

**Submission from
the Bosnia and Herzegovina Working Group on Child Protection
regarding the
Universal Periodic Review of Bosnia and Herzegovina (Seventh Session, February 2010)**

1. The BiH Working Group on Child Protection¹, as a Coalition consisted of the following organisations (in alphabetical order) Hope and Homes for Children, Save the Children Norway, Save the Children UK, SOS Kinderdorf, World Vision and UNICEF, welcomes the opportunity to submit these views on behalf of above mentioned organisations.

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Office of the United Nations High Commissioner for Human Rights
uprsubmission@ohchr.org , September 7, 2009

2. The BiH Working Group on Child Protection ready to participate in a national consultation process, both in preparation for the report of Bosnia and Herzegovina and especially in the follow-up phase. The BiH Working Group on Child Protection have co-ordinated preparation of this report with the Ombudsman for Human Rights of Bosnia and Herzegovina and NGO Council (a network of 85 international and national NGOs working to support the stabilization and development of Bosnia and Herzegovina) who supported the report findings and recommendations.

3. This document reflects some recent activities and concerns of our organisations within the framework of maximum 10 pages, and is not exhaustive of human rights and child rights issues in Bosnia and Herzegovina deserving attention.

I BACKGROUND AND FRAMEWORK

a. Introduction

4. Last couple of years in Bosnia and Herzegovina have been characterised with some progress in improving strategic documents, plans and laws related to children. The National Action Plan for Children in Bosnia and Herzegovina 2002-2010 defining the state priorities toward children has been revised (2008) in order to meet new reality in the country while the National Policy on Youth 2008-2013 Strategy on protection of children from violence and abuse, Strategy against Juvenile Offending for Bosnia and Herzegovina 2006-2010, Strategy on Combating Violence against Children; State action plan for combating trafficking 2008-2012, Action Plan on the Educational Needs of Roma and Members of other National Minorities in Bosnia and Herzegovina, Policy on protection of children without parental care and families at risk of being separated in BiH 2006-2016, to mention few, have been endorsed.

¹ The BiH Working Group on Child Protection was established in February 2009 under umbrella of NGO Council with an aim to ensure information exchange on child protection issues, joint lobbying on child protection issues identified by the group members, and coordination on member organisations' child protection projects to avoid duplication and encourage collaboration

5. Government have started recognising the efforts of the NGOs and the international organisation which, despite frequently inadequate legislation and unfavourable legal position, made important achievements and up to now have been driving forces behind activities in the field.

6. However, there only few success stories and it appears that the country has been stuck in never-ending disputes among political forces that negatively influence every single aspect of society, including activities in the field of child care and protection.

b. Decentralisation, inequalities and the impact of economic recession

7. The fragmented and highly decentralised administrative structure of the country is the key challenge in BiH (state, two entities, out of which one is centralised and another divided into 10 cantons, and Brčko District). This situation particularly affects children due to the fact that the legal framework for child protection and all services for children are divided among several levels of authority in the country. For an illustration 13 set of laws and regulations defining health protection, social protection, education etc. are on power in the country with app. 4 million of citizens and 852.413 children and youth up to 19.²

8. Inequities in health and social services and benefits between Entities are further increased in Federation of Bosnia and Herzegovina by inequities between Cantons, and between municipalities within Cantons. Municipalities in both Entities report increasing demands for public expenditure in social protection for children and social sector reform but with inadequate funding provided by the State, Entities and/or Cantons.

9. Given the elaborate and multi-layered set of protection measures for children, there is serious concern that the global economic crisis may be used as an excuse to reduce social assistance to children.

10. Recommendations:

- Strengthen the role of the Council for Children of BiH in performing their task as advisory body to the government of Bosnia and Herzegovina on child rights issues and monitoring body for implementation of the National Action Plan for Children in Bosnia and Herzegovina 2002-2010;
- Strengthen the role of the Unit for Monitoring of Child Rights within the Ombudsman for Human Rights of Bosnia and Herzegovina and support their initiatives on child rights protection;
- Establish a Child Fund at the state level and Federation of BiH (in Republika Srpska, one of two entities in the country, this institution has been existing since 1996) in order to ensure the same level of protection and services to all children living in the country.

c. Statistics on children

11. The capacity of the Statistical Offices remains limited, which is an underlying obstacle in carrying out the reform agenda. Data related to children is particularly scarce and varies depending on the source. Statistics on the number of pre-school/school age children, the number children without

² Data as of 2007: 0-4: 149409, 5-9: 205951, 10-14: 246468, 15-19: 250585 source: Household Budget Survey in BiH,

parental care, the number of children with disabilities, the number of street children and the incidence of domestic violence are not available (to mention few). Disaggregation of data by age and gender is not routinely done.

12. Recommendations:

- It is important that the census planned in 2011 addresses critical statistical gaps;
- Set up standards and methodology for data collection related to children.

II PROMOTION AND PROTECTION OF HUMAN/CHILD RIGHTS ON THE GROUND

A. Implementation of international human rights obligations

1. Equality and non-discrimination

d. Birth Registration

13. One of post the war phenomena in Bosnia and Herzegovina is defined as “ghost children” or children who are not properly registered or registered at all into birth registry books. Lack of registration or proper registration of children resulted in inability of those children to obtain citizenship in the country but also inability to access health and social services, school etc. In addition, these children are particularly exposed to risk to be maltreated, abused, trafficked etc. while there is not any proof of their existence.

14. A research by the Institution of Ombudsman of Federation of BiH back in 2006 shows that only in three major cities in the Federation of BiH approximately 6.000 children were not properly registered. Children born out of health institution, living in remote areas, children refugees and IDPs, Roma children are particularly affected.

15. Recommendations:

- Set up the system that will ensure registration of all children born in the country;
- Relevant institutions in the county should continue training on birth registration for municipal registry offices, social workers and police;
- Initiate public campaign to ensure registration of all children born in the country.

e. Roma children

16. In the context of the Decade for Roma Inclusion (2005-15), which BiH joined in 2008, the Roma Action Plans (health, housing and employment) were developed. The Ministry of Human Rights and Refugees and the Roma Council plan to revise the Action Plan on the Educational Needs of Roma and

Members of other National Minorities in Bosnia and Herzegovina, as the original action plan was not effectively implemented.

17. Two in five Roma children have never been to school. Generally, Roma children in BiH perform poorly in school. Language barriers, lack of school readiness programmes and support programmes for Roma children within the education system are the main contributors to low achievement. The dropout rates for Roma children are extremely high, especially girls, with poverty being a key factor. The BiH Action Plan on Education Needs of Roma and Members of Other National Minorities was adopted in 2004 but is not being adequately implemented due to lack of funds targeted for this purpose and unclear division of responsibilities between stakeholders.

18. Another area of concern is the immunization status of Roma children. Some 60% of Roma children are not completely vaccinated against common childhood diseases. Half of all <6 month old Roma children suffer from chronic malnutrition, 24% of Roma children are moderately undernourished and 12% severely stunted. Roma children are five times more likely to be underweight than other young Bosnians.

19. Recommendations:

- Set up a data base on the Roma population, which is important precondition to adequately address the needs of Roma children;
- Urgently adopt the Roma Housing Action Plan;
- Government should rationalize funds in the existing education budgets and utilize opportunities offered through the Decade of Roma Inclusion to support more efficient implementation of the Action Plan on Education Needs of Roma.

2. Right to life, liberty and security of the person

f. Violence against children

20. Although the Strategy on Combating Violence against Children was adopted by the Council of Ministers in 2007 little has been done in terms of systemic efforts to implement it. Statistics on children victims of violence is lacking. Reaction still outweighs prevention. Multi-sectoral coordination between the institutions in the system is largely lacking. In many cases violence is not being reported, processed, recorded or dealt with.

21. According to available, but rather random reports (various NGO and media), most common forms of violence is physical, since domestic violence is on rise where children are subjected to violence either directly or witnessing. Another very present and concerning form is peer violence and peer delinquency while very little is done to prevent this. Another form of violence is sexual abuse that is mostly underreported, particularly if it is taking place in the family. The victims are mostly girls, but due to sensitivity of the violation, psychologists believe that boys are reluctant to report it when happens. Abuse of children by using information and communication technologies is definitely new and rising phenomenon. Violence or sexual content is often recorded and placed on the internet.

22. Due to decentralized structure and authorities of 13 different polices, faces problems with increase of internal trafficking. Reports of the former Office of the State Coordinator for combating trafficking in human beings and illegal immigration, now Department for combating trafficking in human beings, refer that the number of domestic victims of trafficking for sexual purposes increased in comparison to late 90-ties and early 2000, while the number of minors has risen to up to 30%.

23. Another major issue is evident increase of child labour, particularly among Roma population. Nevertheless, above mentioned research revealed that 25% of children performing street work are not Roma. This phenomenon is on increase, while state did not undertake any steps to prevent it. Problem lies in the fact that children who perform street work are unable to attend school which puts them in more risk to be violated and further exploited. Some steps have been undertaken by the government in addressing child pornography, but in cooperation with the SCN SEE. Currently, the Action plan for improving the system for the protection of children against child pornography and other forms of on-line sexual abuse and exploitation is still in drafting phase and it is expected to be adopted by the end of 2009. Still, major legal changes that would improve the situation are depending on the implementation of the Action plan and signing and ratification of the CoE Convention on the protection of children against sexual abuse and sexual exploitation that would accelerate necessary changes in BiH.

24. Recommendations:

- Introduce legal prohibition of corporal punishment of children into legal system and promotion of the alternatives to the traditional disciplining of children;
- Government of BiH has to sign and ratify the CoE Convention on the protection of children against sexual abuse and sexual exploitation;
- Ensure implementation of the State strategy for combating violence against children, State action plan for combating trafficking in human beings 2008-2012 and adopt and implementation of the Action plan for improving the system for the protection of children against child pornography and other forms of on-line sexual abuse and exploitation;
- Cooperation between state and NGO sector needs to be enhanced and institutionalized;
- Introduce support provision and social inclusion of children performing street work in education system;
- Set up services for the rehabilitation and re-socialisation of victims, perpetrators of violence and minor crime perpetrators;
- Initiate actions for reducing peer violence, particularly in schools to be undertaken on the state and local level;
- Set up of data base on cases of violence against children.

g. Juvenile Justice

25. Although juvenile offending has been on an increase in post war period in Bosnia and Herzegovina, most initiatives in prevention of juvenile offending have been initiated by international or local NGOs, or as a result of their advocacy actions, by the state institutions. As an illustration, the Strategy against Juvenile Offending for Bosnia and Herzegovina 2006-2010, the Strategy and Programme of action 2006-2010 were adopted in July 2006 by the Council of Ministers of

BiH, but they were published only two years later³, following the massive protests in Sarajevo and public pressure caused by committed murders of young boy in one of Sarajevo trams and an old woman set on fire in front of her building by youth offenders.

26. The juvenile justice coordination body has been established in 2008 to oversee the implementation of the Strategy, but the work of the body is marked with slow progress. Initiative for adoption of the Bill on Juvenile Criminal Offenders and Criminal Law Protection of Children and Juveniles at the state level failed; the set up of prison for youth offenders is on hold; the professionals currently dedicated to work with youth offenders perform their tasks without any education or training which would help them to improve their skills and working performance.

27. Recommendations:

- Introduce the concept of Restorative Juvenile Justice into legal system of Bosnia and Herzegovina;
- Urgently adopt the Bill on Juvenile Criminal Offenders and Criminal Law Protection of Children and Juveniles and update the criminal and penal laws at all levels in Bosnia and Herzegovina;
- Develop a program of specialization and education of all professionals working with offenders;
- Ensure material and political support to the Coordination body to implementation of the Strategy and the Action Plan;
- Create precondition for implementation of the alternative measures in work with youth offenders;
- Create possibilities to refer criminal case involving juveniles and young adults to mediation at all stages of criminal procedure. Mediation should be applicable in criminal procedure involving juveniles and young adults for all criminal acts sanctioned with fine or up to 5 years of imprisonment;
- Establish specialized and separate institutions (prison and daily centers) to work with youth offenders and set up standards for imprisonment of juvenile into prison for adults in the meantime;
- Urgently adopt the Program of Juvenile Criminal Prevention in Bosnia and Herzegovina.

3. Right to privacy, marriage and family life

h. Children without parental care⁴

h.I Prevention of separation and family strengthening

28. Most common reasons for separation of the children from their parents are, as follows: single parent families, illness of parents, families with two or more children, families who have children with special needs, families in which children have been abused or neglected and poverty. Often, combination of these leads to separation.

³ BiH Official Gazette (*Sluzbeni Glasnik*) No. 14/2008.

⁴ Findings and recommendations in this chapter are based on publications: Status of Children, Child Rights Based Analysis of Children without Parental Care or at Risk of Losing Parental Care and Country Right Situation Analysis on Young People Aging out of Care issued by SOS Kinderdorf.

29. Reliable data on children who are at risk of separation from parents do not exist. One of the causes for that is that this is a heterogeneous population composed of a number of categories and sub-categories of children, which come in contact with the social protection system for different reasons.⁵

30. Classification of families at risk and possible interventions in families are not clearly defined and monitored. Currently, the main carriers of the prevention are NGOs.

31. Recommendations:

- Changes in legislation in order to enable and support prevention;
- Provide human and financial resources for prevention programmes and activities;
- Develop specialised services: family support, family counselling, day care centres, etc.;
- Develop support programmes, such as abandonment prevention, especially for young single mothers.

h.II Institutional care

32. Overall, institutional care is often preferred by the Government over alternative community-based options for children without parental care or with special needs, although policies have been adopted or are being developed to promote alternative forms of care. Over 1000 of about 3000 children deprived of parental care in BiH are placed in institutions of residential care. This includes five large institutions with 100 or more children whose transformation needs to be treated as priority. The number of institutions for children deprived of parental care has increased from five that existed before the war to current 18. Children under the age of three continue to be placed in institutions although the general principle in European countries is that babies and very young children should not be in residential care. A 14% increase of children placed in institutions has been registered between 2000 and 2005, while 53% less children have been provided care in foster families (according Social Welfare Bulletin, BiH agency for Statistics, 2005).

33. On the positive side, one institution in Zenica (FBiH) was closed down with the help of Hope and Homes for Children. This institution is replaced with the following services: prevention of separation of children from their families, reintegration of children with their biological families, young adult support – supporting young people to leave institutions and become independent, fostering, small family home – residential service with capacity for up to 12 children. New services are designed to support the children from transformed institution as well as new children coming into the system. New services are supported by mobile team of 2 professionals.

⁵ Bosnia and Herzegovina: Country Partnership Strategy 2008-2011, World Bank provides the following data: Children living in poverty (more than 46.000 in 2006); Children with disabilities (about 11.000 in 2006); Internally displaced children (about 27.400 in 2005); Children whose development is hindered by family situation (6.172 in 2006); Children exposed to neglect and abuse (5.435 in 2006); Children with socially unacceptable behaviour (5.276 boys and 1.662 girls in 2006); Children with serious housing problems (4.442 in 2006); Children in conflict with the law (3.272 boys and 484 girls in 2006); Children civil victims of war or members of families of civil victims of war (about 1.500 in 2006); Street children (who are living with parents, but they are among the children at risk of losing parental care (about 1.000 in 2006); Children abusing alcohol (424 boys and 81 girls in 2006); Children using drugs (315 boys and 133 girls in 2006); Children affected by divorce (0,8 per 1000 children in 2005); Children born outside of wedlock (11,2% of total live births in 2005); Children born to mothers under age 20 (6% of total live births in 2005).

34. Efforts are made to identify foster families in the country, but there is no comprehensive system of foster care. BiH Statistical Report on Social Welfare indicates only about 800 children in foster families (not distinguishing kinship and non-kinship care). However, it can be assumed that the real figure could be more than 3.000. In the RS, placement of children in foster families is preferred and more widely used - about 80% of children without parental care are placed with foster families.

35. Furthermore, payment of cash benefits for children, such as child allowance or foster care allowance, greatly varies between entities and cantons, which directly impacts on the quality of protection and equality in treatment of children in different regions.

36. Recommendations:

- The government should develop and enforce legislation and funding frameworks for alternative services;
- The government should implement reforms in the field of child protection in the way that was defined in Policy for Protection of Children without Parental Care and Families at Risk of Separation;
- The government should increase efforts with respect to the process of de-institutionalization.

h.III Leaving care

37. Despite the fact that leaving care is a very important aspect of the care process generally, this issue is not considered to be a priority in the country. Young people leaving public care are in an especially difficult position and without systematic support.

38. According to the data from 2005, about 34% of children deprived of parental care in FB&H belonged to the age group of 15 to 18 years. The data proves the trend of increase in the number of children leaving care during recent years. It could be explained in the way that the war generation of children are aging out of public care. Currently there are no system in the place and relevant programmes to support this category.

39. The main issues faced by young people during the care process and after leaving care are:

- **Education:** in practice young people are not encouraged to receive higher education and have to leave an institution soon after age of 18 or after completing formal education, without acquiring necessary knowledge, skills for employment or work experience.
- **Employment:** There are no employment benefits for young people without parental care after 18 because legal provisions about that do not exist. Furthermore, they are facing prejudices of potential employees since they were brought up in an institution.
- **Housing:** Centres for Social Work are not paying enough attention to protection of property rights of children without parental care, which is resulting with loss of property they are entitled to. There are no government housing programmes for this category of children without parental care.

40. Recommendations:

- Government programme for young people leaving care should provide assistance in continuing education (formal or informal), finding employment and adequate housing.

4. Right to education

i. Primary Education and Early Childhood Development

41. While Bosnia and Herzegovina is close to achieving universal primary education (between 6 and 15 years of age), the percentage of out-of-school children is increasing and now an estimated 6% of children who are not enrolled in primary school, as well as those adolescents who drop-out of the education system after primary school, represent especially vulnerable groups.⁶ There are no systemic solutions to support and ensure equal access to quality education of vulnerable groups of children. Besides, the educational system in Bosnia and Herzegovina continues to nurture predominant practices that reinforce prejudice and intolerance and isolation of minority groups. Such a practice, over past years, resulted in establishment of over 50 so-called "two schools under one roof," in BiH with totally separate classes for Bosnian Croats and Bosniaks where students and teachers use the same school facilities but follow divergent, ethnic-based curricula⁷ or ethnically "clean" schools (Bosniaks or Bosnian Serbs predominated) where children learn from ethnically specific curricula and textbooks, and have little interaction with their peers from other ethnic groups. In some more "reformed" schools, the classes are multiethnic, but when it comes to national subjects such as geography, history, and language, the classes are separate.

42. Additionally, preschool education is the lowest in Europe. The current rate of preschool involvement is 6%, in urban areas, the coverage is only some 12 -14 %, while in rural areas it is almost non-existent.

43. Pre-school education is accessible to a few children from poor and rural families. Roma children, as discussed above, are largely excluded with detrimental effects on their school performance.

44. Additionally, inadequate efforts have been made to implement the principle of inclusiveness mandated by education laws, in particular for children with disabilities. Efficient implementation of the existing action plans and legislation is further constrained by the lack of reliable official statistics on the number of marginalized children in BiH.

45. Recommendations:

- Resolve the problem of fragmentation of the education system including strengthening of policy development and strategic planning, improving the access to inclusive and quality education, promoting child participation, taking measures to prevent discrimination and segregation of children and promoting tolerance and respect for diversity, etc. in education system⁸ in Bosnia and Herzegovina;

⁶ Common Country Assessment 2008, UN Country Team, Bosnia and Herzegovina

⁷ Bosniaks (Bosnian Muslims) and Bosnian Croat children/students, as well as their teachers, have no mutual contact in the "two schools under one roof" school model; students often arrive at school via different entrances, they take separate breaks, and the teachers have separate common rooms.

⁸ A list of relevant short-term priorities for Bosnia and Herzegovina, EU Council decision on the principles, priorities and conditions contained in the European Partnership with B-H and repealing Decision 2006/55/EC, July 2007)

- Set up reliable monitoring and data collection on enrollment of the children and information on completion and drop-out rates as a measure to ensure pre-school and school-age children receive an inclusive and quality education;
- Ensure harmonization and more front-loaded funds allocation for realization of compulsory pre-primary education;
- 'Participatory approaches' and inclusive strategies must take hold in coalition-building that engages community groups and related non-governmental and governmental actors;
- A greater focus should be given to reinforcing successful models and approaches (Index for Inclusion, Education for Social Justice, etc) to offer examples and alternatives to the status quo;
- Action plans must also take into consideration the financial sustainability of schools in communities and strengthening of policy frameworks for provision of quality inclusive education.