



The Institution of Human Rights Ombudsman of Bosnia and Herzegovina

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SUBJECT: *Replies to a Questionnaire*

The Institution of Human Rights Ombudsman of Bosnia and Herzegovina in reply to a letter of Office of the High Commissioner for Human Rights (OHCHR) referring to **the Human Rights Council's resolution 32/17** requesting the UN High Commissioner for Human rights to prepare report on the impact *of on the impact of multiple and intersecting forms of discrimination and violence in the context of racism, racial discrimination, xenophobia and related intolerance on the full enjoyment of all human rights by women and girls with a view to identifying challenges and good practices*. To this end, the Office of the High Commissioner for Human Rights sent a questionnaire to the Ombudsman of Bosnia and Herzegovina to which we hereby provide the following answers:

The Institution of the Ombudsman collects the data related to discrimination based on, *inter alia*, gender, religion, ethnic or national affiliation and belonging to a national minority. When the Ombudsman recognizes a case of a multiple discrimination, it can process it in its two departments: Department for elimination of all forms of discrimination and Department for the protection of the rights of national, religious and other minorities.

All statistical data published the Annual Report on the activities of the Ombudsman Institution, immediately after its adoption, are available on the official website of the Ombudsman Institution in English¹.

Generally speaking problem of racial discrimination has not been expressed significantly in Bosnia and Herzegovina, and the same applies to discrimination of women in context of racism. Bosnia and Herzegovina is not directly on any of the migration routes and it also does not have any significant immigration, so that it is not facing problems related to discrimination based on race, national or religious origin.

Problems present in Bosnia and Herzegovina's society are linked to ethnic-national groups, which, as a consequence of war, after their return to their pre-war homes became so-called "minority

¹ www.ombudsmen.gov.ba

groups". Among this population vulnerable groups including the poor can be identified so that there are returnees, refugees and displaced persons, minority groups and among refugees particularly vulnerable single mothers.

In addition to the adoption of the most important international instruments guaranteeing the women rights, Bosnia and Herzegovina has established mechanisms for its implementation and monitoring, but there are some challenges in the implementation of the international standards, according to data available to the Ombudsman.

More concretely, Bosnia and Herzegovina has in place the fundamental legal framework which provides guarantees of women participation in the electoral process. However, without the systemic affirmative measures in cases when legally granted participation rights are not implemented in practice the way to women's marginalization in segments such as management will remain opened.

In the field of employment, labor and social protection of women's rights, in the period covered by this report, there has not been a real progress in achieving the substantial equality between men and women in the labor market. There are reports about dismissal of pregnant women, while women who work in the "gray economy" are not integrated into the formal labor market. There are indicators showing that women are not equally paid for equal work, and system of women's protection during the maternity leave is not harmonized on the whole territory of Bosnia and Herzegovina including the maternity benefits.

In spite of the efforts made by the public institutions to pay particular attention to non-discrimination and the promotion of gender equality through legislation, strategies and policies in the area of health care, the practice shows that these regulations are essentially formalistic and declarative in their nature and that women, especially women from marginalized groups such as women with disabilities, rural women, victims of war or Roma women do not enjoy in equal and non-discriminatory access to health care in all parts of Bosnia and Herzegovina.

Women returnees are mostly engaged in agriculture, where, as a rule, their employment status is not regulated and they do not have possibility to enjoy social and other benefits, as well as access to health care, or funds for the promotion of employment or self-employment, which are mostly granted to men.

Women in rural areas are particularly affected by poverty, predominantly engaged in the unpaid economy, with extremely limited mobility, do not enjoy in unimpeded access to health care and support in cases of domestic violence. NGOs give some support for women in rural communities to get access to and the exercise of rights. It also depends to international funds, without systemic and strategic orientations of public institutions.

Women with disabilities are extremely exposed to discrimination as they have limited access to the public resources, employment and decision-making positions, including limited access to support and assistance available to women without disabilities. The issue requiring special attention and immediate action of government institutions, at all levels in BiH, is the provision of widely available access to health services to women with disabilities including the training for medical staff providing such services. It is also necessary to launch employment programs for women with

disabilities, and to ensure their access to social services and social protection in accordance with their real needs.

Roma women in Bosnia and Herzegovina are still subject to multiple forms of discrimination, affected by poverty and lacking the access to the public funds. There is no progress in the area of planning and implementation of systemic and targeted affirmative actions by the institutions of Bosnia and Herzegovina at all levels intended to improve the status of Roma women and protect their fundamental human rights. Particularly sensitive areas are lack of access to housing and health care and protection from violence, exposure to early marriages, difficult access of Roma girls to school and kindergarten, as well as the absence of positive measures aimed at solving the problem of unemployment of Roma women.

The Ombudsman conducted investigations and issued recommendations on complaints relating to:

- denial of health care to a poor Roma minority member during her pregnancy, since she had no health insurance,
- physical and psychological violence, forced abduction and begging of Roma minor girls,
- a ban on the wearing of headscarves in the workplace,
- denial of the right to work to persons publicly manifesting their religious beliefs through wearing the religious symbols/clothing, and
- complaints of parents of elementary school children for the teacher's wearing a headscarf.

EU legislation, just like the legislation of most EU member-states does not mention the multiple discrimination and the same situation is with Bosnia and Herzegovina.

It is important to emphasize, however, that although there are no measures in place to address exclusively multiple and intersecting forms of discrimination and violence in the context of racism, racial discrimination, xenophobia and related intolerance, it could be said that this issue is partially addressed by a general gender mainstreaming into the relevant policies, strategies and programs of action for combating discrimination, in relation to particularly vulnerable categories, especially women. These policies are dealing with multisectoral approach inclusion of all relevant authorities in sectors such as the judiciary, health care, social services, education, child protection services and NGO sector.

There is a network of institutional mechanisms in Bosnia and Herzegovina for all gender related issues that includes all levels of legislative and executive powers. Within the legislative authorities there are commissions/committees for gender equality at all the levels. At the executive power level, established is the Agency for Gender Equality of Bosnia and Herzegovina in the framework of the Ministry of Human Rights and Refugees, and at the entity level similar institutions are established even earlier: the Gender Centre of the Federation of Bosnia and Herzegovina and the Gender Centre of the Republic of Srpska, which are key actors with regard to activities, projects and measures taken to strengthen the sustainability of institutional mechanisms for gender equality, as well as initiating the establishment of such a mechanism at the local level.

The Ombudsman seeks to indicate to the responsible authorities and sectors to factors hindering the equal legal treatment of all citizens of Bosnia and Herzegovina, and to propose appropriate

measures for effective legal intervention aimed at protecting the rights of all citizens through its recommendations and other decisions.

Apart from processing the individual complaints of citizens, the Ombudsman is trying through its special reports to draw public attention to the problems facing the vulnerable social groups and to indicate the measures to be taken to protect vulnerable citizens including those exposed to xenophobia and intolerance.

In 2013 with support of the OSCE Mission to BiH / Office for Democratic Institutions and Human Rights, within the project "Best Practices for Roma Integration" funded by the European Union, and supported by member countries of the OSCE, the Ombudsman conducted a survey on the current situation of the Roma minority members in Bosnia and Herzegovina. After presenting the report, Ombudsmen recommendations related to improving the position of Roma in Bosnia and Herzegovina were sent to the addresses of the authority bodies at all levels, while in 2016 it prepared a report on the implementation of the recommendations given in the previous report, which emphasized the need to continue with the implementation of measures that have been established in accordance with the obligations that BiH has in respect of the Roma Decade, including the revisiting of these measures in light of the most recent recommendations of the UN body to which the Ombudsman has the reporting obligation.

The other group concerned with gender equality and combating discrimination to which the Ombudsman institution paid its particular attention through the preparation of a special report are LGBTI women whose situation was analyzed within the framework of the Special report on situation of LGBT persons in Bosnia and Herzegovina issued in 2016.

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