

Universal Periodic Review of Bosnia and Herzegovina

Joint submission to the UPR Working Group 34th session by:

(In alphabetical order)

Association for Culture and Art – Crvena, is a feminist organisation from Sarajevo. Our work uses research and artistic, educational and political practices to create, advance and maintain the conditions for progressive social change through developing self-governing skills, critical and imaginative horizons, and organisational relationships and capacities in society. The organisation was established in 2010 and celebrates its anniversary on 8 March. (Contact details: info@crvena.ba ; www.crvena.ba)

Association of citizens Oštra Nula is an NGO that grew out of a grassroots organization started by several students and citizens in 2009. Officially registered on 14 October 2010, Oštra Nula has been one of the most visible and active organisations in Republika Srpska, actively cooperating with organisations from all over Bosnia and Herzegovina. Its activities are focused on public events and performances that are aimed at raising public awareness about critical issues and problems, human rights concerns, including unemployment and social security, workers' rights, women's rights, civic participation and active engagement in political processes, among other topics. (Contact details: ostranula@gmail.com; www.ostranula.org)

Women's International League for Peace and Freedom's (WILPF) initiative *Women Organising for Change in Bosnia*. The initiative focuses on the importance of taking into consideration existing experiences and empirical knowledge of women in Bosnia and Herzegovina and struggles for human rights, in an attempt to change the dominant narrative of women as victims. Through this initiative, WILPF advocates for women's perspectives to be represented at all levels in the peace-building process, it puts the spot light on women's peace activism during war, defends the human rights of women and promotes social, economic and political justice. (Contact details: secretariat@wilpf.org ; www.wilpf.org)

28 March 2019

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I. Introduction

1. In November 2019, Bosnia and Herzegovina (“BiH”) will undergo its Universal Periodic Review (“UPR”). This report provides information and recommendations on: the impacts of economic reforms on economic, social and cultural rights; shrinking space for activism and increase in repressive measures towards human rights defenders, activists and civil society in general; and violations of the rights of migrants and asylum seekers.
2. Starting with the negotiations of the Dayton Peace Agreement in 1995, the decision-making processes in political, economic and social development of BiH have largely remained confined to political elites. Despite the fact that there has been a proliferation of civil society organisations, not least of women organisations, larger portions of civil society remain stripped of any real possibilities for influence, and the space for their engagement is continuously shrinking.
3. While political reforms have been stalled¹, the government with the support of the EU and international financial institutions is implementing economic reforms.² These reforms have conditioned economic growth to structural reforms and fiscal consolidation, ultimately leading to cuts in public spending. Cuts in the public sector arising from these macro-economic reforms have led to retrogression when it comes to economic and social rights, which runs counter to BiH’s obligations to respect, protect, and fulfil human rights notably as a state party to the International Covenant on economic, social and cultural rights (“ICESCR”).
4. Furthermore, since the last UPR (2014), there has been an increase in the armament of law-enforcement agencies and militarised responses to peaceful protests organised by citizens, unions and other civil society organisations. This submission shows how the increase in use of repressive measures against the citizens of the country, exemplified through brutal police force used against women peaceful protesters in Kruščica and targeted action against individuals organized around the group “Justice for David” is a blatant breach of rights to liberty and security of persons, right to administration of justice, including impunity and rule of law and freedom of expression and peaceful assembly. In the case of Kruščica, the focus will also be on the right to water, right to development and environmental issues.

¹ While there are numerous political reforms set ahead before the country’s legislative, judiciary and executive branches in order to join the European Union, the following key political reforms referred herewith: 1. Implementation of the European Court of Human Rights (ECtHR) decisions *Sejdić i Finci against BiH* (application No. 27996/06 i 34836/06 of 22 December 2009.), *Zornić against BiH* (application No 3681/06 of 15 July 2014.) and *Pilav against BiH* (application No. 41939/07 of 9 June 2016) in which the ECtHR ruled that the constitutional and legal framework of BiH in part pertaining to elections of the representatives to the House of Peoples of BiH and the members of the Presidency of BiH needs to change since it is in contravention with the European Convention for the Protection of Human Rights and Fundamental Freedoms. 2.) To ensure independent and effective judiciary system. These structural reforms have been stalled for years now.

² Despite many reforms, BiH today remains a poor country, with very low degree of economic development. According to a research on poverty levels in BiH, 900,000 people lived in absolute poverty (living of 238.11 BAM per month) in 2016. Additional 17% of the population lived of 90 – 150 BAM a month, which is characterized as extreme levels of poverty, and some 700,000 people live on the verge of poverty. See Papić, Ž. *Siromaštvo i radničko siromaštvo u BiH: Socijalna kriza u BiH – siromaštvo i socijalna nejednakost. Šta da se radi?*. Sarajevo, April 2017.

5. The closing of EU borders in 2016 led to high numbers of asylum-seekers and migrants illegally crossing BiH to try to enter the EU through Croatia.³ While BiH adopted a strategy and an action plan on migration and asylum seekers,⁴ the sharp increase in migration flows through the country has revealed a lack of capacity of relevant national institutions⁵ as well as of international organisations⁶ to ensure the protection of migrants and asylum seekers.

II. The impact of economic reforms on economic, social and cultural rights

6. The *Reform Agenda for Bosnia and Herzegovina 2015 – 2018* (the “**Reform Agenda**”), is the most recent and comprehensive economic reform process in BiH. It was agreed and endorsed by the BiH Council of Ministers, the Government of the Republika Srpska and the Government of the Federation of BiH in July 2015.⁷ The main goal of the Reform Agenda is fiscal consolidation, i.e. reduction in the depth of government’s deficits through heavy cuts in public spending. Its implementation relies on heavily conditioned lending agreements with international financial institutions.⁸
7. During the previous UPR cycle, BiH accepted several recommendations pertaining to increased efforts to achieve development and combat poverty by providing adequate funds for non-discriminatory access to education, social welfare, health and other public services, as well as reduction of unemployment.⁹ Furthermore, it committed to achieving gender equality in policy making and decision-making by adopting additional measures as well as to ensure women’s social protection and access to economic and social rights.¹⁰
8. The ability to participate in political and public life is intimately linked with the enjoyment of economic and social rights. Economic and social rights are also essential in post-conflict recovery to ensure stability, human security and the enjoyment of civil

³ Since the end of 2017 BiH has seen a steady increase in the number of arrivals of asylum seekers and migrants. In April 2018, the official number of people entering BiH was 2.762, while in November 2018 the number rose to 23.132. Out of these, 21.759 persons expressed intent to seek asylum, while 1.356 persons actually submitted a request for asylum. (For further information see European Civil Protection and Humanitarian Aid Operations’ fact sheet on BiH available at https://ec.europa.eu/echo/where/europe/bosnia-and-herzegovina_en; UN Interagency Operational Update, Bosnia and Herzegovina, end of April 2018 available in https://ec.europa.eu/echo/where/europe/bosnia-and-herzegovina_en; or UN Interagency Operational Update of Bosnia and Herzegovina on November 2018 available at http://ba.one.un.org/content/dam/unct/bih/PDFs/UNCTBiHSitReps/Inter-agency_Refugee_Migrant_SituationReport_Nov2018_ENG.pdf, provided by the Council of Ministers’ 160th Session in December 2018).

⁴ Please see the Ministry of Security’s Strategy in the Area of Migration and Asylum and Action Plan for the period between 2016 and 2020 available at http://www.msb.gov.ba/PDF/Strategija_ENG_2016.pdf

⁵ Primarily, the Ministry of Security and the Ministry of Human Rights and Refugees.

⁶ Apart from the obligations of the State, since 2018 IOM, UNHCR and UNICEF have taken on the primary role for dealing with migration and asylum-seekers. Most of the funds received for dealing with this issue are being administered by IOM.

⁷ See the Reform Agenda for Bosnia and Herzegovina 2015 - 2018 available at <http://europa.ba/wp-content/uploads/2015/09/Reform-Agenda-BiH.pdf> which conditions positive growth of BiH’s economy to structural reforms in labour legislation, public administration, employment policy in the public sector, business climate, social welfare (including pensions), health sector, and rule of law.

⁸ IMF, the World Bank, EBRD.

⁹ Recommendations 107.73, 107.134 and 107.137.

¹⁰ Recommendations 107.131 and 107.133.

and political rights as the denial of economic and social rights is often at the heart of violence, social unrest and conflict.¹¹ The failure to invest sufficient resources and funds into economic and social rights in BiH has been perhaps the most serious and persistent obstacle to women's participation.¹² Instead of investing in these areas, BiH has introduced austerity measures.

9. Several human rights mechanisms have recognised the specific and disproportionate impacts of austerity-driven policies on women's rights.¹³ The Committee on the Elimination of Discrimination Against Women ("**CEDAW Committee**") has considered that the disproportionate impact of austerity measures on women amounts to indirect discrimination under article 1 of the Convention.¹⁴ The burden of austerity measures is shouldered by various parts of society, and particularly the most marginalised; but without gender analysis informing the development of these measures, women will be affected more than any other group.¹⁵ In March 2019, as part of its list of issues for the review of BiH, the CEDAW Committee asked BiH to "explain if there are any steps taken to assess the impact of the Reform Agenda on women's enjoyment of their rights."¹⁶

¹¹ See Samadli, A. Economic, Social and Cultural Rights in Post-Conflict Recovery; Theoretical Review and Case Study on Azerbaijan and Bosnia-Herzegovina Cluster 4: Economic, Social and Cultural Rights. Sarajevo, April 2013, available at https://www.academia.edu/4690609/ECONOMIC_SOCIAL_AND_CULTURAL_RIGHTS_IN_POST-CONFLICT_RECOVERY_THEORETICAL_REVIEW_AND_CASE_STUDY_ON_AZERBAIJAN_AND_BOSNIA-HERZEGOVINA_Cluster_4_Economic_Social_and_Cultural_Rights_Cluster_Leader_Prof._Vesna_Bojicic-D%C5%BEililovi; Office of the High Commissioner on Human Rights [OHCHR], Transitional Justice and Economic, Social and Cultural Rights (2014), available at <https://www.ohchr.org/Documents/Publications/HR-PUB-13-05.pdf>; Rees, M and Chinkin, C. Exposing the Gendered Myth of Post Conflict Transition: The Transformative Power of Economic and social Rights. New York, October 2016; and also U.N. Office of the High Commissioner on Human Rights [OHCHR], Early warning and economic, social and cultural rights, available at https://www.ohchr.org/Documents/Issues/ESCR/EarlyWarning_ESCR_2016_en.pdf

¹² Coomaraswamy, R. Preventing Conflict, Transforming Justice, Securing the Peace: A Global Study on the Implementation of UNSCR 1325. UN Women, 2015, Available at [https://www.peacewomen.org/sites/default/files/UNW-GLOBAL-STUDY-1325-2015%20\(1\).pdf](https://www.peacewomen.org/sites/default/files/UNW-GLOBAL-STUDY-1325-2015%20(1).pdf)

¹³ Effects of foreign debt and other related financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, para. 24 to 56, A/73/179, 18 July 2018; Guiding principles on human rights impact assessments of economic reforms, para 8.1 to 8.4, A/HRC/40/57, 19 December 2018; Public debt, austerity measures and the International Covenant on Economic, Social and Cultural Rights, Statement by the Committee on Economic, Social and Cultural Rights, para. 2, E/C.12/2016/1, 22 July 2016, available at https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f2016%2f1&Lang=en; Report of the Working Group on the issue of discrimination against women in law and in practice, paras 26 to 31, A/HRC/26/39, 1 April 2014, available at <https://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/Annualreports.aspx>.

¹⁴ See, for example, CEDAW/C/SVN/CO/5-6, 24 November 2015, in which the CEDAW Committee noted "with concern that austerity measures, adopted in an effort to stabilize public finances, have had a detrimental and disproportionate impact on women in many spheres of life. Furthermore, the Committee noted the lack of targeted studies and evaluations to monitor the gender-specific effects of such measures recalling that "even in times of fiscal constraints and economic crisis, special efforts must be made to respect women's human rights, sustain and expand social investment and social protection and employ a gender-sensitive approach, giving priority to women in vulnerable situations" (para. 7). See also CEDAW/C/GRC/CO/7, in which the Committee stated "that even in times of fiscal constraints and economic crisis, special efforts must be made to respect human rights, sustain and expand social investment and social protection and to employ a gender-sensitive approach, giving priority to women in vulnerable situations." (para.6)

¹⁵ For further analyses see True J. et al. A Feminist Perspective on Post-Conflict Restructuring and Recovery: The Case of Bosnia and Herzegovina, WILPF, Sarajevo, 2017 available at <https://wilpf.org/wp-content/uploads/2017/08/Feminist-political-economy-ENG-FINAL.pdf>.

¹⁶ List of issues and questions in relation to the **Error! Unknown document property name.**, CEDAW/C/BIH/Q/6, 20 March 2019, paragraph 17

A. Equality, non-discrimination and the right to participation in public and political life

10. Despite the foreseeable impact of the Reform Agenda on inequalities in the country (including gender inequalities), the reforms were not planned in an inclusive and transparent way and the broad spectrum of civil society voices remained excluded throughout the planning and implementation phase of the reforms. This lack of inclusion of those most affected by the reforms, women in particular, has led to reforms being completely blind to differentiated needs and challenges in the society and without mechanisms for rigorous human rights impact assessments, including gender impact assessments.¹⁷
11. Furthermore, the effects of the reforms on the overall equality of women, and specifically on the areas of fundamental value to women, such as health, social services and pensions, remain insufficiently analysed, researched and understood.

B. Right to health, social security and adequate standard of living

12. Despite high levels of unemployment¹⁸, with subsequent high poverty levels, the social welfare system in BiH is inefficient, underdeveloped and unable to address the needs of those in need.¹⁹ Healthcare that was once universal is now administratively decentralised along entity and cantonal lines, with limited available services of poor quality.²⁰ It is estimated that around 15 % of population is not covered with any form of health insurance, the majority of whom are working in the informal economy.²¹
13. Furthermore, significant numbers of those insured through their employment have limited, or non-existent access to healthcare because their employers do not fulfil their legal obligation to pay social contributions for health benefits.²² Even where available, many public healthcare service providers are in a state of collapse, which forces those who can afford it to resort to private services.²³

¹⁷ The need for implementation of transparent and inclusive mechanisms of public consultations with civil society has already been brought forward in the last UPR cycle for BiH, and accepted by the State, as well as the need to ensure effective implementation of CEDAW (Recommendation 107.22 and 107.32).

¹⁸ The overall unemployment rate in 2018 was 18,4% (17,2% for men, and 20,3% for women). [Labour Force Survey 2018](#), Agency for Statistics for Bosnia and Herzegovina.

¹⁹ Hiroso, K. and Hetteš M. Extending Social Security to the Informal Economy: Evidence from Bosnia and Herzegovina and the Republic of Moldova, ILO, 2016, available at: https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_532422.pdf; For a detailed analysis of the issues and problems within the welfare system please refer to Malkić, A. and Hadžiristić, T. Intersecting inequalities in social protection in BiH: results of an empirical study. Sarajevo, 2016 and Numanović, A. Social assistance system in BiH: The neglected potential of active social policies, Sarajevo: Analitika, 2016.

²⁰ According to a recent survey done by World Bank in BiH, out of all countries in Western Balkans, BiH spends most on health sector (9% of the GDP) while at the same time the country has one of the lowest index pertaining to coverage of essential healthcare services (57/100) in Europe. 78% of those surveyed by the World Bank say they are either completely or partially dissatisfied with the healthcare (see video on WB's Facebook page at <https://www.facebook.com/watch/?v=1999010373530846>)

²¹ Bartlett, W. Gap Analysis in the Area of Social Protection and Inclusion Policies in Bosnia and Herzegovina. Sarajevo, UNICEF, November 2013.

²² Ibid.

²³ For the people who are not in formal employment, the basic health insurance is provided through registration with the Employment Agency under the condition of active job seeking. However, as part of the reform package the governments are considering removing this option, but have not provided proper assessments on what effect this will have on people's access to health.

14. This negatively affects the rights to health, to social security, and to an adequate standard of living and has a disproportionate effect on women who also have to shoulder deficits in care services through unpaid care work. It also impedes women's enjoyment of the right to work and to an adequate standard of living.
15. Access to services is also hampered by fragmented laws and policies between cantons and the two entities in BiH. Women in rural areas face additional challenges as many services, in particular those related to health, are accessible only in urban centres.²⁴

C. Right to work and to just and to favourable conditions of work

16. A reform of the labour legislation was undertaken in 2015. The adoption of new labour laws²⁵ provoked more social and political resistance than any other reform thus far.²⁶ The major effects of the new labour laws have been the weakening of employment protection; flexibilisation of employment conditions; and side-lining of the labour dispute resolution mechanisms.²⁷
17. The new laws did not bring any positive changes with respect to existing problems related to the right to work.²⁸ They did not introduce mechanisms to reduce informal employment, and they did not include appropriate sanctions, despite the Reform Agenda recognising the need to step up labour inspections and increase penalties for labour law violations and other efforts to protect workers' rights.²⁹ The lack of government investment in labour inspections is a serious shortcoming, as the chronic shortage of labour inspectors throughout the country illustrates.³⁰
18. The Reform Agenda is focused on lowering labour costs and reducing labour protections to attract foreign investors and transnational business. Reducing the cost of labour, however, does not necessarily mean more jobs or better jobs involving skill development and good working conditions. The reforms of labour law will most likely

²⁴ A visit to gynecologist might require long-distance travel conditioned by access to transportation means, as public transportation from rural to urban centers is not systematically available.

²⁵ Labor Law of Republika Srpska, *Official Gazette of Republika Srpska* 38/00, 40/00, 47/02, 38/03, 66/03; Labor Law of the Federation of BiH, *Official Gazette of the Federation of BiH* 62/15; Labor Law of the Brčko District, *Official Gazette of the Brčko District*, 19/06, 19/07, 25/08, 20/13, 31/14, 1/15.

²⁶ Trade unions protested the new draft law that they identified as neo-liberal, aiming at dismantling workers' rights. See Weber, B. A report from Democratization Policy Council. Heinrich Böll Stiftung, August 2017.

²⁷ For detailed account please refer to Jusic, M. and Numanovic, A. Flexible Labour in Inflexible Environment: Reforms of Labour Market Institutions in Bosnia and Herzegovina in Comparative Perspective, Analitika, Sarajevo 2015.

²⁸ Right to work and to just and favourable conditions of work have been consistently violated, to the extent of exploitation: undermined collective bargaining and safety at work-regulations, debt in paying salaries for a considerable length of time (even for several years), frequently unpaid overtime work, depriving employees of their right to annual leave, irregular pay checks accompanied by the practice of the employer taking back half of the paid salary, failing to pay benefits and thus depriving the workers of their legal right to health and pensions etc. (see the final report Analysis of labour legislation in Bosnia and Herzegovina with focus on rights of woman employed in service and trade sectors. Sarajevo: Vasa Prava, 2016).

²⁹ See the final report Analysis of labour legislation in Bosnia and Herzegovina with focus on rights of woman employed in service and trade sectors. Sarajevo: Vasa Prava, 2016.

³⁰ For example, in one of the cantons in the FBiH out of 12 inspectors needed to oversee 12 different municipalities within that Canton there are only 3 employed. See this article from 1 February, 2019 at <https://www.klix.ba/vijesti/bih/mirsada-silajdzic-imamo-samo-jednog-inspektora-u-zenici-a-treba-nam-12/190201036>.

lead to an increase in job insecurity, more temporary, part-time, non-unionised jobs with fewer benefits, lower wages (which, for many, continue to be unpaid by the employers) and deterioration in safety at work.

19. This is impacting the women of BiH more. The impacts of the flexibilisation of working conditions must be assessed in the wider context of availability of public support services, such as childcare and elderly care. Cutting down on such public sector services will indeed lead to women being disproportionately affected because they are more likely to depend on public resources in support of reproductive labour and are culturally expected to fill the gaps with respect to care work. Without a rigorous analysis of the differential impacts of the reforms on the lives of women and men, the on-going reforms will contribute to a continuum of entrenched structural and gender inequalities.

Recommendations

20. Bosnia and Herzegovina should:

- a) Create mechanisms that ensure systematic, meaningful and effective consultations with broad spectrum of civil society, in particular with women's groups, in the planning, implementation and evaluation of economic reforms.**
- b) Introduce mandatory *ex-ante* and *ex-post* gender and human rights impact assessments into the process of planning and undertaking reforms and investments in various sectors in society and use findings to take corrective actions where negative impacts are found, such as direct or indirect discrimination or increase in poverty levels.**
- c) Conduct gender analysis of all conditionalities linked to lending agreements with International Financial Institutions or other lending institutions, and where negative effects are detected, invest in effective mitigating programs.**
- d) Put an end to austerity measures and assess the impacts of those implemented thus far, in particular in relation to access to economic and social rights, introducing strategies to rectify the identified negative effects on the population, in particular women and other marginalised categories in the society.**
- e) Invest in broadening and improving the full spectre of affordable public services specifically aiming at supporting women's engagement in the formal economy and relieving them from the burden of unpaid care work.**

III. Shrinking space for activism and increase in repressive measures towards human rights defenders, activists and civil society in general

21. During the last UPR cycle (2014) BiH committed to several recommendations pertaining to the strengthening of its human rights mechanisms.³¹ Furthermore, the State accepted several recommendations relating to freedom of expression and assembly; protection of journalists and human rights defenders; and accountability of police officers involved in interfering with these rights.³²
22. However, since 2014, various administrative units of the State, namely entity and/or cantonal governments, have used repressive measures to restrict the activities of human rights defenders and civil society groups and organisations on several occasions.
23. These repressive measures manifest through *inter alia* the exercise of political pressure; the use of unnecessary and excessive force by militarised and heavily armed police against peaceful protests; criminalisation of protests and arbitrary arrests with the purpose of intimidating the public from future protests. As a consequence, at least three individuals were forced to leave the country for fear of their safety. This submission will focus on two specific cases to exemplify these issues.

A. “Justice for David”

Background

24. David Dragičević, age 21, from Banja Luka, was reported missing on 18 March 2018, and found dead six days later. The Head of the Department for Organised and Heavy Crime and the coroner stated that David Dragičević, under the influence of drugs, fell and drowned in a river, and concluded that the death was accidental.³³
25. The father of the victim rejected this account, pointing to many inconsistencies in the official version of events. David Dragičević’s parents have reportedly provided information refuting the initial claims of the police that their son’s death was

³¹ Including through adoption of comprehensive national plan for human rights; strengthening of its rule of law and institutions so as to promote social cohesion; improvement in programmes for human rights training, in particular for judges and law enforcement agencies and punishment of all cases of ill-treatment by police officers. Recommendations 107.16, 107.20, 107.23 and 107.57.

³² Recommendations 107.111-112, 107.114-116, 107.118.

³³ For further information on the press conference please see video clip available at <http://www.etrifika.net/drustvo/59766/gradani-ne-vjeruju-navedenom-vremenu-smrti-davida-dragicevica/>; for further information on the case in general there are several articles written in international press, see for example <https://www.telegraph.co.uk/news/2018/07/09/raped-killed-alleged-police-murder-sparks-fury-protests-bosnia/>, <https://www.voanews.com/a/one-mans-campaign-for-justice-shakes-bosnian-serb-old-guard/4571415.html>, or <https://www.reuters.com/article/us-bosnia-protests/bosnia-families-bridge-ethnic-divide-demand-justice-for-dead-sons-idUSKCN1IG39H>.

accidental.³⁴ According to their lawyer, they have been deprived of a timely, comprehensive and adequate investigation into the murder of their son.³⁵

26. The parents' demands for an adequate investigation into the death of their son were met with unresponsiveness of the police. The demands grew into protests calling for accountability of police forces, including of high-ranking police officers, the prosecutor's office, and the Minister of Interior Affairs of Republika Srpska. The protests were also demanding respect of human rights in the administration of justice and for rule of law. They gained major popular support, with crowds gathering at 6 pm every day on Krajina square³⁶ under the slogan "STOP impunity for murders in Banja Luka - Justice for David".
27. Under public pressure, on 11 May 2018, the National Assembly of Republika Srpska set up an Inquiry Committee to analyse circumstances surrounding the death.³⁷ The Committee issued a report concluding that there is ample evidence that David Dragičević was murdered and requesting the public prosecutor to immediately respond to these findings. The report called for investigation into the responsibility of the Minister of Interior Affairs, the head of the Police, the Director of the Institute for Forensic Medicine of Republika Srpska. It also called for the need for the National Assembly of Republika Srpska to request the High Judicial and Prosecutorial Council to initiate disciplinary procedures against the acting prosecutors in order to determine any wrongdoings. However, on 3 July 2018 the National Assembly of Republika Srpska rejected the report by a majority vote.³⁸

Violations to the rights of freedom of expression, peaceful assembly and liberty and security of members of "Justice for David"

28. Protests by supporters of "Justice for David" had taken place every day since 26 March 2018, sometimes gathering thousands of people, always without incidents, or any major reaction from police forces. However, on 25 December 2018, David Dragičević's father was arrested due to an alleged failure to respond to calls for a hearing at the Banja Luka Police Station.³⁹ This was followed by the arrest of David's mother at the Krajina square.⁴⁰

³⁴ David Dragičević's parents have made claims that the way the police and the prosecutor's office have dealt with this case is not a matter of poor professionalism but a question of police officer and high-ranking officials being directly involved in the cover up of the abduction and murder of their son (See article available at <https://www.telegraph.co.uk/news/2018/07/09/raped-killed-alleged-police-murder-sparks-fury-protests-bosnia/>).

³⁵ More than 300 days have passed without an investigation into the murder has been launched; despite overwhelming evidence that David was murdered the police and prosecutor acted only on their initial claim that he had drowned and have thus not investigated and looked into any evidence or witnesses that point into the direction of murder. *Interview with the lawyer, 12 February, 2019.*

³⁶ A central square in Banja Luka.

³⁷ See article from 11 May, 2018 available at <https://www.nezavisne.com/novosti/bih/Formiran-Anketni-odbor-u-vezi-sa-slucajem-stradanja-Davida-Dragicевичa/477840>.

³⁸ See article from 3 July, 2018 available at <http://ba.n1info.com/English/NEWS/a270246/Inquiry-Board-s-conclusion-on-David-Dragicевич-case-rejected.html>.

³⁹ Mr. Dragičević was released the day after.

⁴⁰ The mother, Suzana Radanović, was arrested for allegedly failing to cooperate with the police. She was later released without charges being raised. See article from 25 December, 2018 available at <https://www.slobodnadalmacija.hr/novosti/bih/clanak/id/581508/39priveli-su-me-i-satima-mi-pretrazivali-kucu-u-pomoc-sam-zvala-i-hrvatski-konzulat39-procitajte-mucno-svjedocenje-majke-ubijenog-davida-o-dogaanjima-u-banja-luci>; See also

29. Following these arrests, the police deployed heavily armed special police units to the Krajina square, forming a cordon around people gathered in support of the arrested parents. The gathering was peaceful and included women, children and elderly. Supporters of the “Justice for David” group were arbitrarily arrested.⁴¹ A young woman later publicly testified that she was not immediately informed of the grounds for her arrest, and was later told that it was because she posed a threat to the Minister of Interior and for incitement to crime during earlier protests outside of the National Assembly of Republika Srpska. The incitement charge was in relation to her shouting “who killed David?”⁴² during the protest.
30. New protests, authorised by police to take place between 6 and 8 pm, were held on 30 December. After the authorised protest, the official demonstration dispersed. However, some 100 people returned to the Krajina square after 10pm and were met by heavily armed police who started pushing and chasing people. Several people were arrested. David Dragičević’s father disappeared that night and later announced that he was in hiding due to fear for his life.⁴³
31. Following the events of 25 and 30 December 2018, people continued to protest. The police issued a complete ban on assemblies of the “Justice for David” group due to alleged traffic disruptions and protesting outside designated places of assemblies.⁴⁴ They continued to arbitrarily arrest and to request people’s identification documents, particularly those who were known supporters of the “Justice for David” group, placing disproportionate limitations to the right to peaceful assembly, and militarising central parts of Banja Luka with special police units patrolling the streets.
32. The exact number of people that were arbitrarily arrested during the events of 25 and 30 December is unknown.⁴⁵ It is known that four people face criminal charges; one has

article and video from 26 Dec, 2018 available at <https://www.telegraf.rs/english/3018876-davor-was-arrested-in-a-car-and-suzana-in-the-street-while-she-was-clutching-a-picture-of-her-dead-son-two-scenes-that-set-fire-to-banja-luka-video>

⁴¹ Also arrested on this day was a member of the National Assembly Mr. Draško Stanivuković (see article from Aljazeera Balkans from 25 December, 2018 available at <http://balkans.aljazeera.net/vijesti/ponovo-uhapsen-zastupnik-pdp-drasko-stanivukovic>), as well as a former member of the NA RS, Mr. Adam Šukalo, who spent 12 hours in the Banja Luka police station, including time spent in solitary confinement (see article from Klix.ba from 26 December, 2018 available at <https://www.klix.ba/vijesti/bih/sukalo-policija-me-maltretirala-bio-sam-u-samnici-ne-znam-zbog-cega-sam-priveden/181226001>). Also a journalist, Mr. Vladimir Šušak (see news article at <https://www.oslobodjenje.ba/vijesti/bih/fotografisao-dragicevica-u-kolima-hitne-pomoci-bh-novinari-uputili-protest-policiji-rs-a-zbog-privodenja-vladimira-suska-420169>), and activist, Mr. Ivan Begić were arrested for taking photos and Mr. Begić (see video available at <https://www.direkt-portal.com/novinar-ivan-begic-policija-me-tukla-koljenima-i-laktovima-video/>) publicly claimed that he was physically ill-treated by the police. Following the next two days 5 more people were arrested, suspected of violence against police officers. All of them were subsequently released to defend themselves from outside of jail. One of them said that he is still waiting for charges to be raised. Two of them claim to have been subjected to ill-treatment by the police. (see article at Srpskainfo.com from 27 December, 2018 available at <https://srpskainfo.com/hapsenja-zbog-nemira-u-banjaluci-pet-osoba-pritvoreno-zbog-napada-na-policiju/>).

⁴² See article from 4 February, 2019 available at http://zurnal.info/novost/21862/sudenja-su-farsa-a-sve-presude-unaprijed-donesene?fbclid=IwAR1zbg_Y-F02jWLa3fCt4mh5dvflF9ng6ICG5NPjPBS0abFH0e-G2jlu8Yw

⁴³ See article from 30 December, 2018 available at <http://mondo.ba/a847555/Info/BiH/Policija-ocistila-trg-nekoliko-osoba-uhapseno.html>

⁴⁴ See article from 31 December, 2018 available at <http://ba.n1info.com/Vijesti/a306829/MUP-RS-zabraninove-proteste-grupe-Pravda-za-Davida.html>; and the report written by Bavčić, E. Monitoring the Right to Free Assembly. ECNL, January 2019 available at http://ecnl.org/wp-content/uploads/2019/02/BosniaHerzegovina_Monitoring-assembly-report-2018.pdf

⁴⁵ The Institution of Human Rights Ombudsman of BiH confirmed that they have 6 open cases pertaining to the case of DD, including the police actions on the mentioned dates (See article from 11 January, 2019 available at <https://www.oslobodjenje.ba/vijesti/bih/ombudsmeni-otvorili-sest-predmeta-u-slucaju-dragicevic-policija-i-tuzilastvo->

already been convicted to 20 days in jail and payment of fines; and a current and a former member of the National Assembly have reportedly said that they are being persecuted because of their public support to “Justice for David”.⁴⁶ According to media reports, a warrant has been issued against David Dragičević’s father for 27 misdemeanour charges, along with 19 other persons who are now facing both fines and jail time.⁴⁷ The police also filed a criminal report against three persons,⁴⁸ for allegedly planning and inciting “violent destruction of the constitutional order.”⁴⁹

33. Even before the police crackdown on the peaceful protests, several of the most active supporters of the “Justice for David” group publicly claimed that they had faced pressure and illegal surveillance by the police and members of the ruling party⁵⁰. They also allege being followed, that their phones are tapped and that they are labelled as “foreign agents aiming at bringing down Republika Srpska”.
34. One of the most active supporters of the “Justice for David” group – Ms. Daniela Ratešević – following assault and threats directed against her daughter⁵¹ felt compelled to send her abroad, and was eventually pressured to leave her job.⁵² Being left without an income, and being “unemployable” due to her activism, Ms. Ratešević felt forced to leave the country in December 2018.⁵³

[moraju-da-kazu-sta-se-desilo-424342](#)). Furthermore, Transparency International has filed complaints against several police officers on the grounds of excessive use of force and suspicion of criminal acts. See articles from 28 December, 2018 and from 1 March, 2019 available at <http://www.etrafika.net/drustvo/64519/prekomjerna-upotreba-sile-podnesene-krivicne-prijave-protiv-policijskih-sluzbenika/> and <http://www.etrafika.net/drustvo/65235/ti-bih-tuzio-mup-rs-zbog-skrivanja-informacija-o-upotrebi-sile-u-banjaluci/?fbclid=IwAR39jicylDGvliWu09kiQdkhewVeerbbWCKOj0pkiF2Sq77CutJS4DoWa3k> respectively.

⁴⁶ See article from 19 February, 2019 available at https://impulsportal.net/index.php/vijesti/17693-pocela-odmazda-lukase-sveti-i-bivsim-narodnim-poslanicima?fbclid=IwAR2-EQ30xYn7hx_P6Uzr78YCE8oEV1MdqXGVBBtg2F2G7BitJuCepby0NKQ

⁴⁷ See article from 19 February, 2019 available at <https://www.radiosarajevo.ba/vijesti/bosna-i-hercegovina/pravda-zadavida-protiv-davor-dragicevica-podneseno-27-krivicnih-prijava/327605>

⁴⁸ Mr. Dragičević being one of them.

⁴⁹ See article from 15 January, 2019 available at <https://www.tportal.hr/vijesti/clanak/davora-dragicevica-terete-zapokusaj-nasilnog-rusenja-ustavnog-poretka-20190115>. In an interview with representative of one of the submitting organizations Mr. Dragičević’s lawyer has said that there are no legal grounds for such serious crimes to be invoked against Mr. Dragičević and that the accusation would never hold in the court. However, Mr. Dragičević has on several occasions in the media said that he fears for what would happen to him while awaiting trial.

⁵⁰ Bavčić, E., supra note 44.

⁵¹ *Written testimony given to the submitting organizations by Ms. Daniela Daca Ratesevic*. Ms. Ratesevic claimed that on 7 July 2018 a high-ranking member of the ruling party Stranka Nezavisnih Socijal Demokrata (“SNSD”) assaulted and threatened her daughter, which she reported to the police, but believes no follow up action was ever done by them.

⁵² *Written testimony given to the submitting organizations by Ms. Daniela Daca Ratesevic*. Among other things, she wrote that from March to October 2018, on several occasions, her employers were subjected to inspections, which she understood were only conducted in order to influence her employer to put pressure on her, which they did by for example assigning her tasks outside of the working hours with the aim of preventing her from attending the protests. This pressure resulted in Ms. Ratesevic resigning from her job on 5 October 2018.

⁵³ Ms. Ratešević and Mr. Dragičević are not the only ones who have effectively become victims of forced exile because of the critique voiced against government or governmental institutions. In February 2019 a well-known publicist and culturologist from Banja Luka Srđan Šušnica has announced that he is forced to leave the country due to threats to his life and to his family (<https://balkaninsight.com/2019/02/27/dodiks-lethal-regime-in-bosnia-must-be-confronted/>). Mr. Šušnica has been persecuted due to his critical views towards the ruling elite in RS leading also to him being suspended from his work at the General Public Sector Audit Service of RS (see video [available at https://www.youtube.com/watch?v=j5glGuNC2SU#action=share](https://www.youtube.com/watch?v=j5glGuNC2SU#action=share)).

35. The fact that David Dragičević's father and other peaceful protesters are criminalised because they asked for "Justice for David" contravenes the rights to peaceful assembly and freedom of expression.⁵⁴ These protests were entirely peaceful and attended by ordinary citizens, including families and the elderly. The police crackdown on peaceful protests and the excessive use of force against protesters served to dissuade future protests and to create the impression that protesters posed security threats. This shifted the narrative from the demands for justice, to criminalisation of the current and future protests. This, in turn, has instilled fear and puts pressure on civil society and human rights defenders.

Recommendations

36. Bosnia and Herzegovina should:

- a) **Promptly and without further delay launch a comprehensive, effective, impartial and independent investigation into the accountability for the murder of David Dragičević, and ensure that it is free of any undue influence.**
- b) **Initiate independent investigations to determine any wrongdoings by any of the institutions and individuals involved in the initial investigation into the death of David Dragičević, and ensure accountability for any wrongdoing.**
- c) **Set up an independent commission with the powers to make binding recommendations on government entities to investigate all allegations of brutality, excessive use of force and of abuse of authority by security forces against activists and other members of the public in connection to the protests of 25 and 30 December 2018 in Banja Luka. Ensure that those found responsible are held accountable. The Commission should propose changes in practices, procedures, training and other necessary measures identified as part of the investigation, with the aim of restoring citizens' trust in the law enforcement agencies and government institutions.**
- d) **Take without delay all necessary measures to, across the country, protect and promote civil society space and ensure a safe and enabling environment for human rights defenders and activists, *inter alia*, by stopping arbitrary arrests and detention and any form of intimidation of human rights defenders and activists.**
- e) **Eliminate obstacles and restrictions to freedom of assembly and freedom of expression and ensure that domestic law pertaining to freedom of assembly aligns with international human rights standards for freedom of assembly and freedom of expression, in particular with the International Covenant on Civil and Political Rights.**

⁵⁴ See also recent statement by Civil Rights Defenders [available at https://crd.org/2019/02/27/human-rights-defenders-faces-attacks-in-banja-luka/?fbclid=IwAR3jInKMJq397b8LXE6w51CCiAD37QEWYIufP02U-vTgwGKGfo-C7fb2ow](https://crd.org/2019/02/27/human-rights-defenders-faces-attacks-in-banja-luka/?fbclid=IwAR3jInKMJq397b8LXE6w51CCiAD37QEWYIufP02U-vTgwGKGfo-C7fb2ow)

B. The Women of Kruščica

Background

37. Kruščica is a small village, located by a small river with the same name. In 2017 it became known for a women-led community struggle to save the river from being destroyed by plans to construct mini-hydro plants. The construction plans would effectively put the community's access to water in danger, thus violating their right to water,⁵⁵ to adequate standards of living and to health.
38. To date, around 300 new hydropower dams are planned for construction, on nearly all the country's 244 rivers, resulting in waterways destroyed because of the issuance of permits without rigorous and transparent social and environmental impact assessments.⁵⁶ Most of these rivers are pristine or "near-natural" and present biological hotspots and homes for many endangered species.⁵⁷ The population affected by these plans has systematically been excluded from decision-making processes.⁵⁸
39. Despite the fact that the river Kruščica is in the very vicinity of the Kruščica village, the village is not connected to a public water supply system. In addition, nearly 80% of the river's capacity is diverted to the water supplies of nearby cities.⁵⁹ The inhabitants of the village use wells and other traditional water allocation systems as the Kruščica river is their only access to clean and drinking water. The river is already at its biological minimum, as 80 percent of its capacity is already diverted to water supply systems outside the village. The private investor's plans to build two small hydropower dams on the river would lead to its further depletion.⁶⁰

⁵⁵ According to the Committee on Economic, Social and Cultural Rights, General Comment No.15: Right to Water (Art.11 and 12 of the Covenant) "The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use". E/C.12/2002.11, para.2.

⁵⁶ Map of planned HPP can be found at https://e360.yale.edu/assets/site/1500x1500_fit_center-center_80/HPP_BALKAN_2017_map_web.jpg. See also article on CS protests available at <https://www.dw.com/bs/borba-za-rijeke-bih-i-dalje-traje/a-47686712?fbclid=IwAR1tQR-rC1b8JQ-A1PUgoV7EchA6R2drCISu4IcryAc7NTGraVmeaFYN2ZY>

⁵⁷ A detailed assessment of 22,000 miles of Balkan rivers commissioned by WWF and other conservation groups has classified 30 percent of the region's rivers as pristine or "near-natural" and another 50 percent as in good condition. That contrasts sharply with the situation in Western Europe, where most rivers have been dammed or subjected to intensive development. Scientists and conservationists say that if the proposed scale of Balkan dam building proceeds, thousands of miles of waterways, home to scores of endemic or endangered species, will be irreversibly degraded and polluted. For further information see the academic article from 8 May 2018 available at <https://e360.yale.edu/features/a-balkan-dam-boom-imperils-europes-wildest-rivers>

⁵⁸ See for example article from 20 October, 2018 and 21 March, 2018 available at <https://www.oslobodjenje.ba/vijesti/bih/video-protesti-mjestana-zbog-gradnje-mini-centrala-u-vlasnistvu-mirze-teletovica-402656> and <http://novasloboda.ba/protest-zbog-izgradnji-mini-hidroelektrana-na-buni-i-neretvi/> respectively.

⁵⁹ In 1967, the final agreement was reached and the relevant decisions were made by the council of the municipality of Vitez and the council of the municipality of Zenica, and the construction of the water supply system Kruščica already began in 1968. By the end of 1969, the catchments were built at the spring, and the 22 km long Kruščica-Zenica pipeline began operating the same year. The maximum capacity of the source is 520l/sec, which according to the agreement of the municipalities is divided in 23% for Vitez and 77% for Zenica. See more at <http://www.vikze.ba/o-nama/historijat/>

⁶⁰ The Law on Waters in the FBiH stipulates that "the use of water to supply the population with drinking water, sanitary needs and the needs of fire protection has priority over the use of water for other purposes". See text of law at <http://www.voda.ba/zakoni/47bos.pdf>

40. This depletion would endanger the Kruščica inhabitants' access to sufficient amounts of safe and potable water. It would also exacerbate existing poverty levels in the community, as the eco-touristic potential of the surroundings of the Kruščica river has been used by the local community as part of the community development plans.⁶¹ The depletion of river would also have particular gendered consequences, as in water-deprived households, women and girls tend to carry the burden of water collection.⁶²
41. The plans and permits for construction of the two hydropower dams were "approved" in 2012 and 2016 but without information and meaningful consultation of the local population affected by this project⁶³. The lack of information and meaningful consultations with the local population⁶⁴ constitutes a violation of, *inter alia*, their rights to participate in public affairs to water.⁶⁵ In its last review of BiH (2014), the Committee on the Rights of the Child ("CRC") expressed concern that international human rights, environmental and other standards are not adequately monitored, protected and fulfilled to ensure that persons and communities are not negatively affected by the private sector. The CRC also noted that issues relating to the environmental and health impact of business activities are not addressed in a transparent manner that allows for informed public scrutiny and participation⁶⁶. Moreover, there is no publicly available information on whether BiH intends to develop a national action plan on business and human rights to ensure that its domestic laws regulating the private sector and investment are consistent with the UN Guiding Principles on Business and Human Rights and other relevant human rights standards.⁶⁷

⁶¹ The area of Kruščica has been a protected natural site, dating back from Austro-Hungarian times onward. Kruščica has long tradition as excursion site and this community puts all its efforts to develop the touristic potential of the area. Their plan is to produce and sell local, organic products and improve tourist offer in order to keep young people in the community by offering them new job opportunities. They believe that a construction of 2 mini HPP, and the subsequent river depletion that would follow as a result of it, would destroy the community's developmental opportunities.

⁶² In looking at SDGs and the connection between access to water and gender equality, UN Women points at the fact that globally "in 80 percent of households with water shortages, women and girls are responsible for water collection.", available at <http://www.unwomen.org/en/news/in-focus/women-and-the-sdgs/sdg-6-clean-water-sanitation>

⁶³ The locals in Kruščica consider that all the problems began at Local Community Organization of Kruščica, which worked against the interests of the community. As an argument for such opinion, they indicate that the Local Community Council ("LCC") never, contrary to its obligations, informed them about the public discussion that was obligatory. Responding to their breach of obligations the local community, led by the village women, stood up against the current members of LCC initiating a mistrust vote and eventually electing new members. See also Bavcic, E. 2019.

⁶⁴ The public discussion that was held was held in a formulaic way, during which only few locals that supported the project could give their opinion.

⁶⁵ According to CESCR General Comment No.15, the State must ensure people's participation in decision-making processes that will have an effect on their right to water (E/C.12/2002.11, para.48). Furthermore, special attention must be given to those individuals and groups who have traditionally faced difficulties in exercising their rights, such as women or rural population (E/C.12/2002.11, para.16 (a) and 16 (c)); See also Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, Common violations of the human rights to water and sanitation, A/HRC/27/55, para. 25, 32, 68, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/069/10/PDF/G1406910.pdf?OpenElement>; and the Report of the Special Rapporteur on the human right to safe drinking water and sanitation, A/69/213, para. 78, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/490/08/PDF/N1449008.pdf?OpenElement>

⁶⁶ CRC/C/BIH/CO/2-4, paras. 27-28, available at https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fBIH%2fCO%2f2-4&Lang=en

⁶⁷ <https://www.ohchr.org/en/issues/business/pages/nationalactionplans.aspx>

Violations to the rights of freedom of expression, peaceful assembly, and liberty and security

42. During the 18 months in which the women of Kruščica were trying to stop the start of the construction of the hydropower dams, they experienced serious police intimidation. On 24 August 2017, around 100 local police officers and 150 members of special police forces went to the village with an order to forcefully remove about 50 women from their peaceful sit-in protest and to clear the way to the river for the construction machinery.⁶⁸
43. During the police intervention, many of the women experienced violence, (e.g. being dragged to the road, stripped of their clothes, insulted, and pushed around, etc.⁶⁹). The arrested women were taken to the police station. Those who were injured and who subsequently received medical attention were not provided with medical forms. This impeded them from being able to provide proof of injury and to potentially file complaints against the police for their injuries.
44. The women taken to the police station complained about inhumane conditions while in custody and about the lack of information on their rights and on the grounds for their arrest. During individual questioning by the police, women felt intimidated and were warned that if they ever went to the bridge again, they would be arrested and receive high fines. The intimidation and threats of high fines is a deliberate technique used by the police, which is aware of the marginalised socio-economic status of the community (rural with high levels of unemployment) and of the fact that they cannot afford paying fines.⁷⁰ For most of these women paying a fine of 100 euros means losing almost half of the monthly household budget, as their household budget is rarely over 250 euros a month.
45. Twenty-two women were later charged with passive resistance and obstruction.⁷¹ The Court considered however that there was insufficient evidence to establish individual responsibility and closed the case.⁷² Women's access to justice and to the judicial system is restricted, mainly because they do not have enough money to pay the high costs of legal representation needed to revoke the contested construction permits. Many of these women are unemployed or earn minimal wages that are often below the national average salary. Funding for legal representation had to be collected through a NGO-led campaign, which enabled two proceedings leading to the revocation of the

⁶⁸ See also Bavic, E., supra note 44; and video footage of the brutal police attack available at <https://www.facebook.com/recinemhe/videos/brutalno-postupanje-specijalne-policije-nad-%C5%BEenama/116211965708919/>

⁶⁹ See also: Bavic, E., supra note 44.

⁷⁰ During the 18 months of their protests the police issued around 30 fines of around 100 EUR each, amounting to a total cost of approximately 3,000 EUR. Furthermore, costs of the legal struggle (during two separate cases) have until today amounted to approximately 6,000 EUR; See also Bavic, E., supra note 44.

⁷¹ See article from 25 September, 2017 available at <https://www.oslobodjenje.ba/vijesti/bih/komisija-za-sigurnost-ce-zatrziti-detaljne-informacije-o-dogadaju-na-kruscici>

⁷² See article from 14 December, 2017 available at <http://www.istinито.com/bih/drustvo/10626-zene-kruscice-oslobodene-optuzbi-nastavljaju-cuvati-rijeku/>

construction permits and permanent stop to construction plans.⁷³ The Human Rights Ombudsman of BiH also opened an *ex officio* investigation into the violent police crackdown.⁷⁴

Recommendations

46. Bosnia and Herzegovina should:

- a) **Adopt effective measures to realise, without discrimination, the right to water and to ensure environmental sustainability and democratic and transparent management of natural resources, treating them as a social and cultural good, and not primarily as a commodity.**
- b) **Review and where necessary revise the allocation of permits pertaining to the construction of hydropower plants so as to ensure compliance with international human rights law, including the International Covenant on Economic and Social Rights and the CESCR's General Comment No.15 on the right to water, in particular with regard to the obligation of the State to respect, protect and fulfil the right to water.**
- c) **Take measures to ensure that private enterprises, including when contracted by the State, operate under adequate regulatory frameworks, that safeguard environmental sustainability, and comply with human rights standards, including by giving priority in the allocation of water to the right to water for personal and domestic use.**
- d) **Introduce measures to prevent abuses of BiH regulatory framework pertaining to environmental protection and investment in natural resources, through *inter alia* independent monitoring; informed and meaningful participation of affected communities and imposition of penalties for non-compliance.**
- e) **When conducting human rights and environmental impact assessments, take into account the impacts of investments on gender-based discrimination, women's health, gender-based and sexual violence, gendered division of labour on family and community levels, and women's access to and control of social and economic resources.**
- f) **Guarantee affordable and accessible legal assistance to communities, with specific regard to the needs of women and marginalised groups, in lodging complaints about allegations of human rights violations resulting from business activities, including in the mining and hydropower sectors, and thoroughly investigate all such allegations and revoke licenses as appropriate.**

⁷³ See article from 14 December, 2018 available at <https://avaz.ba/vijesti/bih/439997/sud-presudio-u-korist-gradana-ukinute-sve-dozvole-za-gradnju-hidroelektrane-na-kruscici>

⁷⁴ <https://www.ombudsmen.gov.ba/Novost.aspx?newsid=779&lang=EN>

IV. Rights of migrants and asylum seekers

47. Since the end of 2017 BiH has seen a steady increase in the number of arrivals of asylum seekers and migrants.⁷⁵ Due to confusing and complicated bureaucracy in the country, unclear institutional jurisprudence, failure on behalf of the state and international organisations⁷⁶ responding to the crisis to ensure adequate camps to accommodate migrants and asylum seekers, many are forced to sleep rough on the streets, in makeshift camps, squats and private accommodations.⁷⁷
48. As the government has failed to ensure accessible procedures for seeking asylum,⁷⁸ many asylum-seekers are left holding only attestations of the expressed intention to seek asylum. These attestations are granted upon their first registration in the country and expire after 14 days⁷⁹ leaving many with expired papers, unable to enter asylum procedure and without any access to economic, social and cultural rights. According to some testimonies, on occasions the authorities have simply refused to renew papers, putting them, many of whom are women, in harm's way.⁸⁰
49. Most asylum seekers and migrants live in inhumane and degrading conditions in BiH. According to a recently published report the majority of people live in conditions that are below levels of a human and dignified life. They live in factory halls, often without access to sufficient quantities of food; vulnerable categories such as children or pregnant women or people with chronic diseases are not provided with specialised care and so forth.⁸¹
50. Such lack of appropriate and dignified conditions push migrants to leave the country as soon as possible. The only possibility for migrants to leave the country is to pay smugglers putting them in harm's way.⁸² Furthermore, illegal crossings put them at risk of violence and of illegal pushbacks by the Croatian police.⁸³
51. Single women and women traveling with children, unaccompanied and separated children, face a high risk of becoming victims of trafficking or exploitation.⁸⁴ Following a considerable number of human trafficking cases in the wake of the end of the war, BiH eventually established protocols, strategies and policies to combat trafficking in human beings. However, it is unclear how these measures are being implemented in relation to

⁷⁵ See https://ec.europa.eu/echo/where/europe/bosnia-and-herzegovina_en

⁷⁶ IOM, UNHCR and UNICEF, supported by EU funds.

⁷⁷ <https://data2.unhcr.org/es/documents/download/63869>, page 2 and 23.

⁷⁸ See the newly published report in January 2019 from the Institutions of Human Rights Ombudsman for Bosnia and Herzegovina, available at <https://www.ombudsmen.gov.ba/Novost.aspx?newsid=1154&lang=EN>

⁷⁹ <https://data2.unhcr.org/es/documents/download/63869>, page 23.

⁸⁰ For more information see recently published report by Mlinarević, G. and Ahmetašević, N., People of the Move in Bosnia and Herzegovina in 2018: Stuck in the Corridors to the EU, Heinrich Böll Stiftung, 2019 available at https://ba.boell.org/sites/default/files/people_on_the_move_in_bosnia_and_herzegovina_-_21-02-2019_-_web.pdf

⁸¹ For more information see Mlinarević, G. and Ahmetašević, N., 2019.

⁸² See Euronews "Western Balkan route for migrants, refugees stuck at borders" from 30 November, 2018.

⁸³ See Amnesty International article from March 2019 available at https://www.amnesty.org/en/latest/news/2019/03/croatia-eu-implicit-in-violence-and-abuse-by-police-against-refugees-and-migrants/?fbclid=IwAR0BjX58gTK6_bSz5_Exwn8K-7OMB7AHoz9moUteJlBv2y9I9NDldrlpOhE

⁸⁴ See UN report "Refugee and Migrant Situation in BiH" 2018. Page 25.

the precarious situation and specific challenges that asylum-seekers and migrants are facing.

52. In an open letter to the Ministry of Security of BiH, the Commissioner for Human Rights of the Council of Europe expressed concern about the low levels of engagement of the State in providing durable and humane solutions pertaining to asylum seekers and other migrants and urged the State to do so in human rights compliant way.⁸⁵ The EU funding provided as assistance to the country to respond to the growing number of asylum-seekers and migrants has been channelled through international organisations, primarily International Organisation for Migration (in cooperation with the UNHCR and UNICEF) instead of through the State.⁸⁶ Consequently, international organisations took over the establishment and running of accommodation sites. This resulted in a situation in which the responsibility to provide access to guaranteed human rights to asylum-seekers and migrants *de facto* shifted from the State to international organisations all to the detriment of the asylum-seekers and migrants. Lacking a mechanism for so doing, activists have been unable to hold the IOM or other international organisations accountable for poor management of the camps. *De jure* the State remains accountable and should be ensuring that the international organisations do not breach international human rights law and international refugee law and this must be insisted upon by the international community to all.

53. In March 2019, the CEDAW Committee requested information on “measures in place to protect migrant and asylum-seeking women, particularly single women and women with children, from trafficking or exploitation, including through strengthening the capacity of the Centres for Social Welfare, the police and health care facilities, and to develop gender - sensitive procedures for processing asylum applications.”⁸⁷

⁸⁵ Accessible through <https://rm.coe.int/commdh-2018-12-letter-to-the-authorities-regarding-the-migration-situa/1680870e4d>

⁸⁶ The European Commission, via European Civil Protection and Humanitarian Aid Operations (ECHO), in June 2018 provided 1.5 million Euros earmarked for the migration-situation (see Inter-agency operational update June 2018 available at http://ba.one.un.org/content/dam/unct/bih/PDFs/UNCTBiHSitReps/Inter-agency_Refugee_Migrant_SituationReport_June.pdf). In July, The European Commission and Council of Europe Development Bank respectively announced €1.5 million and €1 million in humanitarian assistance to refugees and migrants in BiH (see Inter-agency operational update July 2018 available at http://ba.one.un.org/content/dam/unct/bih/PDFs/UNCTBiHSitReps/Inter-agency_Refugee_Migrant_SituationReport_July.pdf). In October 2018, the EU Delegation to BiH announced that the EU had allocated more than 7.2 million euros in grants provided through an Instrument for Pre-Accession Assistance (IPA) special measure and would be implemented by the International Organization for Migration (IOM) in partnership with UNHCR and UNICEF (announcement available at <http://europa.ba/?p=60117>). In November 2018, it was announced that the European Commission ECHO had allocated an additional 500.000 Euros for the assistance (announcement available at <https://reliefweb.int/report/bosnia-and-herzegovina/eu-provides-500-000-refugees-and-migrants-bosnia-and-herzegovina>).

⁸⁷ List of issues and questions in relation to the **Error! Unknown document property name.**, CEDAW/C/BIH/Q/6, 20 March 2019, paragraph 17.

Recommendations

54. Bosnia and Herzegovina should:

- a) Uphold its obligations to protect and assist refugees, asylum seekers and migrants, including through taking effective control over the process of administration of camps.**
- b) Ensure humane, dignified and lawful conditions of detention and accommodation of asylum-seekers and migrants, making sure that gender-sensitive measures and reception conditions respond to the specific needs of women and girls, and that appropriate procedures and oversight mechanisms are put in place to protect them from the risk of trafficking, abuse and other violations they can be exposed to, due to the precarious situation they find themselves in.**
- c) Undertake systematic and continuous efforts to sensitise and build the capacities of public bodies, including the judiciary, police, border authorities, health and education personnel, civil servants, municipal and government officials, and others, to promote and protect the human rights of refugees, asylum seekers and migrants, and to address discriminatory attitudes and stereotypes.**
- d) Take measures to assist in the durable social integration of refugees and asylum seekers in economic, social and cultural life, ensuring that they have access to education, health services and housing without discrimination.**