedly highlighted the problem<sup>264</sup> retirement of employees of the Ministry of Internal Affairs of the Republika Srpska, which has been current for a long time. Namely, members of the Ministry of the Interior encounter the following problems when retiring:

The problem of special length of service in double duration - war length of service which is included in the pension length of service at the lowest coefficient:

It was pointed out that *"... fighters-members of the Ministry of Internal Affairs of the Republika Srpska acquire conditions for retirement based on length of insurance (years spent in employment in the Ministry of Internal Affairs of the Republika Srpska) including the war period calculated according to the lowest coefficient resulting in a lower pension amount for these MUP members. They state that this refers only to those police officers who have a special length of service (war), who participated in the defense of the Republika Srpska, while police officers who do not have a fixed length of service remain employed, receive a higher pension than police officers who a special length of service has been established. They state that this was made*

<sup>260</sup> Ž-BR-04-113/20;

<sup>261</sup> Ž-SA-04-398/20,;

<sup>262</sup> Ž-SA-04-393/20;

<sup>263</sup> Ž-SA-04-770/19 P-168/20 of 25 August 2020.

<sup>264</sup> Ž-BL-04-409/19.

*possible by the amendments to the Law on Pension and Disability Insurance of the Republika Srpska from 2011, according to which war experience comes as a burden, and not as a benefit ..."*

During the investigation, the Ministry of the Interior submitted a response stating ... *"Article 132, paragraph 1, item 2 of the Law on Police and Internal Affairs stipulates that a police officer's employment is terminated when he/she reaches 40 years of pensionable service, regardless of age of life. In terms of the said Law, the basis for termination of employment of a police officer by force of law is the completion of 40 years of pensionable service, regardless of age. In the case of a special length of service of double duration, it is calculated for police officers only if there is a request from a police officer, as Article 132, paragraph 2 of the Law on Police and Internal Affairs stipulates that at the request of a police officer exercising the right to an old-age pension, the Ministry shall calculate a special length of service for a police officer in double duration ..."*

On June 18, 2019, the Ministry of Labor and Veterans' and Disabled Protection of the Republika Srpska submitted a response stating ... *"the method of determining the amount of pension is the same for all insured persons, for the period of special length of service are not taken - the lowest coefficients - and special length of service does not affect negatively on the amount of pension ... Article 38 of the Law on Pension and Disability Insurance prescribes that the period determined by the decision in a special length of service in double duration is not counted in the length of insurance regardless of whether it is entered in the Fund's registry .. Given the fact that the annual personal coefficient is determined for the insured, and that a person who has a special length of service in double duration does not have the status of insured, it means that salaries, ie insurance bases in the period determined in special length of service in double duration, they cannot count when determining the annual personal coefficient, regardless of the eventual payment of contributions for pension and disability insurance. Regarding the allegations in the complaint regarding the conditions for exercising the right to a pension and determining the amount of pension as in the Federation of BiH, this ministry and the Government of the Republika Srpska will analyze the mentioned proposals having in mind the Strategy of Pension System Reform in Republika Srpska, exceptions to the general rule. the amount of pension, regulations that would need to be changed and in what way, financial effects of possible changes in regulations, financial possibilities of the Republic, the issue of pensions of police officers who have already exercised the right to pension, as well as other issues relevant to finding optimal solutions ..."*

The Ombudsmen commend the Ministry of Labor and Veterans' and Disabled Protection of the Republika Srpska, which in response expressed its readiness to analyze the mentioned proposals together with the Government of the Republika Srpska, having in mind the Strategy of Pension System Reform in the Republika Srpska, exceptions to the general rule. it is necessary to change and in what way, the financial effects of possible changes in regulations, the financial possibilities of the entities, the issue of pensions of police officers who have already exercised the right to a pension, as well as other issues relevant to finding. The ombudsmen will continue to monitor the implementation of this issue.

## **Manner of calculating pensions for police officers in the Republic of Srpska**

Pensions for police officers in the Federation of Bosnia and Herzegovina are calculated on the basis of the average salary earned in the last five years of service, which is about 70% of the average salary they had while in the Republika Srpska it is about 40% of total past and night income work and propose that the basis for calculating pensions be equated with the pension base in the Federation of Bosnia and Herzegovina.

During the investigation, amendments were made to the Law on Police and Internal Affairs of the Republika Srpska<sup>265</sup>, in which Article 136a was added, which regulates the issue of exercising the right to a pension, according to which the personal coefficient for exercising the right to a pension is determined for a Police Officer on the basis of five annual salaries that are most favorable for a police officer, how the problem is solved.

### **6.4.2. The right of extramarital partners to a survivor's pension**

The Ombudsmen point out the continuing problem of unequal treatment of marital and extramarital partners regarding the exercise of the right to a pension in accordance with the provisions of the Law on Pension and Disability Insurance of the Federation of BiH and the Law on Pension and Disability Insurance of the Republika Srpska. Inheriting the Federation of BiH and the Republika Srpska, marital and extramarital partners have equal rights.

Namely, in 2015, the Ombudsman Institution sent an initiative<sup>266</sup> to Parliament of the Federation of BiH, the Federation Ministry of Labor and Social Policy, the Federation Institute for Pension and Disability Insurance to amend Article 60 of the Law on Pension and Disability Insurance of the Federation of Bosnia and Herzegovina.<sup>267</sup> The Ombudsperson Institution also sent an initiative on December 26, 2016,<sup>268</sup> to the National Assembly of the Republika Srpska and the Ministry of Labor and Veterans' and Disabled Protection of the Republika Srpska to harmonize the Law on Pension and Disability Insurance with the Family Law of the Republika Srpska so that in Article 70 item a) of the Law on Pension and Disability Insurance after the word "spouse" "And extramarital spouse" and that in point b) the words "or extramarital spouse" are deleted.

In the annual reports on the results of the activities of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina for 2015, 2016, 2018 and 2019, the Ombudsmen pointed out the problem of unequal treatment of marital and extramarital partners, however, despite all the activities of the Ombudsman on pension and disability insurance do not provide extramarital partners with the right to exercise the right to a survivor's pension after an extramarital partner, nor is this possibility provided for by the entry into force of the new Law on Pension and Disability Insurance of the Federation of Bosnia and Herzegovina.

It is also important to mention that in the meantime, the Constitutional Court of Bosnia and Herzegovina in the case AP-4077/16, at its session held on 11 October 2018 issued a decision on admissibility and merits, in which it concluded that the regular court and administrative bodies

<sup>265</sup> No. 82/19.

<sup>266</sup> P-134/15 of 29 June 2015.

<sup>267</sup> "Official Gazette of FBiH", No. 29/98, 49/00, 32/01, 29/03, 73/05, 59/06 and 4/09.

<sup>268</sup> Ž-BL-04-761/16.

and disability insurance from 1998, without respecting the commitment from the Family Law of the Federation of Bosnia and Herzegovina from 2005 on consistent equating of extramarital union, which in this case lasts 17 years, with the marital union in all rights and obligations, including property rights, and rejection of the appellant's request to recognize her, as a family member of the deceased insured person, the right to a survivor's pension, violated the prohibition of discrimination from Article II/4 of the Constitution of Bosnia and Herzegovina and Article 14 of the European Convention regarding the right to property referred to in Article II/3.k) of the Constitution of Bosnia and Herzegovina and Article 1 of Protocol No. 1 to the European Convention.

**Example:** Ombudsmen received a complaint<sup>269</sup> which refers to the unequal treatment of marital and extramarital partners in terms of exercising the right to a survivor's pension in accordance with the provisions of the Law on Pension and Disability Insurance of the Federation of BiH. Following the completion of the investigation, the Ombudsperson Institution issued a recommendation<sup>270</sup> to the Government of the Federation of Bosnia and Herzegovina to access the amendment to the Law on Pension and Disability Insurance which will ensure extramarital partners equal rights based on pension and disability protection as it was done for spouses and to inform the Ombudsperson Institution about the measures taken and the procedure. within 60 days of receiving the recommendation.

On 31 December 2020, the Ombudsperson Institution received an act of the Government of the Federation of Bosnia and Herzegovina, number 03-04-1385/2020 dated 29 December 2020, stating that the Government of the Federation of Bosnia and Herzegovina, at its 249th session held on 28 December 2020, took note of the recommendation Institutions of the Human Rights Ombudsman of Bosnia and Herzegovina No. P-226/20 and established Declaration V, No. 1796/2020 of 28 December 2020, which was submitted in the attachment, which states, inter alia: *"... Regarding the exercise of the right to a survivor's pension for extramarital partners, we emphasize that the Federation Ministry of Labor and Social Policy has prepared amendments to the Law on Pension and Disability Insurance, within which Article 69 is amended. that extramarital partners are also enabled to exercise the right to a survivor's pension, specifying who is considered an extramarital partner. In this way, the rights of marital and extramarital partners will be equalized in exercising the right to a survivor's pension. The Law on Amendments to the Law on Pension and Disability Insurance has been sent to the competent institutions for an opinion, and after obtaining them and their possible incorporation into the text of amendments, activities will be undertaken with the aim of referring the law to further procedure ..."*

## 6.5. Social protection

The situation in the field of social protection was extremely difficult in 2020, given the fact that, due to the COVID-19 pandemic, a significant number of workers in the private sector were laid off, smaller companies ceased to operate, service facilities were restricted. although it aims to

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<sup>269</sup> Ž-SA-04-344/19;

<sup>270</sup> Recommendation number P-226/20 from 07 December 2020

prevent and limit the spread of the infection, it still has a major impact on the economic prosperity of citizens and brings them to a state of social need.

In addition to the above, the Centers for Social Work face daily in their work numerous difficulties, lack of material and human resources, which was discussed in the Special Report on the situation and problems encountered by the Centers for Social Work in BiH,<sup>271</sup> prepared in 2019.

Given all the above, it is not surprising that this year the Human Rights Ombudsmen received 68 cases related to the exercise of the right to social protection.

Citizens address the ombudsmen by telephone, e-mail, with requests for help in improving their economic and social status, solving the problem of unemployment, lack of financial resources, which is a consequence of the poor economic situation in the country. The fact is that Ombudsmen, unfortunately, do not have adequate mechanisms to meet these citizens, given the powers given in the Law on the Human Rights Ombudsman of Bosnia and Herzegovina and can not provide assistance in seeking employment or provide certain funds, but citizens are directed to social protection institutions and through communication with the competent institutions and bodies try to find a solution to the problem.

**Example:** Ombudsmen acted on a complaint<sup>272</sup> filed against the Municipality of Glamoč because it was not decided on the submitted request for the allocation of one-time financial assistance. During the investigation, the appellant was granted and paid funds in the amount of 100.00 KM.

**Example:** Ombudsmen acted on a complaint<sup>273</sup> which referred to the request for exercising the right to allowance and care of another person submitted to the Public Institution Center for Social Work in Višegrad, according to which a negative decision was made. An appeal was lodged on 11 June 2020. second instance body, the Ministry of Health and Social Welfare of the Republika Srpska and in the research procedure the Ministry of Health and Social Welfare of the Republika Srpska<sup>274</sup> reported that on 25 August 2020 the final decision was made and the complete file was submitted to the Public Institution Center for Social Work Višegrad.

**Example:** Ombudsmen acted on a complaint<sup>275</sup> in which the appellant alleges that he has a large debt for electricity, several years old and that as the only employee in a large family he "fights" not to have his electricity cut off. The ombudsmen had an insight into the entire social situation of the family, by the competent Center for Social Work, from which it undoubtedly follows that this is a family with a difficult social situation. In a five-member family in which the mother is a person with a disability, one brother a person with a visual impairment (attended school in Derventa for visually impaired children), two underage sisters (both with a visual impairment), a chronic alcoholic father (frequent domestic violence), the only is employed (800 KM salary). Although in this particular case it is a debt that is not disputable, with the aim of protecting

<sup>271</sup> [https://www.Ombudsmen.gov.ba/documents/obmudsmen\\_doc2019112015101009cro.pdf](https://www.Ombudsmen.gov.ba/documents/obmudsmen_doc2019112015101009cro.pdf)

<sup>272</sup> Ž-LI-04-62/20;

<sup>273</sup> Ž-BL-02-817/19;

<sup>274</sup> Act no. 11/05-533-66/20 of 14 September 2020.

<sup>275</sup> Ž-BL-04-449/20.

persons who are in a difficult financial situation, the Ombudsmen to Elektrokrajina a.d. Banja Luka pointed out the mechanisms that are available for debt collection, which would not refer to the power outage because the health condition in which the members of this family find themselves is specific, and they called on the competent company to consider the problem from the aspect of humanity.

Ombudsmen often receive complaints in which citizens point out difficulties with neighbors who show a certain type of antisocial behavior, create "problems" and endanger both residents and themselves with their behavior. These are extremely complex problems, which require a longer period of time to solve, bearing in mind the fact that when working on them, the rights and obligations of all involved must be kept in mind.

One such example is an appeal<sup>276</sup> apartment owners in Grada Bakua Street, Sarajevo, which referred to the performance of the Social Welfare Service Novi Grad, the Cantonal Center for Social Work Sarajevo, the Public Institution Health Center Novi Grad Sarajevo and the Police Station Novi Grad Sarajevo, in connection with their reports to a neighbor who is a person prone to alcohol, disturbing the house and peace, has no income, is not able to take care of himself, and his behavior endangers himself and the occupants of the building (loud music, leaving open fountains, lighted stovetops, which is why they reacted on several occasions and fire and police services). The ombudsmen made a recommendation<sup>277</sup> *to competent authorities to take all necessary measures and actions in accordance with their competencies in order to protect the best interests and health of NN as well as the right to a home and the right to peaceful enjoyment of the tenants' property at the address in question.* The mentioned recommendation was not implemented during 2019, however, having in mind the seriousness of the complaints during 2020, the monitoring of the problem in question continued. After the joint activities of the Ombudsman, the complainant and the competent authorities, this problem was resolved in mid-2020, valid identification documents (identity card) were provided, health insurance was regulated, financial assistance was provided, and the appointee agreed to treatment. from alcohol and placed in an appropriate institution.

**Example:** Ombudsmen received an e-mail appeal for help from a single mother, who was approached by an extramarital partner. She is the mother of three minor children who lost her job and has more health problems, and the landlord wants to throw her out on the street due to unpaid rent and overhead costs. The ombudsmen repeatedly sent acts to the Social Protection Service of the Municipality of Ilidža, which submitted its statements.<sup>278</sup> from which it is evident that the officers took actions to overcome the situation, that the placement procedure is complicated given that there is a suspicion that the mother and children are positive for COVID-19, but that, after a negative test, the children were placed in the Educational Center. For the accommodation of the mother, the possibility of accommodation in the KJU "Gerontology Center" was considered, however, due to health problems, the appellant was placed in the hospital.

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<sup>276</sup> Ž-SA-05-173/19;

<sup>277</sup> Recommendation No. P-192/19.

<sup>278</sup> Acts number 35/V-09-530-849/20 of 14 May 2020 and 35 \V-09-545-888/20 of 22 May 2020.

### 6.5.1. Implementation of the Regional Housing Program

**Example:** Ombudsmen acted on a complaint<sup>279</sup> which states that *"she sent relevant documentation for Sarajevo, all because of the construction of a house in the village."* She also states that the commission went to the scene. Act<sup>280</sup> of Department for communal and housing affairs of the City of Gradiška inform the Ombudsmen that, by inspecting the documentation of the city administration, which concerns housing, they determined that within the program of closing collective housing centers in the City of Gradiška, the need for resolving cases not provided with housing was expressed. They explain that the list of persons to be provided with housing has been forwarded to UNHCR and CRC. Field inspection was performed on August 12, 2019. (among other things for NN) with representatives of the Ministry of Human Rights and Refugees of Bosnia and Herzegovina and the project coordinator on behalf of the city administration. After that, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina makes a list of beneficiaries of subproject BH6 (housing project). In the end, they point out that the signing of the agreement and its realization is pending. A recommendation was sent to the City of Gradiška<sup>281</sup> *to establish cooperation with the Ombudsperson Institution immediately upon receipt of the recommendation and to submit the requested information.* After issuing the recommendation, the ombudsmen receive new information on the implementation of the project - the State Housing Project within the Regional Housing Program. As for the specific case, after creating all the necessary preconditions, the City has started the procedure of legalization of the facility.

**Example:** Ombudsmen acted on a complaint<sup>282</sup> in which the appellant states that she is not a beneficiary of one of the housing units of the Regional Housing Program building<sup>283</sup> in the Municipality of Bileća for displaced persons, but is on the waiting list, if one of the allocated apartments is vacated. It also claims that the gentleman who is one of the occupants of the flats never moved into the allotted flat on the basis of the decision on allocating the housing unit for use and that he handed over the keys to his apartment to another lady who was not on the list of occupants. waiting lists. She points out that she addressed the Secretariat for Displaced Persons and Migration in Banja Luka and they gave her feedback that she had their full support in this case and that they were actively involved in solving the problem. The research process is ongoing.

## 6.6. Education

The right to education is extremely important for the enjoyment of all other rights and freedoms: civil-political, economic-social and cultural rights and freedoms of every person and has a great role in preserving cultural and national identity.

In the reporting period, 36 complaints were received and 8 recommendations were issued.

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<sup>279</sup> Ž-BL-04-563/19;

<sup>280</sup> No. 02-052-36/19 of 5 November 2019.

<sup>281</sup> Recommendation number P-174/20 of 16 September 2020.

<sup>282</sup> Ž-MO-04-42/20;

<sup>283</sup> "Official Gazette of BiH" No. 18/16;

**Example:** Ombudsmen acted on a complaint from a teacher<sup>284</sup> which stated that her school did not receive instructions on conducting final grades and ending the school year with the application of information and communication technologies in primary and secondary schools in the area of Zenica-Doboj Canton.<sup>285</sup> It was also pointed out that certain inconsistencies regarding the method of assessment as well as the inconsistency of the mentioned instruction with the valid Ordinance on the progress, evaluation and assessment of students in secondary schools. Following the investigation, the BiH Ombudsmen determined the merits of the complaints and issued a recommendation.<sup>286</sup> It was also pointed out certain inconsistencies regarding the method of assessment as well as the inconsistency of the mentioned instruction with the valid Ordinance on the progress, evaluation and assessment of students in secondary schools. Following the investigation, the BiH Ombudsmen determined the merits of the complaints and issued a recommendation.<sup>287</sup> The Ministry, on the recommendation, among other things, points out that when drafting new instructions on student assessment in new extraordinary circumstances, the recommendations of the BiH Ombudsman will be an integral part of the adopted implementing regulations.

**Example:** Ombudsmen acted on a complaint<sup>288</sup> which referred to the behavior of certain teachers in the Public Institution Elementary School "Turbe" Turbe which, allegedly, was not professional and educational, nor focused on the best interests of the child, which came to the fore during the state of emergency from 13 March 2020 and the implementation of online teaching. The complaint states that students only encounter the subject "Informatics" in the sixth grade, that students were expected to have a very good knowledge of computer skills, and that no preparations and training of students for online teaching were done, nor during the implementation the same provided any support. In connection with the above, a statement was requested from the competent Ministry of Education, Science, Youth, Culture and Sports - Chief Cantonal Inspector in the act<sup>289</sup> in which it states the following: *"On June 17, 2020, an immediate inspection was carried out and the director of the School was ordered to eliminate the observed omissions. On 29.06.2020. We received the school's report number 270/20, dated June 22, 2020, on the procedure and elimination of omissions."* The case is closed.

**Example:** Ombudsmen acted on a complaint<sup>290</sup> which referred to the alleged violation of rights by the Government of the Brčko District of BiH, and related to the basic education of adults in the Brčko District of Bosnia and Herzegovina. The complaint states: *"complaint due to the problem of enrollment in primary school in the city of Brcko for adult education problem for the problem of completing 7,8,9-grade primary school..."* During the investigation, the Ombudsperson Institution received a response on 6 July 2020<sup>291</sup> which referred to the alleged violation of rights by the Government of the Brčko District of BiH, and related to the basic education of adults in the Brčko District of Bosnia and Herzegovina. The complaint states:

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<sup>284</sup> Ž-SA-04-317/20;

<sup>285</sup> Act no. 10-34-4124-7/20 of 11 May 2020.

<sup>286</sup> P-155/20 of 20 July 2020.

<sup>287</sup> Act no. 10-34-4124-7-05/20 of 16 September 2020.

<sup>288</sup> Ž-SA-04-445/20;

<sup>289</sup> Act no. 07-34-471/2020-2, of 22 July 2020.

<sup>290</sup> Ž-BR-04-172/19;

<sup>291</sup> Act of the Government of the Brčko District of BiH, Department of Education number 37-000370/20 dated 22 June 2020.

"complaint due to the problem of enrollment in primary school in the city of Brčko for adult education problem for the problem of completing 7,8,9-grade primary school..." During the investigation, the Ombudsperson Institution received a response on 6 July 2020<sup>292</sup>. On December 29, 2020, the Government of the Brčko District of BiH, Department of Education<sup>293</sup> informs the Ombudsperson Institution that an adult education system has been established in the Brčko District of BiH.

**Example:** Ombudsmen acted on a complaint<sup>294</sup> which points out the difficulties in applying for full-time study at the Faculty of Health Studies, University of Sarajevo, major: Health Nutrition and Dietetics and major: Midwifery due to a technical error in generating revised final rankings through the online enrollment system. The complainant who applied for full-time study (funding from the budget) due to an error in the system, was not admitted to the desired study, although she achieved a higher number of points than students who applied for full-time study - self-financing. A recommendation was made in this case<sup>295</sup> on the occasion of which a response was received from the University of Sarajevo<sup>296</sup> from which it follows "... that a solution has been found for the appellant ... and that she will be enrolled in the desired study at the Faculty of Health Studies of UNSA"

**Example:** Ombudsmen acted on a complaint<sup>297</sup> in which the appellant points out the difficulties related to taking the professional exam for the Master of Pharmacy, pointing out that the competent authority in the Federation of BiH does not want to recognize the diploma obtained in another entity with the aim of taking the professional exam. Namely, the appellant pointed out that he had submitted a request for taking the professional exam for the Master of Pharmacy to the Federation Ministry of Health, but that this body had not decided on the issue. After the investigation procedure and the address of the Ombudsman Institution to the competent body, the Ombudsman Institution received an act from the Federation Ministry of Health<sup>298</sup> in which it is stated that the appellant was approved to take the professional exam with the title of Master of Pharmacy before the examination commission of the Federation Ministry of Health, of which he was informed through his attorney.

## 6.7. Utilities

In 2020, 103 cases related to utility problems were registered. 9 recommendations were issued.

The registered complaints related to requests for connection to the water supply network, untimely provision of communal services by companies and ignoring the requests of citizens.

<sup>292</sup> Law on Adult Education in the Brčko District of Bosnia and Herzegovina, Official Gazette of the Brčko District of BiH;

<sup>293</sup> Answer No. 37-001089/20 dated 11 December 2020.

<sup>294</sup> Ž-SA-04-761/20;

<sup>295</sup> P-196/20 of 9 October 2020.

<sup>296</sup> Act number 0101-8775-1/20 dated 12 October 2020

<sup>297</sup> Ž-SA-04-1331/19;

<sup>298</sup> Act number 02-30-6239/20 dated 15 July 2020.

The Ombudsmen note that the human right to water is still not sufficiently recognized as an independent human right but a human right that is “subordinated” to other civil, political, economic, social and other rights - that is, a right necessary to exercise other human rights.

Thus, a group of locals in the settlement of Domanovići filed complaints<sup>299</sup> because for many years they have been waiting for the water connection in the settlement of Domanovići, with which they are enclosing contracts for connection to the water supply network as well as the calculation of the work order from the Public Utility Company Čapljina. A recommendation has been issued<sup>300</sup> to the City of Čapljina *to establish cooperation with the Ombudsman Institution and the City and the Public Utility Company Čapljina d.o.o. Čapljina to coordinate activities and work on solving a specific problem, approach planning and investing in the expansion of the water supply network system, ie connection to the water supply network.*

**Example:** Ombudsmen acted on a complaint<sup>301</sup> in connection with the problem of elderly and sick neighbors of the complainant due to the non-functioning of the elevator. During the investigation, the Ministry of Physical Planning, Construction and Environmental Protection of Sarajevo Canton submitted information to the Ombudsman Institution<sup>302</sup> in which it is stated that the reconstruction of the existing elevator was carried out on 12.06.2020, and after the approval of the estimate of works by the representative and the given loan of funds by Sarajevostan as the manager. The inspection body for elevators performed an extraordinary technical inspection of the elevator, and after receiving a positive result, it was put into operation.

**Example:** Ombudsmen acted on a complaint<sup>303</sup> in which the applicant states that on 17 December 2019. addressed the Electric Power Industry of Bosnia and Herzegovina, a subsidiary of "Elektrodistribucija" Zenica, with a request to relocate the electricity cables that were placed at the address in Zenica, which was not answered. The Ombudsmen, acting in the case, received a response stating that: "... a field inspection was carried out and a letter was sent to the companies of the Highways of the Federation of Bosnia and Herzegovina and we submitted a complaint attached ..." On 28 January 2020, as a reaction to the letter sent to the Highways of the Federation of Bosnia and Herzegovina, we received a verbal promise from the contractor Euroasfalt that in the coming period it will resolve the disputed situation.<sup>304</sup> The appellant on 24 February 2020 informed the Ombudsmen that his problem had been solved, i.e., that the electricity cables had been relocated.

**Example:** Ombudsmen acted on a complaint<sup>305</sup> *which refers to the poor condition of the main road Kostajnica-Knežica-Prijedor.* In the complaint, the concerned citizens of the Republika Srpska point out that they are addressing the Ombudsmen in order to solve the problem after a few years, or at least to start resolving it. The complaint indicates that *“the main road leading from Kostajnica through Knežica to Prijedor is completely neglected, that there are huge*

<sup>299</sup> Ž-MO-04-64/20, Ž-MO-04-65/20;

<sup>300</sup> Recommendation No. P-223/20.

<sup>301</sup> Ž-SA-04-452/20;

<sup>302</sup> Act no. 05/10-20236-4/20-pz of 15 July 2020;

<sup>303</sup> Ž-BL-05-10/20;

<sup>304</sup> Act of Elektroprivreda BiH d.d. Sarajevo, branch "Elektrodistribucija" Zenica, number 03-6-206-338/20 dated 30 January 2020.

<sup>305</sup> Ž-BL-04-77/20;

*holes/landslides on the way to Knežica since the last floods (2015 and 2016) and that after a few years nothing has been changed, there weren't even any warning signs for drivers and that it's actually pure luck that there have been no injuries or casualties so far."* Public company "Roads of the Republika Srpska" via e-mail, on June 11, 2020, attached to which the notification of the company "Prijedor putevi"<sup>306</sup> from which it follows that the complaint does not refer to the main road but to the local road Bačvani - Knežica, which is about 13 km long and which is located along the entire length in the municipality of Kozarska Dubica. As they conclude, the eventual responsibility for maintenance and rehabilitation falls under the obligation of the Municipality of Kozarska Dubica, i.e., the contractor (the companies mentioned above), and not the PE "Roads of the Republika Srpska". The ombudsmen made a recommendation<sup>307</sup> by which the Government of the Republika Srpska and the Municipality of Kozarska Dubica were instructed to find a way to provide financial resources for the rehabilitation of the local road Bacvani - Knežica in the municipality of Kozarska Dubica in the coming period through joint action and efforts.

## 6.8. Ecology

In the reporting period, the Ombudsmen received 15 complaints related to the field of ecology, ie environmental protection, and one recommendation was issued. Bosnia and Herzegovina has ratified a number of conventions and protocols such as: the UN Framework Convention on Climate Change, the Kyoto Protocol, the Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the UN Convention on Biological Diversity, the Aarhus Convention, the Protocol on Cartagena on Biosafety, Water and Health Protocol, etc.

The cases received at the Institution related to the problems of garbage disposal, slag and ash disposal in the vicinity of Tuzla and unresolved problems of sewage disposal.

The Ombudsmen note that in addition to the process of recognizing the right to water as a human right, the idea of recognizing the human right to wastewater is being developed, as a right that presupposes access to wastewater disposal devices in all spheres of life that are safe, hygienic and socially acceptable. privacy and ensure human dignity. Especially because there is a lack of access, i.e., inadequate access to sewerage networks, i.e., wastewater drainage is one of the primary reasons for water contamination and the spread of infectious diseases among both humans and animals.

**Example:** Ombudsmen acted on a complaint<sup>308</sup> anonymous group of citizens from Kostajnica regarding the problem of a garbage dump in the village of Gornja Slabinja, in the Bal forest. They explain that the Municipality determined the location of the landfill in accordance with the positive regulations, the land as such is both marked and fenced, but they consider it worrying that garbage is left for a long time (by unscrupulous citizens) right next to the road, next to the landfill. The Mayor of Kostajnica informs the Ombudsmen that the Rulebook, which is still being prepared, requires the regulation of complete video surveillance in the Municipality

<sup>306</sup> Act No. 03-345-829/20 dated 7 May 2020 (letter sent to PE "Roads of the Republika Srpska").

<sup>307</sup> Recommendation No. P-215/20.

<sup>308</sup> Ž-BL-04-365/19.

(harmonize locations where video surveillance already exists and where video surveillance will be installed). They add that the access to the landfill has been under continuous supervision since June 2019, by the Communal Police and the Communal Police "Kostajnica". They also refer to the Draft Law on Amendments to the Law on Waste Management, which envisages a deadline for adjusting joint landfills by 2026, i.e. the problem of landfilling in the municipality of Kostajnica will be solved by establishing a regional landfill in Prijedor.

A recommendation was made<sup>309</sup> to the competent bodies of the Municipality of Kostajnica to perform continuous supervision at the disputed place in the next period, to the Assembly of the Municipality of Kostajnica to pass an appropriate bylaw as soon as possible in order to put into operation all cameras in the municipality and enable video surveillance at all locations. assessed by professional staff and responsible competent authorities. The competent Ministry and the Environmental Protection Fund were informed about the recommendation in order to, in accordance with their legal powers and obligations, consider the possibility of assisting the Municipality in the implementation of the recommendation, appreciating the rights of the citizens of Kostajnica.

After issuing the recommendation, the Municipality of Kostajnica informed the Ombudsmen that video surveillance had been installed at the local landfill and that the access to the landfill was under continuous surveillance by the communal police and the competent communal company. They explain that the decision on the collection and disposal of municipal waste prescribes the conditions and manner of performing the communal activity of collecting municipal waste from residential, business and other facilities. The authorities also refer to the decision on communal order, and in accordance with the recommended measures, the Decision on the installation of video surveillance was adopted and the Ordinance on the use of video surveillance systems was adopted.

**Example:** Ombudsmen acted on a complaint<sup>310</sup> UG "EKO SPORT" from Tuzla, which states that in the past 18 years the local population of MZ Šićki Brod opposes the unprecedented pressure of Elektroprivreda BiH to form a landfill for the disposal of slag and ash, combustion products from the Thermal Power Plant "Tuzla" on the site of this local community. in the area above Lake Kop. The Ombudsmen sent a recommendation to the Federation Ministry of Environment and Tourism Sarajevo and the Ministry of Physical Planning and Environmental Protection of Tuzla Canton Tuzla to exclude any possibility of establishing a landfill for slag and ash, products in the area of the Local Community Šićki Brod Tuzla, i.e., reclaimed land above Lake Kop combustion from the Thermal Power Plant "Tuzla", to take measures within its competence that will enable citizens in the locality in question to enjoy the right to life in an environment suitable for health and well-being, with no danger to human health and the environment; The Ministry of Physical Planning and Environmental Protection of Tuzla Canton Tuzla submitted an act<sup>311</sup> No. 12/1-05-23-2693/19 of 29 May 2019, which states: "Acting on the above recommendation, we inform you that the Ministry of Physical Planning and

<sup>309</sup> Recommendation number P-70/20 of 20 May 2020.

<sup>310</sup> Ž-BR-04-12/19, recommendation number 120/19 of 24 April 2019.

<sup>311</sup> Act of the Ministry of Physical Planning and Environmental Protection of Tuzla Canton number 12/1-05-23-2693/19 dated 29 May 2019.

Environmental Protection, in accordance with its competencies and available capabilities, will take into account the above recommendation."

The Federation Ministry of Environment and Tourism submitted the act<sup>312</sup> which states: *"The operator of JP" Elektroprivreda BiH "dd Sarajevo" Termoelektrana "Tuzla" did not submit to this Ministry a request for the issuance of an environmental permit for the slag and ash landfill at the location Šićki Brod Tuzla, nor did this Ministry, except for the reclamation permit, issue any other permits for the specified location. In the event of an application by the operator for the issuance of an environmental permit for the site in question, this Ministry shall take into account the recommendation of the Human Rights Ombudsman of Bosnia and Herzegovina No. P-120/19."*

**Example:** Ombudsmen acted on a complaint<sup>313</sup> declared for the work of the Municipality of Banovići, the Service for Budget, Finance and Inspection Affairs and the Communal Inspection. The complainant alleges that on the Gaj-Delići road, MZ Tulovići, due to the illegal construction of residential buildings and the unresolved issue of drainage of rainwater and fecal water, his land on which the garden and the residential building are located is flooded and polluted. At the same time, the wastewater goes directly into the stream that goes next to the Elementary School Gnječkovac, and which further flows into the river Draganja. In the proceedings before this Institution, it was determined that the problem of wastewater drainage in the entire municipality of Banovići is an unresolved issue in the field of communal activities of this municipality, as well as that rural local communities do not have a sewerage network. According to the competent Service: *"Wastewater drainage in rural households is solved on a case-by-case basis, and most wastewater ends up in local watercourses. In the urban zone where the highest concentration of population is, there is a sewage network, but due to the lack of treatment plants, all this wastewater is discharged directly into the rivers Oskova, Litva and Radinski potok. The same applies to wastewater from industrial facilities."* The Ombudsmen of Bosnia and Herzegovina made a recommendation<sup>314</sup> to Municipality of Banovići *to take without delay the necessary measures and actions with the aim of systemic solution of wastewater drainage in the entire municipality of Banovići, to establish a system for management, development, protection and use of water resources, including the application of recognized good practices take urgent measures to completely exclude the possibility of industrial wastewater discharges into the environment and its pollution, and establish a control and monitoring mechanism and to provide feedback to the Institution of the Human Rights Ombudsman of BiH on the implementation of this recommendation within 30 days.* No response to recommendation received.

**Example:** The complainant approached the Institution<sup>315</sup> stating that he received a warning from the Department of Finance of the City of Gradiška before the water was turned off due to unpaid bills for waste collection. He states that he never concluded any contract on waste collection, did not use waste collection services, and that he pays all water bills properly and that he sees no reason to threaten to turn off the water when it comes to two completely different services. It is not disputable that there is a system of unified collection of the city administration of Gradiška,

<sup>312</sup> Federation Ministry of Environment and Tourism;

<sup>313</sup> Ž-BR-4-70/18;

<sup>314</sup> Recommendation number P-159/20 from 13 August 2020.

<sup>315</sup> Ž-BI -04-615/20;

which shows the existence of debt, but it is not clear, if there is a payment slip that the water is properly paid, why is it threatened to turn off the water.

Following the procedure, the Ombudsmen submitted a recommendation<sup>316</sup> with the opinion that the designated public company did not submit a statement on the allegations of the complainant that there is no concluded contract, nor a copy of the contract which would regulate the obligatory relationship with the buyer<sup>317</sup>.

The Ombudsmen are of the opinion that the Law on Communal Activities clearly and precisely determines which communal services are, and that the communal service cannot be denied except in exceptional cases.

The recommendation required refraining from turning off the water in all similar cases and consistently applying the relevant regulations to start determining and collecting the undisputed debt.

A response has been received<sup>318</sup> on the recommendation that it be taken note of.

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<sup>316</sup> P-212/20;

<sup>317</sup> The submitted documentation contains the notification of KP "Gradska čistoća" a.d. Gradiška of 26 December 2019 the year in which the complainant was invited to conclude a contract on waste collection - the complainant claims that he never responded to the invitation;

<sup>318</sup> No. 0.10-2313/20 of 16 December 2020.

## VII. RIGHTS OF PERSONS DEPRIVED OF LIBERTY

### 7.1. The concept of torture and the establishment of the Preventive Mechanism in Bosnia and Herzegovina

The issue of exercising the right of citizens to freedom is regulated by the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter: the Convention against Torture) and its protocols, and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.<sup>319</sup> as a regional mechanism. Bosnia and Herzegovina has ratified both documents<sup>320</sup>, including the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter: the Optional Protocol)<sup>321</sup>. The UN Convention against Torture defines torture as:

*“Any act by which a person is intentionally inflicted with pain or severe physical or mental suffering with a view to obtaining from him or a third party information or recognition or punishment for an act committed by or suspected of being committed by, or suspected of, the intimidation of that person. pressure or intimidation or pressure on a third party or for any other reason based on any form of discrimination if the pain or suffering is caused by an official or any other person acting in an official capacity or at his instigation or with his express or tacit consent. This term does not refer to pain or suffering which results exclusively from, or is inseparable from, legal sanctions.”* (Article1.)

Each State Party to the Convention against Torture shall take legal, administrative, judicial or other effective measures to prevent the commission of acts of torture in the territory under its jurisdiction and no exceptional circumstances, whether a state of war or danger of war, internal political instability or any other which other state of emergency cannot be cited as a justification for torture (Article 2).

The suppression and prevention of torture requires a negative approach by the authorities by refraining from any action that may violate the rights of citizens, or a positive approach, taking action in cases where the rights of citizens are violated by third parties. As opportunities for torture have increased in places where people are restricted in their freedom of movement, such as prisons, institutions for the accommodation of people with mental disabilities and the like. in so far as there is a need to examine, through visits to persons deprived of their liberty, how they are treated with a view to, if necessary, increasing the protection of those persons from torture and inhuman or degrading treatment or punishment.

According to the provisions of the Optional Protocol: *“Each State Party shall maintain, designate or establish, no later than one year after the entry into force of this Protocol or its*

<sup>319</sup> European Treaties - No. 126. Text amended by Protocols No. 1 (ETS No. 151) and No. 2 (ETS No. 152), which entered into force on 1 March 2002. <https://rm.coe.int/16806dbabf>

<sup>320</sup> UN Convention entered into force by succession on September 1, 1993.

European Convention against Torture dated 12 July 2002, signature and ratification, entered into force on November 1, 2002

<sup>321</sup> Ratified on October 24, 2008

*ratification or accession, one or more independent national mechanisms for the prevention of torture on a national basis. Mechanisms established by decentralized units may be designated as national prevention mechanisms within the meaning of this Protocol, provided that they comply with its provisions."* (Article 17)

Bosnia and Herzegovina has not yet fulfilled its obligation to establish an independent body with a mandate to allow visits to all places where persons are deprived of their liberty, in order to improve the situation of persons deprived of their liberty, in particular to identify possible torture and other inhuman or degrading treatment. Visits to places where persons with freedom of movement are in any way restricted are an effective way to prevent and combat torture. Amendments to the Law on the Human Rights Ombudsman of BiH, which would establish a mechanism defined by the provisions of the Optional Protocol within the Institution of the Human Rights Ombudsman of BiH, have been in the parliamentary procedure for almost four years. At the session of the House of Representatives of the Parliamentary Assembly of BiH on February 26, 2020 this proposal was not accepted, and it is unclear what will happen next in terms of fulfilling this obligation. Bosnia and Herzegovina is the only country that is not a member of the Network of National Preventive Mechanisms of Southeast European Countries<sup>322</sup>, but its representatives are regularly invited and attend the meetings of this network in order to prepare the Institution for taking over this mandate after the envisaged amendments to the Law on the Ombudsman have been adopted.

## **7.2. Monitoring the state of rights of persons deprived of their liberty**

The Institution of the Human Rights Ombudsman of Bosnia and Herzegovina monitors the state of human rights related to the prevention of torture and prevention through the actions of three departments: the Department for Monitoring the Exercise of the Rights of Persons Deprived of Liberty, the Department for Monitoring the Exercise of the Rights of Persons with Disabilities, institutions for the accommodation of persons with intellectual and mental disabilities, and the Department for Monitoring the Exercise of Children's Rights, in the case of children placed in institutions. This part of the Report presents the actions of the Department for Monitoring the Rights of Persons Deprived of Liberty, which monitors the situation in institutions for the execution of criminal sanctions, police stations and the migration center. The Department acts on appeals and ex officio initiates investigative proceedings in all cases related to possible violations of the rights of persons deprived of their liberty.

The Department for Monitoring the Exercise of the Rights of Persons Deprived of Liberty has harmonized its work in relation to the new situation caused by coronavirus, and with regard to the measures adopted by the competent authorities, which will be presented as a separate unit in this chapter of the report. Visits to penitentiary institutions are limited, ie reduced to a minimum in order to prevent the spread of the epidemic and strict adherence to the measures of the competent institutions. The cooperation of the institutions for the execution of criminal sanctions with the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina in the case of dealing with complaints in 2020, despite the extraordinary circumstances caused by the COVID-19 coronavirus disease pandemic, was good.

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<sup>322</sup> Because there is still no established mechanism for the prevention of torture under the Optional Protocol.

In the reporting period, the Department for Monitoring the Exercise of the Rights of Persons Deprived of Liberty received a total of 92 complaints, which is a decrease of 37 complaints or 28.68% compared to 2019, when 129 cases were registered with the Ombudsman Institution. 74 complaints were received at the Regional Office in Sarajevo, 15 complaints at the Headquarters of the Institution in Banja Luka, 2 at the Mostar Regional Office and one complaint at the Livno Field Office. According to records, 13 complaints were filed for the use of institutional facilities and visits; ten complaints about health care and hygiene conditions; one complaint due to the placement of persons with mental disabilities and disabilities, while 68 complaints relate to various issues related mainly to dissatisfaction with court decisions, a request for a visit from a representative of the Ombudsman Institution, etc.

During 2020, only one recommendation was issued regarding the use of non-institutional benefits.

A significant number of complaints received by the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina relate to the requests of convicted persons for a visit, which the Institution acted on regularly until the beginning of the pandemic.<sup>323</sup> Mostly during the visit, convicted and detained persons request information on procedures related to court proceedings before regular courts and the Constitutional Court of Bosnia and Herzegovina, health care, out-of-prison benefits, etc. A number of complaints also relate to final court proceedings where, pursuant to the provision of Article 4, paragraph 2 of the Law on the Human Rights Ombudsman of Bosnia and Herzegovina<sup>324</sup>: *"The ombudsman shall not interfere in the decision-making process of the courts ..."*<sup>325</sup> Regarding information on legal issues, the staff of the Ombudsperson Institution can respond to requests from convicts/detainees while problems arise in cases related to health and psychological care issues as the Ombudsperson Institution does not have medical staff engaged.

Acting on the complaints of convicts and detainees, as well as ex officio, in 2020, representatives of the Institution visited the Detention Unit of the Court of BiH and the Zenica Penitentiary.<sup>326</sup>

## 7.3. The rights of persons deprived of their liberty

### 7.3.1. Health care

The largest number of complaints received relates to the health care of convicted/detained persons. The complaints allege the inadequacy of the health care provided in the form of disabling the performance of health examinations, especially specialist or diagnostic ones, which the appellants consider necessary or inadequate therapies. European prison rules pay significant attention to health care<sup>327</sup> and indicate that health care for prisoners must be provided without

<sup>323</sup> Cases: Ž-SA-07-246/20; Ž-SA-07-318/20; Ž-SA-07-330/20; Ž-SA-07-342/20; Ž-SA-07-364/20; Ž-SA-07-376/20; Ž-SA-07-808/20; Ž-SA-07-939/20; Ž-SA-07-1018/20; Ž-BL-07-269/20;

<sup>324</sup> Law on the Human Rights Ombudsman of Bosnia and Herzegovina, Official Gazette of BiH, no. 19/02, 35/04, 32/06.

<sup>325</sup> Cases: Ž-SA-07-373/20; Ž-SA-07-771/20.

<sup>326</sup> Head of the Department Vedrana Pavlović visited the Detention Unit of the Court of BiH on July 17, 2020, and the Zenica Penitentiary on July 21, 2020.

<sup>327</sup> The European Prison Rules in Part III regulate the issue of Health, point 40.3.

discrimination on the basis of their status. A number of penitentiary institutions in Bosnia and Herzegovina still do not have a permanent general practitioner employed, as required by the European Prison Rules<sup>328 329</sup>. Institutions that do not have a full-time general practitioner hire contract doctors who have the obligation to provide regular health services to persons deprived of their liberty. In their statements, the administrations of the institutions for the execution of criminal sanctions generally present all the actions in relation to the appellate allegations and enclose medical documentation. The Institution of the Human Rights Ombudsman of Bosnia and Herzegovina does not employ medical experts, so in a situation where there are conflicting allegations from the complaint and the statement of the institutions for the execution of criminal sanctions requiring medical expertise, it is impossible to establish the facts without the involvement of medical experts.<sup>330</sup> It is these cases that point to the importance of establishing a mechanism in accordance with the Optional Protocol to the UN Convention against Torture. Examples related to health care are presented below.

**Example**<sup>331</sup> The complainant alleges that her cousin's health condition is worrying because he has not been adequately diagnosed at the Zenica Penitentiary and has therefore not been provided with adequate treatment. In the submitted response of the Zenica Penitentiary, Act No. 01-09-2659/20 dated 20 March 2020, which contains information on the health condition of the convict, states, inter alia:

*"... He was examined by a neuropsychiatrist for the first time on January 17, 2018, after which he was under the outpatient supervision of a neuropsychiatrist in terms of a diagnosis of dissocial personality disorder. He manifested conspicuous behavior, refused house rules, orders of officials, refused to sleep on the bed, slept on the floor, sat on the concrete, refused to bathe, shave, cut, take food, etc. In that period, in addition to the mentioned behavioral disorders, elements of suspicion and indications of sick thinking were named, that is. paranoid interpretations (he should not be in prison, someone set him up) which is why he was diagnosed with the above psychiatric diagnosis. During this period, urological problems appeared in terms of urinary problems. He was appointed under the regular outpatient supervision of a specialist urologist external associate and was prescribed adequate urological therapy. In the meantime, the psychiatric condition of the nominee has significantly improved, the nominee does not spend any psychiatric therapy, but has been behaving in a coordinated, inconspicuous manner for a long time, and has been employed as a warden in the prison circle. As far as urological problems are concerned, his health condition has also significantly improved, and he is under the occasional outpatient supervision of a specialist urologist external associate ... "*

<sup>328</sup> European Prison Rules in Part III Governing Health Issues, paragraph 41.1.

<sup>329</sup> Institutions that have a full-time doctor employed in the Federation of Bosnia and Herzegovina are: Zenica Penitentiary, Tuzla Penitentiary and Sarajevo Penitentiary, and in the Republika Srpska: Foča Penitentiary, Banja Luka Penitentiary and the East Sarajevo Penitentiary.

Mostar Penitentiary, Orašje Penitentiary, Bihać Penitentiary and Busovača Penitentiary in the Federation of BiH hire a general practitioner from the nearest health care institutions under a contract, and Trebinje Penitentiary, Penitentiary Doboje and the Bijeljina Penitentiary in the Republika Srpska hire doctors under a contract for occasional and temporary jobs.

<sup>330</sup> Cases: Ž-SA-07-215/20; Ž-SA-07-427/20; Ž-MO-07-129/20.

<sup>331</sup> Cases: Ž-SA-07-215/20.

On July 21, 2020, representatives of the Ombudsman Institution visited the Zenica Penitentiary and held a brief information meeting with the director, who stated that the health condition of the convicts was stable and that he was under the constant control of a urologist. All of the above was reported to the complainant, who thanked her cousin for information about her health.

**Example**<sup>332</sup> The complainant addressed the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina because he was dissatisfied with the protection provided at the Mostar Penitentiary. In its statement on the allegations of the appeal, the Mostar Penitentiary stated the dates of the appellant's examination two months ago. The examination by a neuropsychiatrist of 31 August 2020 states "*they refused therapy and findings*". It was especially pointed out that the complainant was ordered to Mostar Penitentiary in the second half of October for two terms. Therefore, all appropriate measures are taken with the aim of adequate protection and there is no need for further action by the Ombudsman.

The case was closed due to the party's lack of interest in further proceedings.

Regarding the health care of convicted/detained persons, a special problem is the provision of *expensive medical procedures* that require convicted/detained persons to be subjected to conditions when the planned budget funds in the institutions for the execution of criminal sanctions for health care are limited.

**Example**<sup>333</sup> On 07 January 2020, the Ombudsperson Institution was approached by a convicted person, a citizen of the Republic of Croatia who was serving a sentence in the Dobož Semi-Open Penitentiary, in connection with health problems to be treated with heart surgery in Tuzla. The Institution of the Ombudsman was on 4 February 2020 requested the statement of the Dobož Penitentiary on the appellate allegations and all relevant medical documentation for the convict. On February 17, 2020, the requested statement was submitted, as well as the medical documentation. The attached documentation shows that the convict is a dual citizen (BiH and the Republic of Croatia) but that he has no registered place of residence or insurance in BiH and that he lives and works in Slavonski Brod where there is a registration of residence and insurance where he was already scheduling heart surgery. at the Dubrava Clinical Hospital in Zagreb. They point out that he is under constant medical supervision and therapy, and despite that the health condition of the convict deteriorated due to a mild heart attack that he experienced on March 9, 2020 when he was urgently transferred to a cardiology hospital where there was no need for hospitalization. The Dobož Penitentiary informed the Ombudsman Institution that the convict's heart operation was not performed due to a pandemic caused by the COVID-19 virus, and the procedure for scheduling the operation will follow when all epidemiological conditions are met in the hospital. On September 7, 2020, the ombudsman institution, in a conversation with the assistant director of the Dobož Penitentiary, requested a new statement on the health condition of the convicts, which is currently stable but still has not been operated on due to the current epidemiological situation. In the meantime, the complainant submitted a request for transfer to the Republic of Croatia in order to complete the operation there. The convict did not address the Ombudsman Institution after that.

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<sup>332</sup> Ž-MO-07-129/20.

<sup>333</sup> Ž-SA-29/20

When it comes to the health care of convicted persons, it is necessary to point out the specifics related to *the serving of sanctions by convicted persons with disabilities*. Thus, the Ombudsperson Institution registered a complaint of a convicted person who has an orthopedic prosthesis on his leg that creates problems for him and that it needs to be changed.

**Example**<sup>334</sup> In the complaint, the complainant stated that he was a disabled person who had his left lower leg amputated and that he had certain problems with the prosthesis, i.e., silicone that holds the prosthesis to the leg because the silicone has cracked, and the prosthesis can save it. Because of the above, he has difficulty moving with crutches and fears that he will be injured by falling down the stairs because he is in a collective where there are a large number of stairs. The complainant points out that he received written approval from an orthopedic doctor to replace the said silicone, but that this was not done, but his request to stay in the hospital of the institution until the problem was resolved was even rejected. By Act No. 01-09-2046/20 of 13 January 2020, the Zenica Correctional Institution informs the Ombudsmen of the following:

*... "At a subsequent examination by an orthopedist on March 13, 2020, he stated that it was necessary to perform a new operation on the leg of the convict and only after that go to the further procedure of changing orthopedic aids, which the convict did not agree to." On June 1, 2020, the convict received a conditional release from the director ... "*

The case is closed.

### **7.3.2. Accommodation conditions and staff of the institutions**

Persons deprived of their liberty have the right to adequate accommodation in accordance with modern standards in accordance with European prison rules.<sup>335</sup> In previous annual reports, the Human Rights Ombudsmen indicated that there had been a significant improvement in the conditions of accommodation of convicted/detained persons, as a result of the allocation of significant financial resources for this purpose by the entity authorities. In 2020, regardless of all the difficulties caused by the coronavirus pandemic, the Institution for the Execution of Criminal Sanctions, Detention and Other Measures of BiH was officially put into operation on July 22, 2020. The construction and operation of this prison are fully in line with European prison rules and standards. After the staffing and completion of training for new employees, the institution received the first prisoners and detainees.<sup>336</sup> The dynamics of the transfer of prisoners for security reasons is done gradually in order to enable the prison staff, but also the prisoners and detainees to adapt. The opening of this prison has created space for further improvement of accommodation conditions in institutions for the execution of criminal sanctions at the entity level. However, without a visit and monitoring of the situation in penitentiary institutions, it is impossible to get a complete and objective picture, which is why one of the Ombudsman's priorities, after the crisis caused by the COVID-19 coronavirus disease pandemic, is to visit these institutions.

<sup>334</sup> Case: Ž-SA-29/20,

<sup>335</sup> European Prison Rules in Part II Referral and Accommodation 18.1.

<sup>336</sup> Accommodation capacity is 348 places, of which 298 are intended for convicts and 50 for detainees.

**Example**<sup>337</sup> The Institution of the Human Rights Ombudsman of Bosnia and Herzegovina received a complaint from a group of detainees from the Detention Unit of the Institute for the Execution of Criminal Sanctions and Other Measures of BiH. In the complaint, they stated that due to the bad conditions in the Detention Unit Vojkovići started a hunger strike and that they would refuse food until their conditions were met. They are in self-isolation in detention, they spend 22 hours in their cells, without daily press, without books, library, without transistors, without TV, telephone connection with a lawyer and relatives does not work well, and they are forbidden to smoke in their cells. The complaint indicates that they do not receive any hygiene for cleaning the cells, and the food is mostly dry without soup. The complainants request that they be provided with a daily press and set up TVs in their rooms, or that they be allowed to buy their own TV sets, which they would leave to the institution upon leaving.

In the statement of the Detention Unit of the Institute for Execution of Criminal Sanctions and Other Measures of BiH<sup>338</sup> it was stated that the refusal of prison food was not considered a hunger strike and that none of the detainees stated that they had gone on a hunger strike in accordance with the existing legal regulations. The maximum time a detainee spends in a cell is 19 hours, and the time spent outside the cell consists of a mandatory minimum of two hours in the fresh air. Detainees spend the rest of the time outside the cell in the rooms for joint activities or fitness halls at least four times, preparing and consuming hot drinks, consuming tobacco products, watching TV programs, reading the press, playing board games. Detainees can decide for themselves whether to use the fitness room, which is equipped with treadmills, a stationary bicycle and some small exercise equipment, or whether they will stay in a common activity room. Until the end of the tender procedure for the procurement of the press, two daily newspapers are delivered to the room for joint activities, and the detainees who wish can purchase the daily and periodical press of their choice on their own account through the canteen. Activities are being carried out to fill the library with the book fund. In accordance with the Rules, the TV set is installed in a room for joint activities where detainees can watch 24 different domestic and foreign channels. Detainees are not allowed to use a personal TV set in the room or other audio and video distribution devices (transistor, camera, VCR, Play Station, etc.). The installation of a TV set in a cell may be permitted by the director of the Office in particularly justified cases. The telephone connection works unhindered, detainees make uninterrupted telephone contacts to the numbers for which they have the approval of the Court of BiH through the installed telephone booths. A total of 4 washing machines and 2 tumble dryers were installed in the premises of the Detention Unit. Detainees, in accordance with a pre-arranged schedule, can wash and dry their laundry and bed linen every 15 days. For detainees, laundry and bedding are provided with hygiene items, and other additional items can be purchased from their own funds through the canteen. It is forbidden for prisoners to consume tobacco products in the rooms where they stay. Consumption of tobacco products is allowed in the area for staying in the fresh air and in the area (balcony) which is part of the room for joint activities of detainees. Work on the case is ongoing.

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<sup>337</sup> Ž-SA-07-825/20;

<sup>338</sup> Act no. 05-15-1-444-1/20 o 16 October 2020.

### 7.3.3. Use of out-of-prison benefits

The success of institutional re-education of convicted persons is extremely important when approving out-of-prison benefits. After fulfilling all legal aspects, i.e., the served part of the prison sentence, the conditions are met when a person can submit a request to the management of the institution for approval of the use of out-of-prison benefits (weekend leave, going out, vacation). When making a decision on approving out-of-prison benefits, all aspects of institutional re-education treatment are analyzed: fulfillment of legal conditions for submitting an application, attitude towards punishment, conduct and behavior while serving a sentence, employment, participation in leisure activities, attitude towards officials. On the other hand, a joint assessment is made between the treatment service and the security service on the degree of risk of whether a person will abuse out-of-prison benefits. This estimate<sup>339</sup> is performed in detail and during its adoption, data from the field are also required (opinion of the competent police administration and opinion of the competent center for social work). For persons convicted by the Court of BiH, the final decision on granting out-of-prison benefits is given by the director of the institution in accordance with the Law<sup>340</sup> and the Rulebook on the Use of Benefits and Annual Leave of Prisoners Serving Sentences in the Institution for the Execution of Criminal Sanctions and Other Measures of Bosnia and Herzegovina<sup>341</sup>. For persons convicted by the entity courts, the decision on the use of non-institutional benefits is made by the director or a person authorized by him in accordance with the Law<sup>342</sup> and the Rulebook on House Rules of Institutions.

Analyzing the cases received by the Ombudsperson Institution, it was determined that a significant number<sup>343</sup> relations on the issue of approving out-of-prison benefits. Approval of out-of-prison benefits is an opportunity that a convicted person can exercise only through his good behavior and conduct, and not the right or obligation of the institution that must be respected.

This possibility is not conditioned by the positive opinion of the police administration, but the directors of institutions, when making decisions on the use of out-of-prison benefits, value the opinions of the police administrations and often base their decision on those opinions. However, the Ombudsmen note that police officers often, when giving an opinion

<sup>339</sup> Article 154, paragraph 3) of the Law of Bosnia and Herzegovina on Execution of Criminal Sanctions, Detention and Other Measures, Official Gazette of BiH, no. 13/2005, 53/2007, 97/2007, 37/2009 and 12/2010 reads: Escape risk assessment - security conditions, at least includes: threat to the public in case the prisoner escapes, previous behavior, attempted escape, previous deprivation of liberty on arrest warrant, access to foreign aid, previous convictions, personal and family circumstances, earlier stay outside BiH, propensity for constant travel, i.e., moving from place to place or frequent change of place of residence or stay, personal participation in the implementation of the treatment program, the nature of the crime for which the prisoner was convicted, the length of imprisonment, possible threats to other prisoners and other circumstances that may be relevant to security assessment. risk.

<sup>340</sup> Law of Bosnia and Herzegovina on Execution of Criminal Sanctions, Detention and Other Measures, Official Gazette of BiH, no. 13/2005, 53/2007, 97/2007 and 37/2009 and 12/2010.

<sup>341</sup> Official Gazette of Bosnia and Herzegovina, no. 67/2009 and 20/2012.

<sup>342</sup> Law on Execution of Criminal Sanctions in the Federation of Bosnia and Herzegovina, Official Gazette of the Federation of BiH, no. 44/98, 42/99, 12/2009 and 42/2011; Law on Execution of Criminal and Misdemeanor Sanctions of the Republika Srpska, Official Gazette of the Republika Srpska, No. 63/2018; Law on Execution of Criminal Sanctions, Detention and Other Measures in the Brčko District of Bosnia and Herzegovina, Official Gazette of the Brčko District of BiH, No. 31/2011.

<sup>343</sup> Ž-SA-07-383/19, Ž-SA-07-443/19, Ž-SA-07-479/20, Ž-SA-07-862/20, Ž-SA-07-701/20; Ž-SA-07-225/20, Ž-SA-07-275/20; Ž-SA-07-864/20;

on the use of benefits, do not carry out checks at all or that these checks are formal, which causes mistrust among persons deprived of their liberty, indicates unequal treatment and opens space for various types of abuse.

The Ombudsmen are of the opinion that it is necessary to make amendments to the Law on Execution of Criminal Sanctions, Detention and Other Measures of Bosnia and Herzegovina, the Law on Execution of Criminal and Misdemeanor Sanctions of the Republika Srpska and the Law on Execution of Criminal Sanctions of the Federation of BiH. the opinion obtained by the police structures regarding the use of out-of-prison benefits for convicted persons and established clear procedures for checks by police officers.

**Example**<sup>344</sup> In her appeal, the complainant pointed out that she had acquired the conditions for the use of out-of-prison benefits and that she did not use them solely due to the negative opinion of the Ministry of the Interior of the Sarajevo Canton and the Novi Grad Sarajevo Police Department. It is not clear to the applicant on the basis of which the competent police administration formed an opinion when she learned through her lawyer that all the neighbors agreed that she used the weekends. She also has a positive opinion from the Center for Social Work and claims that the injured parties in her proceedings have nothing against her going out on weekends.

In its statement, the Police Administration of Novi Grad Sarajevo stated that it was true that the police officers conducted interviews with certain neighbors and that they had nothing against the convict using the facilities outside the prison. However, police officers also performed other appropriate checks, assessing the gravity and type of the crime, the manner and circumstances of the crime and finding that there were facts indicating that he was a multiple returnee in the commission of crimes and that they were unable to guarantee safety and security. thus assessed that there is a risk that the convicted person will go to out-of-prison facilities and that their opinion does not depend only on the consent of the neighbors.

The statement of the Tuzla Penitentiary shows that the penological treatment of the convict did not have a continuous positive course. She was disciplined several times, for which she was sentenced to solitary confinement. In addition, she abused the interruption of her prison sentence because she did not return from the interruption to the Institution to continue serving her sentence, and on that occasion she committed a new criminal offense, which are important facts to consider when assessing security risk. Reconsideration of requests for the use of out-of-prison benefits will be performed when positive continuity of penological treatment is achieved and a satisfactory assessment in the field. In this particular case, the convict does not use the benefits not because of the negative opinion of the Police Department, but because of the disciplinary punishment and the commission of a new criminal offense. The complainant did not submit her comments on the statement of the Tuzla Penitentiary and the case was closed.

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<sup>344</sup> Ž-SA-07-479/20;

**Example**<sup>345</sup> The complainant alleges that he was denied extra-institutional benefits under Article 174, item 9 and Article 175, paragraph (2) of the Law on Execution of Criminal Sanctions of BiH. These legal grounds imply that convicts can be deprived of benefits if they are in a hospital or inpatient department. However, he is neither in the hospital nor in the hospital for treatment, and it is not clear to him how his benefits could have been revoked on that basis. By the decision of the Ministry of Justice of BiH, he was transferred from the Zenica Penitentiary to the Mostar Penitentiary for hip surgery and prosthesis installation because the Zenica Cantonal Hospital did not have appropriate prostheses. Although he has not been operated on yet, his benefits and use of the weekend have been revoked. The appellant, in particular, points out that he acquired the right to use the weekends, so far he has used the weekends twice because he received a positive opinion from the Grude Police Administration as well as the Center for Social Work and the Penitentiary PT Mostar. He is employed on several jobs in the Institute, qualified in "A" group. He is the father of six children, four of whom are minors. The appellant alleges that his rights were violated by the director of the institution because he was allegedly expected to pay a certain amount of money in order to be reimbursed for his benefits.

The Ombudsmen of Bosnia and Herzegovina received a statement from the Mostar Semi-Open Penitentiary<sup>346</sup> in which it is stated that the appellant was temporarily transferred from the Penitentiary ZT Zenica to the Penitentiary PT Mostar in order to solve health problems, according to the decision of the Ministry of Justice of BiH. During that period, the Mostar Penitentiary could not assess or approve out-of-prison benefits for the prisoner, after which his use of out-of-prison benefits was revoked until further notice. However, on September 21, 2020, the Office received a new official act of the Ministry of Justice of BiH number UP07-15-3-364/19 dated September 14, 2020. in which it is stated that the temporary transfer is abolished and the prisoner is determined to continue serving his prison sentence in the Penitentiary PT Mostar in order to more efficiently implement the treatment, health condition and epidemiological situation caused by the COVID-19 virus. Therefore, this Institution becomes the home institution for this prisoner, where the process of his treatment and resocialization will continue. After the Penitentiary PT Mostar became the home institution for the prisoner in question, the director of the Institution, at the request of the prisoner on September 23, 2020, again allowed the use of out-of-prison benefits. Since the prisoner had exercised his right, the case was terminated by a decision on imprisonment.

**Example**<sup>347</sup> On October 29, 2019, a convict from the Tuzla Semi-Open Penitentiary addressed a complaint to the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina due to the impossibility of using out-of-prison facilities, exclusively due to the negative opinion of the competent police administration.

Conducting the investigation procedure, the Ombudsmen determined that the FBiH Law on Execution of Criminal Sanctions stipulates that the decision-making as well as the realization of the use of out-of-prison benefits is within the competence of the Institution where the convicted person is serving a prison sentence and is not conditioned by the

<sup>345</sup> Ž-SA-07-701/20.

<sup>346</sup> Act no. 03-2-09-2435/20 of 15 October 2020.

<sup>347</sup> Ž-SA-07-1160/19.

competent police authority. In view of the above, the Human Rights Ombudsmen of Bosnia and Herzegovina, on 20 February 2020, issued recommendation number P-26/20 to Penitentiary of semi-open type Tuzla:

1. *To the Director of the Tuzla Penitentiary to reconsider the request for the use of out-of-prison benefits with mandatory supervision for the convict since she is an exemplary convict, classified in "A" group, employed and who has acquired the required ratio of imprisonment benefits;*
2. *To provide feedback on the implementation of the given recommendation to the Institution of the Human Rights Ombudsman of BiH within 15 days.*

After the recommendation was issued, the Tuzla Penitentiary-Correctional Institution, by act No. 01-04-09-1412-2/20 of 4 November 2020, informed the Institution of the Human Rights Ombudsman that, after receiving a positive check from the competent police administration, the convict started using out-of-prison benefits. The recommendation has been fully implemented.

**Example**<sup>348</sup> On September 21, 2020, the Human Rights Ombudsmen of Bosnia and Herzegovina received a complaint in which the complainant designated the Ministry of the Interior of the Sarajevo Canton - Police Administration Stari Grad Sarajevo as the responsible party, and addressed the Sarajevo Penitentiary - Miljacka. The complainant alleges ... *that his son is serving a prison sentence in the Sarajevo-Miljacka Penitentiary. He was sentenced to 38 months in prison (currently serving 30 months). He acquired the conditions for the use of out-of-prison benefits and sent a request for the use of the weekend through the Penitentiary. However, Stari Grad Police Administration gave a negative opinion for the use of out-of-prison benefits. The Ombudsmen of BiH conducted the investigation procedure and on November 5, 2020, they requested a statement from the Police Administration Stari Grad Sarajevo. On November 18, 2020, the Ombudsmen of BiH received a response from the Police Administration of Stari Grad Sarajevo stating, among other things:*

*...Police officers of the First Police Directorate performed the required checks and found that there was a possibility that the use of out-of-prison benefits could provoke a negative reaction to the environment in which the convicted person would use the benefits. Also, on 16 October 2020, by the Penitentiary-Correctional Institution of the semi-open type Sarajevo, Department in Ustikolina, the First Police Directorate received an act dated 11 October 2019, which requires field checks in terms of whether the arrival of a convicted person for out-of-prison benefits could cause a negative reaction from the environment in which he would use out-of-prison benefits. Police officers of the First Police Directorate carried out the required checks to establish that there was a possibility that the complainant's use of non-prison benefits could provoke a negative reaction from the environment in which he would use non-prison benefits or the environment in which he would stay during their use.*

The said reply was forwarded to the complainant for comment on 30 November 2020. On 14 December 2020, the complainant timely submitted a comment on the statement to the Stari Grad Police Administration, from which it can be concluded that he remains with the allegations presented in the complaint. The investigation procedure in this case is ongoing.

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<sup>348</sup> Case SA-07-864/20.

### 7.3.4. Parole

In 2020, the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina received complaints from convicted persons regarding the use of the right to parole.<sup>349</sup> In their appeals, the convicted persons state that their requests were rejected even when they have a positive opinion of the management of the institution for the execution of criminal sanctions.

**Example**<sup>350</sup> A convict of the Zenica Closed Penitentiary is appealing against the decision of the Parole Board of the Ministry of Justice of Bosnia and Herzegovina. The applicant states in the appeal that the judgment of the Court of Bosnia and Herzegovina No. S1 2 K 008645 Kvl of 8 June 2018 sentenced him to a single term of imprisonment of 8 (eight) years and 10 (ten) months and that 8 more remained until the expiration of the sentence (eight months). After acquiring the legal ratio, he applied to the Parole Board on several occasions for approval of parole. According to him, the Board rejected all his requests, without properly considering the course of post-penal treatment in the Zenica Penitentiary. The Commission did not consider the submitted opinions of the Zenica Penitentiary to be relevant for decision-making. He believes that the opinion of the experts of the treatment service must be appreciated by the Board when making a decision, because they are the ones who monitor the success of the treatment of convicts every day, 24 hours a day, i.e., the degree of their resocialization. The complainant points out that during his treatment and stay in the Zenica Penitentiary, remembering his earlier life, he realized that he had not lived in the right way. Finally, with his hard work and the effort of all the services in the Institution, he has a completely different view of life after leaving the Institution. He finished high school with great success as a central heating installer, he is employed and regularly uses out-of-prison benefits. The last opinion of the Zenica Penitentiary dated 20 July 2020, which was submitted, states: *"...According to the stated, served and remaining part of the sentence, during the treatment of prisoners, the fact that he regularly uses benefits outside the prison, we believe that parole should be granted in a smaller part of the remaining prison sentence ... "*

The appellant points out that the decision rejecting his application for parole is discriminatory and depressing for him. The Board has double standards in making its decisions, which he himself was convinced of in a conversation with some convicts who knew the date of their parole before receiving the decision.

The statement of the Parole Board, act number 18.5-50-7449-13/20 of 28 October 2020, states, inter alia, the following:

*"... Article 194 of the Law on Execution of Criminal Sanctions stipulates that when making a decision on parole, the Commission must limit itself to the following criteria:*

1. *previous conviction;*
2. *behavior in the institution;*
3. *participation in the treatment program;*
4. *attitude towards the victim;*
5. *risk of re-offending;*

<sup>349</sup> Ž-SA-07-607/20; Ž-SA-07-779/20.

<sup>350</sup> Ž-SA-07-779/20.

6. *the adequacy of the relocation proposal.*

*It is important to emphasize that items 1 and 5 of the cited norm represent the greatest obstacle to granting parole because, as stated in the report of the Zenica Penitentiary Administration, the named prisoner is a multiple returnee in committing criminal offenses, which indicates that the previous punishment is not sufficiently affected to achieve the purpose of punishment and to argue that the risk of re-offending has been eliminated. Also, in the case file, there is information that criminal proceedings are being conducted against the convict in the Republic of Slovenia, which all indicates that he is a prisoner who poses a danger to the community, due to his propensity to commit crimes ... The convicted person's allegations are unfounded...*

The case was closed due to the party's lack of interest in further proceedings.

**Example**<sup>351</sup> The complainant pointed out the violation of the right to conditional release, and marked the Sarajevo Penitentiary as the responsible party. In his statement, the Sarajevo Penitentiary stated that in his opinion he pointed out that *"as a whole, there are enough indicators on the basis of which it can be concluded that the sentence had a positive effect on the convict, that the treatment and resocialization process was completed, the punishment has no purpose given the complainant's age and state of health."*

The Parole Board issued a decision rejecting the complainant's request for parole because the Board concluded that there were no good indicators on the basis of which it could be reliably claimed that the conditions for granting parole were met, especially given the proportion of sustained and unsupported part of the sentence and the attitude towards the crime. Also, the Parole Board is of the opinion that the conditions from Article 45 of the Criminal Code of the Federation of Bosnia and Herzegovina are not met<sup>352</sup> nor is it indicated that the purpose of punishment has been achieved. The Ombudsmen note that the decision of the Parole Board does not contain further explanations of the stated position, especially with regard to the indicators according to which it can be reliably concluded that the conditions for parole are met, having in mind the opinion of the Sarajevo Penitentiary.

The case is closed.

### 7.3.5. Other rights

The Institution of the Human Rights Ombudsman of Bosnia and Herzegovina also registered complaints related to the execution of house arrest sentences with electronic surveillance. Complainants generally complain about the actions of the authorities after the complainants left the place where they were supposed to be during the execution of the sentence, which they often justify by the need to visit a doctor or other reasons or deny leaving the place. The appeals of the convicted person are generally not confirmed through checks with the competent authorities.<sup>353</sup>

<sup>351</sup> Ž-SA-07-607/20.

<sup>352</sup> Official Gazette of the Federation of BiH ", No. 3603, 37/09, 21/04, 69/04, 18/05, 42/10, 22/11, 59/14, 76/14 and 46/16.

<sup>353</sup> Ž-SA-07-223/20; Ž-MO-08-109/20;

All persons who use the possibility to execute sentences of house arrest with electronic surveillance are familiar with the procedure of using this sentence and their obligations.

### 7.3.6. Status rights of convicted persons

During 2020, the Ombudsmen received a number of complaints related to resolving status issues of persons deprived of their liberty, such as obtaining an ID card, registration and change of residence at a certain address, assistance in obtaining documentation on exercising the right to a pension, etc. The Ombudsmen noted that certain problems of persons deprived of their liberty, related to access to documents, as well as registration and change of residence, are mainly related to changes within families or real estate transactions in places where the convicted person had a residence.

### 7.3.7. Communication with the outside world

The Ombudsmen point out the great importance of maintaining good contact with the outside world of all persons deprived of their liberty. European prison rules<sup>354</sup> stipulate that: *“... Restrictions and observations necessary for the needs of the existing criminal investigation, for the maintenance of good order, security of prisoners and security of prisons, prevention of criminal offenses may be applied to communication and visits, but these restrictions, including specific restrictions from the judiciary, in any case, it will provide the lowest acceptable level of contact.”*

It is very important to emphasize that most inmates will one day be free so they should be supported and allowed to maintain as many connections with the outside world as possible. Complaints received at the Institution of the Human Rights Ombudsman also point to the problem of establishing contacts with an extramarital partner or children from extramarital unions. Often in these cases, the convicts/detainees themselves contribute to the problem by failing to state facts related to the existence of an extramarital union or children from an extramarital union and not to provide evidence for the child, such as a birth certificate.<sup>355</sup> In these situations, good cooperation between institutions for the execution of criminal sanctions is very important, both in the place of residence of the convicted/detained person and in the place of residence of the extramarital partner or child. This issue deserves to be regulated in detail by bylaws regulating the execution of sanctions and the rights of convicted/detained persons, and to be an integral part of the procedure for admission of a convicted/detained person to an institution.

**Example<sup>356</sup>** On February 4, 2020, a prisoner serving a sentence in the Doboj Semi-Open Penitentiary addressed the Ombudsman Institution in connection with making contact with a child from an extramarital union. On February 7, 2020, the Ombudsperson Institution requested a statement from the Doboj Penitentiary on the allegations. On February 17, 2020, the requested statement was submitted, and it can be concluded from the attached documentation that the Doboj Penitentiary, upon learning that it is a convict living in an extramarital union. He was

<sup>354</sup> European Prison Rules, Part II Communication with the outside world;

<sup>355</sup> Ž-SA-07-115/20.

<sup>356</sup> Ž-SA-115/20;

instructed to contact the center for social work to confirm the existence of an extramarital union, and he was also allowed to have a telephone conversation with his extramarital wife. Also, on February 23, 2020, the convict had a visit from his extramarital wife and their child, for which he expressed his gratitude to the Ombudsman Institution for taking timely activities and measures.

The Ombudsmen remind that written communication of convicted persons with the Institution must not be subject to any restrictions or supervision. Unfortunately, in 2020, the practice continued in some institutions not to ensure confidentiality in the communication of convicts with the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina and continue to deliver written items in open envelopes with a cover letter containing certain information about the convict.<sup>357</sup> During the second half of 2020, the Foča Penitentiary changed its previous practice, so that complaints are submitted in sealed envelopes with a cover letter.<sup>358</sup>

#### **7.4. The impact of the COVID-19 pandemic on the situation in the field of suppression and prevention of torture**

The coronavirus pandemic (COVID-19) presents extraordinary challenges for all authorities. Persons deprived of their liberty belong to a vulnerable category of the population because their very position has an impact on the physical, psychological, social, legal and every other aspect of their lives. There are specific and intense challenges for staff working in different places of detention, including police detention facilities, penitentiaries, immigration detention centers, psychiatric hospitals and social care homes, as well as in the various newly established premises/zones where persons are located in quarantine.

Within its mandate, the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina, with the aim of protecting human rights, monitored the implementation of measures adopted by the competent authorities at all levels of government in Bosnia and Herzegovina, including institutions for the execution of criminal sanctions. freedoms during a coronavirus pandemic (COVID-19).

In order to prevent human rights violations, the Ombudsmen issued several recommendations to crisis staffs and other competent bodies and issued statements indicating the need to ensure the rights of particularly vulnerable categories such as children, people with disabilities, the elderly and others. Particular attention was paid to the issue of treatment of persons deprived of their liberty in institutions. A special statement was made regarding the persons who are in the institutions for the execution of criminal sanctions<sup>359</sup> and an act of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) was forwarded to all Ministries of Justice in order to take measures within their competences and inform the management of all penitentiary institutions in Bosnia and Herzegovina.

<sup>357</sup> Foča Penitentiary, appeal Ž-BL-07-236/20; Banja Luka Penitentiary, appeals: Ž-BL-07-309/20, Ž-BL-07-424/20;

<sup>358</sup> Ž-SA-07-959/20, Ž-SA-07-940/20, Ž-SA-07-906/19, Ž-SA-07-461/19;

<sup>359</sup> (<https://www.ombudsmen.gov.ba/Novost.aspx?newsid=1515&lang=BS>),

The Ombudsperson Institution sent an act to all penitentiary institutions in Bosnia and Herzegovina and requested information on the measures they had taken to protect persons deprived of their liberty from coronavirus infection.<sup>360</sup>

From the submitted answers, it was concluded that the measures prescribed by the Government of the Federation of Bosnia and Herzegovina, the Government of the Republika Srpska, competent ministries, republic, cantonal and municipal crisis staffs are applied in all institutions where persons are deprived of liberty. All penitentiary institutions have taken a whole set of hygienic and epidemiological measures to protect persons deprived of their liberty from coronavirus infection, as well as measures to compensate for the restrictions imposed to protect the health of the population.

In that sense, the institutions state in their statements that there is a greater application of alternative measures such as suspended sentences/postponement of the execution of the sentence, a larger number of approved conditional release, temporary release, replacement of the prison sentence with house arrest. A number of measures have been taken to facilitate the contact of detainees and prisoners with the outside world in order to balance the restrictions imposed on the protection of public health. These measures include alternative ways of maintaining contacts in terms of increasing the number, duration and frequency of telephone calls, delivery of letters and packages, etc ... because all visits to convicts and detainees have been temporarily suspended. It is ensured that persons deprived of their liberty spend as much of their time outside as possible. The treatment services intensified their activities through the activities of various sections (IT section, gyms, various board games, watching educational shows, etc.). It is possible for family members to continue to deliver food and other necessities to convicts, while respecting the instructions of the authorities which recommend the delivery of factory-sealed food. In most institutions, the range of products in the canteens and shops has been increased so that persons deprived of their liberty have the best possible supply of food (fruits, vegetables, etc.). Below are some of the complaints of convicts related to the exercise of rights during the COVID-19 virus pandemic.

**Example**<sup>361</sup> The ombudsmen acted on the complaint of the convicts of the Penitentiary-Correctional Institution of the semi-open type Orašje, which states that the convicts of this Institution sent an act and requested a review and amendment of the order of the Crisis Staff of the Federation Ministry of Health<sup>362</sup> which asks all crisis staffs of the cantonal ministries of health to ensure the suspension of visits to penitentiary institutions. Following this order, all visits and use of out-of-prison facilities in the Orašje Penitentiary have been suspended since July 11, 2020. Convicts believe that such measures were taken without considering and assessing the complete epidemiological situation in the Federation of Bosnia and Herzegovina. members of their families, the whole process of re-socialization of convicts, as well as achieving the purpose of punishment. In order to examine the allegations in the complaint, the Ombudsmen requested a statement from the Federation Ministry of Health and the Ministry of Health of the Posavina Canton.

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<sup>360</sup>OI-K-SA-60/20od 16.04.2020.

<sup>361</sup> Ž-SA-07-674/20;

<sup>362</sup> No. 01-33-4486/20 od 06.08.2020.

Federation Ministry of Health<sup>363</sup> informed the Ombudsmen that the Crisis Staff of the Federation Ministry of Health has already considered and respected the initiative of the penitentiary institutions of the Federation of BiH. Each institution is obliged to develop and adopt an internal plan for visits and departures from the institution, as well as a crisis plan in case of contagious disease COVID-19, in relation to the specifics of the institution and the epidemiological situation in the canton where the institution is located. Therefore, visits to convicts, as well as permission for out-of-prison benefits, are not prohibited by orders of the Crisis Staff of the Federation Ministry of Health. All crisis staffs of the competent ministries of health of the cantons are allowed to introduce restrictive and other measures in the area of the canton based on the assessment of the epidemiological situation, which is notified to the Federation Ministry. However, stricter measures must be justified by the epidemiological situation in the canton ... "

The statement of the Ministry of Health of Posavina Canton states that in cooperation with the relevant cantonal ministries, the suspension of visits was introduced only in social protection institutions that care for and accommodate the elderly, and that visits to the Orašje Penitentiary are not prohibited ...

The stated statements were submitted to the complainants for inspection and submission of comments who did not submit their comments within the set deadline, after which a decision on closure was made.

**Example**<sup>364</sup> The ombudsmen received a complaint from a convict serving a prison sentence in the Sarajevo Semi-Open Penitentiary, following a ruling by the Court of Bosnia and Herzegovina. In the complaint, he states that on September 13, 2020, it was two months since his use of the weekend was abolished. Namely, the order of the Crisis Staff of the Federation Ministry of Health, from August 20, 2020, lifted the ban on going out and ordered the Federation Ministry of Justice to ensure the adoption of internal plans of the Penitentiary on visits and outings. In accordance with the order of the Crisis Staff, Sarajevo Penitentiary made an internal plan that contains measures on visits that are allowed, but does not include release from prison plan. The complaint states *"... since Article 175 of the Law on Execution of Criminal Sanctions of BiH limits the restriction of convicts' release to two months even in an extreme state of epidemic, illegal application of the Crisis Staff order violated the right to legal security and the right to psychophysical health due to institutional arbitrariness ..."* The Sarajevo Penitentiary was requested to state the statement of appeal as well as the internal plan of the institution, which contains measures on visits and release from the institution.

In the submitted statement of the Sarajevo Penitentiary<sup>365</sup> It is stated that in view of the new situation, orders and recommendations of the Crisis Staff of the Federation Ministry of Health, the Institute undertook activities that resulted in the suspension of out-of-prison benefits, restrictions on visits and contacts with the primary social environment with purpose of prevention of coronavirus spread among convicted persons.

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<sup>363</sup> Act no. : 05-37-5424/20 of 1 October 2020.

<sup>364</sup> Ž-SA-07-774/20.

<sup>365</sup> Act no. 01-09-164/14 od 05.10.2020.

Regarding the use of out-of-prison benefits, *“Institutes will act in accordance with the Internal Plan for visits and release from penitentiary institutions in the FBiH number 04-45-986-2120 from 27 August 2020 and the Crisis Plan in case of the outbreak of the infectious disease COVID-19 in penitentiary institutions in the territory of FBiH, number 04-45- 986-1.110 from 27 August 2020 ...”* So, non-institutional benefits are realized in changed circumstances.

The Sarajevo Penitentiary exclusively acts according to the instructions and orders of the Federation Ministry of Justice, and does not make decisions on the suspension of out-of-prison benefits and visits on its own initiative. All actions and activities taken to prevent the infection were taken in a timely manner and thanks to the measures taken, in addition to the large concentration of people in small and closed spaces, there have been no cases of infected people in the Sarajevo Penitentiary.

Regarding the allegations from the complaint relating to the violation of the right to legal security and the right to psychophysical health of convicts due to alleged institutional arbitrariness due to illegal application of the order of the Crisis Staff, the statement states:

*"The COVID-19 virus pandemic has hit the whole world and it is something that could not have been foreseen and included in the Law on Execution of Criminal Sanctions under Article 175, which you quote in the act in a state of epidemic which restricts the release of convicted persons until two months. This is a pandemic that takes human lives and as such should be taken seriously, and not in the interests of the individual ... "*

The case was closed due to the party's lack of interest in further proceedings.

**Example**<sup>366</sup> The appellant is the lawyer of the accused, who states that in his capacity as defense counsel on 27 July 2020 he visited the accused who is in custody. The detainee then pointed out that he had been having health problems for a long time, which had intensified during his detention, and that due to the epidemiological situation, emergency surgery had been postponed, as a result of which he was suffering from great pain. He claims that he lacks the necessary medications that would help him bear the pain more easily until the necessary surgery. On 17 August 2020, a statement was received from the Tuzla Penitentiary, the prison doctor, which was forwarded to the complainant for comment. The statement described in detail the health condition of the detainees; the medications used as well as the fact that the current epidemiological situation conditioned the cancellation of the scheduled operation because the so-called cold case. It is also stated that detainees do not have priority over other sick persons and that the urgency and order of operations are performed exclusively by the competent institution.

The case is closed.

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<sup>366</sup> Ž-BL-07-502/20.

## VIII. THE RIGHTS OF THE CHILD

The Department for Monitoring the Exercise of Children's Rights during 2020 received 185 complaints. In 17 cases in which violations of children's rights were established, the Ombudsmen issued 16 recommendations. Analyzing the complaints received during the reporting year, it is evident that the complaints most often referred to the work of social work centers, then the work of courts, prosecutor's offices, educational institutions, inspection bodies, but also other competent administrative bodies. A significant number of complaints in the reporting year also concerned the exercise of children's rights during the pandemic.

In their work, the Ombudsmen pay special attention to the protection of the rights of the child through the work of the Department for Monitoring the Exercise of Children's Rights, which has been operating since 2009. and in the territory of Bosnia and Herzegovina. Special attention is paid to removing obstacles to the consistent application of this and other international acts ratified by Bosnia and Herzegovina, and to analyzing the key causes of the non-functioning of government structures in decision-making concerning children.

When it comes to international documents governing the rights of the child, the most important for the actions and activities of this Department is the UN Convention on the Rights of the Child (hereinafter: the UN Convention), adopted by the United Nations General Assembly on 20 November 20, 1989. Bosnia and Herzegovina took over the UN Convention with a notification of succession on November 23, 1993, and thus undertook to implement it in domestic legislation. The four most important principles of the Convention are: children must not be discriminated against on any grounds; children have the right to life and development in all aspects of life, including physical, emotional, psychosocial, cognitive, social and cultural; the best interests of the child must take precedence in decisions concerning children and children must be enabled to take an active part in resolving all matters affecting their lives and to be allowed freedom of expression.

On the other hand, the catalog of children's rights as defined by the UN Convention is regulated by a number of laws and bylaws adopted at the entity, Brcko District and cantonal levels such as primary, secondary and higher education laws, health care laws, social protection laws on the treatment of children and juveniles in criminal proceedings, etc. All this creates additional difficulties in achieving the principle of equal access to the rights of every child in BiH, which is especially pronounced in the Federation of BiH (most of the rights of the child are prescribed by cantonal laws).

In the introductory part of this chapter, we will present two initiatives to change the law, which, in our opinion, deserve special attention.

### **Initiative to amend the Labor Law of the Federation of Bosnia and Herzegovina**

The Ombudsmen, investigating *ex officio*<sup>367</sup>, assessed that it is necessary to enable the adoptive parents the right to paid leave, i.e., the right to salary compensation during the "adaptation period" and guided by the provisions of Article 159 of the Rules of Procedure of the House of

<sup>367</sup> Initiative registered under number Ž-BL-01-402/17;

Representatives of the Federation of Bosnia and Herzegovina submitted an initiative to the Speaker of the House of Representatives to amend the Labor Law of the Federation of Bosnia and Herzegovina in the part concerning the rights of the adopter, so that the adopter is entitled to salary compensation during the adaptation period. The adaptation period lasts six months from the date of placement of the child in the family, taking into account the specifics of the institution of adoption, which is clearly defined by the Family Law of the Federation of Bosnia and Herzegovina. When submitting this initiative, the Ombudsmen were guided by the best interests of the child, believing that the problem of financing this right, from the aspect of protection of children's rights, is irrelevant and that the competent authorities in the Federation of Bosnia and Herzegovina have an obligation to resolve this issue. On this occasion, they emphasize that adoption is the most desirable and adequate form of protection of orphans or appropriate parental care because it establishes a parental or kinship relationship between the child and the persons who adopt him.

Parliament of the Federation of Bosnia and Herzegovina<sup>368</sup> informs the Ombudsmen that the initiative is currently not acceptable. As they explain, the Government of the Federation of BiH expresses its readiness to resolve this issue, and initiates amendments to the relevant regulations, and sends them to the parliamentary procedure in order to solve the problem systematically. However, in this particular case, additional analyzes and assessments of the impact of regulations are needed because it is a systemic issue in the competence of several institutions, which cannot be resolved by amending one regulation. If the right to paid leave were determined through labor legislation, there would still be a problem of financing this right, i.e., the question is on whose charge the compensation would fall. They point out that this right could not necessarily derive from the field of social protection, but funding should be related to the sources to which adopters/future adopters regularly pay taxes and contributions, and that the incorporation of this right into social protection regulations would not be possible without consultation with cantons. Overall, they believe that this issue must be considered at a higher level, by amending a number of regulations, in order to systematically address the problem.

### **Initiative<sup>369</sup> for amendments to the Law on Child Protection of the Brčko District of Bosnia and Herzegovina<sup>370</sup>**

Complaint lodged to the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina by complainant from Brčko<sup>371</sup> received on 21 February 2020 relating to the exercise of the right to child allowance in the Brčko District of Bosnia and Herzegovina.

The complaint states that persons/citizens of the Brčko District of BiH do not have the right to exercise the right to child allowance, ie they are not entitled to increased child allowance in Brčko, for whom the Pension and Disability Insurance Fund of Republika Srpska determined disability, all due to non-compliance with the Law on child protection of the Brčko District of Bosnia and Herzegovina with entity regulations determining the disability of the insured.

<sup>368</sup> Act no. 01-02-1657/20 of 27 November 2020.

<sup>369</sup> The initiative was registered under number P-268/20 and was sent to the Mayor of the Brčko District of Bosnia and Herzegovina and representatives of the Assembly of the Brčko District of Bosnia and Herzegovina.

<sup>370</sup> Official Gazette of the Brčko District of BiH, No. 18/20.

<sup>371</sup> Case registered under number Ž-BR-04-35/20.

The complainant states *that the Law on Child Protection of the Brčko District of BiH prescribes that her disability solution must have a certain category (from I to VI group-category), which is impossible in her case because her disability<sup>372</sup> according to the valid legal regulations of the Republika Srpska, determined by the Pension and Disability Insurance Fund of the Republika Srpska - and it is determined in percentages.*

In this case, the Government of the Brčko District of Bosnia and Herzegovina, Subdivision for Social Protection on October 20, 2020 submitted a statement<sup>373</sup> to the Ombudsman Institution which states that *the Law on Child Protection of the Brčko District of BiH prescribes that one of the conditions is the exercise of the right to child allowance, among other things if both or one of the parents are disabled from I to VI (final VI) groups - categories and that on that basis they are entitled to child allowance increased by 50%, regardless of property conditions, and that the Subdivision is not competent to assess whether someone due to disability meets the conditions for determining the category of disability but it is within the competence of the Fund for pension and disability insurance of the Republika Srpska for pensioners from the Republika Srpska, and for pensioners from the Federation of Bosnia and Herzegovina, the Institute for Medical Expertise of the Health Condition of the Federation of Bosnia and Herzegovina is responsible.*

As the regulation of the pension system in Bosnia and Herzegovina is complex and is regulated through two funds and entity legislation, the citizens of the Brčko District of BiH *are given the opportunity to exercise their rights in this area by choosing/selecting one of the funds/institutions.*

Therefore, when adopting the Law on Child Protection in the Brčko District of BiH, which prescribes the existence of a category/group of disability as one of the conditions, and not taking into account the differences or inconsistencies of entity regulations in determining disability in Bosnia and Herzegovina, greatly complicates rights or the right to child allowance is not exercised at all, i.e., the exercise of the right to increased child allowance by 50%, regardless of property conditions and leads to unequal treatment of the same categories of persons in the Brčko District of BiH.

Taking into account the above, the Ombudsmen of Bosnia and Herzegovina are of the opinion that it is necessary to amend the Law on Child Protection of the Brčko District of BiH in the following way:

Article 21 is amended to read: *“A child without both or one parent, a child without parental care, a family with a child with mental or physical disabilities, a family in which both or one parent are disabled from I to VI (ending with VI) groups - categories or with a physical disability in the percentage of not less than seventy percent and a single parent is entitled to an increased child allowance, regardless of property conditions, increased by 50% (fifty percent).”*

The implementation of the mentioned initiative is being monitored.

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<sup>372</sup> By the finding, assessment and opinion of the Department for the assessment of working ability in the first instance, expert body in Bijeljina number ORS-51/19 dated 14 February 2019

<sup>373</sup> Answer No. 05.4-3557/20 (27) dated 5 August 2020

## 8.1. The role of social work centers in exercising the rights of the child

Social policy and social work have a special role in the realization of social justice, social rights, reduction of social inequalities and general humanization of society. Social protection institutions should be recognizable for their expertise, initiative, creativity, development of services appropriate to the needs of users and be the bearers of research, planning, implementation of social activities in local communities to meet individual and common social needs and development of social protection systems.

Centers for social work, in carrying out their activities, should cooperate, develop partnerships with state, entity, cantonal and local community bodies, public services, citizens' associations and non-governmental organizations, local communities, religious organizations, companies, institutions, media, families and individuals. Social work is a profession based on humanistic ideals and human rights as they are conceived in the most important international documents. Social work is primarily concerned with human rights, and their fulfillment is closely linked to the level of respect for human rights in a society.

Advocacy of human rights is an integral part of social work, which gives the Ombudsmen the right to state that the mandate of the Institution and centers for social work is in many ways identical, and that is in the broadest sense of the word - respect and advocacy of human rights. Centers for social work are the most important institutions in the social protection system, and respecting numerous international and domestic regulations, the protection of children's rights in the social protection system has a priority place. Having in mind the mandate and competencies of the Ombudsman, centers for social work often appear in the proceedings as responsible parties, i.e., the parties complained about by the citizens.

In the annual reports, special attention is always paid to the centers for social work. There is a large volume of work in these institutions and high expectations from them that exceed the capabilities and resources lead to an increased risk of professional error. In this direction, the professional staff of the centers often require professional help and legal advice of lawyers in the Institution, because the professional staff of the centers need quick and practical solutions, and it is certain that in the centers the jobs in the future will only become more complicated.<sup>374</sup>

The ombudsmen advocate strengthening the capacity of social work centers for the reasons already mentioned, but also for insufficient staff training, poor working conditions, responsibility and sensitivity, exposure to professional stress and burnout, and the issue of perception of the profession by citizens and users. In this regard, it would be extremely useful, appreciating, above all, the need to protect human rights, to provide professional staff in the centers with supervision.<sup>375</sup> as professional support and, wherever possible, to carry out specialized divisions of work and to provide continuous education of staff, with the full support of the local

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<sup>374</sup> Recognizing the trends of globalization, the family crisis and the disturbed value system.

<sup>375</sup> "Supervision is a special educational, developmental and supportive method that enables an individual to gain new professional knowledge and expand knowledge about himself through his own experience, to integrate practical experiences with theoretical knowledge, to get rid of tension and anxiety and even stress, and to continuously build his professional identity." Kobolt, A, Žorga, S. (2000), Supervision, Ljubljana: University of Ljubljana.

community and the provision of adequate funding for all recognized rights involving cash benefits, but also for many other rights that do not include cash benefits and other activities<sup>376</sup>.

Cases registered with the Institution, in which citizens complain about the work of social work centers, mainly concern the rights of the child, economic and social rights and the rights of persons with disabilities.

In many cases in the Department for Monitoring the Exercise of the Rights of the Child and in many cases where the complaints do not relate to social work centers, the Ombudsmen include centers in the investigation process, considering that all relevant facts and circumstances about family and children's rights must be known to the centers. At the same time, we believe that, in addition to providing known information, it is extremely important that the expert associates of the center submit expert opinions on the identified problems with proposals for improving the protection of children's rights.<sup>377</sup>

The Ombudsmen are generally satisfied with the cooperation with social work centers, although there are examples when social work centers are quite passive, work exclusively at the request of entities, very rarely take action and initiate proceedings *ex officio*, which can and should be done more often or strictly. keep legal provisions and misinterpret legal provisions which in most cases are quite outdated, and the best interest of the child means much more involvement of centers/services for social work as central institutions when it comes to protecting the rights of the child<sup>378</sup>.

**Example:** The appellant approached the Institution<sup>379</sup> in order to protect the best interests of the minor child, her daughter, given that the Jablanica Center for Social Work, despite the court summons, did not issue a temporary decision with which parent the child will live until a final verdict. Following the Ombudsman's intervention in writing and by telephone, the Jablanica Center for Social Work issued a temporary decision, entrusting the minor child with the care, upbringing and custody of the mother until a final verdict on divorce is issued.

**Example:** In the above case<sup>380</sup> it is a gross violation of the rights of children during divorce proceedings. The interim decision regulating the manner of maintaining contacts and personal relations between the mother, the parent with whom the children do not live, issued by the Center for Social Work in Široki Brijeg does not ensure the protection of children and their rights. The appellant is a mother of three minor children who has been prevented by her husband from having any direct contact with her children, which distorts and endangers the interest as well as the welfare of the minor children. The couple is in divorce proceedings at the Municipal Court in Široki Brijeg. The father violated the provisions of the Family Law as well as the rights established by the Convention on the Rights of the Child, where there is a great possibility of adaptive problems that would negatively affect the further psychophysical development of minor

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<sup>376</sup> During 2019, the Ombudsmen prepared a Special Report on the situation and problems faced by centers/services for social work in Bosnia and Herzegovina, and earlier, i.e., in 2013, a Special Report on the Role of Centers for Social Work in Protecting the Rights of the Child was prepared in Bosnia and Herzegovina.

<sup>377</sup> Ž-BL-01-723/20;

<sup>378</sup> Ž-MO-01-144/19, Ž-BL-01-645/19;

<sup>379</sup> Ž-MO-01-144/19;

<sup>380</sup> Ž-MO-01-84/20;

children. The institution has repeatedly asked the Center to make additional efforts to implement the interim solution, however, it declared itself incompetent to implement it and points out that the Service for General Administration and Social Affairs is competent in this matter. Upon learning of the same, a letter was sent from the Institution to the Ministry of Labor, Health and Social Policy in the West Herzegovina Canton, declaring that the Center was responsible for the implementation of the temporary solution. While the correspondence on jurisdiction lasted, the children were exposed to immeasurable consequences and one of them witnessed a physical conflict between mother and father (after which the wife was issued a restraining order) where the term "best interests of the child" lost all meaning.

Through the work in the Institution, regarding the rights of children, we noticed that the centers for social work do not act adequately in such situations and adhere to the application of the "template" principle. Children are placed in an extremely unfavorable position because in this particular case, parents, by their behavior, make it even more difficult for their children to live with this experience. It is evident that there is *a lack of timely and adequate response from the center to prevent negative phenomena*.

## **8.2. The child's right to protection from domestic violence, abuse and neglect**

### **8.2.1. Violence against a child**

Domestic violence, and especially and dangerously severe violence against children, is a universal, global sociopathological phenomenon and a criminological phenomenon that permeates all cultures, all societies and all regions of the world. What appears as an imperative: domestic violence, and especially violence against children, must finally move from the phase of intimacy and mutual relations of trust of family members, ie the private sphere of functioning of the most important cell of society, to the phase of complete openness, ie it must be in focus interests not only of the legal but also of the entire social public.

In this part of the Report, we will present individual examples of complaints in which we have acted, and the complaint allegations related to the right to protection of the child from domestic violence, abuse and neglect.

**Example:** On April 10, 2019, the Ombudsmen decided that, in accordance with Article 2, paragraph 2 of the Law on the Human Rights Ombudsman of Bosnia and Herzegovina, they act *ex officio* and register the case, regarding media coverage of a case of child sexual abuse<sup>381</sup>. The ombudsmen involved all competent authorities (police, prosecutor's office and court) in the investigation process and asked the competent authorities to be as efficient as possible and to make decisions as soon as possible in order to achieve the best interests of the child. When the Ombudsmen were informed that an indictment had been filed in a specific case for the criminal offense of exploitation of children for pornography under Article 185, paragraph 1 of the Criminal Code of the Republika Srpska, a recommendation was sent to the competent Basic Court in Kotor-Varoš<sup>382</sup> to complete the first-instance procedure as soon as possible.

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<sup>381</sup> Ž-BL-01-304/19.

<sup>382</sup> P - 286/19 od 24.12.2019.

The Ombudsman's recommendation was fully complied with by the Court concluding the proceedings and reaching a decision.

**Example:** Ombudsmen were actively involved in a case on a mother's complaint about the exclusion of children from the family with the priority of arranging and maintaining children's contact with the mother<sup>383</sup>. After establishing all relevant facts and circumstances in communication with the competent Center for Social Work Banja Luka and the District Public Prosecutor's Office Banja Luka, it was determined that the children were excluded from the family by the decisions of the Center, that, after that, the investigations against the parents of the children were suspended due to the criminal offense of neglect and child abuse under Article 187, paragraph 1 of the Republika Srpska Criminal Code. The Center filed appeals against the prosecutor's orders as the only legally possible way to possibly change the prosecutor's decisions, but the appeals were rejected by the prosecutor's board. The Center informed the Ombudsmen that the parents were cooperating with the Center and that they had met the expectations of the professional staff in order to create conditions for the return of the children to the family. Since the conditions for the return of children to the family have been met, the Center issues decisions on the termination of the right to place minor children in a social protection institution and the parents have "taken over" the children.

**Example:** Ombudsmen have decided, in accordance with the Law on the Human Rights Ombudsman of Bosnia and Herzegovina, to open a case ex officio on the occasion of writing an online media (portal)<sup>384</sup> in connection with the crime of domestic violence<sup>385</sup>. In accordance with their legal powers, valuing primarily the rights and interests of the child, the Ombudsmen wanted to establish whether, first of all, the media allegations were correct, and then, if so, to consider every possibility of their actions. In this particular case, the competent internal affairs bodies, the prosecutor's office, the court and the center for social work took measures and actions within their jurisdiction, and the court imposed a criminal sanction on the "perpetrator" for committing the criminal offense of "Domestic Violence or Family Community" under Article 190. Of the Criminal Code of the Republika Srpska.

**Example:** Acting on a mother's complaint that her current husband had sexually assaulted her older daughter, the Ombudsmen immediately contacted all the authorities<sup>386</sup>. The competent authorities shall provide relevant information to the Ombudsmen, who shall monitor all measures taken by the competent authorities. The perpetrator of the criminal offense was tried on reasonable suspicion that he committed the extended criminal offense of sexual intercourse with a child under Article 207, paragraph 4 in conjunction with paragraph 1 in conjunction with the criminal offense of introducing a child to pornography under Article 212, paragraph 1 and everything related to Article 55 of the Criminal Code of the Federation of BiH. The competent court passed a conviction and found the accused guilty of the said criminal offense to the detriment of the child, and the child's mother is satisfied with the engagement of the professional staff of the center to overcome the difficulties and traumas of the child victim.

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<sup>383</sup> Ž-BL-01-354/20;

<sup>384</sup> Media writings from August 24, 2019. (srpskainfo);

<sup>385</sup> Ž-BL-01-645/19;

<sup>386</sup> Ž-BL-01-974/18;

**Example:** Acting on a child's grandfather's complaint<sup>387</sup> every possibility was considered to protect the rights and interests of the child victim of crime as much as possible. The ombudsmen monitored the actions of the competent authorities at all times. The competent second instance court reversed the first instance court's verdict by sentencing the accused for the criminal offense of introducing a child to pornography under Article 212, paragraph 1 of the Criminal Code of the Federation of BiH to eight months in prison instead of the previously established five-month sentence. actions under Article 208, paragraph 2 of the Criminal Code of the Federation of BiH established a prison sentence of three years and six months instead of the previously established prison sentence of two years and pursuant to Article 54 of the Criminal Code of the Federation of BiH the accused is sentenced to a single prison sentence. for four years instead of the previously single prison sentence of two years and three months.

**Example:** The child's father addressed the Ombudsmen<sup>388</sup> stating that his wife left him and took his joint minor son, which he reported to the Ministry of the Interior of Tuzla Canton and the Center for Social Work Tuzla so that they could take the necessary measures within their competences in order to establish contact with the child. In the course of the investigation so far, the Ombudsmen find out that the wife reported domestic violence, stating that both she and the child had suffered violence for a long time, but that she had not reported violence so far. The mother moved with the child to the area of another municipality and the competent centers, at the request of the Ombudsman, established cooperation, went out on the field and came to significant knowledge regarding the protection of the rights of the child. Accordingly, the complainant was advised by the competent authorities on how to exercise protection of his rights (through a regular court, to initiate a divorce lawsuit, before that a mediation procedure, etc.). The ombudsmen especially point out that in the specific case, the experts conducted an interview with the child and the child confirmed the allegations of the mother that they had suffered violence. Also, the child pointed out that at this moment he wants to communicate with the father only by phone, which was fully respected and communicated to the father. The ombudsmen will continue to monitor the process of protecting the rights of the child in a particular case.

### 8.2.2. Bullying

In Bosnia and Herzegovina, the problem of peer violence is still pronounced, which is evident from the cases registered in the Institution. The complaints received show that in most cases it is verbal violence in primary and secondary schools. It most often happens at school, during vacations, in classrooms, in hallways or in the yard. The role of adults responsible for children is crucial to respond appropriately and prevent violence. It is a specific form of violence against a child that is most often defined as physical or psychological violence directed at children by their peers, which begins with the goal of injury and involves repeating the same pattern and reflects the unequal balance of power inherent in the two levels: stronger against weaker or group against an individual. Each of these conscious actions can vary in shape, severity, power, and duration.

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<sup>387</sup> Ž-BL-01-1020/18;

<sup>388</sup> Ž-BR-01-166/20;

Violent/peer violence is different from short-term incidents and child quarrels. The main difference is precisely in the intentional desire to harm another child, as well as in the repetition of such actions over a period of time and the dominance of force on an individual or group level. This violence refers to various types of behavior that we most often classify as verbal (disparagement, insults, threats and blackmail, etc.), social (ignoring, gossiping and intrigue, avoidance, etc.), psychological (theft, taking and/or extortion of money), threatening looks, surveillance, property damage, etc.) and physical/bodily (slaps, blows to hands, feet and objects, pushing, demolition, etc.)

It is very important that we have clearly defined rules of what to do when peer violence occurs. Judging by the cases registered in the Institution, the Republika Srpska and some cantons in the Federation of Bosnia and Herzegovina have protocols and established mechanisms for response to situations when violence occurs (all competent bodies participate in the development of these protocols - education, social protection, internal affairs). ombudsmen refer to the UN Convention on the Rights of the Child, the Guidelines for Dealing with Violence against Children in Bosnia and Herzegovina and the Guidelines for Determining the Best Interests of the child. In addition, in every situation when we assess that it is peer violence, we demand a multidisciplinary approach and reaction of all competent authorities (educational institution, center for social work, center for mental health, police, prosecutor's office).

**Example:** Acting on a parent's complaint that their child is a victim of peer violence and discrimination on various grounds.<sup>389</sup> The Ombudsmen called on all relevant factors to comment on the worrying complaints. It was established that an inspection was carried out which did not determine the stated irregularities in the conduct of the teaching staff, i.e., there were no recorded reports and addresses by parents or children. The ombudsmen kept in touch with the parents and the authorities and insisted on understanding because the allegations of the parents and the authorities were contradictory and it was impossible to properly and directly establish the facts and accordingly take a final position and opinion on whether the child was a victim in this case. peer violence. However, over time, the existing problems have been resolved peacefully. It is also clear that, when it comes to discrimination on any grounds, it is often very complicated and ungrateful to determine the true state of affairs, given the different sensibilities and subjective experiences of each individual. Peer violence, as well as violence in general, must be the subject of comprehensive and continuous cooperation of all competent authorities and interested persons, in order to protect and protect every real and potential victim from the lasting consequences that come with violence. Aware of the fact that such a thing cannot be achieved in absolutely every case, the Ombudsmen point out that it is necessary to work on preventing every form of violence. One way is to constantly talk to students of all ages, educate and get acquainted with the whole issue and make sure that each student feels protected and safe in their environment. The most favorable and positive atmosphere for every student and teacher, especially in this, for all challenging, period caused by the COVID-19 virus, is the basic goal of every member of the teaching staff. The Ombudsmen stated that in this case, all actors made significant efforts to overcome the existing problems and ultimately obtained an outcome that is in the best interests of the children.

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<sup>389</sup> Ž-BL-01-386/20;

**Example:** The complainant alleges that his son suffered peer violence at school, that the violence was both physical and verbal and with sexual connotations<sup>390</sup> which led to the child refusing to go to school and leaving psychological consequences that were reflected through frequent nightmares. During the investigation procedure, the Ombudsmen found that the competent police station had sent an official report to the competent prosecutor's office regarding the disputed events referred to by the complainant, and the Ombudsmen had addressed the competent prosecutor's office. The competent prosecutor's office issued an order not to conduct an investigation against the minor J.L. because there are circumstances that preclude prosecution, while the investigation against the complainant has also been suspended. As they explain, there are no grounds for suspicion that the appellant committed a criminal offense but committed a misdemeanor. The competent center for social work informs the Ombudsmen that they tried to conduct an interview with the father in order to find out their opinion regarding the disputed events, but that it is not possible to establish adequate cooperation with the father. In this regard, the Ombudsmen have on several occasions called on the child's father to cooperate fully with the Center for Social Work, in order for the center to provide support and assistance to the whole family in overcoming possible conflicts and problems. Regarding the complaints, the school does not dispute that an incident occurred between the complainant's child and another student during February 2020, but at the same time notes that all measures have been initiated in the school as required by the Protocol on the Treatment of Violence between children and young people in the educational system of the Republic of Srpska and applicable laws and bylaws. The school points out that, unfortunately, the conflict continued outside the school and that the competent internal affairs bodies were informed about everything. The complainant informed the Ombudsmen that he was dissatisfied with the work of the competent authorities and that the authorities were not doing their job, but he did not prove his allegations during the proceedings or at least made them probable.

### **8.2.3. Prohibition of corporal punishment of a child**

At the end of 2019, the Ombudsmen drafted and presented to the public a Special Report on the Prohibition of Corporal Punishment of Children in Bosnia and Herzegovina. It was recommended to the Government of the Republika Srpska, the Government of the Federation of Bosnia and Herzegovina, the Government of the Brčko District of Bosnia and Herzegovina and the cantonal governments to propose to the competent parliaments the adoption of legal provisions in the forthcoming period. where this has not been done so far, explicitly prohibit corporal punishment of children in all settings, including the family, and through their competent ministries take all necessary activities aimed at raising public awareness through the introduction of educational programs, including campaigns, to promote positive and alternative forms of discipline and respect for children's rights, with the participation of children, while raising awareness of the harmful consequences of corporal punishment of children.

After submitting the Special Report to the governments of the entities, Brčko District of BiH and cantons and the National Assembly of the Republika Srpska, the Parliament of the Federation of Bosnia and Herzegovina, the Assembly of Brčko District of BiH and cantonal assemblies, the Ombudsman Institution received only one response from Central Bosnia Canton. on 18 May

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<sup>390</sup> Ž-BL-01-89/20;

2020, stating that the Assembly of the Central Bosnia Canton took note of the Special Report of the Ombudsman Institution on the Prohibition of Corporal Punishment of Children in Bosnia and Herzegovina with recommendations given to the holders of executive power.

Therefore, taking into account that within the set deadline, i.e., by November 30, 2020, they did not inform the Institution of the Ombudsman, the entity governments, the Brčko District of BiH and the cantons about the implementation of the above recommendations, they were sent Act Ž-BR-01-154/19 of 30 November 2020, requesting them to submit a statement on the circumstances of the measures taken to implement the above recommendations.

As of January 8, 2021, the Ombudsperson Institution had received nine responses in only one response, i.e., the response of the Government of the Brčko District of Bosnia and Herzegovina, the Department of Health and Other Services<sup>391</sup> it is stated that the working group<sup>392</sup> for drafting the text of the Law on Amendments to the Family Law of Brčko District of Bosnia and Herzegovina to include recommendations from the Special Report on Physical Punishment of Children in BiH in the Guidelines for drafting the text and to inform the Ombudsman Institution on the outcome and all other procedures.

The Central Bosnia Canton informed<sup>393</sup> Institution of the Ombudsman that it has already submitted information to the Institution of the Ombudsman<sup>394</sup> and that until December 12, 2020, the draft law containing provisions on the explicit prohibition of corporal punishment of a child has not been sent to the parliamentary procedure, nor do they have information on possible preparation/drafting of such a law by line ministries.

On the other hand, from several responses submitted<sup>395</sup> to the Ombudsperson Institution was found that in 2020 the competent governments did not take any measures and actions related to the recommendations in the sense that in accordance with their legal powers and competencies, through their competent ministries, propose to the competent parliaments the adoption of legal provisions that will explicitly to prohibit corporal punishment of children in all settings, including the family, and to take all necessary actions through their competent ministries aimed at raising public awareness through the introduction of educational programs, including campaigns, to promote positive and alternative forms of discipline and respect for children's rights, with the participation of children, while raising awareness of the harmful consequences caused by the physical punishment of a child.

From other responses received, the governments<sup>396</sup> it was found that governments exclusively undertake awareness-raising activities to promote positive and alternative forms of discipline and

<sup>391</sup> Case number 34-000500/20, act number 05-1367AP-0002/20 dated 15 December 2020.

<sup>392</sup> Decision of the Mayor No. 34-000375/18 of September 28, 2018

<sup>393</sup> Response number 03-45-876-1/20 dated 15 December 2020.

<sup>394</sup> Conclusion of the Cantonal Assembly No. 01-04-209/20 of March 17, 2020.

<sup>395</sup> Response of the Government of Tuzla Canton - Government Office No. 02/3-05-026201-1/20 dated 23 December 2020, Response of the Government of the Republic of Srpska, Ministry of Health and Social Welfare No. 11/05-533-151/19 dated 15 December 2019. Response of Una-Sana Canton, Ministry of Health, Labor and Social Policy number 09-45-15175-2/20 dated 15 December 2020, Response of Posavina Canton, Ministry of Interior, Professional Standards Unit, number 02-2/1-3-03-448/20 dated 11 December 2020;

<sup>396</sup> Response of the Federation Ministry of Internal Affairs Sarajevo No. 01-03-02-4-114 dated 21 December 2020, Response of Zenica-Doboj Canton, Ministry of Labor, Social Policy and Refugees No. 09-02-18833-1/20 dated 18

respect for children's rights, and to raise awareness of the harmful consequences of corporal punishment of children as one of the recommendations recommended in the Special Report.

Until 8.1.2021. The Government of the West Herzegovina Canton, the Government of the Herzegovina-Neretva Canton, the Government of Canton 10 and the Government of Bosnia-Podrinje Canton did not submit a response to the Ombudsperson Institution on the measures taken to implement the above recommendations from the Special Report on the Prohibition of Physical Punishment of Children in BiH.

**Example:** The Ombudsmen, acting on a complaint from a child's grandmother<sup>397</sup>, recommended to the competent District Public Prosecutor's Office in Prijedor to make a prosecutorial decision on the report as soon as possible due to a well-founded suspicion that the grandmother (complainant) committed the criminal offense of domestic violence<sup>398</sup>, and the competent Center for Social Work Novi Grad to monitor the exercise of the child's rights until the prosecutor's decision is made and to provide the complainant/grandmother with all kinds of assistance in order to establish contacts with her grandson. Namely, after the crime was committed, the child was placed in an institution, since the grandmother, as a guardian, exclusively takes care of the child.

The Ombudsmen state that the competent authorities acted on the recommendation, ie the competent prosecutor's office issued a prosecutor's decision and filed an indictment against the complainant for the criminal offense of domestic violence under Article 190, paragraph 3 of the Republika Srpska Criminal Code and criminal proceedings are ongoing. It was clarified to the complainant that she had to wait for the final conclusion of the criminal proceedings and that she could not expect the competent authorities to appoint her as the guardian of her minor granddaughter by appropriate legal acts.

### 8.3. Children and COVID-19

During the coronavirus pandemic, the Ombudsmen faced a number of challenges in their daily work and in fulfilling their task of protecting the rights of the child: working from home, limited work with clients, inability to have direct contact with children (visits to educational institutions and / or NGOs). , inability to supervise (monitor) in institutions where minors are in conflict with the law or in institutions where children with disabilities are accommodated), etc. If we add that the Ombudsmen did not visit local communities where there are no offices of the Institution and did not hold meetings with representatives of the competent authorities in order to advocate for the fulfillment and compliance with previously submitted recommendations, this year proved to be extremely difficult for the realization of all goals and plans of the Ombudsman.

It is especially challenging to protect the rights of the child in emergencies and in situations where restrictive measures are taken that greatly affect children (just a few examples: organizing

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December 2020 Sarajevo, Ministry of Labor, Social Policy, Displaced Persons and Refugees No. 13-01-02/1-10-43311-4/19 dated 17.12.2020, Response of the Federation Ministry of Education and Science No. 02-45-3525-1/20 dated 15 December 2020.

<sup>397</sup> Ž-BL-01-430/19;

<sup>398</sup> She physically punished the child.

distance learning, postponing all excursions, excursions, cessation of extracurricular activities, etc.). Vulnerable groups of children, such as poor children, children in rural areas, in institutions or with disabilities, have only become more at risk of becoming even more vulnerable and in a more difficult position.

Ombudsmen, appreciating the rights and interests of all citizens, especially vulnerable categories, in relation to the new situation caused by the epidemic, sent a series of recommendations to the competent authorities during the pandemic, and above all to the competent crisis staffs of all levels of government in Bosnia and Herzegovina<sup>399</sup>.

In the field of children's rights, **the Ombudsmen by recommendation number 92/20 of June 1, 2020<sup>400</sup> sent to all competent cantonal and entity crisis headquarters and the Crisis Staff of the Brčko District of Bosnia and Herzegovina, praised the measures taken by all competent educational institutions to end the school year, especially in the form of distance learning. However, at the same time, they warned the authorities to take into account the evaluation of the work of children in different conditions and situations, especially with regard to children with disabilities, children living in poverty and on the margins of society, such as Roma children or institutions. (detention, prisons, correctional facilities) and children living in institutions (eg children without parental care). Additional efforts are needed to protect children who have become even more vulnerable due to the special conditions caused by the pandemic.**

**The ombudsmen supported the gradual return and normalization of life, but not to the detriment of the children.** With the recommendation, they tried to warn in time that schools should receive clear guidelines in order to provide all the necessary conditions for possible teaching in schools. Before making a decision on the possible return of children to school, it must be checked whether all preconditions for the protection of children's health have been met, ie whether all hygienic, spatial, personnel and other safety conditions have been met. It is especially important to provide mechanisms for monitoring compliance with the guidelines and recommendations of the competent health authorities, with the envisaged sanctions for non-compliance. As a precaution, the Ombudsmen specifically warned of the complexity of the situation regarding children with disabilities and that a number of open questions were likely to arise, such as whether teaching assistants would help children if they had to be within two meters or if physical contact unavoidable in working with blind children, children with autism, etc. Guided by the best interests of the child, the Ombudsmen wish to point out the obligation of the competent authorities that when making decisions regarding the child's right to education, an expert assessment of all risks must be provided. complete and clear recommendations of experts because the competent authorities take responsibility for the safety of children. The ombudsmen also warned that the competent authorities must take care and provide solutions that will enable the organization of programs in kindergartens and schools for those children who cannot be cared for by employed parents in any other way and protect them from potential risks, additional

<sup>399</sup> Available at: [www.ombudsmen.gov.ba](http://www.ombudsmen.gov.ba)

<sup>400</sup> Note that the recommendation was sent on 5 May 2020 in the languages of the constituent peoples of Bosnia and Herzegovina under the number OI-K-BL-127/20 dated 5 May 2020, and that only after the establishment of normal working hours was the recommendation number taken and a case formed so that the case could be taken into account for the purposes of the Annual Report and kept permanently.

burdens and insecurities. It is also extremely important to ensure **that online learning (distance learning) does not exacerbate existing inequalities and is not a substitute for child-teacher interaction**, as online learning is a creative solution when classroom learning is not possible but creates problems for children who they do not have access or have limited access to technology or do not have adequate parental support. In this case, children should be provided with other, alternative solutions<sup>401</sup>.

At a time when the work of the competent authorities has been reorganized and harmonized with the measures related to the declared epidemic of COVID-19, children are exposed to increased risks of violence due to extraordinary circumstances. Emergencies, fears and concerns about maintaining health, jobs and securing basic livelihoods are circumstances that are changing the way families live. Limited social contacts, unfortunately, can also be a trigger for the wider occurrence of domestic violence. At the same time, the work of the competent authorities, especially the centers for social protection, takes place with restrictions that can make it difficult to protect children in risky family situations.

The ombudsmen point out that the UN Committee on the Rights of the Child has called on states to impose restrictions only when necessary and to keep the restrictions proportionate and minimal. Should the COVID-19 pandemic have a significant and adverse impact on the availability of funds, these difficulties should not be considered an obstacle to respecting *the Convention on the Rights of the Child, i.e., we must always and in all situations be guided by the principle of the best interests of the child*.<sup>402</sup> In view of the above, the Ombudsmen recommended to all competent authorities in Bosnia and Herzegovina to take special care and ensure effective action of all competent authorities in cases of family interventions, especially when imposing urgent / protective measures of separation from the family. In addition, the Ombudsmen recommended that adequate protective equipment (for representatives of social welfare centers, the judiciary, the police) be provided for all professionals who come into direct contact with beneficiaries. The ombudsmen also considered that it was necessary to provide capacities for accommodation of victims of domestic violence (children, but also parents with children) during the epidemic, given the already limited capacities of institutions, foster families and shelters for victims of domestic violence. what should be taken into account and possible self-isolation measures.

The ombudsmen point out that the UN Committee on the Rights of the Child has just recognized that, due to limited movement, children can be exposed to increased physical and psychological violence at home, and has made recommendations to member states in this regard. With regard to the protection of the child's right to protection from violence and neglect, it is particularly important to ensure that the courts are up to date in proceedings concerning children. Therefore, the Ombudsmen called on the competent ministries of justice to harmonize and improve the work of the courts in the new circumstances in the interest of children. It is quite clear and justified that the situation requires adjustment of the organization of work of all competent bodies (police, prosecutor's offices, centers for social work, lawyers, institutions for execution of juvenile criminal sanctions), provided that in courts, especially in urgent proceedings, are certainly procedures that protect the rights of minors, procedures with elements of violence,

<sup>401</sup> Recommendations of the UN Committee on the Rights of the Child regarding the new situation.

<sup>402</sup> Committee recommendations available at: [www.ombudsmen.gov.ba](http://www.ombudsmen.gov.ba)

procedures related to detention and detention of children, etc.) must ensure full promptness in dealing with all situations where children are at risk, and in addition to criminal protection of the child, promptness is it is also necessary when it comes to acting on proposals for the adoption of temporary measures, but also resolving other issues related to children in which the decision is made by the court, especially in high-conflict parental relationships). Finally, regardless of the state of emergency, the Ombudsmen considered it extremely important to maintain the continuous work of the courts in order to protect the rights of children and exercise their rights and interests. The authorities are invited to follow the Council of Europe Guidelines on Respect for Democracy, the Rule of Law and Human Rights in the Context of the Health Crisis Caused by COVID-19 - Tools for Member States<sup>403</sup>. Unprecedented measures taken in response to COVID-19 may affect the state's ability to guarantee the right to liberty and consequently alter the regular functioning of the judicial system. Measures aimed at adapting access to court should be designed in a way that is compatible with Article 6 of the ECHR, especially in cases requiring special procedural attention, which certainly includes family disputes and disputes concerning children's rights.

In the following, the Ombudsmen point out certain specific complaints during the pandemic, regarding the rights of the child.

**Example:** The father of a child<sup>404</sup> in his appeal he states the impossibility of establishing direct contact with the child, which occurred due to the measure of prohibition of movement for persons under 18 years of age, i.e., by issuing an order of the Federation Civil Protection Staff<sup>405</sup>. The complainant was immediately contacted by telephone for prompt action, and as no telephone contact was made, the complainant was sent a written inquiry as to whether he was able to have direct contact with the child, given the Federation Civil Protection Staff's order that minors be transported by car. Thereafter, the complainant thanked for the treatment and confirmed that he had unhindered contact with the minor child.

**Example:** Considering the new situation caused by the coronavirus, the father of the children addressed the Ombudsmen stating that the mother uses the situation and defends the children's contacts with the father, which was immediately reported by the competent Center for Social Work Prijedor<sup>406</sup>. The center mediated between the parents and an agreement was reached that the father sees the children once a week for two hours and that he makes contact once a week by phone. The father was very dissatisfied and turned to the Ombudsmen for help.

Ombudsmen are aware of the fact that a certain number of children in emergencies encounter difficulties in establishing direct, personal relationships with parents with whom they do not live, based on court decisions, ie centers for social work. The ombudsmen are through a press release<sup>407</sup> and the media took the opportunity to appeal to all parents and other family members to take into account the needs and interests of children and, regardless of disturbed and disturbed relationships, to make additional efforts to avoid further harassment or traumatization of children, guided by the best interests of the child. . It is important that adults in these times of

<sup>403</sup> Guidelines attached to the recommendation;

<sup>404</sup> Case number Ž-SA-01-284/20;

<sup>405</sup> No. 12-40-6-148-34/20 of 20.03.2020;

<sup>406</sup> Ž-BL-01-311/20;

<sup>407</sup> Media Release Oi-K-BL-127/20 from 05.05.2020

crisis support and provide a sense of security for children. In this regard, appreciating the extraordinary circumstances, parents were asked to use all technological possibilities and to contact their children through digital devices and / or telecommunications. Regarding the specific case, the Center informed the Ombudsmen that the parents of the children had reached an agreement and that an agreement had been reached between the parents on a model for maintaining the father's personal relationship with the children, which was confirmed by the complainant.

**Example:** The complainants (representatives of the parents of 64 children) indicated in their allegations *that their children were enrolled in the Kindergarten "Pčelice" Livno for pedagogical 2020/2021, but according to the director, they can not attend because of the new situation related to COVID-19 until further notice*<sup>408</sup>. Namely, as a reason, they were told that the capacity was reduced, which was due to the instructions given by the recommendation for the work of preschool institutions of the Institute of Public Health of the Federation of BiH, and which the Institute of Public Health of Canton 10 submitted to the Ministry of Labor, Health, Social Welfare and Displaced Canton 10 dated 20 May 2020. The complaint also pointed out that they were brought into an unenviable situation because they were employed and had nowhere to leave their children for care. They did not need to take care of the children earlier because their children were admitted to the Kindergarten "Pčelice" Livno for the pedagogical 2020/2021. After the initiation of the investigation procedure, the Ombudsmen found out that out of 64 children who were admitted by the decision of the Kindergarten "Pčelice" Livno no. 105/20 of 14 July 2020. 18 of them were housed in the premises of the National University of Livno from 1 September 2020. The parents of the remaining children (the complainants), 46 of them, are "on hold" until further notice. The reason for prolonging the attendance of kindergartens is, according to the statement of the director of the Kindergarten, the recommendation of the Public Health Institute of Canton 10 from 20 May 2020. which, among other things, when it comes to organizing the work of these institutions, recommends the formation of educational groups of children with a smaller number, always the same children in a group and one educator, which gives a total of 10 people. After learning that the recommendation of the Public Health Institute of Canton 10 was made on 20 May 2020 Kindergarten "Pčelice" Livno issued decision number 105/20 by which the appellant's children were admitted from 14 July 2020. The Ombudsmen indicated to the responsible party that when making the said decision they had to take into account the available space, taking into account the conditions prescribed by the above-mentioned Crisis Staff's recommendation regarding the prevention of COVID-19 proliferation and find adequate space in coordination with the founder, the City of Livno.

The ombudsmen analyzed the functioning of other kindergartens in Canton 10 and primary and secondary schools, for which the mentioned recommendation of the Crisis Staff is also valid. The fact is that the Public Health Institute of Canton 10 has made a similar recommendation for primary and secondary schools. However, all enrolled children attend schools, in institutions where they adhere to all measures aimed at preventing the spread of COVID-19, while the Kindergarten "Pčelice" Livno has not found any solution. In order to solve the problem, the Ombudsmen addressed all competent institutions and institutions (Kindergarten "Pčelice" Livno, City of Livno as the founder, Crisis Staff of the Ministry of Labor, Health, Social Welfare and

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<sup>408</sup> Ž-LI-01-268/20.

Displaced Persons of Canton 10, Ministry of Science, Education, Culture and Sports of Canton 10 and the Public Health Institute of Canton 10), with the initiative to organize a joint meeting to find a solution to this problem. By finding adequate space to accommodate newly enrolled children, all children would be cared for and equal. On 30 October 2020, the director of the Kindergarten "Pčelice" Livno informed the Ombudsmen that after the initiative was launched, they decided that all newly enrolled children, 46 of them, would start kindergarten on November 3, 2020, as confirmed by the appellants.

#### 8.4. The situation of migrant children

On 15 January 2020, the Ombudsmen received a submission regarding the protection of unaccompanied minors from international and domestic NGOs and competent bodies (Ministry of Health, Labor and Social Policy of Una-Sana Canton, UNHCR, UNICEF, Danish Refugee Council, Save the Children, Association "Vaša prava BiH" and the Center for Social Work Bihać). According to the decision of the Ombudsman, the submission was registered in the Department for Monitoring the Exercise of Children's Rights and the case was approached in appreciation of the best interests of the child. Submission of the same content<sup>409</sup> addressed to the Council of Ministers of Bosnia and Herzegovina, the Ministry of Security of Bosnia and Herzegovina, the Ministry of Foreign Affairs of Bosnia and Herzegovina, the EU Delegation to BiH, the Federal Ministry of Labor and Social Policy, the Prime Minister of Una-Sana Canton, the Ministry of Interior of Una-Sana Canton and business with foreigners. The mentioned organizations and competent authorities point out in their submission to the data of the International Organization for Migration "that 2,016 people are staying in the Temporary Reception Center Bira in Bihać, of which 1,528 are men and 352 unaccompanied minors", and they want to point out the existence of an obvious problem of so-called male families. As explained by *"international non-governmental organizations that provide support to government institutions in Bosnia and Herzegovina, among other things, assess<sup>410</sup>, that it is about the so-called fake families<sup>411</sup>, which represents the exposure of minors and an increased risk of various abuses (smuggling, sexual exploitation, incitement to commit crimes, etc.)"*. They also point out that *"all the so-called male families accommodated in the Temporary Reception Center Bira in Bihać and that they are registered in the Service for Foreigners in Tuzla"*. Furthermore, they express concern *"that the Center for Social Work in Tuzla has been present at the registration of 15 unaccompanied minors since the beginning of the migrant crisis, while in the Una-Sana Canton, for example, 400 new minors have passed through temporary reception centers in the last two months. to the obvious disproportion, i.e., to the fact that the competent Service for Foreigners does not include the Center for Social Work Tuzla in the procedure of registration of minors as prescribed by domestic regulations and international standards and as the Center for Social Work and the competent service in Bihać do. On the ground, we have a situation where adult members of the so-called male families leave minor members when crossing the state border and the Center for Social Work in Bihać in such situations must appoint an unaccompanied legal guardian for the minor, without adequate documentation, which creates an additional problem because the competent service for foreigners in Tuzla is a child (minor).*

<sup>409</sup> Number 09-35-15002-1/19 dated 24 December 2020.

<sup>410</sup> Out of a total of 82 "male families", only 11 agreed to the conversation.

<sup>411</sup> This is indicated by the fact that they did not want to talk to the representatives of these organizations who notice on the ground that they do not speak the same language at all and the like.

*registered as a member of a 'male family', thus making it difficult to change the child's registration document.*

*The situation in the Temporary Reception Center Bira Bihać at that time was extremely difficult and complex. In addition to poor accommodation conditions, the problem was that the zone marked as a protection area for minors and the zone for accommodation of 'male families' were located next to each other. On several occasions, adult men were found sleeping with an unaccompanied minor in the same bed." In addition to the highlighted problems, they point out that "the lack of valid registration of unaccompanied children is a consequence of the lack of a separate pre-registration area in the Bira Bihać Temporary Reception Center, which is a risk and should be addressed to protect the rights and interests of children on the move."*

All signatories of the document believe that special attention must be paid to the issue of unaccompanied children, in addition to all existing problems in the context of the migrant crisis, by providing special accommodation for unaccompanied children and 24 hour care/supervision throughout Bosnia and Herzegovina, and not only in the area of Una-Sana Canton.

Considering all the above, the Ombudsmen invited the Ministry of Security of Bosnia and Herzegovina, the Center for Social Work Tuzla, the Center for Social Work Bihać and the Service for Foreigners in Tuzla to comment on the highlighted problems.

The Ministry of Security of Bosnia and Herzegovina, in its act number 07/1-41-1-1625-1/20 dated March 17, 2020 calls on Article 31 of the Law on Asylum and the competencies of the Service for Foreigners and the Sector for Asylum, as organizational units of the Ministry.

Center for Social Work Tuzla by act number 04-05-1-1298/2 from 26 February 2020 informs *that they are fully complying with their legal obligations and that unaccompanied minors are appointed and appointed guardians on the basis of requests at the invitation of employees of the Service for Foreigners.* Center for Social Work Bihać by act number 011-31-2125-15-I/20 from 14 October 2020 informs the Ombudsmen *that they act in full compliance with the provisions of Articles 197 and 199 of the Family Law of the Federation of Bosnia and Herzegovina, and in connection with Article 123, paragraph 4 of the Law on Aliens, and that he appoints guardians of unaccompanied minors temporarily.* They also state *that since January 2018, they have appointed guardians for about 2,500 minor foreign nationals. They also state that they attend the registration of minors in the Service for Foreigners - TC Bihać, taking statements from minors by the Ministry of Security - Asylum Sector, representing minors at the Ministry of Interior, Cantonal Prosecutor's Office, Municipal Court in Bihać and escorting minors to UCC Sarajevo and the Sarajevo Immigration Center.* Service for Foreigners Affairs TC Tuzla by act number 18.12-50-87/20 from 3 March 2020 introduces the Ombudsmen with statistical data related to the increase in the influx of migrants from the middle of 2018, especially during 2019<sup>412</sup>. *There are no institutions in the Tuzla Canton intended for the reception and accommodation of asylum seekers because at the end of 2019 they were informed that the protocol of the Ministry of Security with MF Emmaus is no longer in force, that in the last six registered cases unaccompanied minors, with the consent of the Center for Social Work Tuzla, placed the*

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<sup>412</sup> During 2019, the daily influx of foreigners was over 180.

*juveniles in the Ušivak Reception Center in Hadžići, by the IOM. They add that the observed phenomenon, in coordination with the Service for Foreigners TC Bihać, that foreign citizens who express the intention to apply for asylum do not provide accurate information, without identification documents, change their statements regarding the date of birth. They state and substantiate their allegations with appropriate evidence and especially point out that the inspectors for foreigners of TC Tuzla pay maximum attention when registering unaccompanied minors.*

Competent authorities at all levels of government in Bosnia and Herzegovina are aware that a comprehensive survey was conducted at the end of 2018, which resulted in a Special Report on the situation in the field of migration in Bosnia and Herzegovina, which pays special attention to caring for unaccompanied children. In the report, the Ombudsmen expressed concern, among other things, due to the fact that children without parental support were not sufficiently protected and insured because a certain number of children in Bosnia and Herzegovina were registered without a guardian in accordance with the law. The Ombudsmen sent appropriate recommendations to the Council of Ministers of Bosnia and Herzegovina.

Ombudsmen are aware of numerous problems in this area and state that the activities of the Ombudsman do not end with the preparation of reports, but will continue to insist on the implementation of their recommendations and point out numerous problems in the Annual Report on Activities of the Ombudsman Institution for 2020. the Assembly of Bosnia and Herzegovina and the parliaments of the entities, all in accordance with their mandate and competencies. The ombudsmen also point out that they have a plan<sup>413</sup>, through the activities of the Department for Monitoring the Exercise of Children's Rights, during the next year to conduct monitoring and research related to the rights of migrant children.

## **8.5. Rights of children in administrative and court proceedings**

The UN Convention on the Rights of the Child provides that the personal rights of the child include: right to life, right to know one's origins, right to birth registration, right to a name, right to acquire a nationality, right to preserve one's identity, right to family life and parental care, right to personal relations and direct contacts with the non-custodial parent, right to special protection and alternative care, right to privacy, right to protection of honour and reputation and right to protection from unlawful removal. Given that the largest number of complaints pertain to violations of children's personal rights, their rights are deliberated on in administrative and court proceedings by the competent social welfare centres/services, judicial bodies, local self-governance bodies, ministries, funds, institutions and public institutions. These are the competent bodies that parents, parent groups or other citizens indicate as respondents, i.e. the bodies whose actions or inactions they complain about.

**Example:** Acting on a request from Orašje Social Welfare Centre<sup>414</sup> to protect the rights of a child, it was found that the child had not been registered in the civil records in Bosnia and Herzegovina and thus could not exercise any right (right to healthcare or any other social

<sup>413</sup> The ombudsmen adopted the Work Program for 2021.

<sup>414</sup> Case registered under number Z-BL-01-542/19;

protection right)<sup>415</sup>. The ombudspersons assessed that the child needed assistance from all competent authorities in Bosnia and Herzegovina. After the ombudspersons insisted and communicated with all competent authorities (Civil Register Subdivision, Social Protection Subdivision – Social Welfare Centre of the Brčko District of Bosnia and Herzegovina, Ministry of Foreign Affairs of Bosnia and Herzegovina and Orašje Social Welfare Centre), an International Birth Certificate was obtained for the child and then referred to the competent Civil Register Subdivision in the Brčko District of Bosnia and Herzegovina, after which the child was registered in the birth register.

**Example:** In the case<sup>416</sup>, the complainant expressed her dissatisfaction with the work of Istočno Novo Sarajevo Social Welfare Centre during her divorce proceedings. When acting on the complaint lodged by the complainant, a submission was sent to Istočno Novo Sarajevo Social Welfare Centre and the competent body then explained in detail all actions the Centre had taken in relation to the rights of the children and explained that Sokolac Basic Court had scheduled a preparatory hearing. They also stated that the Centre would visit the family, assess whether there was any need for a psychological and pedagogical treatment of the spouses, have a conclusion issued by the Centre's expert team and, having taken all these actions, provide all required documents to Sokolac Basic Court. The ombudspersons found no ground to intervene with the competent bodies (court and guardianship body).

**Example:** The complainant approached the ombudspersons because she was unable to obtain a travel document for her child from the Consulate of the Republic of Croatia since the child's father was unavailable<sup>417</sup>. After the divorce, the court decided to entrust the child to her care. She had had no contact with the child's father for as long as 13 years and he had not maintained contact with the child. She addressed Mostar Social Welfare Centre which got in touch with the child's father, who was in Germany. In the course of the Ombudsman intervention, by making frequent calls to the father, the Social Welfare Centre managed to get him to provide a written submission granting his consent for obtaining the passport, after which the complainant obtained the travel document.

**Example:** The ombudspersons deliberated on a complaint<sup>418</sup> pointing to the inability to exercise the right to family pension due to the inaction of Ilidža Municipality in the procedure to correct Form MIP-1023. The complaint states that his wife passed away suddenly at 34 years of age and that he has three underage children (aged seven and two, and a six-month old). The complainant initiated with the FBiH Pension and Disability Insurance Fund the procedure for exercising the right to family pension for the children, pursuant to the Pension and Disability Insurance Act of the Federation of Bosnia and Herzegovina<sup>419</sup>. Having lodged the request, the complainant was informed that there was a problem with the payment of social security contributions for the years 2012, 2013, 2017 and 2018, for the periods when the complainant's wife was on maternity leave and was receiving a maternity allowance in lieu of salary from Ilidža and Novo Sarajevo

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<sup>415</sup> The parents were deported from Germany to BiH in 2015 and upon arrival in BiH the mother abandoned the common-law spouse and child.

<sup>416</sup> Case registered under number Ž-SA-01-163/20

<sup>417</sup> Case registered under number Ž-MO-01-91/20

<sup>418</sup> Case registered under number Ž-SA-01-1390/19;

<sup>419</sup> *The Official Gazette of the Federation of BiH*, no 13/2018

municipalities. The FBiH Pension and Disability Insurance Fund informed the complainant that they did not accept social security contributions paid by Novo Sarajevo and Ilidža municipalities as they failed to submit MIP forms (monthly salary reports), and MIP forms that were submitted were misfiled and that no social security contribution payments were recorded for the periods when the complainant's wife was on maternity leave and was receiving the allowance from the competent municipalities.

The ombudspersons conducted an examination procedure and issued a recommendation<sup>420</sup> that measures be taken immediately upon receiving the recommendation, with a view to eliminating the problem concerning the correction of Form MIP-1023 and exercising the right to family pension for the underage children.

The ombudspersons considered the time that had passed from the moment the family pension request was lodged and pointed to the unreasonable delays in the procedure conducted at Ilidža Municipality, and concluded that the inability to exercise the right to family pension for the underage children partially arises from the actions of the competent municipal service and complicated administrative procedures that often take a long time.

The monitoring of the implementation of the recommendation is ongoing.

**Example:** In the case<sup>421</sup>, the complainant pointed to a violation of his parental rights. During the investigation procedure, IHROBiH requested Visoko Municipal Court to provide a statement given that the case was handled by that Court. Visoko Municipal Court decided in the course of the procedure to involve the guardianship body in Breza in the procedure and it instructed the latter to do a social history assessment for the complainant and child given that the complainant (plaintiff) had been living with the child since the *de facto* break-up of marriage, and instructed the guardianship body in Ilijaš to do a social history assessment for the defendant (mother). Based on the evidence presented and having examined the social history assessment data for both parents and the child, the Court found both parents to be fit or able to take care of the underage child. However, taking into account all circumstances that would contribute to the best interest of the child, the competent court found in this case that the mother could meet this obligation fully and better than the complainant. The Court in particular took into account the fact that the child's mother had been taking care of the child before leaving the marriage and thereby demonstrated her desire and need to get the custody of the child; that the father, despite being able to take care of the child, was frequently away on business, which would ultimately result in the complainant's parents taking care of their grandchild. In the specific case, the ombudspersons pointed to the competences provided for in the Law on Human Rights Ombudsman of Bosnia and Herzegovina stipulating that IHROBiH shall not interfere with the work of the judiciary, according to which IHROBiH has no possibility to review and deliberate on the merits of cases, establish facts and review taken decisions in terms of evaluating evidence.

The case was closed by the IHROBiH decision.

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<sup>420</sup> Recommendation number P-119/20 dated 2 July 2020;

<sup>421</sup> Case registered under number Ž-SA-01-156/20;

**Example:** In the case<sup>422</sup>, the complainant pointed to an international kidnapping of an underage child since the child's mother moved to another country without his consent and approval, alienated the child and thereby violated his human rights as a parent, caused him emotional distress, and thus acted contrary to the decision of the court. On 28 February 2020, the ombudspersons sent a notification to the complainant, referring him to consider addressing the Ministry of Justice of Bosnia and Herzegovina under the Convention on the Civil Aspects of International Child Abduction. The complainant was also advised to find more detailed information on the procedure for filing a petition for visitation or petition for return of a child on the official website of the Ministry of Justice of Bosnia and Herzegovina – International children abductions and alimonies – Procedure in the case of child abduction.

The case was closed by the IHROBiH decision.

### **8.5.1. Right of the child to family life and maintenance of personal relations with the non-custodial parent**

Since the Department for Monitoring the Exercise of Rights of Children was first established within IHROBiH<sup>423</sup>, the ombudspersons have, in their reports<sup>424</sup>, been pointing to violations of the rights of the child in the family on different grounds, in particular in divorce or marriage break-up proceedings, in procedures for entrusting the child to the care of one of the parents, when organising child visitations by the non-custodial parent and ensuring the right of the child to support.

The many problems the family faces nowadays directly reflect on children and the exercise of their rights. By monitoring procedures of other competent bodies in complaints lodged by children's parents, the ombudspersons often ascertain that it takes a long time for children from divorced marriages to exercise their fundamental rights – ranging from the right to support, to maintain contact with the non-custodial parent, close relatives, etc. The rights of the child continue to be violated and jeopardised after the divorce, marriage dissolution and entrusting of the child to the care of one of the parents, and an efficient response from the competent institutions that would actually result in the cessation of the violation of the child's rights and elimination of all negative consequences for the child is often missing.

The ombudspersons have been pointing to the highlighted issues for years, but no progress has been made in the current family and child protection system of the Republika Srpska, which in turn results in a case-by-case conflict resolution, depending on the sensitivity, readiness and know-how (subjective circumstances) of both social welfare centres/services and other competent authorities. Social welfare centres in the Republika Srpska have been pointing to the many problems they face concerning children's contacts with non-custodial parents and the latter's close relatives, as well as in custody cases following common-law marriage dissolutions<sup>425</sup>.

<sup>422</sup> Case registered under number Ž-SA-01-165/20;

<sup>423</sup> Since 1 June 2009;

<sup>424</sup> Annual reports on the activities of IHROBiH and special reports;

<sup>425</sup> There are shortcomings that were clearly identified when drafting the Special report on the role of social welfare centres in the protection of children's rights, Special report on children in conflict divorces and the Special report on

Furthermore, the ombudspersons in particular highlight the fact that the Family Proceedings Act of the Republika Srpska is the only piece of legislation in the region that stipulates and envisages that it is within the competence of social welfare centres to decide on visitation arrangements between the child and non-custodial parent after the divorce. The ombudspersons believe that the Family Proceedings Act needs to be amended to stipulate that the court decides on the divorce, entrusting the child to the care of one of the parents, visitation arrangements with the other parent and their obligation to contribute to child maintenance, all in the same procedure. The ombudspersons are primarily guided by the best interest of the child since this is how situations would be avoided that otherwise occur very frequently in practice where visitation arrangement decisions of centres/services are not complied with or are complied with without achieving the purpose of the enforcement<sup>426</sup>.

### **Initiative to amend the Republika Srpska Family Proceedings Act**

In case of common-law marriage dissolution and exercise of rights of children in these proceedings, the approach is completely different because it is the social welfare centre/service that decides on entrusting the child to the care of one of the parents after the common law marriage has been dissolved. The ombudspersons remind that there is a constitutional provision reading that children born out of wedlock shall have the same rights and responsibilities as children born in wedlock, but the existing legal solution in the Republika Srpska puts children born out of wedlock in a situation where they do not have the same rights as children born in wedlock. Guided by the best interests of children, the UN Convention of the Rights of the Child and the Constitution of the Republika Srpska, the ombudspersons point to the obligation of all competent institutions in the Republika Srpska to ensure that children born out of wedlock have the right to judicial protection under the same conditions as their peers born in wedlock. Amendments to the Family Proceedings Act whereby the competence over entrusting children will be granted to the court are required to resolve this issue<sup>427</sup>.

Therefore, the ombudspersons are of the opinion that the Republika Srpska Family Proceedings Act needs to be amended to have courts, instead of social welfare centres/services, decide on entrusting children born out of wedlock and on the way personal relations will be maintained between children and non-custodial parents. Bearing in mind all of the above and pursuant to Article 186 of the Rules of Procedure of the Republika Srpska National Assembly, the ombudspersons tabled in the Republika Srpska National Assembly an initiative to enact or amend the Republika Srpska Family Proceedings Act.<sup>428</sup> The ombudspersons continue monitoring the implementation of the said initiative in 2021.

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the status and problems of social welfare centres in Bosnia and Herzegovina, but also when conducting a number of other activities and working on individual cases/complaints.

<sup>426</sup> E.g. there have been cases where, in the administrative enforcement procedure under the General Administrative Procedure Act, a parent of a child pays imposed fines but still fails to comply with the enforcement decision and does everything to prevent the child from seeing the other parent.

<sup>427</sup> Practice has showed that certain centres (e.g. in the area covered by Doboj District Court) do not decide on entrusting children born to common-law couples but that this is done by courts instead; these problems also indicate to non-uniform jurisprudence, which does not contribute to legal certainty of citizens.

<sup>428</sup> Case registered under number Ž-BL-01-42/20, initiative dated 7 September 2020;

**Example:** Acting on the complaint of the mother of a child lodged because she was unable to maintain contact with the child following the divorce<sup>429</sup> and adhering to the relevant legislation and ascertained facts, the ombudspersons recommended<sup>430</sup> to Banja Luka District Court to “*take a decision on the appeal lodged against the judgement by Kotor Varoš Basic Court as soon as possible, taking primarily into account the best interest of the child; to Kotor Varoš Social Welfare Centre to take measures falling within its competence to the greatest and best extent to have the child’s parents establish communication. In addition to the parents, Kotor Varoš Municipality is informed thereof in order to provide maximum support to the Centre (assistance from Kotor Varoš Community Health Centre – Mental Health Centre, etc)*”. Banja Luka District Court complied with the IHROBiH recommendation, the appeal was rejected and the first-instance court decision entrusting the care of the child to the father was upheld. The complainant lost the dispute given that she requested in the appeal to have the child entrusted to her as the mother. In keeping with its competence, Kotor Varoš Social Welfare Centre also issued a decision and made arrangements for maintaining personal relations between the child and the mother, i.e. it acted in compliance with the Ombudsman recommendation.

**Example:** The children’s father approached the ombudspersons<sup>431</sup> because he was forced to file charges against the children’s mother for taking their underage children to Germany with him as the father having no knowledge thereof. He found out from the children that they were in Germany at the moment when they were already in the territory of Germany. After the competent Žepče Social Welfare Centre was addressed, it was established that the children’s mother had informed the Centre of her intentions, as well as of the intention to inform the children’s father of everything. The Centre also clearly pointed out that they had fulfilled their obligation pursuant to Article 142 paragraph 8 of the Family Proceedings Act of the Federation of Bosnia and Herzegovina and advised the mother of her legal obligation to inform the father of everything. Bearing in mind the fact that the mother was in the territory of another country with the children, the ombudspersons advised the children’s father to address the Ministry of Justice of Bosnia and Herzegovina as the body responsible for communication between judicial authorities in Bosnia and Herzegovina and abroad in international child abduction cases. The complainant was also advised of everything that falls under the category of international child abduction (wrongful removal and/or retention of a child in another country), all under the Convention on the Civil Aspects of International Child Abduction.

**Example:** The mother approached the ombudspersons due to the fact that she was not seeing her children, who were at their father’s following the *de facto* marriage dissolution<sup>432</sup>. Immediately upon receiving the complaint, the ombudspersons addressed the competent Srbac Social Welfare Centre. The Centre informed the ombudspersons of all actions taken and the latter did not find any irregularities or omissions by the competent bodies. Then the children’s mother informed the ombudspersons that she had reconciled with the children’s father and that she wanted to drop the case and motions/petitions for enforcement filed with the Municipality, and to withdraw the complaint with IHROBiH. The complainant was legally advised on how to drop the charges before the competent court, and the ombudspersons immediately informed the competent bodies

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<sup>429</sup> Ž-BL-01-882/18;

<sup>430</sup> Recommendation number P-207/19 dated 7 October 2019;

<sup>431</sup> Case registered under number Ž-BL-01-549/20;

<sup>432</sup> Case registered under number Ž-BL-01-524/20;

thereof (Court, Centre and Municipality), given that charges were filed in the divorce proceedings and that the enforcement of the Centre's decision on the children's contacts with the mother (administrative enforcement) was underway.

**Example:** Acting on the complaint lodged by the aunts of a child because the mother and other close relatives did not get to see the child who was living with the father, and Following the investigation procedure, the ombudspersons sent a recommendation to all competent authorities in the territory of Visoko City.<sup>433</sup> In the course of 2020, the ombudspersons ascertained that the Social Welfare Centre in this specific case failed to comply with the ombudspersons' recommended measures *to consider taking the decision to place the child with and entrust their care and protection to another person in case it is established that both parents are prevented from or unable to perform parental care/exercise parental rights (Article 142, paragraph 5, FBiH FPA) and if that is required in order to protect the best interest of the child*, or at least it did not follow from the Centre's response and documents that it had complied. In cases pertaining to this issue, the ombudspersons point to their position that in many situations social welfare centres have broader competences/powers, possibilities and obligations than courts to protect the rights and interests of the child. In this case, the child was still in an extremely difficult position and their rights and interests were inadequately protected by both the parents and institutions of the system. In their decision dated 24 July 2020, the ombudspersons instructed the parents to initiate a mediation procedure with the competent centre and try to find a way to reach minimum agreement and compromise solutions regarding the child, which would definitely be in the child's best interest. However, the ombudspersons received a new complaint from the child's close relatives (aunts)<sup>434</sup>, which clearly showed there had been no progress in the case since the child's aunts informed the ombudspersons that the child had not been seeing their mother. At the ombudspersons' request to provide data on the child's psychological condition, the Social Welfare Centre stated *they were not in the position to comply because, due to the coronavirus pandemic, the psychologist/psychotherapist from the Centre for Mental Health last conducted an interview with the child on 25 February 2020*. The Centre for Mental Health was in turn immediately invited to consider acting as quickly as possible and continue working with the child to clearly ascertain their mental state to the extent possible due to the pandemic and the procedure is ongoing.

**Example:** As the children's mother suggests, the ruling of Kalesija Municipal Court entrusted the children to the care of the father following the divorce, and the ruling also regulated the way the contacts between the mother and the children would be arranged. Irrespective of the ruling, the father made it impossible for the children to have contact with their mother<sup>435</sup>. As she suggested, she had addressed Kalesija Social Welfare Centre multiple times for it to take the necessary actions falling within its competence but nothing had been done. Following the complaint procedure and examination and analysis of the data from the file, while applying national legal instruments and international documents on the protection of human rights or children's rights, the ombudspersons concluded that the children's rights were violated during the ruling enforcement procedure. Therefore, it was recommended to Kalesija Social Welfare Centre to take active measures within this competence and powers to have parental rights

<sup>433</sup> Recommendation number P-156/19 dated 5 July 2019, case number Ž-BL-01-185/19;

<sup>434</sup> Case registered under number Ž-BL-01-672/20

<sup>435</sup> Case registered under number Ž-BR-01-117/19;

exercised, and to ensure the establishment of necessary communication and contacts between the mother and children by taking continuous actions within its competence. The recommended ombudspersons' measures have been complied with, and the children's mother has meantime amended the previous ruling with her new charges pertaining to the contacts between the children and the mother as a non-custodial parent.

**Example:** Acting on the complaint from a mother, it was established that the marriage between the complainant and the child's father was terminated by a Tuzla Municipal Court judgement, that the underage child the litigants had with each other was entrusted to the care of the father as a legal representative, but that it was made impossible for her to maintain direct contacts with the child<sup>436</sup>. During the ombudsman investigation procedure and thanks to the actions taken by the competent bodies, primarily Tuzla Social Welfare Centre, the problems in the communication between the parents were resolved and the parents no longer addressed the competent bodies because of the said issues.

**Example:** The child's father approached the ombudspersons<sup>437</sup> stating that his wife had left him and taken their underage son, which he reported to Tuzla Canton Ministry of Internal Affairs and Tuzla Social Welfare Centre so that they could take the necessary measures within their competences with a view to him establishing contact with the child. In the course of the investigation procedure, the ombudspersons learned that the wife had filed domestic violence charges, stating that she and the child had experienced violence for a long time but that she had not pressed charges for violence. The mother moved to the territory of another municipality with the child and the competent centres established cooperation at the request of the ombudspersons, made a field visit and obtained important information concerning the protection of the rights of the child. Accordingly, the complainant was advised by the competent bodies on how to exercise his rights (initiate divorce proceedings before the regular court, preceded by a mediation procedure, etc.). The ombudspersons particularly point to the fact that professional social workers conducted an interview with the child who in turn confirmed the mother's allegations about the violence experienced. Also, the child pointed out that at the moment they wanted to communicate with the father only over the phone, which was fully adhered to and communicated to the father. The ombudspersons will keep monitoring the procedure for protecting the rights of the child in the case.

**Example:** There is an ongoing civil procedure ongoing before a municipal court to amend the ruling concerning the contacts between a father and two underage children, at the initiative of the children themselves. The children's mother approached IHROBiH<sup>438</sup> on the children's behalf, given that the children (born in 2004 and 2002) are not mature enough to express their opinion before the court. The ombudspersons pointed to the competent court to the provisions in the Family Proceedings Act of the Federation of BiH stipulating that the opinion of the child shall be respected and the court invited them to be heard.

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<sup>436</sup> Ž-BR-01-232/19;

<sup>437</sup> Case registered under number Ž-BR-01-166/20;

<sup>438</sup> Case registered under number Ž-MO-01-28/20;

### 8.5.2. Child's right to maintenance

The ombudspersons have, via their special and annual reports, been pointing to the competent authorities at all levels of government that particular attention needs to be paid to the so-called single parents (one-parent families) in order for them to enjoy special legal protection and any other type of protection required, in line with the best interests of the children, and that for the same purpose (providing assistance to single parents and their children) they should conduct serious analyses and realistic assessments with a view to establishing and keeping child maintenance funds. Despite the ombudspersons lobbying efforts, no child maintenance funds have been established in the Republika Srpska and Federation of Bosnia and Herzegovina, and the ombudspersons would like to use the opportunity this year, too, and inform the competent legislative bodies of this fact.

As in previous years, there are several cases concerning children's right to maintenance that have been registered with the Department for Monitoring the Exercise of Rights of Children.

**Example:** Based on the appeal lodged by the children's mother<sup>439</sup>, there was a three-month conditional sentence imposed on the father by the judgement, which at the same time instructed that the imposed sentence was not to be executed, unless the defendant committed a new criminal offence within a two-year period (probation period). The judgement became final and binding on 23 February 2019. As per the motion to revoke the suspended sentence dated 23 October 2019 and filed by the competent prosecutor's office for the convicted person's failure to settle due liabilities and regularly pay maintenance, the court issued a decision on 28 August 2020 granting the convicted person an additional three-month period to pay out all due maintenance instalments as per the court's ruling. In her petition, the children's mother stated that she was losing patience and requested assistance from the competent institutions and a timely response by all competent bodies. The ombudspersons invited the competent bodies (court and prosecutor's office) to act both in accordance with the applicable legislation and in the best interest of the children, in an attempt to ensure the children's right to an adequate standard of living and force the father to comply with his legal obligations. At the same time, the motion from Banja Luka District Public Prosecutor's Office to revoke the convicted person's suspended sentence was commended because in other cases the ombudspersons are often forced to petition with prosecutor's offices to propose to courts revoking suspended sentences because the convicted person is still important to the ombudspersons even after the judgement is issued. All this to point to good practice when reporting to competent legislative authorities, as well as to executive bodies.

**Example:** In addition to her many predicaments, the complainant also cites the problem of the children's father not contributing at all to the maintenance of the children and doing everything possible to avoid complying with his legal obligation. The ombudspersons advised the complainant to file criminal charges against the father with the competent prosecutor's office for the criminal offence of avoiding to pay maintenance<sup>440</sup>. The criminal charges were filed with the

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<sup>439</sup> Case registered under number Ž-BL-01-657/20;

<sup>440</sup> Case registered under number Ž-BL-01-193/19;

competent prosecutor's office on 8 June 2020<sup>441</sup> and the ombudspersons have been monitoring the competent prosecutor's office actions.

### 8.5.3. Issue of enforcement of court rulings and decisions of administrative bodies

In this section of the Report we find it important to point to a serious problem occurring in the so-called high-conflict divorces. Namely, bearing in mind the importance of regular contacts for the child and the fact that they are in the best long-term interest of the child, maintaining these relations and contacts can be limited or banned only when the best interests of the child cannot be protected otherwise. The ombudspersons note that, in addition to sexual, physical and emotional abuse of children, there is also abuse caused by the parents' high-conflict divorce. Parents primarily, but qualified professionals as well, must take account of protecting the child so that they do not bear lasting consequences through life. In their work, the ombudspersons witness extreme violations of children's rights almost on an everyday basis, where the parents **manipulate the child and competent institutions (consciously or unconsciously), with only the child suffering. Conflicts and confrontations between the partners are very much reflected on the child. The competent authorities, including IHROBiH, should do everything within their competence to act pursuant to applicable regulations with a view to enabling the child to have both parents and both the child and the child's parents should be assisted to achieve that. The child's parents should invest additional effort and overcome their conflicts and confrontations. In many cases, the child's parents must adjust their views and do everything they can to avoid possible manipulative behaviour in the future.**

**Example:** The mother of a child addressed the ombudspersons requesting that the child's rights be protected because, despite the fact that the child had been entrusted to the care of her, the mother, by the final and binding judgement of the court, and the enforcement procedure had been initiated to hand over the child, the father had not handed the child over to the mother since July 2017 until the day the mother lodged the complaint with IHROBiH (11 November 2019)<sup>442</sup>. Bearing in mind the UN Convention on the Rights of the Child, the Law on Human Rights Ombudsman of Bosnia and Herzegovina<sup>443</sup>, the Enforcement Procedure Law of the Republika Srpska<sup>444</sup>, the ombudspersons issued a recommendation<sup>445</sup>, recommending Banja Luka Basic Court to promptly undertake all actions and consider every legal option to finalise the court proceedings and hand the child over to the mother. The Court then informed that the child's father had amended the earlier judgement in a new civil procedure, in the section dealing with entrusting the child, and that the child was now entrusted to the care of him as the father. The Court provided the first- and second-instance judgements, i.e. it was clear that the legal matter had been concluded in a final and binding manner, and the Court scheduled no more hearings to take away and hand over the child. The documents provided by the Court show that the competent centre took an active part in the procedure and it was clearly established that the child expressed a wish to live with the father and the Court, guided by the child's opinion, entrusted

<sup>441</sup> The party provided the ombudspersons with a copy bearing the competent body's receipt stamp.

<sup>442</sup> Case registered under number Ž-BL-01-820/19;

<sup>443</sup> *The Official Gazette of Bosnia and Herzegovina*, no 32/2000, 19/2002, 35/2004 and 32/2006;

<sup>444</sup> *The Official Gazette of the Republika Srpska*, no 59/2003, 85/2003, 64/2005, 118/2007, 29/2010, 57/2012, 67/2013, 98/2014 and 66/2018;

<sup>445</sup> Recommendation number P-8/20 dated 10 January 2020;

the child to the father's care. In the specific case, the ombudspersons clearly pointed out that the Court had not violated any laws, had been cooperating with IHROBiH, and had provided submissions as requested. However, it was noted that the court actions were not in the best interest of the child because the child remained unprotected and must have experienced mental and physical health issues due to the long-lasting conflict between the parents. It was by no means the ombudspersons' intention to interfere with the judge's decision-making but, guided by the best interest of the child, the idea was to create an impact and contribute to a more efficient procedure. Given the mandate and competence of IHROBiH, in particular preventive action aimed solely at improving the exercise of citizens' rights, the ombudspersons noted that in the given case time played an important role. Namely, the child stayed at the father's, contrary to the agreement made in June 2017, the procedures with the competent bodies dragged on and were not finalised, life circumstances changed, which was completely justifiable, and it was in turn to be expected that the child would express their wish to live with the father instead with the mother and sister as the period during which they had no contact with the mother was long. The ombudspersons intended to use the recommendation to ensure the court proceeded quickly and efficiently, i.e. to use the recommendation to possibly try and eliminate the detrimental consequences of the parent's actions, all in the interest of the child. Despite the work done by all addressed competent bodies, including IHROBiH, the question remains whether and what kind of consequences this disturbed relationship with the mother during the adolescence will have on the child. The father was in fact rewarded and there were no family and legal sanctions imposed against him for ignoring and failing to comply with the Court's decisions since the child was entrusted to his care by decisions made by the competent body and in addition the child clearly expressed their wish to live with the father. The mother filed a motion to enforce with the competent court on 13 October 2017 and the ombudspersons asked both themselves and others whether things would have finished differently for everyone involved if e.g. the Court had enforced the judgement in early 2018, taking into account all the aggravating circumstances in the work of the Court that the Court itself pointed out to, or the action plan drafted by the High Judicial and Prosecutorial Council which, regardless of all national and international standards and principles, is the most relevant parameter to schedule hearings and act on cases.

The ombudspersons closed the case and noted that the court complied with the recommendation.

**Example:** Acting on the complaint of the mother<sup>446</sup> who approached the ombudspersons because she was unable, as per the final and binding judgement, to see the child that had been entrusted to the father's care and was living in the territory of another municipality and another social welfare centre. The appealed case is pending and the ombudspersons have addressed the competent social welfare centres and other competent bodies (competent ministry, prosecutor's office, court) because there are criminal proceedings instituted against the father for his non-compliance with the final and binding judgement.

**Example:** The mother of the children approached the ombudspersons<sup>447</sup> and stated in her complaint that the marital relations between her and the children's father (spouse) were severely and permanently disturbed, which resulted in filing for divorce and *de facto* break-up of the

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<sup>446</sup> Case registered under number Ž-MO-01-134/19;

<sup>447</sup> Case registered under number Ž-BL-01-291/20;

marriage. However, the children were at the father's, i.e. at his parents'. The father lived and worked in Austria and the grandparents took care of the children, while the mother had no contact with the children. In the given case, the ombudspersons noted that the competent guardianship body had at all times acted in line with its authorities and competences, bearing in mind the aggravating circumstances of the work due to the pandemic caused by coronavirus. Pelagićevo Social Welfare Centre issued a decision whereby the underage children were temporarily entrusted to the care of the mother pending the decision of the competent court on the divorce and care for the children. The problem occurred in the process of enforcing the Centre's decision, pursuant to Article 259 of the Republika Srpska General Administrative Procedure Act. Guided solely by the children's best interest, we invited the complainant to promptly file a motion for enforcement of the Centre's decision to the competent municipal administrative body, and the competent municipal administrative bodies were invited to act in cooperation and coordination with the Centre and as efficiently as possible in the enforcement procedure and, if necessary, to request police assistance upon issuing the conclusion. The decision enforcement procedure took some time (seven months), but the competent administrative bodies, in particular the Centre's employees, took a number of activities to have the children handed over to the mother in October 2020 while the court proceedings were still ongoing.

**Example:** The mother of a child<sup>448</sup> approached the ombudspersons with a request to have her child returned to her and to have the child continue living with her following the break-up of the common-law marriage, and to keep regular contacts with the father. At the time she approached the ombudspersons, the father kept the child during one of the contacts and did not return the child to the mother. In the complaint procedure, the ombudspersons indicated to the competent bodies (Kostajnica Social Welfare Centre, Republika Srpska Ministry of Health and Social Protection and Prijedor District Public Prosecutor's Office) what their position was and clearly stressed they expected the competent bodies to conduct the procedures and processes concerning children or affecting children as a matter of priority and to complete them as soon as possible. It was pointed out to the competent bodies that they had to be guided by the best interest of the child and to focus primarily on the child because the child was highly, almost completely, dependent on the parents because of their age, and the parents did not have minimum communication and took completely different stances on decisions and issues concerning the child. The Centre entrusted the child to the mother's care in the administrative procedure, it arranged the way personal and direct contacts between the child and the father would be maintained and determined the child support amount for the father. Meantime, before the Centre's decision became final, binding and enforceable, the mother managed to "return" the child and was now reluctant to allow the father to have contact with the child for fear that he would keep the child.

As for the given case, the situation will not be resolved in the interest of the child for as long as the parents do not establish minimum communication because the child has the right to have both parents, and the parents should ask the Centre for assistance in that respect. As the ombudspersons can note with certainty, it is not rare that the competent bodies in Bosnia and

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<sup>448</sup> Case registered under number Ž-BL-01-434/20;

Herzegovina fail to find an appropriate way to put a stop to manipulative behaviour of the parents and protect the rights of the child.

## **8.6. Healthcare of the child**

Healthcare of children is still not at the level required, despite enormous efforts invested in the past years by all levels of government. Please be reminded that the right to child healthcare is governed by entity regulations, regulations of the Brčko District of BiH and cantonal regulations. Under the applicable legislation, the right to child healthcare, as a rule, depends on the status of the parents/guardians or is contingent on the regular schooling of the child. The ombudspersons have for years advocating for the only solution that would be fully consistent with the UN Convention – free and unconditional healthcare for all children.

The ombudspersons are using the opportunity to express their concern over the fact that equal access and equal opportunities, with equal conditions for all children, are not provided within the child health systems in the entities and Brčko District of BiH, and in particular stress the fact that no additional measures have been established to include e.g. children with mental and physical disabilities or children from marginalised groups, such as Roma. The efforts invested to create minimum standards in connection with the healthcare for children in the entities and Brčko District have not resulted in the healthcare services being sufficiently adapted to serve the needs of developed society.

The ombudspersons welcome all legal solutions concerning the improvement of quality and accessibility of healthcare for all children but they still insist on establishing unconditional healthcare free of charge for all children until they turn 18. That was one of the recommendations from the 2012 Special Report “Children’s Healthcare in Bosnia and Herzegovina” because that is the only way to ensure consistent application of the UN Convention on the Rights of the Child.

However, while analysing the applicable regulations and acting on citizens’ complaints, the ombudspersons note that there is compulsory health insurance for children up to 15 years of age and children that are full-time students up to 26 years of age, irrespective of the insurance status of their parents, on condition that the children are registered in the system. This means that problems that occur most often in practice concern exercising this right for children between 15 and 18 years of age.

According to the decision of the Republika Srpska Health Insurance Fond and in cooperation with the Republika Srpska Government, healthcare services have since March 2020, i.e. since the outbreak of the coronavirus pandemic, been financed for all citizens (and thus all children), both insured and uninsured, in public healthcare institutions and there is no need to renew the health insurance card. On the other hand, according to information obtained from responsible people in the Ministry of Health of the Federation of Bosnia and Herzegovina, children in the FBiH have unconditional access to healthcare during the pandemic.

**Example:** The ombudspersons acted on the complaint<sup>449</sup> from the parents of an underage girl who pointed out that it was made impossible for them to treat their daughter efficiently at Sarajevo University Clinical Centre (hereinafter referred to as “Sarajevo UCC”) – Child Health Discipline – Paediatric Clinic 1. IHROBiH looked at the specific case from a number of perspectives and these are as follows: accessibility of healthcare, access to an efficient remedy and the protection of personal data, in particular bearing in mind that in the given case it was about a child as a particularly vulnerable category. Following the investigation procedure was finalised, IHROBiH sent a recommendation<sup>450</sup> to Sarajevo University Clinical Centre and the FBiH Ministry of Health. The ombudspersons clearly pointed out that ambiguity and failure to comply with procedures can also jeopardise the good quality of healthcare as foreseen by international standards, and that the Rulebook on the Requirements and Procedure for Referrals of Insured Persons Abroad had not been applied. Every time the Rulebook is partially or selectively applied without a clear and precise explanation provided means that legal certainty as a key element to codification is not ensured. There were additional concerns raised because of the lack of due care and sensibility for the fact that the patient was a child that should be enjoying a special level of protection. Without interfering with the medical treatment issues, it was pointed out that there was a need to make all procedures clear and accessible to patients, that all procedures should result in a document for which the patient would be able to use a legal remedy in case they were unhappy with the response, i.e. would have the right to appeal against and have it reviewed by a senior authority. The recommendation noted that, starting from the principle of international standards and domestic legislation, the principle of accessibility of healthcare had not been fully ensured since the availability of information of treatment possibilities had not been ensured; that the complainants’ requests to relocate for treatment purposes had not been complied with; that Sarajevo University Clinical Centre in this and future cases should pay extra attention to protecting the right to privacy and data pertaining to the treatment in respect of processing sensitive data, in particular of children, while complying with the Act on Patients’ Rights, Obligations and Responsibilities and the Convention on the Rights of the Child; and that the FBiH Ministry of Health should amend the Rulebook on the Requirements and Procedure for Referrals of Insured Persons Abroad by additionally specifying the procedure in circumstances where a healthcare institution fails to file a proposal to refer for treatment abroad, bearing in mind the obligation to ensure the right to an efficient legal remedy in accordance with the legislation in BiH and international standards.

After the recommendation was issued, the FBiH Ministry of Health informed the ombudspersons that they would amend the Rulebook on the Requirements and Procedure for Referrals of Insured Persons Abroad bearing in mind this case and the best interests of the child and in the upcoming period the ombudspersons will monitor the activities of this competent body. In response to the recommendation, Sarajevo University Clinical Centre informed IHROBiH that they believed that they had informed the parents of the underage child via their attorney to provide complete relevant medical documentation a sufficient number of times, but that the Child Health Discipline had never received the requested documents. As for the section of the recommendation referring to the protection of personal data, Sarajevo University Clinical Centre

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<sup>449</sup> Ž-SA-01-1284/19

<sup>450</sup> P-105/20;

informed IHROBiH that they had complied and removed the statement of the SUCC Pediatric Clinic dated 18 November 2019.

**Example:** The case in question<sup>451</sup> is about a complaint of the Director of Public Institution Kindergartens Ciciban (state-owned kindergartens) in Mostar based on parents' appeal to review the regulated group sizes for the 2020/2021 school year, stating that parents would take full responsibility for the health of their children and asking that children start attending kindergarten at full capacity. The parents believed that the competent bodies' previous actions were not timely or tailored to the real needs of parents and children. The competent authorities provided responses reading that the parents were invited to adhere to all measures issued by the competent authorities so as to put primary focus on the health of the children. The parents of kindergarten children maintained that they were left to their own devices and that there were no specific instructions and guidance sent to kindergartens.

**Example:** The case<sup>452</sup> was opened ex officio and entitled "Park Zrinjevac". This park has for years been in the media focus and parents have a number of times appealed in the media for the competent authorities to do something about it. The park, i.e. park furniture is in a very bad condition and hazardous to children's health. Parents have on a number of occasions asked that the complete park furniture be refurbished, but to no avail. After the ombudspersons intervened, CITY OF MOSTAR provided a statement, where they claimed that they had issued an invitation to tender for new furniture and that they would build it. Also, we requested a statement concerning the body that verifies that the playground constructed meets all the requirements and can be put into function because, as it was, the park has been subjected to spates of vandalism. Therefore, it is reasonable to wonder if when the new furniture is installed adequate protection and security will be set up in the park, given that it was abolished two years ago because of fund rationalisation. The case is still active, it is monitored and progress is expected.

### 8.6.1. Vaccination of children

According to Article 24 of the UN Convention on the Rights of the Child, States Parties (Bosnia and Herzegovina being one of them) recognise the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health, and shall strive to ensure that no child is deprived of his or her right of access to such healthcare services. In the exercise this right, States Parties commit to make available technologies (medicaments, equipment and interventions), including the immunisation against common child diseases, as stated in General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health of the UN Committee on the Rights of the Child. Therefore, as long as there is unmistakable expert and scientific evidence that vaccine benefits (prevention of disease, disease complications and consequences, and deaths) outweigh vaccine risks (occurrence and consequences of side-effects), the right to vaccination is deemed the right of the child to healthcare according to the highest attainable standard of health, pursuant to Article 24 of the Convention of the Rights of the Child. We believe that the focus of the discussion that has been ongoing between experts – vaccination supporters and parents who

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<sup>451</sup> Case registered under number Ž-MO-04-118/20;

<sup>452</sup> Case registered under number Ž-MO-04-70/20;

oppose vaccination must be the right to healthcare of the latter's children and of the children that they are in contact with, in particular children that cannot be vaccinated for health reasons.

**Example:** The ombudspersons received a vaccination-related complaint<sup>453</sup> from a couple of parents because of the fact that one preschool institution had refused to admit their child for preschool education and care because "*the child has not been vaccinated*". The parents were of the opinion that their child was completely healthy, that there were no obstacles, and they particularly resented the competent healthcare institution for disclosing the data on "*the child's vaccine status*". Following the investigation procedure was completed, it was noted that the admission of children to kindergarten was contingent on proper vaccination against the diseases from the Mandatory Immunisation Programme of the Federation of BiH. When admitting children, kindergartens must check the children's vaccination documentation and advise the parents, guardians or adoptive parents of their obligation to vaccinate the children if that has not been done yet. We believe that consistent compliance with the said Programme, adopted based on the law and bylaws, contributes to the protection of health of all children in the group, including children that for health reasons cannot be vaccinated. We base our position on the opinions of medical experts, as well as on information of the European Network of Ombudspersons for Children about the ways in which other countries are trying to ensure children's vaccination and achieve a satisfactory vaccination coverage to increase the efficiency of the vaccine in the community as much as possible. One of the ways is to make children's vaccination a prerequisite for enrolling children in kindergarten, as is the practice in many countries (e.g. in Croatia). Therefore, the ombudspersons did not find that the child's rights were violated in the given case and invited the parents to vaccinate their children in the period to come.

## 8.7. Children's education

Education of children and the right of the child to education should, in any country that is even remotely modern, be one of the priorities. The right of the child to education falls within the so-called development rights, i.e. the rights that ensure the child's best possible development, along with play and leisure, cultural activities, information, freedom of opinion, expression, religion. Everyone has the right to education, regardless of their ability, race, ethnicity, religion, sex, class and nationality, sexual orientation or any other affiliation and background. This right means the accessibility of education institutions, quality of education work, possibility to select education according to one's own wishes and needs, but also the right to a safe and stimulating learning environment where the rights of children, teachers, parents and all other participants in this process are respected.

**Example:** IHROBiH received a complaint from parents with a view to protecting the rights of the child "from the arbitrariness of individuals in the procedure for selecting and naming the valedictorian in Primary School Branko Radičević Bratunac<sup>454</sup>. Following the receipt of the complaint, it was clearly established that Bijeljina District Court had reversed the decision of the School Board, and gave clear instructions to the school on how to adopt a new document instead

<sup>453</sup> Case registered under number Ž-LI-01-224/20;

<sup>454</sup> Case registered under number Ž-BL-01-640/20;

of the reversed one. The school fully complied with the Court's instructions, issued a new administrative document and the complainant's child was named valedictorian in the renewed procedure. In the case, there were no grounds for IHROBiH's potential reaction because the party protected her rights through the court and the School then fully complied with the Court's instructions.

**Example:** IHROBiH received an anonymous complaint concerning the work of Primary School Pale in Pale<sup>455</sup>. It was clearly established that the anonymous complaint was at the same time sent to many other competent authorities, not only IHROBiH. The complaint pointed to the unprofessional actions of one teacher towards children/pupils. The school denied the allegations provided in the complaint and stressed that none of the parents had complained to the School in the way stated in the anonymous complaint. It was also established that the Republika Srpska Pedagogical Institute had conducted an intervention control in connection with this case. The ombudspersons did not find any grounds for a possible intervention in keeping with its mandate and competence but as a measure of precaution they invited the competent authorities to inform them if the latter had established different facts and circumstances in their work. The Republika Srpska Ministry of Education and Culture, RS Pedagogical Institute informed the ombudspersons it had no new intelligence and that they would react in a timely and professional fashion in case they learned about the teacher behaving inappropriately in any way. Istočno Sarajevo Police Administration informed the ombudspersons of all actions taken concerning the given case and clearly stated that they were not competent to examine the work of teachers, that they had acted on the complaint but had not established any elements of a criminal offence, but the complete documentation had been referred to the competent prosecutor's office. Istočno Sarajevo District Public Prosecutor's Office informed that they had received an official report, obtained all necessary documents and based on the actions taken issued an order not to conduct an investigation. The ombudspersons noted that they had not found any irregularities in the work of the competent bodies and that the allegations in the complaint were unfounded. They closed the case and informed the competent authorities thereof.

**Example:** The Labour Party of Bosnia and Herzegovina<sup>456</sup> approached the ombudspersons requesting activities to be taken which would result in repealing the decision by the Una-Sana Canton Ministry of Education, Science, Culture and Sport amending the curriculum for the ninth grade of nine-year primary school in the part referring to the subject History by introducing special topics concerning the origin of aggression against Bosnia and Herzegovina<sup>457</sup>. The Labour Party believes that this is largely a political issue without historical facts clearly established, as proved by the judgements pronounced by domestic and international courts and the court proceedings that are pending. They believe that the war turmoil cannot be the subject of study of students in schools because it has not been sufficiently researched and historically processed. Following the investigation procedure, the explanation received from the competent cantonal authority was accepted that education and issuing curricula falls within the competence

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<sup>455</sup> Case registered under number Ž-BL-01-344/19;

<sup>456</sup> Case registered under number Ž-BL-01-147/19;

<sup>457</sup> The following topical sections were introduced in this amendment: Aggression against "Bihać County" Isolation and encirclement – Military and political aspects, Establishment and declaration of the so-called "Autonomous Province of Western Bosnia", Conflict between the Bosniaks, Role of Serbia and Croatia, Tribulations faced by the population and humanitarian crisis in "Bihać County".

of the cantons in the Federation of Bosnia and Herzegovina and that this fact was not disputable. However, the ombudspersons think that, in the long run and for the entire territory of Bosnia and Herzegovina, introducing and studying war events from the past war in Bosnia and Herzegovina for all primary school students will not contribute to creating a society based on the rule of law and respect for human rights, and will not contribute to economic development to ensure the best standard of living for all citizens of Bosnia and Herzegovina. Also, children and young people in Bosnia and Herzegovina will have difficulty overcoming the many disputable and unresolved issues from the past war, which ultimately will be only detrimental to them and may result in difficulties in accepting the universally accepted values of democratic society and their own value systems based on the specific characteristics of the ethnic, historical, cultural and religious traditions of the peoples and ethnic minorities living in Bosnia and Herzegovina. Taking into account all the specific characteristics of the case, the ombudspersons, having stressed the dilemmas and concerns, informed the legislative bodies at all levels of government in Bosnia and Herzegovina of the results of the activities of IHROBiH for 2020 via the Annual Report.

**Example:** Acting on the appeal from a parent<sup>458</sup>, the recommendation was made to Šamac Municipality<sup>459</sup> to clearly establish which parents of secondary school students had paid the authorised carrier for the January 2020 transportation costs and, if it was established that the parents had done it, to refund them for the transportation costs in the upcoming period, at the latest within 60 days from the day the recommendation was received. The ombudspersons monitor the implementation of the said recommendation.

**Example:** The ombudspersons issued a recommendation<sup>460</sup> acting on the complaints received from parents<sup>461</sup> who wanted their children to stop attending religious education classes, which is currently not possible under the Republika Srpska Elementary Education Act<sup>462</sup>. The Republika Srpska Ministry of Education and Culture was recommended to consider ensuring the equal treatment of children that no longer wanted to attend religious education classes in primary schools in the Republika Srpska more precisely and more clearly by implementing legal solutions and adopting bylaws as soon as possible and in keeping with the opinion expressed by the ombudspersons. However, the Ministry<sup>463</sup> maintained its previous position and added that schools should be taken seriously and that enabling students to drop certain school subjects entails many dilemmas: entering and removing data from school documents and records, formation of classes, school timetable, number of classes for teachers, etc. They note that the Act provides for a possibility to make the decision prior to taking religious education classes, and that is the only possibility that exists in practice. Once the decision is made, it cannot be changed. The Act does not foresee enacting bylaws that govern this issue as it is already defined by the Act. The complainants were informed of the response, as well as the Government of the Republika Srpska, given that the ombudspersons' recommendation was not complied with.

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<sup>458</sup> Case registered under number Ž-BL-01-351/20;

<sup>459</sup> Recommendation number P-158/20 dated 26 August 2020;

<sup>460</sup> Recommendation number P-50/20 dated 3 March 2020;

<sup>461</sup> Cases registered under numbers Ž-BL-01-660/19 and Ž-BL-01-767/19;

<sup>462</sup> *The Official Gazette of the Republika Srpska*, no 44/2017;

<sup>463</sup> Document number 07.041/052-1974/20 dated 23 June 2020;

**Example:** Concerning the issue raised by Ilidža Municipal Council members<sup>464</sup>, the ombudspersons clearly noticed that the legislator, i.e. the Parliament of the Federation of Bosnia and Herzegovina, did not foresee in the Games of Chance Act the requirement for gaming facilities to be located 100 metres away from schools and religious buildings, as foreseen for casinos in Article 59 of the said Act. They also ascertained that in the previous period there had been certain initiatives concerning prescribing this requirement and even a stricter one. That issue, in its own right and without a careful analysis, would not indicate any violation of the rights and interests of children, but the ombudspersons pointed out that there was a series of factors which indicated that the concerns were legitimate. The Municipal Council of Ilidža Municipality was informed of the ombudspersons' position and in turn agreed with it, and the response was adopted by the Council members.

## 8.8. Rights of children with special needs/mental and physical disabilities

In late 2010, IHROBiH presented the Special Report on the Rights of Children with Special Needs/Disabilities in Psychological and Physical Development. A number of recommendations were issued in the Report to the competent authorities but unfortunately have not been implemented so far. It would be interesting to draft a new report next year, and cover in more detail the current situation in this area, with special emphasis on all that has/has not been done in the past ten years. What is definitely noticeable is the fact that there has not been a substantial number of complaints registered with IHROBiH and referring to children that fall within this category, which in turn suggests that significant progress has been made in previous years.

**Example:** Acting on the appeal of the mother of a child with special needs and disabilities, and bearing in mind the relevant legislation and the facts established in the course of the examination procedure, the ombudspersons recommended<sup>465</sup> to Foča Social Welfare Centre to conduct promptly a procedure to assess the living conditions and state of the user and his environment, and to consider all possibilities for accommodating him in an institution which would be the most meaningful form of protection for the complainant's child, in compliance with the ombudspersons' opinion provided in the recommendation. After the recommendation was issued, Modriča Social Welfare Centre<sup>466</sup> informed the ombudspersons that they had instigated the assessment procedure at the request of Foča Centre, and that the first-instance commission for determination of the capacity of the person in the proceedings to exercise social protection rights and for determination of the functional capacity of the user recommended that K.D. was to be accommodated in PI Home for Male Children and Youth with Developmental Disabilities – Prijedor, which the mother had been insisting on all the time.

The ombudspersons note that the competent Foča and Modriča social welfare centres complied with the ombudspersons' recommendation.

<sup>464</sup> Case registered under number Ž-SA-01-986/19;

<sup>465</sup> Recommendation number P-21/20 dated 24 January 2020;

<sup>466</sup> Document number 01/2-545-1-19/20 dated 30 June 2020;

**Example:** After receiving the complaint from the mother of a child suffering from a rare disease, the ombudspersons recommended<sup>467</sup> the Sarajevo Canton Government and competent Ministry for Education, Science and Youth “*To undertake reform activities as soon as possible and in keeping with the Elementary Education Act; to adopt the Strategy on Primary Education and Care in the Territory of Sarajevo Canton as soon as possible; to help Primary School “Kovačići” promptly and in order to protect the rights and interests of the child in the given case by providing full financial and any other type of support, and in particular to provide the child with a special needs teaching assistant in order to complete primary education as successfully as possible.*” The competent Sarajevo Canton Ministry for Education, Science and Youth informed the ombudspersons of all measures taken. In the subsequent written and oral communication, the child’s mother, complainant, stated that *she enrolled the child in the Secondary School for Vocational Education and Training in Sarajevo, but that there was no special needs teaching assistant (SNTA) and that her education without a provided SNTA was pointless.* At the repeated appeal of the ombudspersons, the Ministry for Education, Science and Youth informed them that they would, in cooperation with the school, find the way to ensure the child’s right to an adequate education. Pursuant to the IIHROBiH Rules of Procedure, the complainant was promptly informed of the response from the competent authority. However, as the health condition of the girl deteriorated, the mother directed all her efforts into helping the child to recover and there was not time for her to think about the girl’s education. She clarified that, as it seemed at the time, the child would not be able to attend classes at school, given her health condition. Therefore, the question is whether there is any need to engage a special needs teaching assistant during her secondary school education. She believed that it would be most appropriate to provide instruction and study support via the so-called “homeschooling” concept, as was the case during the child’s primary school education. *The staff at Primary School “Kovačići” have tried their hardest to resolve the issue of the child’s education in the best interest of the child, despite being aware of all the problems, difficulties and questionable quality of the education provided.* PI Secondary School for Vocational Education and Training Sarajevo<sup>468</sup> informed the ombudspersons that the child was enrolled in the second year of study for the vocation of marketing graphic designer; that she attended classes only once, accompanied by her mother; that there was an agreement for her to attend classes whenever her health condition allowed that but the child’s health condition was bad. They alleged they kept contact with the mother; that they had been visiting the child at home; that there was a teacher visitation plan; and that the plan was to home school the child but this form of instruction was not implemented because of the child’s health condition. While talking with the mother, they concluded that the child needed a personal STNA to be made available. They clarified they had two highly needed SNTAs for the entire teaching process to work with students with more difficult types of autism and that these were the reasons why the same SNTAs could not be engaged to work with the complainant’s child. In addition to the ombudspersons, the School forwarded this submission/response to the competent Ministry. Finally, they noted that the best solution would be to hire a personal SNTA to support the child in the education process. The ombudspersons asked the competent Ministry whether it was possible to provide support to both the School and the child as soon as possible, i.e. to hire a personal SNTA. The Ministry<sup>469</sup> informed the ombudspersons that neither the Strategy on Primary Education and Care in the

<sup>467</sup> Recommendation number P-69/18 dated 9 March 2018;

<sup>468</sup> Document number 8-53-1/20 dated 30 January 2020;

<sup>469</sup> Document number 11/03-10-24530-11/19 dated 28 September 2020;

Territory of Sarajevo Canton nor the Sarajevo Canton Inclusive Education Strategy for Children with Developmental Disabilities including a seven-year implementation plan has been adopted. In addition to that, they informed that PI Secondary School for Vocational Education and Training Sarajevo had been approved to hire three special needs teaching assistants for the school year, but the school principal had the exclusive competence over their specific assignments.

Given that the case dates back to 2016, that the recommendation was issued in 2018, the ombudspersons note that IHROBiH's recommendation has not been complied with, i.e. that the recommendation has not been implemented, and the Sarajevo Canton Government is informed thereof, pursuant to legal powers. However, taking into account the changed circumstances, the ombudspersons invited the School to look into every possibility to ensure the right to the best possible education for the child, taking into particular account the latest information from the Ministry concerning SNTAs, but only to the extent to which it is possible due to the child's health condition.

**Example:** The ombudspersons received a complaint lodged by PI Primary School Mehmedalija Mak Dizdar from Sarajevo<sup>470</sup> because of a child/student diagnosed with epilepsy. The family informed the School that the doctor's recommendation was to have someone sitting next to the boy in the classroom at all times because he was using a therapy and was not to fall asleep. From the moment the information was communicated about the child's health condition, he started missing school, at first it was first classes he was absent from and then whole days. After two years, the School invited the child's family to cooperate and they noted that there was no need for a large number of classes to be missed anymore and no need for the child's aunt to sit in class at all times because that way the student did not establish contact with other children and was always in the company of his aunt. The family never provided the said doctor's recommendation, meetings were organised to clarify that the School was doing everything within its power, but that they did not understand why it was a problem for the parents to provide the recommendation requested as it would be useful for all – the family and the School alike. As proposed by the Ministry, both representatives from the social welfare services of the competent Sarajevo Canton Ministry for Education, Science and Youth and representatives from the Healthcare Centre were involved in the case. The ombudspersons clearly established that the School did not make any mistake concerning the child and that all competent institutions were involved in the process to protect the best interest of the child. It was also clearly established that in case of any mistake made by the parents in their parental care, there would be adequate measures and actions taken by the competent social protection service, and the case was closed by the ombudspersons.

**Example:** The child's father approached the ombudspersons, stating his son had been attending first-year classes in high school – Grammar School "Maarif" until a disciplinary action of expulsion was imposed on him<sup>471</sup>. During the examination procedure, the ombudspersons were informed by the child's parents that they had addressed the competent Sarajevo Canton Ministry for Education, Science and Youth with a request to issue a consent promptly that the child be transferred from Maarif Schools of Sarajevo – Maarif Grammar School to Third Grammar

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<sup>470</sup> Case registered under number Ž-SA-01-1060/19;

<sup>471</sup> Case registered under number Ž-SA-01-1144/20;

School Sarajevo. The Ministry granted their consent for first year enrolment of the student in Third Grammar School in the 2019/2020 school year, and the ombudspersons found that the child had started attending regular classes in Third Grammar School. Most importantly, however, there was cooperation established with “Vladimir Nazor” Centre in order to observe the student and provide assistance to teachers to develop an individualised curriculum for the student, all because of the fact that in his early childhood the child experienced a chronic infection of both ears, which caused profound deafness. Only after a medical treatment and a surgery of both ears, the child started hearing again, but he only started talking at the age of five. His hearing was fully restored but he started talking and communicating at a later date.

This specific case was the immediate cause for the ombudspersons<sup>472</sup> to hold a meeting with Sarajevo Canton Minister for Education, Science and Youth on the functioning of the instruments set up to protect children’s rights, and there was also a discussion on the issue of inclusion in schools, peer violence, teachers’ employment status, as well as on rulebooks and laws adopted by this Ministry.

## **8.9. Children’s right to protection against economic exploitation**

Child begging is a global issue that is becoming increasingly widespread. Very little is said in public about child begging, in particular organised child begging. In many countries it is a very lucrative business (e.g. Italy, countries in Latin America, Mexico).

The situation in Bosnia and Herzegovina is similar. Although we often get to see or even talk to children involved in this profession on our way into cities or at major junctions, one will have trouble finding a serious analysis paper, detailed report or even any kind of information on these children, especially on those that “manage” them.

## **8.10. Children in conflict with the law**

In the course of 2016, the ombudspersons, in cooperation with UNICEF in Bosnia and Herzegovina, visited all institutions where minors in conflict with the law are placed and subsequently drafted a document entitled Analysis of the Situation in Institutions Accommodating Minors in Conflict with the Law in Bosnia and Herzegovina<sup>473</sup>. The cooperation with UNICEF continued in 2018 and it resulted in a document entitled Report on the Implementation of the Recommendations from the document entitled Analysis of the Situation in Institutions Accommodating Minors in Conflict with the Law in Bosnia and Herzegovina’ and Evaluation of the Current Situation<sup>474</sup>. The ombudspersons were happy with the cooperation with the institutions and highlighted that significant progress had been made in two years and that the ombudspersons’ recommendations had been partially implemented. The ombudspersons monitored the progress made with the recommendations sent to competent authorities in 2019, and requested the institutions and competent authorities to provide information. The ombudspersons noted that certain progress had been made.

<sup>472</sup> Ombudsperson Jasminka Džumhur, PhD, and associates, the meeting held on 1 November 2019;

<sup>473</sup> [https://www.ombudsmen.gov.ba/documents/obmudsmen\\_doc2018111912083431bos.pdf](https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2018111912083431bos.pdf)

<sup>474</sup> [https://www.ombudsmen.gov.ba/documents/obmudsmen\\_doc2016100610154998bos.pdf](https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2016100610154998bos.pdf)

The ombudspersons recommended the management of Sarajevo Correctional Facility to secure adequate conditions for the execution of detention measures for minors and to secure the treatment of minors during the detention measure. The institution informed the ombudspersons that the decision of the FBiH Ministry of Justice provided that all minors were to be sent to Orašje Correctional Facility and that they would no longer be sent to this institution<sup>475</sup>. The FBiH Ministry of Justice informed the ombudspersons<sup>476</sup> that in the previous period 30 civil servants and public employees had been employed in the Juvenile Correctional Centre and Juvenile Prison within Orašje Correctional Facility, whereby the conditions for treating minors had significantly improved. They also pointed out there were funds within IPA funds envisaged for building a gymnasium and workshop facilities. They stated that in the forthcoming they would appoint a commission to monitor and improve the work in criminal proceedings and the execution of criminal sanctions imposed on minors.

The High Judicial and Prosecutorial Council of Bosnia and Herzegovina acted on the recommendation from the ombudspersons and provided the IHROBiH Report to the specified courts in Bosnia and Herzegovina<sup>477</sup>.

With regard to the work of the Sarajevo Juvenile Disciplinary Centre, the ombudspersons recommended the Sarajevo Canton Ministry for Labour, Social Policy, Displaced Persons and Refugees and Sarajevo Juvenile Disciplinary Centre to put into service the Diagnostic and Observation Centre as an organisational unit of the Sarajevo Canton Disciplinary Centre. The Sarajevo Canton Disciplinary Centre undertook activities to implement diagnostic and observation centre activities via the Diagnostic Service, but the implementation will depend on securing the budget.<sup>478</sup> The recommendation has not been implemented.

With regard to the work of the Tuzla Canton Disciplinary Centre, the ombudspersons noted that the recommendations concerning the allocation of funds to procure psychological tests and replace exterior joinery at the Disciplinary Centre premises have been fully complied with.<sup>479</sup>

Istočno Sarajevo Correctional Facility – Juvenile Prison acted on the recommendation of the ombudspersons and equipped the living room with furniture suitable for the stay and use by minors.<sup>480</sup>

Implementation of other recommendations: recommendation for the Republika Srpska Ministry of Justice and Istočno Sarajevo Correctional Facility to secure a 24/7 presence of professional staff to work with minors; recommendation for the FBiH Ministry of Justice and Orašje Correctional Facility to separate completely, both in terms of the staff and premises, Juvenile Prison Department and Juvenile Corrections Department, to structure the daily schedule with a view to executing the criminal sanctions and consistently apply the laws and bylaws referring to

<sup>475</sup> Sarajevo Correctional Facility document number 01-12-597/19 dated 18 November 2019;

<sup>476</sup> Document number 04-49-4191-18 dated 6 December 2019;

<sup>477</sup> Document number 06-12-3541-3/2019 dated 2 December 2019;

<sup>478</sup> Ministry's document number 13-02/1-10-40834/19 dated 27 November 2019 and Sarajevo Canton Disciplinary Centre document number 35-01-10-766-01/19 dated 18 November 2019;

<sup>479</sup> TC Disciplinary Centre document number 04-814/19 dated 5 December 2019;

<sup>480</sup> Document number 08/1.04/240-1340/19 dated 18 November 2019;

the amenities and disciplinary procedures against minors; recommendation for Sarajevo Home for Male Children and Youth to secure that two different categories of users sent to the institution on different grounds are completely separated and to remove all the bars from the institution's windows and doors; recommendation for the Republika Srpska Ministry of Justice and Banja Luka Correctional Facility to relocate the Juvenile Corrections Department from the Banja Luka Correctional Facility compound; for the Government of the Federation of Bosnia and Herzegovina, the Government of Sarajevo Canton and the Government of Tuzla Canton to allocate budget funds for additional recruitments in Public Institution Home for Male Children and Youth, Sarajevo Canton Disciplinary Centre and Tuzla Canton Disciplinary Centre; for the governments of the entities and competent ministries to set up special institutions for the treatment and training of minors to facilitate the imposition and execution of this institutional measure and the security measure of compulsory psychiatric treatment, or to set up special departments where this disciplinary measure would be imposed; recommendation for the FBiH Ministry of Justice aimed at additional professional training and specialisation of all staff in institutions involved in treating minors to organise continuous, specialised and licensed trainings that will meet the highest national and international standards; recommendation for the Republika Srpska Ministry of Justice to undertake activities required to set up an educational centre for minors. The ombudspersons were not satisfied and in keeping with their mandate and competences will continue to lobby for the implementation of all mentioned recommendations in the period to come.

The ombudspersons of Bosnia and Herzegovina adopted the Work Programme of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina on 11 August 2020, and revisiting all institutions where minors in conflict with the law are accommodated is planned under activities of the Department for Monitoring the Exercise of the Rights of the Child for 2021.

### **8.11. Council for Children in Bosnia and Herzegovina**

In a document dated 7 October 2020 the ombudspersons addressed the Ministry for Human Rights and Refugees of Bosnia and Herzegovina, the Republika Srpska Ministry of Family, Youth and Sport and the FBiH Ministry of Labour and Social Policy (Federation of Bosnia and Herzegovina). In the said document we requested information about the current status of the Council for Children in Bosnia and Herzegovina. The responses received so far entail as follows:

#### **Ministry for Human Rights and Refugees of BiH<sup>481</sup>:**

The Council for Children in BiH was established by the Decision on the Establishment of the Council for Children in BiH (The Official Gazette of BiH, no 04/13 and 66/19). It was conceived and established as a professional, intersectoral, advisory and coordinating body of the Council of Ministers of Bosnia and Herzegovina within the Ministry for Human Rights and Refugees of Bosnia and Herzegovina, and is responsible for promoting and protecting the rights of children in Bosnia and Herzegovina, focusing on the Action Plan for Children of Bosnia and Herzegovina.

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<sup>481</sup> Document number 07-37-1-1952-2/20 dated 2 November 2020;

The Decision on the Appointment of the Members of the Council for Children in Bosnia and Herzegovina (The Official Gazette of BiH, no 95/13) sets forth the composition and the way the members of the first Council are appointed. The first Council comprised 13 members (eight civil servants appointed by the competent ministries, two from non-governmental organisations appointed by the network “Stronger Voice for Children” and three from the academic community, i.e. Sarajevo, Banja Luka and Mostar universities). The members appointed by state-level ministries and agencies coordinate the exchange of information with entity ministries.

Upon the expiry of the first Council’s term, the Ministry for Human Rights and Refugees of Bosnia and Herzegovina initiated the process for appointing the new Council in 2018 and 2019, but not all appointments were collected. Afterwards, in the course of 2020, the Ministry re-initiated the appointment process and government institutions and non-governmental organisations provided the names of their respective representatives, while the academic community representatives were selected via a public call of this Ministry. Based on the process conducted, the Decision on the Appointment of the Council for Children in BiH was issued and was sent to the Legislative Office of BiH and Ministry of Finance and Treasury of BiH. After conducting a public consultation exercise and compiling positive opinions, the decision will be sent to the Council of Ministers of BiH for adoption.

#### **FBiH Ministry of Labour and Social Policy<sup>482</sup>:**

At the 13th regular session of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina held on 28 July 2020, Member Alma Kratina proposed adopting a conclusion whereby the Government of the Federation of BiH was obliged to form within 90 days the FBiH Council for Children which would act within this FBiH Ministry as a professional, advisory, intersectoral and coordinating body and comprise representatives from competent ministries, non-governmental organisations and the academic community.

This conclusion proposal was sent in a document<sup>483</sup> to the FBiH Government with a view to obtaining their opinion, so that the House of Representatives of the FBiH Parliament could state its position concerning it and then, in an FBiH Government document<sup>484</sup>, it was forwarded to the FBiH Ministry of Labour and Social Policy. Acting on the document in question while complying with the relevant legislation, the MLSP prepared and provided a positive ruling that the FBiH Government adopted at its 235th session held on 10 September 2020 and forwarded to the House of Representative of the FBiH Parliament for further proceedings.

#### **Republika Srpska Ministry of Family, Youth and Sport**

The RS MFYS had not sent any response as of the day this Annual Report was drafted.

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<sup>482</sup> Document number 05-31/10-2324/20 MJ dated 15 October 2020;

<sup>483</sup> Document number 01-02-1399/20 dated 28 July 2020;

<sup>484</sup> Document number 03-04-980-8/20 dated 10 August 2020;

## IX. RIGHTS OF PERSONS WITH DISABILITIES

Protection of persons with disabilities is one of the most sensitive and specific elements of social development, economic, and primarily social policy in general. The position of persons with disabilities nowadays must be seen as a primarily human right issue. Disability is a complex social phenomenon which permeates practically every segment of modern life and requires a multisectoral approach and cooperation between different authorities, local self-governance bodies, civil sector and persons with disabilities themselves and their organisations. The focus is put on guaranteeing the equality of persons with disabilities, non-discrimination and their full participation in society.

The position of persons with disabilities in Bosnia and Herzegovina is governed by numerous laws and bylaws and the provisions related to the rights of such persons are thus found in all major laws that the parliaments of all levels of government in Bosnia and Herzegovina have enacted. Almost every piece of legislation in minimum one of its articles mentions one or the other right of persons with disabilities. On the other hand, the position of persons with disabilities is also governed by international conventions that Bosnia and Herzegovina has ratified, thereby making some of them part of domestic law and as such they can apply directly.

The most important public international law document is the United Nations Convention on the Rights of Persons with Disabilities (hereinafter referred to as “CRPD”). The CRPD is the first comprehensive document safeguarding the rights and fundamental freedoms of persons with disabilities<sup>485</sup>. As for regional or European documents, the Revised European Social Charter is of particular importance as it, in its Article 15, ensures to persons with disabilities the right to independence, social integration and participation in the life of the community.

The CRPD does not create new rights for persons with disabilities but foresees measures to be taken by the States Parties to ensure to persons with disabilities the effective exercise of civil, political, economic, social, cultural and any other rights to which they are entitled. The CRPD provides for measures to be taken by the States Parties to enable persons with disabilities to participate fully and equally in all aspects of social life on an equal basis with others.

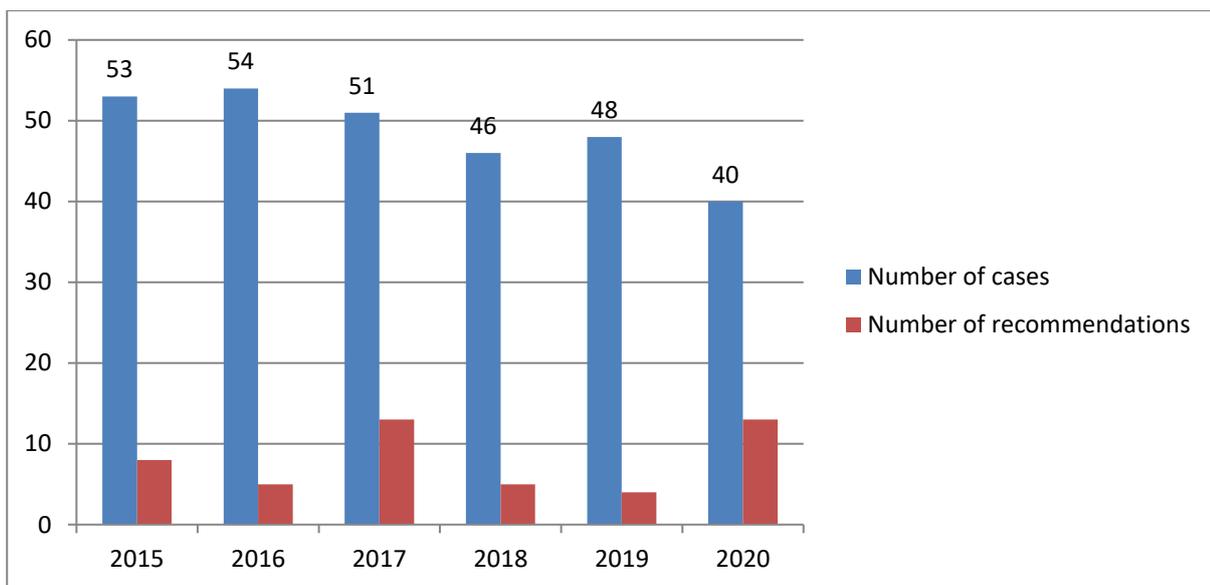
Different and discriminatory treatment of persons with disabilities in Bosnia and Herzegovina is not a novelty, and their position is further complicated due to the coronavirus pandemic. Unfortunately, problems remain concerning the exercise of the rights of persons with disabilities, such as architectural barriers, inaccessibility of public transportation, inadequate healthcare, chronic lack of positions or jobs for persons with disabilities, etc. Without systemic solutions it is difficult to secure accessibility of services to persons with disabilities. The ombudspersons point to the major lack of information and communication with persons with hearing and visual impairments and persons with intellectual and physical disabilities, and that for these reasons such persons are deprived of key information on COVID-19 prevention and assistance. Also, the fact that COVID-19 quarantine or transport facilities do not meet the needs of persons with

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<sup>485</sup> United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol, Resolution A/RES/61/106, adopted on 13 December 2006. Bosnia and Herzegovina ratified the UN CRPD and its Optional Protocol on 12 March 2010, and it entered into force on 11 April 2010.

disabilities raises particular concerns. The ombudspersons point out that the exercise of the rights enshrined in the CRPD, which was ratified by Bosnia and Herzegovina, includes the commitment of the state to do everything to make the lives of persons with disabilities easier and to facilitate their full participation in all aspects of life and work and their involvement in the life of the community. Therefore, the ombudspersons call on all competent authorities in Bosnia and Herzegovina to invest efforts and take specific measures that will provide to persons with disabilities equal treatment without discrimination on any grounds.

IHROBiH registered 40 cases concerning this area in 2020, with 11 recommendations issued in 13 cases. For comparative purposes, the number of complaints received and recommendations issued for the period 2015-2020 is shown below.



Cases received in the reporting period refer mostly to issues concerning the exercise of social protection and healthcare rights, pension and disability rights, rights to education, employment, accommodation in social protection institutions, and to the issue of accessibility of public transportation. In a considerable number of complaints, for the nth time citizens expressed their dissatisfaction with the work of the Institute for Forensic Medical Examinations in the Federation of Bosnia and Herzegovina. In addition, the following problems were also noticeable: there is no single definition of disability in the Federation of Bosnia and Herzegovina, the terminology is different and is not in line with the CRPD; there is no single Federation of Bosnia and Herzegovina register/database of persons with disabilities with relevant data (age, gender, socio-economic status, type and degree of disability, locality, level of education, etc.); there are a number of barriers/inaccessibility (construction, information, psychological in “the heads” of people, traffic, etc.); support services are insufficient/inadequate, especially in rural areas; there are no available formats or techniques to provide access to information for persons with disabilities in accordance with their needs, which in turn prevents communication (schools, hospitals, municipalities, pharmacies, shops, etc.) and this includes web accessibility; there are no mechanisms to monitor the implementation of the CRPD or penalties in place for those responsible for the implementation of different international instruments; sound traffic lights are rare in BiH; in some cantons, persons with disabilities are rarely involved in the adoption of policies, strategies and other documents...

Recommendations issued in the reporting period refer to the issues concerning elimination of accessibility problems in education institutions and instruction process, the issues concerning availability and accessibility of transportation in Sarajevo Canton, execution of judgements where one of the parties is a person with a disability, and the issues concerning funding the work of associations for persons with disabilities.

Despite it being pandemic-ridden, 2020, similar to earlier years, sees a noticeable progress in Bosnia and Herzegovina, especially when it comes to the implementation of certain activities envisaged in strategic documents which refer to the exercise and protection of rights of persons with disabilities<sup>486</sup>. However, despite that, the recommendations from the Universal Periodic Review (UPR) Working Group Report from November 2019<sup>487</sup> and the recommendations of the United Nations Committee of the Rights of Persons with Disabilities from April 2017<sup>488</sup> indicate that it is necessary to work continuously on raising public awareness, i.e. promoting and protecting the rights of persons with disabilities.

IHROBiH representatives took part, though a lot less than in previous years, in conferences, working meetings and round-tables where the human rights situation of persons with disabilities was discussed. The definite reason for that was the difficult epidemiological situation, the impossibility to travel throughout the year and reduced activities carried out. During 2020, there was continuous communication with international bodies, in particular concerning the exercise of rights of persons with disabilities in the time of a pandemic.

## 9.1. Status issues of persons with disabilities

According to the CRPD, the States Parties undertake to ensure and improve the full realisation of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability (Article 4). The States Parties are also obliged to take measures to include the issues of the position of persons with disabilities into all relevant general regulations and policies (Article 4). The States are obliged to provide to persons with disabilities effective legal protection against discrimination (Article 5).

The CRPD envisages the obligation of the States to take measures to ensure to women with disabilities (Article 6) and children with disabilities (Article 7) the enjoyment of all rights on an equal basis.

In its Article 8, the CRPD envisages measures that the States Parties undertake to raise awareness of the rights of persons with disabilities. States Parties are also obliged to take appropriate measures to eliminate obstacles and barriers and ensure to persons with disabilities

<sup>486</sup> 2016-2021 Strategy for Improving the Rights and Position of Persons with Disabilities in the Federation of Bosnia and Herzegovina and 2017-2026 Strategy for Improving the Social Position of Persons with Disabilities in the Republika Srpska.

<sup>487</sup> Universal Periodic Review (UPR) Working Group Report from 2019, available at <http://www.mhrr.gov.ba/PDF/LjudskaPrava/Zakljucna%20zapazanja%20na%20Treci%20ciklus%20UPR-a.pdf>

<sup>488</sup> Concluding observations on the initial report of Bosnia and Herzegovina dated 12 April 2017 [http://www.mhrr.gov.ba/ljudska\\_prava/Prava\\_osoba\\_sa\\_invaliditetom/Zakljucna%20razmatranja%20i%20preporuke%20Komiteta%20za%20prava%20osoba%20sa%20invaliditetom%20za%20BiH.pdf](http://www.mhrr.gov.ba/ljudska_prava/Prava_osoba_sa_invaliditetom/Zakljucna%20razmatranja%20i%20preporuke%20Komiteta%20za%20prava%20osoba%20sa%20invaliditetom%20za%20BiH.pdf)

access to the physical environment, to public transportation, to information and communications, services open and intended to the public (Article 9).

**Example:** The case in question was opened ex officio and entitled “Disability Action Plan in HNC”<sup>489</sup>. The primary objective of the Action Plan is to respect and exercise human rights, fundamental freedoms and dignity of all persons with disabilities on the grounds of disability, and to improve the status of persons with disabilities by enhancing the legal framework and ensuring legal support and protection of the rights of persons with disabilities in the territory of HNC. The Fund for Professional Rehabilitation and Employment of Persons with Disabilities, the HNC Government, and cantonal ministries of labour and social policy and the Cantonal Employment Bureau are competent for the field of professional rehabilitation and employment. The relevant documents from the HNC Government concerning the progress made were provided and the ombudspersons has been following the methodology when drafting the Action Plan and active participation of the HNC Government.

**Example:** The ombudspersons received a number of complaints<sup>490</sup> from persons with disabilities unhappy with public appearances of an MP in the Republika Srpska National Assembly, in the context of him using the expression “persons with special needs”<sup>491</sup> in his address during an RSNA session and later when giving a TV statement. In the complaint sent by the Republika Srpska Union of Associations for Mentally Challenged Persons it is stated that *“using comparisons that characterise one person completely negatively and identify them with an entire population of persons with disabilities or persons with intellectual disabilities is both shameful and unacceptable”*.

The ombudspersons were asked to provide their position on the given statements. The ombudspersons issued a press release which was provided to the complainant as well, where they clearly expressed their view on the use of terminology that can refer to all vulnerable population categories, in particular persons with disabilities, in any negative context that undermines their dignity.

The ombudspersons are of the opinion that members of all parliaments in Bosnia and Herzegovina as elected representatives of the people are very important and influential because of the work they do, and that is why they use the opportunity to call on the latter to use their influence to promote the rights of vulnerable population categories, especially persons with disabilities and improve their position by approximating the applicable legislation to international standards.

## 9.2. Social protection rights of persons with disabilities

A number of complaints received by IHROBiH referred to the difficult economic and social situation of persons with disabilities. Vulnerable populations are particularly affected by social insecurity and poverty because of limited opportunities or different needs of these persons. Thus,

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<sup>489</sup> Case registered under number Ž-MO-02-81/20;

<sup>490</sup> Cases registered under number Ž-BL-02-359/20 and Ž-BL-02-258/20;

<sup>491</sup> The expression used does not necessarily reflect IHROBiH views;

the way assistance is provided is not the same. In these cases, the ombudspersons inevitably request the competent social welfare centres to make on-site visits and undertake all actions falling within their competence.

**Example:** The complainant<sup>492</sup> is a person who had a 70-percent permanent disability rating - group V and orthopaedic allowance of grade II assigned to him by the competent body's decision, which was then reduced by 10% following the re-examination. After the re-examination, the complainant's health condition deteriorated and in a telephone conversation with his wife we were informed that it was uncertain if the person would live to undergo the next forensic medical examination by the Institute. The complainant was given an eight-day deadline to file a complaint, which he failed to do in a timely manner due to his bad health and his complaint was dismissed as untimely. There are different problems that occur in practice because commissions provide different opinions that sometimes depend on the area the complainant comes from. We bear in mind the 2019 Annual Report which read as follows: "Ombudsmen will consider these issues in 2020 and continue to insist on the application of the principles underpinning the United Nations Convention on the Rights of Persons with Disabilities".

**Example:** IHROBiH monitors the initiative of the Multiple Sclerosis Association of Eastern Herzegovina Region via the complaint<sup>493</sup> which concerns amendments to Article 35 of the Republika Srpska Social Protection Law<sup>494</sup>. This Article prescribes that the right to personal disability allowance is exercised, inter alia, by persons dependent on the assistance and care of other people to meet their basic needs whose injury/disease occurred in the developmental stage in life (by the time they turned 18).

The adoption of the said provisions led to depriving persons whose disability did not occur in the developmental stage in life, i.e. by the age of 18, of their right to personal disability allowance. Different treatment of persons with disabilities, depending on the time when the disability occurred, is neither in keeping with international human rights law nor with domestic legislation, primarily the Prohibition of Discrimination Act, which is why the initiative in question is currently before the Republika Srpska Constitutional Court for the purpose of constitutional review of the said legal provision.

**Example:** The complainant<sup>495</sup> stated that she was living in difficult conditions and that her son was a person with a disability. She stated that their livelihood mostly depended on the aid they received from people. Given the above, Gradiška Social Welfare Centre was requested to provide information on the social status of the vulnerable family, on whether L.B. or his mother were the beneficiaries of social protection services and on rights they may be exercising on these grounds.

The competent Centre provided the statement on the social status of L.B.'s family where, inter alia, it read that this family had their family house built using funds raised by donors, that according to the decision of PI Social Welfare Centre dated 7 June 2017 L.B. was the beneficiary

<sup>492</sup> Case registered under number Ž-MO-02-112/20;

<sup>493</sup> Case registered under number Ž-MO-06-58/20;

<sup>494</sup> Republika Srpska Social Protection Act, *The Official Gazette of the Republika Srpska*, no 42/2020.

<sup>495</sup> Case registered under number Ž-BL-02-411/20;

of the allowance for the assistance and care of another in the amount of KM 181.20 per month, and that the decision of the competent Centre recognised L.B.'s right to have some of the water supply charges subsidised. It also read that the household members had benefited from one-off financial assistance payments from time to time, and that L.B.'s mother was the beneficiary of the family pension.

**Example:** The complainant<sup>496</sup> stated that she was the guardian of her daughter who had been deprived of legal capacity and that she lived on KM200 of monthly income. The complainant stated that her financial situation was difficult and her medical condition was serious. The ombudspersons requested the competent social welfare centre to take measures falling within their competence with a view to determining the social status of the family and potentially granting social benefits.

The ombudspersons have in their reports stressed that families with persons with disabilities are particularly vulnerable and that support for these families is necessary. In stressing that, they did not refer only to financial support but also to other forms of support (advisory, moral, etc.).

### 9.3. Funding and work of associations of persons with disabilities

According to the CRPD, the States Parties shall implement it, as well as any other regulation and decision pertaining to persons with disabilities, in consultation with these persons and their representative organisations.

The cooperation with non-governmental organisations lobbying for the rights of persons with disabilities constitutes a separate segment of the work of IHROBiH. The ombudspersons come to learn about the extent to which the rights of persons with disabilities are exercised and about their involvement in designing, planning, implementing and evaluating support services through actions of associations that bring together and lobby for the rights of persons with disabilities.

In the course of 2020, we deliberated on several complaints indicating serious omissions of both the FBiH Fund for Professional Rehabilitation and Employment of Persons with Disabilities and other bodies that monitor how earmarked funds allocated from the public budgets are spent. The complaints contained statements on allegedly illegal actions in the associations that were beneficiaries of different projects, and public authorities failed to take quick, efficient and clear measures in order to eliminate and prevent possible illegal actions in the future.

**Example:** The complainant approached the ombudspersons<sup>497</sup> stating that as a disabled person he was hired by a company for an indefinite period based on the April 2018 Public Call for Granting Financial Incentives of the Fund for Professional Rehabilitation, Training and Employment of Persons with Disabilities. According to the employment contract, the complainant was assigned to work as a packaging assistant for finished products, and the same contract envisaged the base monthly salary in the net amount of KM450. However, the complainant states from the moment he commenced work he did not perform that job but was

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<sup>496</sup> Case registered under number Ž-BL-04-712/20;

<sup>497</sup> Case registered under number Ž-SA-02-425/20;

instead assigned to maintain the nursery and harvest raspberries without a prior medical check-up to confirm he was capable of performing the said work.

The complainant also stated that in January 2020 he used his annual leave which was registered as paid leave on the files but that afterwards, under the pretence of “*a mistake made by an administrative worker*”, he was made to return the amount of KM400 to the manager. The complaint alleges that the practice continued, though with a smaller amount of KM200, under the pretence of “*filling the cash register for the next month*”. Also, the complaint states that the complainant’s employment contract was terminated on 17 April 2020, after his mother, as his legal guardian, sent a complaint and requested a written proof of the above said.

The ombudspersons conducted an examination procedure after which a recommendation<sup>498</sup> was issued. The ombudspersons established that circa KM374,978.00 was paid out to this company between September 2017 and September 2019. Furthermore, it was established that the Fund identified a certain smaller amount of misspent funds and called the company to refund them. A number of persons with disabilities addressed the Fund, stating irregularities in the way the contracts were implemented, after which the Fund proposed to the Board of Directors to issue a decision suspending payments of net salary benefits and subsidies for the month of January.

The ombudspersons found that the Fund adopted the accompanying bylaws containing elaborated criteria and requirements for granting funds for employment of persons with disabilities as late as March 2020, only once the information on potential abuses occurred in the media and once persons alleging certain abuses started approaching the Fund. The ombudspersons also pointed that a mandatory section of the form should also be photographs of the products made, events staged and renovations carried out, employee performance evaluation reports, etc. It was also pointed out that the Fund, in its supervisory competence, should carry out compulsory, continuous and unannounced supervision of every company that had funds granted to it, irrespective of whether reports on illegal actions had been received. Also, the Fund failed to prescribe the protective mechanism and procedure in case employees with disabilities file complaints.

The procedure for monitoring the implementation of the recommendation is ongoing.

Example: The complainant<sup>499</sup> approached the ombudspersons pointing to abuses committed when the Central Bosnia Canton Association of Disabled Veterans and the companies employing persons with disabilities *Apel promet* and *RVI prevoz* hired persons with disabilities.

In addition to the complaint, the complainant provided Minutes no 01-171-11/16 dated 29 November 2016 from the meeting of the Central Bosnia Canton Association of Disabled Veterans, and pointed out that the given Minutes clearly showed that persons with disabilities would be employed with incentives from the Fund and that certain groups of those persons would not be actually hired and that the difference between KM100.00 and salary amount paid to them would be returned to the companies for the purpose of their further development. The

<sup>498</sup> Recommendation number P-245/20 dated 6 November 2020;

<sup>499</sup> Case registered under number Ž-SA-02-525/20;

Minutes also stated that in case certain workers were unhappy with that, their employment would be terminated. The Minutes were provided to the ombudspersons for their information. After the procedure, a recommendation<sup>500</sup> was issued with a view to eliminating the identified deficiencies in the procedures for justifying the spent funds.

The ombudspersons highlighted as worrisome the fact that the Fund issued the implementing documents (rulebooks) containing clear criteria, standards and requirements for exercising the rights as late as in March 2020, given that potential abuses had been pointed to for a long time. The question that arises here is what criteria were used for granting funds prior to March 2020.

They reminded that the Fund is a public institution and the funds granted for the purpose of Article 59 of the Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities are budgetary funds allocated by citizens as well, and any action by the Fund must be based on the principles of transparency and openness with the core objective, namely reasonable adaptation for persons with disabilities. Therefore, the Fund's controls must be strict and clearly prescribed to prevent any potential illegal actions, including misspending. The same recommendation pointed to the obligation of the Financial Police to perform an audit following a report filed. With regard to that, it was highlighted that no audit procedure had been performed and no specific measures had been issued by the day this recommendation was drafted, and that there was no information as to the stage of the given procedure or when its completion could be expected.

The procedure for monitoring the implementation of the recommendation is ongoing.

Example: The ombudspersons considered the complainant's complaint requesting identity protection<sup>501</sup>. The complaint pointed to the non-transparent spending of the fees on organising games of chance allocated to the Association of the Blind of Una-Sana Canton. The complaint stated KM 30,000 were allocated to the Association of the Blind of Una-Sana Canton in 2017 for implementing "Road to Independence" project activities, while KM22,000 were allocated to the same Association for the same project in 2018.

The "Road to Independence" project envisages a computer training, white cane orientation and mobility training, and cooking course. The complainant stressed that they applied to the said project, but that none of the said activities, foreseen in the project, were carried out. The documentation that certain members allegedly obtained from the FBiH Ministry of Labour and Social Policy based on the Freedom of Information Act of the Federation of Bosnia and Herzegovina indicates a number of irregularities in the activities foreseen by the project, including that none of the instructors conducted the planned trainings. They pointed out that the MLSP was provided with payment slips without bank stamps and they expressed their doubts that the payments had been made. Furthermore and in support of the argument made, they pointed out that the last Association assembly meeting was held in 2016.

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<sup>500</sup> Recommendation number P- 245/20 dated 6 November 2020;

<sup>501</sup> Case registered under number Ž-SA-02-508/19;

The ombudspersons carried out an examination procedure after which a recommendation<sup>502</sup> with a view to eliminating the identified deficiencies was issued to the FBiH Ministry of Labour and Social Policy.

The ombudspersons used the said recommendation to point out that their actions had continuously supported all forms of social inclusion of persons with disabilities and associations that bring persons with disabilities together. We believe that this form of funding and support for creative and useful projects also contributes considerably to the improvement of the position and visibility of persons with disabilities in Bosnia and Herzegovina. Through their activities, the ombudspersons will continue to support all affirmative measures taken by the competent bodies with a view to enhancing the position of persons with disabilities and putting them on an equal footing with others in social, economic, labour and professional domains.

The ombudspersons highlighted that the fact that the FBiH Ministry of Labour and Social Policy issued the said instruction as late as in February 2020 was worrisome. The instruction was issued with a view to governing the procedure and methods for accounting for the earmarked funds from fees on organising games of chance allocated to the beneficiaries. The ombudspersons remind that the funds allocated to associations and organisations are funds from the FBiH budget and it is thus extremely important that the procedure for allocating and accounting for the funds spent is based on the principles of transparency and openness. Therefore, the controls of the competent ministry must be strict and clearly regulated in order to prevent any illegal activities, including misuse of funds.

In this specific case, the ombudspersons believe that photographs from events, workshops, education events, workshops, trainings, etc., trainers' reports, project participants' evaluations should all be a mandatory section of the form. Also, the ombudspersons believe that the FBiH Ministry of Labour and Social Policy should monitor on a continuous and ad hoc basis so that it can, at all times, request and have access to the documentation of the association that is the beneficiary of the funds.

The monitoring of implementation of the said recommendation is ongoing.

**Example:** The ombudspersons considered a complaint<sup>503</sup> of the Coordination Board of Cantonal Associations and Alliances of Persons with Disabilities of Una-Sana Canton pointing to the issue of non-transparent funding of associations of persons with disabilities in the territory of Una-Sana Canton, as well as the issue of monitoring the spending of the funds allocated to associations from the Una-Sana Canton budget.

Following the investigation procedure, the ombudspersons issued a recommendation<sup>504</sup> to the Una-Sana Canton Government and Ministry of Health, Labour and Social Policy to publish open calls to grant funds to non-governmental organisations and citizen associations in the future, to adopt and publicise the criteria and requirements for allocating the grants from the budget for non-governmental organisations and citizen associations with the view to strengthening the

<sup>502</sup> Recommendation number P- 243/20 dated 13 November 2020;

<sup>503</sup> Case registered under number Ž-SA-02-1293/19;

<sup>504</sup> Recommendation number P-277/19 dated 11 December 2019;

transparency of the allocation process for funds from the Una-Sana Canton budget, by enabling all non-governmental organisations and citizen association to take part in the procedure on an equal basis. It was also recommended that the form for reporting on spending the grants allocated from the Una-Sana Canton budget be adopted and publicised immediately upon receiving the recommendation, and to work continuously on strengthening the cooperation and social dialogue with associations of persons with disabilities, in particular when drafting regulations and taking decisions concerning persons with disabilities.

The ombudspersons received a document from the Una-Sana Canton Ministry of Health, Labour and Social Policy from which it follows that in 2018 and 2019, the MHLSP conducted almost 20 meetings that were hours long with the Coordination Board of Cantonal Associations and Alliances of Persons with Disabilities of Una-Sana Canton, that the Coordination Board was also provided with the decision on the criteria and procedure for allocating funds for associations of persons with disabilities for their opinion. In the same document, it read as follows: *“by adopting the Decision on the Criteria and Procedure for Allocating Funds for Associations of Persons with Disabilities for 2019 (The Official Gazette of USC, no 19/19) a considerable progress was made in terms of transparency of the procedure for allocating funds to associations of persons with disabilities, and the fund allocation procedure for 2020 will be additionally improved.”*<sup>505</sup>

IHROBiH’s recommendation<sup>506</sup> was implemented.

**Example:** The Association of Parents of Handicapped Children and Youth Leptir Srebrenica<sup>507</sup> filed a complaint with IHROBiH. The reason for approaching IHROBiH was timely and full protection of a girl (20 years old) with intellectual disabilities from Bratunac as there were grounds to suspect that she was a victim of sexual violence committed by a close relative. At the request of the Association of Parents of Handicapped Children and Youth Leptir Srebrenica and with the view of providing comprehensive protection to the victim, the ombudspersons addressed the competent social welfare centre, police station and competent prosecutor’s office during the investigation procedure and received their statements.

Given that in Bosnia and Herzegovina, irrespective of the level of government, no protocol has been signed concerning the protection of sexual violence victims, the ombudspersons supported project activities that this association was trying to implement in the forthcoming period and that refer to the protection of violence victims – women with disabilities and mothers of children with developmental disabilities.

The ombudspersons especially lobby for the existence and provision of specialised assistance and support to persons with disabilities as victims of criminal offences when the criminal offence is not just an isolated incident but rather an identity attack (profiling victims).

The importance of civil society organisations is particularly visible in the time of the COVID-19 pandemic and in the process of de-institutionalising institutionalised persons, which the

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<sup>505</sup> Document of the Una-Sana Canton Ministry of Health, Labour and Social Policy, numbered 09-14-14575-2/19 and dated 24 January 2020;

<sup>506</sup> Recommendation number P-277/19 dated 11 December 2019;

<sup>507</sup> Case registered under number Ž-BL-02-469/20;

ombudspersons reported on in their Special Report on the Status of Persons with Intellectual and Mental Disabilities.

**Example:** A submission from the Šamac Citizen Association for Providing Assistance to Persons with Special Needs was sent to both IHROBiH and the Republika Srpska National Assembly Legislative Committee<sup>508</sup>. The reason for approaching IHROBiH and the RSNA Legislative Committee was the fact that the complainants believed the competent authorities violated the right to work of parents who provided all-day care to helpless children because it was impossible for them to find work anywhere. They allege that *they represent the rights and interests of a vulnerable population, primarily children and youth with combined disabilities. Children and youth undergo the classification procedure and in most cases it is children and youth with intellectual disabilities. Children and parents and families exercise their rights in keeping with the applicable legislation of the Republika Srpska (disability living allowance and KM-80 monthly allowance, totalling KM180). It is common knowledge that this amount is not even remotely enough to meet basic needs.* The Association believes that it is unfair to “place” the entire burden on the family or the parents of these children and that more sensibility and understanding is needed. They pointed to the practice that is in place in some of the neighbouring countries, where income is provided to one of the parents of a child with special needs, namely the right to a monthly gross salary. According to the Association’s claims, they addressed the competent ministry, which invoked the Social Protection Act. They requested legal advice, i.e. interpretation of domestic and international regulations from the legislative authority and IHROBiH, so that parents of children with special needs could exercise their right to work.

**It was pointed out to the Association that the Republika Srpska currently provided for the right to work half-time in order to provide intensive care to children with intellectual and physical disabilities (child protection right). During the examination procedure, the ombudspersons invited the competent Ministry to inform them of any new plans to, inter alia, improve the position and enhance the rights of children with special needs/with intellectual and physical disabilities and thus their families. The Ministry responded to the ombudspersons’ enquiry<sup>509</sup> and the document from the competent Ministry was subsequently sent to the Association (they were also informed that they could provide their comments to the competent Ministry’s statement). They were also advised to inform the ombudspersons of whether they had received any response from the RSNA Legislative Committee. In addition, it was pointed out to the Association that there was the Department for Monitoring the Exercise of Rights of Persons with Disabilities within IHROBiH and that it worked and took activities concerning complaints from natural persons and legal entities but also ex officio.**

#### **9.4. Education of persons with disabilities**

The competent authorities in Bosnia and Herzegovina are obliged to invest effort and take activities on a continuous basis to ensure unhindered access to education to persons with

<sup>508</sup> Case registered under number Ž-BL-02-889/19;

<sup>509</sup> Document number 11/05-533-153/19 dated 19 December 2019;

disabilities. The right to education is also provided for under Article 24 of the United Nations Convention on the Rights of Persons with Disabilities.

**Example:** Pursuant to their legal authority and based on intelligence from the media, the ombudspersons registered a case<sup>510</sup> *ex officio* in connection with a female student of Sarajevo Law School who was prevented access to the Sarajevo Law School building due to architectural barriers.

The ombudspersons issued a recommendation<sup>511</sup> to the Sarajevo Canton Government and Sarajevo University where they pointed out that, when it comes to accessibility, persons with disabilities in Bosnia and Herzegovina were faced with a series of difficulties because of the very fact that issues of importance for them were not resolved systemically by the competent bodies providing support, via specific measures, in the exercise of human rights to persons with disabilities. Delays in resolving the issue of accessibility in the best interest of persons with disabilities is definitely making the enhancement of their rights and respect of the principles of equality and non-discrimination more difficult.

Sarajevo University sent information from the Student Support Office providing the overview of measures taken with a view to enabling unhindered access to the education system for persons with disabilities. With regard to this, the information reads as follows: *“The Student Support Office implemented a number of activities in 2019 and 2020 with a view to resolving architectural, IT and psychosocial barriers for all university students at Sarajevo University, including students with disabilities. The academic and administrative staff are not excluded from these processes. We continuously work to detect barriers and to search for calls to which we could apply to eliminate these barriers.”*<sup>512</sup>

The activities highlighted as some of the most important that the Student Support Office has implemented are as follows: researching into the situation at Sarajevo University, detecting and resolving instances of impeded access to the Law School library, providing OCR scanners for professional literature and speech softwares, applying for a project to eliminate architectural barriers to the Bulgarian Embassy, applying to the Open Call of the Sarajevo Canton Ministry for Labour, Social Policy, Displaced Persons and Refugees to resolve architectural barriers at eleven (11) organisational units, including Sarajevo Law School. Also, the ‘You have the right to know’ brochure for persons with disabilities was prepared, and the document states that the University has assistive technology from different areas used for instructional purposes and that a Braille printer was donated to Sarajevo University in 2018.

The Sarajevo Canton Ministry for Education, Science and Youth provided information stating that efforts were invested and activities were taken continuously to ensure unhindered access to education to persons with disabilities. It is stated in the same document that Article 67 of the Sarajevo Canton Higher Education Act<sup>513</sup> codified the rights of students with disabilities by recognising the right of university students with developmental disabilities and disabilities to

<sup>510</sup> Case registered under number Ž-SA-02-1251/18;

<sup>511</sup> Recommendation number P-284/19 dated 11 December 2019;

<sup>512</sup> Sarajevo University, document number 0101-5030/20 dated 18 May 2020;

<sup>513</sup> *The Official Gazette of Sarajevo Canton*, no 33/17;

have the teaching process and attendance requirements individualised, to participate in the delivery of particular curricular contents and student assessments.<sup>514</sup>

The ombudspersons note that the recommendation<sup>515</sup> was implemented partially. Given that this is a complex area that requires thorough reform and continuous support by the authorities, the ombudspersons continued to monitor the measures that the competent bodies were taking with a view to introducing inclusive education in the education process in Sarajevo Canton.

**Example:** The ombudspersons considered a complaint<sup>516</sup> filed by the Tuzla Association of the Visually Impaired that concerned the actions of the Fund for Professional Rehabilitation and Employment of Persons with Disabilities in the procedure for implementing the Open Call for Supporting the Education of Persons with Disabilities. The complaint states that there is a LOT for supporting the education of persons with disabilities within the Open Call announced twice by the Fund. However, a number of students from Tuzla University approached the Association, pointing to the problem they faced when applying to the said Open Call. Applications of students from Tuzla University were rejected because it did not pay the 0.5-percent tax to the Fund. The Association states in the complaint that it is unacceptable to have students with disabilities suffer the consequences of the said action taken by Tuzla University, that there are other mechanisms the Fund can utilise to collect the outstanding debts.

The ombudspersons conducted an examination procedure and obtained information from Tuzla University<sup>517</sup> stating that pursuant to legal provisions and on a monthly basis Tuzla University calculates and pays into the Fund for Stimulating Rehabilitation and Employment of Persons with Disabilities the amount of 25 percent of the average salary in the Federation of Bosnia and Herzegovina for each person the Fund is required to hire. In addition to the said document, the subledger records for account 613979 were provided that can corroborate the above, and the ombudspersons informed the Fund thereof.

The complainants then provided a memo where they stated that Association members were able to exercise their right to education support following IHROBiH's intervention and that the Fund changed its position.

## **9.5. Right to employment, professional rehabilitation and training of persons with disabilities**

Persons with disabilities have the right to employment (right to work and employment is provided for under Article 27 of the United Nations Convention on the Rights of Persons with Disabilities). Persons with disabilities in the Republika Srpska are employed with the mediation or assistance of the Fund for Professional Rehabilitation and Employment, with incentives to start one's own business, and lately with increasingly active social entrepreneurship or workshops where persons with more severe forms of disabilities can find their place.

<sup>514</sup> Sarajevo Canton Ministry for Education, Science and Youth, document number 11/05-34-44666-3/19 dated 20 May 2020.

<sup>515</sup> Recommendation number P-284/19 dated 11 December 2019;

<sup>516</sup> Case registered under number Ž-SA-02-1206/19;

<sup>517</sup> Tuzla University, document number 01-6541-1/19 dated 17 December 2019;

## 9.6. Persons with disabilities and COVID-19

The COVID-19 pandemic has definitely had an impact on the rights of persons with disabilities, in particular persons with intellectual and psychological disabilities. Namely, there are frequent calls when there is a “psychic crisis”, but there are also calls from guardians concerning the future care of their protégés with certain intellectual and psychological disabilities<sup>518</sup>. On the other hand, the ombudspersons were unable to carry out their regular activities that, as needed, involved visits to institutions for persons with intellectual and psychological disabilities, which made their monitoring of the implementation of recommendations from the Special Report on the Status of Rights of Persons with Intellectual and Psychological Disabilities more difficult. The overall deterioration of mental health has raised the issue of the quality of existing support services or the obligation that support services must be widely accessible in times of emergency. Measures taken to put restrictions on human rights must have a clear objective and be necessary and proportionate to the intended purpose.

The ombudspersons particularly highlight the major lack of information and communication with persons with hearing and visual impairments and persons with intellectual and physical disabilities, depriving these persons of key information on COVID-19 prevention and assistance. Also, the fact that COVID-19 quarantine or transport facilities do not meet the needs of persons with disabilities raises particular concerns.

**Example:** IHROBiH received a complaint<sup>519</sup> from the Company for the Employment of Blind and Visually Impaired Persons Ltd Sarajevo on 1 April 2020. The complaint states that they had to close down the physical therapy and hospitality centre and to reduce their printing facility activities to a minimum due to the current coronavirus situation, which is why they, as most companies, are facing financial difficulties. Furthermore, they note that given the fact that the requirements for physical therapy centres are not precisely defined and they are able to organise their work (social distancing, work in shifts, constant disinfection, work under masks, etc.) the way all competent services require, they addressed both the Cantonal and FBiH Inspections and the FBiH Civil Protection Headquarters with a request to reconsider allowing them to organise minimum activities because the employment of 11 persons, with 10 of them being persons with disabilities (nine of whom are blind), was put in jeopardy. They state they were able to pay the March salaries because of the reserves accumulated due to their prudent business operations, but that April and upcoming months would be very questionable in case they were not allowed minimum operations. They have existed for 51 years and currently employ 45 persons, 36 of whom are persons with disabilities. They stressed that there had not received responses to their enquiries.

The ombudspersons approached the FBiH Administration for Inspection Affairs, Sarajevo Canton Administration for Inspection Affairs and FBiH Civil Protection Headquarters with a request for information. The statements received and the complainant’s memo in particular confirmed that the association was allowed to operate and that there was no need for the ombudspersons to react further.

<sup>518</sup> Case registered under number Ž-BL-02-510/20;

<sup>519</sup> Case registered under number Ž-BL-02-276/20;

## 9.7. Healthcare of persons with disabilities

Healthcare is an organised and comprehensive activity of society on the preservation and improvement of public health, prevention, combating and early detection of diseases, illnesses, injuries and other health disorders, and on efficient treatment and rehabilitation. Healthcare institutions are established to ensure the citizens' rights to healthcare.

Healthcare and the health system are governed by healthcare laws which, inter alia, envisage ensuring the healthcare rights of persons with disabilities.

**Example:** The ombudspersons considered a complaint<sup>520</sup> from the Alliance of Associations of the Deaf and Hard of Hearing of the Federation of Bosnia and Herzegovina expressing dissatisfaction with the often unsatisfactory treatment of people who are deaf and hard of hearing in the health system in the Federation of Bosnia and Herzegovina arising from the disability of persons who face communication barriers. The complainants state that the bad treatment is primarily reflected in them being denied basic healthcare, by it being provided slowly (they are often left amongst the last when waiting for their name to be called out at the doctor's) or not provided at all (because of their inability to communicate with healthcare institution staff). The complainants stressed that they had tried a number of times to resolve the problem in some healthcare institutions in the Federation of Bosnia and Herzegovina, indicating specific institutions, but that apart from a promise that the problem would be resolved, the overall situation had not changed for the better, as indicated in complaints received daily by the Alliance from people who are deaf and hard of hearing.

The ombudspersons, aware of the general issue of (in)accessibility faced by persons with disabilities, carried out an examination procedure with a view to comprehending the situation in the Federation of Bosnia and Herzegovina. Information pertaining to the way persons with disabilities, i.e. persons who are deaf or hard of hearing are treated was obtained from the FBiH Ministry of Health and cantonal ministries of health in the Federation of Bosnia and Herzegovina. The ombudspersons then issued a recommendation.<sup>521</sup>

In the recommendation, the ombudspersons pointed out that they did not differentiate between categories of persons with disabilities and pointed to the importance of the competent authorities taking affirmative measures with a view to adapting reasonably and improving the position of all persons with disabilities and putting them on an equal footing with others. It was also pointed out that persons with disabilities in Bosnia and Herzegovina faced a number of difficulties and that delays in resolving the issue of accessibility were definitely making the enhancement of all their other rights and respect of the principles of equality and non-discrimination more difficult. It was noticed that there was a disproportion in treatment within the same canton, and the largest number of responses provided showed that in the cantons in the Federation of Bosnia and Herzegovina on their arrival in a healthcare institution people who are deaf and hard of hearing communicated with doctors and other medical staff mostly with the assistance of the people that accompanied them (friends, parents, relatives, etc. that accompany them), by gesticulating, by

<sup>520</sup> Case registered under number Ž-SA-02-1391/19;

<sup>521</sup> Recommendation number P-248/20 dated 18 November 2020;

reading lips, etc. The responses from the competent bodies indicated that despite the occasional positive example which was the exception rather than the rule medical workers had not had an opportunity to educate themselves on how to treat persons with disabilities, including people that are deaf and hard of hearing. Also, there are no protocols/procedures for treating persons with disabilities and the obligation to draft them is not prescribed. We believe though that the said procedures would have to be publicly and visibly displayed and/or made available to persons with disabilities and their implementation should be mandatory so that they could contribute considerably to this population category being better informed.

It was pointed out that the COVID-19 pandemic additionally worsened the situation in this area, especially because of the obligation to wear protective masks, depriving people who are deaf and hard of hearing of almost every possibility to communicate when being provided healthcare services.

The monitoring of the implementation of the recommendation is ongoing.

**Example:** The complainant approached the ombudspersons stating he suffered from Chron's disease and had an implanted terminal ileum which he maintained on his own for a number of years<sup>522</sup>. However, in the past years he had been unable to maintain it without someone else's assistance and his wife was also elderly and had major health issues. The complainant stressed that he only needed medical assistance given that the discs with pouches were to be changed minimum three times a week. He noted that preparing and placing aids caused him major problems and difficulties. He requested the ombudspersons to help him solve the problem and get involved in the case.

Following the investigation procedure, the ombudspersons issued a recommendation<sup>523</sup> to the Director of PI Healthcare Centre Vitez to, for the purpose of Articles 86 and 87 of the FBiH Healthcare Act<sup>524</sup> and bearing in mind international standards, take all necessary measures to provide medical assistance to the complainant with a view to making the replacement of discs on the implanted terminal ileum easier. PI Healthcare Centre Vitez submitted a document reading as follows: *"...we hereby inform you within the given deadline that your recommendation concerning the complaint will be fully implemented pursuant to the Healthcare Act..."*<sup>525</sup>

## 9.8. Architectural access to buildings

In December 2016, the ombudspersons presented the report on the implementation of IHROBiH recommendations from a special report entitled Accessibility to Workspaces of Legislative Bodies in Bosnia and Herzegovina for Persons with Disabilities. The systemic problem of inaccessibility of buildings, in particular buildings where public authority is exercised, which was noted then remains evident today.

<sup>522</sup> Case registered under number Ž-SA-02-1316/19;

<sup>523</sup> Recommendation number P-137/20 dated 17 July 2020;

<sup>524</sup> *The Official Gazette of the Federation of BiH*, no 46/10 and 75/13;

<sup>525</sup> Document of PI Healthcare Centre Vitez number 11-01-2333-1/2020 dated 1 September 2020;

However, in 2020, unlike in previous years, there were no complaints from natural persons or citizen association bringing together persons with disabilities that pertain to this right of such persons. This definitely does not mean that the access to all buildings where public authority is exercised is provided to persons with disabilities.

## 9.9. Work of Institute for Forensic Medical Examinations in Bosnia and Herzegovina

The cooperation with the Institute in previous years was not at a high level, but this year the Institute management stopped all communication with IHROBiH. Not a single response was received during the examination procedures in three cases, even after the recommendation on lack of cooperation was sent. Below we will list the cases pertaining to the work of the Institute:

**Example:** In a case registered *ex officio*<sup>526</sup> and entitled Implementation of the Conclusion of the FBiH Government, the ombudspersons issued a recommendation<sup>527</sup> recommending the Institute for Forensic Medical Examinations to stop implementing the Instruction for the Implementation of the Listing of Disabilities as a completely null and void document and to start implementing the Listing of Disabilities, which is legally effective and enacted in a legal procedure by the competent body and is in keeping with international standards. The same recommendation invited the Institute to legalise the procedure for assessing bodily injuries and determining disability ratings, to stop with blackmailing practices manifested by charging costs in advance and restricting the right to appeal by means of additional costs.

With regard to the issued recommendation, the Government of the Federation of Bosnia and Herzegovina, in conclusion no 822/2015 dated 2 July 2015, instructed the Director and Managing Board of the Institute for Forensic Medical Examinations to promptly harmonise the Rulebook on the Criteria and Procedure for Forensic Medical Examinations and adopt the new Listing of Disabilities that will observe the principles of uniform criteria and non-discrimination of persons with disabilities.

With a view to monitoring the implementation of the above conclusion of the FBiH Government, IHROBiH registered complaint no Ž-SA-02-1353/18 on 17 December 2018. During the examination procedure, information was obtained from the Institute for Forensic Medical Examinations in the Federation of Bosnia and Herzegovina, FBiH Ministry for Veterans and Disabled Veterans of the Defence-Liberation War and FBiH Ministry of Finance. It follows from the content of the responses provided that the Institute prepared the draft Rulebook, to which the FBiH Ministry for Veterans and Disabled Veterans of the Defence-Liberation War and FBiH Ministry of Finance had comments, with the latter not granting its consent to the Rulebook, stating the following:

*“...in the information concerning the assessment of entry into force of the Rulebook on the Criteria and Procedure for Forensic Medical Examinations, enclosed with the memo from the Institute for Forensic Medical Examinations, it is stated there is an increase in the number of hired doctors – expert witnesses, which entails an increase in other expenses. That would affect*

<sup>526</sup> Case registered under number Ž-SA-02-1353/18;

<sup>527</sup> Recommendation number P-154/14 dated 6 August 2014;

*the financial stability of the Institute and the need to increase the allocations from the budgets of cantonal and FBiH ministries, in particular those competent for social policy issues. Also, the Listing of Disabilities whose implementation would start by the adoption and entry into force of the said Rulebook, requires an increase in the budgetary allocations from the FBiH Ministry of Labour and Social Policy and certain allocations from the cantonal ministries competent for social policy“.*<sup>528</sup>

The ombudspersons' recommendation has not been implemented yet.

**Examples:** The ombudspersons acted on complaints from citizens<sup>529</sup> expressing dissatisfaction with actions of the Institute for Forensic Medical Examinations of the Federation of Bosnia and Herzegovina in forensic medical examination procedures. The disability rating of one of the complainants was in one period reduced from 100% to 70% and the complainant was thus deprived of the social protection rights they had been exercising until then.

Following the investigation procedure, the ombudspersons found that the problem with applying the Listing of Disabilities and Instruction for the Application of the Listing of Disabilities persisted and issued a recommendation<sup>530</sup> to the Institute. The recommendation pointed out that the Instruction does not foresee a disability rating for certain illnesses/diseases/bodily injuries, while, for the same illness/disease/bodily injury, the Listing of Disabilities does. Without clear criteria, the Institute applies the Instruction in some forensic medical examination procedures, while applying the Listing of Disabilities in others. Thus, the Institute treats applicants unequally and by assigning a lower disability rating takes the right away from the complainants. With regard to that, the Institute was invited to revise the findings, assessments and rulings for the complainants, *to stop applying Instruction for the Application of Listing of Disabilities no 120/10 of 23 April 2010; to apply in forensic medical examination procedures Listing of Disabilities U.O. 16/10 of 31 March 2010 as a document adopted in a legal procedure of the competent body and in line with international standards; and to publish Listing of Disabilities U.O. 16/10 of 31 March 2010 on the website to make it available to citizens.*

Given that no response to the recommendation was provided even after a reminder was sent, the ombudspersons, in a document dated 28 October 2020, informed the Government of the Federation of Bosnia and Herzegovina as its line manager thereof.

**Example:** The ombudspersons acted on a complaint<sup>531</sup> expressing dissatisfaction with actions of the Institute for Forensic Medical Examinations in the Federation of Bosnia and Herzegovina, and in connection with the procedure for determining the degree of disability. IHROBiH requested information about the case from the Institute three times. Given that the Institute failed to provide the requested information within the set deadline, the recommendation<sup>532</sup> was issued instructing the Institute to promptly establish cooperation with the ombudspersons in the way prescribed by the Law on Human Rights Ombudsman of Bosnia and Herzegovina and provide

<sup>528</sup> Document from FBiH Ministry of Finance number 06-14-3-7490/18 dated 1 February 2019;

<sup>529</sup> Cases registered under number Ž-SA-02-534/19 and Ž-SA-02-1330/19;

<sup>530</sup> Recommendation number P-85/20 dated 28 May 2020;

<sup>531</sup> Case registered under number Ž-SA-02-672/19;

<sup>532</sup> Recommendation number P-122/20 dated 29 June 2020;

information concerning the case. However, the cooperation was not established even after the recommendation was issued and the Government of the Federation of Bosnia and Herzegovina as the line body was informed thereof.

**Example:** In the case<sup>533</sup>, the ombudspersons acted on the complaint filed by the complainant on behalf of an underage child, where the complainant pointed to the violation of the child's right to care and assistance on the grounds of disability. Following the procedure, the ombudspersons found that in the case, the right of the disabled minor was violated by not taking into account the principle of the best interest of the child enshrined in the UN Convention on the Rights of the Child and UN Convention on the Rights of Persons with Disabilities when deciding on the exercise of the rights of such persons. The recommendation<sup>534</sup> suggested to the Director of the Institute for Forensic Medical Examinations to review Finding, Assessment and Ruling no DOV-NI-SA-443/19 dated 28 June 2019 from the Second-Instance Procedure Department of the Institute for Forensic Medical Examinations bearing in mind the best interest of the child and the protection and ensuring full and equal enjoyment of all human rights and fundamental freedoms of persons with disabilities and by issuing a new finding, assessment and ruling in line with the recommendation; to publish Listing of Disabilities no U.O. 16/10 dated 31 March 2010 on the official website so that it is made available to citizens; and to suspend the implementation of Instruction for the Application of Listing of Disabilities 120/10 dated 23 April 2010 in line with the recommendation.

Given that no submission was received in connection with the activities taken to implement Recommendation P-37/20 dated 6 February 2020, the ombudspersons found that the responsible body failed to implement the recommendation and the *Recommendation Non-Compliance Notification of 6 February 2020 was thus sent to the Government of the Federation of Bosnia and Herzegovina on 19 October 2020*. IHROBiH has not received any submission concerning this document.

**Example:** In the case<sup>535</sup>, the ombudspersons deliberated whether the disability right of an underage child was violated in a procedure conducted before the Institute for Forensic Medical Examinations. Following the investigation procedure and the submission by the responsible body, the ombudspersons issued a recommendation<sup>536</sup> for the purpose of eliminating the violation of the identified human rights protected by the Constitution of Bosnia and Herzegovina and international treaties that are part of the Constitution. The recommendation suggests to the FBiH Minister of Labour and Social Policy to undertake adequate measures within their competence intended to amend the existing legislation in the field of protection of persons with disabilities by drafting and proposing amendments to the Act on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children, in particular Article 18d, to ensure the protection of persons with disabilities, particularly children, in line with their actual needs. The same recommendation suggested to the Director of the Institute for Forensic Medical Examinations to review Finding, Assessment and Ruling no DOV-NI-SA-558/19 dated 4 September 2019 from the Second-Instance Procedure Department of the Institute for Forensic

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<sup>533</sup> Case registered under number Ž-SA-02-1108/19;

<sup>534</sup> Recommendation number P-37/20 dated 6 February 2020;

<sup>535</sup> Case registered under number Ž-SA-02-845/19;

<sup>536</sup> Recommendation number P-94/20 dated 6 March 2020;

Medical Examinations bearing in mind the best interest of the child and the protection and ensuring of full and equal enjoyment of all human rights and fundamental freedoms of persons with disabilities and to issue a new finding, assessment and ruling in line with the recommendation; to suspend the implementation of Instruction for the Application of Listing of Disabilities 120/10 dated 23 April 2010 in line with the recommendation; and to notify the ombudspersons of the implementation of the recommendation within 30 days.

With regard to that, the FBiH Ministry of Labour and Social Policy sent submission no 06-35/18-1009/19 dated 25 August 2020 on 28 August 2020 where it read as follows: *“...This Ministry has for a long time been taking activities aimed at tackling discrimination related to the types and causes of disability, and at facilitating accessibility and equal treatment of persons with disabilities in exercising rights. For that purpose, the Act on Uniform Principles and Framework for Providing Financial Support to Persons with Disabilities was proposed to the Parliament of the Federation of Bosnia and Herzegovina but did not gain support. Also, this Ministry, together with other FBiH authorities and the Institute for Forensic Medical Examinations, is working on issuing the rulebook and uniform list for forensic medical examinations of bodily injuries. Please note that amending the legislation, as well as issuing the rulebook and uniform list for forensic medical examinations, depends not only on this Ministry but on other institutions as well. The recommendations you provided will be taken into account when amending the Act on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children.”*

The Institute for Forensic Medical Examinations failed to provide its submission concerning the activities taken in connection with the IHROBiH recommendations.

IHROBiH decided to close the case.

**Example:** The ombudspersons acted in a case<sup>537</sup> where the complainant pointed to the impossibility of exercising the rights to which he is entitled as a person with a disability. Following the investigation procedure, the ombudspersons issued a recommendation<sup>538</sup> to the Director of the Institute of Forensic Medical Examinations, instructing him to take measures to resolve individual cases as efficiently as possible and taking into account what was stated in this recommendation, all with a view to protecting and ensuring full and equal enjoyment of all human rights and fundamental freedoms of persons with disabilities, and to publish Listing of Disabilities U.O. 16/10 dated 31 March 2010 on the official website to make it available to citizens; to the FBiH Minister of Labour and Social Policy, instructing him to initiate the discussion concerning re-establishment of the rights of disabled people with recognised bodily injuries rated under 90%. With regard to that, the FBiH Ministry of Labour and Social Policy provided to IHROBiH on 9 June 2020 Information no 06-02/1-2644/19 BB dated 4 June 2020 stating that the former had been taking activities since 2014 to issue and adopt uniform rules of procedure and uniform forensic medical examination criteria in procedures for determining bodily injuries of persons with disabilities. The submission also stated that the Commission-drafted Listing of Disabilities which was to be adopted by the Managing Board of the Institute

<sup>537</sup> Case registered under number Ž-SA-04-1119/19;

<sup>538</sup> Recommendation number P-81/20 dated 28 May 2020;

for Forensic Medical Examinations had not yet been adopted although the obligation to adopt it was provided for in Conclusion V of the Government of the Federation of Bosnia and Herzegovina no 1515/19, and the Institute was instructed to urgently adopt the Rulebook on Forensic Medical Examination Criteria and Procedure and uniform Listing of Disabilities, which constitutes a part thereof. The same conclusion instructed the FBiH Ministry of Labour and Social Policy, FBiH Ministry of Finance, FBiH Ministry of Veterans and FBiH Ministry of Justice *to set up the Commission to establish the actual situation and state of facts, to propose the best legal solutions concerning the existing different treatment of persons with disabilities, depending on the cause of disability. The document stated that solution-finding activities were under way.*

On 4 August 2020, the ombudspersons sent Recommendation Non-Compliance Notification no P- 81/20 dated 28 May 2020 to the Government of the Federation of Bosnia and Herzegovina. On 7 August 2020, IHROBiH received a submission from the Government of the Federation of Bosnia and Herzegovina no 05-31-344/2020 dated 6 August 2020, forwarded to the FBiH Ministry of Labour and Social Policy and reading as follows: *“... As you know, the activities on finding solutions in the relevant field are under way, as noted in the IHROBiH Notification, and, in line with the competences, we send to you the given Notification for your information and further proceedings.”*

The case was closed in line with the IHROBiH decision.

## X. DISCRIMINATION

The principle of equality and non-discrimination is an integral part of all international human rights treaties and declarations, as well as the Constitution of Bosnia and Herzegovina (Article II par. 4), the constitutions of the entities – Republika Srpska and Federation of Bosnia and Herzegovina, and the importance of the Prohibition of Discrimination Act of Bosnia and Herzegovina is immeasurable.

The Act defines the legal and institutional framework for combating discrimination in Bosnia and Herzegovina, and IHROBiH has been granted status of “the central institution competent for protection from discrimination”. Important progress has been made in terms of the implementation of the Prohibition of Discrimination Act of Bosnia and Herzegovina, but the key mechanisms and institutional stakeholders are still facing numerous challenges and problems.

The legal framework for protection from discrimination was improved by the 2016 amendments to the Prohibition of Discrimination Act of Bosnia and Herzegovina<sup>539</sup>, and a considerably larger role in anti-discrimination promotion activities was envisaged for IHROBiH, which is reflected in informing the public, raising awareness, conducting campaigns and other forms of discrimination prevention (Article 7 par. 2 item 1 of the Prohibition of Discrimination Act of Bosnia and Herzegovina).

The discrimination prevention activities of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina pursuant to the IHROBiH obligations under Article 7 of the Prevention of Discrimination Act<sup>540</sup> will be presented in this chapter of the Annual Report<sup>541</sup>. This provision grants IHROBiH a broad mandate: **reactive**, including acting on individual and class discrimination complaints and providing necessary notifications to natural persons and legal entities that have filed complaints concerning their rights and obligations and possibilities for judicial and other protection; and **proactive**, aimed at preventing discrimination which involves: compiling and analysing statistical data on discrimination cases (item e), informing the public of discrimination occurrences (item h), providing rulings and recommendations with a view to preventing and tackling discrimination, proposing adequate legal and other solutions to competent institutions in Bosnia and Herzegovina (item i); promoting the Prohibition of Discrimination Act, informing the public, raising awareness, conducting campaigns and otherwise proactively promoting fight against discrimination for prevention purposes (item l), and enhancing policies and practices aimed at ensuring equal treatment (item m).

When acting on complaints, IHROBiH may propose initiating mediation procedures pursuant to the Mediation Act (item d), and has the right to initiate and participate in discrimination protection procedures for minor offences provided for by this Act (item j).

<sup>539</sup> Prohibition of Discrimination Act, *The Official Gazette of Bosnia and Herzegovina*, no 66/2016;

<sup>540</sup> *The Official Gazette of BiH*, no 59/09, 66/16;

<sup>541</sup> Article 7 par. 2 item f) of the Prohibition of Discrimination Act prescribes that IHROBiH shall file annual reports and, as needed, special reports on discrimination occurrences to the Parliamentary Assembly of Bosnia and Herzegovina, Parliament of the Federation of Bosnia and Herzegovina, National Assembly of the Republika Srpska and Assembly of the Brčko District of Bosnia and Herzegovina. IHROBiH drafts reports on discrimination occurrences as part of annual reports on the results of activities for reasons of conciseness and rationality.

With a view to ensuring the execution of competences provided for in the Prohibition of Discrimination Act, IHROBiH made a decision in 2009 to establish the Department for the Elimination of All Forms of Discrimination.

### 10.1. Acting on complaints

With a view to maintaining records of reported discrimination cases, the Institution of Human Rights Ombudsman of Bosnia and Herzegovina set up an electronic database where all received complaints are registered and classified by ground of discrimination as indicated in the complaint, be it direct or indirect discrimination<sup>542</sup>, i.e. by all other forms of discrimination: harassment, sexual harassment, mobbing, segregation, aiding and abetting discrimination, instruction to discriminate and hate speech.

A total of 288 cases where citizens referred to discrimination and violation of the Prohibition of Discrimination Act of Bosnia and Herzegovina were registered with IHROBiH in 2020 and 206 cases in 2019, which means that the number of complaints received in 2020 increased by 82 cases or there was an evident 39.81-percent increase in the number of such cases. The reason for this increase lies in the fact that 113 individual cases referring to the City of Prijedor and with the same factual and legal bases<sup>543</sup> were registered with the IHROBiH Headquarters in Banja Luka. Complaints received by office: Banja Luka HQ – 170 complaints; Sarajevo Regional Office – 102 complaints; Mostar Regional office – 10 complaints; Brčko District of BiH Regional Office – four (4) complaints and two (2) complaints in Livno Field Office.

As far as cases registered with the Department for the Elimination of All Forms of Discrimination are concerned, there were 23 recommendations issued in 31 cases. That does not mean that there was discrimination found in all these cases but rather that the investigation conducted by IHROBiH may have showed a violation of another right but the case, given the allegations in the complaint, was registered with the Department for the Elimination of All Forms of Discrimination. Out of the total number of recommendations issued, recommendations were implemented in seven (7) cases; they were partially implemented in two (2) cases; in 14 cases there was cooperation established with the responsible authority; in six (6) cases there was no response while in two (2) cases the responsible authority did not implement the recommendations.

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<sup>542</sup> Race, skin colour, language, religion, ethnicity, national or social background, affiliation with ethnic minorities, political or other conviction, financial status, membership of trade union or another association, education, social status and sex, sexual orientation, gender identity, sex characteristics, age and disability.

<sup>543</sup> On 28 February 2020, IHROBiH received 113 complaints where the City of Prijedor was designated as the respondent party. They approached IHROBiH with allegations of human rights violations for being denied the possibility to state their position concerning the initiative to establish Omarska Municipality. They submit *...that the Prijedor City Assembly decided by majority of votes to support the said initiative, although the Kamičani Local Community Council provided objections to it. It is further stated that the adopted initiative is not supported by the majority of locals in the area, with 106 of them filing a complaint with IHROBiH for violations of human rights and fundamental freedoms, as explained in the objections to the initiative.* IHROBiH carried out an examination procedure and on 9 March 2020 requested a submission from the Prijedor City Assembly. Given that IHROBiH did not receive a response within the given deadline, a reminder was sent to the Prijedor City Assembly on 29 June 2020. On 3 July 2020, IHROBiH received a response from the Prijedor City Assembly. The said response was forwarded to the complainants on 13 July 2020 for their comments. The cases are pending.

### 10.1.1. Direct and indirect discrimination

In short, discrimination is any different treatment or putting a person or persons at a disadvantage solely because of a certain personal characteristic, i.e. because of the person's sex, race, age, disability, language, religion, skin colour, etc. Starting from the above definition, two elements are required to identify discrimination: the ground on which the party believes they are discriminated against (sex, ethnicity, age, etc.) and the comparator – indicating the person treated more favourably than the complainant, bearing in mind the discrimination ground.

According to the records of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina, the most frequent ground for discrimination as stated in complaints is mobbing with 35 complaints, followed by hate speech with seven complaints and language with four complaints. There were 205 complaints registered in the database subclassified as other because the ground for discrimination could not be clearly defined from the allegations in the complaint. Namely, complaints that are filed where parties refer to discrimination are commonly characterised by generality and imprecision. These complaints most often contain the sentence: *"I am discriminated against..."*, without further providing the ground for the discrimination or the person treated more favourably compared to the complainant. In procedures conducted by IHROBiH, which are not court proceedings, it is very difficult to identify individual forms of discrimination, such as e.g. mobbing, because there are no mechanisms to establish the disputed facts. In the examples to follow, we point to the deficiencies related to the ground for discrimination or failure to indicate the comparator.

**Example:**<sup>544</sup> In the case, the party filed a complaint because of the failure of the authorities of the City of Goražde to act in order to enforce the Goražde Municipal Court decisions, and they indicated discrimination on the ground of ethnicity, without indicating the person compared to whom they were treated unfavourably. The City of Goražde as the competent authority apologised deeply to the complainant because of the delay, stating that the implementation of her decision was planned for 2020 but was delayed because of the poor revenue realisation in the budget and that it was put in high priority. The party did not respond to the submission provided by the City of Goražde.

The case was closed.

**Example:**<sup>545</sup> The complainant states that they were granted KM 35.478 by the FBiH Pension and Disability Insurance Fund as the proportional part of the pension and KM 285.15 by the RS Pension and Disability Insurance Fund as the old-age pension, which in its total amount is less than the minimum pension in the Federation of BiH. The complainant believes that this action by the officers assigned to the case has elements of segregation or discrimination on the grounds of the complainant's ethnicity and religion (Serbian and Christian Orthodox). The ombudspersons found that the complainant, if unhappy with the issued decisions granting him the right to pension/proportional part of pension and dating back to 2014 and 2015, had the possibility to file appeals in a timely manner or initiate administrative disputes to reverse the second-instance

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<sup>544</sup> Case Ž-SA-06-8/20;

<sup>545</sup> Case Ž-SA-06-212/20;

decisions; found the allegations concerning discrimination on the grounds of religion and ethnicity to be arbitrary; and found that the complainant failed to provide a single fact that would indicate to actual discrimination against him.

The case was closed.

**Example:** <sup>546</sup> The ombudspersons acted on a complaint pertaining to the actions of the Tuzla Canton Ministry of Education and Science in connection with the free textbook distribution scheme for primary school students grades 1 to 4 leaving out students attending Public Institution Primary School “Sveti Franjo” in Tuzla. The Ministry did not cooperate with IHROBiH during the investigation procedure. Recommendation<sup>547</sup> number P-190/20 was sent, instructing to establish cooperation with IHROBiH in the way prescribed by the Law on Human Rights Ombudsman of Bosnia and Herzegovina and provide the submission requested, and attention was drawn to the fact that the child’s right to education must take precedence over all other rights given that this right is extremely important for the enjoyment of all other rights and freedoms: civil, political, economic, social and cultural rights and freedoms of every person and it plays a major role in preserving the cultural and national identity, and the principle of the best interest of the child requires all authorities competent for the education processes in Bosnia and Herzegovina to make an effort that will result in an environment that supports the student’s personality free of any form of discrimination or doubt in its existence. The Ministry’s response<sup>548</sup> received after the recommendation was issued pointed out that the founder of the institution in question was the Archdiocesan Ordinariate of Vrhbosna and not Tuzla Canton and that under the law the Ministry was not allowed to initiate the procedure of procuring textbooks for the school’s students because the procurement of textbooks is the founder’s obligation.

The work on the case is under way.

Given that Article 15 paragraph 1 of the Prohibition of Discrimination Act prescribes that in all procedures envisaged by the Act the **burden of proving** that no discrimination occurred rests on the opposing party, on condition that a person/group, based on the evidence available to them, proves that it is likely that discrimination has taken place, which is why it is very important for the complaint to be precise and to contain as much evidence as possible. If the filed discrimination complaint is general and does not contain facts or evidence showing that it is likely that discrimination has taken place, that has a great effect on the efficiency in proving discrimination and makes it easier for the opposing party to prove that no discrimination has occurred. This is particularly important given the lack of statistical indicators, the fact that there are no databases in place and that no other indicators exist which can be used in the process of proving discrimination.

Given that complaints received by IHROBiH often refer to discrimination in competition procedures, employment and promotion procedures, and labour rights in general, where ethnicity or sex is indicated as the ground of discrimination, it raises the issue of which data are used as

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<sup>546</sup> Case Ž-SA-07-719/20;

<sup>547</sup> Recommendation under number P-190/20 dated 2 January 2020;

<sup>548</sup> Submission from Tuzla Canton Ministry of Education and Science no 10/1-04-20549-1/20 dated 30 October 2020;

the basis to identify discrimination, if it is the statistical data on the representation which is under scrutiny to establish whether discrimination occurred within the organisational unit where the complainant requested to exercise their rights or within the business as a whole, on condition that the complaint indicates the comparator.<sup>549</sup>

A considerable number of complaints filed with the Institution of Human Rights Ombudsman of Bosnia and Herzegovina concerning discrimination include *facts that indicate other human rights violations* which are often corroborated in the IHROBiH examination procedure and for which reason recommendations are sent to the respondent. This most often refers to procedural omissions, such as recruitments without opening vacancies, failure to inform about the successful candidate, lack of legal remedy or its inefficiency, etc., which in general indicates the lack of transparency in this field. The above is important because the allegations referred to in the complaints are taken as the basis for the complaint when registering discrimination cases in the database, regardless of the fact that subsequently in the IHROBiH procedure it may be found that no discrimination but rather a violation of another right occurred, for which reason a recommendation is sent to the responsible authority, or it may be found that there was no violation, in which case a decision is issued to close the case.

In general, IHROBiH faces the issue of actions of entities designated in complaints as human rights violators in the cases where the complaint allegations indicate cumulative discrimination and violation of another right. Respondent parties, and typically bodies of administration, often pay no attention to the discrimination allegations provided in the complaints but only declare their position on the allegations from the complaints indicating the violation of another right (employment, right to pension, social protection, etc.) while completely ignoring the discrimination allegations or providing superficial and standardised responses. Thus, they ignore the obligation concerning the burden of proving that no discrimination took place provided for in Article 15 paragraph 1 of the Prohibition of Discrimination Act. The following examples show the practices that are in place.

**Example:**<sup>550</sup> IHROBiH considered a complaint where the complainant indicated violations of the following rights: right to equality before the law, unequal treatment when increasing salaries and other employment benefits and allowances and when exercising employment-related intangible rights, and found her, in comparison with other employees, to be discriminated against by the employer's actions. In this case, IHROBiH issued recommendation no P-67/20 dated 28 April 2020, proposing to the Presidency of the Managing Board of the Confederation of Independent Trade Unions of Bosnia and Herzegovina (CITUBiH) to consider amending the disputed Article 26 of the CITUBiH Rulebook on the Internal Organisation and Classification of Job Positions, namely position under number 2.4. Department for Joint, Operational and Technical Affairs 1.1 Administrative and Technical Secretary of Other CITUBiH Cantonal Boards, in the section dealing with working hours by replacing the words "part-time (half-time)", as it read, with the words "full-time". The same recommendation proposed to the CITUBiH Chair to promptly undertake activities with a view to amending Article 6 of Employment Contract number 01-III-240/19 concluded on 17 July 2019 between the Confederation of Independent Trade Unions of

<sup>549</sup> Sometimes in practice businesses ensure ethnic or sex representation ratio for the whole entity but fail to do so within the organisational unit where the complainant requests their rights to be exercised.

<sup>550</sup> Case Ž-SA-04-1312/19;

Bosnia and Herzegovina and complainant, which referred to the working hours, by replacing “20 hours per week” with “40 hours per week”; to promptly undertake the actions and measures required to design an activity plan to be implemented by the complainant, in line with the CITUBiH Rulebook on the Internal Organisation and Classification of Job Positions and the job description for the said position. With regard to that, the Confederation of Independent Trade Unions of Bosnia and Herzegovina provided on 4 June 2020 Notification no 01-III-100/20 and dated 2 June 2020 informing IHROBiH, inter alia, of the following:

*“...that the recommendations from the Institution of Human Rights Ombudsman of BiH were carefully considered at the session of the Presidency of the Managing Board of the Confederation of Independent Trade Unions of BiH held on 28 May 2020, in an effort to comply with the recommendations or find another adequate solution for the complainant. It was stated on the occasion that the Confederation of Independent Trade Unions was in an unenviable financial position, that the outbreak of the COVID-19 pandemic and huge job losses in the Federation of BiH had caused a considerable drop in both membership fees and other revenues from which the salaries for CITUBiH staff members, including the complainant, were paid; that the March 2020 salary was the last one paid out at the Confederation of Independent Trade Union of BiH, which the complainant could corroborate, and that it was completely uncertain when the April 2020 salary would be paid. In this context, CITUBiH will undertake additional fund saving activities to meet its liabilities to employees and third parties, and if that does not work, the Presidency of the CITUBiH Managing Board will in the coming period most likely consider reorganising work to meet liabilities to employees.*

*Therefore, the Presidency of the CITUBiH Managing Board failed to find an appropriate solution to amend the CITUBiH Rulebook on the Internal Organisation and Classification of Job Positions and thus fully comply with the recommendations. Thus, the CITUBiH President could not comply with the recommendation referring to him because these actions were interrelated, i.e. it is primarily necessary to amend the Rulebook and then the complainant's employment contract. If the situation stabilises, which does not depend on either the CITUBiH bodies or CITUBiH President, an adequate solution for the complainant will be found.*

The case was closed on 5 August 2020 and the party was advised that the information on non-compliance with Recommendation no P-67/20 would be included in the 2020 Annual Report on the Results of Activities of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina. According to the information from the file, the party initiated an administrative dispute before the competent court.

**Example:**<sup>551</sup> On 12 March 2020, the Institution of Human Rights Ombudsman of Bosnia and Herzegovina received a complaint from I.J. of Bihać concerning the allegations of discrimination she had suffered at PI Primary School Kamenica Bihać. It follows from the submission provided by the said education institution on 17 January 2020 that it adopted the said employee's request for the protection of employment rights and request for protection against discrimination. Given the fact that the employer responded positively to the complainant's request, there was no basis

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<sup>551</sup> Case Ž-BL-06-251/20;

for actions of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina the decision was made to close the case.

**Example:**<sup>552</sup> In the complaint, the complainant alleges that she was discriminated against because she was prevented from participating in the head teacher election procedure in a primary school because she had a bachelor's degree under the Bologna system while the vacancy procedure prescribed the master degree requirement for the candidate. The complainant alleges that such treatment by the competent authorities is a violation of human rights and discrimination. In this specific case, IHROBiH, having reviewed the complaint allegations, found there were no grounds to initiate the investigation procedure because the complainant was excluded from the competition procedure based on Decision no UP-1-14-09-34-19535/19-09/18-004 dated 29 October 2019 of the Sarajevo Canton Administration for Inspection Affairs - Inspectorate of Labour, Occupational Safety and Social Protection, which *“instructs the inspected entity PI PS Hamdija Kreševljaković to align the implementation of the head teacher election procedure with Article 2 paragraph , item c) of the Rulebook on the Election, Appointment and Dismissal of Primary School Head Teachers of Sarajevo Canton”*. Inspection Report no UP-1-14-09-34-19535/19-09/18-003 dated 16 October 2019 that preceded the issuance of the said Decision stated as follows:

*“...regardless of whether A.O.'s professional title (author's comment) is or is not equivalent to the university degree under the pre-Bologna system of study, the **Rulebook explicitly and literally requires that candidates who have acquired higher education degrees under the Bologna system of study must complete 'minimum second cycle of study under the Bologna Process'**. Therefore, the inspector assigned to the case concludes that according to Article 2 paragraph , item c) of the Rulebook, the candidate does not meet the prescribed requirement to be appointed head teacher because she obtained the first cycle degree under the Bologna Process. The inspector assigned to the case will issue a special administrative measure to instruct the School to align the competition procedure with the statements provided in this Report.”*

The case was closed by issuing an inadmissibility decision.

**Example:**<sup>553</sup> On 21 May 2020, IHROBiH was approached by the party on behalf of a pharmacy and concerning the allocation of economic incentives in the Republika Srpska. According to the applicable legislation, this right can be exercised only by businesses (companies and sole proprietors) but not by other forms of organisation such as pharmacies which, according to the allegations from the complaint, is deemed discriminatory. Following the investigation procedure, IHROBiH took the position that the existing law needed to be amended in Article 3 paragraph 1 so that, in addition to companies and sole proprietors, it includes pharmacies are as forms of organisation of legal entities given that they have a certain number of employees hired based on employment contracts. The Republika Srpska National Assembly acknowledged the receipt of the initiative on 1 September 2020 and in accordance with the Rules of Procedure of the Republika Srpska National Assembly (The Official Gazette of the Republika Srpska, no 66/20) it

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<sup>552</sup> Case Ž-SA-06-493/20;

<sup>553</sup> Case Ž-BL-06-340/20;

forwarded the initiative to the Legislative Committee, Economic Committee, Finance and Budget Committee, Trade and Tourism Committee and the Republika Srpska Government for further proceedings.

The work on the case is under way.

**Example:**<sup>554</sup> The party from Mostar approached the Institution of Human Rights Ombudsman of Bosnia and Herzegovina on 6 August 2020, alleging mobbing and violations of employment rights. The complainant is permanently employed by the employer Premier world sport Ltd. Čitluk. On 19 October 2020, IHROBiH requested a submission from the employer concerning the allegations from the complaint pertaining to the right to annual leave and the hostile attitude of the employer towards the complainant since her salary was reduced because of the criminal offence of theft committed on her shift. The employer provided submission no 721-10/2020 B.L. on 28 October 2020, in which it was stated that all listed allegations were incorrect and unfounded and that the employee had never addressed the employer for protection regarding any problems with the manager or any of the other co-workers or clients and that she had exercised her rights to annual leave in accordance with the Labour Law. As for the salary reduction allegations, the employer stated that at the time the criminal offence was committed the complainant was on shift and that she, contrary to the employer's instructions, kept the daily takings high on the counter instead of keeping them in the time lock safe. She was not penalised for such actions in the workplace, nor was her salary reduced. After the submission was provided to the complainant, she did not provide any response or additional documentation for further proceedings .

The case was closed.

**Example:**<sup>555</sup> IHROBiH acted on a complaint concerning the Indirect Taxation Authority and related to mobbing reflected in issuing an order to a customs auditor - civil servant to *temporarily perform the position of officer – customs auditor at Sarajevo Customs Station*, which is contrary to the Indirect Taxation Authority Act, Law on the Civil Service in the Institutions of Bosnia and Herzegovina and internal document - Rulebook on Indirect Taxation Authority Staff Redeployment. The order was issued without providing an explanation and with no possibility to appeal against it.

IHROBiH sent a recommendation to the Indirect Taxation Authority of Bosnia and Herzegovina to stop the practice of issuing orders *to temporarily perform work in another position at the same grade for a fixed period of time, for a period of one month*, immediately upon receiving this recommendation. These orders are issued based on the so-called authorisation 01-34-2-75-64/18 dated 8 February 2018; to take redeployment decisions based on the *Rulebook on Indirect Taxation Authority Staff Redeployment*, which governs the staff redeployment procedure in the Indirect Taxation Authority; and to inform IHROBiH of the implementation of the recommendation within 30 days from the day it is received.

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<sup>554</sup> Case Ž-MO-06-139/20;

<sup>555</sup> Case Ž-SA-06-800/20;

### 10.1.1.1. Age discrimination complaints

In the reporting period, IHROBiH acted in cases where *age*<sup>556</sup> was indicated as the ground of discrimination.

**Example:**<sup>557</sup> In a case received in late 2019, the Canton 10 Government prescribed in the Canton 10 reimbursement list that Xarelto medicine could be used by persons under 65 years of age, thereby discriminating against patients older than that. A recommendation<sup>558</sup> was issued in the case, recommending the Canton 10 Prime Minister as follows:

1. *To take adequate measures and actions immediately upon receiving this recommendation and the Canton 10 Government to align Decision no 01-02-3-1/19 of 16 January 2019 on amendments to the decision on the list of drugs covered by compulsory health insurance of Canton 10 (Canton 10 Reimbursement List) with the Prohibition of Discrimination Act of Bosnia and Herzegovina, in the former's section referring to prescribing Rivaroxaban film tbl 15 and 20 mg.*
2. *To inform IHROBiH of the measures and actions taken to implement the recommendation at the latest within 30 days.*

The Government failed to inform IHROBiH of the implementation of the recommendation even after a reminder was issued, and in the submission dated 12 March 2020 the latter informed the Canton 10 Assembly of the Canton 10 Government's failure to comply with the recommendation, thereby exhausting all remedies.

**Example**<sup>559</sup>: The Institution of Human Rights Ombudsman of BiH monitors the initiative of the Multiple Sclerosis Association of Eastern Herzegovina Region, in order to amend Article 35 of the Republika Srpska Social Protection Act<sup>560</sup> prescribing that the right to personal disability allowance is exercised, inter alia, by persons dependent on the assistance and care of other people to meet their basic needs whose injury/disease occurred in the developmental stage in life (by the time they turned 18). The adoption of the said provisions led to depriving persons whose disability did not occur in the developmental stage in life, i.e. by the age of 18, of their right to personal disability allowance. Different treatment of persons with disabilities, depending on the time when the disability occurred, is neither in keeping with international human rights law nor with domestic legislation, primarily the Prohibition of Discrimination Act, which is why the initiative in question is currently before the Republika Srpska Constitutional Court for the purpose of constitutional review of the said legal provision.

### 10.1.1.2. Complaints about discrimination on grounds of use of language and script

In 2020, the Institution of Human Rights Ombudsman of Bosnia and Herzegovina received a number of complaints related to the issue of the right to use a language and the name of the

<sup>556</sup> Cases no Ž-LI-06-223/19; Ž-MO-06-58/20;

<sup>557</sup> Case Ž-LI-06-223/19;

<sup>558</sup> Recommendation P-272/19 dated 6 December 2019;

<sup>559</sup> Case Ž-MO-06-58/20;

<sup>560</sup> *The Official Gazette of the Republika Srpska*, no 42/2020;

language. There were also complaints registered in the reporting period that were related to the issue of equal use of official languages in state bodies, i.e. the right of employees to use their mother tongue in their work due to the fact that the heads of bodies instructed all employees documents for signature can only be provided in the language and script of the head of the body<sup>561</sup>. The Institution of Human Rights Ombudsman of Bosnia and Herzegovina even had a case<sup>562</sup> concerning the issues related to the right to use languages and scripts used when drafting internal decisions in the Ministry of Defence of Bosnia and Herzegovina. Acknowledging the importance of this issue for the exercise of human rights in Bosnia and Herzegovina and all public institutions, IHROBiH referred the complainant to the “Special Report on the Use of the Official Language and Script in Bosnia and Herzegovina” drafted and published earlier. The report also addressed the subject matter of this submission and it was found that:

*“... with regard to issuing official documents and forms in all three official languages and scripts in Bosnia and Herzegovina, the practice in the country is non-uniform although the entity constitutions, as well as other legal instruments, provide for the use of all three official languages in Bosnia and Herzegovina. The Constitution of the Republika Srpska stipulates that the official languages in the Republika Srpska are the languages of the Serbs, Croats and Bosniaks and that the official scripts are Cyrillic and Latin, while the Constitution of the Federation of Bosnia and Herzegovina and the Brčko District Statute stipulate that the official languages in the Federation of Bosnia and Herzegovina and the Brčko District of Bosnia and Herzegovina are the Bosnian, Croatian and Serbian languages and that the Cyrillic and Latin scripts are the official scripts, which also refers to printing and issuing official documents and forms.”*

It is important to point out that not a single applicable regulation in force in Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska provides for the criteria on how to ensure the equal use of the official languages and scripts in practice and that there is a non-uniform practice in terms of issuing official documents and forms in all three official languages and scripts in Bosnia and Herzegovina despite the fact that the use of the official languages in Bosnia and Herzegovina is stipulated by all constitutions and lower-level legal instruments. Also, the equal use of the languages and scripts by the authorities has emerged as an issue that requires codification in order to avoid different practices being employed.

**Example:**<sup>563</sup> On 24 September 2020, the Institution of Human Rights Ombudsman of Bosnia and Herzegovina received a complaint from the complainant from Brčko which concerned an informative seminar with all necessary information delivered, due to the epidemiological situation, to the home addresses of unemployed people registered with the Fund. The complainant insisted that the Cyrillic version of the information seminar be provided to her and was in turn informed they did not have any. In order to verify the allegations from the complaint, IHROBiH sent a request for submission to the Fund of the Brčko District of BiH on 25 September 2020 and received the relevant response on 1 October 2020. The response stated that a Fund employee established that the complainant primarily came with the intention to register regular health insurance but did not bring her health insurance card. The complainant was

<sup>561</sup> Cases Ž-SA-06-269/20; Ž-SA-06-797/20;

<sup>562</sup> Case Ž-BL-06-1/20;

<sup>563</sup> Case Ž-BR-06-171/20;

informed that she would get the written information seminar form in the Cyrillic script when she came with the health insurance card to be filled out. The complainant completely ignores the fact that there are hard and soft copies of documents, submissions, forms, notifications and all related documents in the Fund in both statutory official scripts or three official languages of the Brčko District of Bosnia and Herzegovina, which can be verified on the official website. The complainant informed IHROBiH by email that she had received the requested documents in the Cyrillic script.

The case was closed.

**Example:** The ombudspersons act on a complaint<sup>564</sup> from the representatives of parents of children attending the primary schools in Liplje, Snagovo, Kamenica, Kula Grad and Križevići.

The complaint points out *“that children attending these primary schools are prevented from learning the Bosnian language, i.e. their right to the name of the language is denied as their certificates and report cards are not issued in the Bosnian language and the children are schooled under the Tuzla Canton Language Curriculum, in line with the Interim Agreement on Meeting Special Needs and Exercising Rights of Returnee Children signed by the ministers of education of the Republika Srpska and the Federation of BiH on 5 March 2002 and according to which this is the official name of the language”*.

The representative of the parents sent a statement to all media and the Republika Srpska Ministry of Education and Culture on 15 January 2018 reading as follows:

*“At the meeting of the representatives of the parents of the schools mentioned held in Zvornik on 12 January 2018 it was determined that the situation in the education segment in Zvornik area was alarming. Namely, returnee children in Zvornik cannot learn the Bosnian language, i.e. their right to the name of the language is denied. Also, she schools have not been inviting the parent representatives to meetings for three years. They are further discriminated against on different grounds, for example the school in Križevići is a Celopek branch school although there is a central school in Karakaj whose jurisdiction it would logically fall under. There are religious symbols (icons) in schools and such items should be displayed in religious buildings. In the neighbouring Mali Zvornik children have the right to learn the Bosnian language and are not denied their right to the name of the language and there are no religious symbols displayed in schools. The parents decided that this could no longer be tolerated and that they would start protesting radically. The Liplje Branch School is already on strike and classes were suspended before the end of the term. Parents do not accept that instead of the Bosnian language it reads “the language of the Bosniak people”. We hereby invite all competent institutions and organisations to come and see for themselves that human rights and rights of the child are violated and what the situation we are in is like, and to put the school system in Zvornik in order.”*

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<sup>564</sup> Case Ž-SA-06-54/18;

On 19 October 2020, a submission sent on behalf of the representatives of the parents of children from Liplje was received, stating that the issue related to the use of the name of the language had not been resolved and pointing out that:

*“We hereby inform the public that the Ministry has not complied with the agreement made between the OHR, the OSCE and the parents of children from Liplje. Namely, it was agreed that the parents would send a request with two items: 1. Who instructed that the civil records be corrected to read the language of the Bosniak people instead of the Bosnian language? 2. The Minister who maintained that she had responded to every enquiry of ours should have sent the copies of those responses as we have not received a single one. No item has been complied with. They only sent us old responses, dating back to the time of the earlier strike, when we were forced to go on hunger strike to get the documents. When we received them, we sent a warning that if they did not allow us to record the Bosnian language, we would file an action, and the previous Minister enabled recording the Bosnian language. That lasted until the 2018 school year...”*

On 27 October 2020, the ombudspersons of Bosnia and Herzegovina held an online meeting with Ambassador Kathleen Kavalec, Head of the OSCE Mission to Bosnia and Herzegovina, where they also discussed this issue.

The case is pending.

**Example:**<sup>565</sup> IHROBiH received a complaint designating the Ministry of Science, Education, Culture and Sport of Canton 10 as the respondent party. The complainant lives in Novi Sad and is filing the complaint on behalf of his compatriots living in the territory of Glamoč municipality who cannot exercise the right to learn and use their mother tongue/Serbian language and learn the Cyrillic script. The complaint points out as follows:

*“I am writing to you on behalf of my compatriots who live in the territory of Glamoč municipality where Serbs constitute the majority population but are denied the right to learn and use their mother tongue (Serbian language) and to learn and write the relevant script (Cyrillic). I have addressed the HBC Prime Minister, explaining what the problem was and asking him to take the necessary actions within his competence to enable the Serbian people to learn their mother tongue and the Cyrillic script (e-mail sent on 22 September 2018), and the Minister of Science, Education, Culture and Sport, Mr Petar Galić (3 March 2018 and 9 June 2018), but I have not received a response from them, nor have they done anything. Please find attached all three memos that I have sent to the mentioned gentlemen.”*

IHROBiH initiated an investigation procedure on 23 September 2020, and in his submission no 06-01-38-749/18 dated 12 October 2020, the Minister of Education informed IHROBiH as follows:

*“With regard to your memo no Ž-LI-04-249/20 dated 23 September 2020, we are obliged to inform you that the person concerned did not send a formal request to this Ministry as stated in your memo. In your memo, you allege that the person concerned addressed this Ministry by e-mail, with a request to introduce the Serbian language and Cyrillic script for the Serbian*

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<sup>565</sup> Case Ž-LI-04-249/20;

*people in Glamoč. The Ministry cannot confirm its receipt via the official e-mails. The Ministry finds this method of communication, in matters of this importance, frivolous and highly inappropriate. We believe that it is inappropriate to address issues of this importance via e-mail. You enquired about the Textbook Act in the same memo, which we also find inappropriate. With regard to the Textbook Act, please be informed that this Ministry has been working on the draft Textbook Act, to be sent for further proceedings with a view to enacting it.”*

The work on the case is under way.

### **10.1.1.3. Complaints about discrimination on grounds of nationality or ethnicity**

In the course of 2020, IHROBiH received a number of complaints alleging discrimination on the grounds of nationality or ethnicity. The largest number of complaints relates to the recruitment process because citizens expect the constitutional provision on the national representation of the constituent peoples and others as per the census to be applied. Most complaints do not mention the comparator in comparison to whom the person was discriminated against, but only allege that the person feels they were treated differently because of their nationality or ethnicity. Some of the complaints raised the issue of applying Article 5 of the Prohibition of Discrimination Act of Bosnia and Herzegovina, *which defines exceptions to the principle of equal treatment. According to the said provision, “legal measures and actions shall not be deemed discriminatory when they amount to unfavourable distinction or different treatment, if based on objective and reasonable justification. The following measures shall not be deemed discriminatory when they achieve a legitimate objective and if there is a reasonable and proportionate relationship between the means used and the objective sought and when: a) they result from implementation or adoption of temporary special measures designed to prevent or compensate for the damage suffered on the grounds specified in Article 2 of this Law, which particularly applies to members of vulnerable groups, such as: persons with disabilities, members of ethnic minorities, women, pregnant women, children, youth, the elderly and other socially excluded persons, civilian victims of war, victims in criminal proceedings, displaced persons, refugees and asylum seekers; i.e. to enable their full participation in all spheres of life“.* Therefore, the Prohibition of Discrimination Act of BiH constitutes the legal basis for the introduction of affirmative measures aimed at improving the position of certain categories of citizens, while complying with all requirements prescribed by the Act.

**Example:**<sup>566</sup> IHROBiH acted on a complaint designating Novi Grad Sarajevo Municipality as the respondent party and related to the problems that occurred when the complainant’s daughter’s birth was registered. The problems had to do with allegedly preventing that the words 'Bosnian and Herzegovinian' be recorded under ethnicity. Following the investigation procedure, a response was received stating as follows: *“Based on the examination of the official records of the General Administration Department of Novi Grad Sarajevo Municipality, it was established that the mother G-Ć. E. applied for the registration of the birth of Ć.U. and that the words 'Bosnian and Herzegovinian' were recorded under ethnicity on 18 September 2020 when the first birth certificate was issued and collected, as requested by the mother.“*

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<sup>566</sup> Case Ž-SA-04-730/20;

The case was closed.

**Example:**<sup>567</sup> The complainant, inter alia, alleged that, when announcing and conducting student scholarship competitions, the Bijeljina City Administration had for eight years been ruling out the possibility of awarding scholarships to students studying at schools for social sciences. However, the complainant alleged that the competition still provided for the award of a scholarship for one student studying at “*school of philosophy, school of law, school of economics and other schools for social and natural sciences from the less represented constituent peoples*”, as well as the award of scholarships for two students of “*mechanical engineering sciences, technology, computer science, medicine, pharmacy, dentistry and veterinary medicine from the less represented constituent peoples*”. The complainant considers setting the “*less represented constituent peoples*” requirement for awarding scholarships disputable and thus deems the said provision as discrimination on the grounds of ethnicity. The complainant clarifies that e.g. a Serb law student who does not have one of the parents cannot apply while e.g. a student of a different ethnicity can, despite being in a better financial situation.

Following the investigation procedure, the ombudspersons, when deliberating on the content of the submission received, did not find grounds for taking further measures in this case, i.e. they found the explanation concerning the set requirements to be well-founded and they found that different factors were taken into account, such as: shortage occupations, GPA, veteran status, students without both parents, and finally providing for a number of scholarships for less represented constituent peoples and others.

It was found that singling out all the above categories can be considered the affirmative action measures provided for in Article 5 (exceptions to the principle of equal treatment) of the Prohibition of Discrimination Act, which reads as follows: “*Legal measures and actions shall not be deemed discriminatory when they amount to unfavourable distinction or different treatment, if based on objective and reasonable justification.*”

### 10.1.2. Special forms of discrimination

The most commonly reported special form of discrimination is mobbing, which, in contrast to direct and indirect discrimination, does not require the ground of discrimination or the comparator to be stated in the complaint. Mobbing is a form of non-physical harassment in the workplace that involves the repetition of actions that have a degrading effect on the victim whose purpose or consequence is the degradation of working conditions or the professional status of the employee.

Redeployments to other positions and assignments, especially following amendments to documents on internal organisation and classification of posts, which lead to the elimination of or change in positions previously filled by the complainant; downgrading the complainant's performance evaluation rating; issuing orders to perform tasks not outlined in the complainant's job description; initiating disciplinary procedures considered unfounded by the complainant;

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<sup>567</sup> Case Ž-SA-06-142/20;

etc.<sup>568</sup> are all listed as disturbing in the complaints submitted to the Institution of Human Rights Ombudsman of Bosnia and Herzegovina . This is particularly noticeable in public bodies and institutions. In their complaints, complainants state that such actions have a degrading effect on them because they are aimed at or result in degrading the employee's working conditions or professional status.

**Example:**<sup>569</sup> The allegations in the complaint refer to the mobbing, pressure, harassment of the complainant committed by the Director of CPUC Vodovod i kanalizacija Ltd. Sarajevo. It is established that the complainant points out that he received a disciplinary report filed against him by the Director of the company, which he considers to be unjustified and completely unfounded. Upon examining the documents provided, it was established that the disciplinary procedure was initiated against the complainant because he was the chair of the commission for conducting the external competition procedure for the recruitment of fixed-term staff when the complainant's wife's brother participated and was subsequently selected in the competition procedure. The complainant did not request to be disqualified from the procedure despite being obliged to do so under Article 10 paragraph 1 of the *Regulation on the Employment Procedure in Institutes, Agencies, Directorates and Administrative Organisations, Legal Entities Discharging Public Functions in the Territory of the Canton, City or Municipality, Public Institutions and Public Companies Founded by the Canton, City or Municipality, and Companies where the Canton, City or Municipality Holds More Than 50% of Shares (The Official Gazette of Sarajevo Canton, no 9/19 and 21/19)*. IHROBiH points out that the applicable labour legislation does not stipulate any prohibition or restriction for the employer as to when and under what conditions they may or are allowed to find that there are circumstances by reason of which the issue of the employee's liability will be raised and the employee requested to provide an explanation for. However, the employer is to be held accountable for raising the issue of establishing the employee's liability in case it is unfounded or misdirected because the possibility that, in the further proceedings before the employer or possibly the competent court, the employee is acquitted of the liability for the circumstances they are charged with is high and likely. With regard to that, the human rights ombudspersons of Bosnia and Herzegovina highlight that they do not have the authority to deal with the merits of specific disciplinary procedures in order to assess the facts and review the decisions made, but can only deal with the issue of whether there were procedural omissions in the case which could give rise to violations of the complainant's rights.

In accordance with the Rules of Procedure, the Institution of Human Rights Ombudsman of Bosnia and Herzegovina requests a submission from the opposing party which, in most cases, fully denies the allegations from the complaint, pointing out that the changes made are necessary for the company to function and based on law. In case of mobbing-related complaints pertaining to performance assessments, the opposing party points out that the complainant had a legal remedy available which has been made use of in some cases. In the event that the allegations from the complaint and the submission by the respondent party are mutually conflicting, IHROBiH has no mechanism it could use to ascertain the disputed facts.

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<sup>568</sup> Cases: Ž-BL-06-509/20; Ž-BL-06-656/20; Ž-MO-06-139/20; Ž-MO-06-157/20;

<sup>569</sup> Case Ž-SA-06-286/20;

**Example:**<sup>570</sup> These are complaints filed by two employees of Subsidiary Company Rudnik i termoelektrana Gacko who approached IHROBiH for workplace discrimination and mobbing. The complaints point out that the two are unhappy with their redeployment to another position, that they are excluded and limited in exercising their rights in the areas for which they are competent, and that they are discriminated against because of different opinions and convictions. The company fully denies the allegations from the complaints, justifying the redeployments with reorganisation activities within the company and stating that the redeployments were in keeping with the law given that the employees were redeployed in accordance with their educational qualifications and work experience.

IHROBiH actions in this case are under way.

**Example:**<sup>571</sup> On 6 August 2020, IHROBiH received a complaint from the complainant, an employee of the Department for Inspection Affairs of the City of Banja Luka, concerning allegations of mobbing and violation of employment rights. The complainant claims that the Advisor to the Head of the Department for Inspection Affairs filed an initiative to instigate a disciplinary procedure against her. The gist of the complaint are allegations that the complainant's dignity and independence are undermined and that her superiors unlawfully influence her work. She also points to different treatments in the same situations pertaining to resolving jurisdictional conflicts. She alleges that inappropriate language has been used in communication with her, that her reputation has been undermined, that her performance assessment ratings are not the result of her achievements but abuse of position and misuse of power. IHROBiH requested a submission on 13 August 2020. The City of Banja Luka provided the required submission on 28 August 2020 and in it they point out that under Article 6 of the Rulebook on Disciplinary Responsibility and Financial Liability of City Administration Employees, any person can file an argued initiative to instigate a disciplinary procedure against employees and the Mayor decides on it. They believe that the other allegations of undermining the complainant's dignity and destroying her reputation are incorrect. The submission was sent to the complainant for her information and she informed IHROBiH on 7 September 2020 that the Mayor of Banja Luka rejected the initiative to instigate a disciplinary responsibility procedure against her. The complainant filed an initiative to instigate a disciplinary responsibility procedure against the Advisor to the Head of the Department for Inspection Affairs.

The work on the case is under way.

**Example:**<sup>572</sup> In his complaint, the complainant pointed to victimisation, discrimination and mobbing he had been subjected to for a long time, which is reflected, inter alia, in initiating a new disciplinary procedure against him as an employee of the Central Bank of Bosnia and Herzegovina. In this case, a recommendation<sup>573</sup> was issued proposing to the CB BH Governor to promptly undertake all activities to organise a meeting with the complainant, with a view to overcoming the disturbed interpersonal relationships and lack of communication between the

<sup>570</sup> Cases Ž-MO-06-105/19 and Ž-MO-06-24/20;

<sup>571</sup> Case Ž-BL-06-509/20;

<sup>572</sup> Case Ž-SA-06-1075/19;

<sup>573</sup> Recommendation P-103/20 dated 12 June 2020.

management of the Central Bank of Bosnia and Herzegovina and the complainant by making an attempt to identify the causes, consequences and joint solutions for the situation. IHROBiH received a notification<sup>574</sup> on 7 July 2020 about the reasons for failure to take action to implement the recommendation, reading as follows:

*“...Namely, the Central Bank of Bosnia and Herzegovina (hereinafter referred to as “CB BH”), as an institution of BiH, acts in accordance with the applicable legislation and internal regulations in all areas of its work and meets its legal obligations but in less than three years it has faced inappropriate actions and different unfounded activities of its employees... However, for almost three successive years, employees continue to engage in deviant behaviours in the workplace, which have a considerable effect on the work of the institution, thereby... showing absolutely no willingness and no desire to improve the relations with the institution and its authorised representatives ... Taking into account the numerous pending legal disputes with the officer where CC BH is the respondent party, the duration of all above activities that have resulted in disturbed interpersonal relationships and all other circumstances mentioned above, we find that organising a joint meeting with the officer..., which you recommended, given the situation and our current relationship with the officer, would not be meaningful at the moment, nor that the relationship with the officer that has been so grossly and permanently distorted can be fixed by organising a joint meeting...”*

After receiving the submission from the responsible body, IHROBiH closed the case given that can be indisputably concluded from the memo that the Central Bank of BiH failed to comply with the IHROBiH recommendations since they believe that complying with it is not meaningful and that the disturbed relationship with the complainant cannot be fixed by organising a joint meeting.

**Example:**<sup>575</sup> On 7 October 2020, the Institution of Human Rights Ombudsman of Bosnia and Herzegovina received a complaint concerning the protection of rights at workplace and mobbing in the Municipality of Srebrenica.

The complainant alleged that he was subjected to pressure and harassment by the Head of the Office of the Mayor who put the list of employees leaving the workplace without their superiors' approval up on the bulletin board, with his name included. He alleges that he was occasionally and justifiably absent due to project activities and obligation to attend to field activities, that after the completion of the project he was involved in he was not given a single work assignment, that he was forced to send work reports despite not having any assignment to write about, that his pay grade was lower than that of other employees holding the same degree, that he was left without basic office equipment (computer and printer), and that he received indecent, improper and threatening messages from the Mayor.

In its submission dated 23 October 2020, the respondent party stated that the allegations about the pressure exerted by the Head of the Office of the Mayor were not true because he had not put

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<sup>574</sup> CBBH submission no 104-25-1-1394-2/20 dated 6 July 2020;

<sup>575</sup> Case Ž-BL-06-656/20;

up any list of employees on the bulletin board in connection with the failure to comply with work rules or any other list. It was also stated that the complainant never informed the Mayor of any dissatisfaction, particularly of having no basic equipment (computer and printer) in his office, that the pay grade was determined pursuant to the Special Branch Collective Agreement, that the Mayor and the complainant did correspond but outside working hours, and that no action was taken and no form of behaviour was displayed that would indicate psychological abuse or humiliation aimed at undermining the complainant's reputation, human dignity or integrity or jeopardising his honour.

Following the investigation procedure, a recommendation was sent to Srebrenica Mayor, instructing him to take measures to improve the work atmosphere, eliminate insults and other forms of behaviour that undermine personal dignity, all with a view to improving interpersonal relationships between employees, including the complainant and the Mayor.

**Example:**<sup>576</sup> IHROBiH received a complaint on 21 September 2020 where the complainant designated Zvornik Police Station as the respondent party. He approached IHROBiH concerning the protection of employment rights, discrimination and mobbing by his line manager, Zvornik Police Station Commander. IHROBiH conducted an investigation procedure on 8 October 2020 and requested a submission from Zvornik Police Station and the Department for the Protection of Integrity and Legality of the Republika Srpska Ministry of Internal Affairs. IHROBiH received responses from the Republika Srpska Ministry of Internal Affairs on 22 October 2020 and 6 November 2020. No response from Zvornik Police Station was received and a reminder was sent subsequently.

The complaint case is pending.

**Example:**<sup>577</sup> IHROBiH acted on a complaint referring to alleged violations of the Prohibition of Discrimination Act concerning the mobbing that the complainant was subjected to by the Mayor of the City of Sarajevo. IHROBiH noted that a large number of allegations were made and a large amount of evidence and documents were provided in the given case. IHROBiH notes that it does not have the capacity to decide on the merits of each individual allegation, especially given the complexity of the case and the contradictions between the allegations of the complainant and the responsible body, which is why the allegations are reviewed as a whole. IHROBiH does not have the authority to deal with the merits of the particular deployment decisions in order to assess the facts and review the decisions taken. This is so particularly given the fact that in the legal matter in question, any change of the complainant's position was accompanied by a decision issued, a legal remedy provided and a decision on it made by the competent body – Civil Service Appeal Board of the Federation of Bosnia and Herzegovina. The fact is that in the past two years, the complainant's employment status has changed five times, which has had a direct impact on her position as an employee in the administrative body, has led to disrupted interpersonal relationships and disrupted communication between the Mayor and the complainant, which makes the complainant feel that her rights are violated and her professional status degraded, but it cannot be proved that the complainant is a victim of mobbing.

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<sup>576</sup> Case Ž-SA-06-785/20;

<sup>577</sup> Case Ž-SA-06-708/19;

IHROBiH believes that the City of Sarajevo has the capacity to solve problems independently and internally, within its institution, i.e. to review the overall situation thoroughly, to determine the true causes of the problem, and then to identify the measures to be taken if it finds that there are breaches of work rules in terms of failure to perform work assignments, as stated in the last submission by the Mayor of the City of Sarajevo, but at the same time to enable the complainant to exercise all rights if unhappy with the employer's actions without detriment to her. The City of Sarajevo was recommended to undertake all activities to organise a meeting with the complainant, with a view to overcoming the disturbed interpersonal relationships and lack of communication between the management of the City of Sarajevo and the complainant by making an attempt to identify the causes, consequences and joint solutions for the situation.

Cooperation was established in the case, but the recommendation was not complied with.

Situations where there are conflicting pieces of information in the complaint and the responsible body's submission are the reason why Article 7 paragraph 2 item d) of the Prohibition of Discrimination Act stipulates that *the ombudspersons shall propose initiating a mediation procedure pursuant to the Mediation Act*<sup>578</sup>. According to Article 4 of the said Act, the parties shall jointly select the mediator from the mediator list set up by the Association. Inefficiency in implementing the Mediation Act indirectly reflects on the actions of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina, which is why the ombudspersons in their recommendations make more and more use of the possibilities prescribed by the amendment to Article 24 of the Prohibition of Discrimination Act obliging all public authorities and other legal entities to govern the principle of equal treatment in their statutory instruments or specific legal instruments, and to ensure effective internal anti-discrimination procedures.

**Example:**<sup>579</sup> The complainant approached IHROBiH concerning mobbing in his workplace - Herzegovina-Neretva Canton Civil Defence and Firefighting Administration. The complainant alleges that he has been coming to work regularly for two years but that he has been denied any professional work. He also points out that colleagues do not communicate with him during working hours and that he is excluded from paid and unpaid commissions.

Following the investigation procedure, IHROBiH issued Recommendation no P-186/20 to the Director of the HNC Civil Defence and Firefighting Administration, instructing him to take measures within 30 days with a view to implementing Article 24 paragraph 4 of the Prohibition of Discrimination Act of Bosnia and Herzegovina, in order to ensure mechanisms within the CDFA for resolving and preventing such and similar situations. The HNC Civil Defence and Firefighting Administration adopted in a timely manner the Anti-Discrimination Rulebook of the HNC Civil Defence and Firefighting Administration, which entered into force on 12 October 2020. Therefore, the recommendation is deemed to be complied with.

We also need to point to *complaints alleging mobbing related to changes in the managerial structures* (managing and supervisory boards) in public institutions, with a number of members

<sup>578</sup> *The Official Gazette of BiH*, no 37/04;

<sup>579</sup> Case MO-06-136/18;

elected from the ranks of employees. Changes of political options in power often lead to changes in the managerial structures in institutions and public companies, which are most often effected by not adopting work reports. Since some of these dismissed members are elected from the ranks of employees, they continue to work in the institution, but they often perceive certain actions of the new management as mobbing. At the same time, newly elected and “dismissed” members of the managerial structures are obliged to perform their work as employees, as referred to in the employment contract, which is difficult in some cases because of the disturbed interpersonal relationships caused by the changes in the managerial structures. This fact has a considerable effect on the functioning of the institution and fulfilling of its mandate, which directly impacts the quality of services to be provided to citizens.

Example: Cases related to Porodično savjetovalište (Family Counselling)<sup>580</sup>

During 2020, IHROBiH received and reviewed a number of complaints from employees of Cantonal Public Institution Porodično savjetovalište where the parties alleged mobbing and violation of employment rights as the grounds of discrimination. Following the investigation procedure, IHROBiH sent the following recommendation<sup>581</sup>:

1. *The Ministry of Labour, Social Policy, Displaced Persons and Refugees of Sarajevo Canton to intensively and continuously supervise the work of CPI Porodično savjetovalište;*
2. *To promptly undertake all activities aimed at improving the disturbed interpersonal relationships and lack of communication amongst the employees by making an attempt to identify the causes, consequences and joint solutions for the situation;*
3. *With a view to ensuring the mechanism within CPI Porodično savjetovalište, to take measures to implement Article 24 paragraph 4 of the Prohibition of Discrimination Act obliging all public bodies and other legal entities to govern the principle of equal treatment in their statutory instruments or specific legal instruments and to ensure efficient internal anti-discrimination procedures;*
4. *To inform IHROBiH of the procedures and deadlines for taking measures to implement this Recommendation within 30 days, pursuant to Article 32 paragraph 1 of the Law on Human Rights Ombudsman of Bosnia and Herzegovina.*

### 10.1.3. Hate speech

During the reporting period, several cases with allegations referring to hate speech were registered with IHROBiH.<sup>582</sup> Given that IHROBiH is preparing a special report on hate speech in Bosnia and Herzegovina as part of the Council of Europe’s project supported by the European Union within the Horizontal Facility for the Western Balkans and Turkey 2019-2022 programme - Promotion of diversity and equality in Bosnia and Herzegovina, these cases will be shown in this report.

<sup>580</sup> Cases Ž-SA-06-227/20, Ž-SA-06-231/20, Ž-SA-06-289/20, Ž-SA-05-588/20, Ž-SA-05-596/20, Ž-SA-04-595/20, Ž-SA-06-583/20, Ž-SA-06-603/20 and Ž-SA-06-645 /20;

<sup>581</sup> Recommendation P-/20;

<sup>582</sup> Cases ŽA-SA-06-684/20; Ž-Sa-06-717/20; Ž-SA-06-684/20; Ž-SA-06-942/20; Ž-MO-06-111/20; Ž-BL-06-627/20; Ž-SA-06-453/20;

#### 10.1.4. Other discrimination cases

Citizens also send discrimination complaints that show dissatisfaction with life circumstances in general, with the fact that status issues of certain population groups, such as civilian victims of war and members of families of shahids and fallen soldiers, are not regulated by law, with general treatment which makes certain groups feel that they are discriminated against, etc.<sup>583</sup> There are also complaints filed that refer to discrimination in allocation of funds to associations.<sup>584</sup>

There are more and more complaints filed by unemployed persons registered with employment bureaus that point out that they are not awarded points for the time spent waiting for employment if they are registered with the employment bureau of another canton.<sup>585</sup>

**Example**<sup>586</sup>: IHROBiH acted on a complaint designating the Ministry of Education, Science and Youth of Sarajevo Canton as the respondent party and concerning the public competition procedure for the recruitment of permanent staff<sup>1</sup> - preschool teachers in PI Djeca Sarajeva. The complainant points out that she was discriminated against when applying for the job because the time she spent registered with the Employment Service that is awarded points was not accepted in the recruitment procedure because she was registered in Zenica-Doboj Canton and not in Sarajevo Canton. IHROBiH examined the *Rulebook on the Staff Recruitment Criteria in Preschool Institutions, Primary and Secondary Schools as Public Institutions in Sarajevo Canton* and noted that persons registered with the Sarajevo Canton Employment Service can, depending on the time spent on their records, be awarded between 0.20 and 24 points more than any other person that applies for the same position and is in the same situation – but is registered with the employment service of another canton. Certain provisions of the Rulebook are found not to be aligned with the European Social Charter which provides for the principle of non-discrimination when engaging in employment, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Labour Act of the Federation of Bosnia and Herzegovina and the Prohibition of Discrimination Act. It is also established that persons registered with employment services outside Sarajevo Canton are put in an unequal position, while those registered with the Sarajevo Canton Employment Service have precedence over others, i.e. they are awarded more points than persons also registered with the employment service in another canton. Therefore, a recommendation<sup>1</sup> was sent to the Ministry of Education, Science and Culture, reading as follows:

*"To align Article 7 of the Rulebook on the Staff Recruitment Criteria in Preschool Institutions, Primary and Secondary Schools as Public Institutions in Sarajevo Canton with the Labour Act of the Federation of BiH, providing for the prohibition of discrimination against job seekers; to inform the Institution of the Human Rights Ombudsman of BiH of the implementation of the recommendation within 30 days from the day it is received".*

No response to the recommendation was received.

<sup>583</sup> Case Ž-SA-06-555/20;

<sup>584</sup> Cases Ž-SA-06-847/20; Ž-SA-06-853/20; Ž-SA-06-861/29;

<sup>585</sup> Case Ž-SA-659/20;

<sup>586</sup> Case Ž-SA-04-403/20;

Citizens also approach the Institution of Human Rights Ombudsman of Bosnia and Herzegovina because of the names of public institutions that are ethnically marked, which prevents citizens that do not belong to that ethnic group to identify with them.<sup>587</sup>

The issue of different *treatment of foreign nationals granted subsidiary protection status* is different and it emerged as an issue when opening bank accounts.<sup>588</sup> Acting on a memo from the Institution of Human Rights Ombudsman of Bosnia and Herzegovina, the Banking Agency of the Federation of BiH sent a document to all banks in the Federation of BiH where it pointed out that denying rights and failing to provide services to persons granted international legal protection was illegal.

#### 10.1.5. Women's rights

In 2020, a total of 137 and 126 discrimination complaints were filed by men and women, respectively, and as far as mobbing as the most common form of discrimination in the structure of complaints is concerned, men filed 17 and women 16 mobbing complaints in 2020.

As for the total number of cases in 2020, a total of 966 women, compared to 1,513 men, lodged complaints to IHROBiH, while in 237 cases the complainant's sex was not specified.

The cases with unspecified sex of the complainant were cases opened *ex officio* by IHHROBiH, anonymous complaints or complaints in which the complainant explicitly stated they did not want to disclose their identity.

The Ombudsmen point out that the position of women during the COVID-19 pandemic has become more complex because the economic consequences of the pandemic disproportionately affect females, given that the transition to information technologies in business does not favour men and women equally, especially given the fact that women are predominantly employed in the service sector such as trade. The position of women in rural areas is also worrying, and the state has not taken adequate measures to protect them during the pandemic. The ombudspersons note that the crisis staffs had very limited consultations on the planned measures with the line ministries, in particular the ministries of internal affairs, social protection and healthcare, social welfare centres and citizens' associations, which would be important for exercising the rights of members of the most vulnerable groups, including women.

In Bosnia and Herzegovina, domestic violence (and especially violence against women) is one of the basic forms of human rights violations, but at the same time it constitutes a criminal offence. The legal framework governing the issue of domestic violence in Bosnia and Herzegovina is as follows: Protection against Domestic Violence Act of the Republika Srpska, Protection against Domestic Violence Act of the Federation of Bosnia and Herzegovina, Protection against Domestic Violence Act of the Brčko District of Bosnia and Herzegovina; and criminal legislation: Criminal Code of the Republika Srpska, Criminal Code of the Federation of Bosnia

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<sup>587</sup> Case Ž-SA-06-10/20;

<sup>588</sup> Case Ž-SA-06-487/20;

and Herzegovina and Criminal Code of the Brčko District of Bosnia and Herzegovina. The Gender Equality Act stipulates that gender-bases violence constitutes a criminal offence.

A number of instruments implementing the principles enshrined in the Prohibition of Discrimination Act of BiH<sup>589</sup> and Gender Equality Act of BiH<sup>590</sup> have been adopted at entity level as the precondition for the prevention of violence against women. These two pieces of legislation constitute the framework for exercising equal rights and opportunities of all persons in Bosnia and Herzegovina and govern the system for protection against discrimination, *inter alia*, on the grounds of sex.

In the Republika Srpska, the Act on Amendments to the Protection against Domestic Violence Act<sup>591</sup>, harmonised with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), was adopted on 17 September 2019. It is particularly important to point out the importance of the amendments to Article 42, where the provision stipulating that the domestic violence perpetrator shall be penalised for committing a minor offence has been deleted, whereby it is ensured that domestic violence in the Republika Srpska is treated solely as a criminal offence pursuant to Article 190 of the Republika Srpska Criminal Code. There is an initiative in the Federation of Bosnia and Herzegovina to amend the Protection against Domestic Violence Act which is still at the public consultation stage. As for the position of victims, there is an indisputable need to harmonise the legislation with the 2012 European Directive on Victims' Rights<sup>592</sup>.

Based on monitoring activities and consultations with civil society, IHROBiH concludes there has been an evident increase in cases of domestic violence and violence against women. Movement or assembly restriction measures have not provided victims the equal opportunities to call trusted persons (their family members) or representatives of law enforcement agencies for help, and the mobilisation of institutions dealing with domestic violence issues to act with a view to implementing pandemic prevention measures prescribed by crisis staffs, such as movement supervision, mask wearing, etc., is an additional problem.

**Example**<sup>593</sup>: The Institution of Human Rights Ombudsman of Bosnia and Herzegovina received a complaint from N.J. of Gradiška regarding verbal attacks and domestic violence that she suffers as a person with a disability at the hands of her mother-in-law who lives in the same household.

In the investigation procedure, IHROBiH addressed Gradiška Social Welfare Centre on 6 August 2020, and in their submission the Centre stated that police officers from Gradiška police station arrived at the scene to establish there was a family dispute involving the complainant and her mother-in-law, and that the standby prosecutor found no elements of a crime. After that, the

<sup>589</sup> Prohibition of Discrimination Act of BiH, *The Official Gazette of BiH*, no 59/2009 and 66/2016;

<sup>590</sup> Gender Equality Act of BiH – consolidated text, *The Official Gazette of BiH*, no 32/2010

<sup>591</sup> *The Official Gazette of the Republika Srpska* no 84/2019, which came into effect on 1 January 2020;

<sup>592</sup> DIRECTIVE 2012/29/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, <https://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CELEX:32012L0029&from=BG>

<sup>593</sup> Case Ž-BL-06-496/20;

Institution of Human Rights Ombudsman of Bosnia and Herzegovina addressed the Republika Srpska Ministry of Health and Social Protection on 6 November 2020, which in turn provided their submission on 26 November 2020. According to the submission, the RS MHSP took actions in line with their competences in order to request information from PI Social Welfare Centre Gradiška concerning the allegations from the report and the complainant's objection to the actions of police officers was forwarded to the Ministry of Internal Affairs for further proceedings. Given that all competent bodies acted on the sent reports, that no violations of the law were found that would justify conducting criminal or minor offence proceedings or imposing statutory sanctions, IHROBiH decided to close the case on 22 December 2020.

**Example:** On 3 February 2020, the Institution of Human Rights Ombudsman of Bosnia and Herzegovina received a complaint from D.S. of Banja Luka concerning domestic violence she had suffered at the hands of her common-law husband D.B. The complaint was registered under number Ž-BL-06-46/20. The complainant alleges that she has addressed the police regarding assaults and threats, that no minor offence procedure was initiated against the attacker because the judge assigned to the case ascertained that it was a criminal offence of domestic violence but the case never reached trial. She also alleges that her common-law husband has never paid any child support, with the records to prove that kept at Banja Luka Social Welfare Centre. That, too, constitutes a criminal offence. She has been living in fear because the period of detention for his latest assault is to expire soon.

The Institution of Human Rights Ombudsman of Bosnia and Herzegovina requested from the competent prosecutor's office the information on the measures taken concerning the complainant's reports, pursuant to Article 30 of the Law on Human Rights Ombudsman stipulating that "IHROBiH shall inform the competent prosecutor's office ... when in the course of its duties it learns of conduct or action that constitutes a criminal offence". On 7 February 2020, the District Public Prosecutor's Office provided the information on the measures taken within its competence, the complainant was informed thereof, and the case was closed thereafter.

## 10.2. Promotional activities

Restrictions on movement and thus on large gatherings introduced due to the COVID-19 pandemic also affected the implementation of promotional activities aimed at preventing discrimination. On 5 March 2020, before the COVID-19 pandemic was declared, there was a meeting of the working group for drafting the LGBTI action plan for Bosnia and Herzegovina that was held in Banja Luka. The project is implemented by the Agency for Gender Equality of Bosnia and Herzegovina and the Council of Europe, and it is supported by the European Union's programme Horizontal Facility for the Western Balkans and Turkey 2019-2022 - Promotion of diversity and equality in Bosnia and Herzegovina. Besides the organisers, the workshop was attended by representatives of the Ministry of Justice of Bosnia and Herzegovina, Ministry of Civil Affairs of Bosnia and Herzegovina, Ministry of Internal Affairs of the Republika Srpska, Ministry of Internal Affairs of the Federation of Bosnia and Herzegovina, Government of the Brčko District, Gender Centre of the Government of the Republika Srpska, Ministry of Health and Social Protection of the Republika Srpska, Ministry of Health of the Federation of Bosnia and Herzegovina, FBiH Ministry of Health and Social Policy and the non-governmental

organisations Sarajevo Open Centre and KVART Prijedor. The IHROBiH representatives presented the activities carried out to promote the rights of the LGBTI population, focusing on the progress of the implementation of the 2017 Special Report recommendations.

### **10.3. Special Report on the Representation of Constituent Peoples and Others in the Institutions, Administrative Organisations and Regulatory Bodies of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina, Republika Srpska, Brčko District of Bosnia and Herzegovina and Cantons in the Federation of Bosnia and Herzegovina (by Unit of Appropriation), Excluding Police and Security Structures**

On 21 June 2019, IHROBiH made the decision to draft the Special Report on the Representation of Constituent Peoples and Others in the Institutions, Administrative Organisations and Regulatory Bodies of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina, Republika Srpska, Brčko District of Bosnia and Herzegovina and Cantons in the Federation of Bosnia and Herzegovina (by Unit of Appropriation), Excluding Police and Security Structures<sup>594</sup> in order to review the situation or ethnic breakdown in the public bodies at all levels of government in Bosnia and Herzegovina.

This Report was drafted based on complaints where citizens pointed to discrimination on the grounds of ethnicity in recruitment procedures and when exercising employment-related rights. Due to the lack of financial and human resources, IHROBiH conducted a limited research in order to draft this Report. The research included providing a questionnaire to the competent bodies, asking them to provide the breakdown data for their respective staff as at 30 September 2019. The staff breakdown data according to the Rulebook on the Internal Organisation and Classification of Positions; managerial staff ethnic breakdown and staff gender breakdown were also requested.

The methodology employed by IHROBiH in drafting this Report was based on the analysis of the relevant provisions of the Constitution of Bosnia and Herzegovina, Constitution of the Federation of Bosnia and Herzegovina and cantonal constitutions, Constitution of the Republika Srpska and Statute of the Brčko District of Bosnia and Herzegovina. In the course of drafting this Report, IHROBiH also analysed the legislation providing for the representation of the constituent peoples in the institutions, administrative organisations and regulatory bodies of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina, Republika Srpska, Brčko District of Bosnia and Herzegovina and the cantons of the Federation of Bosnia and Herzegovina (by unit of appropriation), excluding police and security structures which were previously covered by another special report. The Annex to the Report showed the representation of the constituent peoples in all institutions, administrative organisations and regulatory bodies in Bosnia and Herzegovina that provided the completed questionnaire to IHROBiH. The Report showed summary data by level of government.

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<sup>594</sup> Report available at: [https://www.ombudsmen.gov.ba/documents/obmudsmen\\_doc2020072012451914bos.pdf](https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2020072012451914bos.pdf)

After the data received were analysed, it was concluded that equal representation of the constituent peoples and others had not been achieved, which is why the heads of all institutions, administrative bodies and regulatory bodies in Bosnia and Herzegovina were recommended to take adequate measures within their powers that would result in fair representation of the constituent peoples and others in the staffing structure, pursuant to the constitutions and applicable regulations governing this issue; and to take the necessary measures within their powers that would result in adequate representation of men and women in the structure of their respective institution, administrative or regulatory body.

#### **10.4. Impact of COVID-19 pandemic on discrimination prevention**

The Institution of Human Rights Ombudsman received a number of cases referring to discrimination caused by the measures taken to tackle the COVID-19 pandemic. These complaints pointed to the issue of publicising the names of persons issued with self-isolation decisions, with the complainants believing that this labelled and stigmatised them in their communities<sup>595</sup>, the issue of accommodation in certain facilities not meeting minimum hygiene and health requirements<sup>596</sup>, movement restrictions for persons under 18 and over 65 years of age<sup>597</sup>, etc. Regarding the above and related requests, IHROBiH sent a document to all competent authorities in Bosnia and Herzegovina, requesting that the measures taken be carefully weighed and kept to the minimum in order to protect public health, especially vulnerable groups of citizens and that the competent authorities be more accountable in terms of vulnerable groups. Given the orders issued by the crisis headquarters till then and complying with the instructions and recommendations of public health experts, it was pointed out that there was a need to increase supervision and take most effective measures in terms of risky and vulnerable groups (elderly, persons with disabilities, children, single parents), and persons who due to chronic diseases, autoimmune diseases and/or other health difficulties fall within a risky group. The document underlined that, while acknowledging the intention of the competent authorities to fight against the spread of COVID-19, the restrictions imposed on certain vulnerable categories could result in certain consequences for these groups, which is why the competent authorities were obliged to take protective measures, such as organising work processes with a view to protecting people with disabilities, enabling children to maintain contact with non-custodial parents, increasing supervision of people over the age of 65, in terms of their needs for food and medicine, etc. IHROBiH recommended that employers facilitate work from home in all situations where this was possible for persons with disabilities, parents of children and adults with developmental disabilities, or persons caring for them, single parents. If in some cases organising work from home was not possible, the recommendation was to provide the most appropriate conditions that would ensure health protection and prevention. Finally, it was recommended that people with disabilities, especially deaf people and people hard of

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<sup>595</sup> Case Ž-BL-06-281/20;

<sup>596</sup> Case Ž-BL-06-284/20;

<sup>597</sup> On 2 April 2020, IHROBiH was approached by the Citizen Association Most Zenica, requesting that the ban on movement for persons over 65 and under 18 years of age be lifted. The complainants state that the said measure is discriminatory as it prevents equal enjoyment of rights and freedoms on the grounds of age for persons under 18 and over 65 years of age, and that the restriction is not “objectively and reasonably justified”, that the FBiH Civil Protection Crisis Headquarters did not try to implement measures that would be less restrictive before they decided to go ahead with this measure and that the full-fledged movement restriction is a disproportionate attack against the rights and freedoms of these age, and thus discriminatory.

hearing, be given unhindered access to information and recommendations from crisis staffs, and it was recommended that the most important messages and information be available in the sign language.

**Example:**<sup>598</sup> The party approached IHROBiH on 1 April 2020 concerning publicising the names of persons who breached home isolation arrangements. After the preliminary examination of the complaint, it was established that IHROBiH had already taken a position on restricting the rights of citizens in isolation. According to the position, it is in principle possible, pursuant to the International Covenant on Civil and Political Rights (Article 12 paragraph 3), to restrict the enjoyment of basic rights, including the right to movement, to protect public health. The complainant was also informed that all IHROBiH documents, including press releases, the said international standards and communication with competent authorities, could be used as the official IHROBiH position on this issue. According to these, all prohibitive and restrictive measures should be subject to periodic review.

**Example:**<sup>599</sup> The complainant<sup>600</sup> approached IHROBiH because of the way – practice of Public Company BH Pošte Ltd Sarajevo when delivering postal consignments to persons infected with COVID-19. The complainant alleges that in July his wife was in contact with a person who contracted COVID-19. The spouses were tested for COVID-19 and one of them tested positive. In line with the practice, they informed all their contacts and employers, and they self-isolated. On 22 July 2020, an employee of Public Company BH Pošte Ltd. Sarajevo brought them a self-isolation decision issued by the Sarajevo Canton Ministry of Health. According to the allegations from the complaint, the employee was not wearing a face mask and, while standing in front of the block of flats in Sarajevo where the complainants live, yelled out he would leave the envelope in front of the door as they were infected. It was unclear to the complainants how the employee of PC BH Pošte Ltd. Sarajevo knew what the status of their health was, until they saw the envelope (containing the isolation decision), which had a sticker in the left corner reading, in capital letters, CAUTION!!! PERSON INFECTED WITH CORONAVIRUS. IHROBiH issued a recommendation<sup>601</sup> and found the following violations: the right to privacy of the patient, illegal publication of a special category of personal data, data disclosing the health condition, disclosure of official secrets, and discrimination of persons on the grounds of their health condition. The response of the responsible body received by IHROBiH indicates that the recommendation has been partially implemented. It states that *the delivery of these consignments is carried out in accordance with the delivery procedure given by the Council of the Postal Traffic Agency. We are ready to review any complaints from clients with claims that the delivery of consignments is not carried out as stated above and to align any deviation with the applicable regulations.*<sup>602</sup>

## 10.5. Minorities

The Act on the Protection of the Rights of Members of National Minorities of Bosnia and Herzegovina provides for the rights and obligations of members of national minorities in BiH

<sup>598</sup> Case Ž-BL-06-281/20;

<sup>599</sup> Case Ž-SA-06-627/20;

<sup>600</sup> Case Ž-SA-06-627/20;

<sup>601</sup> Recommendation number P-136/20 dated 6 August 2020;

<sup>602</sup> PC Pošte Ltd. Sarajevo, document number 01-4-1-10197-3/20 dated 17 August 2020;

and the obligations of authorities in BiH to respect and protect, preserve and develop the ethnic, cultural, linguistic and religious identity of every member of a national minority who is a national of BiH.

The CoE Framework Convention for the Protection of National Minorities is directly applicable and is an integral part of the legal system of BiH and the entities in BiH.

Article 3 of the said Act provides the definition of a national minority and the list of national minorities. Therefore, a national minority is a part of the population (BiH nationals) that does not belong to any of the three constituent peoples and is made up of people of the same or similar ethnic origin, with the same or similar traditions, customs, beliefs, language, culture and spirituality, recent or related history, and other characteristics.

The Act further states that BiH shall protect the position, equality and rights of the 17 national minorities existing in BiH, namely: Albanians, Montenegrins, Czechs, Italians, Jews, Hungarians, Macedonians, Germans, Poles, Roma, Romanians, Russians, Ruthenians, Slovaks, Slovenes, Turks and Ukrainians.

There were three complaints registered with this Department during the reporting period, with one recommendation issued.

**Example:** The National Minority Council of the Una-Sana Canton Assembly approached IHROBiH on the matter of representation of national minorities in constituency 002 – Cazin<sup>603</sup>. The complainants stated that *“The Central Election Commission of Bosnia and Herzegovina failed to guarantee the representation of national minorities when determining the number of councillors in their Decision to Call and Hold the 2020 Local Elections. The submission of the Central Election Commission it is stated the data were obtained from Cazin City Council, and according to them, a total of 30 councillor are to be elected, with no guaranteed seat envisaged for members of national minorities. It also stated that the share of national minorities in the total population of Cazin constituency does not exceed 3%, which is why no seat is guaranteed for them in Cazin City Council”*. Following the investigation procedure, IHROBiH determined that there was a discrepancy as to the percentage of national minorities in the territory of the City of Cazin according to the last census and that the guaranteed seat for their representatives in the upcoming elections was dependant on this data.

IHROBiH therefore issued a recommendation<sup>604</sup> to the Central Election Commission to independently and unequivocally establish the population composition in the territory of constituency 002 – Cazin, to determine the list of city councillors for the upcoming election and certify the final list in line with the data obtained, findings from this recommendation and primarily with Article 13.14 par. 1 and 2 of the Electoral Act of Bosnia and Herzegovina. The recommendation was implemented (data checked), and IHROBiH closed the case.

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<sup>603</sup> Case registered under number Ž-BL-03-467/20;

<sup>604</sup> Recommendation number P-172/20 dated 13 August 2020;

**Example:** The complainant<sup>605</sup> approached IHROBiH because he had to move out of the accommodation which was provided to him as alternative housing and where he had been living with his family of twelve. The said building was to be demolished according to the Land Use Plan of the City of Mostar. He addressed the City of Mostar to be provided with another adequate housing option based on his status as a displaced person.

The Department for Social and Housing Affairs, Health, Displaced Persons and Refugees of the City of Mostar provided the response on 17 March 2020. In the response, they pointed out that *“in 2012, the City of Mostar allocated two housing units in the Roma settlement in Bišća Polje to the complainant and his son, which they left of their free will, after which the City of Mostar, at their repeated request, allocated one large room in the North Camp facility for their temporary use, until they manage to find another accommodation”*. They further point out that *“by checking the official records it was established that the complainant did not have the status of a displaced person and therefore did not meet the conditions for the allocation of alternative accommodation”*. The City of Mostar emphasises that, *“regardless of the formal assumptions and requirements provided by law, there isn't a single vacant housing unit available, especially not one that would accommodate 12 people”*. The complainant was duly informed of all of the above, after which he did not approach IHROBiH again.

Bearing in mind the stated facts, IHROBiH decided to close the case, in line with Article 35 paragraph 5 of the Rules of Procedure of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina.

**Example:** The complainant<sup>606</sup>, Serbian Orthodox Municipality of Mostar, approached the Hospitality and Tourism High School in Mostar with an enquiry as to why that education institution failed to provide Orthodox Christian Religious Education classes or supplementary classes to students who elected this supplementary subject.

In the submission from the Hospitality and Tourism High School in Mostar dated 18 March 2020, the head teacher points out *“that they have so far not had any requests to deliver Orthodox Christian Religious Education classes, apart from the mother who requested that her daughter take the exam in Orthodox Christian Religious Education instead of the selected subject of Ethics at the end of the second term. The school took steps (the Teachers' Council was convened and the decision was made to request the consent of the competent Ministry to allow taking Orthodox Christian Religious Education instead of Ethics in the second term; the consent arrived on 21 February 2020, and the student's mother was informed thereof), to facilitate the above request. However, the mother meantime provided a statement, waiving the requested change of the subject”*.

In the further investigation procedure, IHROBiH requested the School to state whether there were any requests to deliver Orthodox Christian Religious Education classes in the new 2020/2021 school year and how many students opted for this subject.

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<sup>605</sup> Case registered under number Ž-MO-03-29/20;

<sup>606</sup> Case registered under number Ž-MO-03-16/20;

The submission from the Hospitality and Tourism High School in Mostar dated 18 November 2020 informed IHROBiH that *“at the beginning of this school year, like every school year, the School conducted the procedure in connection with the delivery of religious education, pursuant to the HNC Act on Secondary School Care and Education. At their PTA meetings, parents signed surveys and in the survey nobody opted for taking Orthodox Christian Religious Education classes. Therefore, the School complied with the law and students were provided options and had the right to take Orthodox Christian Religious Education classes”*.

The complainant was duly informed of all IHROBiH actions. However, with the exception of the her first address when she filed the complaint and despite the invitation to participate in the proceedings, the complainant no longer approached IHROBiH.

**Example:** It follows from the allegations in the complaint<sup>607</sup> that *“the complainant (Lj.R. and other residents of Jabuka village, Grude Municipality) have in the last several months been prevented from performing religious ceremonies in the Church of the Assumption of Mary, a part of which is the cemetery for Jabuka village locals. The church and the cemetery are in the territory of Bosnia and Herzegovina but for more than 100 years they have been used for religious ceremonies by locals of both Jabuka village (BiH) and Mijaca village (Republic of Croatia). There is a macadam road from Jabuka village to the church and cemetery, which is used by the locals and is completely in the territory of Bosnia and Herzegovina. In the early 2020, Border Police officers from Vrgovac Police Station installed a camera and a state border sign of the Republic of Croatia on the macadam road to the church, completely in the territory of Bosnia and Herzegovina”*. The complainant, as well as other locals, *“have on several occasions so far been subjected to unpleasant intimidation by police officers from Vrgorac Police Station who make frequent checks at the place where the camera was installed, instructing citizens of Bosnia and Herzegovina not to use this road to the church because that way they illegally cross the state border and will be penalised”*. According to the allegations from the complainants, they did not cross the state border at any time and moved exclusively on the roads in the territory of Bosnia and Herzegovina.

During the investigation procedure, IHROBiH requested a submission from the Border Police of Bosnia and Herzegovina, primarily regarding information on whether there was a change in the territory of Bosnia and Herzegovina, which would justify installing the cameras and taking the measures described in the complaint.

The submission from the Director of the Border Police of BiH dated 13 November 2020 points out *“that the Border Police of BiH have been informed of the actions of police officers of the Ministry of Internal Affairs of the Republic of Croatia and actions are being taken to eliminate any irregularities that may have occurred in the stated period, and that actions pertaining to improving trans-border cooperation, focusing particularly on resolving the issues mentioned in the complaint as proposed by the locally competent organisational unit of the Border Police of BiH, are envisaged”*.

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<sup>607</sup> Case registered under number Ž-MO-03-138/20;

The complainant was informed of the above submission and called upon to inform IHROBiH of the situation on the ground and provide a submission concerning further complaint-related actions. The complainant provided his submission to IHROBiH on 11 December 2020, where he pointed out that *“the problem is still ongoing, the cameras are still in the territory of Bosnia and Herzegovina, and funerals and visits to the church and cemetery of Jabuka village locals depend on the good will of members of the Border Police of the Republic of Croatia”*.

IHROBiH continues its investigation procedure.

## XI. COOPERATION WITH MEDIA

The Institution of Human Rights Ombudsman of Bosnia and Herzegovina pays particular attention to information and cooperation with the media while nurturing a partnership with media representatives, all in the best interest of citizens of Bosnia and Herzegovina.

The objectives of IHROBiH's cooperation with the media are as follows:

- promoting human rights and creating awareness of the need to prevent their violation
- informing citizens about IHROBiH mechanisms for protecting their rights
- encouraging and stimulating protection of human rights and fundamental freedoms
- systematic, continuous, timely and accurate public information (via print and electronic media) about relevant IHROBiH activities
- creating and promoting positive public image of IHROBiH
- continuously and systematically monitoring public opinion, quantity and quality of media space in print and electronic media dedicated to topics of importance for exercising human rights from IHROBiH perspective

With a view to implementing these objectives, in cooperating with the media IHROBiH:

- applies standard media relations procedures
- checks the facts of events that require IHROBiH action and based on them opens cases *ex officio*
- responds to requests from journalists and publishes press releases
- organises regular and emergency press conferences to inform the public of activities and issues within IHROBiH competence
- facilitates and holds meetings of IHROBiH representatives with media representatives
- informs the public via media presence of IHROBiH representatives (interviews, statements, guest appearances on TV and radio shows...)
- presents IHROBiH activities online
- presents IHROBiH activities, in particular preventive activities, using promotional materials - posters, pamphlets...
- maintains cooperation with media companies
- keeps contact and implements activities in cooperation with spokespersons from other institutions
- participates in preparing and promoting preventive and other campaigns in cooperation with other institutions and organisations
- analyses how IHROBiH activities are presented by the media, gains insight into public opinion and problems faced by citizens when exercising their rights.

On the website of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina, [www.ombudsmen.gov.ba](http://www.ombudsmen.gov.ba), citizens can get information about IHROBiH activities, their rights and procedures for exercising those rights, and other information within IHROBiH's competence, and can file online complaints with IHROBiH.

More than 258 pieces of information on IHROBiH activities were published on its website during 2020. The information that the website had 39,780 visits in that period, with more than

112,000 pages with published contents viewed, says plenty about its importance. Most recorded visits were from Bosnia and Herzegovina, followed by the USA, Serbia, Croatia, Germany, and the website has seen a significant number of visits from Austria, the United Kingdom, China, France and Slovenia in recent years.

Due to the coronavirus pandemic, IHROBiH suspended the “Ombudsman in Your Town” project activities, and the promotion of IHROBiH work in local communities is part of these activities. Other promotional field activities that pose a risk to participants’ health were also postponed to take place in the future. The plan is to continue these activities as soon as the conditions for that are met.

In the meantime, activities that contribute to the promotion of IHROBiH work and to its outreach continued via the ombudspersons’ appearances on radio shows, carried out in cooperation with the OSCE Mission to BiH, as was the practice in previous years, too. They made guest appearances on the following radio stations: Radio Zenit (Radio Vitez, Drukčiji Radio, Novi Travnik and Radio Maglaj), UPS Srebrenica and Magic Radio Milići, Radio Doboje, Radio Velika Kladuša and RTV Slon Tuzla.

All media requests were responded to on time and fully, despite the current situation and changed working conditions.

IHROBiH responded to 119 media requests in the reporting period. Given the circumstances, most statements were given by telephone, via Skype and in writing, while in a small number of cases statements were given in the studio or live in front of the camera.

Cooperation was established with a large number of media companies in Bosnia and Herzegovina, some of which are: BHRT, BNTV, TV SA, Nova BH, N1, ATV, Al Jazeera Balkans, RTVUSK, RTVTK, Hayat TV, Radio Free Europe, Dnevni avaz, Oslobođenje, Nezavisne novine, Buka Magazin, etc. In addition to the local media, statements were given to the media such as VOA, DW and Radio-televizija Vojvodina.

Taking into account the current information trends, the number of statements that the ombudspersons give for web-portals has been increasing over the years. In the reporting year for example, responses concerning different topics were provided to the portals etrafika.net, faktor.ba, frontal.ba, bljesak.info, udar and others.

In press statements, the ombudspersons or other IHROBiH representatives spoke about almost all areas of human rights and fundamental freedoms and presented topics falling within general IHROBiH competence, including the IHROBiH role and function, specific cases it works on, IHROBiH recommendations, but also other indicators for assessing the human rights situation in Bosnia and Herzegovina in general.

As far as topics are concerned, the largest share of the total number of appearances of the ombudspersons in the media dealt with civil and political rights.

Given the current situation, asylum and migration related issues took up a lot of media space, and the ombudspersons spoke about this topic from the perspective of actions taken within IHROBiH's monitoring mandate.

As for discrimination-related media appearances, the ombudspersons most often talked about mobbing, hate speech and discrimination on different grounds.

In the field of children's rights, the ombudspersons spoke to the media about education, peer violence, children's health care, use of children for political purposes, etc.

Regarding the exercise of the rights of persons with disabilities, in their media appearances the ombudspersons reflected on the situation in the Institute for the Care of Mentally Disabled Children and Youth Pazarić and other similar institutions and pointed to other issues of importance for exercising the rights of this population.

The impact of the pandemic on the exercise/violation of citizens' rights attracted a lot of media attention. The ombudspersons spoke about this topic from the perspectives of publishing personal data, movement restrictions and other measures that (do not) jeopardise basic human rights, as well as about the teaching process in the time of the pandemic, healthcare, the position of children with disabilities, and the position of journalists in this new situation, etc.

IHROBiH did not organise press conferences during the reporting year and provided information relevant for IHROBiH work, in particular IHROBiH annual or special reports, online, using press releases. IHROBiH acted in the same way when it came to marking important human rights dates and other current affairs.

As for promotional material, IHROBiH produced the "Role and importance of independent institutions - Institution of Human Rights Ombudsman of Bosnia and Herzegovina" brochure in cooperation with the Public Administration Reform Coordinator's Office, within the Programme for Strengthening Public Institutions in Bosnia and Herzegovina, which is implemented with the support of GIZ in Bosnia and Herzegovina. This brochure aims to inform civil servants in the institutions of Bosnia and Herzegovina of the basic principles of IHROBiH work, in accordance with which IHROBiH carries out its mandate. The brochure in particular promotes responsible compliance with issued recommendations and clarifies the direct links between compliance with issued recommendations and strengthening of accountability, transparency and efficiency of the competent authorities.

2020 was specific in many ways and it posed new and unexpected promotion challenges, and consequently there was a decline in the total number of media-related activities compared to previous years. However, the topics related to the impact that such situation can have on the exercise of citizens' rights and fundamental freedoms, and consequently the role of independent human rights institutions, came to the forefront.

## XII. COOPERATION WITH AUTHORITIES, INSTITUTIONS, NGOs AND CIVIL SECTOR

### 12.1. Cooperation with authorities and institutions in Bosnia and Herzegovina

Unfortunately, the COVID-19 pandemic also affected the intensity and scope of IHROBiH cooperation with bodies and institutions in Bosnia and Herzegovina. Due to the limited possibilities to travel and hold meetings, cooperation was mainly limited to activities of cooperation with legislative and executive authorities by regularly attending sessions where issues within IHROBiH competence were discussed, and to cooperation in the form of initiatives, consultations and exchange of experiences.

Thus, in the course of 2020 the ombudspersons attended the 3<sup>rd</sup><sup>608</sup>, 5<sup>th</sup><sup>609</sup>, 8<sup>th</sup><sup>610</sup>, 9<sup>th</sup><sup>611</sup> and 12<sup>th</sup><sup>612</sup> sessions of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, as well as the 4<sup>th</sup><sup>613</sup> and 7<sup>th</sup><sup>614</sup> sessions of the House of Peoples of the Parliamentary Assembly of BiH.

As part of their regular activities, the ombudspersons also attended the 2<sup>nd</sup><sup>615</sup>, 3<sup>rd</sup><sup>616</sup>, 4<sup>th</sup><sup>617</sup>, 5<sup>th</sup><sup>618</sup>, 6<sup>th</sup><sup>619</sup> and 8<sup>th</sup><sup>620</sup> sessions of the Joint Committee for Human Rights of the Parliamentary Assembly of Bosnia and Herzegovina.

Also, Ombudswoman Nives Jukić attended the session of the Constitutional and Legal Committee of the Parliamentary Assembly of Bosnia and Herzegovina, while Ombudsperson Jasminka Džumhur, PhD, attended the 19<sup>th</sup> session of the Internal Policy Committee of the Council of Ministers of BiH and the 23<sup>rd</sup> session of the Council of Ministers of BiH.

Ombudsman Professor Ljubinko Mitrović attended the 10<sup>th</sup> session of the National Assembly of the Republika Srpska, and the sessions of the Committee for War Veterans and Disabled Persons' Protection, Equal Opportunities Committee, Committee for Petitions, Proposals and Social Oversight, and Political System Committee of the National Assembly of the Republika Srpska.

As part of their cooperation activities with the legislative bodies of the Federation of BiH, the ombudspersons attended the 6<sup>th</sup> session of the House of Peoples of the Parliamentary Assembly

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<sup>608</sup> Ombudsman Professor Ljubinko Mitrović, Ombudsperson Jasminka Džumhur, PhD, Ombudsperson Nives Jukić;

<sup>609</sup> Ombudsperson Jasminka Džumhur, PhD, Ombudsperson Nives Jukić;

<sup>610</sup> Ombudsperson Jasminka Džumhur, PhD, Ombudsperson Nives Jukić;

<sup>611</sup> Ombudsman Professor Ljubinko Mitrović, Ombudsperson Jasminka Džumhur, PhD;

<sup>612</sup> Ombudsman Professor Ljubinko Mitrović, Ombudsperson Jasminka Džumhur, PhD, Ombudsperson Nives Jukić;

<sup>613</sup> Ombudsperson Jasminka Džumhur, PhD;

<sup>614</sup> Ombudsperson Jasminka Džumhur, PhD, Ombudsperson Nives Jukić;

<sup>615</sup> Ombudsman Professor Ljubinko Mitrović, Ombudsperson Jasminka Džumhur, PhD;

<sup>616</sup> Ombudsman Professor Ljubinko Mitrović, Ombudsperson Jasminka Džumhur, PhD;

<sup>617</sup> Ombudsman Professor Ljubinko Mitrović, Ombudsperson Jasminka Džumhur, PhD;

<sup>618</sup> Ombudsperson Jasminka Džumhur, PhD, Ombudsperson Nives Jukić;

<sup>619</sup> Ombudsman Professor Ljubinko Mitrović, Ombudsperson Jasminka Džumhur, PhD;

<sup>620</sup> Ombudsperson Nives Jukić;

of the Federation of BiH<sup>621</sup>, session of the Labour and Social Protection Committee of the Parliament of the Federation of BiH<sup>622</sup> and sessions of the Bosniak<sup>623</sup>, Croatian<sup>624</sup> and Serbian caucuses<sup>625</sup>.

In 2020, the ombudspersons held a number of bilateral meetings aimed at improving cooperation and exchanging experiences. Ombudsman Professor Ljubinko Mitrović met with the Banja Luka City Assembly Speaker, Director of PI Agency for Reaccreditation of Higher Education Institutions of the Republika Srpska, Secretary General of the Republika Srpska Government, Director of the RS Secretariat for Displaced Persons and Migration, Director General of the University Clinical Centre of the Republika Srpska, Ombudsman for Children of the Republika Srpska, Director of Banja Luka Penitentiary, Assistant Minister of Justice in the Republika Srpska Government, Secretary of the National Assembly of the Republika Srpska, President of Banja Luka District Court, and Director of the Republika Srpska Police. Ombudsperson Jasminka Džumhur, PhD, paid a working visit to the Novo Sarajevo Police Administration and had meetings with the Minister of Security of Bosnia and Herzegovina and Centar-Sarajevo Municipality Mayor. Ombudsperson Nives Jukić held an online working meeting with the Minister of Environment and Tourism of the Government of the Federation of BiH, Ms Edita Đapo.

## **12.2. Cooperation with international organisations and institutions and submissions to UN committees**

In the course of 2020, IHROBiH successfully continued to improve its cooperation with international organisations and institutions active in Bosnia and Herzegovina, the region and beyond, in the manner and to the extent allowed by the epidemiological situation.

We are aware of the fact that in this calendar year the COVID-19 pandemic evolved into one of the world's greatest crises, bringing with it challenges that mankind needed to overcome by taking everyday urgent measures and limiting the dangers that equally threatened all of us. With regard to this, IHROBiH adjusted its current activities in order to ultimately achieve the goals set.

We continued to cooperate with Save the Children organisation, and had a working meeting with their representatives<sup>626</sup>. The meeting was an opportunity to discuss the partnership organisation of the Annual Conference of the South East Europe Children's Rights Ombudspersons Network (CRONSEE) which should have been organised in September this year and which, due to the declaration of the pandemic, was postponed for a more favourable period soon after the meeting was held.

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<sup>621</sup> Ombudsperson Nives Jukić;

<sup>622</sup> Ombudsman Professor Ljubinko Mitrović, Ombudsperson Nives Jukić;

<sup>623</sup> Ombudsperson Jasminka Džumhur, PhD;

<sup>624</sup> Ombudsperson Nives Jukić;

<sup>625</sup> Ombudsperson Jasminka Džumhur, PhD;

<sup>626</sup> Ombudspersons of BiH with associates at IHROBiH Headquarters in Banja Luka on 12 February 2020;

The ombudspersons of Bosnia and Herzegovina started 2020 with an official visit to the Institution of Human Rights Ombudsman of the Republic of Slovenia (Varuh človekovih pravic Republika Slovenija)<sup>627</sup>, organised with a view to exchanging experiences and best practices, and strengthening regional cooperation between the two institutions.

The successful continuation of the long-standing cooperation of IHROBiH with the OSCE Mission to Bosnia and Herzegovina as its strategic partner was confirmed in the several online meetings with Ambassador Kathleen Kavalec<sup>628</sup>.

Both institutions focused on monitoring the freedom of the media and ensuring the enjoyment of freedom of expression in the time of the pandemic. The declaration of the pandemic suspended the implementation of the joint office days project until further notice. The “*Ombudsman in Your Town*” project was implemented by visiting Novi Grad Municipality in the month of February<sup>629</sup>. Since the major importance of this activity for all local communities was proved in practice, there is no doubt it will be continued as soon as the epidemiological situation permits that.

In March 2020, IHROBiH representatives participated in the conference “*Let's talk about discrimination!*” organised by the OSCE Mission and thus jointly marked 21 March, International Day for the Elimination of Racial Discrimination<sup>630</sup>. We also took part in a video conference on the cooperation between government institutions and civil society organisations on environmental issues<sup>631</sup>. In May 2020, we also followed an online webinar discussing discrimination in Bosnia and Herzegovina, after the OSCE Mission conducted an extensive research to evaluate the general perception of discrimination, the degree to which individuals considered themselves discriminated against, the number of cases of discrimination observed by the participants in the research, and social distance as the generator of prejudice and stereotypes<sup>632</sup>. As part of its work in the field of discrimination, the OSCE Mission created a three-year action plan on the prevention of gender-based discrimination in the workplace in Bosnia and Herzegovina, and its integral part is the improvement of knowledge about this form of work discrimination amongst the relevant stakeholders. As we share the opinion that education is one of the most important instruments for combating gender-based discrimination in the workplace, we gave our contribution to the assessment of training needs of relevant stakeholders, with a view to developing educational modules in this field<sup>633</sup>.

The ombudspersons of BiH also appeared online in a number of radio shows on current activities<sup>634</sup> organised by the OSCE Mission and took part in a video conference on the cooperation between government institutions and civil society organisations on environmental issues<sup>635</sup>.

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<sup>627</sup> Ljubljana visit took place on 27-28 February 2020;

<sup>628</sup> Online meetings held on 12 June and 27 October 2020;

<sup>629</sup> Ombudspersons Jasminka Džumhur, PhD, and Nives Jukić with associates on 13 February 2020;

<sup>630</sup> Held in Sarajevo on 20 March 2020;

<sup>631</sup> Ombudsman Professor Ljubinko Mitrović addressed the participants of the online conference on Strengthening Environmental Protection and discussed related IHROBiH recommendations issued so far; online conference held on 8 December 2020;

<sup>632</sup> Held on 27 May 2020;

<sup>633</sup> Work on the questionnaire completed by 3 August 2020;

<sup>634</sup> Radio appearances organised via phone-ins/online in the period September – December 2020;

<sup>635</sup> Ombudsman Professor Ljubinko Mitrović on 8 December 2020;

The process of drafting the IHROBiH Professional Training and Development Programme started, and it should be implemented with the support of the OSCE Mission to BiH in the course of 2021.

The fact that IHROBiH adopted the 2019-2021 Matrix for Cooperation with the OSCE Mission to BiH in late 2019 resulted in the joint work on situational judgement test activities<sup>636</sup>.

The successful cooperation with the Council of Europe in Bosnia and Herzegovina during 2020 continues through activities in several projects, which jointly constitute the follow-up of the joint European Union/Council of Europe programme Horizontal Facility for the Western Balkans and Turkey – Phase II and are as follows:

- Strengthening human rights treatment of detained persons based on European standards and best practices in Bosnia and Herzegovina<sup>637</sup>
- Promotion of diversity and equality in Bosnia and Herzegovina<sup>638</sup>
- Promotion of diversity and equality in the Western Balkans<sup>639</sup> and
- Quality education for all<sup>640</sup>.

The ombudspersons of BiH also held online meetings with the newly appointed Head of the Council of Europe Office in Sarajevo, Bojana Urumova<sup>641</sup>, focusing on the implementation of joint projects that were ongoing.

It was a great pleasure for IHROBiH to participate in several conferences and round tables organised by the Council of Europe Office in BiH, and we particularly highlight the following:

- Round table “Recommendations for amendments to freedom of expression laws in BiH with a view to harmonising them with Council of Europe standards<sup>642</sup>”,
- Round table “Videoconference in court proceedings: human rights standards<sup>643</sup>” and
- Regional round table “Impact of the COVID-19 pandemic on human rights and the rule of law<sup>644</sup>”.

A series of successful meetings with representatives of the diplomatic corps in Bosnia and Herzegovina was held in the reporting period and these meetings were as follows:

- H.E. Haldun Koç, Ambassador of the Republic of Turkey to BiH<sup>645</sup>,

<sup>636</sup> Working group from the Department for the Elimination of All Forms of Discrimination started drafting the Rules on Maintaining Situational Judgement Test Records in IHROBiH;

<sup>637</sup> Held in Sarajevo on 20 February 2020. IHROBiH in its capacity as observer of the Steering Committee activities;

<sup>638</sup> IHROBiH drafted the Special Report on Hate Speech in BiH as part of the project and for the purpose of the project;

<sup>639</sup> Ombudsperson Jasminka Džumhur, PhD, member of the Project Steering Committee;

<sup>640</sup> Ombudsperson Nives Jukić in her capacity as observer of Steering Committee activities;

<sup>641</sup> Ombudsperson Nives Jukić, Ombudsperson Jasminka Džumhur, PhD, and Ombudsman Professor Ljubinko Mitrović on 2, 3 and 4 June 2020, respectively;

<sup>642</sup> Held in Sarajevo on 17 February 2020;

<sup>643</sup> Ombudspersons Jasminka Džumhur, PhD, and Nives Jukić online on 18 June 2020;

<sup>644</sup> Ombudspersons Jasminka Džumhur, PhD, and Nives Jukić online on 28 April 2020;

- H.E. Avgustina Tzvetkova-Karabasheva, Ambassador of the Republic of Bulgaria to BiH<sup>646</sup>,
- H.E. Petar Ivancov, Ambassador of the Russian Federation to BiH<sup>647</sup>,
- Ms Mina Noor, Deputy Head of Mission of the Kingdom of the Netherlands to BiH<sup>648</sup>,
- Dr Ruth Wiseman, Deputy Head of Mission of the United Kingdom to BiH<sup>649</sup>,
- UN Resident Coordinator and Bosnia and Herzegovina and UNDP Resident Representative in Bosnia and Herzegovina, Ingrid McDonald and Steliana Nedera on the key human rights indicators in BiH<sup>650</sup>.

There were also regular meetings held with ombudspersons from the countries in the region<sup>651</sup> with most of which we have signed memoranda of understanding that have proved to be successful in a number of practical examples.

A joint activity with the Delegation of the European Union to Bosnia and Herzegovina, Twinning Project “Strengthening the Institutional Capacities of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina for the Efficient Implementation of the National Preventive Mechanism (NPM)/Preventive Mechanism (PM)”, was put on standby in 2020. Even after the two parties agreed on the text of the Project, the requirements for its implementation were not met. Namely, the initiative to amend the Law on Human Rights Ombudsman of Bosnia and Herzegovina has not yet been launched, thus rendering the NPM/PM inoperative. We sincerely hope that all requirements for the Twinning Project to become operational will be met in 2021.

IHROBiH also drafted the Submission to the UN Committee on the Rights of Persons with Disability<sup>652</sup> (CRPD) as part of its mandate and as part of its regular reporting activity to UN bodies.

The cooperation with ombudsman institutions from the region remains successful in the current year, as shown by the signing of the Memorandum of Understanding<sup>653</sup> with the Office of

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<sup>645</sup> Ombudsperson Jasminka Džumhur, PhD, on 20 January 2020;

<sup>646</sup> Ombudsman Professor Ljubinko Mitrović on 10 June 2020;

<sup>647</sup> Ombudsman Professor Ljubinko Mitrović on 12 August 2020;

<sup>648</sup> Ombudsperson Jasminka Džumhur, PhD, on 16 September 2020;

<sup>649</sup> Ombudsperson Jasminka Džumhur, PhD, on 16 September 2020;

<sup>650</sup> Ombudsperson Jasminka Džumhur, PhD, in Sarajevo on 29 September 2020;

<sup>651</sup> Ombudsman Professor Ljubinko Mitrović spoke with the Ombudsman of the Republic of Serbia Zoran Pašalić, MSc, on 4 September and 7 December 2020;

<sup>652</sup> CRPD Report sent to the CRPD on 6 April 2020;

<sup>653</sup> Article 2 of the Memorandum of Understanding reads as follows: The Parties shall cooperate in the following areas: exchange of experiences, best practice and information relating to the handling of complaints and other activities of the Parties under their mandates and competences, including information on legislative activities and important decisions taken by each state; Mutual information and assistance in cases of violation of the rights and freedoms of citizens of the Republic of Croatia in the territory of Bosnia and Herzegovina and citizens of Bosnia and Herzegovina in the territory of the Republic of Croatia, about which the parties learn from complaints submitted to their institution; Providing mutual assistance in the promotion and protection of human rights and freedoms of citizens within the competence of the Parties; the Parties shall exchange information in accordance with the laws in force in their respective countries; Mutual invitation to relevant conferences, workshops, meetings and other events in the field of promotion and protection of human rights, protection of citizens and other topics that fall within the competence of the Ombudsman, and which are organised by the Parties; Holding joint events on the platforms of the International Ombudsman Institute and other organisations and implementing joint projects and programmes, organising mutual visits, internships, trainings and workshops with representatives of both parties in the exchange of

Ombudswoman of the Republic of Croatia, which in turn strengthened and verified the joint actions and future endeavours in the field of the protection and promotion of human rights and freedoms of all citizens of signatory parties<sup>654</sup>.

In the course of 2020, the ombudspersons gave a number of online interviews and had a number of telephone meetings with representatives of international organisations and institutions, outlined as follows:

- Dominique Danau, ENNHRI Team Consultant for Result-Oriented-Monitoring (ROM), SAGO Research<sup>655</sup>, on the mandate, coordination, communication, networking, mutual learning and joint IHROBiH activities with ENNHRI and other international stakeholders, application of EU laws and policies,
- Institute for the Danube Region and Central Europe (IDM), online interview on: Impact of the COVID-19 pandemic on human rights<sup>656</sup>,
- Swisspeace organisation on Coordinating the Search and Criminal Investigations concerning Disappeared Persons<sup>657</sup>,
- Natalia Šušak, Human Rights Officer, US Embassy to Bosnia and Herzegovina, on the current epidemiological situation in terms of the exercise of human rights and freedoms<sup>658</sup>.

There were many international webinars, online conferences, round tables and trainings that we participated in, out of which we list the following:

- UNICEF in BiH Conference on Children's Access to Justice<sup>659</sup>,
- Conference organised by the Regional Cooperation Council in cooperation with the Coordination Centre for Countering Violent Extremism from Tirana on the Community Dialogue with Youth at Risk<sup>660</sup>,
- ENNHRI webinar on the rights of older people<sup>661</sup>,
- Webinar organised by the Protector of Citizens – Ombudsman of the Autonomous Province of Vojvodina on the rights of persons with disabilities and children with developmental disabilities in emergencies<sup>662</sup>,
- GANHRI webinar on protecting forcibly displaced persons in the COVID-19 context: role and experience of NHRIs and opportunities for cooperation with the UNHCR,

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experiences and practical assistance in protecting citizens, handling complaints and other activities of the Parties which they perform within their mandate and competence and thus contribute to the protection of human rights and freedoms. Signed in December 2020;

<sup>654</sup> Banja Luka/Sarajevo/Zagreb, December 2020;

<sup>655</sup> Ombudsperson Jasminka Džumhur, PhD on 2 March 2020;

<sup>656</sup> Ombudsperson Jasminka Džumhur, PhD on 30 April 2020;

<sup>657</sup> Ombudsperson Jasminka Džumhur, PhD on 8 July 2020;

<sup>658</sup> Ombudspersons of BiH on 14 December 2020;

<sup>659</sup> Ombudspersons of BiH in Sarajevo in the period 25-27 February 2020;

<sup>660</sup> Ombudsperson Jasminka Džumhur, PhD, presented a paper on Prevention of violent extremism and protection of human rights in Tirana on 5 March 2020;

<sup>661</sup> Ombudsperson Jasminka Džumhur, PhD, on 28 April 2020;

<sup>662</sup> Ombudsman Professor Ljubinko Mitrović on 2 June 2020;

- ENNHRI online meeting to exchange experience on the many challenges facing national human rights institutions (NHRIs) in the time of the COVID-19 pandemic and human rights implications of conflict and post-conflict situations<sup>663</sup>,
- Webinar organised by the FRA/Council of Europe/ENNHRI/Equinet Platform on social rights – equality and accessibility from the human rights perspective in the crisis triggered by the COVID-19 pandemic,
- ENNHRI webinar on on-site monitoring of the rights of persons with disabilities during COVID-19 pandemic,
- MFS- EMMAUS and Dutch National Rapporteur, online conference on improving the access to mechanisms of access to justice for human trafficking victims, their treatment in the justice system by combining criminal justice responses to human trafficking, and victims-centred and human rights-based approach, in keeping with the EU Victims' Rights Directive<sup>664</sup>,
- ECRI (European Commission against Racism and Intolerance): online seminar to explore the ways everyone involved in the fight against racism and intolerance can communicate more effectively and join forces to increase the impact of communication on promoting equality and fighting racism and intolerance<sup>665</sup>,
- South-East European (SEE) NPM Network organised two online workshops entitled Strengthening the prevention of torture in South-East Europe: Monitoring detention safeguards in the first hours of police custody – Monitoring and responding to COVID-19-related challenges<sup>666</sup> and Strengthening the prevention of torture in South-East Europe: Monitoring protective measures in the first hours of police custody – Monitoring and responding to COVID-19-related challenges<sup>667</sup>,
- We also took part in the work of the Seventh Regional Rule of Law Forum for South East Europe on COVID-19 and rights guaranteed by the European Convention on Human Rights, hosted by the AIRE Centre and Civil Rights Defenders<sup>668</sup> and in the online presentation of the 2019 Report on indicators for the level of media freedom and journalists' safety in Bosnia and Herzegovina<sup>669</sup>,
- Equinet online Annual General Assembly of Members<sup>670</sup>,
- Berlin Centre for Integrative Mediation, Regional Cooperation Council (RCC) and International Association of Mediators from Southeast Europe (IAMSEE): online conference on mediation and justice in the Western Balkans – strengthening the links<sup>671</sup>,
- Protector of Citizens – Ombudsman of the Autonomous Province of Vojvodina and the Institute of Criminological and Sociological Research in Belgrade organised the Fourth International Scientific Videoconference<sup>672</sup>,

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<sup>663</sup> Ombudspersons of BiH on 4 June 2020;

<sup>664</sup> Ombudsperson Jasminka Džumhur, PhD, on 10 September 2020;

<sup>665</sup> Ombudspersons of BiH in the period 28 - 29 September 2020;

<sup>666</sup> Hold on 12 – 13 October 2020;

<sup>667</sup> Held on 7 December 2020;

<sup>668</sup> Ombudsperson Jasminka Džumhur, PhD, on 15 and 16 October 2020;

<sup>669</sup> Ombudsperson Jasminka Džumhur, PhD, presented a paper on Freedom of media and protection of journalists from the IHROBiH perspective on 20 November 2020;

<sup>670</sup> Ombudspersons of BiH on 16 October 2020;

<sup>671</sup> Ombudsperson Jasminka Džumhur, PhD, presented the paper on Involving courts, law enforcement agencies and administration – raising awareness of and sensitisation to mediation; on 29 and 30 October.2020;

<sup>672</sup> Ombudsmen prof. dr. Ljubinko Mitrović presented a paper on Right to human dignity in the time of a pandemic on 30 October 2020;

- Office of the High Commissioner for Human Rights in the Russian Federation: Fourth Online International Conference on Protection of human rights in Eurasia: exchange of best practices by ombudsmen in implementing provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 and new realities of the human rights dimension in the context of the COVID-19 pandemic, and phasing out of restrictive measures<sup>673</sup>,
- ENNHRI General Assembly online meeting<sup>674</sup>,
- European Network of Ombudspersons for Children (ENOC): online conference on the impact of the pandemic on children's rights, but also on child participation in the work of ombudspersons<sup>675</sup>,
- Online Regional Conference on access to justice for women victims and survivors of violence in the Western Balkans and Turkey in the time of the COVID-19 pandemic, organised by the UN Women and Women's Rights Centre<sup>676</sup>,
- Online ENNHRI Annual Conference on Building Better Together for Human Rights, Democracy and Rule of Law in Europe – Recognising the Role of NHRIs<sup>677</sup>,
- Online GANHRI Annual Meeting<sup>678</sup>,
- Protector of Citizens – Ombudsman of the Autonomous Province of Vojvodina: online round table<sup>679</sup> and
- Ombudsman Institution of Kosovo\*: online regional conference on Human Rights in Times of a Pandemic and Roles of National Human Rights Institutions<sup>680</sup>.

### 12.3. Cooperation with civil society

The process of enhancing cooperation with representatives of non-governmental organisations and the civil sector in Bosnia and Herzegovina continued in 2020 by following the adopted programmes of activities referred to in the 2016-2021 Operational Strategy of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina,.

Accordingly, an IHROBiH representative participated in a conference organised by the association Your Rights Bosnia and Herzegovina (Vaša prava) on a topic that is part of the project “Combating violence against women by providing protection and assistance to victims

<sup>673</sup> Ombudspersons Professor Ljubinko Mitrović and Nives Jukić on 17 November 2020;

<sup>674</sup> Ombudspersons of BiH on 18 November 2020;

<sup>675</sup> IHROBiH representatives on 23 November 2020;

<sup>676</sup> Ombudsman Jasminka Džumhur, PhD, presented a paper on Crisis caused by the pandemic and violence against women, issues of (non)functioning of the system of protection in the Western Balkans and Turkey in the COVID-19 context; improving the institutional response to violence against women, under conditions with and without crises on 26 – 27 November 2020;

<sup>677</sup> Ombudspersons of BiH on 2 December 2020;

<sup>678</sup> Ombudspersons of BiH in the period 30 November – 4 December 2020;

<sup>679</sup> Ombudsman Professor Ljubinko Mitrović presented the topic Pandemic and human rights – challenges and dilemmas on 9 December 2020;

<sup>680</sup> Ombudsman Jasminka Džumhur, PhD, presented a paper on Role of NHRIs and civil society in the pandemic – regional experience on 10 December 2020;

\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence;

with special focus on gender-based violence and with the active participation of local non-governmental organisations, representatives of local communities and government officials<sup>681</sup>”.

The ombudsperson of BiH took part in an online debate marking Human Rights Day at the invitation of Third Grammar School students.<sup>682</sup>

We went to Croatia for a study visit organised by the non-governmental organisations Centre for Women's Rights Zenica, Association for Victim and Witness Support Vukovar and the Department for Victim and Witness Support at Vukovar County Court. In addition to exchanging good practice with institutions and non-governmental organisations that implement the institute of person of trust directly, the study visit was aimed at getting more directly acquainted with the deficiencies observed during the implementation process, in order to prevent these deficiencies in legal and procedural solutions in Bosnia and Herzegovina<sup>683</sup>.

We talked with representatives of Alzheimer Association Sarajevo about the position and rights of people with dementia and jointly planned a conference on the position of the elderly with a special focus on the position of people with dementia, in order to exchange experiences and good practices of the 19 countries in the wider Danube region, 12 of which are EU member states<sup>684</sup>.

We also participated online in the Fourth International Scientific Conference on the Alignment of Legislation with the *Acquis Communautaire* - Situation in Bosnia and Herzegovina and Experiences of Others<sup>685</sup> organised by the Banja Luka Research Centre, Belgrade Institute of Comparative Law and Friedrich-Ebert-Stiftung Foundation.

The scientific and professional conference entitled “Constitutional Court of Bosnia and Herzegovina – reaching an agreement through a discussion” was organised by the association Centre for Lobbying Banja Luka and had our representative in attendance<sup>686</sup>.

Considering the complex issue of dementia and acting with a view to establishing a forum of representatives of the member states of this region who would individually present the readiness of society to adapt and possibly establish a “dementia-friendly society”, and adopt and adapt the environment to the elderly, we took part in the video conference on Dementia Care and Policies in the Wider Danube Region<sup>687</sup>.

Given the previous cooperation and success achieved, we were invited to take part in the online seminar of the Women's Rights Centre on social marginalisation of violence against women in

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<sup>681</sup> In Sarajevo on 14 February 2020;

<sup>682</sup> Ombudsperson Nives Jukić on 9 December 2020;

<sup>683</sup> Ombudsperson Jasminka Džumhur, PhD, in the capacity as member of the expert working group within the initiative for introducing the institute of person of trust into the system of support for victims and witnesses of violence in criminal and other proceedings, 19-21 February 2020 in Vukovar;

<sup>684</sup> Ombudsperson Jasminka Džumhur, PhD, in Sarajevo Regional Office on 10 March 2020;

<sup>685</sup> Ombudsman Professor Ljubinko Mitrović presented a paper on Communications procedures in the UN Convention on the Rights of the Child on 24 May 2020;

<sup>686</sup> Ombudsman Professor Ljubinko Mitrović presented a paper on Requirements for the selection, composition and mandate of constitutional court judges on 22 August 2020;

<sup>687</sup> Ombudsperson Jasminka Džumhur, PhD, presented a paper on Work capacity assessment and assessing a disability rating on 31 August 2020;

situations of forced isolation, emergencies and restrictive measures as the follow-up within the second phase of EU-UN Women's regional programme "Ending Violence against Women in the Western Balkans and Turkey: Implementing Norms, Changing Minds"<sup>688</sup>.

We also talked to representatives of the Centre for Environment about the current issues of relevance for their work and future cooperation modalities<sup>689</sup>, and took part in the Second International Conference organised by Citizen Association Path of Justice from Banja Luka<sup>690</sup>.

The Centre for Security Studies organised our discussion about the police and respect of human rights in BiH<sup>691</sup> with Association XY, and we discussed the Mental Health Project in BiH<sup>692</sup> in cooperation with the entity ministries of health.

Rights for All and the Women Advocacy Group invited us to exchange experiences and opinions in an online public forum on "Bosnia and Herzegovina is in Europe, and when will it join the EU?" from the perspective of civil society and female perspective<sup>693</sup>, as well as with Perpetuum Mobile - Institute for Youth and Community Development Banja Luka on Political Education of Youth<sup>694</sup>.

On 25 November, there was an online round table on Pandemic of Violence against Women organised by the CURE Foundation and a group of non-governmental organisations to mark the International Day for the Elimination of Violence against Women<sup>695</sup>.

We also talked with representative of the Centre for Environment on the current environmental protection issues<sup>696</sup>, and with a representative of the Green Team association on the issues citizens were facing in connection with the construction of a nuclear and radioactive waste storage facility at Čerkezovac location on Trgovska gora, Republic of Croatia<sup>697</sup>.

We also had an online presentation at the scientific conference organised by the Centre for Lobbying in Banja Luka to mark the 25<sup>th</sup> anniversary of the signing the Dayton Peace Accord<sup>698</sup>, and at the webinar organised by the Swedish Kvinna till Kvinna Foundation on "Dayton 25 years on: How do we build inclusive, sustainable and gender-just peace?"<sup>699</sup>.

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<sup>688</sup> Ombudsperson Jasminka Džumhur, PhD, on 1 and 2 September 2020;

<sup>689</sup> Ombudsman Professor Ljubinko Mitrović at IHROBiH Headquarters in Banja Luka on 1 September 2020;

<sup>690</sup> Ombudsman Professor Ljubinko Mitrović in Banja Luka on 12 September 2020;

<sup>691</sup> Ombudspersons Jasminka Džumhur, PhD, and Nives Jukić on 30 June and IHROBiH representatives in Sarajevo on 17 September 2020;

<sup>692</sup> Ombudsperson Jasminka Džumhur, PhD, in Sarajevo on 14 October 2020;

<sup>693</sup> IHROBiH representative on 15 October 2020;

<sup>694</sup> Ombudsman Professor Ljubinko Mitrović presented a paper in the form of dialogue with the moderator on the relevant topic on 14 November 2020;

<sup>695</sup> IHROBiH representative on 25 November 2020;

<sup>696</sup> Ombudsman Professor Ljubinko Mitrović on 1 September 2020;

<sup>697</sup> Ombudsman Professor Ljubinko Mitrović on 15 December 2020;

<sup>698</sup> Ombudsman Professor Ljubinko Mitrović presented a paper on Human rights in Bosnia and Herzegovina and the Dayton Peace Accord on 12 December 2020;

<sup>699</sup> Ombudsperson Jasminka Džumhur, PhD, on 17 December 2020;

### XIII. OMBUDSMEN'S RECOMMENDATIONS

Pursuant to Article 32 of the Law on the Human Rights Ombudsman of Bosnia and Herzegovina, the ombudspersons may, having conducted an investigation procedure, make recommendations to the responsible authority with a view to eliminating the identified human rights violations. Bodies that receive such recommendations are required to respond in writing and inform the ombudspersons of the impact of the recommendations within the deadline set by the ombudspersons.

If the responsible authority fails to undertake the measures referred to in the recommendation or fails to inform the ombudspersons of the reasons for not complying, the ombudspersons immediately indicate to the senior authority how the case is progressing and provide follow-up recommendations. The following is the table with the recommendations sent last year and their implementation status:

#### TABULAR OVERVIEW OF RECOMMENDATIONS

RECOMMENDATION NO.	COMPLAINT NO.	SENT TO	RIGHT VIOLATION	RECOMMENDATION -ISSUANCE DATE	IMPLEMENTATION	RESPONSE RECEIVED
P-1/20	Ž-SA-08-873/19,	SARAJEVO CANTON GOVERNMENT	19 - ADMINISTRATION	6 JANUARY 2020	NOT IMPLEMENTED	YES
P-2/20	Ž-SA-05-835/19,	PUBLIC INSTITUTION CANTONAL SOCIAL WELFARE CENTRE, CENTAR MUNICIPALITY SOCIAL WELFARE SERVICE, SARAJEVO	05 - POLICE	6 JANUARY 2020	IMPLEMENTED	YES
P-3/20	Ž-SA-06-626/19,	BIHAĆ UNIVERSITY SENATE	01 - DISCRIMINATION	13 JANUARY 2020	PARTIALLY IMPLEMENTED	YES
P-4/20	Ž-BL-05-735/18,	REPUBLIKA SRPSKA CONSTITUTIONAL COURT, REPUBLIKA SRPSKA NATIONAL ASSEMBLY	09 - JUDICIARY	16 JANUARY 2020	COOPERATION ACHIEVED	NO
P-5/20	Ž-SA-04-1172/19,	FBIH PENSION AND DISABILITY INSURANCE FUND, SARAJEVO CANTON ADMINISTRATION DEPARTMENT, ATTN. DIRECTOR	25 - PENSIONS	16 JANUARY 2020	NOT IMPLEMENTED	YES
P-6/20	Ž-SA-04-1025/19,	VISOKO CITY, ATTN. MAYOR	10 - LABOUR RELATIONS	16 JANUARY 2020	COOPERATION ACHIEVED	YES

P-7/20	Ž-SA-08-1058/19,	BUGOJNO MUNICIPALITY, ATTN. MAYOR	19 - ADMINISTRATION	16 JANUARY 2020	IMPLEMENTED	NO
P-8/20	Ž-BL-01-820/19,	BANJA LUKA BASIC COURT, BANJA LUKA SOCIAL WELFARE CENTRE	13 - RIGHTS OF THE CHILD	17 JANUARY 2020	IMPLEMENTED	YES
P-9/20	Ž-BL-05-701/19,	REPUBLIKA SRPSKA MINISTRY OF INTERNAL AFFAIRS	03 - ACCESS TO INFORMATION	28 JANUARY 2020	IMPLEMENTED	YES
P-10/20	Ž-BL-04-584/19,	PI SSC PETAR PETROVIĆ NJEKOŠ ČAJNIČE, REPUBLIKA SRPSKA MINISTRY OF EDUCATION AND CULTURE, RS ADMINISTRATION FOR INSPECTION AFFAIRS	11 – EDUCATION - 11-3 - SECONDARY EDUCATION	28 JANUARY 2020	IMPLEMENTED	YES
P-11/20	Ž-SA-06-990/16, Ž-SA-08-838/19,	FEDERATION OF BIH MEDICAL CHAMBER, ZENICA MEDICAL CHAMBER ASSEMBLY	01 - DISCRIMINATION, 19 - ADMINISTRATION	29 JANUARY 2020	NOT IMPLEMENTED	YES
P-12/20	Ž-SA-05-779/19,	ZAVIDOVIĆI MUNICIPALITY	32 - INSPECTIONS	30 JANUARY 2020	NOT IMPLEMENTED	NO
P-13/20	Ž-SA-06-1409/18,	SARAJEVO CANTON MINISTRY OF EDUCATION, SCIENCE AND YOUTH	03 - ACCESS TO INFORMATION	30 JANUARY 2020	COOPERATION ACHIEVED	YES
P-14/20	Ž-SA-05-1073/19,	PUBLIC HEALTHCARE INSTITUTION TUZLA UNIVERSITY CLINICAL CENTRE, ATTN. ACTING DIRECTOR	03 - ACCESS TO INFORMATION	31 JANUARY 2020	NO RESPONSE	NO
P-15/20	Ž-BL-05-1012/18, Ž-BL-05-1032/18, Ž-BL-05-1034/18, Ž-BL-05-12/19, Ž-BL-05-146/19, Ž-BL-05-17/19, Ž-BL-05-19/19, Ž-BL-05-20/19, Ž-BL-05-21/19, Ž-BL-05-32/19, Ž-BL-05-461/19, Ž-BL-05-59/19, Ž-BL-05-7/19, Ž-BL-05-70/19,	REPUBLIKA SRPSKA MINISTRY OF INTERNAL AFFAIRS	05 - POLICE, 19 - ADMINISTRATION	6 FEBRUARY 2020	IMPLEMENTED	YES
P-16/20	Ž-BL-05-589/19,	PFE “REPUBLIKA SRPSKA FORESTS” SOKOLAC JSC, KOZARSKA DUBICA FOREST OFFICE	03 - ACCESS TO INFORMATION	5 FEBRUARY 2020	IMPLEMENTED	YES
P-17/20	Ž-BL-08-721/19,	CITY OF DOBOJ	19 - ADMINISTRATION	5 FEBRUARY 2020	IMPLEMENTED	YES
P-18/20	Ž-BL-05-806/19,	MTEL JSC BANJA LUKA	03 - ACCESS TO INFORMATION	5 FEBRUARY 2020	NOT IMPLEMENTED	YES

P-19/20	Ž-BL-01-716/19,	REPUBLIKA SRPSKA MINISTRY OF EDUCATION AND CULTURE, REPUBLIKA SRPSKA MINISTRY OF HEALTH AND SOCIAL PROTECTION, REPUBLIKA SRPSKA PUBLIC FUND FOR CHILD PROTECTION, PI CENTRE "PROTECT ME" BANJA LUKA, BANJA LUKA SOCIAL WELFARE CENTRE	13 - RIGHTS OF THE CHILD	5 FEBRUARY 2020	NOT IMPLEMENTED	YES
P-20/20	Ž-BL-01-430/19,	PRIJEDOR DISTRICT PUBLIC PROSECUTOR'S OFFICE, REPUBLIKA SRPSKA MINISTRY OF INTERNAL AFFAIRS, PRIJEDOR POLICE ADMINISTRATION, NOVI GRAD SOCIAL WELFARE CENTRE	13 - RIGHTS OF THE CHILD	5 FEBRUARY 2020	IMPLEMENTED	YES
P-21/20	Ž-BL-01-639/19,	REPUBLIKA SRPSKA MINISTRY OF HEALTH AND SOCIAL PROTECTION, FOČA SOCIAL WELFARE CENTRE, PRIJEDOR HOME FOR MALE CHILDREN AND YOUTH WITH DEVELOPMENTAL DISABILITIES	13 - RIGHTS OF THE CHILD	5 FEBRUARY 2020	IMPLEMENTED	YES
P-22/20	Ž-BL-08-712/19,	TESLIĆ MUNICIPALITY	19 - ADMINISTRATION	5 FEBRUARY 2020	NOT IMPLEMENTED	NO
P-23/20	Ž-BL-05-844/19,	EKO HEATING PLANT BANJA LUKA	03 - ACCESS TO INFORMATION	5 FEBRUARY 2020	IMPLEMENTED	YES
P-24/20	Ž-SA-05-1258/19, Ž-SA-05-1269/19,	SARAJEVO UNIVERSITY CLINICAL CENTRE, ATTN. CHAIR OF BOARD OF DIRECTORS, ATTN. LEGAL DEPARTMENT HEAD	03 - ACCESS TO INFORMATION	5 FEBRUARY 2020	IMPLEMENTED	NO
P-25/20	Ž-BL-08-803/19,	BIHAĆ CANTONAL COURT	09 - JUDICIARY	5 FEBRUARY 2020	IMPLEMENTED	YES
P-26/20	Ž-BL-06-706/19,	PUC "SPRING" FOČA	01 - DISCRIMINATION	6 FEBRUARY 2020	IMPLEMENTED	YES
P-27/20	Ž-BL-05-793/19,	PC "INSTITUTE FOR CITY CONSTRUCTION" PRIJEDOR	22 - GOVERNMENT AND MINISTERIAL APPOINTMENTS	7 FEBRUARY 2020	IMPLEMENTED	YES
P-28/20	Ž-LI-05-341/19,	TOMISLAVGRAD ADMINISTRATION FOR VETERANS AND HOMELAND WAR VICTIMS AFFAIRS OF CDC	03 - ACCESS TO INFORMATION	12 FEBRUARY 2020	NOT IMPLEMENTED	YES
P-29/20	Ž-SA-08-615/19,	CENTAR SARAJEVO MUNICIPALITY, ATTN. MAYOR	19 - ADMINISTRATION	13 FEBRUARY 2020	COOPERATION ACHIEVED	YES
P-30/20	Ž-SA-06-257/19,	BOSNIA AND HERZEGOVINA MINISTRY OF FOREIGN AFFAIRS SARAJEVO	01 - DISCRIMINATION	25 FEBRUARY 2020	PARTIALLY IMPLEMENTED	YES

P-31/20	Ž-SA-04-281/19, Ž-SA-04-575/19,	SARAJEVO CANTON TOURIST BOARD	10 - LABOUR RELATIONS	17 FEBRUARY 2020	NOT IMPLEMENTED	YES
P-32/20	Ž-SA-05-95/19,	SARAJEVO CANTON MINISTRY OF SPATIAL PLANNING, CIVIL ENGINEERING AND ENVIRONMENTAL PROTECTION, ILIDŽA MUNICIPALITY – ILIDŽA SPATIAL PLANNING DEPARTMENT	19 - ADMINISTRATION	17 FEBRUARY 2020	NOT IMPLEMENTED	YES
P-33/20	Ž-SA-04-836/18,	CPUC “GRAS” LLC SARAJEVO, FYI SARAJEVO CANTON GOVERNMENT, SARAJEVO CANTON MINISTRY OF TRANSPORT, PI “SARAJEVO CANTON EMPLOYMENT SERVICE”	10 - LABOUR RELATIONS	17 FEBRUARY 2020	COOPERATION ACHIEVED	YES
P-34/20	Ž-SA-05-1261/19,	FBIH ADMINISTRATION FOR SURVEYING AND PROPERTY AFFAIRS SARAJEVO	03 - ACCESS TO INFORMATION	20 FEBRUARY 2020	IMPLEMENTED	YES
P-35/20	Ž-BL-05-369/19,	RUDO MUNICIPALITY, RS ADMINISTRATION FOR INSPECTION AFFAIRS	32 - INSPECTIONS	11 MARCH 2020	NOT IMPLEMENTED	YES
P-36/20	Ž-BL-02-638/19,	FEDERATION OF BOSNIA AND HERZEGOVINA PARLIAMENT, FBIH MINISTRY FOR VETERANS AND DISABLED VETERANS OF THE DEFENCE-LIBERATION WAR	12 - PERSONS WITH DISABILITIES	25 FEBRUARY 2020	IMPLEMENTED	YES
P-37/20	Ž-SA-02-1108/19,	INSTITUTE FOR FORENSIC MEDICAL EXAMINATIONS SARAJEVO, ATTN. DIRECTOR SARAJEVO	12 - PERSONS WITH DISABILITIES	25 FEBRUARY 2020	NOT IMPLEMENTED	YES
P-38/20	Ž-SA-04-820/19,	SARAJEVO CANTON MINISTRY OF EDUCATION, SCIENCE AND YOUTH, SARAJEVO CANTON ADMINISTRATION FOR INSPECTION AFFAIRS, PUBLIC INSTITUTION SECONDARY SCHOOL FOR AGRICULTURAL, FOOD, VETERINARY SCIENCES AND SERVICE INDUSTRY SARAJEVO – SCHOOL BOARD SARAJEVO	10 - LABOUR RELATIONS	25 FEBRUARY 2020	NOT IMPLEMENTED	YES
P-39/20	Ž-BL-01-541/19,	USC MINISTRY OF EDUCATION, SCIENCE, CULTURE AND SPORT	13 - RIGHTS OF THE CHILD	27 FEBRUARY 2020	IMPLEMENTED	YES
P-40/20	Ž-BL-05-835/19,	REPUBLIKA SRPSKA MINISTRY OF EDUCATION AND CULTURE	03 - ACCESS TO INFORMATION	27 FEBRUARY 2020	IMPLEMENTED	YES
P-41/20	Ž-BL-05-769/19,	SANSKI MOST MUNICIPAL ATTORNEY'S OFFICE	03 - ACCESS TO INFORMATION	26 FEBRUARY 2020	IMPLEMENTED	YES

P-42/20	Ž-BL-05-183/19,	PRNJAVOR MUNICIPALITY	32 - INSPECTIONS	27 FEBRUARY 2020	NOT IMPLEMENTED	NO
P-43/20	Ž-BL-05-359/19,	PUBLIC UTILITY COMPANY “ČISTOČA“ LLC CAZIN	03 - ACCESS TO INFORMATION	27 FEBRUARY 2020	NOT IMPLEMENTED	NO
P-44/20	Ž-BL-05-331/19,	CITY OF BANJA LUKA	32 - INSPECTIONS	27 FEBRUARY 2020	IMPLEMENTED	YES
P-45/20	Ž-BL-08-569/19,	BOSNIA AND HERZEGOVINA PROSECUTOR'S OFFICE	26 - PROSECUTOR'S OFFICES	27 FEBRUARY 2020	IMPLEMENTED	YES
P-46/20	Ž-SA-05-978/19,	USC GOVERNMENT BIHAĆ, ATTN. USC PRIME MINISTER, USC MINISTRY OF EDUCATION, SCIENCE, CULTURE AND SPORT BIHAĆ, ATTN. MINISTER	22 - GOVERNMENT AND MINISTERIAL APPOINTMENTS	3 MARCH 2020	NOT IMPLEMENTED	YES
P-47/20	Ž-SA-08-1396/19,	TUZLA CANTONAL COURT	09 - JUDICIARY – 09-2 - LENGTH OF THE PROCEEDINGS (ARTICLE 6)	4 MARCH 2020	IMPLEMENTED	YES
P-48/20	Ž-SA-05-124/18,	SARAJEVO CANTONAL COURT, ATTN. COURT PRESIDENT	19 - ADMINISTRATION	4 MARCH 2020	IMPLEMENTED	YES
P-49/20	Ž-SA-05-218/19,	VISOKO CITY, VISOKO CITY COUNCIL	22 - GOVERNMENT AND MINISTERIAL APPOINTMENTS	4 MARCH 2020	COOPERATION ACHIEVED	YES
P-50/20	Ž-BL-01-660/19, Ž-BL-01-767/19,	REPUBLIKA SRPSKA MINISTRY OF EDUCATION AND CULTURE	13 - RIGHTS OF THE CHILD	6 MARCH 2020	NOT IMPLEMENTED	NO
P-51/20	Ž-BL-08-561/19,	RS ADMINISTRATION FOR SURVEYING AND PROPERTY AFFAIRS, RS ADMINISTRATION FOR INSPECTION AFFAIRS, REPUBLIKA SRPSKA INSPECTORATE	09 - JUDICIARY	6 MARCH 2020	IMPLEMENTED	YES
P-52/20	Ž-BL-05-214/19,	BOSNIA AND HERZEGOVINA PRESIDENCY	03 - ACCESS TO INFORMATION	9 MARCH 2020	NOT IMPLEMENTED	NO
P-53/20	Ž-BL-05-814/19,	“KOSMOS” JSC BANJA LUKA	03 - ACCESS TO INFORMATION	9 MARCH 2020	NOT IMPLEMENTED	YES
P-54/20	Ž-BL-06-646/19,	UNA-SANA CANTON ASSEMBLY, UNA- SANA CANTON MINISTRY OF JUSTICE AND PUBLIC ADMINISTRATION	01 - DISCRIMINATION	6 MARCH 2020	IMPLEMENTED	YES
P-55/20	Ž-SA-05-855/19,	SARAJEVO UNIVERSITY, ATTN. CHANCELLOR	03 - ACCESS TO INFORMATION – 03-1 - FAILURE TO DECIDE WITHIN THE STATUTORY PERIOD	9 MARCH 2020	IMPLEMENTED	YES
P-56/20	Ž-SA-07-1160/19,	TUZLA SEMI-OPEN CORRECTIONAL FACILITY, ATTN. DIRECTOR	07 - PRISONS – 07-1 - USE OF	9 MARCH 2020	IMPLEMENTED	YES

			INSTITUTIONAL BENEFITS AND VISITS			
P-57/20	Ž-BL-05-462/19,	DOBOJ BASIC COURT	03 - ACCESS TO INFORMATION	13 APRIL 2020	NOT IMPLEMENTED	YES
P-58/20	Ž-BL-05-649/19,	RS ADMINISTRATION FOR SURVEYING AND PROPERTY AFFAIRS	03 - ACCESS TO INFORMATION	13 APRIL 2020	NOT IMPLEMENTED	YES
P-59/20	Ž-BL-05-750/19,	BOSNIA AND HERZEGOVINA COMMISSION TO PRESERVE NATIONAL MONUMENTS	03 - ACCESS TO INFORMATION	13 APRIL 2020	IMPLEMENTED	YES
P-60/20	Ž-BL-01-381/19,	REPUBLIKA SRPSKA MINISTRY OF HEALTH AND SOCIAL PROTECTION, REPUBLIKA SRPSKA PUBLIC FUND FOR CHILD PROTECTION, BANJA LUKA SOCIAL WELFARE CENTRE, BIJEJLINA SOCIAL WELFARE CENTRE	13 - RIGHTS OF THE CHILD	12 MARCH 2020	NOT IMPLEMENTED	YES
P-61/20	Ž-BL-05-6/19,	DEPARTMENT FOR ECONOMIC AFFAIRS AND ENTERPRENEURSHIP OF ZAVIDOVIĆI MUNICIPALITY	19 - ADMINISTRATION	12 MARCH 2020	IMPLEMENTED	NO
P-62/20	Ž-SA-05-206/17,	SARAJEVO CANTON ASSEMBLY ATTN. SPEAKER, SARAJEVO CANTON DEVELOPMENT PLANNING INSTITUTE	15 - PROPERTY RELATIONS	13 MARCH 2020	NO RESPONSE	NO
P-63/20	Ž-BL-08-567/19,	TESLIĆ BASIC COURT, REPUBLIKA SRPSKA PUBLIC ATTORNEY'S OFFICE	09 - JUDICIARY	16 MARCH 2020	NOT IMPLEMENTED	NO
P-64/20	Ž-SA-04-251/20,	FBIH PENSION AND DISABILITY INSURANCE FUND, ATTN. DIRECTOR, FEDERATION OF BOSNIA AND HERZEGOVINA GOVERNMENT	24 - SOCIAL PROTECTION	19 MARCH 2020	NOT IMPLEMENTED	YES
P-65/20	Ž-SA-04-251/20,	TRAVNIK CANTONAL VETERAN ADMINISTRATION, ATTN. DIRECTOR	24 - SOCIAL PROTECTION	19 MARCH 2020	PARTIALLY IMPLEMENTED	YES
P-66/20	Ž-LI-04-85/20,	BUGOJNO POLYTECHNIC SECONDARY SCHOOL	10 - LABOUR RELATIONS	2 JUNE 2020	IMPLEMENTED	YES
P-67/20	Ž-SA-04-1312/19,	BOSNIA AND HERZEGOVINA CONFEDERATION OF INDEPENDENT TRADE UNIONS SARAJEVO	10 - LABOUR RELATIONS	28 APRIL 2020	NOT IMPLEMENTED	YES
P-68/20	Ž-SA-05-345/20,	FBIH CRISIS MANAGEMENT HEADQUARTERS, SARAJEVO CANTON CRISIS MANAGEMENT HEADQUARTERS, HERZEGOVINA-NERETVA CANTON CRISIS MANAGEMENT HEADQUARTERS	02 - MEDIA AND FREEDOM OF INFORMATION	27 MAY 2020	IMPLEMENTED	NO
P-69/20	Ž-BL-05-57/20,	NEVESINJE MUNICIPALITY	03 - ACCESS TO INFORMATION	20 MAY 2020	NOT IMPLEMENTED	YES

P-70/20	Ž-BL-04-365/19,	REPUBLIKA SRPSKA, MINISTRY FOR SPATIAL PLANNING, CIVIL ENGINEERING AND ECOLOGY, ENVIRONMENTAL PROTECTION AND ENERGY EFFICIENCY FUND, KOSTAJNICA MUNICIPALITY, UTILITY COMPANY "KOMUNALNO" KOSTAJNICA	14 - ECOLOGY ENVIRONMENTAL PROTECTION	20 MAY 2020	IMPLEMENTED	YES
P-71/20	Ž-BL-05-740/19,	PETROVO MUNICIPALITY	33 - FREE LEGAL AID	20 MAY 2020	NOT IMPLEMENTED	NO
P-72/20	Ž-BL-06-749/19, Ž-BL-06-818/19,	UNA-SANA CANTON ASSEMBLY	01 - DISCRIMINATION	20 MAY 2020	IMPLEMENTED	YES
P-73/20	Ž-BL-05-834/19,	REPUBLIKA SRPSKA MINISTRY OF EDUCATION AND CULTURE	03 - ACCESS TO INFORMATION	20 MAY 2020	NOT IMPLEMENTED	NO
P-74/20	Ž-BL-05-840/19,	REPUBLIKA SRPSKA MINISTRY OF LABOUR, WAR VETERANS AND DISABLED PERSONS' PROTECTION	03 - ACCESS TO INFORMATION	20 MAY 2020	IMPLEMENTED	YES
P-75/20	Ž-BL-05-867/19,	REPUBLIKA SRPSKA MINISTRY OF INTERNAL AFFAIRS, SRBAC POLICE STATION	03 - ACCESS TO INFORMATION	20 MAY 2020	IMPLEMENTED	YES
P-76/20	Ž-BL-05-116/19,	CITY OF BIHAĆ, CANTONAL ADMINISTRATION FOR INSPECTION AFFAIRS BIHAĆ	32 - INSPECTIONS	20 MAY 2020	IMPLEMENTED	YES
P-77/20	Ž-BL-05-757/19,	CANTONAL ADMINISTRATION FOR INSPECTION AFFAIRS BIHAĆ, BOSNIA AND HERZEGOVINA MISSING PERSONS INSTITUTE, PUC "SANA" LLC – BANKRUPT, BOSNIA AND HERZEGOVINA PROSECUTOR'S OFFICE	20 - WAR DAMAGE	20 MAY 2020	NOT IMPLEMENTED	YES
P-78/20	Ž-SA-08-1262/19,	BOSNIA AND HERZEGOVINA COMMITTEE OF STATE APPEALS SERVICE SARAJEVO, ATTN. CHAIRPERSON	32 - INSPECTIONS	21 MAY 2020	COOPERATION ACHIEVED	YES
P-79/20	Ž-SA-05-864/19,	TREBIŠNJICA HYDROPOWER PLANTS TREBINJE	03 - ACCESS TO INFORMATION	21 MAY 2020	NO RESPONSE	NO
P-80/20	Ž-SA-05-796/17,	SARAJEVO CANTONAL COURT	19 - ADMINISTRATION	21 MAY 2020	NO RESPONSE	NO
P-81/20	Ž-SA-04-1119/19,	INSTITUTE FOR FORENSIC MEDICAL EXAMINATIONS	24 - SOCIAL PROTECTION	28 MAY 2020	NOT IMPLEMENTED	YES
P-82/20	Ž-SA-05-341/19,	SARAJEVO UNIVERSITY, ORIENTAL INSTITUTE, CANTONAL ADMINISTRATION FOR INSPECTION AFFAIRS	28 - CORRUPTION CASES	28 MAY 2020	NOT IMPLEMENTED	YES

P-83/20	Ž-SA-05-82/20,	HNC MINISTRY OF ECONOMY MOSTAR	19 - ADMINISTRATION	28 MAY 2020	NOT IMPLEMENTED	YES
P-84/20	Ž-SA-05-1320/19,	CANTONAL PROSECUTOR'S OFFICE SARAJEVO	03 - ACCESS TO INFORMATION	28 MAY 2020	IMPLEMENTED	YES
P-85/20	Ž-SA-02-1330/19, Ž-SA-02-543/19,	FBIH INSTITUTE FOR FORENSIC MEDICAL EXAMINATIONS	12 - PERSONS WITH DISABILITIES	28 MAY 2020	NOT IMPLEMENTED	NO
P-86/20	Ž-SA-05-1242/19,	SARAJEVO CANTON MINISTRY OF INTERNAL AFFAIRS, ATTN. MINISTER, ATTN. INFORMATION OFFICER	03 - ACCESS TO INFORMATION	28 MAY 2020	NOT IMPLEMENTED	YES
P-87/20	Ž-SA-05-599/19,	BIH COUNCIL OF MINISTERS	03 - ACCESS TO INFORMATION	28 MAY 2020	COOPERATION ACHIEVED	YES
P-88/20	Ž-SA-05-373/19,	ROGATICA MUNICIPALITY	03 - ACCESS TO INFORMATION	28 MAY 2020	NOT IMPLEMENTED	NO
P-89/20	Ž-SA-08-1361/19,	SARAJEVO MUNICIPAL COURT	09 - JUDICIARY – 09-2 - LENGHT OF THE PROCEEDINGS (ARTICLE 6)	29 MAY 2020	PARTIALLY IMPLEMENTED	YES
P-90/20	Ž-SA-04-183/20,	ZENICA CANTONAL COURT, ATTN. PRESIDENT	24 - SOCIAL PROTECTION	29 MAY 2020	COOPERATION ACHIEVED	YES
P-91/20	Ž-SA-06-1009/18,	SARAJEVO MUNICIPAL COURT	01 - DISCRIMINATION	29 MAY 2020	COOPERATION ACHIEVED	YES
P-92/20	Ž-BL-01-333/20,	REPUBLIKA SRPSKA GOVERNMENT/RS EMERGENCY MANAGEMENT HEADQUARTERS, FEDERATION OF BOSNIA AND HERZEGOVINA GOVERNMENT/FBIH CIVIL DEFENCE HEADQUARTERS, TUZLA CANTON CIVIL DEFENCE ADMINISTRATION, ZENICA- DOBOJ CANTON CIVIL DEFENCE ADMINISTRATION, SARAJEVO CANTON CIVIL DEFENCE ADMINISTRATION, HERZEGOVINA-NERETVA CANTON CIVIL DEFENCE ADMINISTRATION, BOSNIA-PODRINJE CANTON CIVIL DEFENCE ADMINISTRATION, CANTON 10 CIVIL DEFENCE ADMINISTRATION, WEST HERZEGOVINA CANTON CIVIL DEFENCE ADMINISTRATION, POSAVINA CANTON CIVIL DEFENCE ADMINISTRATION, UNA-SANA CANTON CIVIL DEFENCE ADMINISTRATION, CENTRAL BOSNIA CANTON CIVIL	13 - RIGHTS OF THE CHILD	1 JUNE 2020	IMPLEMENTED	NO

		DEFENCE ADMINISTRATION, PROTECTION AND RESCUE EMERGENCY HEADQUARTERS OF BRČKO DISTRICT OF BIH				
P-93/20	Ž-SA-05-865/19,	GACKO MUNICIPALITY, ATTN. GACKO MUNICIPALITY MAYOR	03 - ACCESS TO INFORMATION	1 JUNE 2020	IMPLEMENTED	YES
P-94/20	Ž-SA-02-845/19,	FBIH MINISTRY OF LABOUR AND SOCIAL POLICY SARAJEVO, ATTN. MINISTER, INSTITUTE FOR FORENSIC MEDICAL EXAMINATIONS SARAJEVO, ATTN. DIRECTOR	12 - PERSONS WITH DISABILITIES	1 JUNE 2020	NOT IMPLEMENTED	YES
P-95/20	Ž-SA-06-293/20,	AUTHORITIES IN BOSNIA AND HERZEGOVINA	01 - DISCRIMINATION- 01-22 - AGE DISCRIMINATION	8 JUNE 2020	NO RESPONSE	NO
P-96/20	Ž-SA-08-984/19,	FBIH ADMINISTRATION FOR SURVEYING AND PROPERTY AFFAIRS SARAJEVO, ATTN. DIRECTOR	32 - INSPECTIONS	10 JUNE 2020	COOPERATION ACHIEVED	YES
P-97/20	Ž-SA-05-65/20,	PUBLIC INSTITUTION PRIMARY SCHOOL ČENGIĆ VILA I SARAJEVO, ATTN. DIRECTOR	03 - ACCESS TO INFORMATION	11 JUNE 2020	COOPERATION ACHIEVED	YES
P-98/20	Ž-BL-05-722/19,	CITY OF BIHAĆ - DEPARTMENT FOR PROPERTY, LAND SURVEYING AND LAND REGISTRY AFFAIRS, DEPARTMENT FOR COMMUNAL AFFAIRS, WATER MANAGEMENT, ENVIRONMENTAL PROTECTION AND	32 - INSPECTIONS	11 JUNE 2020	COOPERATION ACHIEVED	YES

		INSPECTION AFFAIRS, PUBLIC INSTITUTION SPATIAL PLANNING INSTITUTE				
P-99/20	Ž-BL-05-942/19,	CITY OF BANJA LUKA – MUNICIPAL POLICE DEPARTMENT, ATTN. DEPARTMENT HEAD, FYI DEPARTMENT FOR INSPECTION AFFAIRS, ATTN. DEPARTMENT HEAD, FYI BANJA LUKA DISTRICT PROSECUTOR'S OFFICE	32 - INSPECTIONS	11 JUNE 2020	PARTIALLY IMPLEMENTED	YES
P-100/20	Ž-BL-08-597/19,	CITY OF BANJA LUKA	19 - ADMINISTRATION	11 JUNE 2020	IMPLEMENTED	YES
P-101/20	Ž-BL-05-2/20,	REPUBLIKA SRPSKA TAX ADMINISTRATION – BANJA LUKA REGIONAL CENTRE	03 - ACCESS TO INFORMATION	11 JUNE 2020	IMPLEMENTED	YES
P-102/20	Ž-BL-05-304/20,	REPUBLIKA SRPSKA GOVERNMENT/RS EMERGENCY MANAGEMENT HEADQUARTERS, FBIH CIVIL DEFENCE HEADQUARTERS, TUZLA CANTON CIVIL DEFENCE ADMINISTRATION, ZENICA-DOBOJ CIVIL DEFENCE ADMINISTRATION, SARAJEVO CANTON CIVIL DEFENCE ADMINISTRATION, HERZEGOVINA-NERETVA CANTON CIVIL DEFENCE ADMINISTRATION, BOSNIA-PODRINJE CANTON CIVIL DEFENCE ADMINISTRATION, CANTON 10 CIVIL DEFENCE ADMINISTRATION, WEST HERZEGOVINA CANTON CIVIL DEFENCE ADMINISTRATION, POSAVINA CANTON CIVIL DEFENCE ADMINISTRATION, UNA-SANA CANTON CIVIL DEFENCE ADMINISTRATION, CENTRAL BOSNIA CANTON CIVIL DEFENCE ADMINISTRATION, PROTECTION AND RESCUE EMERGENCY OF BRČKO DISTRICT OF BOSNIA AND HERZEGOVINA	03 - ACCESS TO INFORMATION	5 MAY 2020	IMPLEMENTED	YES
P-103/20	Ž-SA-06-1075/19,	BOSNIA AND HERZEGOVINA CENTRAL BANK SARAJEVO, ATTN. GOVERNOR	01 - DISCRIMINATION	16 JUNE 2020	NOT IMPLEMENTED	YES
P-104/20	Ž-LI-08-86/20,	TOMISLAVGRAD MUNICIPAL PUBLIC ATTORNEY'S OFFICE	19 - ADMINISTRATION	17 JUNE 2020	COOPERATION ACHIEVED	YES

P-105/20	Ž-SA-01-1284/19,	SARAJEVO UNIVERSITY CLINICAL CENTRE, FEDERATION OF BOSNIA AND HERZGOVINA MINISTRY OF HEALTH SARAJEVO	13 - RIGHTS OF THE CHILD	23 JUNE 2020	NOT IMPLEMENTED	YES
P-106/20	Ž-SA-04-481/19,	BOSNALIJEK JSC SARAJEVO, ATTN. DIRECTOR	10 - LABOUR RELATIONS	23 JUNE 2020	NOT IMPLEMENTED	YES
P-107/20	Ž-BL-05-579/19,	CITY OF DOBOJ	32 - INSPECTIONS	30 JUNE 2020	IMPLEMENTED	YES
P-108/20	Ž-BL-05-782/19,	FBIH MIISTRY OF ENVIRONMENT AND TOURISM	03 - ACCESS TO INFORMATION	3 JULY 2020	NOT IMPLEMENTED	YES
P-109/20	Ž-BL-05-922/19,	REPUBLIKA SRPSKA MINISTRY FOR SPATIAL PLANNING, CIVIL ENGINEERING AND ECOLOGY	03 - ACCESS TO INFORMATION	1 JULY 2020	NOT IMPLEMENTED	YES
P-110/20	Ž-BL-05-47/20,	UNA-SANA CANTON ADMINISTRATION FOR INSPECTION AFFAIRS – INSPECTORATE FOR EDUCATION, SCIENCE, CULTURE AND SPORT	22 - GOVERNMENT AND MINISTERIAL APPOINTMENTS	1 JULY 2020	IMPLEMENTED	YES
P-111/20	Ž-BL-05-274/20,	RS PUBLIC PROSECUTOR'S OFFICE-SPECIAL DEPARTMENT FOR COMBATING CORRUPTION, ORGANISED CRIME AND MOST SEVERE FORMS OF ECONOMIC CRIME	03 - ACCESS TO INFORMATION	3 JULY 2020	NOT IMPLEMENTED	NO
P-112/20	Ž-BR-05-7/20,	CITY OF TUZLA - DEPARTMENT FOR INSPECTION AFFAIRS	32 - INSPECTIONS	1 JULY 2020	COOPERATION ACHIEVED	YES
P-113/20	Ž-BL-05-69/20,	CITY OF BIHAĆ	15 - PROPERTY RELATIONS	8 JULY 2020	IMPLEMENTED	YES
P-114/20	Ž-SA-05-863/19,	TREBINJE CITY, ATTN. TREBINJE MUNICIPALITY MAYOR	03 - ACCESS TO INFORMATION	2 JULY 2020	NOT IMPLEMENTED	YES
P-115/20	Ž-SA-04-714/19,	SARAJEVO CANTON ADMINISTRATION FOR INSPECTION AFFAIRS, ATTN. DIRECTOR	11 - EDUCATION	7 JULY 2020	COOPERATION ACHIEVED	YES
P-116/20	Ž-SA-05-1283/19,	BOSNIA AND HERZEGOVINA INTELLIGENCE AND SECURITY AGENCY SARAJEVO, ATTN. DIRECTOR	03 - ACCESS TO INFORMATION	7 JULY 2020	NOT IMPLEMENTED	YES
P-117/20	Ž-SA-05-333/20,	SARAJEVO UNIVERSITY CLINICAL CENTRE, ATTN. CHAIR OF BOARD OF DIRECTORS, ATTN. DIRECTOR GENERAL	03 - ACCESS TO INFORMATION	7 JULY 2020	IMPLEMENTED	YES
P-118/20	Ž-SA-06-751/18,	SARAJEVO UNIVERSITY, SARAJEVO SCHOOL OF ELECTRICAL ENGINEERING	03 - ACCESS TO INFORMATION	9 JULY 2020	IMPLEMENTED	YES

P-119/20	Ž-SA-01-1390/19,	ILIDŽA MUNICIPALITY, ATTN. MAYOR, FYI FEDERATION OF BOSNIA AND HERZEGOVINA TAX ADMINISTRATION SARAJEVO	13 - RIGHTS OF THE CHILD	9 JULY 2020	COOPERATION ACHIEVED	YES
P-120/20	Ž-SA-05-303/19,	UNA-SANA CANTON GOVERNMENT BIHAĆ, ATTN. PRIME MINISTER	03 - ACCESS TO INFORMATION	9 JULY 2020	COOPERATION ACHIEVED	YES
P-121/20	Ž-SA-05-311/20,	PUBLIC INSTITUTION BH POŠTA LLC SARAJEVO, ATTN. DIRECTOR GENERAL	03 - ACCESS TO INFORMATION	9 JULY 2020	NOT IMPLEMENTED	YES
P-122/20	Ž-SA-02-672/19,	FBIH INSTITUTE FOR FORENSIC MEDICAL EXAMINATIONS SARAJEVO, ATTN. DIRECTOR	12 - PERSONS WITH DISABILITIES	9 JULY 2020	NO RESPONSE	NO
P-123/20	Ž-BL-05-400/19,	FEDERATION OF BOSNIA AND HERZEGOVINA GOVERNMENT, COMMISSION FOR SELECTION OF BOD CANDIDATES FOR THE PRIVATISATION AGENCY OF THE FEDERATION OF BOSNIA AND HERZEGOVINA	03 - ACCESS TO INFORMATION	10 JULY 2020	IMPLEMENTED	YES
P-124/20	Ž-SA-05-139/19,	CENTAR SARAJEVO MUNICIPALITY, ATTN. MAYOR	03 - ACCESS TO INFORMATION	14 JULY 2020	IMPLEMENTED	YES
P-125/20	Ž-SA-04-1341/19,	CPUC "VODOVOD I KANALIZACIJA" LLC SARAJEVO, ATTN. DIRECTOR	10 - LABOUR RELATIONS	14 JULY 2020	COOPERATION ACHIEVED	YES
P-126/20	Ž-LI-08-65/20,	TOMISLAVGRAD DEPARTMENT FOR SURVEYING AND PROPERTY AFFAIRS AND PROPERTY REGISTER	19 - ADMINISTRATION	27 JULY 2020	IMPLEMENTED	YES
P-127/20	Ž-LI-08-111/20, Ž-LI-08-112/20,	CANTON 10 ADMINISTRATION FOR INSPECTION AFFAIRS	19 - ADMINISTRATION	27 JULY 2020	IMPLEMENTED	YES
P-128/20	Ž-BL-05-83/20,	CITY OF DOBOJ	20 - WAR DAMAGE	24 JULY 2020	NOT IMPLEMENTED	YES
P-129/20	Ž-SA-06-926/19,	KAKANJ PUBLIC INSTITUTION FOR PRESCHOOL EDUCATION AND CARE "MLADOST"	01 - DISCRIMINATION - - 01-15 - DISCRIMINATION ON THE GROUNDS OF FINANCIAL STATUS	24 JULY 2020	IMPLEMENTED	YES
P-130/20	Ž-MO-04-133/19,	FBIH CIVIL SERVICE AGENCY SARAJEVO, CITY OF MOSTAR	10 - LABOUR RELATIONS	29 JULY 2020	NOT IMPLEMENTED	YES
P-131/20	Ž-MO-05-7/20,	MOSTAR INSTITUTE OF EDUCATION	03 - ACCESS TO INFORMATION -- 03-2 - DENIAL OF ACCESS TO	29 JULY 2020	IMPLEMENTED	YES

			INFORMATION			
P-132/20	Ž-BR-05-21/20,	CITY OF SREBRENİK – SREBRENİK MAYOR'S DEPARTMENT FOR ADMINISTRATIVE AND PROFESSIONAL SERVICES	03 - ACCESS TO INFORMATION -- 03-2 - DENIAL OF ACCESS TO INFORMATION	3 AUGUST 2020	IMPLEMENTED	YES
P-133/20	Ž-SA-05-1066/19,	FBIH BAR ASSOCIATION	31 - LAWYERS	6 AUGUST 2020	NO RESPONSE	NO
P-134/20	Ž-SA-06-708/19,	CITY OF SARAJEVO, ATTN. MAYOR, FYI FBIH CIVIL SERVICE APPEAL BOARD SARAJEVO	01 - DISCRIMINATION - - 01-01 - HARASSMENT	6 AUGUST 2020	NOT IMPLEMENTED	YES
P-135/20	Ž-SA-06-709/19,	CITY OF SARAJEVO, ATTN. MAYOR	01 - DISCRIMINATION - - 01-01 - HARASSMENT	6 AUGUST 2020	NOT IMPLEMENTED	YES
P-136/20	Ž-SA-06-627/20,	PUBLIC COMPANY BH POŠTA LLC SARAJEVO, ATTN. DIRECTOR GENERAL	01 - DISCRIMINATION	7 AUGUST 2020	NOT IMPLEMENTED	YES
P-137/20	Ž-SA-02-1316/19,	CENTRAL BOSNIA CANTON MINISTRY OF HEALTH AND SOCIAL POLICY TRAVNIK, ATTN. MINISTER, VITEZ PI HEALTHCARE CENTRE, ATTN. DIRECTOR	12 - PERSONS WITH DISABILITIES	11 AUGUST 2020	IMPLEMENTED	YES
P-138/20	Ž-SA-08-68/20,	CANTONAL PUBLIC UTILITY COMPANY "RAD" LLC SARAJEVO, ATTN. DIRECTOR	32 - INSPECTIONS	12 AUGUST 2020	COOPERATION ACHIEVED	YES
P-139/20	Ž-BR-08-223/19,	FBIH BAR ASSOCIATION SARAJEVO	31 - LAWYERS	13 AUGUST 2020	NO RESPONSE	NO
P-140/20	Ž-BR-04-197/18,	BANOVIĆI MUNICIPALITY – MAYOR	21 - COMMUNAL SERVICES	13 AUGUST 2020	NO RESPONSE	NO
P-141/20	Ž-SA-04-406/20,	ZENICA-DOBOJ CANTON, CITY OF ZENICA	25 - PENSIONS	18 AUGUST 2020	NO RESPONSE	NO
P-142/20	Ž-SA-05-317/20,	SARAJEVO CANTON MINISTRY OF INTERNAL AFFAIRS	03 - ACCESS TO INFORMATION	19 AUGUST 2020	IMPLEMENTED	YES
P-143/20	Ž-BL-04-310/20,	REPUBLIKA SRPSKA MINISTRY OF HEALTH AND SOCIAL PROTECTION	11 - EDUCATION – 11-5 - ADULT EDUCATION	3 SEPTEMBER 2020	IMPLEMENTED	YES
P-144/20	Ž-BL-01-408/18,	BANJA LUKA DISTRICT PUBLIC PROSECUTOR'S OFFICE	13 - RIGHTS OF THE CHILD	19 AUGUST 2020	NOT IMPLEMENTED	YES
P-145/20	Ž-BL-01-447/20,	PRIJEDOR DISTRICT COURT, PRIJEDOR SOCIAL WELFARE CENTRE	13 - RIGHTS OF THE CHILD	19 AUGUST 2020	IMPLEMENTED	YES

P-146/20	Ž-BL-05-260/20,	REPUBLIKA SRPSKA GUARANTEE FUND JSC BANJA LUKA	22 - GOVERNMENT AND MINISTERIAL APPOINTMENTS	19 AUGUST 2020	IMPLEMENTED	YES
P-147/20	Ž-BL-05-94/20,	PUBLIC COMPANY ELEKTROPRIVREDA BIH JCS SARAJEVO	03 - ACCESS TO INFORMATION	19 AUGUST 2020	NOT IMPLEMENTED	YES
P-148/20	Ž-BL-08-450/20,	CITY OF BANJA LUKA- DEPARTMENT FOR TRANSPORT AND ROADS	19 - ADMINISTRATION	19 AUGUST 2020	NOT IMPLEMENTED	YES
P-149/20	Ž-BL-04-8/20,	CAZIN HEALTHCARE INSTITUTION HEALTHCARE CENTRE	10 - LABOUR RELATIONS	19 AUGUST 2020	NOT IMPLEMENTED	YES
P-150/20	Ž-BL-05-366/20,	CITY OF DOBOJ	32 - INSPECTIONS	19 AUGUST 2020	IMPLEMENTED	YES
P-151/20	Ž-BL-05-338/20,	CITY OF GRADIŠKA	03 - ACCESS TO INFORMATION	7 SEPTEMBER 2020	IMPLEMENTED	YES
P-152/20	Ž-BL-05-45/20,	REPUBLIKA SRPSKA ADMINISTRATIVE INSPECTION	32 - INSPECTIONS	19 AUGUST 2020	IMPLEMENTED	YES
P-153/20	Ž-SA-05-21/20,	CPUC "VODOVOD I KANALIZACIJA" LLC SARAJEVO, ATTN. DIRECTOR	03 - ACCESS TO INFORMATION	20 AUGUST 2020	NOT IMPLEMENTED	YES
P-154/20	Ž-BL-06-340/20,	REPUBLIKA SRPSKA NATIONAL ASSEMBLY, MINISTRY OF TRADE AND ENTREPRENEURSHIP	01 - DISCRIMINATION	31 AUGUST 2020	COOPERATION ACHIEVED	YES
P-155/20	Ž-SA-04-371/20,	ZENICA-DOBOJ CANTON, MINISTRY FOR EDUCATION, SCIENCE, CULTURE AND SPORT ZENICA	11 - EDUCATION	21 AUGUST 2020	IMPLEMENTED	YES
P-156/20	Ž-BR-05-136/17,	CITY OF TUZLA - DEPARTMENT FOR SPATIAL PLANNING AND ENVIRONMENTAL PROTECTION	19 - ADMINISTRATION	26 AUGUST 2020	IMPLEMENTED	YES
P-157/20	Ž-LI-08-146/20, Ž-LI-08-147/20,	CANTON 10 GOVERNMENT BOARD OF APPEALS	19 - ADMINISTRATION	14 SEPTEMBER 2020	NOT IMPLEMENTED	NO
P-158/20	Ž-BL-01-351/20,	ŠAMAC MUNICIPALITY	13 - RIGHTS OF THE CHILD	4 SEPTEMBER 2020	NO RESPONSE	NO
P-159/20	Ž-BR-04-70/18,	BANOVIĆI MUNICIPALITY	21 - COMMUNAL SERVICES	7 SEPTEMBER 2020	NO RESPONSE	NO
P-160/20	Ž-BR-05-135/18,	PI FIRST PRIMARY SCHOOL ŽIVINICE	03 - ACCESS TO INFORMATION	11 SEPTEMBER 2020	IMPLEMENTED	YES
P-161/20	Ž-BR-05-218/18,	CITY OF TUZLA, TUZLA MAYOR	19 - ADMINISTRATION	14 SEPTEMBER 2020	COOPERATION ACHIEVED	YES
P-162/20	Ž-LI-05-151/20,	TOMISLAVGRAD DEPARTMENT FOR ECONOMY AND INSPECTION	32 - INSPECTIONS	14 SEPTEMBER 2020	NOT IMPLEMENTED	NO
P-163/20	Ž-LI-08-191/20,	CANTON 10 MINISTRY OF SCIENCE, EDUCATION, CULTURE AND SPORT	19 - ADMINISTRATION	14 SEPTEMBER 2020	NO RESPONSE	NO

P-164/20	Ž-SA-08-404/20,	CENTAR MUNICIPALITY, ATTN. MAYOR, DEPARTMENT FOR INSPECTION AFFAIRS, DEPARTMENT FOR SPATIAL PLANNING AND COMMUNAL AFFAIRS	19 - ADMINISTRATION	14 SEPTEMBER 2020	COOPERATION ACHIEVED	YES
P-165/20	Ž-SA-04-685/18,	DEPARTMENT FOR JOINT AFFAIRS OF AUTHORITIES AND BODIES OF THE FBH SARAJEVO, ATTN. DIRECTOR	10 - LABOUR RELATIONS	14 SEPTEMBER 2020	PARTIALLY IMPLEMENTED	YES
P-166/20	Ž-SA-05-730/19,	FBH POLICE ADMINISTRATION SARAJEVO, ATTN. DIRECTOR	03 - ACCESS TO INFORMATION	14 SEPTEMBER 2020	IMPLEMENTED	YES
P-167/20	Ž-MO-05-60/20,	STOLAC MUNICIPALITY - STOLAC DEPARTMENT FOR CIVIL ENGINEERING, SPATIAL PLANNING, ENVIRONMENTAL PROTECTION AND RECONSTRUCTION	03 - ACCESS TO INFORMATION – 03-2 - DENIAL OF ACCESS TO INFORMATION	14 SEPTEMBER 2020	NOT IMPLEMENTED	YES
P-168/20	Ž-SA-04-770/19,	FBH PENSION AND DISABILITY INSURANCE FUND, SARAJEVO CANTON ADMINISTRATION DEPARTMENT, ATTN. DIRECTOR, CAS DIRECTOR – HEAD OF DEPARTMENT	10 - LABOUR RELATIONS	14 SEPTEMBER 2020	IMPLEMENTED	YES
P-169/20	Ž-SA-08-1372/19,	CITY OF MOSTAR - FINANCE AND PROPERTY DEPARTMENT, PROPERTY DIVISION MOSTAR, ATTN. HEAD OF DIVISION	19 - ADMINISTRATION	14 SEPTEMBER 2020	IMPLEMENTED	YES
P-170/20	Ž-SA-05-619/20,	SARAJEVO CANTON GOVERNMENT, SARAJEVO CANTON MINISTRY OF JUSTICE AND ADMINISTRATION, PC “TELEVIZIJA KANTONA SARAJEVO” LLC SARAJEVO, ATTN. ASSEMBLY CHAIRPERSON	02 - MEDIA AND FREEDOM OF INFORMATION	14 SEPTEMBER 2020	COOPERATION ACHIEVED	YES
P-171/20	Ž-SA-06-686/20,	SARAJEVO UNIVERSITY CLINICAL CENTRE, ATTN. DIRECTOR	08 - GENDER EQUALITY	15 SEPTEMBER 2020	NO RESPONSE	NO
P-172/20	Ž-BL-03-467/20,	CENTRAL ELECTION COMMISSION OF BOSNIA AND HERZEGOVINA, CITY OF CAZIN	18 - MINORITIES	16 SEPTEMBER 2020	IMPLEMENTED	YES
P-173/20	Ž-BL-08-264/20,	BOSNIA AND HERZEGOVINA PROSECUTOR'S OFFICE	26 - PROSECUTOR'S OFFICES	16 SEPTEMBER 2020	IMPLEMENTED	YES
P-174/20	Ž-BL-04-563/19,	REPUBLIKA SRPSKA MINISTRY OF ADMINISTRATION AND LOCAL SELF-GOVERNANCE, CITY OF GRADIŠKA	24 - SOCIAL PROTECTION	16 SEPTEMBER 2020	IMPLEMENTED	YES
P-175/20	Ž-BL-05-927/19,	REPUBLIKA SRPSKA MINISTRY OF EDUCATION AND CULTURE	22 - GOVERNMENT AND MINISTERIAL APPOINTMENTS	21 SEPTEMBER 2020	NOT IMPLEMENTED	YES

P-176/20	Ž-BL-05-526/20, Ž-BL-05-561/20, Ž-BL-05-566/20, Ž-BL-05-567/20, Ž-BL-05-568/20, Ž-BL-05-574/20, Ž-BL-05-589/20,	BOSNIA AND HERZEGOVINA COUNCIL OF MINISTERS, REPUBLIKA SRPSKA GOVERNMENT, FEDERATION OF BOSNIA AND HERZEGOVINA GOVERNMENT, BRČKO DISTRICT OF BOSNIA AND HERZEGOVINA GOVERNMENT	03 - ACCESS TO INFORMATION	28 SEPTEMBER 2020	COOPERATION ACHIEVED	YES
P-177/20	Ž-SA-05-1419/18,	CENTAR SARAJEVO MUNICIPALITY - DEPARTMENT FOR INSPECTION AFFAIRS, FYI MAYOR SARAJEVO	19 - ADMINISTRATION	22 SEPTEMBER 2020	COOPERATION ACHIEVED	YES
P-178/20	Ž-SA-05-981/19,	BOSNIA AND HERZEGOVINA PRESIDENCY, ATTN. PRESIDENCY MEMBERS, BOARD OF APPEALS OF THE BOSNIA AND HERZEGOVINA COUNCIL OF MINISTERS, ATTN. CHAIRPERSON	03 - ACCESS TO INFORMATION	25 SEPTEMBER 2020	COOPERATION ACHIEVED	YES
P-179/20	Ž-SA-05-526/19,	FBIH MINISTRY OF DISPLACED PERSONS AND REFUGEES SARAJEVO, ATTN. MINISTER	03 - ACCESS TO INFORMATION – 03-1 - FAILURE TO DECIDE WITHIN THE STATUTORY PERIOD	25 SEPTEMBER 2020	NOT IMPLEMENTED	NO
P-180/20	Ž-SA-06-684/20,	BOSNIA AND HERZEGOVINA PROSECUTOR'S OFFICE SARAJEVO, COMMUNICATIONS REGULATORY AGENCY SARAJEVO, FBIH POLICE ADMINISTRATION SARAJEVO	01 - DISCRIMINATION – 01-24 - HATE SPEECH	25 SEPTEMBER 2020	NOT IMPLEMENTED	YES
P-181/20	Ž-SA-05-255/20,	BOSNIA AND PODRINJE CANTON GORAŽDE, PALE MUNICIPALITY FBIH, ATTN. MAYOR, MUNICIPAL COUNCIL	15 - PROPERTY RELATIONS	25 SEPTEMBER 2020	COOPERATION ACHIEVED	YES
P-182/20	Ž-SA-05-270/20,	OPERATOR FOR RES AND EC – OPERATOR FOR RENEWABLE ENERGY SOURCES AND EFFICIENT COGENERATION MOSTAR, ATTN. DIRECTOR	03 - ACCESS TO INFORMATION	25 SEPTEMBER 2020	NOT IMPLEMENTED	NO
P-183/20	Ž-SA-08-268/20,	FEDERATION OF BOSNIA AND HERZEGOVINA PARLIAMENT SARAJEVO, FEDERATION OF BOSNIA AND HERZEGOVINA GOVERNMENT	09 - JUDICIARY	25 SEPTEMBER 2020	COOPERATION ACHIEVED	YES
P-184/20	Ž-SA-04-868/18,	SCHOOL OF PHYSICAL EDUCATION AND SPORT PALE, ATTN. DEAN	11 - EDUCATION	25 SEPTEMBER 2020	COOPERATION ACHIEVED	YES
P-185/20	Ž-LI-08-205/20,	CANTON 10 MINISTRY OF LABOUR, HEALTH, SOCIAL PROTECTION AND DISPLACED PERSONS	19 - ADMINISTRATION	5 OCTOBER 2020	IMPLEMENTED	YES

P-186/20	Ž-MO-06-136/18,	HERZEGOVINA-NERETVA CANTON CIVIL DEFENCE AND FIRE FIGHTING ADMINISTRATION MOSTAR	01 - DISCRIMINATION - - 01-03 - MOBBING	29 SEPTEMBER 2020	IMPLEMENTED	YES
P-187/20	Ž-MO-05-36/20,	CANTON 10 GOVERNMENT, ATTN. MINISTRY OF ECONOMY LIVNO	03 - ACCESS TO INFORMATION -- 03-2 - DENIAL OF ACCESS TO INFORMATION	29 SEPTEMBER 2020	NOT IMPLEMENTED	NO
P-188/20	Ž-BL-04-309/19,	CITY OF BANJA LUKA	21 - COMMUNAL SERVICES	1 OCTOBER 2020	COOPERATION ACHIEVED	YES
P-189/20	Ž-BL-04-540/20,	UNA-SANA CANTON ASSEMBLY	06 - PUBLIC REVENUES	24 NOVEMBER 2020	NO RESPONSE	NO
P-190/20	Ž-SA-06-719/20,	TUZLA CANTON MINISTRY OF EDUCATION AND SCIENCE, ATTN. MINISTER	01 - DISCRIMINATION - - 01-12 - ON THE GROUNDS OF NATIONAL ORIGIN OR SOCIAL BACKGROUND	2 OCTOBER 2020	COOPERATION ACHIEVED	YES
P-191/20	Ž-SA-05-1181/18,	FBIH MINISTRY OF LABOUR AND SOCIAL POLICY, COMMISSION FOR PROVIDING EXPERT RULINGS TO OBTAIN THE STATUS OF SPECIAL CATEGORY OF CIVILIAN WAR VICTIMS SARAJEVO, TUZLA CANTON MINISTRY FOR LABOUR, SOCIAL POLICY AND RETURN TUZLA, ATTN. MINISTER	19 - ADMINISTRATION	2 OCTOBER 2020	NOT IMPLEMENTED	YES
P-192/20	Ž-SA-05-732/20,	BOARD OF APPEALS OF THE BOSNIA AND HERZEGOVINA COUNCIL OF MINISTERS SARAJEVO, ATTN. CHAIRPERSON, BOSNIA AND HERZEGOVINA INSTITUTE OF METROLOGY SARAJEVO, ATTN. DIRECTOR	03 - ACCESS TO INFORMATION	2 OCTOBER 2020	IMPLEMENTED	NO
P-193/20	Ž-SA-04-639/19,	FEDERATION OF BOSNIA AND HERZEGOVINA GOVERNMENT SARAJEVO, ATTN. PRIME MINISTER, FYI FBIH PENSION AND DISABILITY INSURANCE FUND, SARAJEVO CANTON ADMINISTRATION DEPARTMENT, ATTN. DIRECTOR	10 - LABOUR RELATIONS	6 OCTOBER 2020	COOPERATION ACHIEVED	YES
P-194/20	Ž-LI-05-168/20,	CITY OF LIVNO	03 - ACCESS TO INFORMATION	8 OCTOBER 2020	IMPLEMENTED	YES

P-195/20	Ž-SA-04-574/20,	TUZLA UNIVERSITY, ATTN. CHANCELLOR, SCHOOL OF MEDICINE OF TUZLA UNIVERSITY, ATTN. DEAN, CANTONAL INSPECTORATE FOR SCIENCE, EDUCATION AND SPORT TUZLA	11 - EDUCATION	15 OCTOBER 2020	IMPLEMENTED	YES
P-196/20	Ž-SA-04-761/20,	SARAJEVO UNIVERSITY, SARAJEVO CANTON GOVERNMENT	11 - EDUCATION -- 11-4 - HIGHER EDUCATION	14 OCTOBER 2020	COOPERATION ACHIEVED	YES
P-197/20	Ž-LI-05-330/17,	ALL RELEVANT INSTITUTIONS IN CANTON 10	05 - POLICE	11 NOVEMBER 2020	IMPLEMENTED	YES
P-198/20	Ž-SA-08-438/20,	SARAJEVO CANTON MINISTRY OF ECONOMY SARAJEVO, ATTN. MINISTER	19 - ADMINISTRATION	15 OCTOBER 2020	COOPERATION ACHIEVED	YES
P-199/20	Ž-LI-08-219/20, Ž-LI-08-220/20,	CANTON 10 MINISTRY OF JUSTICE AND ADMINISTRATION - CANTONAL ADMINISTRATIVE INSPECTION	19 - ADMINISTRATION	26 OCTOBER 2020	NOT IMPLEMENTED	NO
P-200/20	Ž-LI-08-212/20,	TOMISLAVGRAD DEPARTMENT FOR SURVEYING AND PROPERTY AFFAIRS AND PROPERTY REGISTER	19 - ADMINISTRATION	26 OCTOBER 2020	IMPLEMENTED	YES
P-201/20	Ž-SA-04-403/20,	SARAJEVO CANTON GOVERNMENT, SARAJEVO MINISTRY FOR EDUCATION, SCIENCE AND YOUTH, ATTN. MINISTER	10 - LABOUR RELATIONS	5 NOVEMBER 2020	NO RESPONSE	NO
P-202/20	Ž-BL-05-770/19,	REPUBLIKA SRPSKA MINISTRY OF INTERNAL AFFAIRS – DEPARTMENT FOR THE PROTECTION OF INTEGRITY AND LEGALITY IN WORK, BUREAU FOR CITIZEN PETITIONS	03 - ACCESS TO INFORMATION	5 NOVEMBER 2020	IMPLEMENTED	YES
P-203/20	Ž-BL-05-488/20,	SC “RUDNIK I TERMOELEKTRANA UGLJEVIK” JSC UGLJEVIK	03 - ACCESS TO INFORMATION	5 NOVEMBER 2020	IMPLEMENTED	YES
P-204/20	Ž-BL-05-421/20,	CITY OF GRADIŠKA - GENERAL ADMINISTRATION DEPARTMENT	03 - ACCESS TO INFORMATION	5 NOVEMBER 2020	COOPERATION ACHIEVED	YES
P-205/20	Ž-BL-05-271/20,	REPUBLIKA SRPSKA INSURANCE AGENCY	03 - ACCESS TO INFORMATION	5 NOVEMBER 2020	NOT IMPLEMENTED	YES
P-206/20	Ž-BL-04-9/20,	PHI HEALTHCARE CENTRE CAZIN	10 - LABOUR RELATIONS	20 NOVEMBER 2020	IMPLEMENTED	YES
P-207/20	Ž-SA-05-440/20,	NOVO SARAJEVO MUNICIPALITY	03 - ACCESS TO INFORMATION -- 03-1 - FAILURE TO DECIDE WITHIN THE STATUTORY PERIOD	9 NOVEMBER 2020	PARTIALLY IMPLEMENTED	YES

P-208/20	Ž-MO-08-101/20,	MOSTAR MUNICIPAL COURT MOSTAR	09 - JUDICIARY -- 09-2 - LENGTH OF THE PROCEEDINGS (ARTICLE 6)	13 NOVEMBER 2020	IMPLEMENTED	YES
P-209/20	Ž-BL-05-611/20,	KOTOR VAROŠ MUNICIPALITY – GENERAL ADMINISTRATION DEPARTMENT	03 - ACCESS TO INFORMATION	24 NOVEMBER 2020	IMPLEMENTED	YES
P-210/20	Ž-SA-04-595/20, Ž-SA-05-596/20, Ž-SA-06-227/20, Ž-SA-06-231/20, Ž-SA-06-289/20, Ž-SA-06-583/20, Ž-SA-06-603/20, Ž-SA-06-645/20, Ž-SA-05-588/20	MINISTRY FOR LABOUR, SOCIAL POLICY AND DISPLACED PERSONS AND REFUGEES, ATTN. MINISTER, CPI “PORODIČNO SAVJETOVALIŠTE” SARAJEVO	01 - DISCRIMINATION - - 01-03 - MOBBING, 10 - LABOUR RELATIONS, 22 - GOVERNMENT AND MINISTERIAL APPOINTMENTS	2 DECEMBER 2020	COOPERATION ACHIEVED	YES
P-211/20	Ž-SA-05-792/18,	UNA-SANA CANTON ASSEMBLY BIHAĆ, ATTN. SPEAKER, UNA-SANA CANTON GOVERNMENT BIHAĆ, ATTN. PRIME MINISTER	19 - ADMINISTRATION	7 SEPTEMBER 2020	NOT IMPLEMENTED	YES
P-212/20	Ž-BL-04-615/20,	PUC “VODOVOD” JSC GRADIŠKA	21 - COMMUNAL SERVICES	24 NOVEMBER 2020	COOPERATION ACHIEVED	YES
P-213/20	Ž-BL-05-504/20,	CITY OF BANJA LUKA	32 - INSPECTIONS	24 NOVEMBER 2020	NOT IMPLEMENTED	YES
P-214/20	Ž-BL-05-587/20,	BRATUNAC MUNICIPALITY	03 - ACCESS TO INFORMATION	24 NOVEMBER 2020	NOT IMPLEMENTED	YES
P-215/20	Ž-BL-04-77/20,	REPUBLIKA SRPSKA GOVERNMENT, KOZARSKA DUBICA MUNICIPALITY	21 - COMMUNAL SERVICES	1 DECEMBER 2020	NO RESPONSE	NO
P-216/20	Ž-SA-04-76/20,	FBIH MINISTRY FOR VETERANS AND DISABLED VETERANS OF THE DEFENCE- LIBERATION WAR SARAJEVO	24 - SOCIAL PROTECTION	27 NOVEMBER 2020	COOPERATION ACHIEVED	YES
P-217/20	Ž-SA-04-74/20,	FBIH PENSION AND DISABILITY INSURANCE FUND, SARAJEVO CANTON ADMINISTRATION DEPARTMENT, ATTN. DIRECTOR, FEDERATION OF BOSNIA AND HERZEGOVINA TAX ADMINISTRATION, ATTN. DIRECTOR	25 - PENSIONS	27 NOVEMBER 2020	COOPERATION ACHIEVED	YES
P-218/20	Ž-SA-05-1228/19	CENTAR SARAJEVO MUNICIPALITY, ATTN. MAYOR, CENTAR SARAJEVO MUNICIPAL COUNCIL, ATTN. MC SPEAKER	15 - PROPERTY RELATIONS	27 NOVEMBER 2020	NO RESPONSE	NO

P-219/20	Ž-SA-05-796/20,	SARAJEVO CANTON GOVERNMENT, ATTN. PRIME MINISTER, FYI PUBLIC INSTITUTION SARAJEVO HISTORICAL ARCHIVES, ATTN. DIRECTOR	03 - ACCESS TO INFORMATION	30 NOVEMBER 2020	COOPERATION ACHIEVED	YES
P-220/20	Ž-MO-04-82/19, Ž-MO-04-86/19, Ž-MO-05-106/19,	PC "ELEKTROPRIVREDA HRVATSKE ZAJEDNICE HERCEG-BOSNE" JSC MOSTAR	03 - ACCESS TO INFORMATION -- 03-1 - FAILURE TO DECIDE WITHIN THE STATUTORY PERIOD, 10 - LABOUR RELATIONS	30 NOVEMBER 2020	IMPLEMENTED	YES
P-221/20	Ž-MO-05-123/19,	JABLANICA MUNICIPALITY, JABLANICA MAYOR	22 - GOVERNMENT AND MINISTERIAL APPOINTMENTS	30 NOVEMBER 2020	IMPLEMENTED	YES
P-222/20	Ž-MO-06-105/19, Ž-MO-06-24/20,	SUBSIDIARY COMPANY "RUDNIK I TERMoeLEKTRANE GACKO", ATTN. DIRECTOR GACKO	01 - DISCRIMINATION - - 01-03 - MOBBING	30 NOVEMBER 2020	NO RESPONSE	NO
P-223/20	Ž-MO-04-64/20, Ž-MO-04-65/20,	CITY OF ČAPLJINA, PUBLIC UTILITY COMPANY LLC ČAPLJINA	21 - COMMUNAL SERVICES	2 DECEMBER 2020	NO RESPONSE	NO
P-224/20	Ž-SA-04-868/20,	FBIH PENSION AND DISABILITY INSURANCE FUND MOSTAR, ATTN. DIRECTOR	25 - PENSIONS	2 DECEMBER 2020	NO RESPONSE	NO
P-225/20	Ž-SA-08-1407/19,	SARAJEVO CANTON PROSECUTOR'S OFFICE	26 - PROSECUTOR'S OFFICES	7 DECEMBER 2020	NO RESPONSE	NO
P-226/20	Ž-SA-04-344/19,	FEDERATION OF BOSNIA AND HERZEGOVINA GOVERNMENT SARAJEVO	25 - PENSIONS	7 DECEMBER 2020	COOPERATION ACHIEVED	YES
P-227/20	Ž-SA-08-230/19,	INSTITUTE FOR FORENSIC MEDICAL EXAMINATIONS SARAJEVO, ATTN. DIRECTOR	09 - JUDICIARY -- 09-2 - LENGTH OF THE PROCEEDINGS (ARTICLE 6)	7 DECEMBER 2020	NO RESPONSE	YES
P-228/20	Ž-SA-05-858/18,	HERZEGOVINA-NERETVA CANTON ASSEMBLY MOSTAR, HERZEGOVINA-NERETVA CANTON GOVERNMENT MOSTAR, HERZEGOVINA-NERETVA CANTON MINISTRY OF INTERNAL AFFAIRS MOSTAR	05 - POLICE	7 DECEMBER 2020	NO RESPONSE	NO
P-229/20	Ž-SA-04-604/20,	FEDERATION OF BOSNIA AND HERZEGOVINA, FOČA USTIKOLINA MUNICIPALITY, ATTN. USTIKOLINA MAYOR	10 - LABOUR RELATIONS	7 DECEMBER 2020	NO RESPONSE	NO

P-230/20	Ž-SA-08-1077/19,	FBIH MINISTRY OF INTERNAL AFFAIRS SARAJEVO	09 - JUDICIARY	7 DECEMBER 2020	IMPLEMENTED	YES
P-231/20	Ž-SA-02-1050/19,	FEDERATION OF BOSNIA AND HERZEGOVINA GOVERNMENT SARAJEVO, FBIH MINISTRY OF LABOUR AND SOCIAL POLICY SARAJEVO, INSTITUTE FOR FORENSIC MEDICAL EXAMINATIONS SARAJEVO, ATTN. DIRECTOR	12 - PERSONS WITH DISABILITIES	7 DECEMBER 2020	COOPERATION ACHIEVED	YES
P-232/20	Ž-SA-05-1256/19,	CITY OF SREBRENİK, ATTN. CITY COUNCIL	22 - GOVERNMENT AND MINISTERIAL APPOINTMENTS	7 DECEMBER 2020	NO RESPONSE	NO
P-233/20	Ž-BL-05-427/20,	SRBAC MUNICIPALITY	03 - ACCESS TO INFORMATION	8 DECEMBER 2020	IMPLEMENTED	YES
P-234/20	Ž-BL-05-661/20,	PFE „ŠUME REPUBLIKE SRPSKE“ JSC SOKOLAC, FE “DRINA” SREBRENICA	03 - ACCESS TO INFORMATION	8 DECEMBER 2020	COOPERATION ACHIEVED	YES
P-235/20	Ž-SA-01-885/20,	NOVI GRAD MUNICIPALITY - DEPARTMENT FOR URBAN PLANNING, HOUSING, PROPERTY AND SURVEYING AFFAIRS AND PROPERTY REGISTER, DEPARTMENT FOR INSPECTION AFFAIRS SARAJEVO	13 - RIGHTS OF THE CHILD	11 DECEMBER 2020	COOPERATION ACHIEVED	YES
P-236/20	Ž-BL-01-475/20,	FEDERATION OF BOSNIA AND HERZEGOVINA, ZENICA-DOBOJ CANTON, MINISTRY OF INTERNAL AFFAIRS, KAKANJ MUNICIPALITY, PI HEALTHCARE CENTRE KAKANJ, TRAVNIK MUNICIPAL COURT, PRIMARY SCHOOL “HAMDIJA KREŠEVLJAKOVIĆ”	13 - RIGHTS OF THE CHILD	11 DECEMBER 2020	COOPERATION ACHIEVED	YES
P-237/20	Ž-BL-08-337/20,	INDIRECT TAXATION AUTHORITY OF BOSNIA AND HERZEGOVINA	19 - ADMINISTRATION	11 DECEMBER 2020	NO RESPONSE	NO
P-238/20	Ž-BL-05-525/20,	CITY OF GRADIŠKA – INSPECTION DEPARTMENT	32 - INSPECTIONS	15 DECEMBER 2020	COOPERATION ACHIEVED	YES
P-239/20	Ž-BL-05-626/20,	PI SECONDARY SCHOOL OF MECHANICAL ENGINEERING PRIJEDOR	03 - ACCESS TO INFORMATION	15 DECEMBER 2020	NO RESPONSE	NO
P-240/20	Ž-BL-05-737/20,	BIHAĆ CITY TOURIST BOARD	03 - ACCESS TO INFORMATION	15 DECEMBER 2020	NO RESPONSE	NO
P-241/20	Ž-BL-02-492/20,	UNA-SANA CANTON MINISTRY OF EDUCATION, SCIENCE, CULTURE AND SPORT, PI GRAMMAR SCHOOL “BOSANSKA KRUPA” BOSANSKA KRUPA	12 - PERSONS WITH DISABILITIES	14 DECEMBER 2020	NO RESPONSE	NO
P-242/20	Ž-BL-05-39/20,	VLASENICA MUNICIPALITY	03 - ACCESS TO INFORMATION	11 DECEMBER 2020	NO RESPONSE	NO

P-243/20	Ž-SA-02-508/19,	FBIH MINISTRY OF LABOUR AND SOCIAL POLICY SARAJEVO, ATTN. MINISTER	12 - PERSONS WITH DISABILITIES	14 DECEMBER 2020	COOPERATION ACHIEVED	YES
P-244/20	Ž-SA-04-64/20,	PI FIFTH GRAMMAR SCHOOL SARAJEVO, ATTN. DIRECTOR	10 - LABOUR RELATIONS	14 DECEMBER 2020	COOPERATION ACHIEVED	YES
P-245/20	Ž-SA-02-425/20, Ž-SA-02-525/20,	FUND FOR PROFESSIONAL REHABILITATION AND EMPLOYMENT OF PERSONS WITH DISABILITIES SARAJEVO, ATTN. DIRECTOR, ATTN. CHAIR OF BOARD OF DIRECTORS, ATTN. CHAIR OF SUPERVISORY BOARD, FBIH MINISTRY OF LABOUR AND SOCIAL POLICY SARAJEVO, ATTN. MINISTER, FBIH MINISTRY OF FINANCE, FINANCIAL POLICE SARAJEVO, ATTN. CHIEF INSPECTOR, FYI FEDERATION OF BOSNIA AND HERZEGOVINA PARLIAMENT SARAJEVO, ATTN. SPEAKER OF THE HOUSE OF REPRESENTATIVES, ATTN. SPEAKER OF THE HOUSE OF PEOPLES, FEDERATION OF BOSNIA AND HERZEGOVINA GOVERNMENT SARAJEVO, ATTN. PRIME MINISTER	12 - PERSONS WITH DISABILITIES	14 DECEMBER 2020	COOPERATION ACHIEVED	YES
P-246/20	Ž-SA-05-929/20,	PC ELEKTROPRIVREDA BOSNE I HERCEGOVINE JSC SARAJEVO, BRANCH OFFICE "TERMOELEKTRANA" TUZLA BUKINJE, ATTN. DIRECTOR, PC ELEKTROPRIVREDA BOSNE I HERCEGOVINE JSC SARAJEVO, ATTN. CHAIR OF BOARD OF DIRECTORS	03 - ACCESS TO INFORMATION	14 DECEMBER 2020	IMPLEMENTED	YES
P-247/20	Ž-SA-05-599/19,	BOARD OF APPEAL OF THE BOSNIA AND HERZEGOVINA COUNCIL OF MINISTERS SARAJEVO, ATTN. CHAIRPERSON, FYI COURT OF BOSNIA AND HERZEGOVINA - ADMINISTRATIVE DIVISION SARAJEVO	03 - ACCESS TO INFORMATION	14 DECEMBER 2020	PARTIALLY IMPLEMENTED	YES

P-248/20	Ž-SA-02-1391/19,	FBIH MINISTRY OF HEALTH SARAJEVO, ATTN. MINISTER, SARAJEVO CANTON MINISTRY OF HEALTH, TUZLA CANTON MINISTRY OF HEALTH, ATTN. MINISTER, UNA-SANA CANTON MINISTRY OF HEALTH, LABOUR AND SOCIAL POLICY BIHAĆ, ATTN. MINISTER, POSAVINA CANTON MINISTRY OF HEALTH AND SOCIAL POLICY ORAŠJE, ATTN. MINISTER, BPC MINISTRY FOR SOCIAL POLICY, HEALTH, DISPLACED PERSONS AND REFUGEES GORAŽDE, ATTN. MINISTER, ZENICA-DOBOJ CANTON MINISTRY OF HEALTH, ATTN. MINISTER, HERZEGOVINA-NERETVA CANTON MINISTRY OF HEALTH, LABOUR AND SOCIAL PROTECTION MOSTAR, ATTN. MINISTER, WEST HERZEGOVINA CANTON MINISTRY OF HEALTH, LABOUR AND SOCIAL PROTECTION GRUDE, ATTN. MINISTER, CANTON 10 MINISTRY OF LABOUR, HEALTH, SOCIAL PROTECTION AND DISPLACED PERSONS TOMISLAVGRAD, ATTN. MINISTER, CENTRAL BOSNIA CANTON MINISTRY OF HEALTH AND SOCIAL POLICY TRAVNIK, ATTN. MINISTER, FYI FBIH AGENCY FOR HEALTHCARE QUALITY AND ACCREDITATION SARAJEVO, ATTN. DIRECTOR	12 - PERSONS WITH DISABILITIES	14 DECEMBER 2020	COOPERATION ACHIEVED	YES
P-249/20	Ž-SA-05-547/20,	PC HRVATSKE TELEKOMUNIKACIJE JSC MOSTAR ATTN. CHAIR OF BOARD OF DIRECTORS	03 - ACCESS TO INFORMATION	14 DECEMBER 2020	COOPERATION ACHIEVED	YES
P-250/20	Ž-BL-04-583/20,	INDIRECT TAXATION AUTHORITY OF BOSNIA AND HERZEGOVINA, BOSNIA AND HERZEGOVINA MINISTRY OF JUSTICE – ADMINISTRATIVE INSPECTION, BOSNIA AND HERZEGOVINA COUNCIL OF MINISTERS, CIVIL SERVICE APPEAL BOARD	10 - LABOUR RELATIONS	14 DECEMBER 2020	COOPERATION ACHIEVED	YES
P-251/20	Ž-BL-04-512/20,	RS ADMINISTRATION FOR INSPECTION AFFAIRS, LABOUR INSPECTION	10 - LABOUR RELATIONS	14 DECEMBER 2020	COOPERATION ACHIEVED	YES

P-252/20	Ž-BL-05-811/18,	BANJA LUKA BASIC COURT	09 - JUDICIARY	15 DECEMBER 2020	COOPERATION ACHIEVED	YES
P-253/20	Ž-SA-05-1285/16,	BOSNIA AND HERZEGOVINA COUNCIL OF MINISTERS SARAJEVO, ATTN. CHAIRPERSON, BOSNIA AND HERZEGOVINA MINISTRY OF SECURITY SARAJEVO, ATTN. MINISTER, BOSNIA AND HERZEGOVINA MINISTRY FOR HUMAN RIGHTS AND REFUGEES SARAJEVO, ATTN. MINISTER	23 - HEALTH	14 DECEMBER 2020	NO RESPONSE	NO
P-254/20	Ž-SA-06-383/20,	SARAJEVO CANTON GOVERNMENT, SARAJEVO CANTON MINISTRY OF ECONOMY, ATTN. MINISTER	01 - DISCRIMINATION	16 DECEMBER 2020	NO RESPONSE	NO
P-255/20	Ž-BR-05-58/20,	PUBLIC HEALTHCARE INSTITUTION TUZLA UNIVERSITY CLINICAL CENTRE	03 - ACCESS TO INFORMATION -- 03-2 - DENIAL OF ACCESS TO INFORMATION	18 DECEMBER 2020	NO RESPONSE	NO
P-256/20	Ž-BR-05-226/19,	BRČKO DISTRICT OF BOSNIA AND HERZEGOVINA GOVERNMENT, OFFICE OF THE MAYOR – ETHICS OFFICER	03 - ACCESS TO INFORMATION -- 03-2 - DENIAL OF ACCESS TO INFORMATION	18 DECEMBER 2020	COOPERATION ACHIEVED	NO
P-257/20	Ž-BR-04-283/19,	SEDC ELEKTRO-BIJELJINA, BIJELJINA SOCIAL WELFARE CENTRE	21 - COMMUNAL SERVICES	25 DECEMBER 2020	COOPERATION ACHIEVED	NO
P-258/20	Ž-BR-08-10/19,	LUKAVAC MUNICIPAL COURT	09 - JUDICIARY	25 DECEMBER 2020	IMPLEMENTED	YES
P-259/20	Ž-MO-04-137/19,	PC ELEKTROPRIVREDA HZ HB JSC MOSTAR, ATTN. EXECUTIVE DIRECTOR MOSTAR	21 - COMMUNAL SERVICES	22 DECEMBER 2020	NO RESPONSE	NO
P-260/20	Ž-MO-05-135/20,	PI SIXTH PRIMARY SCHOOL IN MOSTAR, ATTN. ACTING DIRECTOR	03 - ACCESS TO INFORMATION -- 03-1 - FAILURE TO DECIDE WITHIN THE STATUTORY PERIOD	22 DECEMBER 2020	IMPLEMENTED	YES
P-261/20	Ž-BL-04-560/20,	INDIRECT TAXATION AUTHORITY OF BOSNIA AND HERZEGOVINA, BOSNIA AND HERZEGOVINA MINISTRY OF JUSTICE, BOSNIA AND HERZEGOVINA COUNCIL OF MINISTERS	10 - LABOUR RELATIONS	29 DECEMBER 2020	COOPERATION ACHIEVED	YES

P-262/20	Ž-BL-01-505/20, Ž-BL-05-677/20,	BOSNIA AND HERZEGOVINA MINISTRY OF SECURITY, FEDERATION OF BOSNIA AND HERZEGOVINA PARLIAMENT, FBIH MINISTRY OF INTERNAL AFFAIRS, CITY OF BIHAĆ, BIHAĆ SOCIAL WELFARE CENTRE - FOREIGN NATIONALS DEPARTMENT	13 - RIGHTS OF THE CHILD, 17 - PUBLIC DOCUMENTS	30 DECEMBER 2020	NO RESPONSE	NO
P-263/20	Ž-BL-06-656/20,	SREBRENICA MUNICIPALITY	01 - DISCRIMINATION - - 01-03 - MOBBING	30 DECEMBER 2020	NO RESPONSE	NO
P-264/20	Ž-BL-05-430/20,	ASSOCIATION OF COMPOSERS – AUTHORS OF MUSIC AMUS	03 - ACCESS TO INFORMATION	29 DECEMBER 2020	NO RESPONSE	NO
P-265/20	Ž-BL-05-511/20,	CITY OF CAZIN - DEPARTMENT FOR PROPERTY, SURVEYING AND LAND REGISTRY AFFAIRS	15 - PROPERTY RELATIONS	29 DECEMBER 2020	COOPERATION ACHIEVED	YES
P-266/20	Ž-BL-05-562/20,	SANSKI MOST MUNICIPALITY - DEPARTMENT FOR PROPERTY AND SURVEYING AFFAIRS AND PROPERTY REGISTER	03 - ACCESS TO INFORMATION	29 DECEMBER 2020	COOPERATION ACHIEVED	YES
P-267/20	Ž-BL-04-858/19,	REPUBLIKA SRPSKA, RS CIVIL DEFENCE ADMINISTRATION	10 - LABOUR RELATIONS	29 DECEMBER 2020	NO RESPONSE	NO
P-268/20	Ž-BR-04-35/20,	BRČKO DISTRICT OF BOSNIA AND HERZEGOVINA MAYOR – BRČKO DISTRICT OF BOSNIA AND HERZEGOVINA ASSEMBLY – ASSEMBLY COUNCILORS	24 - SOCIAL PROTECTION	29 DECEMBER 2020	IMPLEMENTED	NO
P-269/20	Ž-BR-04-28/20,	TUZLA CANTON MINISTRY OF EDUCATION	11 - EDUCATION	29 DECEMBER 2020	NO RESPONSE	NO
P-270/20	Ž-BR-05-46/20,	CITY OF TUZLA, TUZLA CANTON MINISTRY FOR VETERANS' AFFAIRS	32 - INSPECTIONS	29 DECEMBER 2020	COOPERATION ACHIEVED	NO

## ANNEX I. 2020 BUDGET BREAKDOWN

### BOSNIA AND HERZEGOVINA

Institution: Institution of Human Rights Ombudsman of Bosnia and Herzegovina

Headquarters: Banja Luka

ID: 4403087410007

Activity code: 69.10

### Form 2

Organisation code: 0304

Fund: General fund (10)

Project code: 0

Summary form: x

#### Breakdown of expenditures and expenses by economic category

Reporting period: 01/01/2020 – 31/12/2020

#### BUDGET

No.	Description	Economic code	Budget	Amendments (revision, restructuring, reallocation, provisions, earmarked funds, etc.)	Adjusted budget	Realised accumulated amount of total expenditures and expenses	Realised accumulated amount in the same period of the previous year	Percentage 7/6 x 100	Percentage 7/8 x 100
1	2	3	4	5	6 (4+5)	7	8	9	10
1	<b>Total expenditures and expenses (2+16)</b>		<b>2,482,000</b>		<b>2,482,000</b>	<b>2,346,212</b>	<b>2,367,515</b>	<b>95</b>	<b>99</b>
2	<b>Total current expenditures (3+6)</b>	<b>610000</b>	<b>2,474,000</b>	<b>-45,200</b>	<b>2,428,800</b>	<b>2,294,728</b>	<b>2,348,831</b>	<b>94</b>	<b>98</b>
3	Employee salaries and expenses reimb. (4+5)	611000	2,193,000	-14,200	2,178,800	2,089,926	2,051,878	96	102
4	Gross salaries and allowances and benefits	611100	1,944,000	0	1,944,000	1,868,945	1,852,978	96	101
5	Employee expenses reimbursement	611200	249,000	-14,200	234,800	220,981	198,900	94	111
6	<b>Expenses for material, small business inventory and services (7+.....+15)</b>	<b>613000</b>	<b>281,000</b>	<b>-31,000</b>	<b>250,000</b>	<b>204,802</b>	<b>296,953</b>	<b>82</b>	<b>69</b>
7	Travel expenses	613100	55,000	-26,000	29,000	16,557	88,402	57	19
8	Telephone and postal services expenses	613200	49,000	-4,000	45,000	40,554	45,834	90	88
9	Energy and utilities expenses	613300	6,000	0	6,000	4,320	4,370	72	99
10	Procurement of material and small business inventory	613400	33,000	7,000	40,000	39,508	35,686	99	111
11	Transportation and fuel expenses	613500	23,000	-8,000	15,000	6,603	14,904	44	44
12	Property and equipment rental	613600	13,000	0	13,000	12,800	12,800	98	100
13	Maintenance expenses	613700	27,000	0	27,000	18,261	24,825	68	74
14	Insurance, banking and payment services	613800	6,000	0	6,000	4,186	4,700	70	89
15	Contracted and other special services	613900	69,000	0	69,000	62,013	65,432	90	95
16	<b>Total capital expenses</b>		<b>8,000</b>	<b>45,200</b>	<b>53,200</b>	<b>51,484</b>	<b>18,684</b>	<b>97</b>	<b>276</b>
17	<b>Fixed asset acquisition costs</b>	<b>821000</b>	<b>8,000</b>	<b>45,200</b>	<b>53,200</b>	<b>51,484</b>	<b>18,684</b>	<b>97</b>	<b>276</b>
18	Procurement of equipment	821300	8,000	45,200	53,200	51,484	18,684	97	276

## **ANNEX II. 2020 OVERVIEW OF OBLIGATIONS UNDER FREEDOM OF INFORMATION ACT**

### **1. Public authorities at the level of Bosnia and Herzegovina that complied with the obligation to appoint information officers and provided the Information Access Guide and Index Register pursuant to Articles 19 and 20 of the Freedom of Information Act:**

1. Police Support Agency of Bosnia and Herzegovina;
2. Civil Service Agency of Bosnia and Herzegovina;
3. Agency for Forensic Examinations of Bosnia and Herzegovina;
4. Agency for Identification Documents, Registers and Data Exchange of Bosnia and Herzegovina;
5. Public Procurement Agency and Complaints Review Body of Bosnia and Herzegovina;
6. Agency for Medicinal Products and Medical Devices of Bosnia and Herzegovina;
7. Market Surveillance Agency of Bosnia and Herzegovina;
8. Deposit Insurance Agency of Bosnia and Herzegovina;
9. Insurance Agency in Bosnia and Herzegovina;
10. Agency for Postal Traffic of Bosnia and Herzegovina;
11. Agency for Preschool, Primary and Secondary Education of Bosnia and Herzegovina;
12. Agency for the Prevention of Corruption and the Coordination of the Fight against Corruption of Bosnia and Herzegovina;
13. Labour and Employment Agency of Bosnia and Herzegovina;
14. Agency for Development of Higher Education and Quality Assurance of Bosnia and Herzegovina;
15. Food Safety Agency of Bosnia and Herzegovina;
16. Agency for Statistics of Bosnia and Herzegovina;
17. Agency for Education and Professional Development of Bosnia and Herzegovina;
18. Foreign Investment Promotion Agency of Bosnia and Herzegovina;
19. Personal Data Protection Agency of Bosnia and Herzegovina;
20. Archives of Bosnia and Herzegovina;
21. Centre for Information and Recognition of Qualifications in Higher Education of Bosnia and Herzegovina;
22. Bosnia and Herzegovina Mine Action Centre;
23. Central Bank of Bosnia and Herzegovina;
24. Central Election Commission of Bosnia and Herzegovina;
25. Directorate for Coordination of Police Bodies of Bosnia and Herzegovina;
26. Bosnia and Herzegovina Directorate of Civil Aviation - BHDCA;
27. Bosnia and Herzegovina Directorate for Economic Planning;
28. Directorate for European Integration of Bosnia and Herzegovina;
29. State Investigation and Protection Agency of Bosnia and Herzegovina;
30. State Regulatory Agency for Radiation and Nuclear Safety of Bosnia and Herzegovina;
31. State Electricity Regulatory Commission of Bosnia and Herzegovina;
32. Electricity Transmission Company of Bosnia and Herzegovina;
33. Return Fund of Bosnia and Herzegovina;
34. Border Police of Bosnia and Herzegovina;
35. Institution of the Ombudsman for Consumer Protection of Bosnia and Herzegovina;
36. Institute for Accreditation of Bosnia and Herzegovina;
37. Institute for Intellectual Property of Bosnia and Herzegovina;
38. Institute for Standardisation of Bosnia and Herzegovina;
39. Concession Commission of Bosnia and Herzegovina;
40. Commission to Preserve National Monuments of Bosnia and Herzegovina;

41. Accounting and Auditing Commission of Bosnia and Herzegovina;
42. Demining Commission of Bosnia and Herzegovina;
43. Competition Council of Bosnia and Herzegovina;
44. Ministry of Civil Affairs of Bosnia and Herzegovina;
45. Ministry of Finance and Treasury of Bosnia and Herzegovina;
46. Ministry of Communications and Transport of Bosnia and Herzegovina;
47. Ministry of Defence of Bosnia and Herzegovina;
48. Ministry of Justice of Bosnia and Herzegovina;
49. Ministry of Security of Bosnia and Herzegovina;
50. Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina;
51. Ministry of Foreign Affairs of Bosnia and Herzegovina;
52. Ministry of Human Rights and Refugees of Bosnia and Herzegovina;
53. Intelligence and Security Agency of Bosnia and Herzegovina;
54. Civil Service Appeal Board of Bosnia and Herzegovina;
55. Parliamentary Assembly of Bosnia and Herzegovina;
56. Office of the Attorney General of Bosnia and Herzegovina;
57. Presidency of Bosnia and Herzegovina;
58. Communications Regulatory Agency of Bosnia and Herzegovina;
59. Foreign Nationals Service of Bosnia and Herzegovina;
60. Service for Joint Affairs of the Institutions of Bosnia and Herzegovina;
61. Court of Bosnia and Herzegovina;
62. Prosecutor's Office of Bosnia and Herzegovina;
63. Administration of Bosnia and Herzegovina for Plant Health Protection;
64. Indirect Taxation Authority of Bosnia and Herzegovina;
65. Public Administration Reform Coordinator's Office of Bosnia and Herzegovina;
66. Office for Auditing of the Financial Operations of the Institutions of Bosnia and Herzegovina;
67. Veterinary Office of Bosnia and Herzegovina;
68. Legislative Office of the Council of Ministers of Bosnia and Herzegovina;
69. Constitutional Court of Bosnia and Herzegovina;
70. Foreign Trade Chamber of Bosnia and Herzegovina;
71. Council of Ministers of Bosnia and Herzegovina;
72. High Judicial and Prosecutorial Council of Bosnia and Herzegovina.

## **2. Public authorities at the level of Bosnia and Herzegovina that provided statistical data in 2020, pursuant to Article 20 of the Freedom of Information Act:**

1. Civil Service Agency of Bosnia and Herzegovina;
2. Agency for Identification Documents, Registers and Data Exchange of Bosnia and Herzegovina;
3. Public Procurement Agency of Bosnia and Herzegovina;
4. Market Surveillance Agency of Bosnia and Herzegovina;
5. Insurance Agency in Bosnia and Herzegovina;
6. Labour and Employment Agency of Bosnia and Herzegovina;
7. Agency for the Prevention of Corruption and the Coordination of the Fight against Corruption of Bosnia and Herzegovina;
8. Food Safety Agency of Bosnia and Herzegovina;
9. Personal Data Protection Agency of Bosnia and Herzegovina;
10. Bosnia and Herzegovina Directorate of Civil Aviation - BHDCA;
11. Bosnia and Herzegovina Directorate for Economic Planning;
12. Directorate for European Integration of Bosnia and Herzegovina;

13. State Electricity Regulatory Commission of Bosnia and Herzegovina;
14. Electricity Generation, Distribution and Supply Company (Elektroprivreda) of Bosnia and Herzegovina;
15. Electricity Transmission Company (Elektroprenos) JSC Banja Luka;
16. Return Fund of Bosnia and Herzegovina;
17. Border Police of Bosnia and Herzegovina;
18. Institute for Intellectual Property of Bosnia and Herzegovina;
19. Commission to Preserve National Monuments of Bosnia and Herzegovina;
20. Competition Council of Bosnia and Herzegovina;
21. Ministry of Civil Affairs of Bosnia and Herzegovina;
22. Ministry of Communications and Transport of Bosnia and Herzegovina;
23. Ministry of Foreign Affairs of Bosnia and Herzegovina;
24. Ministry of Defence of Bosnia and Herzegovina;
25. Ministry of Justice of Bosnia and Herzegovina;
26. Ministry of Finance and Treasury of Bosnia and Herzegovina;
27. Ministry of Human Rights and Refugees of Bosnia and Herzegovina;
28. Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina /Veterinary Office of BiH, Administration of BiH for Plant Health Protection, Office for Harmonisation and Coordination of Payment Systems in Agriculture, Food and Rural Development of BiH/;
29. Parliamentary Assembly of Bosnia and Herzegovina;
30. Office of the Attorney General of Bosnia and Herzegovina;
31. Presidency of Bosnia and Herzegovina - Secretariat;
32. Prosecutor's Office of Bosnia and Herzegovina;
33. Public Administration Reform Coordinator's Office of Bosnia and Herzegovina;
34. Complaint Review Body of Bosnia and Herzegovina;
35. Constitutional Court of Bosnia and Herzegovina;
36. Council of Ministers of Bosnia and Herzegovina – General Secretariat;
37. High Judicial and Prosecutorial Council of Bosnia and Herzegovina.

*In respect of submission of statistical data by state-level public authorities, the Institution of Human Rights Ombudsman of Bosnia and Herzegovina notes that 37 public authorities regularly complied with their obligation in the reporting year, which is identical to the situation in 2019.*

**3. Public authorities at the level of the Federation of Bosnia and Herzegovina that provided statistical data in 2020, pursuant to the Freedom of Information Act, are as follows:**

1. Banking Agency of the Federation of Bosnia and Herzegovina;
2. FBiH Hydrometeorological Institute;
3. FBiH Ministry of Health;
4. FBiH Ministry of Internal Affairs;
5. FBiH Ministry of Spatial Planning;
6. FBiH Prosecutor's Office;
7. FBiH Employment Bureau;
8. City of Mostar;
9. City of Goražde;
10. PI Sarajevo International Airport LLC;
11. PI Otoka Olympic Swimming Pool;
12. Zenica Cantonal Court;
13. Sarajevo Canton Administration for Inspection Affairs;
14. Zenica-Doboj Canton Administration for Inspection Affairs;

15. Sarajevo Canton Prosecutor's Office;
16. Zenica-Doboj Canton Prosecutor's Office;
17. Cantonal Public Utility Company "Rad" LLC;
18. Securities Commission of the Federation of Bosnia and Herzegovina;
19. Zenica-Doboj Canton Ministry of Justice and Public Administration;
20. Sarajevo Canton Ministry of Internal Affairs;
21. Una-Sana Canton Ministry for Civil Engineering, Spatial Planning and Environmental Protection;
22. Gračanica Municipality;
23. Sanski Most Municipality;
24. Kakanj Municipality;
25. Ključ Municipality;
26. Foča Municipality;
27. Hadžići Municipality;
28. Stari Grad Sarajevo Municipality;
29. Novo Sarajevo Municipality;
30. Novi Travnik Municipality;
31. Lukavac Municipal Court;
32. Visoko Municipal Court;
33. Regulatory Commission for Energy in the Federation of Bosnia and Herzegovina;
34. Sarajevo University;
35. Government of the Federation of Bosnia and Herzegovina.

*In the reporting year, 35 public authorities in the territory of the Federation of Bosnia and Herzegovina complied with the obligation to provide statistical data pursuant to the Freedom of Information Act, which is by five more than in the previous year. Ten public authorities at the level of the Federation of Bosnia and Herzegovina regularly complied with their obligation to provide statistical data to the Institution of Human Rights Ombudsman of Bosnia and Herzegovina, while eleven cantonal-level public authorities complied with the same obligation. Fourteen municipal-level public authorities complied with this obligation in the same period.*

**4. Public authorities at the level of the Republika Srpska that provided statistical data in 2020, pursuant to the Freedom of Information Act, are as follows:**

1. Pension and Disability Insurance Fund of the Republika Srpska;
2. City of Gradiška;
3. Public Institution "Vode Srpske" Bijeljina;
4. Banja Luka District Public Prosecutor's Office;
5. Doboj District Court;
6. Doboj District Commercial Court;
7. Teslić Basic Court;
8. Ugljevik Municipality;
9. President of the Republika Srpska – Office of the President;
10. Republika Srpska Prosecutor's Office.

*Ten public authorities at the level of the Republika Srpska complied with the obligation to provide statistical data in 2020, and there were no major changes compared to the previous year.*

**5. In 2020, the following public authorities complied with their obligation to provide information officer decisions, Information Access Guide and Index Register, pursuant to the Freedom of Information Act:**

1. Banking Agency of the Federation of Bosnia and Herzegovina (Information Officer Appointment Notification);
2. Insurance Agency of the Republika Srpska (Information Officer Appointment Notification, Information Access Guide);
3. Public Procurement Agency of BiH (Information Access Guide, Index Register, Information Officer Appointment Decision);
4. Archives of the Federation of Bosnia and Herzegovina (Information Officer Appointment Decision);
5. Brčko District of Bosnia and Herzegovina, Mayor (Information Officer Appointment Notification);
6. Prijedor Secondary School of Electrical Engineering (Information Access Guide);
7. FBiH Ministry of Health (Information Officer Appointment Notification, Information Access Guide and Index Register);
8. FBiH Ministry of Agriculture, Water Management and Forestry (Information Officer Appointment Decision);
9. FBiH Ministry of Energy, Mining and Industry (Information Officer Appointment Decision);
10. Helicopter Service of the Republika Srpska (Information Access Guide, Index Register, Information Officer Appointment Decision);
11. PI Bijeljina Social Welfare Centre (Information Officer Appointment Decision, Information Access Guide);
12. PI Sarajevo Historical Archives (Information Access Guide, Index Register, Information Officer Appointment Notification);
13. PI "Vode Srpske" Bijeljina (Information Officer Appointment Decision, Information Access Guide, Index Register);
14. PC Sarajevo International Airport (Information Officer Appointment Decision - change);
15. Zenica-Doboj Canton Administration for Inspection Affairs (Information Officer Appointment Decision);
16. Ministry of Labour, Social Policy, Displaced Persons and Refugees (Information Officer Appointment Decision);
17. Ministry of Communications and Transport of Bosnia and Herzegovina (Information Access Guide and Index Register);
18. Ministry of Human Rights and Refugees of BiH (Information Officer Appointment Decision);
19. Ministry of Foreign Affairs of BiH (Information Access Guide, Information Officer data);
20. Ilijaš Municipality (Information Officer Appointment Notification);
21. Banovići Municipality (Notification on Amending Information Officer Appointment Decision);
22. Orašje Municipal Court (Information Officer Appointment Decision);
23. Brčko District Police (Information Officer Appointment Decision);
24. Regulatory Commission for Energy in the Federation of Bosnia and Herzegovina (Information Officer Appointment Notification);
25. Communications Regulatory Agency (Information Officer Appointment Decision);
26. Prosecutor's Office of Bosnia and Herzegovina (Information Officer Appointment Notification);
27. Sarajevo Canton Development Planning Institute (Information Officer Appointment Decision)

28. West-Herzegovina Canton, Office for European Integration (Information Officer Appointment Notification);
29. Sarajevo Canton Institute for Informatics and Statistics (Information Officer Appointment Decision and Information Access Guide).

**ANNEX III. TABLE OF STATISTICAL INDICATORS**

<b>DEPARTMENT</b>	<b>2020 caseload</b>	<b>Carryover from previous years</b>	<b>Total cases handled in 2020</b>	<b>Total cases completed in 2020</b>	<b>2021 carryover</b>
01 - Department for Monitoring the Exercise of Rights of Children	185	162	347	208	139
02 - Department for Monitoring the Exercise of Rights of Persons with Disabilities	40	37	77	52	25
03 - Department for Monitoring the Exercise of Rights of National/Ethnic, Religious and Other Minorities	3	5	8	7	1
04 - Department for Monitoring the Exercise of Economic, Social and Cultural Rights	622	467	1089	714	375
05 - Department for Monitoring the Exercise of Political and Civil Rights	785	723	1508	943	565
06 - Department for the Elimination of All Forms of Discrimination	288	201	489	168	321
07 - Department for the Exercise of Rights of Persons Deprived of Liberty	92	89	181	93	88
08 - Department for Monitoring the Exercise of Rights in the Judiciary and Administration	701	347	1048	674	374
<b>TOTAL</b>	<b>2716</b>	<b>2031</b>	<b>4747</b>	<b>2859</b>	<b>1888</b>

**Work on complaints in 2020 by department**

Department	Number of cases
01 - Department for Monitoring the Exercise of Rights of Children // Banja Luka	90
01 - Department for Monitoring the Exercise of Rights of Children // Brčko	6
01 - Department for Monitoring the Exercise of Rights of Children // Livno	3
01 - Department for Monitoring the Exercise of Rights of Children // Mostar	6
01 - Department for Monitoring the Exercise of Rights of Children // Sarajevo	80
<b>01 - Department for Monitoring the Exercise of Rights of Children</b>	<b>185</b>
02 - Department for Monitoring the Exercise of Rights of Persons with Disabilities // Banja Luka	18
02 - Department for Monitoring the Exercise of Rights of Persons with Disabilities // Mostar	5
02 - Department for Monitoring the Exercise of Rights of Persons with Disabilities // Sarajevo	17
<b>02 - Department for Monitoring the Exercise of Rights of Persons with Disabilities</b>	<b>40</b>
03 - Department for Monitoring the Exercise of Rights of National/Ethnic, Religious and Other Minorities // Banja Luka	2
03 - Department for Monitoring the Exercise of Rights of National/Ethnic, Religious and Other Minorities // Brčko	0
03 - Department for Monitoring the Exercise of Rights of National/Ethnic, Religious and Other Minorities // Sarajevo	1
<b>03 - Department for Monitoring the Exercise of Rights of National/Ethnic, Religious and Other Minorities</b>	<b>3</b>
04 - Department for Monitoring the Exercise of Economic, Social and Cultural Rights // Banja Luka	164
04 - Department for Monitoring the Exercise of Economic, Social and Cultural Rights // Brčko	95
04 - Department for Monitoring the Exercise of Economic, Social and Cultural Rights // Livno	33
04 - Department for Monitoring the Exercise of Economic, Social and Cultural Rights // Mostar	48
04 - Department for Monitoring the Exercise of Economic, Social and Cultural Rights // Sarajevo	282
<b>04 - Department for Monitoring the Exercise of Economic, Social and Cultural Rights</b>	<b>622</b>
05 - Department for Monitoring the Exercise of Political and Civil Rights // Banja Luka	232
05 - Department for Monitoring the Exercise of Political and Civil Rights // Brčko	81
05 - Department for Monitoring the Exercise of Political and Civil Rights // Livno	101
05 - Department for Monitoring the Exercise of Political and Civil Rights // Mostar	62
05 - Department for Monitoring the Exercise of Political and Civil Rights // Sarajevo	309
<b>05 - Department for Monitoring the Exercise of Political and Civil Rights</b>	<b>785</b>
06 - Department for the Elimination of All Forms of Discrimination // Banja Luka	170
06 - Department for the Elimination of All Forms of Discrimination // Brčko	4
06 - Department for the Elimination of All Forms of Discrimination // Livno	2
06 - Department for the Elimination of All Forms of Discrimination // Mostar	10
06 - Department for the Elimination of All Forms of Discrimination // Sarajevo	102
<b>06 - Department for the Elimination of All Forms of Discrimination</b>	<b>288</b>
07 - Department for the Exercise of Rights of Persons Deprived of Liberty // Banja Luka	15
07 - Department for the Exercise of Rights of Persons Deprived of Liberty // Livno	1
07 - Department for the Exercise of Rights of Persons Deprived of Liberty // Mostar	2
07 - Department for the Exercise of Rights of Persons Deprived of Liberty // Sarajevo	74
<b>07 - Department for the Exercise of Rights of Persons Deprived of Liberty</b>	<b>92</b>
08 - Department for Monitoring the Exercise of Rights in the Judiciary and Administration // Banja Luka	136
08 - Department for Monitoring the Exercise of Rights in the Judiciary and Administration // Brčko	47

08 - Department for Monitoring the Exercise of Rights in the Judiciary and Administration // Livno	205
08 - Department for Monitoring the Exercise of Rights in the Judiciary and Administration // Mostar	46
08 - Department for Monitoring the Exercise of Rights in the Judiciary and Administration // Sarajevo	267
<b>08 - Department for Monitoring the Exercise of Rights in the Judiciary and Administration</b>	<b>701</b>
<b>TOTAL</b>	<b>2716</b>

**Number of complaints in 2020 by office**

## 2020 Caseload // By Subcategory

Violation of right	Subcategory	Number of cases
01 - Discrimination	00 – other	205
01 - Discrimination	01-02 – sexual harassment	2
01 - Discrimination	01-03 – mobbing	35
01 - Discrimination	01-04 – segregation	1
01 - Discrimination	01-09 – on grounds of language	4
01 - Discrimination	01-10 – on grounds of religion	3
01 - Discrimination	01-11 – on grounds of ethnicity	1
01 - Discrimination	01-12 – on grounds of national or social origin	9
01 - Discrimination	01-13 – on grounds of affiliation with national minority	1
01 - Discrimination	01-14 – on grounds of political or other convictions	2
01 - Discrimination	01-17 – on grounds of education	1
01 - Discrimination	01-19 – on grounds of sexual orientation	1
01 - Discrimination	01-21 – on grounds of sex characteristics	1
01 - Discrimination	01-22 – on grounds of age	2
01 - Discrimination	01-24 – hate speech	7
<b>01 - Discrimination</b>	<b>TOTAL</b>	<b>275</b>
<b>02 – Media and freedom of information</b>	<b>TOTAL</b>	<b>11</b>
03 - Access to information	00 – other	185
03 - Access to information	03-1 – failure to decide within the statutory period	22
03 - Access to information	03-2 – denial of access to information	20
03 - Access to information	03-3 – right to review in two instances	4
<b>03 - Access to information</b>	<b>TOTAL</b>	<b>231</b>
<b>04 – Religious freedoms/religion</b>	<b>TOTAL</b>	<b>6</b>
05 – Police	00 – other	98
05 – Police	05-1 – complaints about police work	44
05 – Police	05-2 – complaints by police officers	3
<b>05 – Police</b>	<b>TOTAL</b>	<b>145</b>
<b>06 – Public revenues</b>	<b>TOTAL</b>	<b>3</b>
07 - Prisons	00 – other	68
07 - Prisons	07-1 – use of institutional benefits and visits	10
07 - Prisons	07-2 – healthcare and hygienic conditions	13
07 - Prisons	07-3 – accommodation of persons with mental disorders and disabilities	1
<b>07 - Prisons</b>	<b>TOTAL</b>	<b>92</b>
<b>08 – Gender equality</b>	<b>TOTAL</b>	<b>4</b>
09 - Judiciary	00 – other	256
09 - Judiciary	09-1 – complaints about the work of judges	8
09 - Judiciary	09-2 - length of the proceedings (Article 6)	57
09 - Judiciary	09-3 – enforcement of judgements	39
09 - Judiciary	09-4 – HJPC	8
<b>09 - Judiciary</b>	<b>TOTAL</b>	<b>368</b>
<b>10 – Labour relations</b>	<b>TOTAL</b>	<b>211</b>
11 - Education	00 – other	16

11 - Education	11-1 – preschool education	2
11 - Education	11-2 – primary education	3
11 - Education	11-3 – secondary education	1
11 - Education	11-4 – higher education	13
11 - Education	11-5 – adult education	1
<b>11 - Education</b>	<b>TOTAL</b>	<b>36</b>
<b>12 – Persons with disabilities</b>	<b>TOTAL</b>	<b>39</b>
13 - Rights of the child	00 – Other	172
13 - Rights of the child	13-1 – Social welfare centres	11
<b>13 - Rights of the child</b>	<b>TOTAL</b>	<b>183</b>
<b>14 – Ecology and environmental protection</b>	<b>TOTAL</b>	<b>15</b>
<b>15 – Property relations</b>	<b>TOTAL</b>	<b>110</b>
16 – Violence	00 – other	3
16 – Violence	16-1 – domestic violence	7
<b>16 – Violence</b>	<b>TOTAL</b>	<b>10</b>
<b>17 – Public documents</b>	<b>TOTAL</b>	<b>31</b>
<b>18 – Minorities</b>	<b>TOTAL</b>	<b>3</b>
<b>19 – Public administration</b>	<b>TOTAL</b>	<b>292</b>
<b>20 – War damage</b>	<b>TOTAL</b>	<b>16</b>
<b>21 – Public utility services</b>	<b>TOTAL</b>	<b>103</b>
<b>22 - Government and ministerial appointments</b>	<b>TOTAL</b>	<b>75</b>
<b>23 – Health</b>	<b>TOTAL</b>	<b>53</b>
<b>24 – Social protection</b>	<b>TOTAL</b>	<b>68</b>
<b>25 – Pensions</b>	<b>TOTAL</b>	<b>131</b>
<b>26 – Prosecutor’s offices</b>	<b>TOTAL</b>	<b>66</b>
<b>27 - Public attorney’s offices</b>	<b>TOTAL</b>	<b>2</b>
<b>28 – Corruption cases</b>	<b>TOTAL</b>	<b>3</b>
<b>29 – Migration and asylum</b>	<b>TOTAL</b>	<b>20</b>
<b>30 – Freedom of assembly</b>	<b>TOTAL</b>	<b>14</b>
<b>31 – Lawyers</b>	<b>TOTAL</b>	<b>7</b>
<b>32 – Inspections</b>	<b>TOTAL</b>	<b>84</b>
<b>33 – Free legal aid</b>	<b>TOTAL</b>	<b>9</b>
<b>TOTAL</b>	<b>TOTAL</b>	<b>2716</b>

Number of complaints received in 2020 by subcategory

No.	Case resolution	2020 caseload	Caseload carryover from previous years	Total
1	During IHROBiH intervention	460	421	881
2	IHROBiH recommendation	54	256	310
3	Party's disinterestedness in further proceedings	201	188	389
4	Inadmissible decision	456	164	620
5	Otherwise resolved	240	353	593
6	Lack of jurisdiction and case transfer to the competent authority	38	8	46
7	Referred to another Ombudsman's office	7	0	7
8	Special report	2	6	8
9	Renewed proceedings	3	2	5
<b>10</b>	<b>Total</b>	<b>1461</b>	<b>1398</b>	<b>2859</b>

**FOR INADMISSIBLE COMPLAINTS ONLY - SUBCATEGORISATION**

00 – Other	97	30	127
01 – Anonymous complaint	1	2	3
02 – Malicious complaint	1	0	1
03 – Unfounded complaint	278	112	390
04 – Complaint contains no claim	6	1	7
05 – Infringement of the legitimate rights of a third party	0	1	1
06 – One-year delay in filing the complaint after the facts, events or decisions	11	0	11
07 – Non-exhaustion of legal remedies	33	7	40
08 – Incomplete or incomprehensible complaint (not subsequently supplemented)	12	6	18
09 – Complainant withdrew their complaint	2	4	6
10 – Complaint containing facts already discussed (duplication of complaint)	15	1	16
11 – State of facts before 14 December 1995	0	0	0
Total	456	164	620

Number of completed complaints // Manner of finalising complaints in 2020

No.	Right violation	Number of recommendations
1	01 – Discrimination	28
2	02 – Media and freedom of information	2
3	03 - Access to information	87
4	05 – Police	16
5	06 – Public revenues	1
6	07 – Prisons	1
7	08 – Gender equality	1
8	09 – Judiciary	12
9	10 – Labour relations	25
10	11 – Education	8
11	12 – Persons with disabilities	13
12	13 - Rights of the child	17
13	14 – Ecology and environmental protection	1
14	15 – Property relations	5
15	17 – Public documents	1
16	18 – Minorities	1
17	19 – Public administration	34
18	20 – War damage	2
19	21 – Public utility services	9
20	22 - Government and ministerial appointments	10
21	23 – Health	1
22	24 – Social protection	7
23	25 – Pensions	5
24	26 – Prosecutor’s offices	3
25	28 – Corruption cases	1
26	31 – Lawyers	2
27	32 – Inspections	18
28	33 – Free legal aid	1
29	<b>TOTAL</b>	<b>312</b>

Implementation status	Number of cases
Partially implemented	6
No response	80
Not implemented	61
Cooperation achieved	67
Implemented	98
<b>Total</b>	<b>312</b>

Number of complaints with recommendations issued in 2020 by rights violation category and implementation

<b>DEPARTMENT</b>	<b>Number of complaints with recommendations issued in 2020</b>
01 - Department for Monitoring the Exercise of Rights of Children	17
02 - Department for Monitoring the Exercise of Rights of Persons with Disabilities	13
03 - Department for Monitoring the Exercise of Rights of National/Ethnic, Religious and Other Minorities	1
04 - Department for Monitoring the Exercise of Economic, Social and Cultural Rights	56
05 - Department for Monitoring the Exercise of Political and Civil Rights	153
06 - Department for the Elimination of All Forms of Discrimination	31
07 - Department for the Exercise of Rights of Persons Deprived of Liberty	1
08 - Department for Monitoring the Exercise of Rights in the Judiciary and Administration	40
<b>TOTAL</b>	<b>312</b>

**Number of complaints with issued recommendation in 2020 by department**

<b>Department</b>	<b>Number of complaints</b>
01 - Department for Monitoring the Exercise of Rights of Children	16
02 - Department for Monitoring the Exercise of Rights of Persons with Disabilities	11
03 - Department for Monitoring the Exercise of Rights of National/Ethnic, Religious and Other Minorities	1
04 - Department for Monitoring the Exercise of Economic, Social and Cultural Rights	53
05 - Department for Monitoring the Exercise of Political and Civil Rights	129
06 - Department for the Elimination of All Forms of Discrimination	23
07 - Department for the Exercise of Rights of Persons Deprived of Liberty	1
08 - Department for Monitoring the Exercise of Rights in the Judiciary and Administration	36
<b>TOTAL</b>	<b>270</b>

**Number of recommendations in 2020 by department**

Office	Number of complaints with recommendation issued in 2020
Sarajevo Office	136
Banja Luka Office	129
Brčko Office	15
Mostar Office	16
Livno Office	16
<b>TOTAL</b>	<b>312</b>

Number of complaints with issued recommendation in 2020 by office

Office	Number of recommendations
Sarajevo Office	123
Banja Luka Office	107
Brčko Office	15
Mostar Office	12
Livno Office	13
<b>TOTAL</b>	<b>270</b>

Number of recommendations in 2020 by office

<b>No.</b>	<b>Authority</b>	<b>Number of cases</b>	<b>Authority HQ</b>
1	LIVNO MUNICIPAL COURT	39	LIVNO
2	LUKAVAC MUNICIPAL COURT	23	LUKAVAC
3	LIVNO CANTONAL COURT	22	LIVNO
4	BANJA LUKA BASIC COURT	21	BANJA LUKA
5	BANJA LUKA DISTRICT COURT	20	BANJA LUKA
6	SARAJEVO MUNICIPAL COURT	20	SARAJEVO
7	HIGH JUDICIAL AND PROSECUTORIAL COUNCIL OF BIH	15	SARAJEVO
8	TUZLA CANTONAL COURT	15	TUZLA
9	MOSTAR MUNICIPAL COURT	14	MOSTAR
10	BANJA LUKA DISTRICT PROSECUTOR'S OFFICE	13	BANJA LUKA
11	PROSECUTOR'S OFFICE OF BIH	13	SARAJEVO
12	SARAJEVO CANTONAL COURT	13	SARAJEVO
13	TUZLA MUNICIPAL COURT	13	TUZLA
14	LIVNO CANTONAL PROSECUTOR'S OFFICE	11	LIVNO
15	MOSTAR CANTONAL COURT	11	MOSTAR
16	CONSTITUTIONAL COURT OF BIH	11	SARAJEVO
17	SARAJEVO CANTONAL PROSECUTOR'S OFFICE	11	SARAJEVO
18	COURT OF BIH	10	SARAJEVO
19	REPUBLIKA SRPSKA SUPREME COURT	8	BANJA LUKA
20	HERZEGOVINA-NERETVA CANTONAL PROSECUTOR'S OFFICE	7	MOSTAR

**20 most common judicial respondent parties**

No.	Authority	Number of cases	Authority HQ
1	CITY OF PRIJEDOR	114	PRIJEDOR
2	FBIH PENSION AND DISABILITY FUND	54	TUZLA
3	REPUBLIKA SRPSKA MINISTRY OF INTERNAL AFFAIRS	31	BANJA LUKA
4	REPUBLIKA SRPSKA PENSION AND DISABILITY FUND	25	BIJELJINA
5	TUZLA CANTONAL ADMINISTRATION SERVICE OF PENSION AND DISABILITY FUND	23	TUZLA
6	ZENICA CORRECTIONAL FACILITY	20	ZENICA
7	CITY OF BANJA LUKA	17	BANJA LUKA
8	SARAJEVO CANTON MINISTRY OF INTERNAL AFFAIRS	15	SARAJEVO
9	RS ADMINISTRATION FOR SURVEYING AND PROPERTY AFFAIRS	15	BANJA LUKA
10	SARAJEVO CANTON GOVERNMENT	13	SARAJEVO
11	BH TELECOM	12	SARAJEVO
12	FBIH CIVIL DEFENCE ADMINISTRATION	12	SARAJEVO
13	SARAJEVO CANTON ADMINISTRATION FOR INSPECTION AFFAIRS	12	SARAJEVO
14	LIVNO CANTON MINISTRY OF INTERNAL AFFAIRS	12	LIVNO
15	DOBOJ MUNICIPALITY	12	DOBOJ
16	CITY OF LIVNO	11	LIVNO
17	CITY OF MOSTAR	11	MOSTAR
18	LIVNO DEPARTMENT FOR ECONOMY AND INSPECTION AFFAIRS	11	LIVNO
19	SOCIAL WELFARE CENTRE	10	SREBRENİK
20	FBIH MINISTRY OF HEALTH	10	SARAJEVO

**20 most common non-judicial respondent parties**