



**ANNUAL REPORT ON RESULTS OF
THE ACTIVITIES BY THE HUMAN
RIGHTS OMBUDSMAN
OF BOSNIA AND HERZEGOVINA
FOR 2010**

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CHAPTER I

INTRODUCTION

CHAPTER I – INTRODUCTION

In order to follow-up the human rights situation in BiH, Ombudspersons of Bosnia and Herzegovina, in accordance with the provisions of Articles 34 and 35 of the Law on Human Rights Ombudsman of Bosnia and Herzegovina (hereinafter: the Law on the Ombudsman)¹, are obligated every year to present results of their activities performed in the reporting period to the Presidency of BiH, the House of Representatives and the House of Peoples of Parliamentary Assembly of BiH, to the Parliament of the Federation of BiH and the National Assembly of Republika Srpska, presenting the number and nature of complaints received, non-admissible complaints and the reason for that, and those that were subject of investigation together with their findings. In its report the BiH Ombudsman may highlight suggestions and recommendations accepted by the Government.

BiH Constitution set forth that “Bosnia and Herzegovina and its both Entities shall ensure the highest level of internationally recognized human rights and fundamental liberties...”² and that “the rights and freedoms enshrined in the European Convention on Human Rights and Fundamental Freedoms and in its Protocols shall apply directly in Bosnia and Herzegovina. These instruments shall have priority over all other domestic legislation”³. BiH Constitution further set forth that “Bosnia and Herzegovina, and all courts, agencies, governmental organs, and instrumentalities operated by or within the Entities, shall apply and conform to the human rights and fundamental freedoms referred to in paragraph 2 above”⁴. Application and recognition of the rights and freedoms is similarly defined by entity constitutions and the Statute of the District of Brčko.

Degree of fulfillment of the obligation to observe and respect for human rights by the authorities at all levels is a subject of the present Report prepared based on the activities and the interventions of the BiH Ombudsmen in accordance with their mandate defined by the BiH Constitution and the Law on Human Rights Ombudsman of BiH and it should be regarded from such an angle. Annual Report on results of the activities of the Institution of Human Rights Ombudsman of BiH (hereinafter: Annual Report) is the report on human rights situation in BiH. All the state authorities are obligated to ensure enjoyment and protection of these rights, while their failure to apply this constitutional provision renders them liable for human rights violations.

This Report is structured in a way that the reader, through the logical explanation of the Ombudspersons, gets information on mandate and procedures (Chapter II), concrete cases involving human rights violations classified by their content (Chapter III) and achievements in

¹ „Official Gazette of BiH” no.: 32/00, 19/02, 34/05 and 32/06

² Article II 1 and 2 of the Constitution of BiH - Human rights and international standards

³ Article II 1 and 2 of the Constitution of BiH - Human rights and international standards

⁴ Article II para 2 of the Constitution BiH – International standards: „The rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Bosnia and Herzegovina. These shall have priority over all other law “

management, internal development, including strengthening of human resources of the Institution, and its budget (Chapter IV).

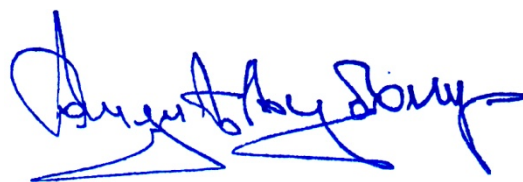
The Ombudsman, in the sense of present Report and the Law on the Ombudsmen, is composed of three persons⁵. In the reporting period function-holders were Jasminka Džumhur, Ljubomir Sandić and Nives Jukić.

March, 2011

HUMAN RIGHTS OMBUDSPERSONS OF BIH:



Nives Jukić



Ljubomir Sandić



Jasminka Džumhur

⁵ Article 1 para 2 item c of Law on Human Rights Ombudsman of Bosnia and Herzegovina

CHAPTER II

THE OMBUDSMAN'S MANDATE AND PROCEDURES

CHAPTER II – THE OMBUDSMAN’S MANDATE AND PROCEDURES

2.1. Legal basis for the Ombudsman’s functioning

Basis for functioning of the BiH Ombudsman are provided for in Annexes IV and VI of the General Framework Agreement on Peace for Bosnia and Herzegovina⁶ concluded on 14 December 1995 and, based on which the Institution has started to function in 1996.

According to Annex VI of the General Framework Agreement for Peace in Bosnia and Herzegovina, BiH Ombudsman and Human Rights Chamber constituted BiH Human Rights Commission which presumed that democracy and human rights were important factors for the development of society and preconditions for the establishment of the state structures and mechanisms leading to its international integration. Currently, BiH Ombudsman functions on the basis of BiH Constitution and the Law on the Ombudsman which guaranties its independence and provides infrastructural framework for the protection and promotion of human rights and fundamental freedoms.

The Law on BiH Ombudsman was adopted in 2000, and then amended in 2002 and 2006. The Law defines powers and competencies of the Ombudsman, rules of procedure in following up the work of the authorities and institutions upon the complaints of citizens and ex officio, and other important issues related to functioning of this national human rights mechanism for the protection of fundamental human rights and freedoms.

2.2. The Ombudsman’s mandate

In human rights protection system, the BiH Ombudsman is an independent institution established to promote good governance and the rule of law, protection of the rights and freedoms of natural persons and legal entities, guaranteed by BiH Constitution and international treaties appended thereto.

Special powers are given to the Ombudsman by the Law on Prohibition of Discrimination⁷, Freedom of Access to Information Act⁸ and the Law on Ministerial, Government and Other Appointments in Bosnia and Herzegovina⁹ according to which the Ombudsman is empowered to assist natural and legal entities through provision of information related to their rights and

⁶ Dayton Peace Accords

⁷ "Official Gazette of BiH", no: 59/09

⁸ "Official Gazette of BiH", no: 28/00

⁹ "Official Gazette of BiH", no: 7/03

obligations, availability of court or other forms of protection, processing of individual and collective complaints, proposing procedures, mediations, etc.

Authorities are obligated to cooperate with the Ombudsman and provide it with appropriate assistance during its investigation, enable personal interviews, ensure insight in all the files relevant for the examination of allegations contained in complaint¹⁰.

Institution of Human Rights Ombudsman of BiH is established in 1996 and at that time function of the Ombudsman was performed by a single person, an international. At the beginning of 2004 the ownership of the Institution was transferred to the BiH nationals, but the number of function-holders was increased from one to three. One of the commitments of BiH assumed within the process of the conclusion of Agreement on Stabilization and Accession to European Union, *inter alia*, was a more active role in the area of human rights protection, and merger of three ombudsmen institutions into a single one on the State-level. To this end, Amendments to the Law on Human Rights Ombudsman of BiH were adopted, envisaging the appointment of new Ombudspersons and merger of the institutions until 31.12.2006, as well as obligation for the entities to adopt legislation on cessation of functioning of entity ombuds-institutions within the same deadline. The aim of the merger of ombudsman institutions in BiH was more balanced treatment of the complaints in the entire territory of BiH, so ensuring the equal level of human rights protection, and more economic and functional operation of so unified institution. With regard to the implementation of said amendments, at the end of 2008 the new Ombudspersons were appointed, and merger-related activities were completed in 2010.

Law on Ombudsman is provides legal basis for functioning of Institution. Confirming relevant provisions of Annex VI of General Framework Agreement for Peace in BiH, the Law provided the Institution with broad powers comprising supervision of the work of all state authorities in BiH including judiciary. This is by all means in conformity with the strongest requirements of UN Paris Principles of 1993¹¹ as a primary source of international standards for the establishment and functioning of national human rights institutions.

It is also necessary to stress that the activities and functioning of BiH Ombudsman are set forth by the Constitution of BiH and the Law on the Ombudsman, that is, the acts with the strongest legal power in a democratic society, which should grant sufficient guarantees of the Institution's independence.

The Ombudsman has not mandate to change decisions taken by the public authorities, neither to assume the role of a body that processes and decides an appeals nor to interfere with the adjudicative functions of a court. In addition to that, the Ombudsman may not represent a complainant before the public bodies or write objections or appeals on behalf of a complainant, as it may not afford compensation in cases of the established human rights violations.

¹⁰ Chapter VII of the Law on Human Rights Ombudsman of BiH – Obligation of cooperation with an ombudsman

¹¹ Paris Principles are primary source of international standards for establishment and activities of national human rights institutions

It is important to emphasize, in the context of transition facing BiH, the Ombudsman here has a specific role, unlike similar institutions in the traditional democracies where they play an important role in keeping and ensuring respect for principles and procedures of the democratic authorities. BiH Ombudsman's devotion to further democratic development requires further strengthening of the Ombudsman Institution with a view of development and consolidation of mentioned principles together with strengthening of democratic institutions and building the standards of good governance, which requires full support of the relevant authorities to development of this national human rights mechanism in BiH. This is particularly important to be ensured through the compliance of the authorities with recommendations and other interventions of the Ombudsman and strengthening of cooperation with the Ombudsmen. Since the decisions and measures of the Ombudsman are not legally binding, the basic method to ensure the implementation of these measures and decisions is openness, legal soundness and provision of information on human rights violations, primarily through the issuance of recommendations, special reports and annual reports on the Ombudsman's activities. It is very important here to underline once more the role of the State which is the guarantor of the respect for all human rights of all persons being on the territory of BiH equally and without discrimination.

2.3. The right to file a complaint to the Ombudsman

According to The Law on Ombudsman „Any natural or legal person claiming a legitimate interest may complain to the Institution without any restriction.” Nationality, citizenship, residence, gender, minority, ethnicity, religion, legal incapacity, imprisonment of any kind, and, in general terms, a special relationship with, or dependence on, a government body may not restrict the right to lodge a complaint with the Institution.

Complaining to the Institution or the latter's intervention shall not entail for the complainant any criminal, disciplinary or other sanction or any disadvantage or discrimination. All the work of the Institution is free of charge to the person concerned and does not require the assistance of counsel or a solicitor

Correspondence addressed to an Ombudsman or to the Institution from places where individuals are held in detention, in imprisonment or in custody may not be the subject of any kind of censorship, nor may such correspondence be opened. Conversations between a complainant and an Ombudsman or persons delegated by the Ombudsman may never be monitored or interfered with.

2.4. Admissibility and grounds for a complaint

The Institution shall register and acknowledge receipt of the complaints submitted, whether it considers that they should be pursued or not.

When an Ombudsman decides not to pursue a complaint, he or she shall do so in writing, explaining the grounds and informing the person concerned of the most appropriate means of taking action, if any exist, leaving it to the person concerned to use those which he or she considers most suitable.

The Institution shall consider cases involving the poor functioning of, or violations of human rights and liberties committed by, any government body. The Institution's competence shall also comprise the power to investigate all complaints concerning violations of rights and freedoms allegedly committed by the military administration.¹²

The Institution's competence shall comprise the power to investigate all complaints made about the poor functioning of the judicial system or the poor administration of an individual case and to recommend appropriate individual or general measures. An Ombudsman shall not interfere with the adjudicative functions of a court, but may initiate court proceedings or intervene in pending proceedings, whenever he or she finds that such action is necessary for the performance of his or her duties. An Ombudsman may also make recommendations to the government body party or be consulted by the parties.

2.5. Complaints processing

The Institution shall act either on receipt of a complaint or ex officio and may undertake general investigations. The Institution may recommend appropriate individual and/or general measures. If, at any stage of the procedure, an Ombudsman finds that a case does not fall within his/her jurisdiction, he or she shall refer the case to the appropriate institution. An Ombudsman may refer cases of alleged human rights violations to the highest judicial authorities of Bosnia and Herzegovina competent in human rights matters, pursuant to the rules concerning appeals to these authorities, whenever he or she finds that this is necessary for the effective performance of his or her duties.

¹² An Ombudsman may refuse to pursue anonymous complaints and complaints which he or she considers to have been made in bad faith, which are ill founded, which include no claim, which entail damage to the legitimate rights of a third party, or which were lodged with the Institution more than 12 months after the facts, events or decisions complained of. No appeal lies against the decision of an Ombudsman or the Institution

Where, during an investigation, an Ombudsman finds that the execution of a decision of the administration may result in irreparable prejudice for the rights of the complainant.¹³

When the case under investigation concerns the conduct of persons employed in government service and is connected with the duties they perform, the Institution shall inform the person concerned and either his or her superior or the body to which he or she is attached and may demand written statements.

The official concerned shall reply in writing and submit all the documents and evidence which he or she considers relevant, within the time limit indicated to him or her. Upon request, the time limit may be extended. An Ombudsman may check the veracity of the elements submitted and propose a hearing of the official involved in order to obtain further information.¹⁴

Following investigation conducted and documents collected, including statements by a complainant and organs or institutions involved in the case, an Ombudsman issues recommendation to competent organs or institutions to restore violated right and, to this end, propose appropriate measures. ***Organs and institutions which receive such recommendation are obliged to answer in writings on the effects of the recommendation within time period indicated by an Ombudsman***¹⁵

In the case of non-compliance with Ombudsman recommendation by certain organ or institution, the Ombudsmen shall firstly inform superior organ, and then the case shall be incorporated ***in special and annual report on results and activities by the Ombudsmen which is submitted to the Parliaments and the Presidency of BiH.***

¹³ The authority concerned may refuse to comply with the suggestion, explaining, in a written document which reaches the Institution within three days from the receipt of the suggestion, and in any case before executing the challenged measure, the reasons thereof, failing which, the suggestion becomes mandatory for the authority.

¹⁴ An Ombudsman may require government bodies to hand over any documents he or she considers necessary to perform his or her duties, including those classified as confidential or secret in accordance with law. In such cases, the Ombudsman shall apply the requisite discretion to these documents and shall not make them available to the public.

¹⁵ All other recommendations of an Ombudsman or of the Institution shall be accessible to the public, except in cases in which they relate to matters which are confidential or secret, or where the complainant has expressly requested that his or her name and the circumstances of the complaint should not be revealed.

CHAPTER III

HUMAN RIGHTS SITUATION IN BIH

CHAPTER III – HUMAN RIGHTS SITUATION IN BIH

3.1. Introduction

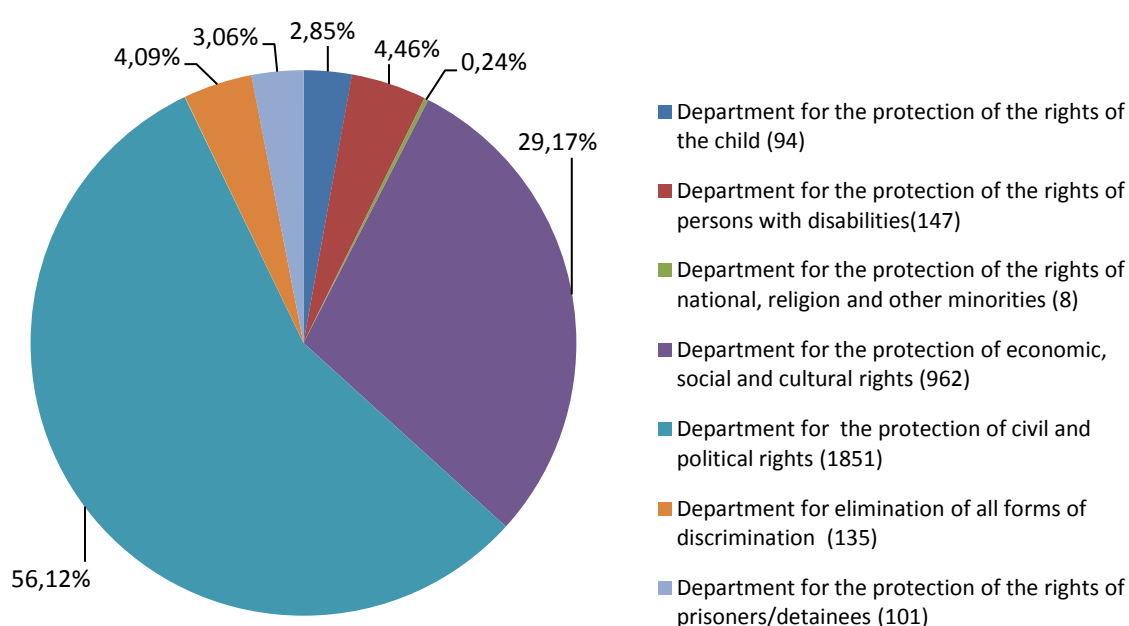
Activities of the Ombudsman related to the human rights protection are basis for the presentation of results of the Institution's activities. In order to get a more comprehensive insight into the human rights situation, this Chapter will include results of work which at the same time reflect the human rights situation through the following parameters:

- individual complaints received by the Institution
- recommendation issued by the Ombudsman In 2010
- Special reports issued by the Ombudsman In 2010

3.2. Received complaints

The Institution of the Ombudsman has received as much as 3.298 complaints during 2010 in addition to the complaints transferred from the previous years (1.889 complaints), so that there were 5.287 complaints in total subject to processing. Compared to 2009 there has been an increase in number of complaints handled for 2008 complaints or 60,33%. This is a result of the completion of the Ombudsman institutions merger process which took place on 1 May 2010, and also regained confidence of the citizens into this Institution. This assertion can be supported by the fact that up to 30 April 2010 number of complaints received was 895, which is only 425 less than a total number of complaints received in 2009 (1320 complaints).

Total number of cases handled in 2010 per departments (Chart 1)



Since some of the forms of human rights violations were affecting more than one person, ***presented number of cases does not reflect actual number of complainants*** as many complaints relate to more than one person and we handle them as a single complaint for reasons including efficiency, time saving and increased rationality.

During 2010 a database was established within the Institution, as well as the system of digital file management, which contributed to a large degree to more efficient and systematic case handling, and prevented double or multiple case filing by the same complainant using the field presence of the Institution. Such case management creates an excellent basis for following-up the human rights situation in BiH in a way allowing for an easy and simple access to each complaint related documentation and additional relevant data, and providing multiple searching options from various aspects, per law field, per respondent party etc. Such an approach to creation, keeping and use of statistical data gives the experts within the Institution the possibility to prepare parameter related reports focused to law field or department within the Institution or like.

In the complaint handling process, a huge amount of activities has been taken in all the offices (5906) towards the respondent parties or complainants, in addition to other activities. For instance, 4175 letters was sent to respondent parties, out of which 1810 letters were sent during the investigation process, 341 recommendation was issued recommending violation redress and 2167 letters to urge certain processes complained about. Such high number of urging requests shows that many institutions are still unwilling to co-operate with the Institution.

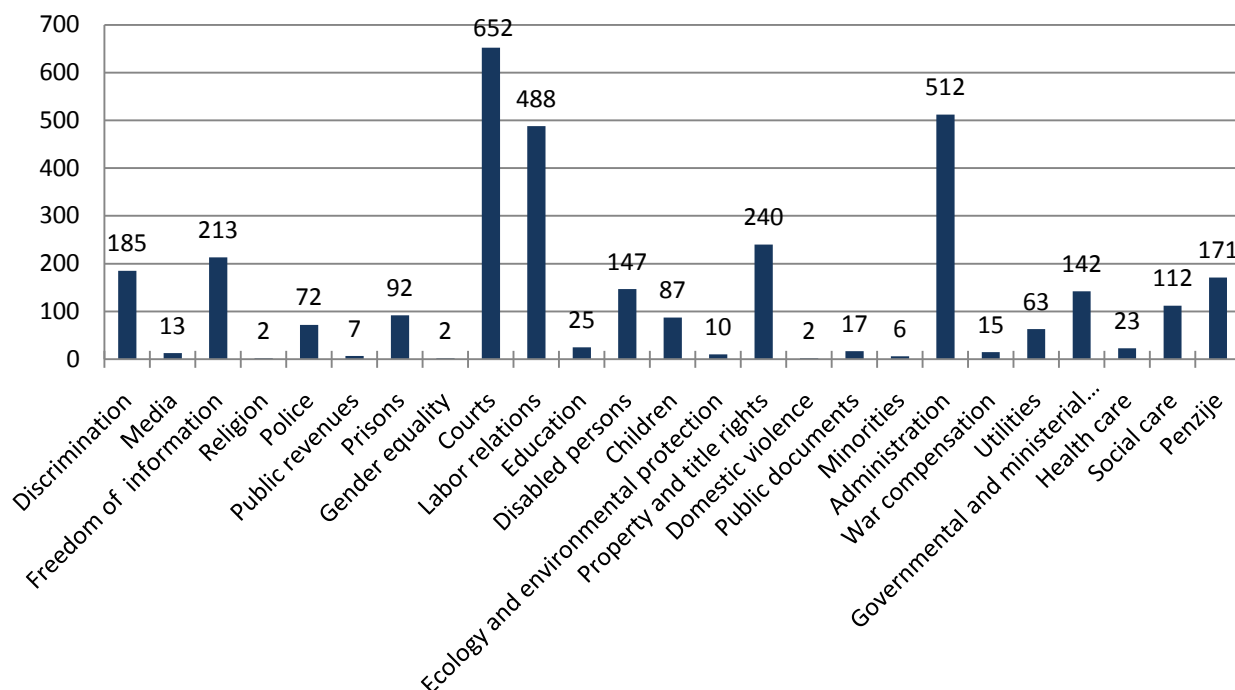
Acting upon complaints received in 2010 the Ombudsman Institution sent 1731 letters to the complainants, mostly comprising information on respondent parties' replies or requests for additional documentation.

3.2.1. Structure of the complaints per departments

Structure of the Institution is established on functional and territorial principle. Functional principle requires cases to be allocated to the appropriate thematic departments, while territorial structure was established with an aim to make the Institution more accessible to citizens.

Functional principle of case registration and filing enables us to establish that the most of complaints relate to the departments of civil and political rights and economic and social rights. At the same time such filing system enables following-up human rights situation per areas. Out of the total number of received complaints, the most of it relates to the lack of efficiency of courts (652), and administration (512), employment-related rights (488), property rights (240), freedom of access to information (213), and discrimination (185).

**Structure of complaints received by the Institution in 2010 per human rights area
(Chart 2)**



Acting upon complaints received in 2010 the Institution of Ombudsman resolved 1.615 complaints in total, most of it being resolved by the Department for political and civil rights (868), Department for the protection of economic, social and cultural rights (534), Department for the protection of persons with disabilities (69).

3.2.2. Structure of the complaints per offices

The aim of classification of complaints per offices is to establish which kinds of human rights violations occur in certain territory. Presented data with regard to territorial principle of filing must be regarded from the whole array of parameters such as catchment area, social structure of the population, return, vicinity of relevant institutions etc. Presentation of the complaints is done in alphabetic order.

Analysis of database shows that number of cases received in 2010 per offices on 31.12.2010 was the following:

Office	Cases
Main Office – the Institution’s Headquarters Banja Luka.....	880
Regional Office Brčko.....	339
Regional Office Mostar.....	245
Regional Office Sarajevo.....	1602
Field Office Livno ¹⁶	232

¹⁶ Field Office Livno started working on 1st May 2010

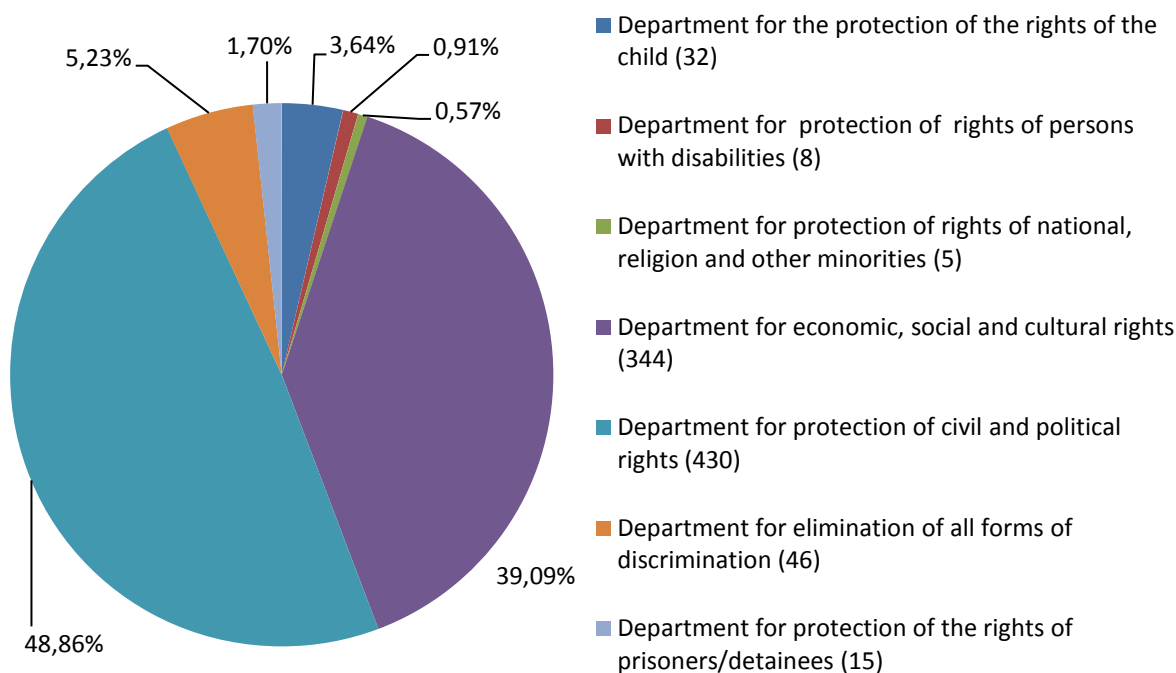
As it could be seen from the statistical, a half of the total number of complaints was received in the Regional Office Sarajevo. Such situation can be explained by the concentration of inhabitants covered by the Regional Office Sarajevo and the fact that seats of most of the institutions mentioned as respondent party in the complaints are in Sarajevo. Following the cross-analysis of database entries it was found that complainants are residents of Sarajevo region and places not covered by any other Institution's office.

1. Main Office Banja Luka

The Main Office in Banja Luka registered in the reporting period **880 complaints in total**. Most of these complaints relate to the violations of **civil and political rights** (430) and **economic and social rights** (344). Analyzing the allegations comprised, it could be seen that most of the applicants complain to the Department for the protection of civil and political rights and these complaints are related to the violations of civil and political rights per areas as follows: **work of courts** (186), **efficiency in administrative proceedings** (102), **access to information** (36) and **governmental and ministerial appointments** (28). In the area of economic and social rights, most of complaints rights received in the Office Banja Luka in 2010 relates to the **labor or employment related rights** (206), which is the most violated area of human, as the statistics reveal. Further analysis of the complaints in the area of economic and social rights shows that violations take place in the area of **property rights** (61) and **the right to pension** (55). In addition to that, Banja Luka Office has registered 46 complaints related to discrimination, 32 complaints about the violation of the rights of children, 15 of the rights of prisoners/detainees, and 8 of persons with disabilities. Within the process of complaint handling in 2010 in Banja Luka Office the Ombudsman experts took 1.691 different activities toward the complainants, respondent parties or third parties. These activities included oral advice, monitoring of court proceedings, urge requests, telephone contacts with complainants, issuance of recommendations, letters related to the process of investigation etc.

In the reporting period Banja Luka Office solved **526 complaints**, out of which statistically largest number relates to economic, social and cultural rights (243) and civil and political rights (223). Out of 46 complaints received by the Department for elimination of all the forms of discrimination, only 29 were solved. Department for the protection of the rights of the child in Banja Luka solved 18 complaints, mostly in favor of the protection of the right of the child following the intervention of the Ombudsman. Out of 8 complaints related to the rights of persons with disabilities, 6 were resolved. In addition to that, 7 complaints related to the rights of prisoners/detainees were solved in the reporting period.

**Diagram showing complaints received by the Main Office in Banja Luka per departments
(Chart 3)**



2. Regional Office Brčko

Ombudsman Office in Brčko processed 480 complaints in total, 339 complaints was received in 2010 and the remaining 141 complaints was transferred from 2009.¹⁷

Out of the total number of complaints received in 2010, 46 complaints was received during the Office days in Tuzla, which were only organized in the period from 7 to 31 October and the first half of December for lack of necessary staff.

On 31.12.2010 297 cases was finished, 174 was received in 2010, and the rest carried forward from 2009.

Method of complaints solution	2005	2006	2008	2009	2010	Total
Protection achieved following the plea request and announced investigation by the Ombudsman			5	13	27	45
Recommendation issued			3	13	30	46
Special report issued						
Lack of complainant's interest in further case pursuing		2	5	24	47	78
Assigned to another	1				26	27

¹⁷ Transferred from previous years 141 cases, including 1 transferred from 2005, 6 carried forward from 2006 and 18 from 2008, in addition to 116 cases carried forward from 2009.

institution/office						
Otherwise				4	8	12
Complaint ill-founded		3	5	45	36	89
Total	1	5	18	99	174	297

Table 1 showing method of solution per years in the Ombudsman Office of Brčko

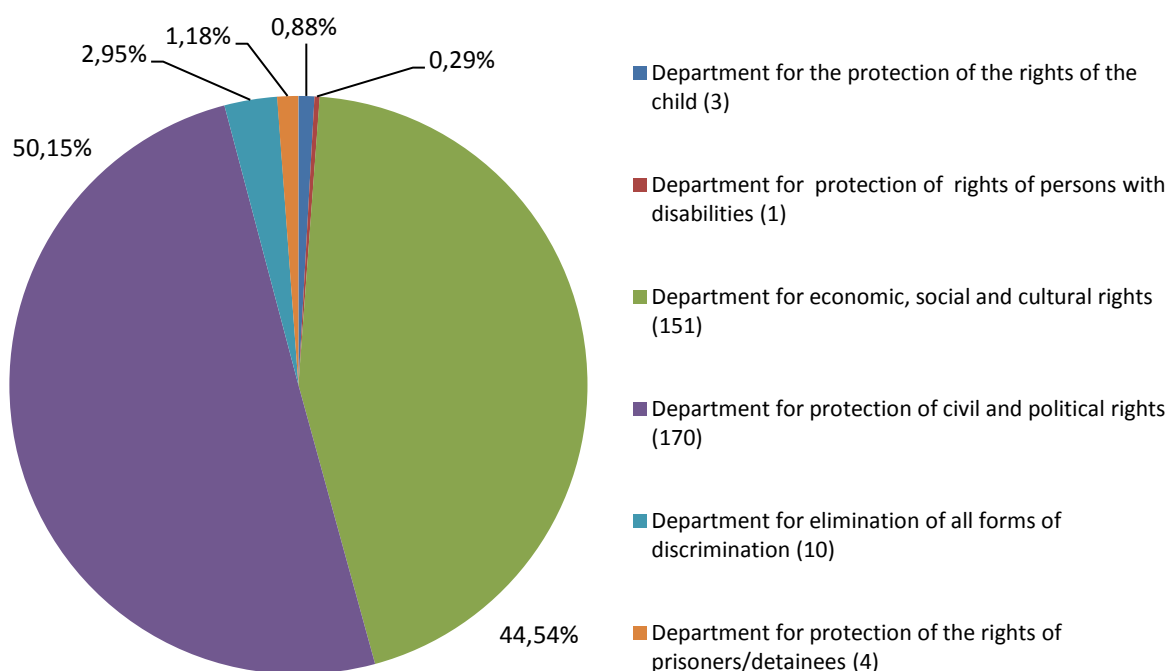
In 2010 Ombudsman's Office in Brčko received the largest number of complaints falling within the ***mandate of the Department for the protection of civil and political rights (170)***. Further analysis of these cases reveals that citizens complained mostly for the ***length of court proceedings***. This is particularly characteristic for the first-instance courts in RS, the first-instance court of BD and municipal courts in FBiH. Replies to the inquiries of the Office as to the reasons were different, but mostly indicating that the length of proceedings comes as a consequence of bad situation in judiciary which has resulted in huge backlogs. This is preventing courts to achieve efficiency in their proceedings. Some courts are able to indicate foreseeable dates their processing of cases complained of, while other refer to chronological order, which creates legal uncertainty among complainants.

Another area of human rights violations compelling citizens to turn to the Ombudsman Office Brčko are complaints falling within the mandate of the ***Department for the protection of economic, social and cultural rights (151)***. The most of registered complaints in this area is related to the right to disability allowance in FBiH, which is a result of amendments to the Law on Basics of Social Protection, Protection of Civil Victims of War and Protection of Families with Children and rights to the use of house reconstruction funds, particularly by returnees to Brčko District and this is the areas in which the most of recommendations was issued. There was also a large number of cases related to economic and social rights involving non-payment of contributions for pension-disability and health insurance in the Republic of Srpska and length of proceedings of the pension and disability insurance funds or institutes.

Ombudsman Office in Brčko registered only ***4 complaints*** related the rights of prisoners/detainees, ***three complaints*** about the rights of children, and ***one complaint*** related to the rights of persons with disabilities. As pointed out, the Department for the protection of economic, social and cultural rights registered a large number of complaints related to the rights of persons with disabilities and their disability allowance since it was regarded as a social right by the complainant and therefore it was not allocated to the Department for the protection of the rights of persons with disabilities although the complaints falls into this category.

Brčko Office issued 46 recommendations in 2010. The most of them was addressed to the Government of Brčko District and its following departments: Department for displaced persons, refugees and housing, Department for zoning and property and title issues, Department for professional and administrative affairs, and the Basic court of Brčko District, the Basic court of Banja Luka, the Municipal court of Tuzla etc.

Complaints received by the Regional Office Brčko per departments (Chart 4)

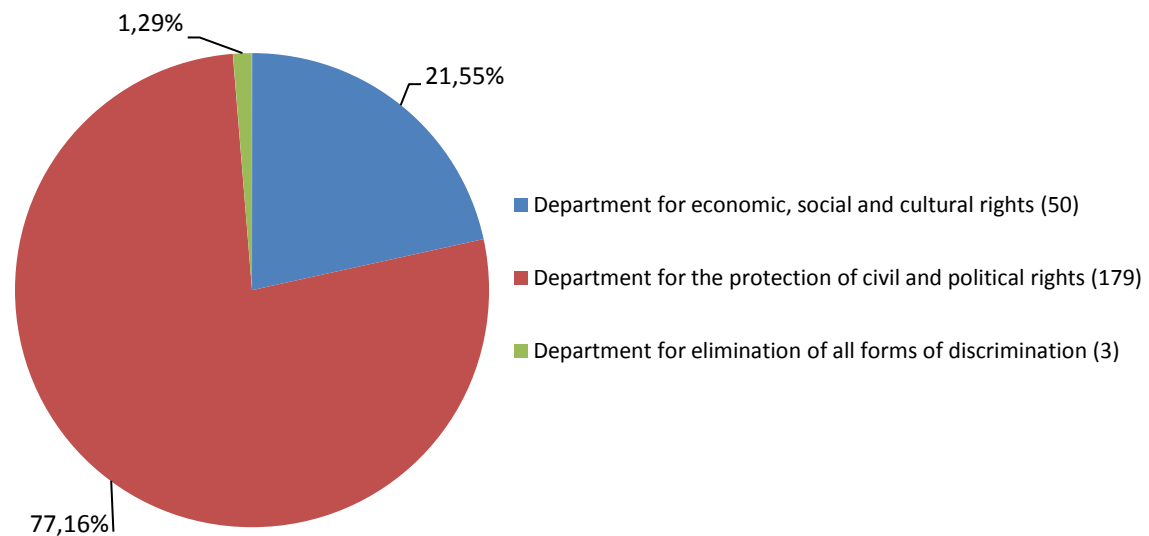


3. Field Office Livno

Field Office Livno (hereinafter: Livno Office) started operating on 1 May 2010, and prior to that it was functioning as one of the field offices of the Ombudsman of the Federation of Bosnia and Herzegovina. In eight months of its work the Office has **received 232 complaints and solved 162 of it**. According to the statistics available within the Institution of BiH Ombudsman, on the territory covered by Livno Office¹⁸ the most violated rights are in the area of civil and political rights (179 complaints), economic, social and cultural rights (50 complaints), and discrimination (3). Structure of the received complaints is the following: inefficiency of the work of courts (92), inefficiency of the work of administration (72), police (8), the rights of free access to information (6), social rights (15), employment-related rights (14), the right to pension (10), property rights (5), utilities (3), discrimination (3), governmental and ministerial appointments (1) and health care (1). Out of total number of complaints, the most of resolved ones is in the Department for the protection of civil and political rights (124), and the Department for the protection of economic, social and cultural rights (35).

¹⁸ Field Office Livno during 2010 handled complaints lodged by the citizens of the municipalities of Canton 10 (Livno, Tomislavgrad, Bosansko Grahovo, Drvar, Glamoč, Kupres), while few complaints originated from residents of other municipalities: Trebinje, Bijeljina, Cazin, etc.

**Diagram showing the structure of received complaints per departments in Livno Office
(Chart 5)**



During the complaints handling process, there were ***cases involving lack of co-operation with the Livno Office encountered***, but it cannot be regarded as a general phenomenon, but only related to certain parties. For instance, with regard to the Livno Municipality, there occurred cases of both co-operation and non-cooperation. When it comes to the compliance with recommendations of the Ombudsman, the Institution registered ***a full co-operation of Livno Municipality with the Ombudsman***, unlike ***a complete lack of cooperation of the Department of construction and Zoning and Department of Inspection Affairs***. Given such different practice, the Ombudsman Institution intends to establish direct communication with the authorities of Livno Municipality and determine reasons for such inconsistencies in co-operation with the Institution.

Method of complaints solution	2005	2006	2008	2009	2010	Total
Protection achieved following the plea request and announced investigation by the Ombudsman					73	73
Recommendation issued					6	6
Special report issued						
Lack of complainant's interest in further case pursuing					15	15
Assigned to another institution/office					1	1
Resolved otherwise					21	29
Complaint ill-founded					38	39
Total					163	163

Table 2 showing method of solution per years in the Ombudsman Office of Livno

Methods of complaints solution in the Field Office Livno were such that in **73 cases complainants achieved their rights following the intervention of the Ombudsman**, in **6 cases**

recommendation was issued, and 38 cases were ill-founded. In order to solve lodged complaints, **experts of the Ombudsman took 959 activities**, mostly within the process of investigations related to the alleged human rights violations.

During the complaints handling process, FO Livno had **solved 60 complaints related to the human rights violations in the area of judiciary** in a way that 42 complaints were solved owing to the intervention of the Ombudsman, 2 complaints were not interested in further proceedings, while 9 complaints were solved otherwise.

In the area of **administration there was 48 complaints lodged** out of which 21 was ill-founded, and in 10 cases human rights violation was redressed following the intervention of the Ombudsman, 9 complaints were solved otherwise and 4 recommendations were issued.

According to the statistics, by far the largest number of complaints in Livno Office relates to the work of courts and administrative authorities, which indicates tendency of rise of their inefficiency. Recently, when it comes to the court, it could be seen that **number of complaints about non-enforcement of final and binding court decisions is rising**, and what particularly raise concerns is the fact that cases where **respondent party is a budget beneficiary are on rise**.

in addition to that, lodged was 14 complaints related to **labor relations**, and 10 complaints of **violation of the right to pension**. These complaints were solved as follows: 3 owing to the intervention of the Ombudsman, 1 otherwise, 1 was ill-founded, and in 2 cases complainant had shown lack of interest in further pursuance of the filed complaint. With regard to the right to pension 4 complaints were solved during the intervention of the Ombudsman, 2 were ill-founded and 2 solved otherwise.

In 2010 Livno Office received **6 complaints about the alleged violation of the right to free access to information**, out of which 5 is finished and 1 still pending. In one case recommendation was issued to the Municipality of Livno – Department of Construction and Zoning after which the right of complaints was attained. In case involving Privatization Agency of Canton 10 as a respondent party it turned out that the Agency acted in accordance with the law when it withheld information. During the intervention of the Ombudsman three complaints were solved to the satisfaction of the complainant. Respondent parties were the Municipality of Bosansko Grahovo, the Municipal court of Livno and the Basic court of Trebinje.

In the area of discrimination in 2010, Livno Office received 3 complaints. Following the Ombudsman's intervention human right violation was redressed in one case, other case was ill-founded and the third case was closed otherwise since discrimination, that is, human rights violation, could not be established. Respondent parties were: the Mayor of the Municipality of Bosansko Grahovo, the Ministry of Interior of Canton 10 and the Municipality of Livno, the Inspection Affairs Department.

With regard to the **work of police** 8 complaints was lodged out of which 2 ill-founded, 1 solved during the intervention of the Ombudsman, 1 solved otherwise and 1 case closed for lack of interest of the complainant.

Livno Office has **issued 6 recommendations** in 2010. 4 of these recommendations was addressed to the Municipality of Livno, one to the Inspections Affairs of Canton 10 and one to the Municipal court of Livno. All recommendations save for the one sent to the Municipal court of Livno, which relates to non-enforcement of a final court decision are complied with.

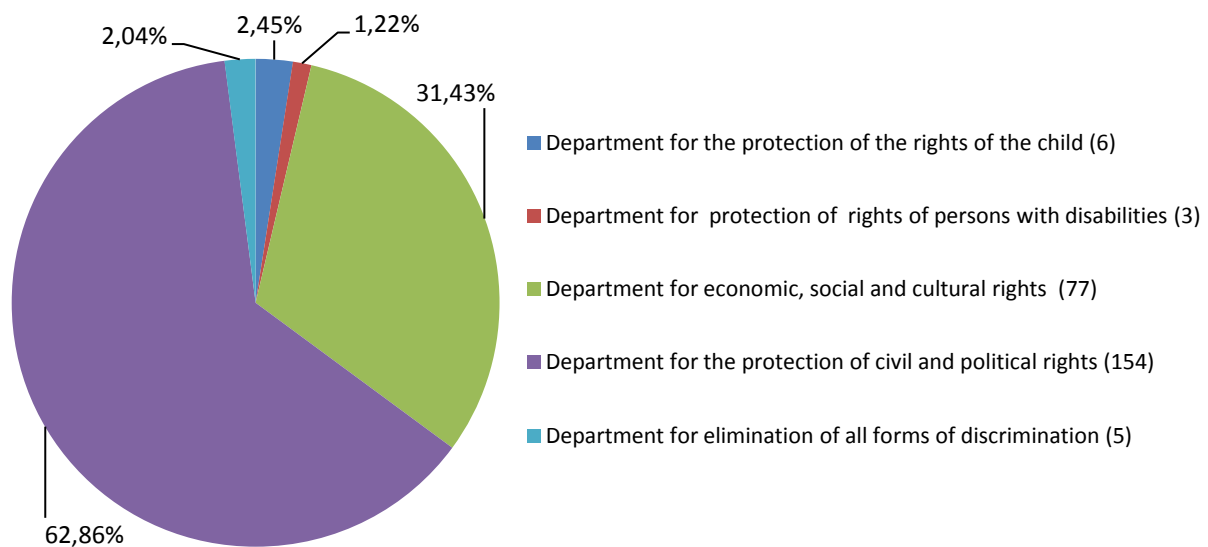
4. Regional Office Mostar

In the reporting period the Mostar Office received **245 complaints all together**. These complaints comprised to a large degree, violation of rights of a lot of persons.¹⁹ Complaints received in Mostar Office related to the rights falling within the mandate of the Department for the protection of civil and political rights 154, the mandate of the Department for the protection of economic, social and cultural rights 77, Department for the protection of the rights of the child 6, Department for the protection of the rights of persons with disabilities 3 complaints, and Department for elimination of all forms of discrimination 5 complaints.

From the aspect of the form of human rights violation, according to the statistics Mostar Office had the most of complaints directed against the work of administration (51), courts 49 complaints, 41 complaints was registered for the alleged violation of labor related rights, 24 complaints of the right to property, 19 for violation of social rights, 12 for violation of the right to free access to information and 9 complaints of the police work, or governmental and ministerial appointments. The Regional Office Mostar registered 7 complaints of utilities, 6 for violation of the right to education, that is, the rights of children, and 5 complaints of discrimination. Violation of the right to pension was the subject of 3 complaints and the same number of complaints lodged by the persons with disabilities.

¹⁹ Complaint of the Company „Granit Jablanica“ comprises violation of labor rights of 207 employees; Complaint of „OTP“ Lištica Široki Brijeg relates to the problem of 155 employees etc.

**Diagram showing the structure of received complaints per departments in Mostar Office
(Chart 6)**



On the date of 31.12.2010 **a total of 113 cases were solved**, most of which in a way that the violation was redressed **following the intervention of the Ombudsman**. Other cases were either ill-founded (21), complainants not interested in further proceedings before the Ombudsman (11), or solved otherwise (17). In the process of complaint handling, Mostar Office employees made 810 activities, mostly in order to establish communication with respondent party or complainant, or to urge matters complained of.

In the framework of the proceedings in the area of **civil and political rights there were 69 complaints solved**, out of which 24 related to the functioning of administration, 21 complaints related to the courts, 9 to violation of property rights and 7 complaints of the work of the police. In the area of freedom of access to information 6 complaints was resolved and 2 complaints were lodged for violation of the Law on Ministerial, Government and Other Appointments.

From the mandate of the **Department for the protection of economic, social and cultural rights 38 complaints were solved**, out of which 20 related to the violation of the labor related rights, 12 was related to the violation of the rights to social care, 3 to the right to pension, 2 to the right to education and 1 complaint related to public utilities.

From the mandate of Department for elimination of all forms of discrimination, Department for the protection of the rights of the child and Department for the protection of the rights of persons with disabilities 2 complaints per each Department were solved.

Method of complaints solution	2005	2006	2008	2009	2010	Total
Protection achieved following the plea request and announced investigation by the Ombudsman					62	62
Recommendation issued					10	10

Special report issued						
Lack of complainant's interest in further case pursuing					11	11
Assigned to another institution/office						
Resolved otherwise					17	17
Complaint ill-founded					21	21
Total					113	113

Table 3 showing method of solution per years in the Ombudsman Office of Mostar

Mostar Office **issued 10 recommendations** during 2010. 6 of these recommendations were complied with. **A characteristic example was registered in the Indirect Taxation Administration of BiH** in case registered under number Ž-MO-04-66/10 in which the Institution issued a recommendations under number: P-261/10. Not only that the Indirect Taxation Administration of BiH failed to comply with the Ombudsman's recommendation in this case in which violation of the rights of the complainant was established beyond any reasonable doubt, but it initiated disciplinary proceedings against the complainant and found the existence of a grave infringement of the duty and sentenced disciplinary measures against the complainant according to the Decision of the Disciplinary Committee of the Indirect Taxation Administration of BiH No.: 01-34-5-2315-9/10 of 22.12.2010 whereby he was held responsible for: „presenting false claims to the Institution of Human Rights Ombudsman of BiH about his being discriminated on professional and ethnic grounds“. This way the Indirect Taxation Administration put the complainant in situation to suffer consequences because of his filing a complaint against discrimination. This way they committed further discrimination in form of victimization in violation of provisions of Article 18 of the Law on Prohibition of Discrimination which strictly prohibits such actions.

In the course of citizens complaint handling **co-operation with the authorities was mostly correct**. Exceptions were found in aggravated communication with the administration of the Town of Mostar where we had to urge to obtain their replies to our inquiries several times. The Institution of the Ombudsman will try to improve its communication with relevant municipal authorities of Mostar in order to overcome present difficulties related to lack of co-operation of some municipal departments.

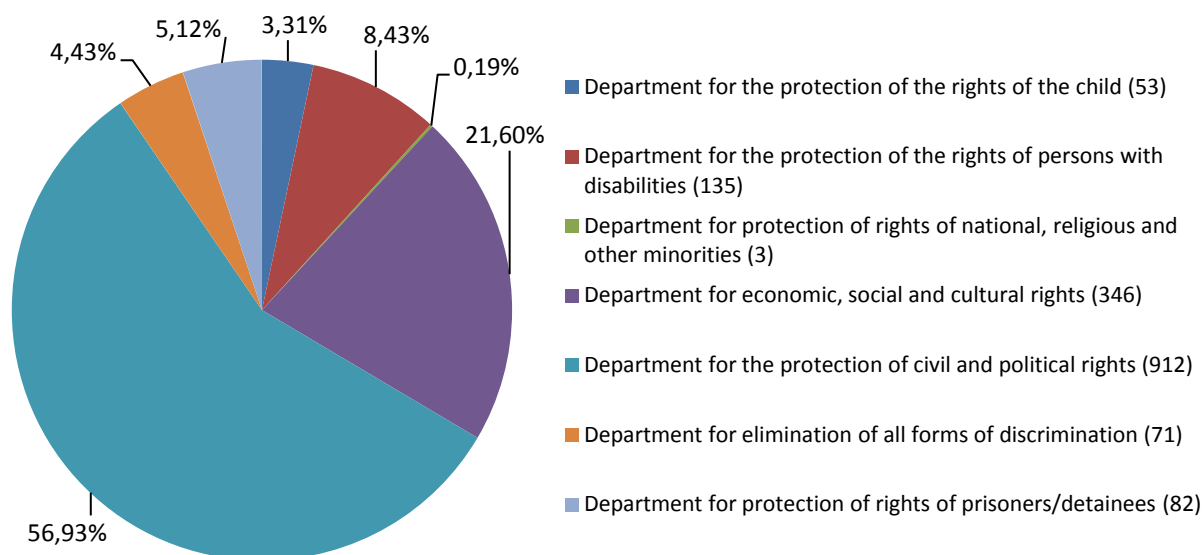
5. Regional Office Sarajevo

Regional Office of Sarajevo received 1.602 complaints in 2010. Total number of these complaints was related to the violations of **civil and political rights (912 complaints)** primarily in the area of **administration (247), courts (231), freedom of access to information and media (159), property rights (118)**. A large number of complaints filed within the Regional Office Sarajevo is in the area of **economic and social rights – social rights (346)** namely, the labor relations (169), pensions (76), social protection (29). Regional Office Sarajevo received 135 complaints falling within the mandate of the Department for the protection of the rights of persons with disabilities, 82 falling within the mandate of the Department for the protection of

the rights of prisoners/detainees. In the area of discrimination Sarajevo Office received 71 complaints.

Out of totally received 1.602 complaints, in the reporting period finished was 675 cases. The most of closed files pertains to the area of **civil and political rights (400)**. Department for the protection of economic, social and cultural rights has closed **142 cases**. Out of received 135 complaints related to the rights of persons with disabilities in 2010 we finished **61 complaints**. Department for the protection of the rights of prisoners/detainees up to 31.12.2010 finished and closed **38 complaints**. Then, in the reporting period, Sarajevo Office finished **18 cases** falling within the mandate of the Department for the protection of the rights of the child, and **14 cases** of Department for elimination of all forms of discrimination and finally, **2 cases** resolved by the Department for the protection of the rights of national, religion and other minorities.

Diagram showing the structure of received complaints per departments in Sarajevo Office (Chart 7)



3.2.3. Respondent party complained of

The Ombudsman database has a column where respondent party is registered, this is the party complained of, that is, the alleged violator of the complainant's rights. Analysis of these data reveals certain parties mentioned in multiple complaints filed within the Ombudsman Institution. These parties are mentioned in the present report for the needs of further analysis of such cases which can provide interested authorities with data necessary to establish whether such human rights violations provide grounds for conclusions of the existence of systematic human rights violations demanding a broader social response primarily in legislative field. From this aspect, in 2010 the most frequently mentioned respondent parties designated as human rights violators were the following:

- Social Welfare Centers, particularly in FBiH (92 complaints)
- Electro-distribution (27 complaints)
- Pension and Disability Insurance Institute of FBiH (132 cases) and Pension and Disability Insurance Fund of RS (65 complaints)
- Federal the Ministry of Labor and Social Policy (48 complaints)
- the Town of Banja Luka (21 complaints) the Town of Mostar (38 complaints)
- Canton of Sarajevo (35 complaints)
- Cantonal courts (151 complaints) and cantonal prosecution offices (33 complaints)
- Prisons and regional prisons (78 complaints)
- the Ministry of Labor and Veterans and Disability Protection of RS and Committee for the implementation of Article 182 (161 complaints)
- Regional courts (30 complaints) and regional prosecution offices (7 complaints)
- Municipal courts (307 complaints) and basic courts (209 complaints)
- the Government of Brčko District BiH (79 complaints)

It is important to mention that a number of complaints was filed against police administrations, municipalities, entity and cantonal ministries, schools, public companies, in particular public utilities. With regard to the BiH authorities and institutions insignificant number of complaints was registered where respondent parties were the following: the Ministry of Finance and Treasury (5 complaints), the Ministry of Civil Affairs (9 complaints), the Ministry of Exterior (3 complaints), the Ministry of Defense (10 complaints), the Ministry of Justice (4 complaints), the Ministry of Safety (10 complaints), the Constitutional court of BiH (25 complaints), the Court of BiH (22 complaints), the BiH Prosecutor's Office (4 complaints) etc.

With regard to the complaints received in the Regional Office of Brčko, it is necessary to say that total number of complaints include those received during the duty days in Tuzla. Owing to the understanding and support of the Municipality of Tuzla which made necessary premises available to the Ombudsman in October 2010 practice of holding duty days was introduced by the Ombudsman due to the fact that Tuzla Canton has more than 700.000 inhabitants and that there is still a significant number of displaced persons and returnees living on the territory of this Canton who have not yet realized their rights. Number of received complaints in a short time period proves that such a decision was fully justified.

3.2.4. Complaints processing

There is still a large number of complaints filed in the previous period which the current Ombudspersons found pending back in December 2008 when they were appointed. Facing such situation, the Ombudspersons established priorities in complaints processing and decided that newly received complaints would be given priority. As for the backlog of old complaints, they would be processed in chronological backward order, from 2008 to 2004. This method proved as justified since it turned out that in many cases the complainants had not yet realized their rights although their complaints were a couple of years old.

In 2010 the Institution received a lot of ill-founded complaints, which is mostly due to the citizens' ignorance of the Ombudsman's mandate, in particular when it comes to the mandate toward the courts where, according to provisions of Article 4 of Law on Human Rights Ombudsman it is set out that „*the power to investigate all complaints made about the poor functioning of the judicial system or the poor administration of an individual case and to recommend appropriate individual or general measures...* “ and that “*Ombudsman shall not interfere with the adjudicative functions of a court, but may initiate court proceedings or intervene in pending proceedings, whenever he or she finds that such action is necessary for the performance of his or her duties*“. However, in the area related to the functioning of the courts, citizens often ask the Ombudsman to deal with merits of their cases before the courts and react with dissatisfaction on the Ombudsman's decision to close their complaints as ill-founded.

During 2010 the Ombudsman Institution declared 336 complaints as ill-founded, mostly in Department for the protection of civil and political rights (198) and Department for the protection of economic, social and cultural rights (95). In practice it happens that complainants during the proceedings lose their interest in further pursuance of their case since they do not reply to the Ombudsman's letters. This was the ground for closure of 314 cases in 2010, out of which 187 in Department for the protection of civil and political rights and 73 in Department for the protection of economic, social and cultural rights.

Significant number of complaints was closed for the fact that the complainant had already reached their rights otherwise. According to the statistical data available in the Ombudsman's database, this way 334 cases were solve in 2010, out of it 222 related to civil and political rights, and 80 to economic, social and cultural rights.

Other examples categorized as “resolved otherwise” include referral of cases to the Consumer Ombudsman since it was not about human rights violations, or referral to another institutions or institutions dealing with human rights violations in neighboring states.

The Ombudsman's proceedings depend to a large degree of complexity of the case at hand, but also of readiness of violator to co-operate, which can be assessed using the parameter of the compliance with the Ombudsman's recommendations. One of the important characteristics in 2010 of the Ombudsman's proceedings is an increased complexity of cases and that cases are often such that they, if not redressed, can lead a systematic human rights violations which then cannot be corrected by the violator alone. This is so, for instance, when

adopted legislation provides grounds for human rights violations, such as in case of the rights of disabled persons in FBiH, or determination of the right to severance payment based on Article 182 (152) of the RS Labor Law etc.

Complex cases demand longer investigation and more intensive correspondence with both the complainant and the respondent party, which often needs to be urged to respond. Number of urgency letters is an indicator of readiness of alleged human rights violators to co-operate with the Ombudsman.

3.3. The Ombudsman's recommendations

Having investigated lodged complaints and established human rights violations in 2010 the Ombudsman issued 341 recommendations asking the human rights violators to take measures to remove causes of human rights infringements. The most of these recommendations is related to severance payments in accordance with Article 182(152) the RS Labor Law. Table showing issued recommendations and their realization were attached to this Report as one of its annexes. Ombudspersons would like to highlight recommendations issued at the end of 2010, which were not realized and are included into the table only if the deadline for the realization as determined by the Ombudsman has ended. This fact should be taken in consideration as it should be known that sometimes recommendations are realized after the deadline.

In 2010 there were the following examples of recommendations of the Ombudsman's treatment by the respondent parties:

- Realization of recommendations and informing the Ombudsman thereabout
- Ignoring the Ombudsman's recommendations and failure to reply to Ombudsman's correspondence even after sending an urgency letter
- Non-compliance plea
- Established co-operation, but the complainants refuse to accept solution offered by the party violating their rights

1. Compliance with the Ombudsman's recommendations and informing the Ombudsman thereabout

During 2010, the Ombudsman Institution received a large number of replies from the institutions to which the Ombudsman's recommendations were sent. In 110 cases, the Ombudsman was informed that the respondent party intended to comply with the given recommendations, in 9 cases the Ombudsman was informed of the partial compliance with the recommendation and in 37 cases the Ombudsman realized co-operation with the institutions subject to recommendations, but, the recommendation was not complied with as suggested. This mostly happens when the respondent institutions for objective reasons cannot realize given recommendations, but it offers another solution to the problem at hand. Therefore, the Ombudsman continues to co-operate with such an institution trying to find satisfaction to both

sides. Such examples should be highlighted since they prove not only institutional readiness to co-operate with the Ombudsman Institution, but also the readiness to accept rule of law.

2. Ignoring the Ombudsman's recommendations and failure to reply to Ombudsman's correspondence even after sending an urgency letter

These are the most drastic cases of human rights violations reflected through the fact that not only institutions perpetrators are not ready to take measures to remove human rights infringements, but they also ignore the Ombudsman as an institutional mechanism, which is very symptomatic given the fact that the Institution is not a repressive, but a preventive body. Such behavior reflects the absence of moral and social care and responsibility of responsible persons within such institutions and it is often combined with criminal or petty offense requiring actions of inspections or prosecutor's offices. In 2010 there were 29 such cases.

3. Non-compliance plea

The Ombudsman Institution has received 145 responses in 2010 whereby the respondent party designated as human rights violator plead that they are not able to comply with given recommendation listing the different reasons. In each such individual case the Ombudsman assesses presented reasons and decides of its further steps.

In general, non-compliance with the Ombudsman's recommendations indicates presence of still existing lack of social acceptance of this Institution in capacity of national preventive mechanism in cases involving human rights violations and low level of democracy which should be basically expressed through ensuring of human rights and acceptance of human rights protection mechanisms. These phenomena are not only characteristic for Bosnia and Herzegovina, but for other countries in the South-East Europe as it could be heard during the regional co-ordination meetings and activities within the network of NHRIs. Issue involving definition of mutual relationships between the national human rights mechanisms and legislative bodies are given priority in the framework of regional co-operation including the exchange of good practices particularly with countries with long democratic traditions, primarily countries like Sweden, Norway and Denmark. With no doubt, support of parliaments at the BiH level and level of the entities is a key mechanism to ensure respect for human rights and a guaranty ensuring the institutional action.

3.4. Special reports prepared by the Ombudsman in 2010

In 2010 the Ombudsman Institution prepared 7 special reports tackling the rights of certain social categories. Decision on preparations of such reports was taken either since the rights subject to these reports were reflected to a large part of the BiH population or the Institution registered a lot of individual complaints with regard to the rights subject to report. This gives rise to the issue of systematic violation of human rights of citizens and demands wider social action and a series of co-ordinated measures. It is important to emphasize that publishing of these special reports was supported by the Embassy of the Kingdom of Norway to

BiH, namely: Special report of the situation of children with special needs/impairments in their psycho-physical development in BiH, Special report on the right to pension, Special report on the rights of persons with disabilities and Special report on the rights of elderly persons, while „Save the Children“ Norway supported preparation of our Special report on the rights of children in institutions with special regard to norms and standards and other reports.

CHAPTER IV

CIVIL AND POLITICAL RIGHTS

CHAPTER IV – CIVIL AND POLITICAL RIGHTS

4.1. Introduction

The Ombudsman Institution, concretely its Department for the protection of civil and political rights in 2010 received **1861 complaints**²⁰, out of which 912 in Sarajevo Office, 430 in Banja Luka Office, 189 in Brčko District Office, 154 in Mostar Office and 184 in Livno Office. 160 complaints²¹ was carried forward from 2009, so that this Department in 2010 had **2021 complaints in total**. Most of these complaints related to the courts, administration, police, property rights, public documents etc. Since the database of the Institution was established only in 2010, a detailed review of complaints per different criteria is possible for that period, while it is not possible for previous years and data related to these years could be only cumulatively seen with no possibility of analysis. The area of civil and political rights comprises many human rights so that this Department receives the largest number of complaints. For that reason the Ombudspersons decided that departments receiving smaller number of complaints should assist to this Department to avoid creation of backlog.

Area	Sarajevo	Banja Luka	Brčko	Mostar	Livno	TOTAL
Police	29	19	7	9	8	72
Property rights	118	61	32	24	5	240
Public documents	10	6	1	-	-	17
Administration	247	102	40	51	72	512
Courts	231	186	94	49	92	652
Freedom of access to information and media	159	37	12	12	6	226
Government and ministerial appointments	101	28	3	9	1	142
TOTAL	895	439	189	154	184	1861

Table 4 showing complaints received by Department for the protection of civil and political rights

In the Department for the protection of civil and political rights **solved was 882 complaints**. In most of these cases rights were achieved following the Ombudsman's intervention, that is, plea request from the respondent party and announced investigation by the Ombudsman (213 complaints) or otherwise (204 complaints). Unfortunately, we still have a lot of complaints that are inadmissible from the point of view of the Ombudsman's mandate (213) which is particularly characteristic in cases involving possible human rights violations by the courts, administration and police. This is a result of lack of understanding of the Ombudsman's mandate since it can, according to Law on Human Rights Ombudsman of Bosnia

²⁰ Number of complaints per area of law.

²¹ This number of complaints is related to the period from 2004 to 2009, so that 13 cases was carried forward from 2004, 2005, 2006 and 2008, in addition to 147 cases carried forward from 2009. In 2010 out of the total number of cases carried forward from previous years, finished was 102 cases (95 cases from 2009 and 13 cases from the period 2004-2008). 58 cases was carried forward to 2011.

and Herzegovina, it cannot not interfere with the adjudicative functions of the courts, while people often turn to the Ombudsman for their dissatisfaction with court decisions. In the area of civil and political rights the Ombudsman issued 89 recommendations, mostly related to the property rights and administration.

Method of complaints solution	Police	Property and title issues	Public procurement	Administration	Judiciary	Freedom of access to information	Government and ministerial appointments	Total
Protection achieved following the plea request and announced investigation by the Ombudsman	8	21	2	42	105	27	8	213
Recommendation issued	1	3	-	15	6	5	3	33
Special report issued	-	-	-	-	-	-	-	-
Lack of complainant's interest in further case pursuing	10	19	-	55	69	18	18	189
Assigned to another institution/office	2	8	-	7	7	1	5	30
Resolved otherwise	10	26	6	39	89	21	13	204
Complaint ill-founded	11	30	-	68	65	31	8	213
Total	42	107	8	226	341	103	55	882

Table 5 showing method of complaint solution in 2010 in the Department for the protection of civil and political rights

4.2. Administration

Administrative proceedings in BiH are governed by four pieces of legislations,²² all of which in their Article 1 define that the provisions of these laws are binding for the relevant administration bodies, companies and institutions carrying out the public mandate and whenever they decide on rights, obligations and legal interests of citizens, legal bodies and other parties in administrative issues, directly applying law. This is important to highlight since a lot of complaints (512) lodged in 2010 related to this area. In these complaints citizens complain of administrative proceedings carried out in contravention with provisions of the Law

²² Law on General Administrative Proceedings of Bosnia and Herzegovina, Law on Administrative Proceedings of Brčko District, Law on Administrative Proceedings of the Federation of Bosnia and Herzegovina and Law on Administrative Proceedings of the Republic of Srpska.

on Administrative Proceedings. Another problem is so-called “*silence of the administration*” which means non-implementation of mechanisms which are in place to enable legal protection according to the provisions of the Law on Administrative Proceedings, Law on Administrative Disputes and some other laws governing certain administrative areas. However, a high degree of human rights violations are present in this area despite the presence of these mechanisms since the administration often acts in violation of good administration principles, in particular principles of efficiency and effectiveness. The latter are principles enabling the administration proceedings to be conducted in a reasonable time period in accordance with law.

The most of complaints registered in the Institution of the Ombudsman in the area of administration indicate ***excessive length of the administration proceedings and silence of administration***. A significant number of complaints also indicate that relevant ***authorities ask the citizens to furnish additional documentation in administration proceedings*** while in fact it is their duty to obtain it through the official channels. Such actions lead to the stall of proceedings and impose additional costs to the citizens. In all such cases the Ombudsman tries to redress human rights violations employing different possibilities such as sending urgency letters or recommendations to the relevant authorities. In particular, the Ombudsman wants to indicate another very frequent occurrence that creates legal uncertainty among citizens, notably the enjoyment of legal remedies in second-instance proceedings. Namely, in the course of appellate proceedings, the second-instance bodies often repel decisions of the first-instance bodies and return it to renewed proceedings. These, in contravention of the instructions given in the second-instance body’s decision, issue substantially the same decision as the previous one. So, instead of using the legal possibility to issue final and binding decision, a second-instance body returns a case to a first-instance body, which delivers the same decision as the one appealed of. This causes stall of proceedings, creates legal uncertainty, renders legal remedies inefficient, and generally, puts the whole legal system in jeopardy, since it forces citizens to seek court protection so increasing backlog of the courts and diminishing their efficiency.²³

As a result of the Ombudsman’s processing administration related complaints 226 was solved. Out of this number, 68 cases were ill-founded, in 42 cases complainants achieved their rights following the intervention of the Ombudsman, while 39 complaints were solved otherwise. In 55 cases proceedings were finished since the complainant showed no interest in further pursuing of their case, and finally in 15 cases, having established the human rights violation, the Ombudsman issued recommendations to the relevant parties.²⁴

With regard to the above, it could be concluded that the public administration system in BiH is overburdened with length of proceedings, which makes the administration inefficient and jeopardizes the citizens in pursuance of their rights guaranteed by the Constitution. This is why

²³ Complaints registered within the Ombudsman: Ž-SA-05-579/10; Ž-SA-05-742/10; Ž-SA-05-1425/10; Ž-SA-05-573/10; Ž-SA-05-1032/10; Ž-SA-05-510/10; Ž-SA-05-279/10 etc. Human Rights Committee within the Constitutional court of BiH in its decision on admissibility and merits No. CH/02/9129 points out that: “... However, permanent return to renewal of proceedings can make legal remedies illusory, and proceedings endless and pointless.”

²⁴ Some of related recommendations include: P-302/10 in case Ž-SA-05-879/10, recommendations no.: P-303/10 in case Ž-SA-04-274/10, recommendations no.: P-133/10 in case: Ž-SA-05-624/10, or recommendations no. P-83/10 in case: Ž-SA-05-459/10...

the Ombudsman thinks that urgent matters are necessary to find satisfactory solution for slowness of proceedings and inefficiency of administration proceedings at all levels.

4.3. Property rights

In Department for the protection of civil and political rights in 2010 the Ombudsman received a total of **240 complaints related to the violation of property rights**.²⁵ Character and legal nature of the lodged complaints treats potential human rights and fundamental freedoms violations falling within the remit of Annex VII, and the rights governed by the laws dealing with the issues such as restitution, title and property relations, real estate, expropriation, securities, inheritance etc.

In the reporting period out of all the complaints related to property rights **107** was solved. Out of this number, 30 cases were ill-founded, in 21 cases complainants achieved their rights following the intervention or mediation of the Ombudsman. In 19 cases proceedings were finished since the complainant showed no interest in further pursuance of their case. Analysis of the lodged complaints shows that there has been violation of Article 6 of *European Convention for the Protection of Human Rights and Fundamental Freedoms* in conjunction with Article 1 of *Protocol 1 to the European Convention*. Specific features of this violation include length of proceedings and unnecessary administrative stalling, adoption of laws and by-laws without clear procedures for implementation etc. In 11 cases the Ombudspersons issued recommendations to the relevant parties in order to redress established violation of property rights.²⁶

Certain number of complaints related to the alleged violations of human rights and fundamental freedoms falling within the remit of *Annex VII of the General Agreement for Peace in BiH*.²⁷ Provisions of Annex VII, issue involving return of refugees and displaced persons to their homes of origin is closely linked to the issue of private property protection as foreseen in the European Convention. Implementation of property laws was subject to obstructions and violation of human rights of citizens, primarily refugees and displaced persons at all authority levels. Investigating the cases upon the complaints of citizens filed within the Institution and ex-officio, the Ombudsman came to possession of information on many violations of human rights including the right to home and private property. 15 years after the war, situation with the implementation of Annex VII has not been satisfactory. Formally the property is returned. However, real return is accompanied with a series of negative occurrences. Issue of

²⁵ The right to property Article 1 of Protocol 1 to the ECHR: „ 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.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties. “

²⁶ Some of issued recommendations are: P-1/10 in case no.: Ž-SA-05-4444/10; P-3/10 in case no.: Ž-BL-05-167/10; P-6/10 in case no.: Ž-SA-04-47/10; P-10/10 in case no.: BL 5141/06; P-72/10 in case no.: Ž-BR—102/09 etc.

²⁷ Article 1. “All refugees and displaced persons have the right freely to return to their homes of origin. They shall have the right to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any property that cannot be restored to them. (...)

reconstruction and repair of demolished property has not been fully defined and all necessary procedures are not in place, which makes the abuse possible.

Ombudspersons of BiH would like to stress the problem linked to the functioning of the Commission for Real Property Claims of refugees and displaced persons at the BiH level was blocked at the level of the Council of Ministers of BiH and the mechanism of protection has not been established to allow for solution of the remaining cases related to the implementation of property laws.²⁸

In a case registered in the Institution, complainant J.R. addressed the Ombudsman being dissatisfied with work of the Court of BiH and the Council of Ministers BiH as it comes to the mandate and functioning of the Commission for Real Property Claims of the Refugees and Displaced Persons (hereinafter: the Commission). Investigation of the Ombudsman revealed that a crucial problem in this case appeared to be the fact that the Court of BiH could not process cases like this at all before it had reply and the whole file in this administrative matter from the Commission as a respondent party. Investigation of the Ombudsman further revealed that the mandate of the Commission has not been extended which is jeopardizing the rights of the displaced persons and refugees since there are many cases that had not been finished at the time when the mandate of the Commission expired. The problem is doubled by the fact that those whose cases have not been decided of by the Commission cannot seek court protection since the court needs input in form of the Commission's decision. This was the reason for the Ombudspersons on 08.10.2010 to issue their recommendation to the Council of Ministers emphasizing the necessity of taking measures to solve the problems of those whose cases have not been finished by the Commission in addition to necessity of designating a body to convey necessary documentation to the Court of BiH. At the same time the Ombudspersons recommended to the Court of BiH to take all necessary steps in order to decide on request of the citizens. Following the receipt of the recommendation, on 24.11.2010 the Court of BiH informed the Institution that the Appellate Panel delivered decision on the case in question. So, clearly, the Court of BiH complied with the recommendation of the Ombudsman, while the Council of Ministers failed to respond, which raises concerns of the Ombudsman as it would not expect lack of co-operation or ignoring the Institution by this body.

This example is mentioned in order to present how the denial of legal protection can lead to multiple human rights violations, that is, the right to home, the right to property, the rights to access to public services, the right to access to court, all in all, the violation of *European Convention*²⁹. Although the right to health and social care is universal, when it comes to the rights of displaced persons and returnees, which is governed by the entity legislation, Ombudspersons would like to emphasize that these rights are not regulated in fashion to follow real needs of the population of returnees. Similar is the situation with education where the issue of curricula and the right to use of language and alphabet has not adequately solved, in addition to placement of religious symbols in schools. All the mentioned raises question of harmonization of the right to education with international standards for the protection of

²⁸ Recommendation no.:P-236/10 of 8 October 2010

²⁹ Case no.: Ž-SA-05-541/09

human rights and fundamental freedoms. In individual cases the Ombudsman tried to redress human rights violations by their interventions and recommendations. However, **non-existence of systematic measures** causes expansion of the background for the violations of human rights or displaced persons and returnees. In the reporting period the Ombudsman received a number of complaints related to the reconstruction and repair of devastated houses.³⁰

What is particularly symptomatic is violation of human rights and fundamental freedoms of returnees in segment of their property rights by judicial authorities. It is not rare that **courts deliver different judgments in similar or same issues** or courts of same instance, processing cases related to Annex VII deliver completely opposite judgments. This results in inconsistency in work of courts, creates legal uncertainty for citizens and often leads to human rights violations. In court proceedings property rights, title rights or the right to home, which are confirmed by relevant decisions of the bodies established by the General Framework Agreement for Peace in Bosnia and Herzegovina such as the CRPC and relevant court decisions, after lengthily court proceedings issue decisions including merits with completely different solutions from the above mentioned. In contrary to provisions of Annex VII courts deliver rulings by which they deny the right of returnees to have their property repossessed and returned, in process of re-implementation of “*evictions*” of returnees, the real owners of property.

In addition to that, it still happens that court issue decisions whereby property repossession is subject to certain conditions. For instance, the owner is conditioned to pay compensation to the temporary user for investments made to the property before s/he is allowed to repossess her/his property, regardless to the fact that said investments were made without the owner’s will and consent, and often even without necessary permissions of the relevant authorities, like urban department when it comes to the construction of new buildings by temporary user on the property of the returnee. In such cases courts deliver judgments whereby they approve claims of petitioners (ex temporary users of somebody else’s property) for damage compensation based on investment in (returnee’s) property. Courts also accept amounts of such claims despite the fact that these amounts are sometimes beyond any reasonable measure (between 100,000 - 200,000 BAM). Conditioning of private property of returnees’ repossession also takes place in cases when temporary users claim compensation for investments in property made without decisions of relevant administrative (*illegal construction*).³¹

Such actions in the opinion of the BiH Ombudsman is nothing than continued obstruction of return and violation of property rights of the returnees enshrined by domestic legislation and international standards for the protection of human rights and fundamental freedoms.

³⁰ Issued recommendations: P-301/10 in case no.: Ž-SA-04-1185/10; P-269/10 in case no.: Ž-SA04-1200/10; case no.: Ž-SA-05-616/09 and like.

³¹ Opinions and observations expressed hereby can particularly find confirmation in case registered within the Ombudsman under number: Ž-SA-05- 350 /09 and case no. 1070/07

4.4. Police

The Institution of the Ombudsman received in 2010 a certain number of complaints of citizens complaining of the work of the police. These complaints mostly related to inefficiency of police proceedings upon the citizens' reports, excessive use of force by the police, work of their internal control, violation of human rights in segment of employment and public competition procedures. Out of total number of received complaints (72), 11 was ill-founded, in 8 cases protection of the rights was achieved following the intervention of the Ombudsman or by mediation, while in 1 decision was made on the rights violation. In 10 cases complaints expressed lack of interest to further pursue their case before the Institution of the Ombudsman so that these files were closed.

With regard to the work of the police, the Ombudsman issued a couple of recommendations related to the public competition procedures applied in the hiring of police officers process.³²

In this Report the Ombudspersons would like to highlight a case in which the relevant authorities failed to comply with the recommendation of the Ombudsman, and which deserves special attention because of its specifics.

The Ombudsman Institution received an application of H.S. complaining of the police because his application submitted following the public competition for filling in the vacant position of police officers in the rank of Junior Inspector for undetermined time period (permanent position) in the Police Administration of the Ministry of Interior of Una-Sana Canton was rejected as being incomplete since he failed to furnish the Criminal Record Check. Investigating the allegations of this complaint the Ombudsman found that there were different requirements for those who would apply from with regard to the possibility of obtaining the data from criminal records for physical entities born on the territory of su the Federation of BiH and the Republic of Srpska. As a result candidates have unequal treatment and possibility to realize their employment related rights. Certificate on criminal records issued following the official record check under the applicable legislation for physical bodies born on the territory of the Republic of Srpska is not possible unless they need it for employment abroad. So, in concrete case the complaints as a physical body born on the territory of the Republic of Srpska cannot obtain required document which automatically means the different treatment comparing to other candidates. Having that in mind, the BiH Ombudspersons recommended the Ministry of Interior of the Una-Sana Canton, that is, their Election Panel to ensure equal treatment for all the candidates including the complainant and to obtain the mentioned certificate for those born on the territory of the Republic of Srpska using the official channels pursuant the applicable legislation and then to act in accordance with the Law on Police Officers of Una-Sana Canton. The Election Panel for the election of police officers and the Ministry of Interior of Una-Sana Canton, in their letter of 22.11.2010 and 13.12.2010 informed the Ombudsman that they are unable to comply with the recommendation since they have not broken any law applicable on the territory of the Federation of BiH. Ombudspersons emphasize

³² Cases: Ž-SA-06-585/0; Ž-SA-06-376/10; Ž-SA-06-377/10

that in concrete case they did not claim that there was a violation of concrete legal provisions, but the violation of the complainant's right to apply for publically advertized position under the same conditions failure of which put the complainant in discriminatory situation since he could not obtain the required Police Record Check Certificate on the territory of the Republic of Srpska.

Ombudspersons particularly underline the issue of functioning of the internal control departments within the police service. All the indicators imply that these bodies rather formally exist, but in fact they do not implement their mandate in practice. This opinion of the Ombudsman is particularly based on the case no.: Ž-SA-05-1386/10 in which the Ombudsman issued Recommendation no.: P-335/10.

4.5. Courts

The Ombudsman Institution in 2010 received 652 cases related to the work of courts in BiH and compared to 2009 this number has doubled in this area. The problem of registration of complaints in the Institution of Ombudsman with regard to judiciary is rather complex since it happens that citizens complain of violation of their rights falling within the mandate of other authorities, and within the course of the Ombudsman's investigation it turns out that they initiated court proceedings as well. This means that amount of complaints in the area of court is in fact higher than the one that could be seen from the number of complaints in this area.

Received complaints related to the courts can be classified as follows:

- Complaints in which the applicants complain about first-instance courts not initiating proceedings and not scheduling hearings. Explanations offered by the courts are different, but it is necessary to stress that a lot of courts cannot be up to date as they do not have enough staff, non-appointment of judges, or justified absence of judges;
- Complaints in which the applicants complain about second-instance courts for length of proceedings and failure to decide on appeals in a reasonable time;
- Complaints about the length of proceedings before the entity supreme courts;
- Complaints about non-enforcement of court decisions

Unfortunately, complaints related to poor functioning of courts are mostly justified and they indicate that the rights of the applicants are violated by judicial authorities which are considered to be the strongest protection mechanism in a democratic society. This fact, however, cannot be regarded isolated from a whole array of other factors that lead to such a situation which requires taking urgent measures in the area of justice in order to make it more efficient. In communication with the Institution courts mostly inform of dates when they

scheduled concrete cases inquired about with listing the objective obstacles that caused such inefficiency.

Ombudspersons are worried in particular for the fact that inefficiency of courts continues to be in place when it comes to new cases. This raises the issue of implementation of commitments assumed by the BiH authorities with regard to Article 6 of European Convention for the Protection of Human Rights and Fundamental Freedoms. Ombudspersons are of the opinion that efforts should be made to seize further human rights violations with new cases lodged before courts and that these new cases should be processed at once, while old cases should be done in a chronological order as registered, with the engagement of additional judges.

The Ombudsman thinks that Case Management System in courts (CMS)³³ will significantly contribute to better efficiency and transparency in work since it enables citizens to check by themselves the status of their cases before court.

Complaints of citizens related to non-enforcement of court decisions can be classified in several sub-groups. First group are ***complaints related to the impossibility of enforcement where respondent party is a municipality, canton or entity***. This non-enforcement is legally based since the provisions of the Law on Executive Proceedings³⁴ enforcement is only possible if it uses funds foreseen for such purposes. Having in mind permanent budgetary restrictions, funds allocated for such purposes are constantly decreased which jeopardizes legal certainty of citizens.³⁵

Other sub-group are citizens who won in their law-suits against the Republic of Srpska and the Federation of BiH, and methods of payment of liabilities on these grounds are governed by the Law on Methods of Settlement of Domestic Debt of the Federation of BiH and the Law on Methods of Settlement of Domestic Debt of the Republic of Srpska. Complainants often express their dissatisfaction with methods of payment, that is, bonds claiming also dissatisfaction with deadlines and other circumstances.

Third sub-group comprises complaints related to the ***enforcement procedures where citizens cannot realize their rights because of the non-liquidity of their companies***. Such cases have additional human dimension since they often involve senior citizens suffering of poor health, with low income and with minimal social security that should be ensured by the state according to the international standards governing this area, specifically provisions of the European Social Charter. In this regard the Ombudsman Institution intends to call the state level authorities to ratify Article 25 of the European Social Charter which guarantees the rights of the employees to receive their receivables in cases of their employer's insolvency, which is the best way to protect their interests.

³³ Case Management System

³⁴ "Official Gazette of the Federation of BiH", nos: 32/03, 52/03, 33/06, 39/06 i 39/09

³⁵ The Ombudsman Institution received the case no: Ž-SA-05-138/10 in which the enforcement requestor would need around 70 years for the judgment to be implemented.

Fourth sub-group are ***complaints related to the enforcement of court decisions where applicant belong to a vulnerable group***, primarily divorced or single parents who cannot realize their rights to alimony to be paid by the other parent. This problem is especially grave in cases involving other parent living abroad and not having any property in Bosnia and Herzegovina.

In the area of functioning of judiciary in BiH, above all from the aspect of the access to court, a very important issue is ***ensuring legal aid to the citizens***. Despite the establishment of different mechanisms in BiH at all authority levels, and the presence of a number of citizens' associations providing legal aid to the people, the Ombudsman's case law shows that the established legal aid mechanisms are insufficient and inefficient. Ombudspersons cannot do anything but instruct the applicants seeking this kind of service to find some of the institutions or NGOs providing legal aid. Unfortunately, citizens often complain that they did not get necessary legal aid mentioning reasons such as that they do not belong to the category for which such aid is foreseen, the huge backlog etc.

The Ombudsman Institution received a number of complaints where ***impartiality of the processing judge was challenged***. In such cases the Ombudsman refers the case to the Disciplinary Prosecutor's Office functioning within the High Judiciary and Prosecutorial Council of BiH in order to examine the allegations.

Ombudspersons would like to emphasize that there are positive developments in some courts manifested through the better efficiency in processing so that all new cases are solved in addition to some old ones.

This involves different complainants who addressed the Ombudsman in period from 2005 to the end of 2009 claiming the violation of Article 6 of European Convention for the Protection of Human Rights and Fundamental Freedoms (the right to hearing within a reasonable time period) by the Court of BiH, as well as irregularities in decisions brought by this Court in proceedings initiated against the Indirect Taxation Authority of BiH (hereinafter: ITA). In the meanwhile, as the Ombudsman was examining the said complaints, the Court of BiH delivered its final decisions in most of these cases whereby the court partially succeeded in their lawsuits against the ITA in a way that the Court rendered decisions governing their employment status issued by the ITA null and void, while it rejected their requests to be returned to work and to have their salaries and contributions paid. Stalling in court decisions enforcement was a reason for the Ombudspersons to prepare a Special report and a Recommendation to ITA recommending it to reconsider the status of the employees sent to be "at disposal" through an organizational re-structuring in light of the BiH Court's decision rendering their decisions null and void. Until the date of this Report's preparation the Ombudsman has not received any feedback or response from the ITA as to the effects of the issued recommendation.

4.6. Public documents

In Department for the protection of civil and political rights during 2010 it was received 17 complaints related to public administration. In 2 cases the right was attained during the intervention of the Ombudsman, while in 1 case recommendation was issued³⁶. The Ombudsman resolved 6 complaints otherwise.

4.7. Immigration and asylum

Movement and stay of aliens and the issue of asylum in BiH is governed by the Law on Movement and Stay of Aliens and Asylum in BiH. In the framework of the activities of the Department for the protection of civil and political rights in 2010 visits were paid to the Immigration Center in Eastern Sarajevo, Asylum Center in Rakovica and the Refugee Center in Salakovac. Visits aimed at progress assessment and improvement of situation in these centers and institutions, especially once the construction and adaptation of the premises of the mentioned centers have been made. Evaluation of human rights situation in these centers will be the subject of a special report planned for 2011.

The Ombudsman Institution in 2010 received 9 complaints related to the issues involving the rights of the immigrants, asylum-seekers and refugees. Complaints of persons placed in these centers visited by the Ombudsman staff mostly related to the length of their stay in these centers, failure to adopt decisions on requests for asylum, leaving to third countries, review of citizenship, approval of temporary residence etc. Persons placed in the Immigration Center in Eastern Sarajevo complained of violation of their right to free movement, length of court proceedings related to the issues of oversight, asylum and citizenship, as well as insufficient clarity of legal provisions.

No complaint was received about settlement conditions or internal organization and functioning.

4.8. Freedom of access to information

Issue of freedom of access to information is governed by laws adopted at both entity and the state level.³⁷ First amendments to the Freedom of Access to Information Act in BiH were adopted in 2006.³⁸ These amendments provided that public bodies have the obligation to issue decision approving or rejecting the access to information either in full or in part, or establishing impossibility of access to information or establishing an exception. These amendments the requestor of the access to information is granted the right to appeal and deciding on appeal by the second-instance body. Non-existence of sanctions in the Law manifested through the

³⁶ Recommendation no.: P-299/10 in case no.: Ž-BL-04-516/10 (the issue of citizenship)

³⁷ Freedom of Access to Information Act in BiH, Official Gazette of BiH no. 28/2000; Law on Freedom of Access to Information FBiH, Off. Gazette of FBiH: 32/2001, RS Law on Freedom of Access to Information, Off. Gazette of RS 20/2001

³⁸ Law on Amendments to Freedom of Access to Information Act in BiH, Official Gazette of BiH, No: 45/06

inefficiency in the implementation of this legal instrument was the reason for Parliamentary Assembly of BiH to adopt the Law on Amendments to the Law on Freedom of Access to Information in BiH on 15 December 2009³⁹ adding a new chapter including sanctions.

In 2010 the Department for the protection of civil and political rights received 226 complaints related to freedom of access to information, most of it in the Sarajevo Office (159), while the Banja Luka Office received 37 complaints, Brčko Office 12, Mostar Office 12 and Livno Office 6.

Up to 31.12.2010 finished was 103 cases related to this area, out of which in Sarajevo Office 71, Banja Luka Office 16, Brčko Office 5, Mostar Office 6 and Livno 5 Office. Most of complaints was solved so that violations were redressed after the intervention of the Ombudsman, which means plea request and announced investigation by the Ombudsman (27), while in 18 cases the Ombudsman registered lack of the complainants interest in further pursuing of their case and 31 complaints were ill-founded.

Out of total number of complaints received by the Ombudsman Institution in 2010 123 was carried forward to be solved in 2011, mostly in Sarajevo Office that is 88 complaints.

The most frequent cases in the area of freedom of access to information involve **failure to respond within 15 days, non-compliance of legal provisions on forms of decisions** (written decision with all the elements pursuant to provisions of the Law on Administrative Proceedings), **decision does not include provisions on possibility to appeal** and **name of second-instance body deciding on appeals**. It also happens that decisions on refusing requests for information do not comprise either explanation of reasons or reasoning of public interest test or both. The only explanation is often the statement that information cannot be granted for the protection of third person's privacy.

In 2010 following the Ombudsman's intervention out of 4 public bodies on the state level⁴⁰ which failed to meet their obligation to appoint information officers in 2009, two bodies complied, while three still do not comply, they are Veterinary Office of BiH and BiH Foreign Trade Chamber. The Ombudsman notes some positive developments with regard to the obligation to prepare Guide on Access to Information and Index-register by the public bodies. Compared to 2009 statistics, in 2010 as much as 58 public bodies met this obligation, while 3 public bodies failed to meet this legal requirement⁴¹. However, when it comes to the obligation to present statistic data quarterly mentioning the types of requested information, established exceptions, decisions brought during the proceedings and final and binding decisions, the Ombudsman registers a negative trend in meeting of this obligation as there were 75% of public bodies meeting this obligation in 2009, this percentage reduced to only 47 % in 2010.

³⁹ Law on Amendments to the Freedom of Access to Information Act in BiH, Official Gazette of BiH, No.: 102/09

⁴⁰ The BiH Ministry of Safety, Petitions Board of public services, Veterinary Office of BiH, BiH Foreign Trade Chamber

⁴¹ Public bodies that failed to meet obligation of issuing the Guide on Access to Information and Index-register are : Petitions Board of public services, BiH Foreign Trade Chamber and Veterinary Office of BiH

This is another proof that gathering, systematization and analyzing of statistic data are one of the weak points in work of public bodies.

There is also a problem of making distinction between an officer, person or expert associate for public relations and an information officer whose duties are established in the Freedom of Access to Information Act in BiH comprising, above all, proceedings requests for information, and such employee must be appointed by the public body. Appointment of information offices ensures fast and efficient proceedings of requests for access to information and keeping and dissemination of statistic data on number, type and proceedings information.

Just like in the previous year, it was noted that a significant number of public bodies in their replies emphasize that they make certain information public orally or by phone. However, they fail to keep statistics of it and are not aware of the fact that clear procedures are in place governing this area according to the Act. Statistic data that have been submitted often lack description of request or the applied procedure, especially in cases when requests were refused. This would be an important indicator for the Ombudsman and facilitate elaboration of measures to be taken officially according to the Law.

Merger of Ombudsman institutions in Bosnia and Herzegovina that took place in May 2010 meant the end of functioning of entity Ombudsman institutions. In accordance with entity laws on freedom of access to information, public bodies at entity, canton or municipal levels had an obligation to appoint information officers, to submit guides and index-registers and statistic data quarterly. However, the merged Ombudsman Institution has not sufficiently relevant parameters to assess to which extent this legal obligation was implemented. In 2010 only 7 public bodies⁴² on entity level referred statistic information to the Ombudsman of BiH. When it comes to local level of municipalities the Institution received statistic data from 41 public bodies. The Ombudsman concludes that there is no sufficient awareness on local levels on merger of Ombudsman institutions and their obligations in this regard. Therefore, one of the activities planned for 2011 is gathering of information on the implementation of the Freedom of Access to Information Act in BiH and awareness-raising on their obligations toward the BiH Ombudsman. It is also necessary to harmonize provisions of legislation governing this area in order to remove possible dilemmas.

Detailed analyses of data collected, in administration to 61 telephone calls of the public bodies to the Ombudsman related to the Freedom of Access to Information Act in BiH indicate still existing lack of awareness of public bodies and information officers on the importance and implementation of this Law.

Ombudspersons would like to emphasize that aim of the adoption of this Law was promotion of better transparency and responsibility of public authorities and treating of free access to information as public good, which is, at the same time, one of pre-requisites for the upgrading of democratization process in any society. Significance of this legal instrument in ensuring of transparency is also confirmed by the fact that this Act has a priority with regard to

⁴² Federal Hydro-meteorological Institute of FBiH, Securities Commission of FBiH, Joint Affairs Department of the FBiH Bodies, FBiH Government, Supreme Court of BiH, Health Insurance Fund RS, Pension and Disability Insurance Fund of RS.

all other legislation, since it is a „Lex Specialis“, so that ***all legislation adopted following the adoption of the Freedom of Access to Information Act in BiH, purpose of which is not amending or modification of the Act, in no way can limit rights and obligations determined by this.***⁴³

It was noted that in the reporting period number of requests for information addressed to the faculties by their employees and professors has increased. What raises concerns of the Ombudsman is the fact that faculties as public institutions and promoters of scientific and research activities⁴⁴ fail to be holders of the whole economic and social development and participants in creation of an information and knowledge based society. This is particularly important in context of the applicable legislation in the higher education area according to which: *“academic autonomy and academic freedoms of the faculties shall include responsibility of academic community toward to social community in which they function, as they need to demonstrate openness toward the public, citizens and local community, promote respect and affirmation of human rights and develop awareness of social responsibility among students, academic society and other employees”*.⁴⁵

Since the relevant legislation on higher education emphasizes the social responsibility of faculties, it is unacceptable that faculties as public bodies act in contravention of the laws applicable in Bosnia and Herzegovina.

Another fact that raises concerns is lack of transparency in the appointment of teachers, professors, assistant professors and PhDs and absence of keeping track and archiving of published scientific works. Employees are often non informed on what is going on at a faculty, exchange of information is poor, minutes of meetings of scientific and other boards have not been kept, which all leaves the space for manipulation, abuse of position, suspicions of illegal authorizations or other alleged criminal or misdemeanor acts. From the aspect of importance of the core activity carried out by the faculties and their influence to social developments, necessity of the public having the full access to information seems to be mandatory instead of being subject to free assessment of any individual. For all such reasons, the Ombudsman issued a number of recommendations recommending to the deans to process pending requests for information and to take urgent measures to ensure better transparency and responsibility and to promote publicity and openness of work and all the procedures and steps related to the functioning of the faculties.

4.9. Government and other appointments

Promulgation of the Law on Ministerial, Government and Other Appointments of BiH, Law on Ministerial, Government and Other Appointments of FBiH and Law on Ministerial, Government and Other Appointments RS⁴⁶ (hereinafter: the Law) by the High Representative

⁴³ Article 25 Item 3 of the Law on Freedom of Access to Information

⁴⁴ E.g. Article 24 of the Law on Scientific and Research Activities of the Canton of Sarajevo

⁴⁵ Article 5 and Article 41 of the Law on Higher Education of the Canton of Sarajevo

⁴⁶ “Official Gazette of BiH” no. 7/03, “Official Gazette of FBiH”, no: 34/03, “Official Gazette of RS”, no: 25/03

for BiH was done with an aim to ensure an open selection procedure prior to the final appointment to positions in regulated bodies at the state level, and for Brčko District BiH, FBiH and RS.

The purpose of the Law is to ensure qualitative, multiethnic appointment of members of managing bodies of the state-owned public enterprises, i.e. to eliminate the practice resulting in appointment of insufficiently qualified persons in managing bodies of public enterprises, persons with conflict of interests, and to eliminate existing nepotism and corruption, and to ensure representation principles in all aspects.

The Law created legal framework which ensures transparency of procedure where all interested persons can apply for vacant positions in regulated bodies published in daily newspapers or official gazettes and, depending on required qualifications and other skills, in open competition between the candidates who applied to be appointed to certain positions.

The Law envisages that assessment of applicants should be performed by beforehand established body based on previously established criteria, prepare short-listed candidates meeting criteria for the appointment. No candidate should be shortlisted unless positively assessed according to the appointment criteria. Also, all decisions including those to refuse a candidate should be fully documented and be kept within a ministry or a body in charge of a regulated body. All shortlisted candidates should be invited to interview. When inviting candidates for an interview, every shortlisted candidate should be given a form including question as to the conflict of interests in case of appointment. All decisions related to interview including those to refuse a candidate should be fully documented.

Following the interview and based on fully documented decisions of all Selection Committee's members, it will be referred to the competent public official, minister or other official competent to further procedure. The first ranked candidate recommended by majority of the Selection Committee's members is considered to be the most successful candidate who have passed the open competition.

Competent public official, that is, minister or other body (government or parliament) competent to do final appointment, respecting the order contained in the rank list, except in cases where due to justifiable reasons this order can be departed from. In such a case responsible public official must have valid evidence.

This the Law, beyond any doubt ensures respect for ***principles of lawfulness, quality, independent scrutiny, openness and transparency and representation in the procedure of appointment***, which are applicable European principles ensuring higher liability of governments and ministers towards the public.

Where there is evidence that the principles set out in this Law, or procedures have not been followed, any member of the public may lodge a complaint against a final appointment to be submitted to the responsible public official and copied to the Human Rights Ombudsman of BiH.

This Law granted the Ombudsman a wide mandate in assessment of its implementation since it can make investigations in which ***ministers or other responsible public officials must co-operate***. These investigations include submission of respondent party's reply, relevant documentation and the whole file related to said appointment or dismissal within 14 days. If there are pieces of evidence to indicate that the final appointment was done in violation of principles set out in the Law the Ombudsman is obligated to inform the relevant public official in writing on all the irregularities related to the appointment process. When a final appointment is done in violation of the Law the Ombudsman issues recommendation for the appointment or dismissal to be cancelled and new appointment procedure initiated. If relevant officials fail to comply with the Ombudsman's recommendation, it will inform the Parliament about it.

In this Annual Report, Ombudspersons would like to turn attention to the obligation of all the public bodies to observe legally prescribed procedure in which case nobody's rights cannot be violated. Unfortunately, number of received complaints, and particularly their complexity indicate ***that there is a high degree of non-compliance with the Law*** when it comes to appointments, which could be result of ignorance of the Law or lack of readiness to its implementation.

During 2010 the Ombudsman received ***142 complaints related to the appointments*** done in the Council of Ministers of BiH, federal and cantonal authorities and the authorities of the Republic of Srpska. Out of this, 55 complaints were solved. The most complaints was lodged in Sarajevo Office, that was 101, solved was 42, while Banja Luka Office received 28 complaints and solved 10. Mostar Office received 9 complaints and solved 2, while Brčko Office received 3 complaints and finally, Livno Office 1 complaint.

In 17 cases the Ombudsman issued findings and conclusion and recommended cancellation of the appointments and initiation of new appointment procedure. Recommendation to cancel appointments came as a result of the established facts that had shown that basic legal principles had not been observed during the appointment process, mostly for members of managing and supervisory boards in private and public companies or that the appointment process was not fair as required.

Violation of basic principles meant non-compliance with the ***principle of "legality"*** according to which in the appointment to certain positions provisions of the applicable legislation and rules should be followed, then the ***principle of "quality"*** since it was found that the appointed candidates were not the best ones by their qualifications, abilities and experience necessary for required positions.

Violation of established procedure mostly related to ***non-observance of the established order*** set out in the suggested ranking list, which, based on previous check-ups, should provide the best candidates.

Having in mind the importance of government appointments and often expressed need to improve the situation in this segment, Ombudspersons will list some of the cases in which they

issued findings and conclusion with recommendation to cancel appointment, and cases where the violation of provisions of Law on Ministerial, Government and Other Appointments had not been found.

A. Some cases resulting in finding and conclusion with recommendations to cancel appointment

Recommendation no...:P-78/10 in case no. Ž-SA-05-61/10

Complainant addressed the Ombudsman in accordance with Law on Ministerial, Government and Other Appointments of the Federation of BiH indicating some irregularities in the appointment of president and members of the managing boards of the following legal entities:

- Public Institution (PI) Sports Medicine Institute of Sarajevo;
- PI Emergency Medical Aid Institute of the Sarajevo Canton;
- PI Labor Medicine Institute of the Sarajevo Canton;
- PI Women and Maternity Health Care Institute of the Sarajevo Canton.

Having examined the lodged complaint and completed investigation, the Ombudsman found that the the appointment of president and members of the managing boards had not been done in compliance with the principle of “representation” which involves the effort of the public official to ensure that appointments to public positions reflect ethnic and national composition of BiH. Ombudspersons recommended the Government of Sarajevo Canton to cancel the mentioned appointments and remove irregularities.

Recommendation partially complied with.

Recommendation in case no. Ž-SA-05-174/10 P-338/10

In procedure upon complaint of the appointment of the Managing Board of the Privatization Agency FBiH, made by the Government FBiH, Ombudspersons recommended the Government to cancel mentioned appointments for established violations of the Law related to non-observance of ranking list of the candidates suggested by the Selection Committee. Instead of that, appointments followed after “the consultations at the Government’s level”.

There is no reply to this recommendation.

Recommendation in case no. Ž-SA-05-437/10 P-233/10

In procedure upon complaint of the appointment of members of the Ministry of Education of Sarajevo Canton’s School Council of PI “Secondary School Center Vogošća” Ombudspersons

found irregularities and recommended to the Government of Sarajevo Canton to cancel said appointment and make appointment members of the School Council in accordance with the ranking list of the successful candidates.

Recommendation complied with.

Recommendation in case no. Ž-SA-05-605/10 P-208/10

In procedure upon complaints of the Municipal Council of Bosanski Petrovac's decision on dismissal of members of the Supervisory Board on behalf of the founder d.o.o. "Komunalno", having examined the allegations Ombudspersons recommended the Municipal Council of Bosanski Petrovac to re-examine said decision. Ombudspersons expressed their concern about the possibility that dismissal of members of the Supervisory Board was not motivated by the non-efficiency of the Company's functioning, but wish to install convenient persons on that position.

Recommendation complied with.

Recommendation in case no. Ž-SA-05-232/10 P-228/10

Acting on complaint of the appointment of Managing Board of the Privatization Agency of FBiH, Ombudspersons recommended the Government of the Federation BiH to cancel mentioned appointment since the principle of "legality" was not observed in the procedure.

There is no reply to this recommendation.

Recommendation in case no. Ž-SA-05-1044/10 P-211/10

Acting on complaint of the appointment of director of the BiH Labor and Employment Agency, Ombudspersons recommended the Council of Ministers BiH to cancel mentioned appointment since the principle of "legality" was not observed in the procedure since the female candidate who met all requirements from the aspect of professional qualifications, capabilities and experience was not appointed, although the Law on Gender Equality set out the obligation of the authorities to secure women participation in decision and management processes in all social life areas.

Recommendation is not complied with.

Recommendation in case no. Ž-BL-05-547/10

In procedure upon complaint of the appointment of director of PC „Banijapromet“ from Kostajnica, Ombudspersons found irregularities in the appointment process and recommended to the Supervisory Board of PC „Banijapromet“ Kostajnica to cancel the public competition for the appointment of director of the Company and to decide whether to observe provisions of the Law on Ministerial, Government and Other Appointments of the Republic of Srpska or the Law on Public companies in the appointment process.

Recommendation is not complied with.

B. Review of cases resulting in finding and conclusion establishing that there was no violation of Law on Ministerial, Government and Other Appointments

Finding and conclusion in case no. Ž-SA-05-1240/10

Acting on complaint of the appointment of director of the PC NIO Službeni list BiH, after the completed investigation, the Ombudsman found no irregularities in the process of this appointment and complainant could not prove the claims of being discriminated.

Finding and conclusion in case no. Ž-SA-05-962/10

With regard to the complaint related to the appointment of director of the Federal Employment Agency, after the conducted investigation and fact finding, the Ombudsman found that human rights of the complainant had not been violated, therefore there was no reason for the implementation of Article 16 of Law on Ministerial, Government and Other Appointments as the appointment was done in accordance with prescribed procedure.

Finding and conclusion in cases no.: Ž-SA-05-234/10; Ž-SA-05-406/10 i Ž-SA-05-412/10

On complaint of decision of the Assembly of the PCC „Komb“ d.o.o. Bužim on the appointment of the Committee for Selection of the Supervisory Board, the Ombudsman found that the appointment of the Committee for Selection was fair and in accordance to the prescribed procedure.

And finally, in this field, with a view to merger of Ombudsman institutions that was finalized in May 2010 the Ombudsman thinks that it is necessary for the entities to pass amendments to Article 16 of their respective Law on Ministerial, Government and Other Appointments so it reads as follows:

„Complaints must be submitted to the Responsible Public Official and copied to the Human Rights Ombudsman of Bosnia and Herzegovina,,.

CHAPTER V

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

CHAPTER V – ECONOMIC, SOCIAL AND CULTURAL RIGHTS

5.1. Introduction

In the Department for the protection of economic, social and cultural rights of the Ombudsman Institution during 2010 received was **962 complaints**, out of which 346 in Sarajevo Office, 344 in Banja Luka Office, 151 in Brčko District Office, 77 in Mostar Office and 44 in Livno Office. 147 cases⁴⁷ were carried forward from 2009 so that this Department handled a total of 1061 complaints in 2010. Most of it related to the violation of the right to work and employment related rights (488), the right to pension and disability insurance (171), and social care related rights (112) etc.

Since the database of the Ombudsman Institution was only established in 2010, the detailed review and analysis of the complaints structure in the area of economic, social and cultural rights is possible for that period, while the data related to previous years are treated only in cumulative number of finished cases, without analytic conclusions. Comprehensiveness of economic, social and cultural rights means that this Department is overburdened so that some works pertaining to this area are conveyed to other departments with smaller inflow of complaints, such as the Department for the Protection of the Rights of the Child or Department for the protection of the rights of national, religion and other.

Offices	Received cases	Pending cases	Archived cases
Banja Luka Office	344	101	243
Brčko Office	151	75	76
Livno Office	44	9	35
Mostar Office	77	39	38
Sarajevo Office	346	204	142
TOTAL	962	428	534

Table 6 shows complaints received and processed in the Department for the protection of economic, social and cultural rights

Out of the total number of complaints received by the Department for the protection of economic, social and cultural rights solved was 534, out of which 288 relates to labor relations. In this segment the most of cases was finished following the Ombudsman's intervention, and a lot of cases was closed for being ill-founded.

In the area of pension and disability insurance 94 complaints were solved, mostly following the intervention of the Ombudsman. Similar situation is also in complaints related to social care where 60 complaints were solved.

⁴⁷ This number of cases is related to the period from 2004 to 2009. So **13** cases from 2004, 2005, 2006 and 2008 was carried forward and 147 cases from 2009. In 2010 out of the total number of cases carried forward finished was 102 (95 cases from 2009 and 13 cases from the period 2004-2008). 58 cases was carried forward to 2011.

5.2. The right to pension

The Ombudsman's Department for the protection of economic, social and cultural rights received 171 complaints in 2010 related to pension and disability insurance.

Pension and disability insurance in BiH is governed by entity legislation, in the Federation of BiH by the Law on Pension and Disability Insurance, the Law on Contributions, the Law on Registration on Insured Persons and Beneficiaries of the Right Arising from Pension and Disability Insurance and the Law on Tax Administration of FBiH and in the Republic of Srpska by the Law on Pension and Disability Insurance, the Law on Contributions and the Law on Tax Administration of RS.

Given the specifics of this area and a large number of individual complaints of citizens related to the realization of the right to pension, Ombudspersons decided to prepare a special report on the right to pension and it was published in December 2010. Conclusions and recommendations of this Report were sent to the authorities. Special report on the right to pension in BiH clearly reveals all the reasons making the right to pension questionable, lists the violations of the rights committed by denying the right to pension and what aggravates this situation.⁴⁸

Recommendations of the Special report on the right to pension in BiH emphasize the need for the establishment of the ***more efficient system of calculation and collection of contributions for pension***. Therefore, the Ministry of Labor and Social Policy of FBiH and the Ministry of Labor and Veterans and Disabled Protection, Tax Administration of FBiH and Tax Administration of RS, Labor Inspection of FBiH and Labor Inspection of RS should re-examine the applicable legal framework, especially in part related to the understanding of the term „paid salary“.

It is necessary to ensure that the Ministry of Finance of RS and the Ministry of Finance FBiH ***explore possibility to strengthen capacity of the tax administrations***, especially in part related to more efficient scrutiny over the payment of contributions so that Tax Administration can take ***timely measures to ensure that beneficiaries are timely informed on the status of contribution payment*** the latest by the end of first half of any given year for the previous year. This would prevent situations when the beneficiary finds out that contributions have not been paid by their employers for years, so that they cannot realize their right to pension.

Finalizing of pension and disability insurance system's reform would be an important step forward in this area and confirm the Government's determination to treat this issue as a progressive right. To this end it is necessary that the Parliament of FBiH speed up the adoption of a Strategy of reform of pension sector in FBiH, and that both the Ministry of Labor and Veterans and Disabled Protection of RS and the Ministry of Labor and Social Policy accelerate the adoption of legal framework in accordance to the adopted strategies and to ensure establishment of the process of permanent consultation with the associations and institutions acting in this area.

⁴⁸ <http://www.ombudsmen.gov.ba>

Ombudspersons support efforts done on the establishment of co-ordination and information exchange system as an important segment in development of any area, especially in the area of pension and disability insurance. This is important for a large number of people realizing their rights within this system, particularly having in mind their mobility during their working life. For that reason co-operation of different entities would significantly decrease their troubles related to collecting evidence of employment. Ombudspersons of BiH are convinced that the Ministry of Civil Affairs of BiH should employ additional efforts to strengthening of Pension Sector, in particular capacity-building and strengthening of their staff so they can perform their co-ordination role better, while entity authorities need to support development of co-ordination and co-operation mechanism.

5.3. The right to work

In 2010 the Department for the protection of economic, social and cultural rights of the BiH Ombudsman received 488 complaints related to the violation of the right to work and employment-related rights.⁴⁹ The most of these complaints relate to the non-registration of employees within the Pension and Disability Fund/Institute, non-payment of contributions for health and social insurance, non-payment of overtime work, denial of severance payment at the end of working life, internal removal etc.

Significant violations of the rights of the employees are related to the employment contract termination by the employers invoking Article 87 of the Labor Law of FBiH and Article 124 of the RS Labor Law, that is, when employees are declared redundant due to technology change or termination due to the employee's incapability to perform their job.

From the complaints received in 2010 higher inflow of complaints related to the alleged violation of Article 16 of the Law on Amendments to the FBiH Labor Law and Article 17 of the RS Labor Law according to which the employer and the employee can agree to extend validity of temporary employment contract a couple of times, but not longer that two years all together counting from the date of the first temporary employment contract. This period includes periods when the contract was terminated, which can be up to two weeks long. If an employee agrees, following the two years period to continue working s/he is considered permanently employed. Therefore, **employers very often terminate temporary employment contracts** for more than two weeks **in order to avoid automatic transformation of temporary into a permanent employment contract**, which creates economic uncertainty for the employees.

When we compare the last year and this one an increase of complaints related to labor relations and employment could be noted. Particular emphasis is on **irregularities and illegal actions in public competition procedures and hiring process**. In their complaints the applicants highlight lack of transparency of competition procedure, that winning candidates often do not

⁴⁹ Economic, social and cultural rights are rights (hereinafter ESCR) of second generation, unlike political and civil rights that are the rights of the first generation. It contains a number of rights, such as: a) right to work and rights springing from work relations (right to work, right to just and fair conditions of work, trade union rights, b) right to social insurance, right to decent standard of living, right to health, rights to special protection of mothers with children and disabled persons right.

meet advertised job requirements, that the employers do not ensure the right to appeal or any other legal remedy. In addition to human rights violations, these cases often involve also violation of labor laws, therefore the Ombudsman established co-operation with inspections in order to ensure redress. Findings and opinions of inspectors are very important in such cases since they have direct field experience and possess necessary infrastructure for fact finding on the ground. This is very useful for establishment of human rights violations as well. Such practice is more rule than exception as it is in the most of democratic countries. ***Initiation of labor disputes additionally burdens judicial system***, so that these law-suits remain unresolved for years, despite their urgent nature, which renders the notion of court protection void. For initiation of labor disputes complaints often use documentation collected during the Ombudsman's investigations and it is often the only documentation at their disposal for lack of transparency of mentioned competition and hiring procedures.

Another problem in the area of labor relations, which can be regarded as permanent for its length and not removal of its causes, is a constant inflow of ***complaints related to the implementation of Article 182 (152) of the RS Labor Law and Article 143 of the FBiH Labor Law***, which relate to the obligation of re-establishment of legal employment status for every employee whose employment contracts were terminated due to war. Work of relevant commission was slow and inefficient from the very beginning. Huge amount of complaints related to this issue prove that the situation has not improved, as particularly emphasized in the 2009 Annual Report of the Ombudsman.⁵⁰ What raises special concerns is that many complainants have not received any response yet despite many urging letters. The Ombudsman emphasizes that these cases involve systematic human rights violations, especially the violation of principle *ex aequo et bono* (*from equity and conscience*) and it is a high time for these cases to be solved.

The Institution of Human Rights Ombudsman of Bosnia and Herzegovina is dealing for a long period now with problems of citizens who turned to the relevant Commission for Implementation of Article 182 of the RS Labor Law requesting their right to severance pay to be recognized. According to data for the Republic of Srpska, a huge number of complaints received in 2010 indicate that the situation has improved a little bit comparing to the previous years, yet nothing significant. So, according to data collected by the Commission, in October there were still 43,000 claims registered as unresolved. It needs to be said that in 2010 co-operation of the Commission and the Ombudsman was established in sense of correspondence and statistic data exchange. Upon complaints of citizens, the Ombudsman of BiH had to issue 146 recommendations in 2010 to the Commission recommending it to take necessary measures and decide on the citizens' claims. After the issuance of recommendations, the Commission started informing the Ombudsman on claimants who are not included in their database, then on those whose claims were solved, while in most cases proceedings are ongoing, and it should be noted that many claims are unclear, incomplete and do not allow for processing. The Ombudsman informed all the complainants on the status of their cases and called them to furnish the Commission with necessary additional documentation or whatever is necessary.

⁵⁰ Annual report on results of BiH Human Rights Ombudsman's activities, February 2010

In their letter no. 16-126-363-9/10 of 21.12.2010 the Commission informed the Ombudsman that in the period from January to September 2010 they processed 4,803 claims and delivered 1,352 decisions recognizing the right to severance pay, while they refused 643 claims for severance pay and rejected 180 claims. 52 claims were forwarded to FBiH. The Commission asked claimants to submit additional documentation in 2,192 cases and prepared 238 files for sending to the second-instance, as it prepared 101 response on petition.

In the Commission's replies related to the time schedule of proceedings on claims for severance pay, they emphasize that the Commission processes 3,000 claims a year in average, however, it is difficult to define an accurate time schedule since it depends on completeness of claims to a large degree.

With regard to this right to severance pay, in addition to proceedings for the recognition of this right, there are other problems related to the enforcement of already recognized right, especially because of budgetary restraints. For instance, the Government of RS had foreseen an amount of 2,000,000.00 BAM in 2010 for this purpose, out of which 588,084.00 BAM was paid up to 21.12.2010. These funds were spent for the enforcement of 300 decisions, while the rest of the planned budget (1,411,916.00 BAM) should be spent for realization of another 720 payments per the relevant decisions. For 2011, according to the information received by the Ombudsman, the Commission planned 2,000,000.00 BAM for this purpose.

The Ombudsman is aware that the Commission is lacking human and material resources to decide on all the claims and in cases when the rights are recognized to pay all the amounts due. However, it does not diminish their obligation and their duty to ensure full implementation of the RS Labor Law. Therefore the Ombudsman reiterates and underlines continuation of violation of the rights under Article 182 of the RS Labor Law by the Commission.

The Ombudsman Institution received also some complaints of citizens unsatisfied with non-enforcement of decisions, that is, non-payment of severance pay recognized in such decisions. They insist on receiving the schedule of payment in order to establish when they can expect to receive their receivables. In this regard the Ombudsman emphasizes that it employs efforts to have the decisions recognizing the right to severance pay implemented. To this end it established co-operation with the relevant Commission in order to improve enforcement of Article 184 of the RS Labor Law: *„Severance pay under Article 183 thereof shall be paid on expense of the fund established for that purpose out of the funds obtained following the sale of the state-owned capital and other sources pursuant to the law”*.

The cited legal provision, as understood by the relevant authorities does not define deadline for the payment, but it only defines that the payment will be made on the expense of the Fund established for that purpose so that neither the Commission as a first-instance body nor the Minister as a second-instance body are not obligated and have not the possibility to determine the deadline for payment. Also, the Commission has a database and lists containing the payment schedule, with priority given to those whose decisions were first delivered or those who live under exceptional circumstances (grave illness, death in family etc.) whereby the applicants should submit additional documentation. Given a large number of complaints

related to non-processing the claims for severance payment under 183 of the RS Labor, Ombudspersons of Bosnia and Herzegovina think that all the claims should be decided upon as a matter of priority and ensure the implementation of these decisions so that the authorities of the Republic of Srpska ensure realization of the planned budget for this purpose.

5.4. The right to social care

In the area of social rights, that is, the rights that are supposed to ensure social security the Ombudsman received 112 complaints in 2010.

One of the important issues tackled by the Ombudsman Institution in 2009 in the area of social care is ***the right to compensation during the maternity leave*** for female employees in the institutions of BiH on which was issued a special report including necessary recommendations. This special report aimed at stopping discrimination of female employees in the state-level authorities during their maternity leave and avoiding court proceedings. Since the issued recommendations were not observed, the intervention of the Ombudsman finally resulted in decision no. 12/09 delivered by the Constitution court of BiH establishing the violation of the rights of female employees in the institutions of BiH. This court process took place on proposal⁵¹ for the assessment of constitutionality of Article 35 of the Law on Salaries and Allowances in the institutions of BiH⁵² and Decision of the Council of Ministers on methods and procedure for realization of the right to allowance during the maternity leave in the institutions of BiH.

With regard to the ***unemployment allowance*** and complaints related to it, in case no. Ž-SA-04-1279/10 the Ombudsman issued recommendation no.: P-332/10 following lodging a complaint by D.G. who turned to the Ombudsman Institution as a person with residence in RS, while working in the FBiH. Following the termination of her employment contract, she was not able to get her unemployment allowance. Having conducted investigation, the Ombudsman found that entity legislations have not been harmonized in segment related to unemployment benefits payment.

In FBiH according to the Rulebook on methods of payment of public revenue and extra-budgetary funds on the territory of FBiH it is provided that employers registered in FBiH are obligated to pay a part of contributions (i.e. 70%) in RS for their employees living in the RS, and the remaining part of contributions in FBiH.

From the other hand, the RS Law on Contributions does not provide for possibility that an employer registered in FBiH pay only one particular contribution (particularly not a part of it) in RS, save for contribution for health care as provided by the relevant agreement signed between the entities.

⁵¹ This was proposed by twenty three delegates of the House of Representatives of Parliamentary Assembly and five delegated of the House of Peoples

⁵² ("Official Gazette of BiH" no.: 50/08 and 35/09

It arises from the above that evidently the entities have applicable legislation non-harmonized and also non-harmonized with internationally adopted standards. Co-ordination in the area of social rights falls within the mandate of the Ministry of Civil Affairs pursuant to the provisions of the BiH Constitution. Therefore the Ombudsman issued in this concrete case a recommendation to the Ministry of Civil Affairs to initiate procedure for harmonization of entity laws with active participation of the Employment Agency of the Republic of Srpska.

In response to this recommendation, the Ministry of Civil Affairs of BiH informed the Institution of the Ombudsman that in the framework of their mandate they take necessary measures for harmonization of regulations on entity levels aimed at attaining the agreement between the entity employment agencies. The Ombudsman will follow-up the implementation of this recommendations in 2011.

5.5. The right to education

Department for the protection of economic, social and cultural rights received 25 complaints related to the education. Most of these complaints indicate to violation of rights during the employment process in primary and secondary schools, which has an indirect impact to quality of education.

In the area of education problem of validation of foreign diplomas still exists. For instance, in case of M.G registered under number Ž-SA-04-707/10 the complainant lists irregularities and illegal actions in the course of public competition procedure in the Unified municipal body of Sanski Most Municipality where she was asked an additional question about the mandate of a body in charge of validation and equalization of foreign diplomas, where some of the relevant bodies invoke provisions of the Law on Validation and Equalization of Foreign School Certificates and Diplomas whereby⁵³ *validation and equalization of school certificates and diplomas on higher and high education, professional and scientific degrees, and finished years and semesters, trimesters and examinations shall be done by the relevant high school, faculty or art academy*, while another Framework Law on Higher Education in Bosnia and Herzegovina⁵⁴ provides that validation of foreign diplomas is conveyed to cantonal ministries, that should establish relevant commissions. Opinion of the Ministry of Civil Affairs of BiH in this matter is that according to Article 45 paragraph 1 item 7 of the Framework Law on Higher Education in BiH, Center for Information and Document Validation in Higher Education ... „in accordance with The Lisbon Recognition Convention and documents attached thereto recommends the relevant Ministry of the Republic of Srpska, cantonal ministries and the Brčko District BiH on recognition of diplomas obtained outside BiH with the aim of employment, continuation of education and realization of other rights arising from the acquired qualification“. The complainant in this particular case sought court protection before the Municipal Court of Sarajevo.

⁵³ “Official Gazette of SRBiH” no.: 07/88

⁵⁴ “Official Gazette of BiH” no.: 59/07 and 59/09

During 2010 the Ombudsman Institution registered a large number of complaints related to access to employment in primary and secondary schools whereby complainants indicate the existence of irregularities and illegalities in competition procedures, incidents of nepotism and support to somebody's protégé in the course of employment process, which has negative impact to quality of education in school. As a striking example of nepotism we could give the example of a case where the complainants⁵⁵ revealed that in the Mixed Secondary Economy and Hospitality School Travnik, the school principle employed her son, and what makes it even worse is the fact that her husband is also working in the same school. In this case the Ombudsman Institution issued recommendation asking the School to cancel this appointment and enable all the candidates to have equal access to competition under the same conditions without taking sides to anybody's favor. The School did not comply with this recommendation justifying it by the fact that the complainants also sought court protection. This course of action is very problematic since the mentioned competition was for a temporary employment so by the time of court decision's delivering the need for such position could expire.

5.6. Rights of elderly persons

Human Rights Ombudsman of Bosnia and Herzegovina during 2010 prepared their Special report on the rights of elderly persons with emphasis on elderly persons accommodated into the specialized institutions. Special report on the situation of elderly persons is indicating to the need and importance of ensuring the rights of elderly persons – persons in their „third age“. Demographic statistics demonstrating society ageing trends confirm the actuality and importance of safeguarding the rights of senior citizens. This phenomenon is development related and reflects many social, psychological, medical, economic and other problems. BiH is facing the society ageing trend of ageing which will be continued in the future, need to take better care of elderly and their problems.

The above trend is inevitably a huge burden to any social welfare system. This is present even the more in economic crisis periods, when lack of funds exposes elderly persons to a risk of becoming a new endangered group.

The Ombudsman's experience resulting from the processing of the individual complaints lodged within the Institution, visits to the elderly care institutions and consultative meetings held with the representatives of the authorities and institutions in charge of the issues related to elderly persons, in particular those frail, abandoned by their families, poor and vulnerable, clearly **shows the lack of social care** with regard to the rights of elderly reflected as their neglecting and denial of their human rights.

⁵⁵ Ž-SA-04-1234/10 and Ž-SA-04-1541/10

Lack of adequate and specialized normative framework to support elderly persons in realization of their human rights and the fact that the community is taking care of relatively small number of elderly people through the social welfare system and mostly those accommodated in the institutions and centers, insufficient in number, and some of them even not falling within the social welfare and social care system, speaks enough about a general **absence of a systematic approach** to the regulation of their rights. When speaking on institutions it is necessary to say that their capacity is insufficient and many are not included into the social care system, which creates perception on social exclusion of a number of elderly persons.

Ombudspersons have observed that institutions accommodating elderly persons, in particular the relevant authorities charged with the realization of the rights and generally of the status of this category of people are both familiar and concerned about the fact that population of elderly is so large in BiH, that it comprises the highest percentage of the poor people, that they are neglected to a large degree, all of it for bad economic situation, as a consequence of war, for being displaced and other reasons. Presence of such concerns gives hope that this awareness of problems will lead to the solution and faster and more efficient improvement of their situation and their human rights.

Issues raising general concerns are absence of strategic documents and the relevant legislation exclusively governing the rights of elderly. Adoption of such legislation would be in compliance with the European Social Charter and would contribute to the realization of the primary goal related to the elderly persons, that is, that they become full members of society preventing their being socially rejected, alienated and neglected. In addition to that, it is necessary that their pensions and other social care related entitlements and benefits to be sufficient to provide them a decent life, a standard life, adequate medical care, housing policy and sufficient number of institutions taking care of elderly, in particular day-care centers, community based centers and clubs, centers with prices they can pay. What is very much missing is outreach service and day care provision, which is regarded as one of social insurance benefits to be provided by public and private institutions using public funds and a part of the beneficiaries' contributions. Some community provided assistance to the families of the elderly suffering from dementia or otherwise dependent elderly persons would be particularly welcome.

This Special report on the situation of elderly persons include recommendations of the Ombudsman to the Ministry of Civil Affairs of BiH, the Ministry of Health and Social Policy of FBiH and the Government of Brčko District to take urgent measures to ensure the improvement of the situation of senior citizens, prevent their alienation and make efforts to prepare strategic documents and lacking legislation to govern the rights of elderly persons.

Since the period from the presentation of this Special report to the time of this Report's preparation was very short, the Ombudsman cannot yet assess the degree of implementation of its recommendations. However, it is very important to ensure compliance with the issued recommendations having in mind the size of related population. It could be seen from the report that it is mostly about economic and social rights, which are progressive in their nature,

which means that they cannot be instantly fulfilled. Yet, it is very important to ensure political consent for reforms in the areas comprised with this Report, which would lead to the improvement of the rights of categories of citizens mentioned.

Ombudspersons will keep following the situation in areas dealt with in this Report since the categories of citizen subject to this Report are the most vulnerable with aggravated access to justice and legal assistance.

CHAPTER VI

RIGHTS OF PERSONS WITH DISABILITIES

CHAPTER VI – RIGHTS OF PERSONS WITH DISABILITIES

6.1. Introduction

Department for the protection of the rights of persons with disabilities **received 147 complaints** in 2010, out of which 8 by Banja Luka Office, 135 in Sarajevo Office, 3 in Mostar Office and one in Brčko District's Office. 85 complaints was carried forward from 2009 so that it was **234 complaints in total** during 2010 in this Department. The most of complaints is about non-payment of receivables to beneficiaries under different rights in a prolonged time period (1 to 6 years).⁵⁶ According to the Federal the Ministry of Labor and Social Policy the reason behind that is lack of funds in the Federation BiH's budget.

For incidence of a large number of violations of the rights of persons with disabilities, the Ombudsman decided to issue their Special report on the rights of persons with disabilities in BiH which includes recommendations to the relevant authorities to enable disabled persons equal access to the rights and to closely follow-up the strict observation of the rights of persons with disabilities according to domestic legislation.

Ombudspersons of BiH also recommend ***harmonization of practical implementation of the law*** and clear definition of the scope of work of the public authorities at different levels and in this regard suggest adoption of necessary laws and by-laws to comprehensively and satisfactorily govern this area. Permanent care of disabled persons and their families is recognized as one of the obligations of the authorities at all the levels in Bosnia and Herzegovina. It is recommended for **local community to be included** in order to enable better life of this category of citizens.

In order to enjoy the right to monetary allowances entitled to and improvement of the disabled person's situation, the Ombudsman recommends to the relevant authorities to ***pay all the entitlements of the disabled on a regular basis*** with no delays and interruptions, to re-allocate budgetary means envisaged for the disabled persons care and to find additional funding sources to meet the needs of these people and to contemplate re-establishment of the entitlements to the disabled with disability degree below 90%. In this regard, in order to prevent discrimination, one of the recommendations is related to equalizing of criteria for the allocation of allowances at all the grounds.

Since the database of the Institution was established only in 2010, a detailed review of complaints according to different criteria is possible for that period, while it is not possible for previous years and data related to these years could be only cumulatively seen with no possibility of analysis.

⁵⁶ Complaints related to the persons with disabilities are the following: Ž-SA-02-502/10, Ž-SA-02-271/10, Ž-SA-02-254/10, Ž-SA-02-190/10, Ž-SA-02-83/19, Ž-SA-02-667/10, Ž-SA-02-655/10, Ž-SA-02-586/10, Ž-SA-02-584/10, Ž-SA-02-877/10, Ž-SA-02-834/10, Ž-SA-02-794/10, Ž-SA-02-1272/10, Ž-SA-02-793/10, Ž-SA-02-791/10, Ž-SA-02-705/10, Ž-SA-02-1034/10, Ž-SA-02-996/10, Ž-SA-02-792/10, Ž-SA-02-817/10.

The Ombudsman Institution's Offices	Number of complaints per offices	Number of finished complaints
Banja Luka Office	8	6
Sarajevo Office	135	61
Mostar Office	3	2
Brčko District Office	1	-
Total:	147	69

Table 7 showing received complaints by the Department for the protection of the rights of persons with disabilities per offices

Out of 234 processed complaints in 2010 archived was **69 complaints**, mostly following the issuance of the relevant Special reports with recommendations (24). All these complaints were received in the Ombudsman's Sarajevo Office. 11 cases were ill-founded, in one case the Ombudsman had no mandate, and in 10 cases rights of the complainants were restored following the intervention of the Ombudsman. 17 cases were closed since the complainants lost their interest in further pursuance of their cases.

The Ombudsman Institution's Offices	ill-founded	Out of mandate	During the plea request and announced investigation of the Ombudsman	Otherwise	Lack of interest of the complainant	Special report	Total
Banja Luka Office			2	1	3		6
Sarajevo Office	11	1	6	5	14	24	61
Mostar Office			2				2
Brčko District Office	11	1	10	6	17	24	69
Total:							

Table 8 showing complaints processing by the Department for the protection of the rights of persons with disabilities per offices and method of case solving

Issue of the rights of persons with disabilities include civil and political rights, as well as economic, social and cultural rights and often demand multidisciplinary approach. There are, however, some specifics demanding the issues related to the persons with disabilities to be specially emphasized, which is particularly so when it comes to the ensuring of principle of non-discrimination as an absolute right.

6.2. Discrimination of persons with disabilities

In spite of the international documents, constitutions in BiH and the adopted Law on Prohibition of Discrimination⁵⁷ ***persons with disabilities are subject to multilateral discrimination in BiH.***

The applicable legislation governs the rights of the disabled by war, civil victims of war and peace period disabled persons in different ways. Different are also procedures and conditions for recognition of disability status and different funds for the realization of the rights and entitlements on that basis where allowances for the disabled by war are far higher than the allowances for the disabled whose disability appeared in time of peace.

Discrimination of disabled persons is in place ***according to their residence, that is, place of abode***, this is particularly expressed in cases when they change place of residence and the rights established by the relevant bodies are non-transferable to the territory of the other entity.

What raises particular concerns is realization of the rights of civil victims of war ***that can prove impossible for the existence of legal obstacles***. In the Republic of Srpska there is the ***Law on Protection of Civil Victims of War***⁵⁸ adopted in 1993 according to which the status of civil victim of war could only be obtained within the deadline of 5 years from the date of the law coming into force, that is, the date when the person in question was wounded, killed or became missing. Since these deadlines have expired, and for many objective factors some disabled persons could not file their claims before the relevant bodies earlier as particularly indicated to by the UN committees, in 2007 adopted was the Law on Amendments to the Law on Protection of Civil Victims of War establishing ***the additional six months period*** in which they could file their requests for the recognition of civil victim of war's status. However, this additional deadline was not sufficient for all the persons pertaining to this category entitled to disability benefits since many of them are displaced persons as well, and information on these amendments were not published, adequately presented and made accessible to general population.

In the Federation of BiH ***disproportion in funds earmarked for disabled persons*** in different cantons could be noted, which is important since these rights are realized on cantonal level.

Discrimination in the Federation of BiH is also in place with regard to disability degree so that only those whose disability degree is 100% and 90% can realize their rights according to the ***Law on Basics of Social Protection, Protection of Civil Victims of War and Protection of Families with Children***⁵⁹, while persons with disability degree below that percentage have lost that entitlement. Recommendations of the UN committees, especially Committee Against

⁵⁷ "Official Gazette of BiH" no. 59/05

⁵⁸ "Official Gazette of the Republic of Srpska: 25/93, 32/94, 37/07 and 60/07

⁵⁹ "Official Gazette of the Federation BiH", no.: 36/99, 54/04, 39/06 and 14/09.

Torture recommending the BiH authorities to establish the rights of disabled persons according to their needs instead of their affiliation to certain categories and groups have not been complied with.

6.3. Payment of disability allowance

Since the most of complaints lodged within this Department is related to non-payment of entitlements due to the beneficiaries in the Federation of BiH in longer time period the Ombudsman notes that realization of payment through court remains useless. Reasons involve ***different interpretation of legal provisions by the different court and different approach of the court to this issue*** finding decisions of the social welfare centers not final and binding instruments in sense of Article 23 Item 2 of the Law on Executive Proceedings based on which request for enforcement could be filed. Opinion of court is that the aggrieved party can seek satisfaction in law-suit proceedings where they can request obligation of payment based on the recognized right to be established and positive decision of court to this end would then be final and binding instrument. So, parties are directed to court to seek their legally established rights instead of the efficient implementation of relevant laws.

At the same time, different formulations given in the Law on the Rights of Veterans and Members of Their Families in the FBiH⁶⁰ and the Law on Basics of the Social Protection, Protection of Civil Victims of War and the Protection of Families with Children⁶¹ related to payment of disability allowance indicate further differences in treatment of disabled by war and persons with disabilities. For instance, Article 3 of Law on the Rights of Veterans and Members of Their Families in the FBiH provides that decisions related to the entitlements to allowances under this Law should be realized ex officio by the first-instance body. Such legal solution is not present in the Law on Basics of the Social Protection, Protection of Civil Victims of War and the Protection of Families with Children which delays efficient realization of these entitlements for years.

These gaps clearly show absence of efficient mechanisms to ensure beneficiaries of entitlements to receive their receivables based on disability living allowance and attendance allowance, budget for which needs to be provided by the Government of the FBiH for each calendar year.

⁶⁰ "Official Gazette of the Federation BiH", no.: 33/04 and 56/05

⁶¹ "Official Gazette of the Federation BiH", no.: 36/99, 54/04, 39/06 and 14/09

6.4. Assessment of disability degree

A large number of complaints lodged within the Ombudsman relate to the length of period of ***waiting to be subjected to forensic expertise of their health conditions*** by the Institute for Medical Forensics (hereinafter: the Institute) or the end of appellate proceedings from decisions on disability assessment made by the Institute.⁶² Review proceedings are unjustifiably long and do not involve informing either the beneficiary or the public as to the end of it. This is unacceptable since the Institute is a ***public institution*** which makes it obligated to inform the citizens on all the relevant facts related to its functioning, particularly the method of processing the cases.

It is particularly worrying that in the health situation review procedure of the disability entitlement beneficiaries the Institute issue findings and opinion for those who had disability degree previously established to be 100% now decrease it to below 90%, which consequently means ***loss of previously acquired entitlements for them***. Since this review is conducted by the same body which had made the previous assessment, that is, the Institute, it rises concerns that the Institute is decreasing degree of disability without any explanation and exact data. Such procedure creates space for doubts in competence of persons assessing the situation given the pressure of the authorities to reduce entitlements beneficiaries to have savings in budget earmarked for this purpose. From the human rights protection aspect it shows ***absence and lack of readiness of the state to ensure protection of the citizens*** in accordance with the international documents it ratified and accepted commitment to their implementation.

Therefore the Institution of the Ombudsman thinks that ***all the authorities at all levels in BiH***, in accordance with their mandate, ***should take measures to ensure realization of the rights of persons with disabilities*** on the whole territory with no discrimination, which is, pursuant to the generally adopted international standards an absolute rights. These measures need to be aimed at removal of all obstacles in realizations of the rights of disabled persons, which are consequence of their place of residence, or abode as a basis for determination of disability status and establishment of a unique approach to the existential issues of the disabled. In order to provide access to all public institutions Ombudspersons emphasize necessity of urban planning and removal of so-called architectural barriers, that is to enable access to the disabled.

⁶² Ž-SA-02-464/10, Ž-SA-02-54/10, Ž-SA-02-533/10, Ž-SA-02-519/10, Ž-SA-02-717/10, Ž-SA-02-924/10, Ž-SA-02-533/10

CHAPTER VII

RIGHTS OF NATIONAL, RELIGIOUS AND OTHER MINORITIES

CHAPTER VII – RIGHTS OF NATIONAL, RELIGIOUS AND OTHER MINORITIES

7.1. Introduction

In 2010 Department for the protection of the rights of national, religion and other minorities received **eight complaints**, out of which 3 in Sarajevo Office and 5 in Banja Luka Office. Since the Ombudsman received a lot of other complaints in 2010, for reasons of efficiency, staff of this Department was engaged in proceedings of other complaints as well.

Relatively low inflow of complaints in the Department for the protection of the rights of national, religion and other minorities compared to other departments is a consequence of many factors involving the following:

- **Minority members are not aware of the existence of this Department** within the Ombudsman particularly earmarked to the protection and promotion of the rights of minorities guaranteed by the international standards and relevant legislation;
- There were also complaints about **violation of minority rights registered in Department for elimination of all forms of discrimination**, since many human rights violations involve discrimination. For instance, there was a complaints about impossibility to be elected for members of Presidency of BiH and House of Peoples of Parliamentary Assembly of BiH,⁶³ and non-proportional participation of minority members and others in public services, in accordance to the last census;
- Most of complaints lodged within the Institution in 2010 related to the protection of their rights **in the field of social insurance and health care**, but since they did not claim denial of these rights for their affiliation to minorities, these complaints were allocated to the Department for the protection of economic, social and cultural rights.

In its Annual report 2010, **the Ombudsman stressed necessity of implementation of the European Court of Human Rights's ruling** in case of Sejdić&Finci v. BiH since non-enforcement of this ruling represents further violation of the rights of minorities and others, as it also rises question of non-existence of efficient mechanisms to ensure rule of law in BiH, which is among the basic principles of all democratic societies.

Although the number of complaints related to the rights of national minorities was small, this Department from its field experience found out facts that impacted the efficient realization of minority rights. There is a problem with minority representation, emerging from the structure of their associations, which should be organized so as to facilitate communication, presentation of challenges facing them and seeking solutions. Issues involving self-organizing of minorities through different associations and organizing of bodies dealing with protection of minority rights should be raised to a higher level and these processes improved.

⁶³ Complaint no.: Ž-SA-06-1610/10

Another problem, which is more complex, is about ***impossibility to enjoy the rights for not being aware of these rights*** or failure to meet preconditions for the enjoyment of these rights. This mostly relates to Roma as the largest national minority in Bosnia and Herzegovina. Many members of this minority still do not possess identification documents, which aggravates their access to other rights such as the rights to residence registration, and there from arising the rights to health care, social protection and education.

There also emerged a ***problem involving enjoyment of Roma rights determined in the Roma Housing Program***.⁶⁴ In Bosnia and Herzegovina, entities and municipalities have built or re-constructed 210 dwelling units for Roma in 2010, and the same number is planned to be constructed in 2011. In practice, Roma are not very often able to gather necessary documentation for filing housing request and that restricts their access to housing. There is an open question as to whether the authorities should obtain necessary documentation *ex officio*.

This problem should also be regarded in the contest of ***inadequately regulated provision of free legal aid***, which, according to information available to the Ombudsman, has not been guaranteed on same principles and equal criteria, and clients must often prove their social vulnerability status for which purpose they have to pay administrative fees.

In September 2010 European Charter on Regional or Minority Languages was ratified, and some previously commenced activities continued in order to improve living conditions for minorities, primarily Roma, that is, implementation of action plans for Roma in the field of health care, employment and housing.

One of the biggest problems facing Roma are prejudices and stereotypes on them, negative reporting and like.

During 2010 the Ombudsman Institution received complaints of the Association of Turks following which it conducted investigation in cantons in order to find out which cantons have regulated minority issues in accordance with Article 23 of the Law on Protection of National Minorities Rights in FBiH.⁶⁵ Following the investigation it was found that Tuzla and Sarajevo Canton have it done so, while the activities to this direction missed in other cantons, which could be explained by the fact that a small number of minority associations have been registered in these cantons.

On local level it was noted that many municipalities in BiH help minority associations while organizing various cultural manifestations and earmark funds in their budget for such purposes, which is a positive step forward toward the improvement of the situation of national minorities.

Non-implementation of the applicable legislation aggravates the rights of national minorities. According to available data, out of 17 national minorities listed in the Law on Protection of National Minorities Rights in FBiH, the largest in number is Roma minority and

⁶⁴ Complaint no.: Ž-SA-03-1310/10,

⁶⁵ "Official Gazette of the Federation BiH", no.:70/08

they are at the same time in the worst situation from the aspect of health care, education, housing etc.

Most of the attention attracts discrimination against members of minority groups when it comes to their active standing for elections to certain political positions as also established in the relevant decision of the European Court of Human Rights.

CHAPTER VIII

RIGHTS OF DETAINEES/PRISONERS

CHAPTER VIII – RIGHTS OF DETAINEES/PRISONERS

8.1. Introduction

The Ombudsman's Department for the Protection of the Rights of Prisoners/Detainees in 2010 received **101 complaint** related to the rights of prisoners and detainees, out of which 82 in Sarajevo Office, 15 in Banja Luka Office, and 4 in Brčko Office. From previous years Department carried forward 72 cases so it had 170 complaints in total. Main reasons for complaints of prisoners/detainees were the following: the right to health care, extra benefits, release on parole and the right to visit.

In the reporting period **110 complaints** were solve, out of which **52 complaints** received in 2010 and **58 complaints** carried forward from previous years. Methods of resolution should be regarded from the aspect of specific reasons compelling the complainants to turn to the Ombudsman. Release on parole, or extra benefits are the most frequent reasons for filing complaints, which indicates the presence of problems related to criteria and methodology used in deciding on granting of such rights, which will be explained in more detail later. Investigation process includes communication with various subjects, especially when it comes to extra benefits, where replies of respondent parties which have decisive impact to the enjoyment of these rights.⁶⁶

Method of complaints solution	2006	2008	2009	2010	Total
Protection achieved following the plea request and announced investigation by the Ombudsman			6	2	8
Recommendation issued			1	3	4
Special report issued					
Lack of complainant's interest in further case pursuing		1	12	11	24
Assigned to another institution/office			1	3	4
Resolved otherwise	2		33	26	61
Complaint ill-founded			2	7	9
Total	2	1	55	52	110

Table 9 shows complaints received and processed in the Department for the protection of the rights of detainees/prisoners and the method of case solving

8.2. Situation in prisons

In September 2009 the Ombudsman published their Special report on human rights situation in the institutions for criminal sanctions execution in BiH (hereinafter: the Special report) with recommendations issued to relevant institutions in order to contribute to the improvement of the human rights situation in these facilities. In this part of the Annual Report for 2010 Ombudspersons present their evaluation of the progress achieved following their visits

⁶⁶ These replies primarily include standpoints of the surrounding community

realized in 2010 to the facilities for execution of criminal sanctions in BiH. These visits focused to establish degree of compliance with the recommendations of the Ombudsman issued in 2009. This evaluation is based on received complaints by the Department for the protection of the rights of prisoners/detainees and monitoring and analysis of the situation following field visits. In this report Ombudspersons present the situation, data on observance of human rights of prisoners and detainees, and suggest measures to be applied to improve the situation.

Report on situation in criminal sanctions execution facilities in 2010 includes information on visits made by the Ombudsman staff to all penitentiaries in BiH. Following these visits the Ombudsman published relevant Observations to which no party made any significant objections which only proves their objectivity and non-partiality. Transparency and public scrutiny of the administration are constituent part of any closed system based on principles of democracy and rule of law, which is particularly important when it comes to scrutiny over the mandate used by the state bodies in regard to persons deprived from their liberty.

Visits of the Ombudsman staff have several significant aspects, to name only the most important ones:

Preventive function: the fact that some external party is making regular visits to a prison institution as such contributes to the protection of persons accommodated in that institution. This means that such external control will only be accepted by the management of such institution if they can see benefits of this protection mechanism;

Direct protection: field visits allow for fast reaction to problems of prisoners and detained persons and pressure on responsible authorities to deal with it;

Documentation: during the visit it is possible to see material conditions of prison and/or detention unit and assess their adequacy. Collected information creates the basis for opinions that need to be documented and used for determination of suggestions as to the correctional and punitive measures;

Support to detained or convicted persons: direct contact with persons deprived from liberty is a form of moral support as such. Visits to the institutions are aimed at finding out what their material needs are not covered by the relevant authorities or to the individual provision of legal aid;

Basis for dialogue with the management of the institutions: visits enable direct dialogue with the management and employees of the Institution. If the dialogue is based on mutual respect it leads to the establishment and development of constructive relationships and in this process opinions of the prison officials and staff on their working conditions and problems they face could be heard as well.

8.2.1. Observations and concerns by the Ombudsmen

a) Positive observations

Taking into account repeatedly stressed the fact that the main source of reduction or violation of human rights of persons deprived of liberty comes from overcrowded prisons, the ombudsmen particularly welcome construction of new prison facilities in the Federation of BiH. In **Correctional Institution Tuzla - Kozlovac**, pavilion of special surveillance in Zenica prison, construction and equipping of section in Ustikolina and Orašje, planning of construction of new facilities in Mostar prison at location of former barracks Heliodrom.

New facility was planned to become operation until end of 2010 in **Orašje Section**, where library and reading room, training room, kitchen and living room should be located, which would enable broadening of Institution's capacities for additional 34 beds. Unfortunately this process was postponed to beginning of 2011.

Provision of certain financial resources by FBiH made significant development in Forensic-psychiatric department of **Zenica prison**. This section is dislocated outside of Zenica prison and placed outside the prison walls in a completely adapted and equipped building in conformity with required standards for ensuring better conditions of accommodation of persons who committed a criminal offence in the state of mental incapacity. In this new department there are 6 sleeping rooms, dining room, infirmary, sanitary facilities and one two beds room for isolation, including great walking yard and physical training of patients. This facility enables accommodation of smaller groups, which is essential for keeping of patient's dignity, as well as his/her psychological and social rehabilitation. However, the ombudsmen repeatedly underline that existing facility is just temporary option and that it is necessary to reach final solution for this problem in FBiH.

In RS there is also provision of significant financial resources aimed to improving of conditions in institutions for execution of criminal sanctions. There is also ongoing construction of new facilities and adaptation of old facilities, recovery and reconstruction of existing facilities. So, in **Bjeljina prison**, at the space of former barracks in Patkovači-Golo brdo, concrete wall is built and new department of detention unit with 60 beds more and with possibility of broadening of its capacities. This facility should have become operational by the end of 2010 or at beginning of 2011. There are also plans for construction of prisoners department at this location with 150 beds more.

In **Doboj prison** a new facility is constructed and is in use since August of 2010, which creates significant new capacities from 120 beds to 180 beds, out of which there are 66 detention beds, on stationary with 4 beds, reception room in the prison with 10 beds, as well as living room. A new facility of special surveillance with 50 beds is now in function in **Foča prison**.

Regarding submission of complaints either by convicts or employees, we stress example of **Mostar prison** where management of the institution installed a box for this purpose. This led to detection of corruption of Head of Receiving and Releasing section who was bribed by prisoners. There is positive assessment of initiatives for finding out of new possibilities of work

engagement of convicts in Mostar prison through construction of grass covered football playgrounds, which are to be rented and in this way enable a number of prisoners a work therapy.

The Ombudsmen particularly wish to stress ***professional cooperation between managements of institution for execution of criminal sanctions and Ombudsman Institution***, which particularly applies to provision of requested information, enabling of visits to all parts of the prisons, insight in documentation as well as enabling contacts with persons the Ombudsmen wish to interview. In order to check effectiveness of functioning of the system for execution of criminal sanctions in BiH, in forthcoming period the Ombudsmen shall intend to make a number of unannounced visits to the institutions for execution of criminal sanctions.

The Ombudsmen particularly welcome completion of the project “Efficient prisons managing in BiH” implemented with participation of experts of the Council of Europe, including professionals and experts from entire BiH prison system. This project also included training of 460 employees of institutions for execution of criminal sanctions. Results of this work shall certainly help BiH to implement modern European standards in prison system managing, that is, to establish basis for greater expectations and better results in this area.

b) General concerns

The Ombudsmen still see problem related to ***non-harmonized criminal legislation***, due to which persons deprived of liberty are also deprived of right to serve their prison sentences under equal conditions⁶⁷ At the same time the Ombudsmen spot frequent changes of legislation in this area, without consolidated wording, which aggravates application of legislation, including non-undertaking enough effective measures for adoption of implementing by-laws

1. Accommodation of detainees/prisoners

Non-existence of institution for execution of criminal sanctions at State-level, as well as non-existence of institution for accommodation of persons who committed a criminal offence in the state of mental incapacity in significant measure diminish effectiveness of judicial system,

⁶⁷ Criminal Code of BiH, „Official Gazette“, no: 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 32/07, 08/10. Criminal Code of FBiH „Official Gazette of FBiH“, no: 36/03, 37/03, 21/04, Criminal Code of RS „Official Gazette of RS“, no: 49/03, Criminal Code of District of Brčko „Official Gazette of the District of Brčko“, no: 10/03, 45/04, 06/05.

The Law on Criminal Procedure of BiH, „Official Gazette of BiH“, no: 3/03, 32/03, 36/03, 26/04, 63/04, 13/05, 48/05, 46/06, 76/06, 29/07, 32/07, 53/07, 76/07, 15/08, 12/09, 16/09, the Law on Criminal Procedure of FBiH „Official Gazette of FBiH“, no: 35/03, 37/03, 56/03, 78/04, 28/05, 55/06, 27/07, 53/07, 64/07. The Law on Criminal Procedure of RS, „Official Gazette of RS“, no 50/03, 111/04, 115/04, 29/07. The Law on Criminal Procedure of the District of Brčko, „Official Gazette of the District of Brčko“, no: 10/03, 48/04, 06/05, 12/07, 14/07, 21/07.

The Law on Execution of Criminal Sanctions, Detention and other Measures in BiH, „Official Gazette of BiH“, no: 13/05, 53/07, 97/07, 37/09, the Law on Execution of Criminal Sanctions in FBiH, „Official Gazette of FBiH“, no: 44/98, 47/99 i 12/09, the Law on Execution of Criminal Sanctions and Penalties in RS, „Official Gazette of RS“, no: 64/01, 24/04, 68/07, the Law on Execution of Criminal Sanctions and Penalties in the District of Brčko, „Official Gazette of the District of Brčko“, no: 08/00, 01/01, 19/07, 36/07.

particularly in segment of execution of criminal sanctions. These facts arise question of responsibility of BiH authorities for ensuring implementation of Article 6 of European Convention on Human Rights and Fundamental Freedoms.

Out of all existing accommodation capacities BiH disposes only Detention unit of BiH Court, which is not enough, having in mind limitation of capacities to 21 detention beds and currently 78 persons are under suspicion or are indicted to whom BiH court sentenced detention. BiH Ministry of Justice announces that construction of State-level prison, i.e., Institution for execution of criminal sanctions, detention and other Measures should start soon.

In State prison of about 300 beds, construction of which has been planned, there should be accommodated detainees and convicts sentenced by BiH Court. From BiH Court there comes warning that non-existence of such institution constitutes a great problem, both from aspect of security and finances, and it is also stressed that construction of State prison would disburden existing prisons and improve conditions in all institutions for execution of criminal sanctions.

According to data held by the Ministry of Justice of BiH, in detention unit of BiH Court currently there are 20 detainees, while according to data held by the Ministry of Justice of FBiH, in 6 correctional institutions in BiH, including 3 detention units, there are 1671 detainees and convicts. The Ministry of Justice of RS reports that in 6 correctional institutions there are 1058 persons, out of which there are 861 convicts and 197 detainees. In the District of Brčko there is not institution for execution of criminal sanctions and therefore persons from District Brčko territory sentenced to prison, based on Memorandum of Understanding, are accommodated in institutions in FBiH or RS.

Number of institutions		Number of accommodated persons	Prisoners	Detainees
FBiH	6 prisons	1671	-	-
	3 Departments			
RS	6 Prisons	1058	861	197

Table 10 shows accommodation capacity in penitentiaries in BiH

During the visits to institutions for execution of criminal sanctions in 2010 it was determined that in FBiH overcrowding is still the main problem of prison system and generates majority of reductions or violations of rights of persons deprived of liberty. Generally, in all institutions for execution of criminal sanctions there is ***a lack of adequate treatment of sentenced persons who belong to some of vulnerable categories***, such as minors, drug addicts, disabled persons, chronically ill persons, women, etc. In the same way as presented in their previous report the Ombudsmen are of the opinion that it is necessary repeatedly to stress that overcrowding long time ago ceased to be exclusive organizational problem of prison system. Undoubtedly, there are problems which the State should resolve systemically and accompanied by creation of long-term plan.

BiH Ombudsmen repeatedly stress that regarding capacities of institutions in FBiH situation is more difficult. According data held by Ministry of Justice in FBiH, even **932**

sentenced persons wait for execution of sanctions, since in the prisons simply there is not available beds. In RS the situation is somewhat better and in correctional institutions there are ***200 free beds***.

In present report BiH Ombudsmen wish to express that experience of a number of countries shows that construction of new prisons and broadening of capacities does not resolve problem of overcrowding but that it is necessary to act according to Recommendation R (99) 22 of the Council of Europe, according to which denial of liberty should be the last measure and exception and that it is necessary to do affirmation of alternative sanctions, and determine duration of detention as rarely and shortly as possible.

In some correctional institutions (e.g. Bijeljina prison, Sarajevo prison) it is determined that ***conditions of accommodations are not in conformity with hygienic and health standards***. In convicts' cells the food is held on the floor, frequently together with shoes, which all together creates impression of untidiness and shabbiness. In cells there are not enough place for tables and chairs, so the food is consumed in beds and poor hygienic standards is additionally burdened by the fact that sanitary facilities are worn out and damaged, and on the floor there are wooden dampened beams, which all together creates gloomy impression.

Serious problem still exists in the fact that ***persons who committed the most serious crimes*** (such as serious robbery, drugs dealing or trafficking in human beings, war crimes, merciless murders, kidnapping, blackmails or organized crime) ***do their sentences in the same place together with persons who committed less serious criminal offences***. It is clear that such situation in correctional institutions is not long-term sustainable, particularly having in mind that the ways for successful social reintegration are not the same for serious and less serious criminal offenders. Accordingly, in the system of execution of criminal sanctions effective measures for implementation of ombuds-recommendations are not taken concerning the issue of improvement of accommodation of convicts who committed different criminal offences, including elimination of obvious weakness in the system.

2. Conditional release

The Ombudsmen paid particular attention to analyses of application of institute of conditional release of prisoners in FBiH because Ombudsmen Institution was addressed by a group of convicts from Mostar prison (114 convicts) and Sarajevo prison – section Igman (50 convicts), complaining about practice of application of institute of conditional release which is, according to allegations contained in complaints, applied only exceptionally and enabled only to privileged persons.

The Ombudsmen remind that improvement of application of conditional release is one of the priorities identified in the Strategy justice sector reform in BiH and, according to position of the Council of Europe and most EU countries, constitutes one of the most effective institutes for improvement of rehabilitation and re-socialization of convicts and decreases recidivism in society and control over prison population.

One of the key problems identified in the system of conditional release is ***non-existence of institutionalized system of surveillance***, which requires undertaking of certain changes of legislation. Such changes should ensure that system of conditional release is established in the way that it represents one of the most effective and most constructive means for prevention of recidivism and improvement of rehabilitation and re-socialization, enabling reintegration in society supported by surveillance.

Legislative changes should comprise:

- Obligation of wardens *ex officio* to propose conditional release to the Commission for conditional release (hereinafter: the Commission) for all prisoners that could be considered, i.e., who meet legally prescribed conditions for conditional release and such proposal should be referred 30 days before expiration of 2/3 of sentenced sanction;
- Improvement of application of criteria of predictability, timeliness, transparency and objectivity, which requires standardization of format and content of information referred by institutions to the Commission, regular meetings of the Commission and representatives of correctional institutions, related to applications and introduction of practice of periodical meetings with selected prisoners. The work of the Commission should be regulated more precisely through internal rules on work and through proposal of the Law on Amendments to the Law on Execution of Criminal Sanctions it is necessary to define data and facts, based on which the Commission shall take decision on conditional release;
- Ensuring transparency criteria so that rulings of the Commission must be reasoned, particularly in the part of key facts based on which decision on conditional release is taken;
- Establishment of technical secretariat in sector of execution of criminal sanctions with aim to support the work of the Commission that should: maintain record keeping and statistical analyses, perform periodical evaluations of application of conditional release institute, ensure availability of data to all interested individuals and institutions, develop and implement program of regular education and professional training of Commission's members, etc;
- Broadening of internal job classification in competent ministries to ensure effective functioning of Commission's secretariat.

The Ombudsmen are informed that on the occasion of reception as well as on the occasion of taking decision on non-prison benefits for all prisoners assessment is made concerning degree of risk for society in the case of escape and degree of probability that such prisoner will try to escape alone or with outside support. In institutions for execution of criminal sanctions standardized format for evaluation of risk and needs of convicts is mainly applied in cooperation with Sector for security issues. In that sense, once in two months (reclassification period) prisoners are classified according to their behaving in institution. Nevertheless, objections collected by the Ombudsmen on the occasion of their visits to prisons clearly show that prisoners are of the opinion that arbitrariness is obviously visible in practice, including lack of ensuring of equal treatment so thatn they still insist on resolving of this problem.

3. Security and keeping of order in the institutions

In the institutions for execution of criminal sanctions *there exists problem of violence between* prisoners, which in significant measure aggravates order keeping, particularly concerning fact that in the institutions visited in 2010 it was determined that there exist problem of inadequate accommodation of vulnerable categories and those who need higher level of security. In Zenica and Foča prisons there are sections with increased security measures, which turned to be justified, yet prisoners in their complaints frequently stress that the reasons for decisions and prolongation of keeping in sections with increased surveillance measures are of stereotype character and that are repeated without enough evaluation of needs in each individual case. During visit to Foča prison the Ombudsmen interviewed prisoners who are kept in section for increased surveillance for more than 10 months without any treatment program. Due to complexity of this issue and with aim to decrease risk of repeated violent behavior i.e., fulfillment of purpose of execution of prison sentences, the Ombudsmen are of the position that multidisciplinary team consisted of sociologists, pedagogic educators and psychologists should work with this category of convicts and the rules of their work should be clearly defined.

The Ombudsmen are also concerned by number of unexpected deaths in Zenica prison, more precisely two cases that happened in two days (8 and 9 March 2010) and the third case in July of 2010. The first case was a suicide committed by A.S. who was found dead in WC in the night of 8 March 2010, while another case of suicide committed by A.Č, who did his sentence of one year, took place on another day. Third death took place in July of 2010 when convict S.H. fired up a mattress in a cell and later died from injuries sustained burns.

In all three cases the Ombudsmen requested investigation of these deaths and provision of the results of these investigations so that the claims of family members that these deaths are consequences of negligence and lack of surveillance over these persons could be excluded.

The case that happened in Tuzla prison – Section Orašje is also concerning. In short period of time both guard and a prisoner died from drug overdose.

4. Staff of the institutions

Most of correctional institutions has made significant improvements in implementation of ombuds-recommendations regarding staffing according to existing job classification, particularly in two crucial sectors: Sector for security issues (prison guards) and Sector for education of prisoners. Consequently, 30 and then another 50 new guards are employed in Zenica prison, and this number is still not enough, since Rules on job classification require 300 guards and now there are 253 guards, out of which 50 are trainees. Current situation in Zenica prison is one guard for 3,1 prisoners. Similar situation is in other correctional institutions, too.

European standard for prisons of closed type is one guard for two prisoners, while for semi-open prisons standard is one guard for 4 to 7 prisoners.

For instance, in Mostar prison in Sector for security issues 10 new guards are employed (9 males and 1 female) and in Sector for treatment issues additional staff is employed, to: a social worker, professional associate – psychologist and educator for cultural and sport activities. Although through implementation of ombuds-recommendations significantly improved the situation, the Ombudsmen still insist on reconsideration and staffing of existing vacant working posts in the institutions and bringing them in conformity with established standards.

This is particularly important if one has in mind that the Ombudsmen during their visits to prisons in 2010 recorded occurrence showing that in existing correctional institutions ***as a rule, all classified working posts are not staffed***, and in some institutions even vacant posts are not staffed following retirement of former employees.⁶⁸ The Ombudsmen are of the opinion such approach significantly impacts exercise of rights of persons who do their sentences in institutions for execution of criminal sanctions and also opens the question of lawfulness, since for these working posts budgetary financial resources are ensured and the job is done by persons engaged through work contracts.

With regard to cadre staffing of the Ministry of Justice, the Ombudsmen underline that since visit in 2009 number of employees increased for 2 persons, 1 inspector for supervision of work in correctional institutions and 1 professional adviser for training of institutions' staff so that in the Sector for execution of criminal sanctions and work of correctional institutions of the Ministry of Justice of BiH there are 8 employees. In the Ministry of Justice of FBiH two new workers are employed: Minister Assistant for execution of criminal sanctions and one professional associate, so in the Sector for execution of criminal sanctions there are 5 employees. In the Ministry of Justice of RS one new professional associate for normative and legal issues is employed so that in the Sector for execution of criminal sanctions currently there are 7 employees. The Ombudsmen assess that employment of new workers are steps in good direction that it is momentum which should not fade.

In most of correctional institutions professional staff attends seminars, courses, professional training and workshops organized by institutions, although there is no plan or organization of systemic and continued programmes for professional education on human rights. Additionally, institutions for execution of criminal sanctions have not prepared programme for prevention of burn out syndrome. According to Ombudsmen assessment, professional training of the employees of correctional institutions should be accompanied with multidisciplinary approach consisted of competitive process of employment of institutions' staff based on strict criteria of selection, education courses for all newly employed workers and regular ensuring of specific examinations of guards' abilities in order to improve their skills and knowledge leading to new skillfulness. Therefore, continued and systematic training is necessary, as well as undertaking of adequate steps for ensuring strict compliance with mentioned rules in practice.

⁶⁸ Doctor and lawyer of Sarajevo prison are retired and for these vacant posts vacancy notices were never announced.

5. Accommodation of persons who committed criminal offence in state of mental incapacity

Particular problem is identified concerning ***accommodation of persons who committed criminal offence in state of mental incapacity***. The Ombudsmen are seriously concerned due to appearance of prolonged and inadequate care about this category of persons. Dimension of this problem is possible to consider through concrete case registered in Ombudsmen Institution, which reviewed the issue of forcible accommodation of T.P. who committed a series of criminal offences, including multiple murder in state of mental incapacity and who, following expiration of detention, should have been transferred to Psychiatric clinic in Tuzla. Basis for such treatment is in Decision taken by the Supreme Court of FBiH which ordered forcible 6 months accommodation of T.P. in psychiatric medical institution.⁶⁹

Representatives of University and Clinical Center Tuzla expressed concerns concerning accommodation of T.P. in Neuropsychiatric Clinic in Tuzla, explaining that the Clinic is not specialized or registered institution for accommodation of persons who committed criminal offence in state of mental incapacity because it is an institution of opened type where patients could be accommodated for only short period of time. At the same time they stressed an essential circumstance regarding this concrete case and this is the fact that among the staff of Neuropsychiatric Clinic in Tuzla there are members of families of persons damaged by criminal offences committed by T.P. This fact shows possibility that accommodation of T.P. in this institution could open the question of their security, as well as security of other patients accommodated in a hospital who comes from the same territory as T.P.

Human Rights Ombudsman of BiH recognized that the case of T.P. is the case of high risk which requires special attention of entire society regarding necessity for establishment of adequate psychiatric institution in which T.P. could be accommodated. Having in mind this assessment, the Ombudsmen issued recommendation to the Ministry of Justice of BiH, the Ministry of Justice of FBiH and Ministry of Health of FBiH ***without further delay to undertake all necessary activities to determinate institution in which T.P. shall be accommodated for medical treatment, following final ruling by the Supreme Court of FBiH determining his forcible accommodation in psychiatric medical institution.***

Following reluctance by employees of Clinical Center Tuzla the Government of FBiH decided to accommodate T.P. in Forensic department of Zenica prison until Psychiatric Hospital "Podromanija" Sokolac, starts to work, where he, among other things, will be provided with medical care and professional assistance.

BiH Ombudsmen assess that problem of accommodation of insane persons in adequate medical institutions springs from poor coordination between competent ministries that up to date have not ensured conditions for accommodation, medical treatment, stay and guarding of persons sentenced to security measure of forcible accommodation in a medical institution.

⁶⁹ Decision by the Supreme Court of FBiH, no: 03 0 K 000619 09 Kžk of 29.03.2010.determining that indicted T.P. committed 6 criminal offences – murder referred in Article 166, paragraph, 2, item b), in connection with Article 28 and criminal offences of stealing referred to in Article 293, paragraph 1, of Criminal Code of FBiH, committed in state of mental incapacity.

The Ombudsmen particularly wish to stress necessity of final resolving of accommodation of persons who committed criminal offence in state of mental incapacity in territory of FBiH, since any further delay in resolving of this problem increases number of complaints filed either with the Constitutional Court of BiH or Court for Human Rights in Strasbourg and following rulings of Strasbourg Court BiH duly pays significant compensations to such persons due to their human rights violations. Undoubtedly, investments of resources should be priority in removal of causes leading to human rights violations, and not payment of compensations that springs from described violations.⁷⁰

6. Legal aid and protection

According to allegations and facts contained in complaints collected during the visits, it is determined that in some prisons⁷¹ acting judge does not visit detainees to advise them about their rights, although it is legal obligation. The Ombudsmen remind that European Committee for Prevention of Torture and Inhuman or Degrading or Treatment or Punishments (CPT) recommends judicial authorities more frequently to visit and interview the prisoners, not only to act when addressed by prisoners.

In some correctional institutions⁷² there are not lawyers so that the convicts regarding exercise of their rights address educator who does not have necessary knowledge in this sense. However, they make additional efforts through contacts with competent ministry of justice and request advises on how in concrete cases to assist convicts in exercise of their rights.

Particular concerns are arise from verbal complaints of prisoners who claim that following submission of complaints to Ombudsman Institution they are expose to certain form of harassment or insults with remarks that in such cases “the Ombudsmen should assist them, if they can”.

There are also concerns because the Law on Execution of Criminal Sanctions prescribes that prison sentence shall be executed so that prisoners are guaranteed respect for their human dignity, and in addition there is constitutional rights of prisoners to submit complains. In that sense CPT in its recommendations define that every form of threat or intimidations of prisoners could not be tolerated and is subject to sanctions.

7. Coordination

Human Rights Ombudsmen in their Special Report on Situation in Institutions for Execution of Criminal Sanctions published in 2009 stress necessity for establishment of cooperation

⁷⁰ Judgment of 24.11.2009, Halilović vs BiH, Application no. 23968/05 according to which the sued state is obligated to pay to the applicant compensation in amount of 22.500 Euro (twenty two thousands and five hundreds Euros) for non-material damage, converted in KM plus all taxes that could be determined to this amount.

⁷¹ Bijeljina prison

⁷² One of examples is Department Orašje, Sarajevo prison.

through creation of data base of prisoners and capacities in institution for execution of criminal sanctions and establishment of triage centers on entity levels, through which all sentenced persons should pass. This would improve and make more effective the system of execution of criminal sanctions. Unfortunately, this recommendation is not implemented, yet on daily basis all correctional intuitions send e-mails to competent ministries of justice and provide all statistical data on number of detainees and prisoners.

8. Work therapy

The Ombudsmen are concerned due to the fact that in almost all institutions for execution of criminal sanctions very little is done concerning possibilities for prisoners' work therapy since the latest ombuds-visit. The reason for such situation is lack of adequate and disposable working space within institutions. Regarding work of sentenced persons outside of prisons, at the moment there is a small number of such work arrangements and their employment is performed in accordance with legal procedure, although the Ombudsmen are still concerned regarding criteria according to which this form of work arrangements is approved particularly having in mind fact that these convicts mainly work in enterprises and firms where they worked before.

9. Education

As to establishment of rules for education of prisoners aimed to elimination of unequal approach in the field and allowing that on this right decide exclusively management of the institutions, insufficient efforts are detected. The Ombudsmen assess that prisoners' education should be ensured in cooperation with entity i.e., cantonal ministries of education and science, including professional cadres for implementation of various types of education for prisoners. The Ombudsmen are also of opinion that educators for educative, cultural and sport work of convicts should establish more adequate and effective programmes for educative and cultural activities of convicts, having in mind their educative, cultural, religious and other specific needs.

10. Addiction problem

Regarding preparation of procedure of treatment of convicts who are drug addicts, including addressing of bringing drugs in prisons, consummation and dealing in the institutions, the Ombudsmen detected that most of the institutions did nothing to stop this occurrence. An exception is Bjeljina prison where in two-months-period group therapeutic work with prisoners was performed and named: "Work on personal responsibility of offenders who committed criminal offences of illegal production and trafficking of narcotic drugs, including understanding of social danger springing from crime committed and work on primary and tertiary prevention of drug addiction". The Ombudsmen insist on completion of professional cadres in Sector of treatment issues (social worker, psychologist, and educator), who are to initiate adequate

programme and procedure of work with drug addicts, as well as on improvement of procedure for resolving of possible misuses committed through bringing, consummation and dealing of narcotics in the institutions through advisory, prevention and repressive mechanisms.

11. Conclusion

Ombuds-visits to the institutions for execution of criminal sanctions in 2010 clearly show that a large part of recommendations contained in Special Report is not implemented. Therefore it can be concluded managements of correctional institutions accepted only certain limited measures as an answer to recommendations issued.

8.2.2. Recommendations

Despite of comprehensive analyses of the situation in the institutions for execution of criminal sanctions, the Ombudsmen, through work on individual cases in 2010, intended to eliminate causes leading to human rights violations and in such cases issued recommendations. So, on four occasions recommendations are issued to competent organs and due to specific cases and necessity for undertaking further activities by broader society, the Ombudsmen remind of these recommendations.

Recommendation no: P-106/10

On the occasion of complaint by T.P. who is sentenced to measure of forcible accommodation in psychiatric medical institution, the Ombudsmen *ex officio* recommended the Ministry of Justice of BiH, the Ministry of Justice of FBiH and the Ministry of Health of FBiH without any further delay to undertake all necessary activities targeted to determination of institution in which T.P. should be accommodated for medical treatment. ***The Recommendation is complied with.***

Recommendation no: P-142/10⁷³

Processing complaints filed by female prisoners who do their sentences in Tuzla prison, the Ombudsmen determined violation of right to maintenance of physical and psychical health of complainants and recommended director of Tuzla prison to reconsider decision on keeping of all female convicts in closed section and without any further delay to undertake all measures for elimination of possible negative consequences caused by stay in this department. ***The Recommendation is partly complied with.***

- Quoted recommendation shows that FBiH still lacks systemic, qualitative and in conformity with international standards organization issue of execution of criminal sanctions imposed on females despite certain investments for adaptation of Department for execution of criminal sanctions imposed on women in Tuzla prison,

⁷³ This recommendation is related to complaint no: Ž-SA-07-280/10, Ž-SA- 07-219/10 i Ž-SA-318/10

through visits to this Department the Ombudsmen determined that female prisoners are kept in living room without enough daylight and that together with their sentenced mothers there are two babes, too.⁷⁴ Comparing conditions for accommodation of male prisoners with conditions in women's prison, it could be concluded that women convicts are in poorer conditions and due to the fact that they are accommodated in closed department, which exists only in Tuzla prison, they even can not be transferred. Competent organs of FBiH urgently must undertake measures targeted to equal treatment of all convicted persons regardless of their sex.

- Women's right to work engagement is significantly limited and it is mainly applied to cleaning, and they are not paid for their work, which puts them in state of social vulnerability, since for some of them it is the only way of earning. Some of them do not have money for maintaining of personal hygiene, which is essential, having in mind that they are women.
- Disabled work arrangements also leads to impossibility of benefit to afternoon rest, which means that women prisoners between waking up at 6 a.m. until lining up at 9 p.m. must stay in so-called living room, sitting on wooden benches, leaning on dining table or against each other.
- Following request for occupational therapy: knitting, crocheting, etc, women prisoners were promised by the management that materials and equipment for these purposes shall be bought and the work shall not be paid. Nevertheless, they are of the opinion that this is unfair, since through such work they could contribute to the institution.
- All of them state that they are deprived of the right to day walk. Namely, they allegedly have the right to walk 3 hours daily, between 15 and 18 h., however, they are, as they claim, allowed to walk only in the place named *Big Circle* which is permanently shaded by a great building. During the walk they are forbidden to sit anywhere and are absolutely separated from other female convicts accommodated in semi-open section
- They all complain about usage of telephone. Earlier those placed in closed sector could use telephone only after 21 h (the time when they can not call the ombudsmen or other NGOs dealing with human rights). Now they can use telephone twice a day and no longer than 5 min. They claim that conversations are wiretapped.
- One of them receive letters in opened envelopes, which allegedly happens "by accident". She also noticed that she waits for letters for too long time.

⁷⁴ Explanation given to Ombudsmen on the occasion of visit to correctional institution Tuzla is that at the time of projecting, planned windows in living space, which is for this purpose turned to a corridor leading to dormitory was forgotten.

All of them are of the opinion that they are discriminated in comparison to women convicts in other section. Reasons for suspicion concerning human rights violation, according to BiH Ombudsmen and in concrete case, are related to possible violation of right to maintenance of physical and psychical health of female convicts.

Having in mind presented assessments, and with a view to elimination of detected weaknesses and irregularities, including prevention of further violation of individual rights of women prisoners, the Ombudsmen recommended director of the Institution to reconsider decision on keeping of all female convicts in closed section and without further delay to undertake all measures for elimination of possible negative consequences that may appear due to stay in this section. During visit to this Institution in October of 2010, the Ombudsmen were informed by management of the Institution and by female convicts, too, that conditions of life in this section are somewhat improved, yet there still exists problem of lack of daylight and occupational therapy.

CHAPTER IX

THE RIGHTS OF A CHILD IN BOSNIA AND HERZEGOVINA

CHAPTER IX – THE RIGHTS OF A CHILD IN BOSNIA AND HERZEGOVINA

9.1. Introduction

In 2010 the Ombudsmen paid particular attention to issue of the rights of a child because of concerns that due to lack of statistical data, analyses, procedures, standards and norms, based on professional principles, there can not be created picture of real situation of the rights of a child in BiH, and there is also occurrence of exclusion of children and their parents or legal guardians from decision-making process on the rights of a child, even in the cases where law prescribes such activities as an obligation.

In 2010 a certain number of pieces of legislation and other legal acts directed to protection of children, either on State or entity levels. Have been adopted⁷⁵ Nevertheless, the Ombudsmen spot that process of adoption of new legislation or amendments to existing pieces of legislation in interest of children develops very slow, burdened by lengthy procedure of adoption and is frequently done without consultations.

9.2. Dealing with complaints

In Department for protection of the rights of a child in 2010 there were 94 complaints received and these complaints are mainly related to non-possibility of contacts between a child and one of the parents or other members of close family, non-issuance of passports for children⁷⁶, non execution of registration of children in birth registry books, lack of ensuring of effective protection of children against domestic violence and peer groups violence, non-payment of alimonies, etc. So, in complaints filed with the Department, as responsible organs, violating and endangering children's rights, most frequently are identified social work centers, courts, schools, and less frequently educational inspections and competent ministries from the area of social and children's protection, including education as well.

Actions of the Department in dealing with individual complaints filed by children or parents or other persons representing the interests of a child is one of the most important activity for protection of children's rights. Through work on individual complaints or investigative procedures *ex officio*, the Ombudsmen seek to stress importance for more consistent application of the Convention on the Rights of a Child in day-to-day work and in decision-making and harmonization of legislation with the Convention. Through recommendations and other decisions the Ombudsmen remind responsible institutions and services on factors which disable adequate legal treatment of the children in BiH and propose adequate measures for effective legal intervention aimed to protection of the rights of a child.

⁷⁵ Decision of limitation of trafficking of toys and products designed for children which contains phthalates („Official Gazette of BiH“, no. 10/10), Ordinance on application of educational recommendations towards minors („Official Gazette of RS“, no.: 10/10), Rules on excursions and outings („Official Gazette of RS“, no: 19/10), Rules on conditions for beginning of work of pre-school institutions („Official Gazette of RS“, no; 24/10) etc.

⁷⁶ This is the most frequent consequence of unresolved conflict between the parents and rejection of provision of consent by one of the parents for issuance of a passport for a child.

Offices	Complaints received	Complaints in procedure	Closed cases
Banja Luka Office	32	14	18
Brčko Office	3	2	1
Livno Office	/	/	/
Mostar Office	6	4	2
Sarajevo Office	53	35	18
TOTAL	94	55	39

Table 11 shows complaints received and processed in the Department for the protection of the rights of the child

9.3. Characteristic examples of children's rights protection

In this part of the Report, and with a view to create a picture of the situation in the area of the rights of a child, here is presented several individual cases related to individual children's rights violations, which shows characteristic groups of complaints registered by Department for protection of the rights of a child.

9.3.1. Problem of issuance of travel document

A complainant addressed Ombudsmen Institution with complaint related to unwillingness of former husband to provide consent for border crossing of their common underage child, who, by court ruling, was entrusted to mother's care, while father took over obligation to contribute to child's support. The same court ruling determined that for travel abroad and border crossing, father's consent was required. Complainant alleged that father was unwilling to provide his consent for border crossing of their exclusion common child, although he had no contact with a child and did not pay alimony. In accordance with their powers and competencies the Ombudsmen recommended competent social work center immediately to invite father and check allegations of complainant and to undertake all measures aimed to establishment of dialogue and normalization of relations between parents of underage child. In concrete case the complainant addressed competent court which was already forwarded Ombudsmen's letter, stressing urgency of resolving of the case, since the right of the child was endangered due to parents' unwillingness for dialogue. This case was resolved through court decision enabling travel of the child.

In another case registered in the Department, related to issue of right to travel document, allegations contained in complaint reveal violation of the right of a child, since organ competent for passport issuance (Center of public security and Interior Ministry) require consent by a father, although final decision on divorce, issuance of passport is not conditioned by father's consent. In concrete case father did not provide his consent in procedure before organs competent for issuance of passport. Because of this and in accordance with Guidelines for issuance of passport referred to in Article 18, paragraph 3, of the Law on Travel Documents of BiH, competent organ requested opinion from of competent social protection service (social

work center). According to allegations of competent representatives of social work center, mentioned Guidelines only additional burden to parents of underage children and guardian organs as well.

9.3.2. Contacts between children and parents and relatives

The Ombudsmen issued recommendation remaining competent court and social work center on necessity immediately upon reception of the recommendation to undertake all necessary actions and measures to enable immediate contacts of complainants between grandfather and grandmothers with their grandchild. Namely a complainant, as well as grandfather and grandmother can not contact their grandchild, although there are final court decisions and they initiated executive procedure before competent court. Ombuds-investigation of this concrete case was focused exclusively on aspect of the rights of a child, i.e. underage girl. A girl is without parents' care, since they parents died in a traffic accident, and other grandmother and guardians of the girl disable contact with maternal grandparents. Social work center and municipal court took over a number of measures to enable personal contacts with grandparents and grandchild however the contact was never realized. In procedure commenced following ombuds-recommendation and following consultative meeting between representatives of the center and court, the guardian was reminded on provision of Family Law, including possibility that if it endangers interest of the ward, guardian organ may appoints another guardian. Ombudsman Institution was informed that, through coordinated action of guardian organ and court, dialogue and normalization of relations between two families has been established, that is, contact between grandparents and their grandchild.

9.3.3. Violence over children

Ombudsmen opened *ex officio* investigation based on an article published in daily papers with a view to put an end to alleged long-years abuse of girl from surroundings of Novi Travnik by her father and stepmother. In this case competent prosecutor's office informed the Ombudsmen that it pressed a criminal charge against D.S. and D.M. due to criminal offence of domestic violence. The ombudsmen present this case in present Report as a negative example, showing to what degree all children rights protection mechanisms in a local community fail to act and that in concrete case exclusively competent organs deal with consequences, although mentioned violence took place for a long-time period.

9.3.4. Education

Ombudsmen Institution received parents' complaints related to children's rights violation caused by application of Rules of Procedure for selection of the pupil of the generation and proud of the generation in primary schools in territory of FBiH. Having in mind number of complaints related to this occurrence⁷⁷, a letter is sent to the Agency for Pre-school, primary and secondary education in BiH, competence of which is *inter alia* establishment of standards for pupils' knowledge and assessment of results achieved; provision of advises to competent education authorities related to prescribed standards of knowledge and their application;

⁷⁷ Complaint no: Ž-SA-01-876/10, Ž-SA-01-822/10 i Ž-SA-01-447/10

establishment of contacts with bodies of similar functions in other countries, as well as with international organizations and institutions in order of harmonization of prescribed standards in education; implementation of other activities related to establishment and application of knowledge standards and school marks, in order jointly to achieve fulfillment of one of education goals – promotion of and respect for human rights and fundamental liberties, as well as preparation of every child for its life in society which recognizes principles of democracy and the rule of law. Bearing in mind legally determined powers and in cooperation with competent ministry, the Ombudsmen recommended the Agency before beginning of school year 2010/2011 to check facts subject to submitted complaints and to undertake measures for establishment of uniform standards and norms for objective selection of pupils, without traumas for pupils participating in competition, which applies to Selection Commission as well.

9.4. Activities of the Department on promotion of the rights of a child

From the beginning of reform of The Institution of Human rights Ombudsman, commenced in January of 2009, put in focus of its work protection of the rights of a child through strengthening of capacities of the Department for protection of the rights of a child as a specialized department. In 2010 this intention was fully supported by Save the Children Norway, in conformity with its policy of strengthening of children's rights protection national mechanisms. In 2010 the Department undertook a number of activities to promote the rights of a child, out of which significantly important are researches on the rights of a child, education in schools, preparation of special reports, participation in professional events focused on children's rights, etc. In 2010 activity „Ombudsman in your school“ is continued in form of education of schoolchildren of primary and secondary schools in BiH through thorough workshops targeted to raising of children's awareness concerning violations of children's rights and promotion of Ombudsmen as mechanism for exercise and protection of children's rights. In parallel with this process of education the Ombudsmen conducted research of application of principle of participation of children and adult persons in the interest of a child, degree of children's knowledge on the Convention for Protection of the Rights of a Child and ways of children's rights protection through Ombudsmen protection mechanism, how the children recognize violation of children's rights and what they propose for improvement of the situation in the State.

Results of research are presented in Special Report which shows that the children are not enough informed on what Ombudsmen work and which is mechanism of work of the Institution. About two thirds of interviewed children have heard something about the Convention for Protection of the Rights of a Child. The children assesses that children's right to freedom is mainly violated (23%), right to express opinion (17%), right to education (13%) and right of a child to be protected from all forms of violence (9%). A great number of children, almost three fourths, did not answer what children's rights are particularly violated in schools. Almost half of children did not have any answer on how to improve children's rights protection, while the other half directed themselves to on education on children's rights, better respect for

personality of a child and its opinion, including sanctioning of those who violate children's rights, including alarming responsible institutions.

In 2010 the Institution conducted investigations on the situation of children's rights in the institutions for accommodation of children without parental care, the institutions for accommodation of children of socially unacceptable behavior and part of the institutions for children with difficulties in development. This investigation covered visits to 33 institutions in entire BiH, 19 institutions for accommodation of children without parental care, 6 centers for children with special needs and 3 institutions for children with socially unacceptable behaviors. Research covered about 2.000 children close to age of 18.

In 2010 the Department submitted reports to UN Committee on the rights of a child related to application of two Optional Protocols in BiH: Report on application of facultative protocol under Convention on the Rights of a child related to trafficking in children, children's prostitution and children's pornography (OPSC), and Report on application of facultative protocol under Convention on the Rights of a Child related to participation of children in armed conflict.

9.4.1. Celebration of important dates

On the occasion of celebration of international „Children's week“⁷⁸, the Ombudsmen tried as much as possible to draw attention of the public at on necessities and obligation to respect the children and their rights, guaranteed by the Convention on the Rights of a Child. Within „Children's week“, Ombudsmen Institution realized activity „Ombudsman in your school“ in schools in Sarajevo and Brčko. In the same week representatives of the Department participated in professional event on topic: More comprehensive coverage of the children by pre-school system of education, organized by Council of children of RS and the Ministry for Family, Youth and Sport of RS. On the occasion of celebration of International Day of a Child, celebrated on 20 November, the Institution had press conference in Banjaluka, where researches and Special Reports on the situation of rights of children accommodated in the institutions and Special Report on participation of children and adults in interests of children in the schools.

9.4.2. Membership in networks

Ombudsmen Institution as a part of Children Ombudsmen Network of South East Europe participated in all activities implemented by the Network in 2010, including participation in annual conference held in Banjaluka on topic: *“The children have right to protection against sexual abuses. Have we done enough to protect them?”*

In 2010 Ombudsman Institution is accepted in full membership in European Network of Ombudspersons for Children (ENOC). Full membership means implementation of certain criteria such as full independence of the Institution, acting in conformity with Paris principle and prominent role in protection and promotion of children's rights. Membership in this association is encouragement and further obligation of the Ombudsmen for engagement and

⁷⁸ „Children's week“ is the first week in October

work directed to maintenance of achieved level of application of standards in protection and promotion of the rights of a child, which was one of condition for ENOC's membership.

9.4.3. Researches and Special Reports

9.4.3.1. Children and bagging

Results of study conducted on bagging in 2009 were concerning and revealed omissions in systemic resolving of bagging problem of children in BiH, due to which the Department for protection of the rights of a child continued activities related to prevention of children's bagging. Accordingly, Special Report on this issue was completed, containing guidelines for further activities based on the best interest of children. Based on analyses and opinions Ombudsmen Institution advocates establishment of day-centers for children happened to bagging as well as welcome centers for children and youth happened to be drifters or baggers in all municipalities in BiH where this occurrence is highly expressed. Such position of the Ombudsmen is based on positive practice of social work centers in Banjaluka, Sarajevo and the NGO "Children's country" from Tuzla. In this way the Ombudsmen draw attention at the fact that good cooperation between institutions and the NGOs in suppression and prevention of children's bagging brings outstanding results. The Ombudsmen assess that resolving of bagging problem requires necessary systemic approach, with gradual inclusion and coordination of all competent organs that are to protect the children and their rights.

9.4.3.2. Children with special needs/difficulties in psychical and physical development

Starting from the basic principles of the human rights that all human beings are free and equal in dignity and human rights with total appreciation of all principles of the UN Convention on the rights of the child, Ombudsmen institutions for Human rights of Bosnia and Herzegovina have decided that the evaluation of the rights of the children with disabilities in the psycho-physical development has to be performed. Indicators for preparation of this Report are complaints received by Ombudsmen Institution, which are related to rights of children with special needs, particularly in areas of education and social protection.

Representatives of Ombudsman Institution, intending to prepare comprehensive evaluation of situation of this category of children, analyzed legislative framework regulating this area, and analyses of the situation in the field prepared through interviews with children, representatives, representatives of parents' associations and other persons who take care about the children with difficulties in psychical and physical development. Ombudsmen visited a certain number of the NGOs and governmental institutions in entire territory of BiH (schools, institutions, centers, associations, etc.) and there were several consultative meetings with representatives of competent organs.

In Special report the Ombudsmen paid particular attention to problem of autism and autistic children because there is very little knowledge about this problem, while in BiH there is evident increase of autistic children. In BiH ***there is not a single specialized diagnostic team for autism or clinical department for treatment of behavior disorders, or specific object for***

autistic persons. There are only two clinics (Banjaluka and Sarajevo) that make diagnosis, and this process is quite stressful both for children and parents.

Due to non-existence medical, pedagogic and social system of services for person in autistic spectrum, their basic human rights, before all the right to health, right to education and work **are violated on daily basis.** There also lacks support to parents and whole family of autistic person, so they can relay only to themselves.

Human Rights Ombudsman, based on analyses of the situation of rights of children with special needs/difficulties in psychical and physical development presented in Special report, stresses complete lack of systemic care and protection of this category, which is reflected in facts that there is not established process of categorization, lack of professional cadres and specialized institutions and social inclusion of such children is not ensured, particularly in segment of education, etc.

In connection, the Ministry of Civil Affairs of BiH, the Ministry for Human Rights and Refugees of BiH, entity and cantonal ministries competent for education and social protection, and the Government of the District of Brčko are recommended to undertake appropriate measures and actions with a view to enable children with special needs/ difficulties in psychical and physical development enjoy their rights guaranteed by the Convention on the Rights of a Child.

Insufficient education of the parents and the society make the children "invisible" because many of them are in their homes with their families. It is necessary to take the steps to raise the awareness of the society, so that these children, like any other children, can be included into society. Unfortunately, the prejudices from the community have the consequence of isolation of the children without the opportunity for socialization. However, what can not be disputed by anyone and what can not be diminished is the way on which the parents of the children with special needs and other persons, first of all the professionals, "befall" meaning the formation of the associations with the ultimate goal to help, first of all their children, and then to themselves. All up to date achieved in work with children with special needs/ difficulties in psychical and physical development mainly results from will, energy, hope and enthusiasm primarily by members of mentioned associations that put maximal efforts to change situation and consciousness of the society, related to rights of this category, through organization of individual actions, activities, campaigns, etc. Despite of numerous hopes and hard work, these associations naturally can not resolve the problem systemically and they are aware that they need support by the authorities, and in various ways they lobby towards the authorities for any form of support and cooperation.

In their Annual Report Human Rights Ombudsmen wish repeatedly to draw attention at **necessity for ensuring of consistent application of adopted legislation**, particularly having in mind that these laws are adopted upon proposal of executive authorities, which now fail to apply these laws. The rule of law is corner stone of every state and before all they should ensure application of legislation, including ratified international standards. Unfortunately, Special report has shown that in practice there is firm resistance concerning application of law,

frequently based even on subjectivity. In this way, for instance, frequently and unjustifiable work certain representatives of pre-school and school institutions and express their disagreement with school inclusion, although this right is set forth by law. The position of the Ombudsmen is that personal positions must not be obstacle for application of law and that it is necessary, concerning inclusion, to ensure education of teaching staff and other professional staff.

Apart from problem of inclusion of children with special needs/ difficulties in psychical and physical development in education, representatives of associations say that children from this category even when complete schooling can not find a job, since they are mainly educated for jobs useless for labor market (e.g. blind person and telephone operator occupation, etc.), that is, these are out-of-date occupations. It would be very important to undertake measures targeted to changes of the situation in this area, particularly having in mind that in BiH, at entity levels, there is legislation on professional rehabilitation, training and employment of disabled persons⁷⁹, i.e. the Law on Professional Rehabilitation and Employment of Persons with Disabilities⁸⁰, which provides sound basis for employment of this category of persons.

9.4.3.3. Situation in the institutions for accommodation of the children

Department for protection of the rights of a child, with support of Save the Children Norway, in 2010 conducted research of the situation in 33 institutions in FBiH, out of which **19 institutions for accommodation of children without parental care, 3 institutions for accommodation of children with socially unaccepted behaving and 6 centers for children with difficulties in development**. The department based its research on assessment of the situation in the field and particular attention was paid to issue of financing of the institutions, protective mechanisms against all forms of discrimination, as well as mechanisms for assessment of quality of their living, having in mind age of a child and standards applied in the institutions. About 2.000 children between 0 and 18 were covered by the research.

During visits to the institutions, team of researchers detected children's rights violations and intervened *ex officio* in several cases. Researches underline cases: Home of a Child "Bjelave" Sarajevo; problem of street in front of this institution for children without parental care in Tuzla; accommodation of boy contrary to his will; violation of rights of foster women in social and pedagogic communities (SPŽZ), Canton Una-Sana improper usage of Pupils' Home in Bihać; Children's Home "Kiseljak" Zvornik.

From conducted research springs **observations and concerns** of the Ombudsmen related to lack of official statistics on accurate data impacting on children without parental care, children with special needs and children of socially unaccepted behaving. There is negligence of role of social work center and it is necessary to ensure that competent organs from area of social protection become aware of importance and role of work of social work centre. The Ombudsmen especially stress problem of undefined relations between the institutions and their founders, which is reflected in issue of ensuring of financing of these

⁷⁹ Consolidated wording, published in „Official Gazette of RS“, nj: 54/09

⁸⁰ „Official Gazette of FBiH“, no : 9/10

institutions. The institutions for accommodation of children are frequently located in places that do not meet minimal standards, and facilities themselves are frequently in very poor shape. Appointments of directors of these institutions are questionable as well, since there are not clear criteria and rules of supervision over procedure of appointment of the staff. Issues of engagement of children in workshops within institutions are legally insufficiently defined, including their health protection, education, communications with biological family members, friends, environment, etc.

Hiving in mind findings contained in Special report, Ombudsmen Institution issued 8 recommendations to:

The Government of FBiH to consider possibility of establishment of Social Protection Fund aimed to achievement of social equality of all rights in FBiH in the wake of already established Fund in RS.

The Governments of FBiH and RS to initiate adoption of Rules with uniform criteria for detection and assessment of abilities, classification and registration of children and the youth with difficulties in physical and psychical development, which would be applied in both entities.

The Ministry of Civil Affairs of BiH to prepare information on realization of measures determined by document "Protection of children without parental care and families under risk of divorce in BiH 2006-2016" with special focus on adoption of Action plan for transformation of institutions for children without parental care and establishment of minimum social services.

The Ministry of Finances of BiH to consider all possibilities of WAT exemptions for all procurements and services necessary for work of institutions of social care and to consider introduction of good experience of other countries that provide resources for social care from taxes on fancy articles (alcohol, cigarettes, etc) and game of chances or gambling.

The Ministry of Justice of BiH to provide information on measures undertaken on implementation of "Strategy against juvenile delinquency in BiH 2006-2010" and to initiate amendments to the Law on Associations and Foundations in BiH which would more precisely define under what conditions humanitarian organizations, citizens' associations, domestic and foreign foundations may establish institutions in area of social protection and organize their work.

Labor inspection of FBiH urgently to check realization of rights from contract on work of persons engaged in social-pedagogic communities for care of children without parental care, with special focus on staffing of working posts classified by internal acts on job classification and that these working posts should be staffed by persons engaged through work contracts.

The Ministry of Work and Social Care of FBiH and FBiH Administration for Inspection Issues to perform supervision and examination of the Institution "Obiteljski centar Papa Ivan Pavao II", in Vionica and Čitluk, where children are accommodated upon decisions of social

work center and where the Ministry never did supervision and additionally these institutions are not in official registry of institutions for accommodation for children without parental care.

Cantonal Council of Canton Una-Sana to ensure urgent checking of the situation of the rights of a child and staff in social-pedagogic communities, particularly in relation to implementation of decision on price of accommodation and to ensure urgent checking of real purpose of Pupils' Home in Bihać related to purpose of its establishment.

9.4.3.4. Participation of the children and adults in interest of schoolchildren

Within Project „Strengthening of capacities of Department for protection of the rights of a child” implemented by the Institution of Human Rights Ombudsmen of BiH, in cooperation with Save the Children Norway, guided by the fact that school is institution of social importance, which, together with family, plays the most significant role in socialization of children, realized activity of observation of Scholl Council/ Council of Parents, that are mechanisms which may and could impact on the work, organization and targets of school, as well as on Council of Pupils as a body directly based on children's opinion. In connection, the analyses were conducted regarding application of principle of children's and adults' participation in interest of children in practice. Regarding the adult persons, anonymous interview was applied. Questionnaires were sent to management by mail, as well as to representatives of Council of Parents and members of School Councils in 150 schools. Feedback came from 100 schools (57 from FBiH, 41 from RS and 2 from the District of Brčko); i.e. total of 63 primary and 37 secondary schools from entire BiH). Additionally, 273 children, between 9 and 18, were interviewed, pupils from primary and secondary schools from Dobo, Zenica, Tuzla, Mostar, Stolac, Prijedor, Trebinj and Nevesinje. Interviewing was on anonymous basis and organized in school ambient and divided in groups of 20 pupils. With purpose to get full insight in problem of participation of children in the work of schools, additional interviews are organized according to principle of targeted groups.

Results of analyze have shown that participation in schools is only declaratively respected and that it is necessary to undertake concrete steps with a view to rise level of respect for opinion of the adults and children in decision-making process in schools. Therefore, in accordance with their powers referred to in Article 32 of the Law on Human Rights Ombudsmen of BiH, the Ombudsmen recommended competent organs: the Ministry of Education and Culture of RS and the Ministry of Education and Science of FBiH, and through these ministries the other competent authorities (schools founders and schools) urgently to:

1. Appoint full membership of School Councils and check out mandate of existing councils;
2. In all schools, where there is acting director, appoint school directors;
3. Organize health examination of all school staff, which would necessarily envisage comprehensive evaluation of psychical and physical capacities of teaching staff, necessary for work with the children;

4. Establishment of registry wherein without discrimination there shall be registered children's rights violations and the way of redressing, which shall be presented in schools' annual reports as an official data;
5. Inform the children and teaching staff on the role of Council of Pupils and Council of Parents regarding their participation in children's decision-making process in interest of school children;
6. Educate children, parents and teaching staff on basic principles referred to in the Convention on the Rights of a Child;
7. Provide opportunity to children to create plan and program themselves, including plan of work of Council of Pupils, and not to leave this task exclusively to teaching staff.

Moreover, during a school year it is necessary that competent ministries impose obligation to schools to:

1. Enable all schools transparently to provide basic conclusions from regular meetings of Councils of Pupils and Council of Parents;
2. Allow children – representatives of Council of Pupils – to attend sessions of Council of Teachers in those items of agenda that envisage review success and behavior of pupils or similar themes directly related to children;
3. Materially to support work of Council of Pupils through provision of space for work and provision of basic equipment for work;
4. Enable cooperation between Council of Pupils and representatives of local community in activities in best interest of a child.
5. Organize free activities in schools, preparation and realization of which requires partnership between children and teaching staff;
6. Consider possibility of more frequent one-day outings, and not only school excursion.

9.4.4. Other activities by Department for protection of the rights of a child

Other significant activities performed by the Department are: work and participation in working group of the Ministry for Human Rights and Refugees of BiH on harmonization of domestic legislation with UN Convention on the Rights of a Child, participation in conference "Exercise of children's rights of children belonging to vulnerable categories" and participation in VII and VIII public debate organized by Center for culture of dialog in BiH, topic of which was "Offenders and victims of criminal offences are our children – stop juvenile delinquency". With purpose to ensure children's rights and achievement of joint positions of treatment and establishment of permanent mutual coordination, the Department organized meetings with organs competent for registration of children in birth registers, including issue of subsequent registration of children. This meeting was attended by representatives of organs at all levels of the authorities (municipal register offices, police, the Ministry of Civil Affairs of BiH, the Ministry of Foreign Affairs of BiH, social work centers, Notary Chamber of BiH).

Recognizing KIDS festival (Sarajevo) as a place where children from entire BiH have an opportunity to consort and meet each other, in 2010 Ombudsman Institution for the first time became a part of this great event. For this purpose the Institution set up an information booth at which the children had opportunity to get information and brochures and other materials of informative and educative character related to the rights of a child and possibilities of protection.

In 2010 the lawyers of the Department made attempts to cooperate with all relevant organizations and institutions. The Department took in account analyses, researches and reports prepared by the NGOs existing in BiH, institutions and international organizations. Additionally, in collection of data and analyses of problem of participation of children and adult persons in interest of a child, as well as situation in institutions for children (homes of the children without parental care, institutions for children with special needs, institutions for children in conflict with law, etc.) in the light of international standards, and significant cooperation is established with competent ministries of education, social protection, interior affairs, social work centers, the NGOs, media, etc.

CHAPTER X

DISCRIMINATION

CHAPTER X – DISCRIMINATION

10.1. Introduction

The Law on Prohibition of Discrimination⁸¹, entered into force on 5 August 2009, envisages Institution of Human Rights ombudsman of BiH to be **central institution for protection against discrimination**. Accepting obligations prescribed by the Law and having in mind importance of prohibition of discrimination determined in provisions of European Convention on Human Rights and Fundamental Freedoms⁸², including facts that prohibition of discrimination one of the principle of international standards accepted by BiH and determined by the Constitution of BiH, BiH Ombudsmen established Department for elimination of all forms of discrimination, even before adoption of the Law.

Unfortunately, concerning application of the Law on Prohibition of Discrimination in practice, the fact is that legislation is easily adopted, while effective measures for ensuring of its application lacks. Although Article 7, paragraph 5, of the Law on Prohibition of Discrimination prescribes that in the budget of Human Rights Ombudsmen of BiH there shall be incorporated separate budgetary item necessary for functioning of specialized department/departments for combat discrimination, in budget for 2010, as well as budget planned for 2011, this item has not been incorporated, due to budgetary limitations imposed to on Ombudsman Institution. Such approach to application of newly established mechanism, for which, globally, exists a very low level of legal practice, significantly impacts on effective application of the Law and diminishes ability of Ombudsman Institution fully to carry out its legally determined obligations.

In context of promotion of the Law itself and drawing attention of competent institutions and the public at its contents, the Ombudsmen's activities were limited exactly due to lack of resources. Its obligation to promote the Law Ombudsman Institution mainly performed through activities organized by other organizations and institutions. Representatives of the Department for Elimination of all Forms of Discrimination participated in the work of round tables and promotion of the Law through media organized by the OSCE Mission to BiH and organizations of civil society. At the end of 2010 the OSCE Mission to BiH organized a series of round tables in cities in BiH, where the Law was presented, including creation of room for discussion about practical problems in application of the Law on Prohibition of Discrimination.

10.2. Dealing with complaints

In 2010 Department for prevention of all forms of discrimination of Ombudsman Institution registered 135 complaints, out of which 46 in Head Office in Banjaluka, 71 in Regional Office in Sarajevo 10 in Field Office in District of Brčko, 3 in Field Office in Livno and 5 in Regional Office in Mostar.

⁸¹ "Official Gazette of BiH", no: 59/09

⁸² Article 14 of European Convention on Human Rights and Fundamental Freedoms and Article 1 of Protocol 12

Offices	Complaints received	Ongoing cases	Closed cases
Banja Luka Office	46	17	29
Brčko Office	10	4	6
Livno Office	3	/	3
Mostar Office	5	3	2
Sarajevo Office	71	57	14

Table 12 of received complaints in the Department for Prevention of all forms of Discrimination

For better insight in the situation in area of discrimination it is necessary to stress that in 2009 156 complaints were received, out of which 133 in Head Office in Banjaluka, 19 in Regional Office in Sarajevo and 4 in Field Office in Brčko. Viewed analytically, in 2009 complaints related to discrimination were mainly related to discrimination in return, based on ethnic ground (47), Discrimination on ethnic ground in the area of employment (6), and mobbing (5).⁸³

Consequently, regardless of the fact that the Law on Prohibition of Discrimination was adopted only in mid-summer of 2009, number of complaints received in 2009 and 2010 is approximately the same but their structure is different. In 2010 appeared significant decrease of complaint related to discrimination on bases of national origin (14), while number of complaints against mobbing is increased (32). This could be explained by fact that mobbing, until adoption of the Law on Prohibition of Discrimination, was not treated as a form of discrimination neither was contained in any legal provision except in Labor Legislation of RS.

Type	Sarajevo	Banja Luka	Brčko	Mostar	Livno	TOTAL
Ethnic based Discrimination	5	5	3	0	1	14
Gender Discrimination	2	1	1	2	0	6
Mobbing	22	10	0	0	0	32
Other	42	30	6	3	2	83
TOTAL	71	46	10	5	3	135

Table 13 of complaints received on office-to-office basis and forms of discrimination

10.2.1. Nationality-based discrimination

In 2010 there were 14 of complaints related on discrimination based on national origin, out of which main number was related to **violations of rights in employment**. Accordingly, number of complaints against discrimination on national origin was significantly decreased and the structure of complaints themselves was also changed. It is visible that in 2010 number of complaints filed by returnees was also significantly decreased. In 2009 Ombudsman Institution was addressed by 44 returnees who filed complaints on discrimination based on nationality origin, where main number of complainants alleged discrimination in work of administrative and court organs due to delays of procedures, repossession of property, while a small number of complaints were related to refusals of competent organs to pay compensations for property

⁸³ Annual Report on Results of Activities of the Institution of Human Rights Ombudsman of BiH for 2009, page.88.

that can not be repossessed or refuse to provide assistance in reconstruction of returnees' pre-war homes. 4 complaints filed in 2009 were related to employment and all 4 complaints were related to selection of candidates according to public vacancy notice.

In 2010 main number of complaints was related to discrimination on basis of national origin expressed in employment and selection of candidates according announced public vacancy notices. There was one complaint related to impossibility of selection for members of the Presidency and House of Peoples, as well as unequal representation of members of national minorities and others in public services in accordance with the latest Census of 1991.

The position of the Ombudsmen is that above comparative relation of statistical data for 2009 and 2010 should be viewed within reports of work of Department for civil and political rights, which is competent for functioning of administration and judiciary because complaints that contain allegations on violations committed by administration or judiciary frequently also contain allegations about discriminatory behaviors, which particularly applies to returnees. Since in mentioned cases primary right is the right to property, i.e., ensuring of effective court protection, these cases are registered in department for civil and political rights.

10.2.2. Gender based discrimination

Apart from the Law on Prohibition of Discrimination, which covers gender discrimination as well, and which establishes general issues related to discrimination, gender based discrimination is specially regulated by the Law on Gender Equality, and which prohibits direct or indirect gender based discrimination and guarantees equal possibilities in private and public life. Application of this Law, too, is generally non-effective because other adopted laws are not harmonized with this Law. Non-applicability of this Law in practice has shown necessity for amending of organic wording of the Law, which led to adoption of the Law on Amendments to the Law on Gender Equality⁸⁴ and which precisely defined terms of direct and indirect discrimination, and precisely defined what is considered to be abuse, sexual abuses, violence and victimization, and which all increased expectations that in the period following mentioned changes application of the Law will be more effective. Unfortunately, in 2010 there was not registered significant improvement in application of this Law.

In 2010 General Elections took place BiH, which repeatedly revealed non-effective ensuring of application of Article 15 of the Law, which prescribes that governmental bodies at all levels of authority organization and bodies of local self-governance shall ensure and promote equal representation of genders in managing, decision-making process and representations. Electoral results have shown that goal promoted by mentioned legal provisions is not realized.

Complaints filed with Ombudsman Institution, related to gender discrimination, are mainly related to sexual harassment, gender based violence, particularly from aspect of insufficient protection of victims. In connection with sexual harassment, one complaint is taken over from previous year and two of such complaints are received in 2010. Complaints'

⁸⁴ "Official Gazette of BiH", no: 102/09

allegations are related to sexual harassment in working posts. One number of complaints primarily related to mobbing contains allegations that are partly related to sexual harassment as well. Since investigation of this complaints is still not over, detailed analyze of these cases shall be contained in next Annual Report.

10.2.3. Mobbing

Mobbing, as a form of discrimination, is for the first time prohibited in entire territory of BiH through adoption of the Law on Prohibition of Discrimination. Article 4, paragraph 3, of the Law determines that mobbing is a form of non-physical harassment at work, which means repetition of actions with degrading effects on a victim, the purpose or consequence of which is degradation of work conditions or professional status of an employee. Labor Legislation – Consolidated Wording was applied in RS even before entering into force of the Law on Prohibition of Discrimination, and it defines mobbing through provisions of Article 111, paragraph 5, determining that mobbing is specific form of behaving at work, by which one or more persons are systematically and in longer time period psychically abused or degraded by other person aiming to damage reputation of victim, its honor, human dignity and integrity.

In 2009 in Ombudsmen Institutions there were registered 5 complaints related to mobbing and in 2010 there were 32 complaints. It is visible that this type of complaints is significantly increased, particularly in Regional Office Sarajevo, which may be brought in connection with the fact that the Law on Prohibition of Discrimination, adopted in Summer of 2009, for the first time prohibits mobbing, as specific form of discrimination, in entire territory of BiH, which enables protection of victims of mobbing.

In main number of such complaints investigation is still not completed, that is, it is not determined whether allegations contained in these complaints are of sound basis, yet based on complete number of complaints related to mobbing, it could be concluded that mobbing, as perfidious way of degradation of an employee, i.e., behaving not regulated by provisions covering criminal, substantial or disciplinary responsibility and which is targeted to degradation of workers, which inflicts degrading effects on him/her and which increases in BiH lately.

10.3. Conclusion

According to analyze of statistical data evidenced in the Department for elimination of all forms of discrimination, it could be concluded that main number of complaints is related to abuses, sexual harassments, mobbing and other form of discrimination at work. In relation to previous reporting period the difference is visible concerning base and form of discrimination when more complaints were filed due to discrimination based on national origin and less due to mobbing. In 2010 only in several complaints there are allegations related to discrimination based on nationality.

Complaints filed with Ombudsman Institution, according to allegations are frequently allocated to Department for elimination of all forms of discrimination, although, during

investigation, the Department determines that ground of complaint is not discrimination. In most of the cases is very difficult to prove, even to assess, whether discrimination took place, and here and there term “discrimination” is misused. Ombudsman Institution received 5 complaints where the same enterprise was indicated as responsible party. Complainants *inter alia* claimed that they were victims of discrimination and some of them alleged that they were victims of gender discrimination, while the others alleged discrimination based on national origin. Since it was a mixed group of complainants consisted of different gender and national origin, they were individually treated in the same way regardless of their gender or national origin and it was not possible to determine basis for different treatment by offender towards any of the complainants. However, as all of the complainants were in status of temporary cessation of work and contributions for them were not paid, so in concrete case this was violation of employment rights, and Ombudsmen Institution addressed competent inspection requesting undertaking of measures from its competence in order to protect the rights of mentioned group of complainants.

Dealing with complaints related to discrimination, Ombudsman Institution in several cases issued recommendations, while a certain number of cases were closed due to unsoundness of complaints. The main number of complaints is still in the phase of investigation, which, particularly in the cases of mobbing and sexual harassment, requires additional attention. Out of complete number of issued recommendations, two were implemented through complainants’ job reinstatement, yet it is visible that even following the reinstatement, activities aimed to obstruction of implementation of recommendation were continued through putting of various forms of pressure and abuses of workers to make them quit their jobs of their own will.

Handling complaints related to discrimination and in application of the Law on Prohibition of Discrimination, Ombudsmen Institution spot certain weaknesses that are, due to limitation of human and material resources, difficult to be eliminated in a short period of time following entering into force of the Law. At the same time citizens expect much of Ombudsmen Institution “as central institution for protection against discrimination” and its legally determined obligation. Therefore, the Ombudsmen stress necessity for ensuring of additional resources for implementation of the Law on Prohibition of Discrimination and express their opinion that organization of comprehensive consultative meetings is necessary, and there should participate all institutions competent and obligated to implement the Law, and preparation of qualitative assessment of expenses of its implementation is necessary as well. Work on implementation of the Law on Prohibition of Discrimination, as well as dealing with complaints related to violations of the Law, shall be one of the priorities of the Institution in 2011.

CHAPTER XI

FUNCTIONING OF THE INSTITUTION

CHAPTER XI – FUNCTIONING OF THE INSTITUTION

11.1. Introduction

Annual Report for 2010 provides possibility for presentation of development done in functional strengthening of Ombudsman Institution, which could be specially presented through comparison of statistical data from December of 2009 and December of 2008 when current ombudsmen entered the office. Comparative approach to realization of activities between 2008 and 2010 is provided in the following table. In January of 2009 BiH Ombudsman adopted a normative framework for the functioning of institution, including by-laws to ensure its smooth functioning⁸⁵ and acts to create conditions for cessation of the work of entity institutions⁸⁶ In 2010 development of the Institution was a constant challenge for the Ombudsmen concerning further improvement of normative framework and many of internal by-laws were changed. Anyway, overall development of the Institution was conceived on cadre strengthening and development of internal procedures of the Institution, aimed for creation of infrastructure for effective human rights protection. Special attention was paid to actualization of certain issues in the field of human rights in public, which required the strengthening of partnerships with NGOs, the media, international organizations, and establishing a web site of the institution which enables parties to protect their rights using this way as well, including ensuring of transparency of the work and better availability to the citizens.

Status of Ombudsman Institution (OI) in relation to December of 2008.	
Staff - BiH: 26 employees, out of which 8 employed on temporary basis - FBiH: 32 employees - RS: 27 employees	Staff - BiH: 60 employees - From RS taken over 8 employees - From FBiH taken over 16 employees
Management of finances - FBiH: 32 employees - RS: 27 employees	Management of finances - Accountant and established financial operational system - OI is provided with positive opinion of auditors for 2009 and now is ongoing audit examination for 2010 and financial discipline is fully ensured. - Budget of OI is increased, and further increase of expenses is limited. Former 3 Institutions together had budget over 5 million, while BiH OI 2,7 millions
Location of OI - The Seat and field presence was not established in accordance with the Law	Location of OI - The Seat and field presence is established and the Institution moved in other premises. In Mostar, Livno and Tuzla Office there are established days when the public is admitted
Technical equipment - OI was not adequately and technically equipped	Technical equipment - OI is technically fully equipped – IPA Fund 2007. - Data base is created and system of digital managing of complaints – OSCE system
By-laws - OI functioned without by-laws	By-laws - All internal by-laws are adopted
Complaints - 1103 of cases taken over (period 2003.-2008.)	Complaints - Constant Increase of number of complaints

⁸⁵ Rules of Procedure, Rules of Procedure and decisions of the Ombudsmen, the Ordinance on salaries, the Ordinance on office management, Regulations on internal organization and job classification, the regulations on disciplinary responsibility, etc;

⁸⁶ Rules on internal organization and job classification and Decision on taking over of the staff, assets and equipment from entity ombudsman institutions.

Status of OI - ICC reaccreditation postponed upon request by the Ombudsmen	Status of OI - The Institution went through ICC's process of reaccreditation and in 2010 finally got status A - OI is member of all international networks - There is strong regional cooperation
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Table 14 shows the status of the Ombudsman Institution (OI) comparing to December 2008

11.2. Staffing

At the moment of handover of duties in the Institution happened to be 26 employees out of which 8 employed on temporary basis. At the same time, in the Institution of Ombudsmen of FBiH there were 32, and in the Institution of Ombudsmen of RS 27 employees.⁸⁷ Process of unification of three Ombudsmen Institutions existing at that time in BiH should have been completed until the end of 2006, however, due to numerous obstructions; final merger took place on 1 May 2010. In December of 2010 Ombudsman Institution had 57 workers⁸⁸, since through process of merger it took over 16 workers from FBiH Ombudsman Institution and 8 from RS Ombudsman Institution, while staffing of the rest of classified working posts was done through announcement of public vacancy notices.

With regard to Ombudsman Institution staff, it is necessary to stress the fact that the staff of the Institution, appointed to be Ombudsman Assistants frequently leave the Institution, so between May and November 5 assistants left the Institution. The reasons for this are demanding conditions of work and, at the same time, the Law on Salaries in Joint Institutions of BiH prescribes low salaries for such staff. Required conditions to be met by such staff are equivalent to term of service of judges of cantonal or county courts, the position for which significantly higher salaries are prescribed, due to which mentioned positions are acceptable for persons employed as Ombudsman Assistances. All assistants who left the Institution are now employed as judges. BiH Ombudsmen wish to express their opinion that this problem is of a great impact on continuity of work of the Institution and is reflected in quality of work, and also shows that ombudsman Institution can not be viewed as a segment of executive authorities but as a part of judicial system, bearing in mind degree of independence required of the Institution.

Out of complete number of workers on 31.12.2010 in the Institution there were employed: 11 lawyers with BAR examination plus 3 Ombudsmen and 8 Heads of departments/regional offices (3 u in the Seat of Institution in u Banjaluka, 3 in Regional Office Sarajevo, 1 in Regional Office in the District of Brčko and 1 in Livno Field Office); 3 bachelors of law are employed as advisers; 4 bachelors of law are employed as professional associates; 12 employees do administrative and financial tasks and 20 employees of secondary school education do administrative-financial and technical tasks. In ombudsmen institution there are 7 bachelors of law with status of trainees, according to Decision on application of internal rules, adopted on 82 session of the Council of Ministers of BiH of 05.05.2005, which „obligates institutions, within their rules on internal organization, to envisage number or percent of trainees to be engaged in the work“

⁸⁷ 3 ombudsmen are not included in above quoted number

⁸⁸ This number includes the staff and 3 Ombudsmen as well.

11.3. Financial operations

Basic feature of financial situation happened to exist in Ombudsman Institution in 2008 was that accounting and financial operational system did not exist and that the Institution, in previous several years, always got negative opinion by the Audit Office of BiH and got a number of recommendations for improvement. Long-years period of poor budget expenditures negatively reflected on functioning of the Institution in 2009, which led to constant decrease of salaries and because of which the Ombudsmen had to request resources from budgetary reserves. Indeed, ***financial stabilization of the Institution was one of key priority for the Ombudsmen***, which was difficult to achieve, having in mind that there were not real parameters for real needs of the Institution, particularly in conditions of obligatory completion of merger of three ombudsmen intuitions existing in BiH at that time, including establishment of Mostar Office and fulfill all other obligations determined not only by the Law on the Ombudsmen but also by other pieces of legislation that define competences of Ombudsman Institution, such as: the Law on Prohibition of Discrimination, Freedom of Access to Information Act, etc.

In financial term, in 2010 Ombudsman Institution was issued Report by the Auditor's Office for Financial Operations of the Institutions of BiH in 2009 and Report on Preliminary review for 2010, wherein in is stated that that financial discipline was fully achieved. In its letter no :01-8-16-1-1969/10 of 20.12.2010 Auditor's Office for Revision of Financial Operations of the Joint Institutions of BiH, in its preliminary audit control, did not determine any significant weaknesses that could significantly impact on financial report and proper business operations, adding that final financial report shall be adopted following conduction of final revision. Tabular review of budgetary expenses in 2010 is presented in Annex II of present Report.

11.4. Location and technical equipment of the Institution

In 2010 the Ombudsmen managed to establish infrastructure of the Institution so that its functionality is fully realized. Before all, this means that all requirements referred in the Law on Ombudsmen are fulfilled, that is, all legally prescribed Departments are established and, apart from this, on 1 May 2010 Livno Office was taken over from the Institution of Ombudsmen of FBiH. Field presence, that is, getting closer to the citizens, is one of Ombudsmen's priority, due to which the days when the public is admitted is in November of 2010 established in Tuzla, and there is intention to do the same in 2011 in Bihać and Trebinje, which depends on resources at disposal of the Institution.

Unfortunately, all of the premises of the Institution are placed in rented spaces except in Brčko, where the Government of the District of Brčko put at disposal premises for work of the Institution for free. Functioning of the Institution is to the great measure dependent exactly on such things, since significant budgetary resources are spent on leasing of premises, which is not functional and adjusted to the needs of the Institution. Additional burden is in the fact that in front of all premises there are physical obstacles (stairways), which make difficulties for

disabled persons and exactly regarding to exercise of this right there are complaints filed with Ombudsman Institution. In 2010 and before, too, the Ombudsmen addressed all competent institutions in BiH, requesting resolving of the problem of location of the Institution, yet without any success. Certain donors expressed willing to assist in resolving of the issue of location of Ombudsman Institution, so this will be one of the priorities in 2011.

Thanks to European Commission support, through IPA Fund 2007, the Ombudsmen managed to ensure minimum of technical equipment, yet development process that took place in 2011 has shown that additional resources for strengthening of technical equipment of the Institution must be ensured, particularly regarding its field operations.

11.5. Status of the Institution

International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights (ICC) carries out conformity assessment of functioning of Ombudsman institutions of BiH, as a national mechanism for protection of human rights with the Paris Principles, which represents a universal framework for all institutions for the protection of human rights in the world.

The Human Rights Ombudsman Institution of Bosnia and Herzegovina should have passed a process of re-accreditation in 2008, but due to request of the Ombudsman of B&H at that time the process was postponed.

Following strict procedures of the process of re-accreditation the Ombudsmen of BiH has filed application for the ICC sub-committees for re-accreditation in July of 2009. Application was discussed on 17th of November 2009 and ***the recommendation to award the status of the Institution of Ombudsman "B"⁸⁹ on parole period of one year was given, bearing in mind that the Ombudsman institution in this period retains the status "A"***. There is no doubt that at the time of evaluation by sub-committees, there were some concerns. So it was decided that the Ombudsman institutions of B&H gets the status of "A" conditionally, but the B&H authorities and the Ombudsman Institution have obligations to remove through recommendations any shortcomings that prevent the institution to get the status of "A". This would confirm that the Institution operates in full compliance with the Paris Principles. So, the Ombudsman Institution of B&H and other relevant authorities are obliged to ensure the implementation of sub-committees recommendations, which imposed undertaking of a number of activities, realization of which would contribute that the Institution is accredited in status "A".

11.6. Management achievements

The specificity of the Institution of Human Rights Ombudsman is in the part related to management containing the fact that three Ombudsmen are the head of the Institution; one of them in alphabetic order performs the function of coordination and chairing.

In any case, it is important to emphasize the achieved results in the management primarily manifested in part of safeguarding the consolidation of institutions. It has required creating the internal

⁸⁹In accordance with the procedures ICC SCA status and signifies compliance with the Paris Principles, status B indicates partial compliance, and status C is incompatible with the Paris Principles.

normative framework, establishing the organizational structure of institutions to ensure the effective execution core mandate and to strengthen human resources and achieving full financial discipline, which was significantly collapsed. The Audit Office of BiH Institutions has indicated to that in the past few years.

In this part of present Report the Ombudsman wish to draw attention at the fact that in 2010 they received a certain number of letters, expressing their position regarding the work of the Institution. These were mainly praises, indicated by ombudsmen through presentation of segments of such letters. Unfortunately, there was a certain number of criticizing letters and some are related to lengthy ombuds-procedure, including the very processing, particularly where the subject of complaints is functioning of judiciary, where does not exist awareness of Institution's mandate and that the Institution may not interfere with court decisions. All addressing of complainants that open the question of poor functioning of the Institution are considered on regular basis on the sessions of the management and in accordance with reached findings the measures are taken. In forthcoming period of time maximal attention shall be paid to updated activities of the Institution.

CHAPTER XII

COOPERATION WITH OTHER INSTITUTIONS AND ORGANIZATIONS

CHAPTER XII – COOPERATION WITH OTHER INSTITUTIONS AND ORGANIZATIONS

12.1. Cooperation with BiH institutions

Bearing in mind that cooperation with institutions and organs in BiH significantly contributes to functioning of Ombudsman Institution, before all, human rights protection and promotion; in 2010 the Ombudsmen paid special attention to this issue. The most important and effective form of cooperation with BiH institutions by all means are consultative meetings on regular basis. These meetings were mainly held with competent ministries responsible for certain allegations contained in a number of complaints. So, one of the issues was BiH worker's right in Slovenia, which requested a series of meetings with representatives of the Ministry Civil Affairs, Labor and Employment Agency, Employment Bureau of FBiH, the Ministry for Work and Social Policy, etc. At these meetings there were identified omissions in bilateral agreements on social insurance,, which imposes on BiH institutions an obligation of harmonization of these agreements with international standards of human rights. Strengthening of cooperation with BiH authorities institutions, particularly regarding implementation of ombuds-recommendations issued to BiH institutions and organs was another important topic of mentioned meetings.

Within these activities the Ombudsmen had meeting with with representatives of Tuzla municipality, where establishment of the day when the public is admitted was agreed. Such practice of cooperation with local community, according to Ombudsmen, represents reliable modal to be applied in forthcoming period of time and the Ombudsmen shall intend to introduce this practice to local communities where such practice turn to be needed.

With a view to discuss human rights situation and ensuring of functioning of the Institution at the level of local communities, the Ombudsmen had meetings with mayors of Dobo, Zenica, Stolac, Nevesinje, etc. These meetings are important due to the fact that citizens exercise majority of their rights exactly at the level of local communities, therefore, these meetings were right opportunity to consider problems met by municipal representatives as well.

Under activity "Ombudsman in your school", Ombudsman Institution visited 11 municipalities in BiH. *Inter alia*, there were meetings with representatives of Stolac municipality, the Ministry of Science, Culture and Sport of Canton Herzeg-Bosnia and directors of primary and secondary schools in Stolac municipality, which was also attended by the ambassador of Royal Embassy of Norway. These meetings resulted in joint initiative for resolving of the issue school's gym in the best interest of a child.

On the occasion of 8 March, International Women's Day, the Ombudsmen visited "Home of the Elderly" in Sarajevo and "Social and Gender Center" in Banjaluka and in this way draw attention at importance of ensuring of qualitative care for elderly female persons.

It is also needed to stress that the Ombudsmen, in preparation of their Special reports on the situation of human rights organized a number of consultative meetings with representatives of competent ministries at all levels of the authorities, as well as with managements of the institutions that provide various services to citizens, and with representatives of the NGOs. The main topic of these meetings was measures to be established with purpose of improvement human rights situation in the area of social protection.

12.2. Cooperation with international organizations and institutions

Transparency of the Institution means its openness and willingness for cooperation with all entities that can contribute to improve and protect human rights. It is precisely this parameter that demanded the Ombudsmen of B&H to establish cooperation with a number of international organizations accredited in B&H, as well as organizations that are headquartered outside of B&H. Certainly the most significant cooperation has been achieved with the OSCE Mission in B&H. Positive results of this cooperation was completely based on a partnership where in addition to support the strengthening of the capacity of the Ombudsman institutions of B&H the activities that are aimed to promote human rights are developed. Thusly, the Ombudsmen of B&H has participated in the promotion of the Law on Prevention of Discrimination, which was organized by the OSCE through radio broadcasts and seminars for social workers. A joint seminar for inspectors of Federation of B&H, Republika Srpska and the Brčko District was organized as well. This seminar has shown that violation of the law, which is subject of control of inspection bodies, has the violation of human rights as a consequence. This requires a stronger cooperation. Specific activities with the OSCE have been developed with aim to improve conditions in prisons where significant mention the efforts of Bosnia and Herzegovina to finally perform its obligations under the Protocol to the European Convention against torture and establishment of a national preventive mechanism.

Regarding the accredited status of "A", the Ombudsmen of Bosnia and Herzegovina has benefit from the possibility of addressing the UN bodies reporting with respect to the implementation of UN conventions and the Universal periodic report. Thusly, in 2010 observations to the Committee against Torture, Inhuman, and Degrading Treatments and Punishments were submitted.

Cooperation with regional mechanisms for human rights has also been established at a satisfactory level. In 2010 the Ombudsmen Institution was visited by High Representative for Human Rights of the Council of Europe, Thomas Hamemerberg, and on this occasion, *inter alia*, the issue of implementation of the rulings of European Court for Human Rights was discussed, particularly implementation of the Ruling Sejdić/Finci.

It is particularly important to emphasize cooperation with the Council of Europe in the framework of "Peer to Peer" Project, enabling employees of institutions training on certain important issues in the field of human rights. This resulted in the fact that BiH Ombudsman Institution is entrusted organization of thematic "Peer to Peer" workshop, which will provides

education on prevention of all forms of discrimination. The workshop is scheduled for September of 2011. However, increasing number of cases against Bosnia and Herzegovina before the European Court requires that the Ombudsman institutions strengthen cooperation with the Council of Europe in order to undertake activities that will have a preventive action in violation of the rights for which citizens of Bosnia and Herzegovina addressed to the Court in Strasbourg.

The Ombudsman of BiH has established limited cooperation with the European Commission in BiH, which in relation to 2009 in 2010 has shown increased interest for functioning of Ombudsman Institution. This is important because human rights are one of the priorities for every country on its way in the process of stabilization and accession to EU.

Importance of well relations with neighboring countries and the fact that the Region to which BiH belongs is linked by long-years legal, historic and cultural tradition result in the fact that many citizens still exercise the rights acquired in territory of former SFRJ. Such relations require necessity that national human rights mechanisms in countries emerged after dissolution of former SFRJ should mutually cooperate to make citizens' protection more effective. Having this fact in mind, BiH Ombudsmen, with full support by the OSCE Mission to BiH, in May of 2010 organized Regional Ombudsmen Conference named "Elimination of Discrimination in the Region – Role of the Institutions in Human Rights Protection and Modals of Regional Cooperation". During the Conference the ombudsmen from the region discussed modals of future cooperation and the discussion resulted in Joint Statement on Cooperation. Under this commenced cooperation in 2010 there were a series of meetings initiated by Defender of People of Croatia, Ombudsman of Slovenia, etc., where BiH Ombudsmen actively participated.

Significant cooperation in promoting and protecting of children's rights has been realized with the support of "Save the Children" Norway that allowed the Ombudsman larger presence in the field and access to cases of violations of children's rights.

The Ombudsmen particularly wish to underline outstanding cooperation and support provided in 2010 by Royal Embassy of Norway and Embassy of Swiss Confederation. This cooperation was established according to expressed needs of the Institution and support was provided to the initiatives created within Ombudsman Institution itself.

The work of Human Rights Institution of BiH was also supported by U.S. Embassy in BiH.

12.3. Cooperation with media

The Human Rights Ombudsman of Bosnia and Herzegovina is an independent institution set up **in order to promote** good governance and the rule of law and to protect the rights and liberties of natural and legal persons, as enshrined in particular in the Constitution of Bosnia and Herzegovina and the international treaties appended thereto, monitoring to this end the activity of the institutions of Bosnia and Herzegovina, its entities, and the District of Brčko, in

accordance with the provisions of the Law. The Institution pays particular attention to its legal obligation, that is, promotion of human rights which is one of the features of independent human rights mechanisms.

Apart from cooperation with the NGOs, media is by all means important partner of Ombudsman Institution in promotion of human rights, because of which the Ombudsmen paid additional efforts to establish professional cooperation with both electronic and printed media in entire BiH. Such approach ensures duly provision of information to the public regarding all issues from the area of human rights. In 2010 the Ombudsmen tried to answer all media requests, yet, at the same time, they requested media to arise interest of the public for themes from the area of human rights that are of the most relevance for the public.

In 2010, in cooperation with media, BiH Ombudsmen affirmed several important topics related to human rights, such as: problem of children's bagging, violations of children's rights by media, right of the mothers, rights of persons with disabilities, rights of migrant workers, discrimination on any ground, rights of the elderly, rights of prisoners/detainees and media freedoms.

Between January and December of 2010 Ombudsmen Institution received 178 written request by media for provision of comments or answers to certain questions, or participation in certain programs of electronic media.

It is essential to stress that media excellently covered press conferences by BiH Ombudsmen, organized on the occasion of presentation of Annual and Special Reports, conference of ombudsmen from the Region „Elimination of discrimination in the Region – Role of human rights institutions and modals of regional cooperation“, celebration of the Day of a Child named „If only my voice was heard“, as well as celebration of International Day of Human Rights „Existence of Discrimination through Analyze of Vulnerable Groups in BiH“.

There was also coverage of press conference organized on the occasion of establishment of the days when the public is admitted in Tuzla, and media covered public discussion on the topic »Role of Day Centers for Children in Risk aimed to protection of bagging children«, held in Zenica and Mostar, including activity “Ombudsman in your school”, held in 11 cities in BiH.

Review of requests for information on area-to-area basis is contained in Chart 8 with notice that main number of addressing in segment of activities of the Institution, related to general situation of human rights in BiH in a certain period, actions taken in a concrete case filed with the Institution or related to provisions of statistical data on number and type of complaints. BiH Ombudsmen had a number of appearances in media, based on direct contacts with representatives of media, particularly during certain events from human rights area.

Review of media requests related to human rights

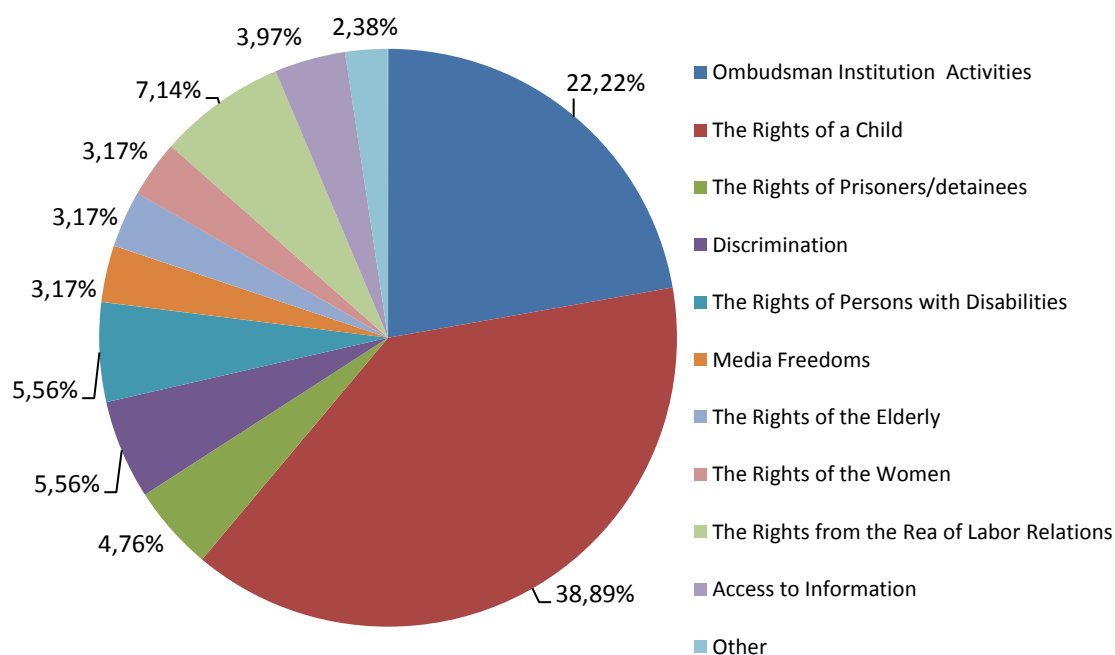


Chart 8

Statistical evidence, maintained by Ombudsman Institution, on cooperation between BiH Ombudsmen and media has shown more interest of media for the work of entity ombudsmen institutions, which is logical because most of media is established on entity principles and at BiH level functions only Public RTV service, more precisely BHRT and BIH Radio 1. (Chart 9.). Nevertheless, in 2010 there is increased interest of media from the District of Brčko for the work and activities of BiH Ombudsman Institution, which is result of ombudsmen policy to get closer to the citizens and equally present in entire territory of BiH With regard to type of media, in 2010 there is equal interest for human rights shown both by electronic and printed media, which is presented in Chart 10., and, compared to 2009, this is significant step forward by printed media that in 2010 have become more open for affirmation of themes from area of human rights protection.

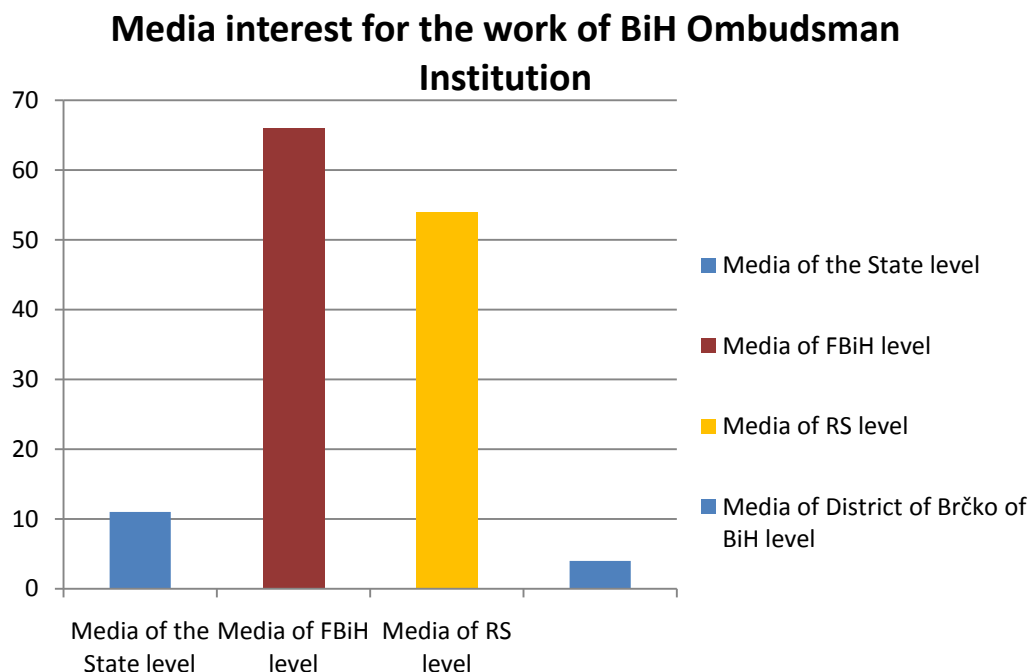


Chart 9

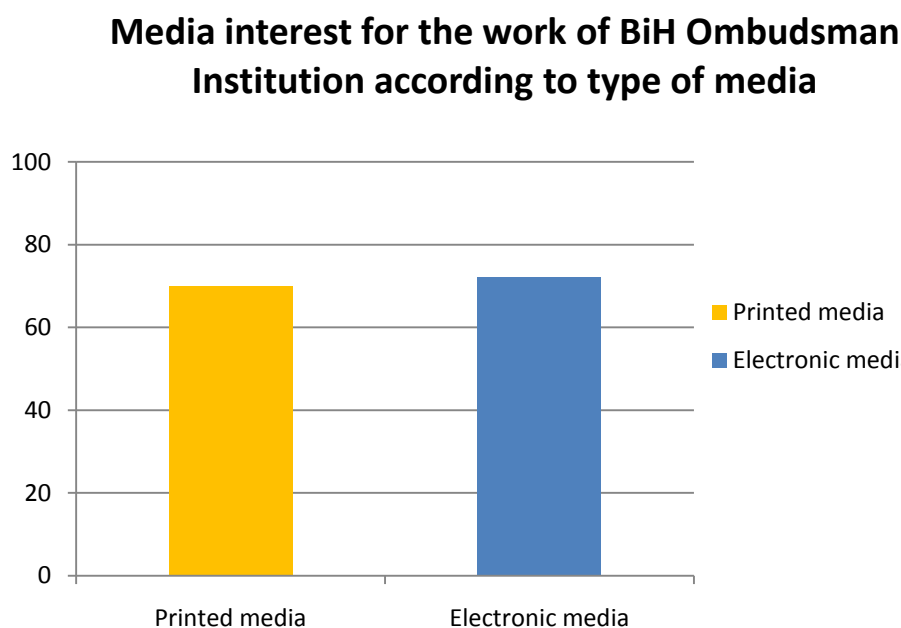


Chart 10

With regard to presentation of the Institution in media, main activities in this cooperation was in the Seat of the Institution in Banjaluka and Sarajevo Office, while contributions to this cooperation, in somewhat less degree, according to media interest, were provide by offices in Brčkom, Livnu i Mostaru.

Aware of the fact that as a mean of communication, web site enables fast, cheap and effective distribution of information, the Ombudsmen in 2010 paid particular attention to development of visual identity of the Institution through updating of web site

(www.ombudsmen.gov.ba), which resulted in greater number of texts published and in transparent and actual way enabled insight to all interested persons in documents relevant for the work of the Institution.

Precondition for this development was fast intern cooperation in 2010 and publishing of the texts with English translation.

Compared with printed materials, presentation of the work of the Institution through media and in addition to numerous advantages also provided possibility for corrections and modifications of online information. Additionally, media and all interested persons can view information at any time regardless Institution's working hours, and information presented on the web site are important for examination of certain human rights issues.

With regard to web site of the Institution, the Ombudsmen intend to maintain this positive trend and create a space for further qualitative improvement of this type of communication.

Regarding internal communication in 2010, it could be said that it ran effectively and transparently, and regarding external communication, it is of special importance to stress that all request of provision of public information were provided completely and dully, within legal deadlines.

In 2010 contact list is developed as well, targeted to establishment of closer and qualitative cooperation with media representatives. On the occasion of ombuds-visits to cities, contacts with PRs of municipal and domestic institutions have been established, too.

In 2010 Ombudsman Institution printed promotion materials in order to get closer to the citizens.

12.4. Cooperation with civil society

Finding out of adequate modal of cooperation between BiH Ombudsman Institution and civil society on promotion and protection of human rights was one of the challenges encountered by BiH Ombudsmen Institution in 2010. Thanks to support of ODIHR and the OSCE Mission to BiH Ombudsman institution in June organized two round tables of topic **„Development of consultative mechanism between BiH Ombudsmen and civil society“**, attended by 70 representatives of the NGOs, aiming to open consultative process on this topic, get insight in positive examples from the Region and choose appropriate modal. It is stressed that such form of cooperation should be based on partnership relations and *that this cooperation should be on regular bases, transparent, comprehensive and meaningful*.

Considering the issues of cooperation achieved between Ombudsman Institution and non-governmental organizations, it is concluded that this cooperation is still in its beginning stage and mainly targeted to a part of activities.

It is important to stress that during consultations it is underlined that ***holding of such regular periodical meetings*** between Ombudsman Institution and the NGOs is necessary for joint consideration of creation issues from the area of human rights, and, where needed, re-definition of priorities.

The areas where exist necessity of cooperation between Ombudsman Institution and the NGOs is ***sphere of protection of economic and social rights, which particularly applies to vulnerable groups*** and, at the same time, there is stressed issue of enjoyment of human rights of persons with disabilities, children, women, minorities, and population of returnees. It is also expressed need for ensuring of cooperation in area of protection of domestic violence in rural environments. ***Freedom of access to information, effective judicial system***, including issue of right to access to court through ensuring of free legal aid, protection of witnesses, execution of court decisions are also important areas of possible cooperation between Ombudsmen Institution and the NGOs.

Consultative process has shown that there is strongly expressed need ***for cooperation in prevention of discrimination*** with special focus on ensuring of application of the Law on Prohibition of Discrimination. This is particularly applied to usage of mediation mechanism, provision of the opinions, attitude towards court protection, etc. Result of consultations held is preparation of strategic document: Platform for cooperation between Ombudsman Institution and non-governmental sector (Annex III), which is available at web site of the Institution: www.ombudsmen.gov.ba

Apart from consultative process, BiH Ombudsmen also had regular contacts with the NGOs related to certain essential human rights issues such as freedom of access to information, women's and children's rights, corruption, prevention of discrimination, rights of displaced persons and returnees, etc.

In 2011 identification of forms and methods of cooperation with the NGOs shall, by all means, be one of the main priorities.

ANNEX I

CASES

ANNEX I – CASES

Tabular review of recommendation by the Institution of Human Rights Ombudsmen of B&Herzegovina issued in 2010

RECOMMENDATION NO.	CASE NO.	RESPONSIBLE PARTY	VIOLATION OF THE RIGHT	DATE OF ISSUANCE OF RECOMMENDATION	IMPLEMENTATION
P- 1/10	Ž-SA-05-444/09	Public Attorney's Office of FBiH	Sale of apartment	15.01.2010.	Implemented
P- 2/10	Ž-SA-05-396/10	The Ministry of Justice of FBiH	Return of resources-specialization	25.01.2010.	Partly implemented
P-3/10	Ž-BL-05-167/09	Public Attorney's Office of FBiH	Sale of apartment	08.02.2010.	Implemented
P-4/10	Ž-BL-5276/08	RS Government The Ministry of Trade and Tourism of RS	Execution of verdict of County Court in Banjaluka	08.02.2010.	Cooperation achieved
P-5/10	Ž-BL-04-450/09	Cantonal court Sarajevo	Lengthiness of court proceedings	10.02.2010.	No feedback
P-6/10	Ž-SA-04-47/09	Municipality Stari Grad	Recovery of roof of housing building	23.02.2010.	Cooperation registered
P-7/10	Ž-SA-04-368/09	Cantonal Public Attorney's Office of Canton Una-Sana	Sale of apartment	24.02.2010.	Implemented
P-8/10	Ž-SA-05-413/09	Municipal Council of municipality Visoko	Appointment	24.02.2010.	Not implemented
P-9/10	Ž-SA-04-315/09	FBiH Administration of Civil Defense; Public Service Agency of FBiH; administrative inspector of the Ministry of Justice of FBiH	Right to work – vacancy notice	12.03.2010.	Not implemented
P-10/10	BL-5141/06	Cantonal Court in Livno	Property	17.03.2010.	Implemented
P-11/10	Ž-BL-05-403/09	Municipal court in Prijedor	Lengthiness of court proceedings	17.03.2010.	Implemented
P-12/10	Ž-BL-01-18/10	Municipal court in Banjaluka	Children's rights	17.03.2010.	Partly implemented
P-13/10	Ž-BL-04-111/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010.	No feedback

P-14/10	Ž-BL-04-109/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010.	Not implemented
P-15/10	Ž-BL-04-104/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010.	Not implemented
P-16/10	Ž-BL-04-91/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010.	Not implemented
P-17/10	Ž-BL-04-26/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010.	Not implemented
P-18/10	Ž-BL-04-25/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010.	Not implemented
P-19/10	Ž-BL 5300/08	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010.	Cooperation achieved
P-20/10	Ž-BL-04-77/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-21/10	Ž-BL-04-63/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-22/10	Ž-BL-04-64/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-23/10	Ž-BL-04-80/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-24/10	Ž-BL-04-84/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-25/10	Ž-BL-04-09/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-26/10	Ž-BL 5216/08	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Implemented
P-27/10	Ž-BL-04-193/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Cooperation achieved
P-28/10	Ž-BL-04-81/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Cooperation achieved
P-29/10	Ž-BL-04-55/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-30/10	Ž-BL-04-57/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Implemented
P-31/10	Ž-BL-04-62/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Implemented

P-32/10	Ž-BL-04-148/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Implemented
P-33/10	Ž-BL-04-447/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Implemented
P-34/10	Ž-BL-5248/08	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-35/10	Ž-BI 5263/08	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Implemented
P-36/10	Ž-BL-04-184/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-37/10	Ž-BL-04-151/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Implemented
P-38/10	Ž-BL-04-150/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-39/10	Ž-BL-04-153/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-40/10	Ž-BL-04-185/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-41/10	Ž-BL-04-189/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-42/10	Ž-BL-04-180/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Implemented
P-43/10	Ž-BL-04-183/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-44/10	Ž-BL-04-182/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Implemented
P-45/10	Ž-BL-04-186/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-46/10	Ž-BL-04-179/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-47/10	Ž-BL-04-181/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-48/10	Ž-BL-04-115/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P49/10	Ž-BL-04-154/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Implemented

P-50/10	Ž-BL-04-187/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-51/10	Ž-BL-04-110/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-52/10	Ž-BL-04-668/09	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Implemented
P-53/10	Ž-BL-04-507/09	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Cooperation achieved
P-54/10	Ž-BL-04-149/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-55/10	Ž-BL-04-489/09	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Implemented
P-56/10	Ž-BL-04-41/09	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Implemented
P-57/10	Ž-BL-04-146/09	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Implemented
P-58/10	Ž-BL-04-188/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Implemented
P-59/10	Ž-BL-04-112/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-60/10	Ž-BL-04-86/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-61/10	Ž-BL-04-194/09	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Implemented
P-62/10	Ž-BL-04-46/09	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Cooperation achieved
P-63/10	Ž-BL-04-85/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-64/10	Ž-BL-04-116/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	18.03.2010	Not implemented
P-65/10	Ž-SA-01-1030/10	Communication Regulatory Agency	Children's rights	22.03.2010.	Implemented
P-66/10	Ž-BL-05-291/09	Municipal Court Novi Grad	Lengthiness of proceedings	22.03.2010.	Implemented
P-67/10	Ž-BL- 5270/07	Municipal Court Banjaluka	Lengthiness of proceedings	22.03.2010.	Implemented
P-68/10	Ž-BL 7069/07	Cantonal Commission for	Right to work, violation of	22.03.2010.	Implemented

		Implementation of Article 143 ZOR FBiH	principle <i>ex aequo et Bono</i>		
P-69/10	Ž-BL-06-312/09	Center for pre-school upbringing and education in Banjaluka	Freedom of access to information and freedom of expression	22.03.2010.	Implemented
P-70/10	Ž-BL-06-312/09	Clinical Center Banja Luka	Freedom of access to information and freedom of expression	22.03.2010.	Implemented
P-71/10	Ž-SA-05-98/10	Municipality Kreševo	The Law on Administrative Procedure, Article 6, item 13. Complaint against work of administration	22.03.2010.	No feedback
P-72/10	Ž-BR-04-102/09	The Ministry of Trade, Tourism and Traffic of Canton Tuzla	Property	22.03.2010.	Not implemented
P-73/10	Ž-BR-04-11/10	The Government of Brčko District	Property	22.03.2010.	Implemented
P-74/10	Ž-BR-04-06/10	Appeal Commission of Brčko District and Police of Brčko District	Fair criminal proceedings	22.03.2010.	Partly Implemented
P-75/10	Ž-BR 7027/08	The Government of Brčko District	Property	22.03.2010.	Not implemented
P-76/10	Ž-BR-04-81/09	The Government of Brčko District –Department for Urban Planning and property and legal issues	Property	22.03.2010.	Not implemented
P-77//10	Ž-BR-05-32/09	Municipality Pelagićevo	Freedom of access to information	22.03.2010.	Implemented
P-78/10	Ž-SA-05-61/10	The Government of Canton Sarajevo; Cantonal Ministry of Health	Appointment	02.04.2010.	Not implemented
P-79/10	Ž-SA-05-236/10	Municipality Glamoč and Privatization Agency of Canton 10	Property	15.04.2010.	Cooperation registered
P-80/10	Ž-SA-06-585/09; 376/10; 377/10	Interior Ministry of Canton ZE-DO and ZE-DO Cantonal Council	Discrimination	07.04.2010.	Implemented
P-81/10	Ž-SA-01-421/10	Social Work Center Vitez	Children's rights	12.04.2010.	Implemented
P-82/10	Ž-SA-01-329/10	The Ministry of Work and Social			Cooperation achieved,

		Policy of Canton Una-Sana			recommendation not Implemented
P-83/10	Ž-SA-05-459/09	FBiH Government, the Ministry of Work and Social Policy	Appointment	13.04.2010.	Implemented
P-84/10	Ž-MO-04-20/10	Secondary school of economy Mostar	Children's rights	15.04.2010.	Not implemented
P-85/10	Ž-BL-01-422/09	Social Work Center Kostajnica	Children's rights	15.04.2010.	Implemented
P-86/10	Ž-BL-04-213/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Not implemented
P-87/10	Ž-BL-04-213/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Not implemented
P-88/10	Ž-BL-04-210/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Implemented
P-89/10	Ž-BL-04-262/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Implemented
P-90/10	Ž-BL-04-236/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Not implemented
P-91/10	Ž-BL-04-224/140	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Not implemented
P-92/10	Ž-BL-04-212/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Not implemented
P-93/10	Ž-BL-04-214/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Not implemented
P-94/10	Ž-BL-04-234/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Implemented
P-95/10	Ž-BL-04-279/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Not implemented
P-96/10	Ž-BL-04-192/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Not implemented
P-97/10	Ž-BL-04-263/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Not implemented
P-98/10	Ž-BL-04-196/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Implemented
P-99/10	Ž-BL-04-197/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Cooperation achieved

P-100/10	Ž-BL-04-216/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Not implemented
P-101/10	Ž-BL-04-206/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Not implemented
P-102/10	Ž-BL-04-11/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Not implemented
P-103/10	Ž-BL-04-235/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Implemented
P-104/10	Ž-BL-04-248/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Not implemented
P-105/10	Ž-BL-04-237/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.04.2010.	Implemented
P-106/10	Ž-SA-07-436/10	The Ministry of Justice of BiH, The Ministry of Justice of FBiH, and The Ministry of Health of FBiH; Cantonal Court Tuzla	Maintenance of psychical and physical health of prisoners	16.04.2010.	Not implemented, however, cooperation achieved
P-107/10	Ž-BL-05-10/10	Municipality Prnjavor, Department for general administrative service	Freedom of access to information	20.04.2010.	Implemented
P-108/10	Ž-BL-06-404/09	Municipal Court Gradiška	Execution of decision	20.04.2010.	Implemented
P-109/10	Ž-BL-05-499/09	Fund PIO/MIO-Branch Banja Luka	Pensions	20.04.2010.	Implemented
P-110/10	ŽA-SA-01-123/10	The Government of Canton Sarajevo; Cantonal Ministry of Education and Science	Appointment	20.04.2010.	Not implemented
P-111/10	Ž-SA-04-291/10	Mathematics Faculty in Sarajevo	Freedom of access to information	23.04.2010.	Implemented
P-112/10	Ž-SA-04-371/10	Mathematics Faculty in Sarajevo	Freedom of access to information	23.04.2010.	Not Implemented
P-113/10	Ž-SA-05-332/10	Mathematics Faculty in Sarajevo	Freedom of access to information	23.04.2010.	Implemented
P-114/10	Ž-SA-05-375/09	The Ministry for refugees and displaced persons of RS, Department Doboj, office Brod	Repossession of apartment	28.04.2010.	No feedback
P115/10	Ž-SA-05-383/10	The Government of Canton Central Bosnia and its Ministry of	Appointment	28.04.2010.	Not implemented, cooperation achieved

		Economy			
P-116/10	Ž-SA-04-304/10	Public Attorney's Office of FBiH	Sale of apartment	28.04.2010.	Implemented
P-117/10	Ž-SA-05-608/09	The Ministry for refugees and displaced persons of RS	Right to home	29.04.2010.	Not implemented
P-118/10	Ž-SA-01-443/10	Clinical Center of Sarajevo University; Cantonal Social Work Center; Service for social protection of Novi Grad	Children's rights	29.04.2010.	Implemented
P-119/10	Ž-BL-04-293/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	30.04.2010.	Not implemented
P-120/10	Ž-BL-04-309/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	30.04.2010.	No feedback
P-121/10	Ž-BL-04-291/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	30.04.2010.	Implemented
P-122/10	Ž-BL-04-312/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	30.04.2010.	Not implemented
P-123/10	Ž-BL-04-292/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	30.04.2010.	Implemented
P-124/10	Ž-BL-04-311/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	30.04.2010.	Not implemented
P-125/10	Ž-BL-04-313/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	30.04.2010.	No feedback
P-126/10	Ž-BL-04-310/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	30.04.2010.	Implemented
P-127/10	Ž-BL-04-308/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	30.04.2010.	Not implemented
P-128/10	Ž-BL-05-90/10	Municipal court in Banja Luci	Article 6. of ECHR	12.05.2010.	Implemented
P-129/10	Participation of children and respect for their opinion_ Project		Children's rights		No feedback
P-130/10	BL 5164/07	Municipality Trvanik	Repossession of apartment - compensation	04.05.2010.	Implemented
P-131/10	Ž-BL 5281/07	Fund PIO/MIO -branch Banja Luka	Pensions	04.05.2010.	No feedback

P-132/10		Federation administration for geodetic and legal and property issues Sarajevo	Article 6. of ECHR	04.05.2010.	Cooperation achieved
P-133/10	Ž-SA-05-624/10	RTV FBiH	Right to work	05.05.2010.	Not implemented
P-134/10	Ž-SA-Ž-05-336/10	The Government of Canton Una-Sana-Service for professional and common affairs	Appointment	05.05.2010.	Cooperation achieved
P-135/10	Ž-SA-06-49/10	Municipality Pale-Prača	Discrimination	13.05.2010.	No feedback
P-136/10	Ž-SA-04-86/09	Municipality Ravno	Damage compensation-fire	13.05.2010.	No feedback
P-137/10	Ž-SA-04-603/09	Public attorney's office of FBiH	Sale of military apartment	18.05.2010.	Implemented
P-138/10	Ž-SA-05-369/10	Board of Directors of Institute for Transfusion Medicine	Appointment	18.05.2010.	Not implemented
P-139/10	Ž-SA-05-630/09	The Ministry of Work and Veterans and Disablement Protection of RS	severance pay	15.05.2010.	Implemented
P-140/10	Ž-SA-04-458/09	Assembly of regional landfill „US REG-DEP“ d.o.o.	Appointment	18.05.2010.	No feedback
P-141/10	Ž-MO-05-98/10	Municipal court Čapljina	Property and court proceedings within reasonable time	18.05.2010.	Implemented
P-142/10	Ž-SA-07-280; 219 i 318/10	Correctional institution Tuzla	Prisoners' rights	13.05.2010.	Implemented
P-143/10	Ž-SA-04-334/10	Federation administration of civil defense	Right to work	24.05.2010.	Cooperation achieved
P-144/10	Ž-BR-05-15/10	Municipal court Banja Luka	Court proceedings in reasonable time	21.05.2010.	Not implemented
P-145/10	Ž-Sa-05-424/10	Municipal council Vitez	Appointment	17.05.2010.	Not implemented
P-146/10	Ž-SA-05-70/10	The Ministry of Foreign Affairs of BiH	Right to work and violation of Article 6 of ECHR	25.05.2010.	Implemented
P-147/10	Ž-BL-04-456/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	05.07.2010.	Not implemented
P-148/10	Ž-BL-01-190/10	Primary school Ivo Andrić	Children's rights	26.05.2010.	Implemented
P-149/10	Ž-BL-04-363/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Not implemented
P-150/10	Ž-BL-04-363/10	Commission for Implementation	Article 182 ZOR RS	15.06.2010.	Not implemented

		of Article 182 of ZOR RS	severance pay		
P-151/10	Ž-BL-04-38/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Not implemented
P-152/10	Ž-BL-04-41/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Not implemented
P-153/10	Ž-BL-04-377/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Implemented
P-154/10	Ž-BL-04-386/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Implemented
P-155/10	Ž-BL-04-384/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Not implemented
P-156/10	Ž-BL-04-319/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Not implemented
P-157/10	Ž-BL-04-326/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Not implemented
P-158/10	Ž-BL-04-334/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Not implemented
P-159/10	Ž-BL-04-359/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Not implemented
P160/10	Ž-BL-04-358/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Not implemented
P-161/10	Ž-BL-04-357/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Not implemented
P-162/10	Ž-BL-04-356/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Not implemented
P-163/10	Ž-BL-04-354/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Implemented
P-164/10	Ž-BL-04-355/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Not implemented
P-165/10	Ž-BL-04-362/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Not implemented
P-166/10	Ž-SA-05-131/10	FBiH Government and its Ministry of Energy, Mining and Industry	Appointment	15.06.2010.	Implemented
P-167/10	Ž-BL-04-385/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Not implemented

P-168/10	Ž-BL-04-379/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	15.06.2010.	Implemented
P-169/10	Ž-SA-01-418/10	Social Work Center of Municipality Center and Cantonal Social Work Center	Children's rights	15.06.2010.	Cooperation achieved, recommendation Not implemented
P-170/10	Ž-SA-05-126/10	Municipal Court in Kotor Varoši	Effective court protection	17.06.2010.	Implemented
P-171/10	Ž-BL-04-398/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	17.06.2010.	Not implemented
P-172/10	Ž-BL-04-393/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	17.06.2010.	Not implemented
P-173/10	Ž-BL-04-463/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	17.06.2010.	Not implemented
P-174/10	Ž-LI-05-51/10	Municipality Livno	Freedom of access to information	15.07.2010.	Implemented
P-175/10	Ž-SA-01-862/10	Social Work Center of Municipality Center	Children's rights	20.07.2010.	Cooperation achieved, recommendation not implemented
P-176/10	Ž-MO-05-131/10	Municipal Court Mostarr	Children's rights	15.07.2010.	Implemented
P-177/10	Ž-SA-06-646/10	Home for children without parental care Bjelave	Right to work and Article 6 of ECHR	23.07.2010.	Not implemented
P-178/10	Ž-SA-02-877/10	Federation Ministry of Work and Social Policy	Children's rights/persons with disabilities	23.07.2010.	Not implemented
P-179/10	Ž-SA-04-702/10	FZ PIO/MIO Mostar- Cantonal administrative service Zenica	Pensions	03.08.2010.	Not implemented
P-180/10	Ž-SA-06-1006/10	The Ministry of Education and Science of Canton Sarajevo and Gymnasium II in Sartajevo	Children's rights	09.08.2010.	No feedback
P-181/10	Ž-SA-05-505/09	The Constitutional Court of BIH and municipality Sanski Most	Property, right to home	18.08.2010.	Cooperation achieved
P-182/10	Ž-SA-05-351/10	Interior Ministry of RS	Compensation	18.08.2010.	Partly implemented
P-183/10	Ž-LI-05-55/10	Administration for inspection businesses of Canton 10	Right to work	19.08.2010.	Cooperation achieved, recommendation not implemented
P-184/10	Ž-LI-05-70/10	Municipal court Livno	Nom-execution of decision	19.08.2010.	Not implemented

P-185/10	Ž-SA-05-196/10	The Government of Canton Sarajevo	Right to home	20.08.2010.	Cooperation achieved, recommendation not implemented
P-186/10	Ž-SA-05-1087/10	Municipality Ključ	Freedom of access to information	24.08.2010.	Not implemented
P-187/10	Ž-BR-04-159/10	Municipal council Sapna	Appointment	20.07.2010.	Not implemented
P-188/10	Ž-BR-05-157/10	Municipal court of Brčko District; the Government of Brčko District-Department for health and other services, „International forum solidarity EEMAUS“ Doboj Istok	Illegal deprivation of liberty and accommodation in health institutions	20.07.2010.	Cooperation achieved
P-189/10	Ž-MO-05-81/10	The Government of HNK/Ž	Appointment	25.08.2010.	Implemented
P-190/10	Ž-BL-05-515/10	„Roads of RS“	Freedom of access to information	25.08.2010.	Not implemented
P-191/10	Ž-BL-05-410/10	Municipality Rogatica	Article 6 of ECHR	28.08.2010.	Cooperation achieved, recommendation not implemented
P-192/10	Ž-BR-05-124/10	Municipal court Tuzla	Article 6 of ECHR	20.08.2010.	Not implemented
P-193/10	Ž-BR-04-50/10	The Government of Brčko District-Department for professional and administrative issues	Non-execution of decision	20.08.2010.	Not implemented
P-194/10	Ž-BR-04-49/10	The Government of Brčko District-Department for professional and administrative issues	Silence of administration	20.08.2010.	Not implemented
P-195/10	Ž-BR-04-48/10	The Government of Brčko District-Department for professional and administrative issues	Right to work	20.08.2010.	Not implemented
P-196/10	Ž-BR-05-86/10	Municipal court Banja Luka	Non-execution of decision	20.08.2010.	Implemented
P-197/10	Ž-BR-04-42/10	Privatization Agency of FBiH	Realization of vouchers	20.08.2010.	Implemented
P-198/10	Ž-BR-05-150/10	Interior Ministry of Canton Tuzla-Department for administration	Freedom of access to information	20.08.2010.	No feedback

P-199/10	Ž-BR-05-124/10	Municipal court Brčko	Non-execution of decision	20.08.2010.	Not implemented
P-200/10	Ž-BR-05-26/09	The Government of Brčko District-Department for public registry	Right to work	20.08.2010.	No feedback
P-201/10	Ž-BR-04-87/09	JP „Komunalno“ Brčko d.o. od	utilities	20.08.2010.	Cooperation achieved
P-202/10	Ž-BR-05-110/10	Municipal court Tuzli	Lengthy procedure and non-taking of decision on execution	20.08.2010.	No feedback
P-203/10	Ž-BR-04-85/09	The Government of Brčko District-Department for urban planning and legal and property issues; Municipal court Brčko	Damage compensation-bankruptcy	20.08.2010.	Not implemented
P-204/10	Ž-BR-04-66/10	Agency for supervision of security of FBiH; UNIQUA d.d. Sarajevo	Discrimination	20.08.2010.	Not implemented
P-205/10	Ž-BR-05-160/10	Primary school Vladimir Nazor Odžak	Freedom of access to information	20.08.2010.	No feedback
P-206/10	Ž-BR-05-49/09	The Government of Brčko District-Department for refugees, displaced persons and housing issues	Violation of the Law on Administrative Procedure of BD of BiH	20.08.2010.	Partly implemented
P-207/10	Ž-SA-05-372/10	Public institution „Komunalac“ and Municipal Council of Gradačac	Appointment	23.08.2010.	Not implemented
P-208/10	Ž-SA-05-605/10	„Komunalno“ d.o.o Bosanski Petrovac and Municipal Council of Bosanski Petrovac	Appointment	23.08.2010.	Partly implemented
P-209/10	Ž-SA-05-381/10	Municipality Stari Grad	Annex VII-return/reconstruction	31.08.2010.	Implemented
P-210/10	Ž-SA-05-962/10	The Government of FBiH and Federation Ministry of Work and Social Policy	Appointment	01.09.2010.	Cooperation achieved
P-211/10	Ž-SA-05-1044/10	The Council of Ministers of BiH and the Ministry of Civil affairs of BiH Affairs	Appointment	01.09.2010.	Not implemented
P-212/10	Ž-SA-05-529/10	FZ PIO/MIO- Mostar-Cantonal administrative service Travnik	Equal access to public services	14.09.2010.	Implemented

P-213/10	Ž-SA-07-1169/10	The Ministry of Justice of FBiH, Municipal court Tuzla, Cantonal court Tuzla, The Ministry of Justice of Canton Tuzla, the Ministry of Justice of BiH, the Ministry of Health of FBiH and Commission for protection of persons with mental disorders	Criminal sanctions-accommodation mentally disabled persons	20.09.2010.	Cooperation achieved, recommendation not implemented
P-214/10	Ž-SA-04-729/10	KJP „Rad“ d.o.o.	Right to work	28.09.2010.	Cooperation achieved, recommendation not implemented
P-215/10	Ž-BL-04-591/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	21.09.2010.	Not implemented
P-216/10	Ž-BL-04-602/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	21.09.2010.	Not implemented
P-217/10	Ž-BL-04-615/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	21.09.2010.	Not implemented
P-218/10	Ž-BL-04-564/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	21.09.2010.	Implemented
P-219/10	Ž-BL-04-590/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	21.09.2010.	Not implemented
P-220/10	Ž-BL-04-505/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	21.09.2010.	Not implemented
P-221/10	Ž-BL-04-507/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	21.09.2010.	Not implemented
P-222/10	Ž-BL-04-460/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	21.09.2010.	Implemented
P-223/10	Ž-BL-04-561/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	21.09.2010.	Implemented
P-224/10	Ž-BL-04-562/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	21.09.2010.	Implemented
P-225/10	Ž-BL-04-577/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	21.09.2010.	Not implemented
P-226/10	Ž-BL-04-573/10	FBiH Government and its Ministry of Energy, Mining and Industry	Appointment	21.09.2010.	Not implemented
P-227/10	Ž-BL-04-576/10	Commission for Implementation	Article 182 ZOR RS	21.09.2010.	Not implemented

		of Article 182 of ZOR RS	severance pay		
P-228/10	Ž-SA-04-232/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	22.09.2010.	Not implemented
P-229/10	Ž-SA-04-356/10	The Government of Canton Una-Sana	Appointment	22.09.2010.	Implemented
P-230/10	Ž-SA-05-474/09	Municipality Zvornik	Education	27.09.2010.	Implemented
P-231/10	Ž-SA-05-474/09	The Ministry of Education and Culture of RS	Education	27.09.2010.	Implemented
P-232/10	Ž-BL-05-261/10	Municipality Sanski Most-Department for urban planning, constructing and housing issues	Property, non-execution of court decision by Cantonal court Bihać	27.09.2010.	Cooperation achieved, recommendation not implemented
P-233/10	Ž-SA-05-437/10	The Government of Canton Sarajevo	Appointment	01.10.2010.	Implemented
P-234/10	Ž-SA-04-491/09	The Government of Canton Sarajevo and Cantonal Privatization Agency	Right to work	04.10.2010.	Not implemented
P-235/10	Ž-SA-05-1051/10	Primary school Ilidža	Freedom of access to information	04.10.2010.	Implemented
P-236/10	Ž-BL-5143/08	BiH Court	Article 6 of ECHR	08.10.2010.	Partly implemented
P-237/10	Ž-BR-04-218/10	The Ministry of Education, Science, Culture and Sport of Canton Tuzla	Right to work	08.10.2010.	Not implemented
P-238/10	Ž-BR-04-100/10	Municipality Tuzla-Inspection service	Non-execution of decision	08.10.2010.	No feedback
P-239/10	Ž-BR-05-185/10	Office for management of public property of District Brčko	Property	08.10.2010.	Not implemented
P-240/10	Ž-BR-04-35/10	PIO/MIO Mostar- Cantonal administrative service Zenica	Lengthy procedure and taking decision upon request for retirement	08.10.2010.	Cooperation achieved
P-241/10	Ž-BR-04-113/10	Municipality Tuzla, The Ministry of Agriculture, Forestry and waterpower engineering of Canton Tuzla	Disabling of peaceful enjoyment in property-environment pollution	08.10.2010.	Not implemented
P-242/10	Ž-BR-04-175/10	Office for revision of public administration of District of Brčko	Right to work	08.10.2010.	Implemented

P-243/10	Ž-BR-05-230/10	Prosecutor's office in Orašje in Canton Posavina and Interior Ministry of Canton Posavina	Right to life and personal security	08.10.2010.	Cooperation achieved
P-244/10	Ž-BR-05-161/10	Municipality Tuzla	Non-execution of decision	08.10.2010.	Implemented
P-245/10	Ž-BR-05-268/10	Municipality Kalesija	Effective legal remedy	08.10.2010.	No feedback
P-246/10	Ž-BR-05-43/10	Municipal court Gračanici	Non-execution of decision	08.10.2010.	Implemented
P-247/10	Ž-BR-04-105/10	The Ministry of Work and Social Policy of FBiH	Non-execution of decision	08.10.2010.	Implemented
P-248/10	Ž-BR-05-97/09	Municipal court Orašje	Article 6 of ECHR	08.10.2010.	Implemented
P-249/10	Ž-BR-05-169/10	Municipal court of Brčko District	Article 6 of ECHR	08.10.2010.	Implemented
P-250/10	Ž-BR-05-57/09	Municipal court Sarajevu	Non-execution of decision	08.10.2010.	No feedback
P-251/10	Ž-BR-05-118/09	Municipal court Živinica	Article 6 of ECHR	08.10.2010.	Partly implemented
P-252/10	Ž-BR-05-117/09	Municipal court Gradačcu	Article 6 of ECHR	08.10.2010.	Partly implemented
P-253/10	Ž-BR-05-68/10	Municipal court Brčkom	Article 6 of ECHR	08.10.2010.	No feedback
P-254/10	Ž-BR-04-111/10	Municipality Gradačac	Property	08.10.2010.	No feedback
P-255/10	Ž-BR-05-178/10	Office for revision of public administration and institutions of District Brčko	Freedom of access to information	08.10.2010.	Implemented
P-256/10	Ž-BR-05-80/09	Municipal court Modriča	Article 6 of ECHR	08.10.2010.	Cooperation achieved, recommendation not implemented
P-257/10	Ž-BR-05-214/10	Office for management of public property and Department for urban planning and legal and property issues of District Brčko	Property	08.10.2010.	Cooperation achieved
P-258/10	Ž-BR-05-195/10	Cantonal court Tuzli	Property, right to family and private life and correspondence	08.10.2010.	Cooperation achieved, recommendation not implemented
P-259/10	Ž-MO-05-82/10	The Ministry of Civil Affairs of BiH, Interior Ministry of Canton 10, PP Bosansko Grahovo, Municipality Bos. Grahovo-Social protection service	Public documents	12.10.2010.	Cooperation achieved

P-260/10	Ž-MO-05-64/10	Municipal court Mostar	Article 69 of ECHR	12.10.2010.	Not implemented
P-261/10	Ž-MO-04-66/10	WAT Administration	Right to work	12.10.2010.	Not implemented
P-262/10	Ž-SA-01-447/10	Music and ballet primary school „Novo Sarajevo“	Children's rights	12.10.2010.	No feedback
P-263/10	Ž-SA-05-181/10	The Council of Ministry of BiH, The Ministry of Finances and Treasure	Right to allowances for separated life and accommodation- labor rights	12.10.2010.	Implemented
P-264/10	Ž-SA-05-1237/10	Institute for protection of students' health and the Ministry of Health of FBiH	Specialization	13.10.2010.	Implemented
P-265/10	Ž-LI-05-76/10	Municipality Livno	Article 13 of ECHR and the Law on Administrative Procedure of FBiH	13.10.2010.	Implemented
P-266/10	Ž-LI-05-83/10	Municipality Livno	Article 13 of ECHR and the Law on Administrative Procedure of FBiH	13.10.2010.	Implemented
P-267/10	Ž-LI-05-102/10	Municipality Livno	Article 13 of ECHR and the Law on Administrative Procedure of FBiH	13.10.2010.	Implemented
P-268/10	Ž-SA-05-38/10	The Ministry of Education and Science of Canton Sarajevo and the Government of Canton Sarajevo	Appointment	14.10.2010.	Not implemented
P-269/10	Ž-SA-04-1200/10	Municipal Tuzla and local community Lipnica	Allocation of single financial support	20.10.2010.	Cooperation achieved, recommendation not implemented
P-270/10	Ž-SA-01-716/10	Social Work center Jajce	Freedom of movement and choice of place of residence, children's rights	20.10.2010.	Cooperation achieved
P-271/10	Ž-BL-05-594/10	Municipal police Šipovo	Article 13 of ECHR	20.10.2010.	Implemented
P-272/10	Ž-BL-05-01/10	Municipal court Tesliću	Article 6 of ECHR	01.11.2010.	Implemented
P-273/10	Ž-SA-04-1235/10	Secondary school of economy Travnik	Right to equality-vacancy notice procedure	01.11.2010.	Not implemented
P-274/10	Ž-SA-04-1244/10	Public service agency FBiH	Right to equality-vacancy notice procedure	01.11.2010.	No feedback

P-275/10	Ž-BL-04-687/10	Police of USK-Commission for selection of policemen in Canton Una-Sana	Right to equality-vacancy notice procedure	01.11.2010.	Not implemented
P-276/10	Ž-BL-04-711/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Implemented
P-277/10	Ž-BL-04-701/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Not implemented
P-278/10	Ž-BL-04-673/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Not implemented
P-279/10	Ž-BL-04-666/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Not implemented
P-280/10	Ž-BL-04-652/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Not implemented
P-281/10	Ž-BL-04-432/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Not implemented
P-282/10	Ž-BL-04-418/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Implemented
P-283/10	Ž-BL-04-745/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Implemented
P-284/10	Ž-BL-04-742/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Not implemented
P-285/10	Ž-BL-04-427/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Implemented
P-286/10	Ž-BL-04-421/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Not implemented
P-287/10	Ž-BL-04-430/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Not implemented
P-288/10	Ž-BL-04-419/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Not implemented
P-289/10	Ž-BL-04-431/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Not implemented
P-290/10	Ž-BL-04-420/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Not implemented
P-291/10	Ž-BL-04-416/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Not implemented
P-292/10	Ž-BL-04-417/10	Commission for Implementation	Article 182 ZOR RS	01.11.2010.	Not implemented

		of Article 182 of ZOR RS	severance pay		
P-293/10	Ž-BL-04-422/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Implemented
P-294/10	Ž-BL-04-423/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Implemented
P-295/10	Ž-BL-04-424/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Not implemented
P-296/10	Ž-BL-04-425/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Not implemented
P-297/10	Ž-BL-04-428/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Implemented
P-298/10	Ž-BL-04-429/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	01.11.2010.	Not implemented
P-299/10	Ž-BL-05-516/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay		Not implemented
P-300/10	Ž-BL-04-289/10 Ex officio Special report of the situation of human rights of the elderly	The Ministry of Civil Affairs of BiH, the Ministry of Work and Social Policy of F BiH, the Ministry of Health and Social Protection of RS and the Government of Brčko District	Rights of the Elderly	October of 2010.	Cooperation achieved
P-301/10	Ž-SA-04-1185/10	Municipality Jajce	Annex VII of Agreement on refugees and displaced persons and Article 6 of ECHR	04.11.2010.	Cooperation achieved, recommendation not implemented
P-302/10	Ž-SA-05-879/10	Public Attorney's Office of FBiH	Article 6 of ECHR registration of apartment in land register	08.11.2010.	No feedback
P-303/10	Ž-SA-04-274/10	Public Attorney's Office of FBiH	Article 6 of ECHR registration of apartment in land register	08.11.2010.	No feedback
P-304/10	Special Report on Compliant filed by workers of former RS custom administration of RS and Custom service of District Brčko	WAT Administration and the Board of Directors of WAT administration	Article 6 of ECHR	13.08.2010.	No feedback

P-305/10	Ž-SA-04-1340/10	Primary school Meša Selimović Zenica	Right to work	12.11.2010.	Not implemented
P-306/10	Ž-SA-05-1116/10	WAT Administration and the Board of Directors of this Administration	Related too Special Report 304/10 Article 6 of ECHR	18.11.2010.	No feedback
P-307/10	Ž-BL-01-306/10	Social Work Center Bužim and Municipal court Bosanska Krupa	Children's rights	22.11.2010.	Implemented
P-308/10	Ž-BL-04-650/10	RS administration for inspection businesses – Sector for labor inspection –Department Prijedor	Right to work	22.11.2010.	Implemented
P-309/10	Ž-BL-04-768/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	22.11.2010.	Not implemented
P-310/10	Ž-BL-04-763/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	22.11.2010.	Not implemented
P-311/10	Ž-BL-04-764/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	22.11.2010.	Not implemented
P-312/10	Ž-BL-04-785/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	22.11.2010.	Not implemented
P-313/10	Ž-BL-04-770/10	Commission for Implementation of Article 182 of ZOR RS	Article 182 ZOR RS severance pay	22.11.2010.	Implemented
P-314/10	Ž-SA-05-387/10	Municipality Šamac	Articles 6 and 8 of ECHR	10.11.2010.	Not implemented
P-315/10	Ž-MO-05-97/10	Municipality Čitluk	Annex VII of Agreement on refugees and displaced persons and Article 6 of ECHR	23.11.2010.	Implemented
P-316/10	Ž-SA-05-846/10	Municipality Ključ	Annex VII of Agreement on refugees and displaced persons and Article 6 of ECHR	29.11.2010.	Cooperation achieved, recommendation not implemented
P-317/10	Special report on rights of children accommodated in institutions with special focus on norms and standards.	Governments of FBiH and RS, the Ministry of Finances of BiH, the Ministry of Civil Affairs and the Ministry of Justice of BiH, the Ministry of Health and Social Protection of FBiH, Administration for Inspection businesses of Una-Sana Cantonal Council, Labor Inspection of FBiH		13.12.2010.	No feedback

P-318/10	Special report on participation of the children and adult persons in interest of schoolchildren	The Ministry of Education and Culture of RS, the Ministry of Education and Science of FBiH		13.12.2010.	No feedback
P-319/10	Special report on situation of children with special needs/disorders in physical and psychical development	The Ministry of Civil Affairs of BiH, the Ministry of Human Rights and Refugees of BiH, the Ministry of Education and Science of FBiH, the Ministry of Health of FBiH, the Ministry of Work and Social Policy of FBiH, the Ministry of Work and Social Protection of RS, the Ministry of Education and Culture of RS, cantonal ministries of education, social protection and health, the Government of District Brčko		13.12.2010.	No feedback
P-320/10	Special report on rights of persons with disabilities	Parliamentary Assembly of BiH, the Council of Ministers of BiH, the Parliament of FBiH, the Government of FBiH, Peoples Assembly of RS, the Government of RS, Council of District Brčko, the Government of District Brčko, entity ministries, department Brčko, cantonal ministries and other cities and municipalities competent organs		13.12.2010.	No feedback
P-321/10	Special report on right to pension	Parliament of FBiH, ministries of finances of FBiH and RS, the Ministry of Work and Social Policy of FBiH. The Ministry of Work and Social Protection of		13.12.2010.	Cooperation achieved

		RS, the Ministry of Work and Protection of Veterans of RS, tax administrations of FBiH and RS, labor inspections of FBiH and RS PIO/MIO Funds of FBiH, the Ministry of Civil Affairs of BiH			
P-322/10	Ž-SA-05-344/09	Municipal Council Travnik	Appointment	02.12.2010.	Not implemented
P-323/10	Ž-MO-05-07/10	City Mostar	Freedom of access to information	14.12.2010.	Not implemented
P-324/10	Ž-MO-05-52/10	City Mostar-Department for economy, communal and inspection businesses, and police administration Mostar	Article 8 of EHCHR and work of administration	14.12.2010.	Cooperation accomplished
P-325/10	Ž-SA-05-1123/10	The Government of Canton Sarajevo	Appointment	16.12.2010.	Not implemented
P-326/10	Ž-Sa-04-1408/10	The Ministry of Issues of Veterans of defense-liberation war	Rights of persons with special awards and war decorations	20.12.2010.	Not implemented
P-327/10	Ž-SA-05-157/10	Commission for Implementation of Article 182 ZOR RS	Article 182 ZOR RS Severance pay	20.12.2010.	Not implemented
P-328/10	Ž-SA-02-838/10	Cantonal Court Bihaću	Article 6 of ECHR	26.07.2010.	Implemented
P-329/10	Ž-BL-05-845/10	Municipal court Mrkonjić Gradu	Article 6 of ECHR	22.12.2010.	Implemented
P-330/10	Ž-SA-05-129/10	Cantonal Council of Canton Una-Sana	Appointment	23.12.2010.	No feedback
P-331/10	Ž-BL-01-425/10	Cantonal Court Sarajevu	Article 6 of ECHR	23.12.2010.	Implemented
P-332/10	Ž-SA-04-1279/10	The Ministry of Civil Affairs of BiH, Employment Bureau of FBiH and Employment Bureau of RS	Right to work-Payment of insurance against unemployment	23.12.2010.	Cooperation achieved
P-333/10	Ž-SA-05-512/09	Cantonal Court Sarajevu	Article 6 of ECHR	27.12.2010.	Implemented
P-334/10	Ž-SA-05-400/09	Municipal court Sarajevu	Article 6 of ECHR	27.12.2010.	Cooperation achieved
P-335/10	Ž-SA-05-1386/10	Interior Ministry of Canton Tuzla, Cantonal Prosecutor's Office of Canton Tuzla and Social Work Center Tuzla	Work of the police	28.12.2010.	Cooperation achieved
P-336/10	Ž-BL-04-553/10	Commission for Implementation	Article 182 ZOR RS	29.12.2010.	Not implemented

		of Article 182 ZOR RS	Severance pay		
P-337/10	Ž-SA-05-526/10	The Government and the Ministry of Education, Science, Culture and Sport of Canton Una-Sana	Appointment	22.10.2010.	Not implemented
P-338/10	Ž-SA-05-174/10	The Government of FBiH	Appointment	07.10.2010.	Not implemented
P-339/10	Ž-SA-05-925/10	Municipality Goražde	Freedom of access to information	28.07.2010.	Not implemented
P-340/10	Ž-SA-05-899/10	Interior Ministry of Canton Sarajevo	Work of the police and peaceful enjoyment in property	06.09.2010.	Not implemented
P-341/10	Ž-SA-05-45/10	Cantonal Court Zenici	Article 6 of ECHR	17.02.2010.	Implemented

Abridgements:

*ECHR– European Convention on Human Rights and Fundamental Freedoms

* Freedom of access to information – Freedom of Access to Information Act

* ZOR – The Law on Work

* ZUP – The Law on Administrative Procedure

ANNEX II

FINANCE

ANNEX II – FINANCE

REVIEW

of budgetary expenditures on financial-to-financial categories for reporting period: from 01.01.2010 to 31.12.2010

No:	Type of expenditures	Financial code	Approved by the budget for current year	Changes: balance, Restructurings of the reserves	Budgetary corrections (4+,-5)	Implemented in current period	Implemented in previous year	Index (7/6)
1	2	3	4	5	6	7	8	9
I.	Current expenditures		2.622.000	-50.100	2.571.900	2.219.715	1.634.628	0,86
1.	Gross salaries and allowances	611100	1.771.000	-149.100	1.621.900	1.442.904	1.066.002	0,89
2.	Remuneration of employees' expenditures	611200	284.000		284.000	175.808	140.947	0,62
3.	Travel costs	613100	68.000	30.000	98.000	94.746	77.995	0,97
4.	Expenditures for telephone and PTT service	613200	54.000	25.000	79.000	69.453	44.568	0,88
5.	Energy and utilities expenditures	613300	30.000	30.000	30.000	14.557	14.774	0,49
6.	Procurement of materials	613400	25.000	22.000	47.000	44.708	17.334	0,95
7.	Transport and fuel expenditures	613500	33.000		33.000	29.715	26.532	0,90
8.	Rent expenditure	613600	237.000	15.000	252.000	244.584	163.703	0,97
9.	Current maintenance expenditures	613700	27.000	2.000	29.000	27.167	21.537	0,94
10.	Insurance expenditures	613800	6.000	1.000	7.000	5.431	4.505	0,78
11.	Contractual and other special expenditures	613900	87.000	4.000	91.000	70.642	56.731	0,78
II.	Capital expenditures	8212-8216	99.000	50.100	149.100	145.648	1.972	0,98
1.	Procurement of equipment	8213	99.000	50.100	149.100	145.648	1.972	0,98
2.	Investments	8216						
III.	Programs of special purpose		0	0	0	0	0	
IV.	TOTAL		2.721.000	0	2.721.000	2.365.363	1.636.600	0,87

Implementation of the Budget for 2010 with expenditures for staff taken over from FBiH

The Budget approved for 2010. 2.721.000

Complete expenditures for 2010. 2.558.676 (2.365.363 budget implementation
+193.313 expenditures for staff from FBiH)

Total implementation of the Budget for 2010 is: 94%

ANNEX III

**PLATFORM FOR CO-OPERATION BETWEEN
HUMAN RIGHTS OMBUDSMAN OF BOSNIA
AND HERZEGOVINA AND NON-
GOVERNMENTAL SECTOR**

ANNEX III – PLATFORM FOR CO-OPERATION BETWEEN HUMAN RIGHTS OMBUDSMAN OF BOSNIA AND HERZEGOVINA AND NON-GOVERNMENTAL SECTOR

I - INTRODUCTION

Human Rights Ombudsman of BiH is a national human rights institution established with a special mandate to secure human rights protection and promotion. The Institution was established based on the Human Rights Agreement (Annex 6 of the General Framework Agreement for Peace in BiH) and Law on Human Rights Ombudsman of Bosnia and Herzegovina.⁹⁰ The said Law defines issues related to powers and functioning of the Institution of the BiH Ombudsman with a view to ensuring the efficient functioning of human rights and fundamental freedoms protection mechanism as enshrined in the BiH Constitution and the international treaties attached thereto.

Broadly set mandate of the Institution requires its ability to be engaged in supervision, consultancy and issuing of recommendation on a variety of human rights related issues, to establish co-operation with regional and international organizations and to promote human rights through the public awareness-raising, including education on human rights and research. In order to ensure carrying out of its mandate, ***the Institution set the establishment of dialogue and strengthening of relationship with NGO sector as one of the priorities in its work.*** This is particularly expressed, based on the experience of the Ombudsman Institution, in the field of legal aid provision and the promotion of human rights including the organization of training sessions, research, manuals and handbooks publishing and like, in addition to the preparation of legislative reviews from the aspect of their harmonization with the international standards.

Convinced that co-operation with NGO sector should be genuine rather than formal and based on partnership, on 28 April 2009 the BiH Human Rights Ombudsman held first of two consultative meetings with the NGO sector representatives. These consultations continued in 2010 with support of ODIHR and OSCE Mission to Bosnia and Herzegovina in Sarajevo and Banja Luka. Consultations were held on 09 June 2010 in Sarajevo and 11 June 2010 in Banja Luka.

With a view to the level of co-operation achieved with the NGOs it was concluded that this co-operation remained at its introductory level and was chiefly directed to the implementation of some partial activities. Independence of the national Ombudsman

⁹⁰ ("Official Gazette of BiH", no. 32/00, 19/02 and 32/06)

Institution was highlighted as a positive characteristic, as well as its well-developed capacities. Regained good reputation of the Institution and presence of the sincere readiness for the protection and promotion of human rights from the both sides is in line with this. It was concluded that formalization of co-operation between the Institution of BiH Ombudsman and NGO sector should be done once the areas and modalities of this co-operation have been jointly defined. Conclusions of these consultative meetings formed a basis for the creation of this Platform.

II - AREAS OF CO-OPERATION

The Institution of BiH Human Rights Ombudsman will be co-operating with NGOs primarily in areas defined as priorities during the consultative meetings. It is important to stress that during the mentioned consultations necessity of ***holding the permanent periodical meetings*** between the Institution and NGOs was underlined in order to discuss certain issues pertinent to human rights and to redefine priorities as necessary.

Areas defined as those where the need for co-operation between the Ombudsman Institution and NGOs was primarily expressed include ***area of economic and social rights protection, especially for the vulnerable groups*** with particular attention to the disabled, women, children, minorities and returnees population. It is also necessary to ensure co-operation in the area of the protection of domestic violence and protection of women in rural areas. ***Freedom of access to information, efficiency of judiciary***, including the right to access to court through the free legal aid provision, witness protection, execution of court decisions are another possible fields of co-operation between the Ombudsman Institution and NGOs.

Consultative process demonstrated that the need for ***co-operation in the field of the prevention of discrimination*** is most clearly expressed with a special focus to ensuring the implementation of the Law of Prohibition of Discrimination. Since the Ombudsman Institution is selected to be a key institution for the protection from discrimination, although the relevant Law does not precisely define the methods to implement this mandate, the need for the creation of an instrument to be used for the realization of this legal obligation has arisen. This is particularly related to use of mediation mechanism, giving opinions, relation to court protection etc.

Obligation to establish a National Preventive Mechanism (NPM) in accordance with the provisions of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and experience gained so far which has proven that the most efficient model includes Ombudsman institution as an NPM with

established co-operation with NGOs creates even greater obligation of setting out the model of strengthened collaboration between the Ombudsman Institution and NGOs.

III - FORMS OF CO-OPERATION

Giving weight to the standpoints expressed during the consultation process, the Ombudsman Institution intends to realize co-operation with NGOs through the joint organization of events such as the marking of important dates related to human rights, conferences, workshops, seminars, round tables, information exchange, issuing of jointly prepared publications, joint recommendations on methods of work, forming of joint groups in order to analyze realization of certain rights, joint visits to institutions and like.

IV - PRINCIPLES OF CO-OPERATION

The Ombudsman Institution will ensure for co-operation to be ***regular, transparent, comprehensive and meaningful***. To this end, at the end of every calendar year the Ombudsman will invite NGOs to co-operation in a public announcement which will define areas and methods of co-operation. In order to ensure transparency of this process, there will be Criteria for the selection of NGOs with which a Memorandum on Co-operation will be signed. This Memorandum will determine obligations of both parties in detail.

Recognizing the importance of the permanent communication with NGOs, in the Rulebook on internal organization and systematization of working posts, the Ombudspersons have foreseen a post of an adviser whose job description includes the obligation to co-ordinate co-operation with NGOs. Almedina Karić is a current incumbent in this position.

HUMAN RIGHTS OMBUDSPERSONS OF BIH