

## **UNIVERSAL PERIODIC REVIEW – HUMAN RIGHTS COUNCIL UNICEF INPUTS – BOSNIA AND HERZEGOVINA**

### **A. Methodology**

This submission was prepared by UNICEF Bosnia and Herzegovina (BiH), and will be shared with the UN Resident Coordinator's office. Sources include: 2009 inputs into the Annual progress report of the European Commission, prepared by UNICEF BiH and Save the Children UK, in consultation with the Child Protection Working Group, made of INGO and NGOs; 2009 draft inputs prepared by the Government of BiH into the CRC report, and other relevant documents.

### **B. Background and framework**

#### **1. Background**

Bosnia and Herzegovina remains a country with important challenges in relation to the achievement of human and children's rights. Important inequities persist in access to social services – and are aggravated by the economic crisis. There are systemic gaps in the delivery of health services such as immunization and issues of division and discrimination within the education system are also of serious concern. Families with children have limited access to social assistance, with high leakage rates and inadequate overall budgetary allocations to children. Minority rights, particularly those of Roma children, continue to be unfulfilled. Due to gaps in the data collection system for children, the monitoring of the realization of children's rights is difficult and insufficient.

The State of Bosnia and Herzegovina, in its current structure defined by the 1995 Dayton Peace Agreement, has limited central power, with most government functions delegated to two entities: the Republika Srpska (RS) and the Federation of Bosnia and Herzegovina (FBiH). Each of these entities has its own government and civil structures. The Federation of Bosnia and Herzegovina is highly decentralized, with 10 cantonal governments. Brcko District is a third administrative unit, which has been under international administration. The country as a whole has 14 governance units, 5 levels of administration and more than 150 ministries and governmental agencies.

This highly fragmented administrative and political structure continues to be a challenge in relation to the fulfillment of human rights. It contributes to maintaining high levels of inequality in access to health, welfare and education services for children. Municipalities in both Entities report increased demand for public expenditures in the area of social protection for children and social sector reform. In general, Entities and/or Cantons have been allocating inadequate resources to meet these needs. Some municipalities, however, report increased investment in social protection to prevent social unrest prompted by the impact of the economic crisis.

#### **2. Scope of international obligations**

Bosnia and Herzegovina has signed and ratified most international Human Rights instruments. The UN Convention on the Rights of Persons with Disabilities is yet to be ratified, among others.

As an EU Accessing Country, BiH included the EU Charter on Human Rights and Fundamental Freedoms into its constitution and signed several EU Conventions, including some of special relevance for children's rights: the European Convention on Action against Trafficking in Human Beings, Revised European Social Charter, Convention on Cyber Crime, Framework Convention on Protection of National Minorities, Hague Convention on the Civil Aspects of International Child Abduction and Hague Convention on the Law Applicable to Maintenance Obligations.

The draft BiH Revised National Plan of Action for Children 2002-2010 refers to BiH's intention to ratify the following Conventions:

- European Convention on Regional Languages and Languages of National Minorities

- European Convention on Prohibition of Sexual Exploitation and Abuse of Children
- European Convention No. 058 on Child Adoption
- European Convention No. 085 on the Legal Status of Children out of Wedlock
- European Convention No 105 on Recognition and Implementation of decisions relating to Custody and Re-introduction of Custody Rights over Children
- European Convention No. 160 on the Implementation of Child Rights
- European Convention No. 192 on Contact with Children.

The legal framework and authority to enforce laws in BiH remains decentralized, at Entity and Cantonal levels. A limited number of umbrella laws are in place and enforced at BiH State level. This lack of common standards for children contributes to inequalities in the country.

### **3. Human Rights institutions**

The Law on Human Rights Ombudsmen, which was amended in March 2006, stipulated that entity Ombudsoffices should be replaced by a national BiH Ombudsoffice. It also called for separate organizational units to be established, in order to monitor the implementation of children's rights, in particular the rights of disabled children, as well as national, religious and other minorities. This process contributed to strengthening the statehood of BiH but also to dismantle the existing system of Entity Ombudsoffices, with their children departments and field offices. There are concerns about the sustainability of this system once transferred to national budgets as well as the gaps in monitoring children's rights and addressing violations. Despite this Law, the RS appointed an Ombudsman for children in 2008 and the FBiH is discussing the possible appointment of an attorney. These decisions are in contradiction with BiH Law on Ombudsmen and reflect the ongoing discussions between the State and the Entities on authorities and competencies.

The BiH Parliament has appointed several commissions, some of which are of special relevance for children: Parliamentarian Commission for Human Rights; Rights of Children, Youth, Migration, Asylum and Ethics; Commission for Economic Reform and Development. In May 2009, at the onset of the economic crisis, the BiH Parliament adopted a Resolution on the Protection of Families with Children.

The BiH Ministry of Human Rights and Refugees (MoHRR) has a mandate to monitor and report on the implementation of international Human Rights instruments, as well as to scrutinize the national legislation for its compliance with the international human rights framework. The MoHRR has been the secretariat of the BiH Council for Children (CfC). Despite the recommendation of the CRC Committee (No. 4) to strengthen the CfC function, this advisory body was not reelected in 2007 due to different opinions on the election procedures. The State and its Entities are negotiating the possible election of its members under commonly agreed criteria.

### **4. Policy measures**

The National Action Plan for Children 2002-2010 is being revised but the process is slow. In the meantime, the policy framework for children has evolved and has encompassed a number of action plans and strategies, including the Strategy on the Prevention of Violence against Children, the Juvenile Justice Strategy, the Policy for Persons with Disabilities, the Youth Health Policy, as well as entity policies on children without parental care and families at risk of separation amongst other policy documents related to children. The revised National Action Plan for Children, which will include positive measures stipulated by these policies, is expected to serve as a relevant policy and monitoring document at the BiH State level. However, the lack of mechanisms and resources to ensure its implementation at the Entity level, where social executive responsibilities lays, remains a major challenge.

The policy and legislation development process continues to be characterized by the proliferation of laws and policies for which there is not enough fiscal space created. Their implementation is

also further stalled by a disharmonized process of adoption and implementation of State-level policies and legislation by Entities and lower administrative units.

## **C. Promotion and protection of human rights on the ground**

### **1. Cooperation with international human rights mechanisms**

BiH submitted its initial report to the CRC in 2005 and is currently preparing the periodic report, which was due in April 2009. Initial reports related to the Optional Protocols were submitted in 2008. Monitoring and reporting obligations are under the responsibility of the MoHRR, in collaboration with UNICEF, with the participation of a network of national NGOs (established with UNICEF support).

One of the key challenges in ensuring the adequacy of reporting and cooperation with the Human Rights mechanisms is the lack of adequate data that would enable objective reporting on the status of children. The capacity of the Statistical Office of Bosnia and Herzegovina remains limited. The lack of data on protection issues (such as children in institutions, violence against women and children, substance abuse, child safety, children with disabilities, and groups of excluded children) represents a continuous challenge. It is therefore important that the census planned in 2011 addresses such critical statistical gaps, amongst others.

### **2. Implementation of international human rights obligations**

#### **2.1. Equality, non discrimination and right to an adequate standard of living:**

##### ***General***

The fragmentation of legislative and executive functions as well as the administrative division make equal access to existing services difficult across the country and contribute to inequality and discrimination of children.

##### ***Roma population***

In addition to limited access to social services, Roma children face stigma and discrimination. In the context of the Decade for Roma Inclusion (2005-15), which BiH joined in 2008, Roma Action Plans (health, housing and employment) were developed. The MoHRR and the Roma Council will revise the Roma Education Action Plan. The MoHRR will also support the establishment of a database on the Roma population.

Of particular 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.

Whereas the enrolment of Roma children is slowly increasing due to positive measures, the Roma children, particularly girls, continue to drop out from the education system. Baseline data or a mechanism to track the enrolment status of Roma children are lacking.

Birth registration remains one of the key obstacles to Roma children's access to social services. Over the past two years, the Government, UN agencies and NGOs, supported by the European Commission, took action, which contributed to an increase in the birth registration of Roma children and in Roma families' access to civic registration. As mentioned above, one of the key obstacles in identifying and monitoring violations of their rights - or progress made in fulfilling their rights, remains the lack of adequate data. The BiH MoHRR is currently undertaking a Roma census to improve the availability of information on Roma and their socio-economic status.

### ***Divisions in the education system***

In the BiH education system, divisions based on ethnicity are of serious concern. A recently established Conference of Education Ministers has the mandate to find solutions to reconcile the principle of non-discrimination and the right to mother tongue education. This body recommended the establishment of a Commission to investigate all forms of discrimination, including segregation and assimilation, in the entire country. With the increased Government ownership over the process, more (Croat) cantons have started to accept the suggestions made. According to a report by the BiH Conference of Ministers of Education, the number of “two schools under one roof” dropped from 52 to 36. The FBiH parliament received a request from the BiH Interministerial Education Conference to review the recommendation of the Commission created by the Conference of Ministers to ensure the development and implementation of measures aimed at the abolition of the “two schools under one roof” practice.

This, however, does not resolve the problem of overall segregation between ethnic groups in the education system, as well as assimilation. Due to fear, insecurity and pressure, minorities also lack the capacity to exercise their right to education in their own language, as prescribed by the law. The lack of data on the implementation of the rights of minorities to education in Entities jeopardizes the monitoring of such violations of rights.

BiH education reform focuses on modernization and the reduction of expenditures, particularly through the assessment and closing of satellite schools in remote areas. Such measures may impede children’s access to education in remote areas and warrants careful monitoring.

The quality of education, both primary and secondary, remains an issue despite the efforts of national authorities. The UNICEF Children Friendly School Initiative in BiH indicated that improvement in the quality of education is possible with relatively little investment. However, the CFS approach has not yet become sustainable due to lack of available or allocated funding for professional development of education staff.

### ***Limited social assistance***

The administrative and political fragmentation of BiH contributes to inequalities in access to social assistance by children and families with children. The Republika Srpska allocates 14.5% of GDP to the social sector, while the FBiH allocates 23% of GDP to the social sector. Whereas the RS is more successful in ensuring access to social benefits by vulnerable children, the FBiH spends two thirds of its budget on war veterans and dependents. There are significant inconsistencies in legislation and benefits received by children in BiH across its administrative units. While the Centres for Social Work (CSW) provide the largest level of assistance to the population, their capacity is alarmingly low.

### ***Children without parental care***

In general, institutional care is still preferred over alternative family- and community-based options for children without parental care or with special protection needs. Policies have been adopted or are being developed to promote alternative forms of care. Although the government of FBiH formally adopted a Policy for the Protection of Children without Parental Care and Families at Risk of Separation in January 2008, efforts have yet to be made to implement the policy.

On the positive side, one institution in Zenica was closed down. However, the problem of babies and very young children being institutionalized remains, contrary to the best European standards and practice. Young people leaving care are in an especially difficult position, with limited life skills and employment opportunities. Their exact number is not known due to insufficient statistics, lack of uniform database and limited follow-up by duty bearers.

### ***Social Exclusion***

A national Social Inclusion Strategy (SIS) is being formulated, with six strategic goals adopted by the BiH Council of Ministers. The goals are related to employment, health, education, pension

system, disabled persons and protection of families with children. According to the UNDP BiH social inclusion index, more than 50 percent of the population in BiH is exposed to exclusion in different forms. Social protection and inclusion systems for children in BiH remain weak. A comprehensive functional and capacity review is already underway at Entity and State levels, with a focus on the linkages and referrals between health, labour, welfare, education and judicial bodies within the “Enhancing Social Protection and Inclusion of Children Project” implemented by UNICEF and the Government, with support from the EC Delegation, DFID and Norway.

BiH governments, with the support of UNICEF, are currently developing policy and service delivery models of human rights based approach, with a focus on the protection and inclusion of children at community level. Until now, 15 percent of the municipalities have been included in the development and implementation of the action plans for child social protection and inclusion addressing priority claims of children.

The BiH and Entity policy for people with disabilities has been endorsed. It is expected that this will contribute to improving the status of people with disabilities in BiH. The ratification of the UN Convention on Rights of Persons with Disabilities is pending (see above). At the same time, the status of children with disabilities in terms of social protection and education remains a concern. Research shows that the education system struggles to meet the legal provisions and strategies for inclusive education of children with special needs. In the context of the current economic crisis, the FBiH Government withdrew benefits for persons with several types of disabilities, thereby excluding those with less than 90% of disability.

## **2.2. Right to life and development:**

There are 2,700 families still living in collective centres. A recent survey of the preschool aged children in collective centres indicated that 41% had cognitive developmental delays and 50% motor skills developmental delays. Moderate undernourishment (5.7%) and stunting (9%) were also observed. The nutrition status of Roma children has been also assessed and indicates similar developmental and nutrition status.

The immunization rate in BiH is dropping, with UNICEF MICS3 data indicating the overall immunization rates to be at around 70 percent. This is partly due to the consequences of the health reform and bottlenecks in procurement of vaccines, as well as media campaigns by an anti-vaccination activist. Immunization rates are particularly low amongst Roma children. The BiH Government has recently allocated resources for catch up immunization of Roma children. Such short-term measures, however, do not represent a systemic response to ensuring the continuous increase and maintenance of the immunization rates.

BiH's preschool enrolment rate, at approximately 6 percent (according to MICS3 data), represents the lowest rate in Europe. The BiH State-level law on preschool education was adopted in 2007. However, Entities and Cantons in the BiH Federation are slow in adopting and implementing this law, as it provides for the introduction of free and compulsory preschool education to all children one year prior to elementary school. The preschool services envisaged within the law are inclusive and foresee inter-sectoral accountabilities, which further complicates its adoption and implementation.

Gaps are evident in ensuring access to ECD services to young children, especially excluded groups. The system of early identification of disabilities, promotion of adequate nutrition and breastfeeding is also weak. The demand for ECD services, including preschool, is increasing and cannot be addressed by resources of individual ministries or sectors. BiH entities, with support from UNICEF, have developed a situation analysis of the ECD sector and are designing ECD entity policies accompanied by development of an integrated and intersectoral approach to ECD implementation at community level.

## **2.3. Administration of justice and the rule of law:**

The BiH draft State Juvenile Justice Code was prepared by end of 2008 but has not yet been endorsed by the BiH Government, due to the Entities' reluctance to approve such law at State level. In 2009, the RS developed and endorsed a Juvenile Justice Code, while there were no similar initiatives in FBiH and Brčko District. Working groups were established to ensure the implementation of the BiH Strategy against Juvenile Offending, and Action Plans were prepared in some parts of the country.

The limited number of staff from existing institutions and correctional centres are inadequately trained and lack knowledge of juvenile justice. Currently, most of the children in conflict with the law who received a sentence of imprisonment serve their time in juvenile penal and reform institutions in Zenica (FBiH) and Foča (RS), which are part of the prisons for adults. In some cases, children can be accommodated in the "Hum" correctional institution in Sarajevo, an institution known for its inability to provide adequate care and rehabilitation for children. In the RS, a separate juvenile reform unit was built within the Banja Luka Penal and Reform Institution (RS), but it does not function effectively. In 2008, a new juvenile prison was opened in East Sarajevo.

The system of alternative measures and diversion as well as the administration of justice has been partly covered in the legislation. But the actual capacities, expertise and programmes for such measures to be efficient have yet to be developed. UNICEF, with support of the Swedish and Swiss Governments, and in close cooperation with the BiH JJ Coordination Board, intends to initiate the implementation of a comprehensive two-year programme to strengthen justice for children in BiH.

#### **2.4. Right to security:**

The Centres for Social Work have limited capacity to respond to cases of domestic violence. A foster care system has not yet been established at national level. Efforts are being made to establish models of foster care but national or sub-national programmes and adequate resources are still lacking. So far, fostering programmes mainly exist in rich cantons or regions. As a consequence, too many children still remain in abusive environments or face institutionalization. UNICEF and UNFPA are implementing a joint programme at local level, to prevent and address violence against women and children, with a multi-disciplinary approach.

#### **D. Achievements, best practices, challenges and constraints**

See above.

#### **E. Key national priorities, initiatives and commitments**

BiH is formulating a Social Inclusion Strategy (SIS) for the period 2008-2013. The strategy focuses on health, education, employment and on the protection of families with children. This SIS complements the BiH Country Development Strategy (CDS) and has been given adequate attention by the BiH authorities. The SIS recommends a number of measures and programmes, which need to be further developed in the action plans focusing on the design and implementation of adequate community-based models for the protection of families with children.

The SIS has yet to be finalized and translated into practice. Within existing fiscal constraints, it is unlikely that the SIS can be implemented fully and it is arguable whether it will receive full support of the BiH entities once endorsed. Under its Stand-by Agreement with the IMF, BiH, and particularly the FBiH, in cooperation with the World Bank, may introduce new measures and better target social assistance. This positive initiative to reform the cash benefit system could ensure better allocation of resources to the poorest and most excluded groups of the population. The EU pre-accession mechanisms and available IPA funding also represents an opportunity for fiscal restructuring and increased investment into institution building and pro-poor growth. If such political commitment exists, this would also benefit the most vulnerable children and their families.