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Date: 27<sup>th</sup> May 2019

**Special Rapporteur on  
Human Rights of Migrants**

**Subject: Answers to the Special Rapporteur's Questionnaire on Human Rights of Migrants**

**1. How do the country/ies on which your organization is working define "gender responsiveness"?**

The Law on Gender Equality in Bosnia and Herzegovina was enacted in 2003, and supplemented and amended in 2009. The aforementioned law regulates, promotes and protects gender equality, guarantees equal opportunities and equal treatment of all persons regardless of gender, public and private sphere of society, and regulates protection against discrimination on grounds of sex.

Article 24 foresees the obligations of the competent authorities in order to achieve appropriate and necessary measures for the implementation of the provisions prescribed by this Law relating to:

- a) adopting program measures to achieve gender equality in all areas and at all levels of government;
- b) the adoption of new or amendments to existing laws and other regulations for the purpose of harmonization with the provisions of this Law and international standards for gender equality;
- c) implementation of activities and measures of the Gender Action Plan of Bosnia and Herzegovina through regular programs of work with the provision of budget funds;
- d) ensuring the collection, management, analysis and presentation of statistical data classified by sex;

An integral part of the program of measures to achieve gender equality in all areas includes, but is not limited to:

- a) analysis of the gender situation in a particular area;
- b) the implementation of adopted state policies through action plans for gender equality;
- c) Measures to eliminate observed gender inequalities in a particular area.

The competent state, entity and cantonal authorities, as well as the bodies of local self-government units, are obliged to submit all regulations and other acts within their jurisdiction before referral in legal procedure to the opinion of the institutional mechanisms for gender equality referred to in paragraph 2 of Article 24 of the Law in order to comply with the provisions of the Law on Gender Equality in Bosnia and Herzegovina.

The Law on the Prohibition of Discrimination was enacted in 2009 and amended in 2016 and it establishes the framework for the realization of equal rights and opportunities for all persons in Bosnia and Herzegovina and regulates the system of protection against discrimination and applies to the actions of all public bodies in the state, entity, cantons and Brčko District of Bosnia and Herzegovina, municipal institutions and bodies, legal entities with public authority, as well as the treatment of all legal and natural persons in all areas of life, and Article 24 stipulates the obligation to harmonize all laws and general regulations with the provisions of this law within one year from the date of entry into force of this Law, however, this provision has not been fully implemented to date.

**2. Please provide information on any existing or future good practices or initiatives of gender-responsive migration legislation, policies or practices in the country/s on which your organization is working on.**

At the 19th session of the House of Representatives, held on October 28, 2015, and at the 11th session of the House of Peoples, held on November 10, 2015, the Parliamentary Assembly of Bosnia and Herzegovina adopted the Law on Foreigners. This Law regulates the conditions and procedure of entry of aliens to Bosnia and Herzegovina, visa and visa regime, travel documents for foreigners, stay of aliens in Bosnia and Herzegovina, removal from Bosnia and Herzegovina, acceptance and placement under supervision, as well as the authorities of the authorities in applying this The law, offenses and fines for violations committed by violation of the provisions of this Law, and other issues related to the stay of aliens in Bosnia and Herzegovina.

At the 24th session of the House of Representatives, held on February 3, 2016, and at the 14th session of the House of Peoples, held on February 9, 2016, the Parliamentary Assembly of Bosnia and Herzegovina adopted the Asylum Act. This Law prescribes the authorities responsible for its implementation, principles, conditions and procedures for granting refugee status, subsidiary protection status, termination and abolition of refugee status and subsidiary protection status, temporary protection, identification documents, rights and obligations of asylum seekers, refugees and aliens under subsidiary protection as well as other asylum issues in Bosnia and Herzegovina.

Asylum Law, in the provision of Article 2, item ii), defines vulnerable groups: persons deprived of legal capacity, children, unaccompanied children, elderly and infirm persons, severely ill persons, persons with disabilities, pregnant women, single parents with underage children, persons with mental disorders and victims of trafficking in human beings, victims of torture, rape or other psychological, physical and sexual violence, such as victims of female genital mutilation.

Article 29 paragraph 3 of the aforementioned Law provides that priority will be given to asylum seekers who are restricted in movement, and, as a priority, with special attention to minors, unaccompanied minors, single parents with juvenile children, persons who are tortured, raped, forms of physical or psychological violence, pregnant women, elderly persons, persons with illnesses and mental disorders and disabled persons, and persons who manage the work and who are

employed in the centers for reception and accommodation of asylum seekers will be adequately trained for work in specific and special working conditions with foreigners and vulnerable categories referred to in Article 29 (3) of this Law.

Cooperation between relevant institutions dealing with migration issues with non-governmental organizations has been established, so that persons under international protection receive legal assistance from "Your Rights BiH" association based on the protocol signed with the Ministry of Security of Bosnia and Herzegovina. The experiences of the Ombudsman of Bosnia and Herzegovina show that all complaints received by the Ombudsmen of Bosnia and Herzegovina regarding the issue of migration were sent by the Association "Vaša prava BiH".

Women's NGO BHWI provides psycho-social support to persons under international protection, while MFS-EMMAUS is implementing projects for direct assistance and protection of victims of trafficking and migrants, prevention and awareness raising among risk groups and the general population.

### **3. Please indicate any challenges and/or obstacles in the implementation of gender-responsive migration legislation and/or policies?**

Increased inflow of irregular migrants and the continuity of this process, requires the obligation of additional mobilization of material, financial and human resources. The Ombudspersons, on the basis of the complaint, find that Bosnia and Herzegovina is a complex economic, political and social situation that makes it difficult for the citizens of Bosnia and Herzegovina to realize the constitutionally guaranteed human rights. Such a complex situation imposes an obligation to ensure the principles of the rule of law in the process of border control and the entry and movement of aliens, while respecting human rights guaranteed by international standards.

Certain concerns about the first contact with the competent authorities of Bosnia and Herzegovina are listed in the Special Report on the state of migration<sup>1</sup>. Most of them have been overcome to date.

### **4. Based on the experience accumulated with these interventions so far; as well as the lessons learned, what would have to be done differently to maximize gender responsive impact of these interventions?**

The Ombudsmen of Bosnia and Herzegovina find that the institutional mechanisms responsible for the issue of irregular migration in Bosnia and Herzegovina are not fully in an adequate manner and, in accordance with all the provisions of the law, organize and undertake the necessary activities in order to make appropriate decisions, in particular in the manner and in the deadlines prescribed by law.

### **5. What support could other stakeholders (other than governments) make to make migration policies, legislation and practices more gender responsive?**

The migration processes with which all levels of government met in Bosnia and Herzegovina in 2018 set some demands on a number of institutions, including the Ombudsperson Institution. The Council of Ministers of Bosnia and Herzegovina, at its 140th session, held on April 26, During the year, he reviewed the information on the problems of migrants and invited the Ombudsperson Institution to draft and submit to the Council of Ministers Special Report on the Status of the Migration in Bosnia and Herzegovina, with the proposal of measures and recommendations of the competent bodies of Bosnia and Herzegovina.

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<sup>1</sup>Special report on the situation in the area of migration in Bosnia and Herzegovina [https://www.ombudsmen.gov.ba/documents/obudsmen\\_doc2019010713545979eng.pdf](https://www.ombudsmen.gov.ba/documents/obudsmen_doc2019010713545979eng.pdf)

A special report was made by conducting monitoring in the area of migration in Bosnia and Herzegovina, which included visits to all sites where foreign nationals, interviews and interviews with foreign nationals and staff in institutions and places where they are located are held, meetings with all heads of institutions are in accordance with the provisions of the Law on Aliens and the Law on Asylum that are competent for acting in the field of migration and asylum, as well as representatives of international organizations, domestic and foreign non-governmental organizations.

By drafting the Special Report of the Ombudsperson, they have instructed the competent authorities that, in accordance with domestic and international human rights standards, it is necessary to ensure the rights of foreigners who find themselves in Bosnia and Herzegovina, and the following recommendations are addressed in order to improve the situation in this area:

- Activate all measures foreseen in the Migration and Asylum Strategy and the Action Plan for the period 2016-2020. Among other things, they include: increasing efficiency and controlling and controlling the state border of Bosnia and Herzegovina, significantly improving the system for controlling the entry and stay of foreigners in Bosnia and Herzegovina, raising to a higher level of protection of the security of citizens of Bosnia and Herzegovina;
- In addition to the existing accommodation capacities intended for accommodation of all categories of migrants, ie asylum seekers, in case of significantly increased inflow of foreign citizens, provide additional accommodation capacities;
- Establish clear operational procedures for dealing with all competent authorities with a clear definition of the decision-making body / decision-makers in cases that cannot be foreseen in procedures. In particular, the role of international organizations, non-governmental organizations and volunteers should be defined in order to systematically and adequately utilize their willingness to assist in the process;
- Increase the number of staff, that is, to strengthen the capacity of institutional mechanisms in charge of dealing with migration issues, including the Asylum Sector, the Border Police of Bosnia and Herzegovina and the Service for Foreigners Affairs;
- Establish an operational body with a high degree of mobility and full involvement of the members of this body in solving migration problems, and in relation to their regular jobs and work assignments. The operation and operation of this body should be 24 hours;
- Request financial, material and technical support and human resources from the European Union, IOM, UNHCR, ICRC, UNICEF, UN Women, Save the Children, and other stakeholders who have resources and who have a mandate to act in this area;
- Continue to hold regional high-level meetings with neighboring countries and countries on the route of migration of all categories of migrants in order to define a common strategy of action, and given the evident divergent practices of some countries, which indicate a possible deviation from the international standards in the care different categories of migrants;
- To initiate the procedure for concluding a readmission agreement with the countries from which foreigners are registered, with whom such agreements have not yet been signed, such as, for example, Algeria and Morocco.

Sincerely,

Ombudsmen for Human Rights of Bosnia and Herzegovina