



The Institution of Human Rights Ombudsman of Bosnia and Herzegovina

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Committee on Economic,
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REPORT TO THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (CESCR)

I - Introduction

The Institution of Human Rights Ombudsman of Bosnia and Herzegovina (hereinafter: the Ombudsman) is a national human rights mechanism with „A“ status accredited by the Sub-Committee for Accreditation of the Global Alliance for National Human Rights Institutions (GANHRI). Its mandate includes the monitoring and protection of the implementation of human rights of the citizens of Bosnia and Herzegovina as enshrined, inter alia, under the International Covenant on Economic, Social and Cultural Rights. The Ombudsman regularly reports the human rights status to the relevant UN treaty bodies.

Pursuant to the Law on Human Rights Ombudsman of Bosnia and Herzegovina, the Ombudsman includes, among other departments, Department for the protection of economic, social and cultural rights. The Ombudsman has a wide range of the activities to protect the rights that fall under this category: the right to work, the right of children and youth to protection, the rights of employed women to maternity protection, the right to health care, the right to social protection, the right to social and medical assistance, the right to use social protection services, the right of persons with disabilities to independence, social integration and participation in community life, the right of elderly persons to social protection, the right to protection in case of termination of employment, the right to housing...

This report was made on the basis of the information obtained from the complaints of citizens submitted to the BiH Ombudsman and the research conducted in the period 2014 – 2018 published in its annual and special reports available on the official website of the Ombudsman¹.

II – General observations

In 2014 the Ombudsman received 682 complaints, in 2015 – 698 complaints, in 2016 the number of complaints was 738, in 2017 it was 755 complaints and 2018 as much as 825 complaints related to the violation of economic, social and cultural rights. It is obvious that the number of complaints is

¹ www.ombudsmen.gov.ba

increasing every year, which is not surprising given the poor economic and social situation in the state.

Article II of the Constitution of Bosnia and Herzegovina stipulates that Bosnia and Herzegovina and both entities will provide the highest level of internationally recognized human rights and fundamental freedoms. The rights and freedoms envisaged in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols are directly applicable in Bosnia and Herzegovina. These acts have priority over all other law.

Economic, social and cultural rights are guaranteed by the constitutions of the two Entities (Federation of BiH and Republika Srpska), and ten cantons, and are regulated by entity and cantonal legislation, as these rights, under the constitutional arrangement of Bosnia and Herzegovina, fall into the exclusive competence of entities and cantons. But despite their significant number, it is noticeable that many citizens live in poverty and face social exclusion.

Unemployment has taken large proportions in Bosnia and Herzegovina, and citizens in contact with the Ombudsman often point out that they are discriminated against in employment procedure following the published vacancies, that they do not enjoy the equal opportunities in employment and that public competitions are often fixed. Problem of availability or efficiency of legal remedies in competitions must be highlighted. Aware of their helplessness while wishing to provide for themselves and for their families, the citizens of Bosnia and Herzegovina, often the entire families, are forced to leave their homes and go trying to find work in other countries. Having this in mind, there is a rising concern about the demographic perspective of Bosnia and Herzegovina.

III – Positive aspects

A new Labor Law was adopted in the Federation of Bosnia and Herzegovina (“Official Gazette of the Federation of BiH”, no. 26/16 and 89/18), and also in Republika Srpska, Labor Law (“Official Gazette of Republika Srpska”, no.1/16 and 66/2018).

Inconsistency in implementation of earlier labor legislation has led to serious violations of labor rights. The new entity labor legislation in the area of the protection of the minors has better solutions since it, in addition to the general conditions for conducting of certain jobs, require the consent of the legal representative of the juvenile, which, in comparison with previous legal solutions, narrows the space for exploitation of the minors.

According to the new labor legislation, the employer is obliged to provide the employee with a written proof attached to a photocopy of his/her registration to compulsory insurance from the date of the conclusion of the employment contract or the commencement of work, as well as any changes in the employee's insurance status. This provision is more advanced than previous solutions, as the employees would earlier realize that they are not registered to the compulsory insurance only when they attempt to realize certain rights guaranteed by compulsory insurance agreements (medical treatment, disability pension, etc.).

Entity labor legislation also lists the grounds and the types of discrimination, harassment or sexual harassment, gender-based violence, as well as systematic harassment at work or related to work (mobbing) of the employees and persons seeking employment with an employer, prohibition and exceptions from prohibition of discrimination and protection. As in the Law on Prohibition of Discrimination, the burden of proof that there was no discrimination lies with the employer, in the event that prosecutors present facts justifying the suspicion that the employer acted contrary to the provisions of the Labor Act on Prohibition of Discrimination.

The new entity labor legislation clearly defines the notion of working hours as well as the rights and obligations it implies. The practice shows that working time and its duration are most often and most flagrant violated labor related right.

The new entity labor legislation provides for the protection of minors, women, pregnant women, sick and disabled, equality and protection of wages, the right to severance pay ...

Among the new solutions is that the employees who were unable to use the whole or a part of their holiday following the relevant decisions of their employer, in case of work contract termination are

entitled to ask their employer to pay them monetary compensation in the amount that would be paid if they used their whole holiday or its part.

The Labor Law of Republika Srpska stipulates that a work contract or an employer's decision may establish the employee's share in profits made in a business year in accordance with the law and general regulations and that the employer must pay the insurance for all employees in the event of an accident at work.

The entity labor legislation provides that all the employees who could not use their holiday by the fault of their employer have the right to compensation.

For the first time, an institute of stand-by is introduced according to which an employee has to be prepared to respond to an employer's invitation to do the job as necessary, when the worker is not in the place where his or her job is performed or elsewhere specified by the employer. Stand-by is not considered as working time.

Law on Fundamentals of Social Protection, Protection of Civilian Victims of War and Protection of Families with Children (“Official Gazette of FBiH” no.: 36/59, 54/04, 39/06, 14/09) prescribes the child allowance as one of the basic rights of the families with children.

The Law on Child Protection of Republika Srpska (“Official Gazette of Republika Srpska” no. 114/17)

This law regulates the child protection system, the beneficiaries of child protection benefits, the procedure for the implementation of the rights and other issues relevant to the child protection system. This law also defines the right to child allowance.

The Law on Solidarity Fund for Diagnostics of Diseases and Treatment of Children Abroad (“Official Gazette of Republika Srpska”, no. 100/17)

The aim of this Law is to enable the children, citizens of Republika Srpska, insured by the Health Insurance Fund, who cannot get adequate health services in health institutions in Srpska and in health institutions with which the Health Insurance Fund has signed agreements, to get diagnostics and treatment abroad in health institutions which provide such services. The funds of the Solidarity Fund are allocated to children up to the age of 18.

The Law on Children Protection of Brčko District of Bosnia and Herzegovina (“Official Gazette of Brčko District of BiH”, no. 51/2011 –consolidated, 3/2015, 21/2018 and 4/2019)

The rights in the area of child protection in the sense of this law are: maternity leave allowance, maternity allowance, allowance for newborn starter kit, child allowance and special psychosocial treatment of spouses seeking children and pregnant women.

The Law on Foster Care in the Federation of Bosnia and Herzegovina (“Official Gazette of the Federation of BiH”, no. 19/17)

Although the institutionalized accommodation of children is still the most frequent form of providing care for children who need it, Ombudspersons praise the adoption of this piece of legislation.

- Establishment of the Solidarity Fund of the Federation of Bosnia and Herzegovina

Pursuant to the FBiH Law on Health Insurance, the Solidarity Fund of the Federation of Bosnia and Herzegovina is established in order to achieve equal conditions for compulsory health insurance in all cantons, for some priority health care programs of interest to the Federation, and to provide the most complex priority forms of health care involving some specialist areas.

In this way the funding is provided for the treatment of the most serious illnesses for all insured persons in the Federation of BiH under the same conditions, irrespective of the cantonal affiliation of patients and the financial capacity of cantonal health insurance institutions.

- Strategies in Bosnia and Herzegovina

Strategy for Improving the Social Situation of Persons with Disabilities in the Republika Srpskoj 2017-2026 and the Strategy for the advancement of rights and status of persons with disabilities in the Federation of BiH 2016-2021.

These strategies are adopted in order to create a society of equal opportunities and the implementation of activities related to equal participation of persons with disabilities in the civil, political, economic, social and cultural spheres of life.

Transitional Justice Strategy in Bosnia and Herzegovina 2012 – 2016

Revised Strategy for Implementation of Annex VII of the Dayton Peace Accords – adopted in 2008

Since the provisions of Annex VII have not been fully implemented yet, a Revised Strategy for the Implementation of Annex VII of the Dayton Peace Accords is adopted. This Revised Strategy defined the strategic goals as follows: completion of the process of return of refugees from BiH and displaced persons within BiH, implementation of return of property and tenancy rights, completion of the process of the housing units reconstruction for the purposes of return and securing the conditions for sustainable return and reintegration process in BiH.

Program for Improvement of the Status of Women Victims of Wartime Rape, Sexual Violence and Other Forms of Torture in BiH for the period 2012 – 2016

Cultural Policy Strategy in Bosnia and Herzegovina

In 2008 the BiH Ministry of Civil Affairs adopted the Cultural Policy Strategy in Bosnia and Herzegovina which is mostly related to the protection and promotion of the local cultural creativity and heritage.

- Adoption of draft legislation

Draft Law on Social Housing of Republika Srpska

At the beginning of 2019 the National Assembly of Republika Srpska decided to put the Draft Law on Social Housing to public discussion since this Draft governs some issues of special importance to the citizens and requires the widest consultation of the interested authorities and organizations, scientific and expert circles.

Draft Law on Support to the Families with Children in the Federation of Bosnia and Herzegovina

In February 2019 the House of Representatives of the Federal Parliament adopted the Draft Law on Support to the Families with Children in the Federation of Bosnia and Herzegovina aimed at the equalization of the rights in the Federation of Bosnia and Herzegovina, as well as the compensation to the unemployed mothers. The Draft was sent to three-month public debate. The aim of this support is to ensure for all the children approximately the same material conditions for their healthy and proper psycho-physical development in the family. Such a solution should contribute to a fairer and fiscally more sustainable functioning of the system, the abolition of discrimination based on the place of residence and the equalization of children's rights in the Federation of Bosnia and Herzegovina.

IV – Main concerns

Amount of compensations in the area of social protection

In Bosnia and Herzegovina, due to its general situation, lack of financial means and non-implementation of the strategies in this field, even the most endangered and vulnerable categories of citizens often remain deprived from the adequate assistance.

Ombudspersons think that the competent authorities of the entities and the Brčko District of Bosnia and Herzegovina need to provide additional budgetary means for children's programs and that it is necessary to increase allocations from local community budget for the implementation of the rights in the area of social and child protection, and to this end advocate for capacity strengthening of the competent social, family and child protection services.

Social housing and reconstruction of the dwelling units of the returnees

Social housing is an institute by which the society helps to provide an acceptable way of living for citizens who, for social, economic and other reasons, are unable to solve their housing problems alone, with a view to ensuring the minimum conditions for a decent human life.

Local communities are sometimes slow and neglectful in addressing citizens' demands for solving housing problems of socially vulnerable categories of population.

Reconstruction and repair of pre-war homes of the returnees has not yet been completed, and this problem is even bigger as they are mostly older. They often emphasize that they doubt that they will live enough to see their return to their pre-war homes. Unfortunately, in many cases this scenario took place.

Health care of children

Currently applicable legislation at all levels in Bosnia and Herzegovina links the right to health care of the child to the insurance status of their parents/guardians or the enjoyment of this right is subject to regular education of the child.

Ombudspersons are concerned about the fact that equal access and equal opportunities as well as equal conditions in health care sector are not ensured for all children in the entities and the Brčko District of Bosnia and Herzegovina, particularly emphasizing that no additional measures have been taken to include children with psychophysical difficulties, as well as children from marginalized groups such as Roma.

Obligation of the authorities to equalize the rights of civilian victims of war and civil persons with disabilities with the rights of disabled war veterans

Civilian victims of war and civilian persons with disabilities, either with congenital disability or disability originating from peace time are not equal in benefits and entitlements although they suffer the same consequences of their situation. The authorities have an obligation to equalize all persons with disabilities in rights, benefits and entitlements irrespective of causes of their disability, thus redressing this obvious form of discrimination.

Disconnection of citizens from water and electric network

Many complaints of the citizens of Bosnia and Herzegovina indicate to a number of social problems to which the authorities do not react according to the assumed commitments and the rights of the complainants. Particularly worrying are cases of the public companies enjoying their monopolistic position (utilities such as electro-distribution companies or water supply companies), which disconnect the households from the supply network in case of non-payment before using the less

radical methods not taking care of the difficult material situation of such beneficiaries which is in violation of Article 11 of the International Covenant of economic, social and cultural rights.

Inefficiency of the relevant authorities in cases related to the labor rights

There are frequent complaints from citizens concerning the inefficiency of inspection bodies and courts in the cases of labor related disputes.

The right to work

Most frequent reasons for lodging complaints to the Ombudsman are irregularities in recruitment procedures², failure to register employees at pension and disability insurance funds, including the failure to pay legally prescribed contributions into the pension, disability and health insurance funds, including the unemployment insurance³, non-payment of overtime, length of labor related court proceedings although these cases should be regarded as urgent⁴, slowness of procedures for realization labor related rights and entitlements and length of bankruptcy proceedings after which they cannot achieve their rights, slowness in initiation of bankruptcy proceedings due to the lack of accountability of legal representatives of bankruptcy debtor⁵, non-enforcement of labor related final and binding court decisions (payment of due salaries and other receivables and return to work) in cases of company winding-up.

In 2018 new labor legislation was adopted in the Federation of Bosnia and Herzegovina and Republika Srpska. Both pieces of legislation were adopted in an urgent procedure which raises the issue of transparency of its adoption procedure. Comparative analysis of the Labor Law of the Federation of Bosnia and Herzegovina and the Labor Law of Republika Srpska shows that new laws comprise several technical and formal improvements along with a couple of genuine changes which, on one hand, enable a higher degree of protection to the employees, and on the other hand, give a certain degree of flexibility to the employers in governing some issues pertaining to labor law.

Ombudspersons indicate to the necessity of improvement of the quality and efficiency of the institutional mechanisms currently in place (inspections) in order to ensure the protection of the employees at work.

The right to pension

Complaints of citizens relating to the right to pension were about the length of processing pension applications, second-instance proceedings, failure to make decisions on appeals within the prescribed deadlines, and irregularities in calculation of the pension amount and difficulties related to establishment of length of service in other countries⁶.

As in the previous years, problem is related to slow procedures of granting the right to pension, especially in cases when the complainant completed required years of service in other countries.⁷ More specifically, it is related to the determination of the proportional part of the pension amount payable by different insurance holders, pursuant to social security agreements concluded between Bosnia and Herzegovina and other countries. Although in concrete cases there is an obligation of official cooperation between the funds/institutes for pension and disability insurance, procedures in practice sometimes last longer depending on the complexity of the process of collecting the documents used as the basis to determine the length of service and for payment of contributions.

² Ž-BL-04-17/16, Ž-BL-04-43/16, Ž-BL-04-57/16, Ž-BL-04-88/16, Ž-SA-04-123/16

³ Ž-BL-04-45/15

⁴ Ž-MO-04-100/17, Ž-MO-04-102/17, Ž-BR-04-237/17

⁵ Ž-LI-04-391/15, Ž-LI-05-40/16

⁶ Ž-SA-04-327/16, Ž-SA-04-490/16, Ž-SA-04-331/16, Ž-BR-04-54/16, Ž-BL-04-330/16

⁷ Ž-BL-05-424/16

The Ombudsman took note of the issue involving persons to whom a special length of pension insurance bonus has been granted, and they cannot waive it, according to the current legal solution. Ombudspersons think that the most appropriate solution to this issue is giving the option to the employees to choose whether they want or not this special bonus to be taken into calculation. On 28 May 2018 Ombudspersons submitted to the National Assembly of Republika Srpska an Initiative for Amendments to the Law on Pension and Disability Insurance of the Republika Srpska ("Official Gazette of Republika Srpska" no. 134/11, 83/13 and 103/15).

In 2018 in the Federation of Bosnia and Herzegovina a new Law on Pension and Disability Insurance was adopted. Pursuant to Article 38 of this Law, length of service during the wartime is calculated double only if a person granted this bonus so agrees. Some of the new solutions in this Law relate to the points system, minimal retirement age and conditions for early retirement.

Health care and social protection

The complaints relate to non-provision of health care due to non-payment of health insurance contributions by the employers, difficulties in exercising the right to reimbursement the costs of health services, non-professional attitude of the doctors to the patients, non-availability of certain medical services due to non-availability of doctors in the place of residence, lack of access to the right to health care by some children, provision of health care to the patients with mental difficulties, payment of participation or in general, the quality of health care. Another problem are medicines not registered in BiH, which are approved by the World Health Organization. These are mostly drugs of second, third and fourth generation for the treatment of multiple sclerosis, and according to citizens, it is a therapy that would significantly slow down the course of the disease. The annual consumption of these medicines is relatively low, which makes the suppliers not interested in their procurement.

Ombudspersons are particularly concerned about the cases of citizens who are unable to access information about the identity of doctors who have treated them.

Ombudspersons also noted the problem involving the acquisition of the status of an insured person for those older than 65 under the Law on Health Insurance of the Republika Srpska ("Official Gazette of the Republika Srpska", No. 18/99, 51/01, 70/01, 51/03, 57/03, 17/08, 1/09 and 106/09) which would enable them to exercise the right to health care. These are people who do not receive pension, who are owners of a certain area of land, and for that fact they are directed to insure themselves as farmers. However, due to their age and inability to work, they cannot perform agricultural activity anymore or insure themselves it in this way, as they cannot be insured within any other category – for instance as a social case, or through another person, for example, a family member, because these family members are also land owners.

In 2018 the Ombudsman referred to the National Assembly of Republika Srpska its initiative for the adoption of amendments to the Law on Health Insurance of Republika Srpska.

In the past period the Ombudsman received a couple of complaints of the patients suffering from metastatic melanoma. These patients do not have access to adequate treatment with medicines which are in the Federation of Bosnia and Herzegovina not included in so-called Solidarity Fund A-list, which is essential drugs list.

Also, the Ombudsman had a complaint lodged by the Association of Celiac Patients „Leptirić“ Zenica which indicated to the violations of the rights and discrimination of the persons suffering from celiac disease in the Federation of Bosnia and Herzegovina, as the only cure for celiac disease is a gluten-free diet, which is enormously expensive for citizens. The gluten-free flour, as their

medicine, is placed on the B list, and, depending on cantonal health ministries, in some cantons costs for purchase of this flour are reimbursed, and in others not. Unlike the Federation of Bosnia and Herzegovina, the Republika Srpska and the Brčko District have granted the lifelong rights to gluten-free flour for all celiac patients, regardless of their age.

The Ombudsman acted *ex officio* in a complaint related to denial of the rights of the patients suffering from diabetes by restriction of the quantity of their insulin therapy.

According to the applicable legislation at all levels in Bosnia and Herzegovina, the right to health care of a child is conditioned by the insurance status of parent/guardian or this right is linked to the regular education of the child. Ombudspersons are concerned about the fact that there is no equal access and equal opportunities in the entities and the Brčko District of Bosnia and Herzegovina, while ensuring equal conditions for all children, particularly emphasizing that no additional measures have been taken to include children with psychophysical difficulties, as well as children from marginalized groups such as Roma. The efforts to create the minimum standards regarding the health protection of children in entities and the Brčko District of Bosnia and Herzegovina have not sufficiently resulted in the provision of health care services.

Ombudspersons think that it is necessary for the competent authorities of the entities and the Brčko District of Bosnia and Herzegovina to provide additional budgetary funds for children's programs and that it is necessary to increase allocations from local community budget for the realization of rights in the area of social protection and child care, and in that direction advocate for strengthening the capacities of the competent social, family and child protection services.

Having in mind the Ombudsman's earlier recommendations, it is necessary to intensify the implementation of the transformation of institutions for children without parental care and the need to continue to strengthen foster care. Although some steps have been taken in 2014 to this end in the Republika Srpska in order to regulate the foster care, and the Rulebook on Foster Care was adopted, which precisely defines all the issues which are governed by the Foster Care Act in the Federation of Bosnia and Herzegovina, Ombudspersons emphasize the need to put this issue in legal framework in Republika Srpska as well.

In their reports Ombudspersons of Bosnia and Herzegovina pay special attention to the Social Welfare Centers⁸. Once again it should be recalled that the employees in the centers face numerous professional risks, a wide range of legal responsibilities and powers, and work daily with a large number of different users (mental patients, patients affected with infectious diseases, persons prone to asocial and aggressive behavior, perpetrators of various criminal offenses, and marital and common marriage partners, minors in conflict with the law, etc.).

In 2014 the Ombudsman started the preparation of the Special Report on the Conditions of Mother Care and Motherhood Protection following the initiative of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina for the needs of the the House of Representatives of the Federation of BiH and the Government of the Federation of Bosnia and Herzegovina. After the collection of the required material and its analysis, the Special Report was published in October 2015. The report determines the state of maternal protection from the financial aspect of maternity benefits in the Federation of Bosnia and Herzegovina, and it includes the recommendations on how to achieve the optimal solution of this protection, as well as recommendations for possible financial solutions for maternity benefits and child allowance.

An increasing number of citizens in Bosnia and Herzegovina have a need for certain forms of social protection. The situation of high unemployment, low incomes, workers who have been left out of work after the dismissal etc., indicate that the social rights of vulnerable residents must be put into focus. Social assistance is symbolic and cannot provide the basic life needs.

⁸ Special report of the Ombudsman of Bosnia and Herzegovina on „The role of social welfare centers in the protection of the rights of the child“, November 2013

The complaints concern the non-payment of one-off financial assistance, the need for housing care, the situation that citizens who cannot pay heating bills are disconnected from the district heating system. The same situation is with the electricity bills, so the people get disconnected from the electric power distribution network. Furthermore, there are problems with provision of firewood, which is worsened with the fact that these persons are frail and helpless. Complaints of the returnees have also been received due to the inability to connect the household to electric network favorable conditions etc.⁹ The number of complaints in this area does not reflect the factual status, which is much worse.

The rights of women – mothers with legal residence on the territory of Bosnia and Herzegovina are not equal with the rights of women – mothers-citizens of Bosnia and Herzegovina, therefore it is necessary to harmonize the federal law with international standards, after which it would be possible to start harmonization of cantonal laws on social welfare, protection of civilian victims of war and families with children with the federal law.

On 25 January 2018 an initiative was sent to the Parliament of the Federation of Bosnia and Herzegovina and the Federal the FBiH Ministry of Labor and Social Policy to amend the Law on Fundamentals of Social Protection, Protection of Civilian Victims of War and Protection of Families with Children (“Official Gazette of FBiH” no.: 36/99, 54/04, 39/06, 14/09 and 45/16). Ombudspersons were informed that the said initiative was referred to the Legal Committee of the House of Representatives of the Parliament of FBiH on 14 March 2018.

Utilities

Complaints in this area handled by the Ombudsman related to issues such as the appointment of persons taking care of repairs and maintenance in the dwelling buildings, problems with waste/faecal water, requests of returnees to be connected to the water supply network free of charge, provision and denial of services by the utility companies, irregularities in calculating the bills, and statute of limitation of utility bills.

Education

Complaints in the area of education relate to the lack of professionalism of the teachers, the poor quality of teaching in school, the right of adults to education, the violation of the provisions of the Rulebook on Makeup Exams, the violation of the right of promotion, the defense of the doctoral dissertation, the violation of the code of ethics etc.

In respect of the situation in the educational institutions in Bosnia and Herzegovina, the Ombudsman finds that the material situation in many schools is bad, and it is necessary to keep working on the modernization of schools in the material and technical sense (equip teaching cabinets, strengthen the IT equipment, renew the contents of the school libraries and so on), to enable adequate conditions for physical education (construction of new and repair of existing sports halls and terrains), provide as many children as possible with free textbooks and organized school transport, and for vulnerable categories one meal per day during the school , to enable the extended stay in school in all those municipalities where it is necessary, to encourage Roma children to attend compulsory elementary and secondary education on a regular basis. Also, special attention should be paid to the inclusion of children with special educational needs (remove physical barriers and make schools technically accessible to these children, provide a sufficient number of specialists, teaching assistants and didactic materials, educate teaching staff for working with children with special educational needs; to reduce the prejudices of children and adults about the needs and opportunities of children with developmental difficulties, etc.

⁹ Ž-SA-04-689/17, Ž-SA-04-766/16, Ž-LI-04-360/17, Ž-LI-04-362/17, Ž-LI-04-390/17

Ecology and environmental protection

The issue of the environment and its protection is a very important topic in Bosnia and Herzegovina, as indicated by the number of complaints received for the alleged violation of the rights in this area. In Bosnia and Herzegovina, there is no clearly defined policy of action in this area, notwithstanding the adoption of a large number of laws, which raises the question of the fulfillment of the international commitments taken by the state.

Bosnia and Herzegovina has ratified numerous conventions and protocols such as the UN Framework Convention on Climate Change, the Kyoto Protocol, the Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and their Disposal, the UN Convention on Biological Diversity, Aarhus Convention, the Cartagena Protocol on Bio-safety, the Water and Health Protocol, etc.

Environmental issues are not included in the ten areas falling within the mandate of the state-level institutions according to the Constitution of Bosnia and Herzegovina and therefore the following provision applies to these issues: "All governmental functions and powers not expressly assigned in this Constitution to the institutions of Bosnia and Herzegovina shall be those of the Entities"(Article III, paragraph 3).

The Law on Environmental Protection (Official Gazette of FBiH, No. 33/03) was adopted in the Federation of Bosnia and Herzegovina, and in Republika Srpska the Law on Environmental Protection ("Official Gazette of the Republika Srpska" No. 71/2012 and 79 / 2015).

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