



Institution of Human Rights
Ombudsman of Bosnia and Herzegovina

Special report
***The Role SWC in the Protection
of Children's Rights***

In association with



Save the Children

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Institution of Human Rights Ombudsman of Bosnia and Herzegovina

SPECIAL REPORT OF THE OMBUDSMAN OF BOSNIA AND HERZEGOVINA ON “THE ROLE SOCIAL WELFARE CENTRES IN THE PROTECTION OF CHILDREN’S RIGHTS”

In association with



Save the Children

BANJA LUKA, November 2013

*OPINIONS AND VIEWS EXPRESSED IN THIS REPORT ARE THE VIEWS OF THE INSTITUTION OF
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I INTRODUCTION

In 2013, the Human Rights Ombudsman of Bosnia and Herzegovina (hereinafter: the Ombudsmen) in cooperation with Save the Children organisation, in the framework of the "Capacity Building of the Department for Monitoring Children's Rights of the Human Rights Ombudsman of BH" Project, conducted research to identify and examine a situation with competent social protections services / social welfare centres (hereinafter: SWC) in Bosnia and Herzegovina, from the aspect of the protection of children's rights.

In the pursuit of social justice, social rights, reduction of social inequalities, and general humanisation of society, social policy and social welfare have a special role. Social protection institutions in BH should be distinctive in their expertise, initiative, creativity, development of services appropriate to the needs of beneficiaries and to be leaders of the research, planning and implementation of social activities in local communities to meet individual and collective social needs and assist the development of the social protection system. In the performance of their activities, the SWCs should cooperate, develop partnerships with the authorities of the state, entities, cantons and local communities, public services, associations of citizens and non-government organisations, community offices, religious organisations, business companies, institutions, media, families and individuals. The social welfare is a profession based on humanistic ideals and human rights, as conceived in the most important international documents. The social welfare primarily deals with human rights, and their exercise is closely related to the level of respect for the human rights in a society. Human rights advocacy is an integral part of social welfare, which gives the Ombudsmen the right to conclude that the mandate of the Institution of the Ombudsman and SWC is in many respects identical and in the broadest sense of the term it is the respect and advocacy for the human rights. The SWCs are the most important institutions in the social protection system. Taking into account numerous international and local regulations, the protection of the children's rights in the social welfare system holds the priority.

The Ombudsmen evaluated that it was necessary to start the development of such an analysis with the aim to obtain data and information, since the Ombudsmen have been advocating capacity building of SWCs for years in annual reports/researches on the rights of the child, starting from their findings, experiences and identified violation/compromise of the rights, the Ombudsmen pointed out the adverse position of the SWCs to the BH authorities, as well as the need to dedicate more attention, importance and funds to the SWCs and social protection in general. In order for the

advocacy of the Ombudsmen to gain more prominence and realistic statistic indicators, owing to the cooperation with the Save the Children, the Ombudsmen conducted the research with the aim to improve the position of the SWCs by this report/recommendations sent to the BH authorities and identify directions and methods for future actions of the Ombudsmen, based on the research results, for the protection of the children's rights.

II RESEARCH OBJECTIVES AND METHODOLOGY

The “Role of the Social Welfare Centres in the Protection of Children’s Rights” Special Report has characteristics of a research and its development covered the analysis of the role and importance of SWCs from their establishment and the current situation. The research was conducted in three stages, including:

1. Analysis of the relevant local legislation,
2. Historical development of the SWCs, and
3. Analysis of the situation in the field, conducted by sending questionnaires of the SWC in the entire territory of Bosnia and Herzegovina, and sending questionnaires to the Ministries competent for social protection¹

The information were collected in the period April - June 2013.

By the analysis of a historical development, the Ombudsmen had the aim to point out the role and powers of the SWCs from their establishment, including changes in this field observed from the point of view of the SWC powers in the protection of the children's rights.

Upon the research of the situation with the protection of the children’s rights, covering the territory of Bosnia and Herzegovina, the Ombudsmen sent 134 questionnaires to the SWCs, including 72 questionnaires to the Federation, 61 questionnaires to the institutions in the Republic of Srpska and 1 questionnaire to the SWC in the Brcko District.

The field analysis by the Institution of the Ombudsman also covered the collection of information by relevant Ministries. In this sense, questionnaires were sent to the Federal Ministry of Labour and Social Policy, Ministry of Health and Social Welfare of the Republic of Srpska and Cantonal Ministries in charge of the social welfare.

In order to encourage efficient cooperation and information exchange for the implementation of activities aimed to develop a comprehensive special report, the Ombudsmen signed the Memorandum of Understanding with the SWC Sarajevo, Banja Luka, Mostar, Bihac , Tuzla and Brcko².

¹ Samples of the Questionnaire in Annex 1 to the Report

² Text of the MEMORANDUM OF UNDERSTANDING in Annex 2 to the Report

The importance and role of the SWCs in the protection of the rights of citizens and children and the fact that undisturbed and efficient operation of the SWCs is a pillar in the development of a society, having in mind the need to provide a continuous capacity building of the SWCs, is the basis and objective of the implementation of a comprehensive analysis by the Ombudsmen BH. The development of the „Role of Social Welfare Centres in the Protection of Children’s Rights“ Special Report aims to point out advantages and disadvantages, particularly disadvantages in terms of staffing of the SWCs and other issues the SWCs encounter in the provision of the social protection services and protection of the children's rights. Information and statistics collected by the research on the social protection and protection of the children’s rights were the basis for the issuance of recommendations to the relevant levels of government.

The Department for Children’s Rights Monitoring became operational in June 2009 and owing to the cooperation with the Save the Children, a number of researches was conducted, the outcome of which were special reports³ on the child rights (child begging, preschool upbringing and education, child health care, participation of children and adults in schools in the interest of the children, youth and children in conflict with the law, rights of children with special needs/difficulties in psychophysical development, rights of children placed in institutions, etc), as well as a comprehensive Analysis of the compliance of the legislation of Bosnia and Herzegovina with the Convention on the Rights of the Child. Given the mandate and powers of the SWC in the child rights, all Special Reports had to cover, more or less, the position and role of the SWC. Since a certain number of recommendations from previously developed Special Reports were not implemented and competent authorities did not take measures and activities for their implementation, the Ombudsmen take the opportunity to repeat particular recommendations in this Report. Therefore, the Ombudsmen will send again certain recommendations to competent authorities, particularly those directly related to the improvement of the SWC position in the protection of the children’s rights.

In addition to this Report, the Ombudsmen developed the Report on Children in Conflict Divorces, where special attention was paid to international and local legal/legislative framework, also providing an overview of all important regulations on the protection of the child rights and role of the SWCs. Namely, even though the role of the SWCs in the protection of the children’s rights is generally much broader than the one presented in the Special Report on the “Children in Conflict Divorces”, with the development of this Report, the Ombudsmen wanted to identify the situation in the field in the SWCs and point out the unimplemented recommendations of the Ombudsmen from previously developed Special Reports. Also, the intention of the Ombudsmen, based on their own personal data on the SWC (general information on the structure of employees, methods of funding, expert teams, number of population covered, conditions of work, cooperation with relevant stakeholders, legislation) is to obtain arguments and backing for an

³ All Reports are available at www.ombudsmen.gov.ba

ongoing advocacy for the SWC capacity building, and identify directions and modes of action of the Ombudsmen.

III LEGAL FRAMEWORK

3.1. Opening Remarks

The Constitution of Bosnia and Herzegovina stipulates that the Entities shall provide a safe and secure environment for all persons in their respective jurisdictions, by maintaining civilian law enforcement agencies operating in accordance with internationally recognised standards and with respect for the internationally recognised human rights and fundamental freedoms, referred to in the Article II of the Constitution, and by taking such other measures as appropriate.⁴

The issue of the social protection is regulated primarily by the Constitution of the Federation and Constitution of the Republic of Srpska.

In the Federation BH, this issue is regulated by the Law on Principles of Social Protection, Protection of Civil Victims of War and Protection of Families with Children of the Federation BH⁵, and at the cantonal level it is regulated in more detail by the following laws: Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children of the Una-Sana Canton⁶, Law on Social Protection of the Posavina Canton⁷, Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children of the Tuzla Canton⁸, Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children of the Bosnia-Podrinje Canton⁹, Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children of the Central Bosnia Canton¹⁰, Law on Social Protection of the Herzegovina-Neretva Canton¹¹, Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children of the West Herzegovina Canton¹², Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children of the Sarajevo Canton¹³, Law on

⁴ Article III Paragraph 2 Item c)

⁵ “Official Gazette of FBH“, No.: 36/99, 54/04, 39/06 and 14/09

⁶ “Official Gazette of Una-Sana Canton”, No.: 5/00 and 7/01

⁷ “Official Gazette of Posavina Canton”, No.: 5/04

⁸ “Official Gazette of Tuzla Canton”, No.: 12/00, 5/02, 13/03, 8/06 and 11/09

⁹ “Official Gazette of Bosnia-Podrinje Canton”, No.: 7/08

¹⁰ “Official Gazette of Central Bosnia Canton”, No.: 10/05 and 2/06

¹¹ “Official Gazette of Herzegovina-Neretva Canton”, No.: 3/05

¹² “Official Gazette of West Herzegovina Canton”, No.: 16/01, 11/02, 4/04 and 9/05

¹³ “Official Gazette of Canton Sarajevo”, No.: 16/02, 8/03, 22/05, 2/06 and 21/06

Social Protection of the Canton 10¹⁴ and Law on Social Protection, Protection of Civil Victims of War and Protection of Families with Children of the Zenica-Doboj Canton¹⁵.

In the Republic of Srpska, the social protection is regulated by the Law on Social Welfare of the Republic of Srpska¹⁶, and in Brcko District BH by the Law on Social Protection of Brcko District of Bosnia and Herzegovina¹⁷.

3.2. Federation of Bosnia and Herzegovina

The Law on Principles of Social Protection, Protection of Civil Victims of War and Protection of Families with Children of FBH was adopted with the aim of establishing a framework based on which the Cantons would adopt their laws. Pursuant to this Law, the Federal Ministry of Labour and Social Policy is responsible for monitoring the implementation of the Law and compliance and application of the Federal Law at Cantonal level, in line with the Article¹⁸:

“The Federal Ministry responsible for social protection and protection of the family shall monitor the implementation of this Law and Federal legislation passed for the purpose of its implementation, as well as supervise the professional activities of institutions established by the Federation“.

The Article 1 of the Law on Principles of Social Protection, Protection of Civil Victims of War and Protection of Families with Children of FBH, regulates:

- bases of social protection of citizens and their families, basic rights in the field of social protection, and beneficiaries of social protection rights,
- establishment and work of social protection institutions and disability associations,
- basic rights of civil victims of war and their family members,
- bases of protection of families with children,
- funding and other issues of significance for the realisation of basic rights in the field of social protection, protection of civil victims of war, and protection of families with children in the Federation of Bosnia and Herzegovina.

Beneficiaries of social protection are persons who are in the state of social need, in particular¹⁹:

- children without parental care,
- educationally neglected children,
- educationally uncared for children,
- children with difficulties in development, caused by the family situation,
- disabled persons and persons with arrested physical or psychological development,

¹⁴ “Official Gazette of Canton 10”, No.: 5/98

¹⁵ “Official Gazette of Zenica–Doboj Canton”, No.: 13/07 and 13/11

¹⁶ “Official Gazette of Republic of Srpska”, No.: 37/12

¹⁷ “Official Gazette of Brcko District BH”, No.: 1/03, 4/04 and 19/07

¹⁸ Article 9

¹⁹ In terms of Article 12 of the same Law

- materially unprovided and persons unfit for work,
- elderly persons without family care,
- persons with socially unacceptable behaviour,
- persons and families in need of social protection, who due to extraordinary circumstances require appropriate form of social protection.

3.2.1. Cantonal Level

The social protection rights in the Federation BH are exercised at the level of Cantons. If some rights are not defined by Cantonal laws, the Law on Principles of Social Protection, Protection of Civil Victims of War and Protection of Families with Children of FBH is applied.

As stipulated by the Constitution of the Federation BH, the Cantons have all powers not exclusively entrusted to the Federal authorities, which among other things includes the implementation of social policy and establishment of social protection services.²⁰

The Sarajevo, Central Bosnia, Bosnia-Podrinje, Zenica-Doboj, Tuzla, Una-Sana and West Herzegovina Canton have the Laws on Principles of Social Protection, Protection of Civil Victims of War and Protection of Families with Children, and Herzegovina-Neretva, Posavina and Livno Canton have Cantonal Laws exclusively on social protection not covering the protection of families with children and civil victims of war.

3.3. Republic of Srpska

The Constitution of the Republic of Srpska guarantees the minimum of social protection of citizens and provides the functioning of public services pursuant to the Law. The funding of the public services is provided through the funds and budget.²¹

The Republic of Srpska has a more centralised social protection system than the Federation BH.

Article 10 of the Law on Social Protection of the Republic of Srpska guarantees the following rights:

- financial benefits,
- social services and
- other measures provided for a person, family members of the whole family with the aim to meet the social needs and prevent the occurrence of social problems.

Beneficiaries of the social protection are persons who are in the situation of social need, in particular²²:

a) child:

²⁰ Article 4 Item j)

²¹ Article 61

²² Article 17

- without parental care,
- with difficulties in development,
- with difficulties in development caused by the family situation,
- victim of violence,
- victim of trafficking in children,
- with socially unacceptable behaviour,
- exposed to socially risky behaviours,
- who needs the social protection due to exceptionally circumstances,

b) adult:

- person materially unprovided for and unfit for work,
- with disability,
- elderly, without family care,
- with negative social behaviour,
- victim of psychoactive substance abuse,
- victim of domestic violence,
- victim of trafficking in human beings and
- who needs the social protection due to exceptionally circumstances.

3.4. Brcko District of Bosnia and Herzegovina

In terms of the Article 28 of the Law on Social Protection of the Brcko District of Bosnia and Herzegovina, the rights in the social protection are the following:

- services of social work and other expert assistance;
- financial support and other means of material assistance;
- training for work and independent life of minors with special needs and adults with disabilities;
- housing assistance and placement into a social care institution or a family;
- home based assistance and care.

Beneficiaries of the social protection in terms of this Law are persons in the situation of social need:

1. minors;

- with no parental custody,
- with difficulties in mental or physical development,
- neglected in upbringing,
- whose development is hindered due to their family situation,
- abused children,

2. adults;

- who do not have enough resources for basic means of life and are incapable to work,
- elderly persons without family care,
- disabled persons,

- persons with deviant behaviour,
- other persons who need social protection due to extraordinary circumstances,
- abused persons,
- single parents.

IV DEVELOPMENT OF SOCIAL WELFARE CENTRES

Historically, social welfare has its origins and basic starting point in various humanitarian activities, based on self-organisation of small or large social groups or parts of a social community. These first types of self-organisation, interwoven with a motive for assisting other human being, who could not meet basic living needs, were based on principles of solidarity and reciprocity.²³

Historical development of social welfare, as an expert, professional activity, due to the specific traditions of social protection, culture and social and political system, governing ideologies and relations, economic, legal and other possibilities and conditions, started only in 1950s.²⁴

The idea about the establishment of the Social Welfare Centre originated from a 1956 study elaborated by the Federal Executive Council at the time. Namely, it was estimated that at that time none of the existing institutions or bodies could be adequately involved in the solution for newly occurred social issues, whereby it was proposed for social welfare centres to be established at the level of the Federal People's Republic of Yugoslavia as independent institutions. The work plan of the Centres included, among others, the following duties:

- Implementation of the legislation on children and family;
- Adoption;
- Guardianship;
- Economic assistance, etc.²⁵

Particularly in the first years of their operation, the Centres dealt with changes of provisions governing the protection of family and children. Particular issues, such as educationally neglected children hindered in their development were the focus of the activities of the Centres.²⁶

²³ Milanka Mikovic, PhD *History of Social Welfare and Education of Social Workers in Bosnia and Herzegovina (Historija socijalnog rada i obrazovanja socijalnih radnika u Bosni i Hercegovini)*, Faculty of Political Science – Yearbook, 2006, p. 447

²⁴ Ibid, p. 448

²⁵ http://www.kSWC.ba/index.php?option=com_content&view=article&id=4&Itemid=6

²⁶ Ibid

With reference to the other Republics of the former Yugoslavia, Bosnia and Herzegovina was the last to initiate education for social welfare upon the establishment of the School for Social Workers in 1958. In 1957 the Care Centre for Children without Parental Care was established in Centar Municipality in Sarajevo, which in 1958 became the first Social Welfare Centre in the Socialist Republic of Bosnia and Herzegovina. A demand for expert and professional work in BH was determined by a specific social and economic situation in the society burdened by a number of social issues, on the one hand, and understanding of a socially protective function of a socialist country, on the other. Therefore, the Social Protection Council of the Republic of BH, during preparations for the establishment of the School for social welfare and designing a profile of appropriate experts in 1956, mentions a social worker as an officer “whose main duty is to work on ensuring the rights of a citizen based on the existing legal provisions” by “giving instructions to those who need them and who require such assistance” and “when they themselves indentify such cases”.²⁷

A justification for the establishment of the first Social Welfare Centres, by their undeniable affirmation in practice, was confirmed by the Federal Assembly of the FPRY in 1961 by the adoption of the Recommendations for the establishment of Social Welfare Centres as independent expert services for social protection activities. The Recommendations supported the establishment of the Social Welfare Centres “wherever conditions and possibilities exist”. Likewise, in addition to determination for the Social Welfare Centres to “perform an analysis of social issues in municipalities, they would also identify their origins, propose to competent authorities measures for their solving and removal, and adoption of legal provisions and other documents”. As an important duty of the Social Welfare Centres in solving social issues, the Recommendation of the Federal Assembly of the FPRY pointed out activities in the domain of guardianship... “the Centres need to take over expert activities in the domain of guardianship performed by administrative bodies of the Municipal People’s Committees in line with the existing legislative and other regulations... the Centres particularly need to work on solving such social issues whose resolve is within the scope of work of guardianship authorities with reference to the implementation of the Criminal Code and Criminal Procedure Code”.²⁸

The period before 1965, in addition to the completion of education of the first generations of social workers²⁹ in the Socialist Republic of BH, is also characterised by the employment of social workers in social protection institutions, i.e. Social Welfare Centres, as well as in health care, disability insurance, large economic organisations, employment services and education to some extent. In 1960s, there was the establishment of new Centres and reinforcement of the existing ones, and where there was no basis for the establishment of the Centres, self-governing communities of

²⁷ Milanka Mikovic, PhD *History of Social Welfare and Education of Social Workers in Bosnia and Herzegovina (Historija socijalnog rada i obrazovanja socijalnih radnika u Bosni i Hercegovini)*, Faculty of Political Science – Yearbook, 2006, p. 448

²⁸ Ibid, p. 449

²⁹ Gender sensitive language was not used in the Report because of clarity, having in mind that masculine nouns also imply feminine nouns

interest were established. In this period, the Social Welfare Centres performed expert activities for the needs of a municipality, and administrative work was performed by administrative authorities responsible for social protection and care. Before 1970s, the Centres were performing expert activities within their competence and administrative activities were still performed by the municipality.³⁰

The period from 1966 to 1973 is characterised by a state level obligation to adopt the Republic Law on Social Protection in 1971 and the tendency for the development of social policy and social protection in Organisations of Associated Labour and social and political organisations. This gave more importance to the social welfare as a professional activity, which broadened its scope of work. In 1970s, the most important activities that the municipality transferred to the competence of the Centres were activities stipulated in the basic Law on Guardianship (later Family Law), Law on Placement of Children into other Families, Law on the Assistance to Victims of Fascist Terror, Law on the Assistance to Blind Civilian Victims of War (later Law on the Protection of Civilian Victims of War), Law on Primary Education and Rulebook on Classification and Registration of Children with Difficulties in Mental and Physical Development.³¹

The period from 1974 to 1984 was marked by the adoption of the Constitution of the SFRY in 1974 and later by the adoption of the Law on Associated Labour and Law on the System of Social Planning. The application of provisions from these documents initiated an organised process of socialisation of social policy and social protection, which made a direct impact on normative regulation and planning of the development of social welfare, as a social policy instrument. In this sense, the method and form of the implementation of activities from the domain of social welfare was defined by social and self-governance agreements, self-governance planning of social and economic development, self-governance funding of labour and development, in contrast to budget funding, self-governance association and organisation into self-governance communities of interest of social security (social and child protection, health, pension and disability insurance, employment, etc.). The Law on Social Protection of SRBH specifies that a Social Welfare Centre "shall monitor and examine the issues and occurrences in the domain of social protection, develop and improve social welfare and perform expert supervision of social institutions of interest for the municipality".³²

The period from 1985 to 1991 is a stage in the development in which the social welfare, not only as an expert social activity and profession, but as an academic discipline as well, obtained full recognition, development and affirmation in the society. Previously established professional association of the Alliance of Associations of Social Workers, published a professional magazine "Social Welfare and Social Protection", whose first issue appeared in 1983. It dealt with current issues from the practice, social workers

³⁰ Ibid, p. 450

³¹ Ibid, p. 451

³² Ibid, p. 451

exchanged their experiences, they established contacts with social workers from other Republics and neighbouring countries, etc.³³

The period from 1992 to 1995 was marked by war and wartime suffering of the population in BH. In wartime circumstances, social welfare, as almost the only assistance profession, provided necessary protection and assistance to hundreds of thousands of refugees, displaced persons, the hungry, unattended, elderly and helpless. In this period, apart from social protection institutions, the social workers were also active in refugee centres, humanitarian organisation, hospitals, child homes and wherever the assistance to people in need was required.³⁴

The period after 1996 was characterised by significant difficulties in the implementation of various practical forms of social welfare, due to poor social and economic situation in the society and a number of social issues, on the one hand, and acquisition of new skills and knowledge, on the other. These new skills and knowledge referred to the psycho-social work with returnees, mental patients, the abused, etc. with the necessity to be familiar with the management in the social welfare, supervision, human rights and the establishment of cooperation and partnership with non-governmental sector, which has been gaining more prominence in BH. Therefore, changes and developments in the post-war BH society, where poverty – around 50% of the population lives below or at the very poverty line (UNDP, 2003, 16), unemployment – unemployment rate in BH is among the highest in Europe and more than 40% of the working age population is unemployed (UNDP, 2000, 27) and social inequality are the greatest obstacles to social stability and democracy, placed before social welfare, as a profession and scientific field, an obligation for further development and improvement. Undertaking preventive activities and the work with individuals and their environment, with full respect for fundamental principles of human rights and social justice, make the basic definition of this profession.³⁵

Also, it is important to mention that upon the adoption of various laws and secondary legislation, numerous obligations were “assigned” to and “imposed” on the SWC (civilian victims of war, trafficking in human beings, victims of domestic violence). Having in mind global social changes, it is realistic to expect that future services and obligations of the SWC will only become broader and more complex.

³³ Ibid, p. 452

³⁴ Ibid, p. 452

³⁵ Ibid, p. 454

V CHILDREN AS BENEFICIARIES OF SOCIAL AND CHILD PROTECTION

In both Entities, activities of the social protection are carried out via the SWCs, which have the key role in social protection, child care and monitoring the treatment of children. In the Brcko District, social and child protection is within the competence of the Subsection for Social Protection of BD.

In addition to staffing, the Ombudsmen point out that continuous education of the SWC professional staff and non-governmental sector staff involved in the social protection is necessary and we advocate a division of tasks within the SWCs into basic and special in order to profile experts for the work in different fields.

The Federal and Cantonal authorities are responsible for the domain of social policy and Cantons are in particular responsible for the implementation of social policy and establishment of social protection services (Constitution of FBH Article III 2 and 4).³⁶ The names of the competent Ministries at the FBH and Cantonal level indicate a disparity in approaches to this domain. In some Cantons, the Ministry is responsible for social protection and health care, and in some for social protection and labour and there are also the Ministries responsible for all three of these fields. This is important if we take into account the Ministry as a whole, where there is sometimes a small number of employees, a significant number out of whom are administrative staff at the Minister's Office, whereby a small number of employees within the Ministry deal particularly with the issue of social protection, bringing into question the quality of this type of protection. In the Cantons, Centres/Services are established as social protection institutions and some rights within social and child protection are realised via services for general administration.³⁷

³⁶ Authorities that implement the social protection in FBH³⁶ are: Federal Ministry of Labour and Social Policy, Federal Ministry of Displaced Persons and Refugees, Ministry of Health and Social Policy of the Una-Sana Canton; Ministry of Labour and Social Policy of Posavina Canton; Ministry of Labour and Social Policy of Tuzla Canton; Ministry of Labour, Social Policy and Refugees of Zenica-Doboj Canton; Ministry of Labour, Social Policy, Health Care, Displaced Persons and Refugees of Bosnia-Podrinje Canton; Ministry of Labour and Social Policy of Central Bosnia Canton; Ministry of Health, Labour and Social Policy of Herzegovina-Neretva Canton; Ministry of Health, Labour and Social Protection of West Herzegovina Canton; Ministry of Labour, Social Policy, Displaced Persons and Refugees of Sarajevo Canton; Ministry of Labour, Health, Social Protection and Refugees of Canton 10

³⁷ The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, Special Report on Children Placed in Institutions, with a particular emphasis on norms and standards, 2010

The Law on the Ministries of the Republic of Srpska³⁸ stipulates that the Ministry of Health and Social Welfare of RS performs administrative and other professional activities related to the health protection and improvement of the population and monitoring health situation and needs of the population. In the domain of social protection, this includes: social care of family and children, activities of social organisations and associations of citizens in social and humanitarian domain, provision of information through media and other types of informing about the work in social protection and other activities in line with the law and other regulations of RS and BH. The authorities that implement social protection in RS and decide in the first instance on the rights are: SWC, as social protection institutions with public competence founded by municipalities and social and child protection services performed in the framework of administration of a city/municipality or at the level of a service.

In Brcko District, the Government of BD is responsible for social protection, and Subsection for Social Protection of Brcko District is an integral part of the Department for Health and Other Services within the Government of BD.

In the domain of social protection, the Ministry of Civil Affairs BH is responsible for activities and duties within the powers of BH, which refer to identifying basic principles for the coordination of activities, harmonisation of plans between the Entity authorities and defining international strategies³⁹. In terms of the coordination between the Entity and Cantonal bodies responsible for social protection, the Ombudsmen of BH are well aware that there are many issues in practice and we would like to point out two examples from the practice of the Institution of Ombudsman. Acting within a specific case, after the process of investigation the Institution of Ombudsman, concluded that according to the existing legislative solutions in BH there is no authority that could potentially decide about the exemption of the SWC, i.e. there is only the possibility to exempt official persons. In addition, in another specific case, the Ombudsmen of BH learned that in case a conflict of competence should occur between SWCs from different Entities, there was not a directly higher instance body to decide on the competence of the SWCs. The Ombudsmen requested from the Ministry of Civil Affairs of BH to initiate, in consultation with the Entity Ministries, the solution to this issue, but the issue was not solved.

5.1. Rights of Children with Special Needs/Difficulties in Psycho-Physical Development

In 2010, the Ombudsmen developed a Special Report on the Rights of Children with Special Needs/Difficulties in Psycho-Physical Development and pointed out the difficulties that the children and their families encounter, as well as inconsistencies in the implementation of international and local legislation and violation of fundamental

³⁸ "Official Gazette of RS", No. 70/02, 33/04, 118/05, 33/06

³⁹ Law on Ministries and Other Bodies of Administration of BH ("Official Gazette of BH", No. 5/03, 42/03, 26/04, 42/04, 45/06, 88/07, 35/08, 59/09, 103/09)

child rights. The Ombudsmen concluded that the involvement of the parents in an identification procedure and classification, as well as the entire education and upbringing of a child is of the utmost importance. An SWC in a local community has the most important role in the categorisation/classification of children with special needs. The categorisation is performed by the Categorisation Committee, which is a part of the Social Welfare Centre and Municipality and most frequently composed of a psychologist, defectologist, social worker and medical doctor. The decisive factor on whether a child would undergo the process of the categorisation is willingness and psychological readiness and preparedness of the parents, hence they hold the responsibility and the decision to contact the SWC, upon a recommendation by a school pedagogue, teacher or mobile team. A stigmatisation and financial costs are the main impediment additionally contributed by discrimination in the community and unwillingness of parents to admit that their child has a problem. Absence of categorisation/classification committee close to a school is the reason why the children wait a long time to be categorised/classified, and the time planned for the process of categorisation is insufficient to truly assess child's capabilities and difficulties. The categorisation procedure implemented by the team on behalf of the SWC should not be a final step in the process of the evaluation of children and every child needs to be re-categorised. Unfortunately, the SWCs do not perform the categorisation process and re-evaluation of the child's needs and capabilities is not frequent.

Having in mind observations and general concerns of the Ombudsmen, pursuant to the Article 32 of the Law on the Human Rights Ombudsman of Bosnia and Herzegovina, in 2010, the Ombudsmen recommended to the competent executive authorities at all levels of government for the process of the categorisation to be regulated in a way to be unique in the entire territory of FBH, i.e. that the observation instruments and procedures and assessments of a child's capabilities be standardised, to ensure the improvement of the expertise of the Categorisation/Classification Committee members and enable for the process of the categorisation to be multidisciplinary in the true sense, take appropriate measures to balance the amounts of social benefits in the Federation BH and Cantons in order for them to be proportional to the actual needs, and thus contribute to the unification of rights of all holders of rights to social protection, regardless in which Canton they live.

5.2. Rights of Children placed into Institutions with Particular Emphasis on Norms and Standards

One of the main concerns of the Ombudsmen during the development of the Special Report was the neglect of the SWC. Namely, the research comprehensively overviews the role of the SWC in all stages related to the care and protection of children in institutions, from the development of family history, sending a child with difficulties in development to the evaluation of capabilities, monitoring the application of alternative measures for a minor with socially unacceptable behaviour, guardianship obligations

often assumed by the staff of the Centres and the need to visit the children placed into institutions and foster families. Having in mind all these roles of the SWC and the fact that they also have to perform a series of administrative duties, upon an insight into their practice, it was easy to conclude that the administrative duties were being performed to the detriment of the professional.

The absence of applied norms for the expert work in the SWC was evident also in 2010, and the same was concluded already in the Report of the Ombudsman of FBH from 2005. The BH authorities at all levels have to become finally aware of the important role of the SWC, which is usually the first to register a problem, propose a possible solution and register success/failure of activities undertaken. Therefore, it is safe to conclude without a doubt that already adopted strategies on social protection, or the one that will be adopted at the state level, will not have a desired outcome if, as the first step, applicable norms and standards are not adopted for their work. In addition to this reform, it is necessary to make the necessary rationalisation of the rights of beneficiaries and only then it can be expected that the domain of social protection will be regulated, as it should be in a country where a large part of the population is in need for social care, the way it is regulated in other transition countries and the closest neighbours, countries of the former joint state.

Having in mind observations and general concerns of the Ombudsmen, pursuant to the Article 32 of the Law on Human Rights Ombudsman of Bosnia and Herzegovina, in 2010 the Ombudsmen of BH proposed to the competent authorities to consider the possibilities of the establishment of the social protection fund with the aim to achieve social equalisation of rights for all in the territory of FBH, modelled after the existing Public Fund in RS. Therefore, it was recommended to the governments of the Federation BH and RS to initiate, through the competent Ministries, the adoption of the Rulebook with unique criteria for identification and evaluation of capabilities, classification and registration of children and youth with difficulties in physical and mental development, which would be implemented in both Entities.

5.3. Issue of Child Begging in BH

The Special Report on Child Begging was developed as a result of an empirical research conducted in Sarajevo, Banja Luka, Tuzla, Mostar and Brcko District in 2009. The SWCs in these cities were directly involved in the research. By this research, the Ombudsmen advocated the solution to the issue of begging as proposed by the expert staff of the SWCs, i.e. through the advocacy for the establishment of daily centres for children found begging in all the municipalities in BH where this phenomenon exists and through advocacy for the establishment of private centres for children and youth found in vagrancy and begging.

In the development and presentation of this Report, the Ombudsmen endeavoured to affirm and commend cooperation between the SWCs and the non-governmental sector in the protection of the children who beg because of other competent bodies in other BH

cities. However, this year's research clearly indicates that the majority of the SWCs in both Entities do not have private centres for the children found in vagrancy and begging.

5.4. Youth and Children in Conflict with Law

The role of the SWCs in BH covers a wide range of powers, which is confirmed by the fact that that the Centres have an important role in the protection of the rights of children with socially unacceptable behaviour.

The valid legislation stipulates correctional recommendations applied to a minor perpetrator of a criminal offence for offences for which a fine or a prison sentence of up to three years is prescribed. The correctional recommendations a court or prosecutor, depending on the type of a recommendation, can pronounce to a minor are personal apology to an injured party, reimbursement of damage, regular school attendance, work for a humanitarian organisation or local community, acceptance of suitable employment, placement into other family, home or institution, treatment in an appropriate medical facility, visits to correctional, psychological or other counselling. The selection and application of correctional recommendations is performed with the assistance from parents or guardians of minors and the SWC.

The role of the SWCs in the protection of children in conflict with the law is particularly reflected in the application, pronouncement and efficient execution of correctional measures. However, the analysis of the research results of the SWCs indicated that the majority of the SWCs in both Entities do not have appropriate disciplinary centres for children neglected in upbringing.

In the Report developed in 2012, the Ombudsmen paid particular attention to the perception of juvenile delinquency in BH and it was concluded, having in mind the experience in the work with the citizens and individually submitted complaints, that there was a tendency of increase in the number of criminal offences committed by minors. Also, as a separate issue, it was pointed out that minors were committing even more serious criminal offences and the age of the perpetrators was decreasing. It often occurred that the perpetrators were under 14 years of age and could not even be accountable for the criminal offence. In such situations, the role of the SWC is crucial. For example, from individual complaints and cases opened ex officio, competent authorities for internal affairs and competent Prosecutor's Offices informed the Ombudsmen of BH that a case was forwarded to the SWC and that further care and supervision over a child and parents should be carried out by the SWC.

5.5. Role of SWC in the Exercise of Children's Right to Health Care

In 2012, the Ombudsmen of BH conducted a comprehensive research on child health care in BH with a particular attention to equal approach and potentials for the implementation of health care for every child.

Consultation meetings with representatives of the SWCs (Zenica, Banja Luka, Mostar, Tuzla, Bihac) referred to their role in the exercise of the right on child health insurance. The Ombudsmen wanted to obtain data on the number of children who exercised this right through the SWC, as well as for the SWC to introduce them to possible issues encountered acting in this domain.

SWC Zenica

Through the SWC Zenica, all children are ensured before they start school, i.e. until six years of age. Children regularly schooled receive health insurance through the Zenica Municipality in line with the 2011 Instruction from the Ministry for Education, Science and Sports of the Zenica-Doboj Canton. In September 2012, the right to health insurance through the SWC Zenica was exercised by 127 children. The children are exempt from paying the participation, meaning they have the right to free health care. Representatives from the SWC Zenica pointed out that they faced the issue of health care for Roma children who were not entered into the Register of Births or did not have a personal name.

SWC Banja Luka

According to the information that representatives from the SWC Banja Luka presented at the consultation meeting, children placed in a social protection institution have the right to health insurance through the SWC, or if the parent is a beneficiary of social welfare. Also, children who are beneficiaries of the right to attendance allowance have the same rights, as well as those placed in a foster family. Available information indicate that 205 children are insured through the SWC Banja Luka. The children are exempt from paying participation, meaning they have the right to free health care. Children of up to 15 years of age, are not defined as a separate category and if their parent is not a beneficiary of health insurance or if they are not in regular schooling, they are left without health insurance. Children with difficulties in development from 0 to 3 years of age are not provided health insurance on any grounds if their parent is not a beneficiary of health insurance.

SWC Bihac

The issue of child health insurance, according to the information obtained from the Director of the SWC, is regulated in a manner that children of up to 7 years of age, i.e. pre-school children, who are not insured on any other grounds, are insured through the Centre, whereby a request for the documents is submitted and shortly the children are provided with everything required for the free health care. Statistical data of the SWC indicate that there are 208 such children and the children under the guardianship of the SWC and in social care institutions or foster families are insured through the SWC. At the time of the meeting⁴⁰, according to statistical data of the SWC, the health care was provided for 23 children in this manner. The established procedure for the provision of the rights to health care of this category of children provides for the SWC to implement

⁴⁰ November 2012

the procedure, such children are registered with the SWC and the costs are covered by the Cantonal Ministry of Health. School children not insured on any other grounds, are insured through the Cantonal Ministry of Education, which covers the costs of providing health care services. In practice, the issue with children not regularly schooled, i.e. who do not attend primary or secondary school and who do not have health insurance through their parents, was identified. Most frequently, this is the case with Roma children. In such instances, the employees of the Centre attempt to solve the issue by inviting the parents, counsel them and give recommendations for the children to be registered to the Employment Office, or more importantly, to return them to school in order to acquire the status of a health insurance beneficiary.

SWC Mostar

Children from Mostar not insured on any other grounds, before starting school, can be insured through the SWC and in line with the Decision by the Government of the Herzegovina-Neretva Canton dated 18 July 2012, the school children are insured by the Ministry of Education, Science, Culture and Sports of the Herzegovina-Neretva Canton. Representatives from the SWC Mostar are faced with the issue of Roma children who are left without health insurance due to incomplete documentation when submitting a request, mostly referring to the Certificate of Residence. A certain number of Roma children acquired a status of a beneficiary through the SWC owing to legal assistance of the "Vasa Prava" organisation in Mostar. The children in Mostar are not exempt from paying the participation and pay annual premium of health insurance (stamp) in the amount of BAM 20.

Social Welfare Centre Tuzla

Children of up to 18 years of age can be insured through the SWC⁴¹. The children are not exempt from paying the participation in the Tuzla Canton and they are required to pay an annual premium of health insurance in the amount of BAM 20. However, the Ministry of Labour and Social Policy of the Tuzla Canton provides the funds for the payment of the stamps for such children.

In the Report, the Ombudsmen particularly emphasised the weaknesses of the health care system in BH, namely that the procedures for the exercise of the right to the access to health care, contrary to the provisions of the Convention on the Rights of the Child regulating the issue of health care and this care, must be provided to every child of up to 18 years of age and the situational analysis showed that in the framework of the health care for children in BH equal approach and equal possibilities are not ensured, in addition to the provision of equal conditions for all the children. One of the general

⁴¹ At the time of the meeting, in November 2012, 71 children were beneficiaries of health insurance through the SWC Tuzla

recommendations of the Ombudsmen BH sent to the Federal Ministry of Health, Ministry of Health and Social Welfare of RS and Cantonal Ministries of Health is to undertake measures with the aim to ensure unconditional and free health care for all the children in BH.

Upon the issued recommendation, the Ombudsmen have not received replies from the competent bodies.

VI RECOMMENDATIONS OF UN COMMITTEE ON THE RIGHTS OF THE CHILD TO BOSNIA AND HERZEGOVINA

In the domain of the child rights, through the activities of the Department for Monitoring the Children's Rights, the Ombudsmen endeavour to raise awareness of adults (parents and professionals) on the rights and obligations in terms of the Convention on the Rights of the Child and other international and local instruments for the protection of the rights of the child, to raise awareness of the children on their rights by various educational programmes, analyse the situation with the rights of children through individual complaints, visits to child care institutions and their evaluation. Additional efforts are being made to monitor continuously the compliance of local legislation with the Convention on the Rights of the Child and other international standards. In addition, annual reports on the activities of the Institution of the Ombudsman are regularly submitted to the Entity Parliaments, BH Parliament and BH Presidency, as well as periodic or special reports as needed. The Ombudsmen endeavour to promote and advocate international standards in the protection and exercise of human rights and point out to the competent authorities the importance of the recommendations by the Committee on the Rights of the Child for BH for the improvement of the rights of the child.

In this regard, after the establishment of the Department at the end of 2009, the "Analysis of the Compliance of Bosnia and Herzegovina Legislation with the Convention on the Rights of the Child"⁴² was developed as the result of the "Capacity Building of the Department for Monitoring Children's Rights of the Human Rights Ombudsman of BH" Project implemented in cooperation with the Save the Children Organisation. The analysis was performed with the aim to point out the disparity between the legislation in Bosnia and Herzegovina in all areas referring to the children's rights and ensure the implementation of international standards from the Convention on the Rights of the Child through the application of the Recommendations of the UN Committee on the Rights of the Child.

In 2010, the Department sent to UN Committee Reports on the application of two Optional Protocols, namely the Report on the Application of the Optional Protocol to the Convention of the Rights of the Child referring to the sale of children, child prostitution

⁴² www.ombudsmen.gov.ba

and child pornography (OPSC) and Report on the application of the Optional Protocol to the Convention on the Rights of the Child referring to the involvement of children in armed conflict (OPAC).

In early December 2011, the Department developed and submitted the Report on the implementation of the Convention on the Rights of the Child to the UN Committee on the Rights of the Child in BH and the situation with the children's rights in BH. All the mentioned activities of the Department are aimed to increase the application and respect for the Convention.

The Committee on the Rights of the Child is a body composed of independent experts monitoring the implementation of the Convention by the signatory countries. All the signatory countries are obliged to submit regular reports to the Committee on the implementation of the rights. The Committee examines every individual report and submits to the signatory country information on the issues of concern, as well as recommendations in the form of Concluding Remarks. The Committee issues General Remarks for the illustration of the meaning of particular Articles of the Convention, i.e. to indicate the way the Convention should be read in terms of a particular issue. The Committee on the Rights of the Child discussed the consolidated Second, Third and Fourth Periodic Report of BH, at the 1730th session held on 19 September 2012 and it adopted the Concluding Remarks at 1754th session held on 5 October.

Among other things, the Committee, in terms of life standard of children, emphasises as positive the fact that the children have the right to use directly the social protection services, but expresses concern since a number of children in BH live below the poverty line reflected in housing conditions, health and education, which seriously hampers the exercise of their rights. Furthermore, they point out that BH spends three times more than the regional average on health care, but the Committee is concerned because the current social protection system does not meet the needs of those who are in unfavourable financial situation.

The Committee recommends to the country to ensure that all the children have the use of a direct right to social protection, including health insurance, and take measures to provide full exercise of this right. The Committee again emphasises previous recommendation for the country to take measures to provide support and material assistance to economically disadvantaged families in order to guarantee the children's rights to an adequate living standard. The Committee recommends to BH to develop strategies for the reduction of poverty and programmes at the local and community levels, appropriate equitable access to basic requirements such as proper nutrition, housing, water and sanitation, as well as social and health care services and education. In addition, it is recommended to the country to consider the introduction of a universal child allowance scheme for elimination of inequalities.

In 2012, the International Children's Day was also celebrated at the Parliament of Bosnia and Herzegovina, with a particular emphasis on the recommendations by the Committee and organised by the "Snazniji glas za djecu" network of non-government organisations,

Ministry of Human Rights and Refugees of BH, Institution of Human Rights Ombudsman of BH, international organisations Save the Children and UNICEF in BH.

Considering the recommendations of the Committee, their implementation would generally improve the position of the children in BH to a great extent.

VII RESEARCH RESULTS

The situation in the SWCs and assessment of their capacities were analysed based on the information received in a questionnaire filled in by expert staff of the SWCs. The objective of the questionnaire was to evaluate relevant legislation, working conditions, human resources, population, inter-institutional cooperation and obstacles in work.

The research covered 72 social protection services at the FBH level, 65 of which submitted the filled-in questionnaires, 61 social protection services at the RS level, 57 of which submitted the filled-in questionnaires and 1 social protection service at the BD BH level which did not submit the filled-in questionnaire.

In addition to the SWCs, the research covered relevant Ministries in the Entities, Cantons and BD, to whom the questionnaires were sent in order to obtain information needed for the development of the Special Report. The questionnaires were sent to relevant Cantonal Ministries (10), Federal Ministry of Labour and Social Policy, Ministry of Health and Social Welfare RS, as well as relevant bodies in the Brcko District (3). Out of 13 questionnaires sent for the purposes of the research, 9 filled-in questionnaires were received⁴³. A copy of the questionnaire sent to the relevant Ministries is presented in the Annex III to the Report.

A number of centres / services do not have appropriate disciplinary centre for children neglected in

7.1. Conditions of Work

The funding of the SWCs at the levels of the Entities of FBH and RS is based on founder funds⁴⁴.

The majority⁴⁵ of the SWCs at the Entity level have Rulebooks on Internal Organisations and Classification Jobs.

The Managing Board is established in the majority⁴⁶ of the SWCs, based upon the respondents' answers. The structure of the Managing Board in RS is made of 47.4% of the founder representatives, and in FBH 3.1%. A number of

⁴³ West Herzegovina Canton, Ministry of Health and Social Welfare of RS, with power in BD and Federal Ministry of Labour and Social Policy did not submit the requested data and information

⁴⁴ FBH 58,5% and RS 59,6%

⁴⁵ In FBH 98,5%, and in RS 93%

⁴⁶ In FBH 78,5% and in RS 70,2%. In FBH 20% and in RS 26,3% of Social Welfare Centres/Social Protection Services do not have a Managing Board established.

respondents did not answer the question on the structure of the Managing Board, which is regarded as indicative.⁴⁷ At the FBH level, 63,1% of the respondents believes that members of the Managing Board receive compensation for their work, and 52,6% believes so in RS.

Dissatisfaction with condition of work in centres / services.

The answers from the respondents indicate that a number of the SWCs at the level of the FBH and RS Entities do not have an appropriate disciplinary centre for children neglected in upbringing.⁴⁸ The situation is the same with reception centres for children.⁴⁹

Unfortunately, a positive answer was not received on the issue of an appropriate diagnostics and observation centre for children with difficulties in development and children neglected in upbringing.⁵⁰

An alarming percentage of the SWCs do not have appropriate shelter for the placement of victims of domestic violence⁵¹ or an appropriate centre for the provision of care and assistance at home⁵².

Does the SWC have an appropriate shelter for the placement of victims of domestic violence?

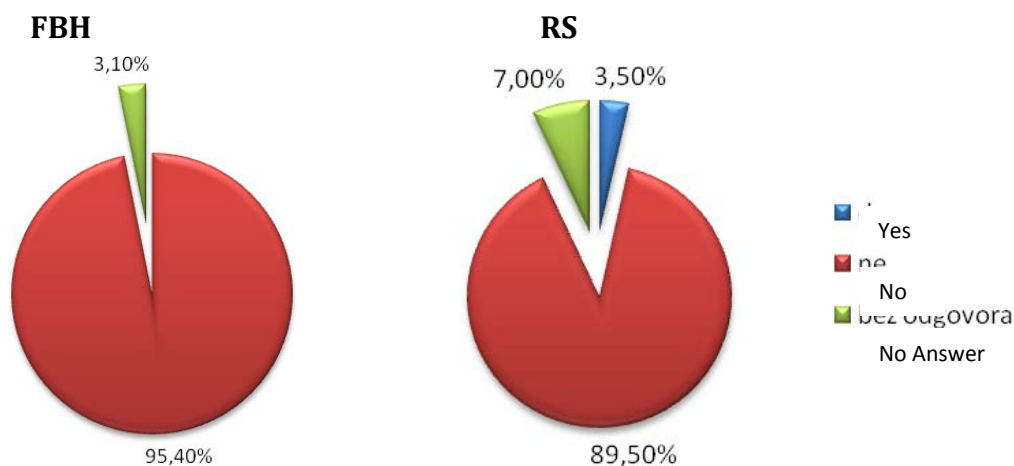


Chart 1

⁴⁷ In FBH 76,9%.

⁴⁸ In FBH 92,3% and in RS 93%

⁴⁹ In FBH 95,4% of respondents answered they did not have an appropriate reception centre for children, and in RS 91,2%

⁵⁰ In FBH 92,3% of responders gave a negative answer and in RS 86%.

⁵¹ In FBH 95,4%, and in RS 89,5%.

⁵² In FBH 98,5%, and in RS 86%.

In the FBH and RS Entities, the majority of the SWCs have their own premises⁵³, and in those that are in leased premises, the respondents did not know a payment amount for a monthly lease⁵⁴.

A number of respondents answered they were not satisfied with conditions for their work, 58.5% in FBH and 56.1% in RS, but they did not specify what should be improved. Despite their dissatisfaction with the conditions of work, they evaluated satisfactory technical equipment of social welfare centres/social protection services.⁵⁵

According to the research, it is obvious that the respondents believe that expert associates attend various educational seminars more than three times a year.⁵⁶ This information is encouraging since the Ombudsmen advocate continuous education of the SWC staff.

7.2. Human Resources

Basic information about the SWC referring to the total number of staff in the institution, number of employees according to their education, number of services in the institution, number of expert teams and expert associates in an expert team are presented in Table contained in the Annex I to this Report. In terms of human resources, the Ombudsmen of BH hereby present several observations and concerns (tabular overview) as the result of the research.

Name of Institution	Total Staff	University Degree	College Degree	Secondary Education	Observations/Concerns of the Ombudsmen of BH
Trnovo Municipality	19	9	/	/	None of the employees with University Degree is involved in activities of child and family protection.
Novi Grad (RS) SWC	14	7	1	6	No hired psychologist or defectologist.
Doboj SWC	35	14	7	11	Only one psychologist and no defectologist, 11 employees with secondary education (administrative and other activities).
BPC Gorazde Social Welfare Centre	16	5	5	6	Out of the total number of employees, there is no social worker, psychologist or defectologist, and only 1 jurist. ⁵⁷
Department for Social Welfare of the Kiseljak Municipality	4	2	/	/	No one is hired for the work on family and social protection (no hired jurist, psychologist or social worker).

⁵³ In FBH 53.8% and in RS 54.4%

⁵⁴ In FBH 96.9%, RS 87.7%

⁵⁵ FBH 64.6% and RS 57.9%

⁵⁶ In FBH 46.2% and in RS 31.6%

⁵⁷ The issue of competence of the SWCs is justified

7.3. Institutional Cooperation

The respondents at the Entity level evaluated the cooperation with competent Courts as mostly successful⁵⁸.

The cooperation with relevant Ministries at the Entity level was evaluated mostly successful by 69.2% respondents in FBH and 70.2% respondents in RS.

Cooperation of the SWCs with the institutions for children without parental care is limited by the amount and availability of funds for this type of assistance, limited capacities and unpreparedness for work with children with unacceptable behaviour, whereby the measure for the relocation of a child from the family with negative influence on psycho-physical state of the child is rarely applied.

How do you evaluate cooperation with relevant Ministries?

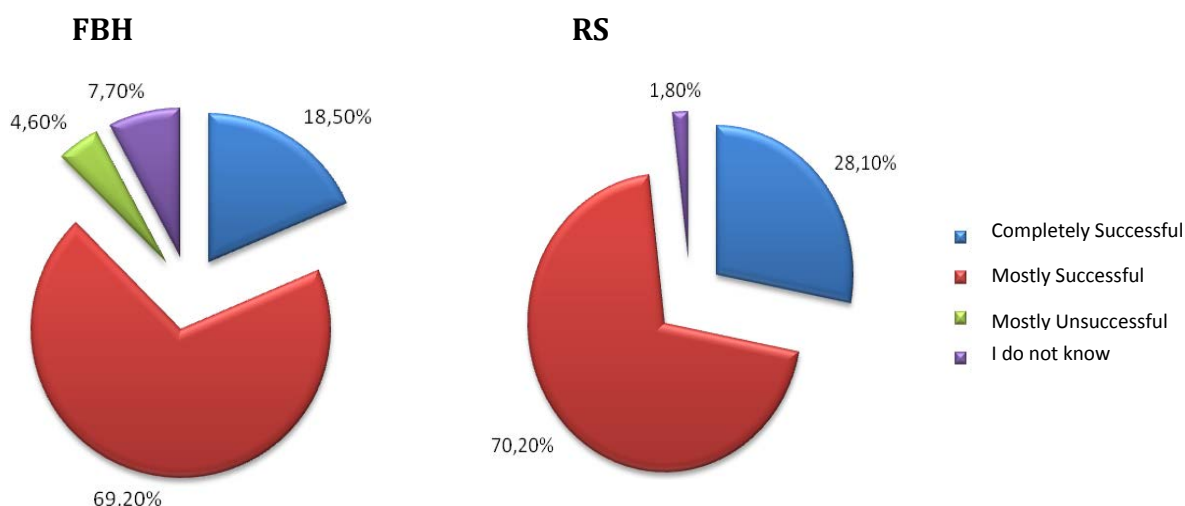


Chart 2

Mutual cooperation between the SWCs was evaluated mostly successful by 53.8% of respondents in FBH and 61.4% in RS.

The cooperation with police and Prosecutor's Offices was evaluated mostly successful by the respondents⁵⁹, as well as the cooperation with non-governmental sector⁶⁰ and media⁶¹.

At the Entity level, the respondents had different opinions about the question whether they had the necessary independence. In FBH, 43.1% of the respondents answered they had the necessary independence and the same percentage had the opposite opinion. In

⁵⁸ In FBH 66.2% and in RS 75.4%

⁵⁹ In FBH 63.1% and in RS 68.4%

⁶⁰ FBH 64.6%, RS 59.6%

⁶¹ FBH 56.9% and RS 71.9%

RS, 50.9% of the respondents believed that the SWC had the necessary independence and 40.4% of the respondents believed this was not the case.

The respondents believe the SWC are not subject to various types of pressure.⁶²

7.4. Relevant Ministries for Social Welfare

For the purposes of the research performed in 2013, in addition to the SWCs, relevant Ministries in the Entities and Cantons were also covered. They were sent the questionnaires for the collection of information needed for the development of the Special Report. The information obtained from the relevant Ministries can be summarised and presented as follows:

To the question on the quality of cooperation with the Social Welfare Centres, the majority of the respondents answered that it was successful, whereby 77.8% of the total number of the respondents answered that the cooperation was mostly successful and 22.2% of the respondents answered that their cooperation with the SWCs was completely successful. These data are presented in Chart 3.

How do you evaluate cooperation with Social Welfare Centre/Social Protection Service within your competence?

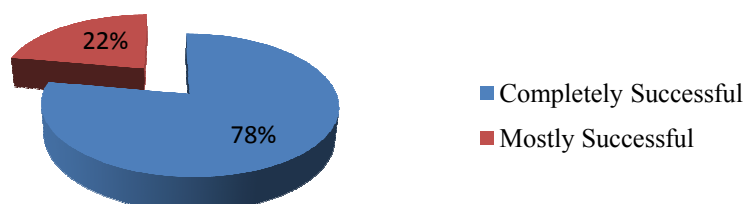


Chart 3

In relation to this is also the question on the quality of services provided by the SWCs. To the question whether perform their work well, 90% of the respondents answered that the Centres perform their work well and 10% of the respondents gave a negative answer, which is presented in Chart 4.

⁶² FBH 53.8% and RS 64.9%

Do the Social Welfare Centres/Social Protection Services within your competence perform their work well?

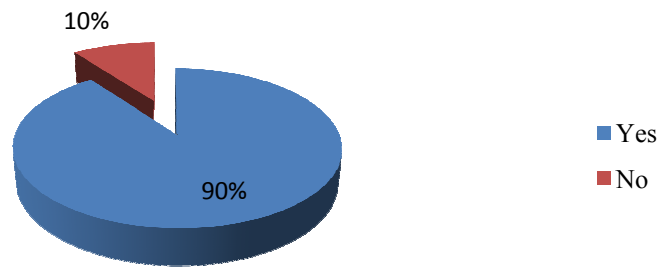


Chart 4

Chart 4 presented a proposal for measures and activities required for the improvement of the work of the SWCs. To the question on what needs to be improved in the work of the Social Welfare Centres, the respondents pointed out that sometimes an appropriate cooperation with the Centres was lacking, mainly with Directors and officers, and that conditions of work in the Centres needed to be improved.

Since the Institution of the Ombudsman recorded a certain number of complaints referring to the duration of a procedure before the Social Welfare Centres, relevant Ministries and second instance authorities, the questionnaire also included questions on the duration of the procedure. To the question on the duration of a procedure before the Ministry as the second instance authority, almost 67% of respondents answered that the duration of the procedure was prescribed by the law and that they adhered to this prescribed time limit. The prescribed time limit is 30 days after the date of the submission of a complaint to the first instance authority. Furthermore, 11% of the respondents answered that the procedure lasted 1-5 days, 11% of the respondents pointed out that the procedure lasted less than the time limit set by the law. It turned out as specific that the duration of the procedure depended on the number of received complaints, whereby with the Ministries which received more complaints the procedure lasted longer. These data are presented in Chart 5.

Duration of Procedure

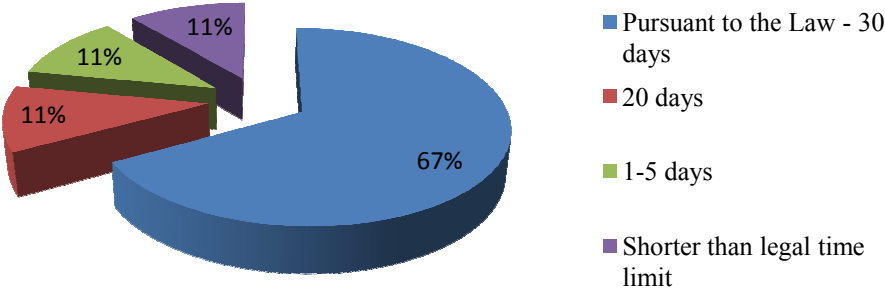


Chart 5

With reference to this, statistical data were requested from the Ministries on the number of processed cases and data on the number of complaints on the exercise of children’s rights. According to the results obtained, 33% of the respondents answered that up to 50 complaints were processed in the Ministries, the same percentage answered that up to 100 complaints were processed. In two Cantons, there were more than 100 complaints, namely the relevant Ministry of the Sarajevo Canton received 361 complaints and the relevant Ministry of the Tuzla Canton received 250 complaints. Interesting information was that in the Canton 10 no complaints were processed in 2012. To the question on the number of complaints acted upon in 2012 in terms of the children’s rights, in the majority of the Ministries out of the total number of complaints, a half or a third refer to the children’s rights. In one questionnaire, it was pointed out that no separate records were kept and the information on the number of complaints referring to the children’s rights were not available.

To the question on the most frequent complaints received by the Ministries, out of the total number of the respondents, 55% answered that the majority of complaints received referred to the exercise of the right to child allowance. Furthermore, 55% of the respondents answered there was a number of complaints on the placement into special institutions and 11% of the respondents answered they processed complaints referring to the exercise of maternity rights.

Since the Ministries, as the second instance authorities, act upon complaints, a question was asked about on the method on issuing decisions in the second instance procedure. Chart 6 presents that the majority of the respondents, i.e. 55%, answered that they confirmed the first instance decisions, or rejected complaints, and 11% of the respondents answered that most frequently they invalidated the first instance decision and returned the case to the first instance authority to repeat the procedure. Also, 22% of the respondents answered they could not state the precise method of action since it depended on a case. The statistical data on the method of action in the Ministries

confirmed the data mentioned above, i.e. that in the majority of cases complaints were rejected and the first instance decisions confirmed.

What is the most frequent method of decision making in the second instance procedure?

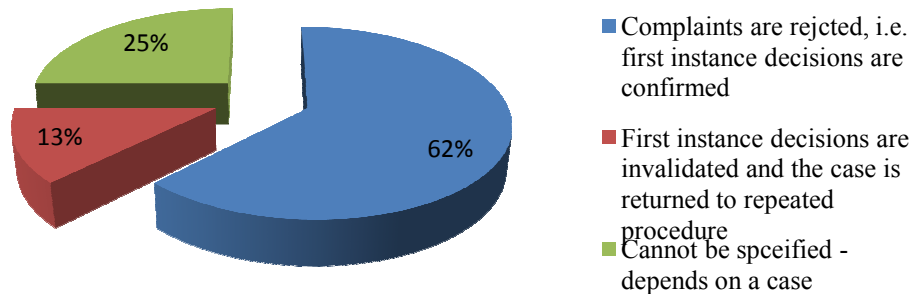


Chart 6

In terms of the supervision of the work of the Centres, Chart 7 clearly shows that 100% of the respondents answered they were performing supervision of the work of the Centres, that it was being performed by administrative procedures and occasional controls of decisions and expenditure of funds.

Is the supervision of the work of the Centres performed?

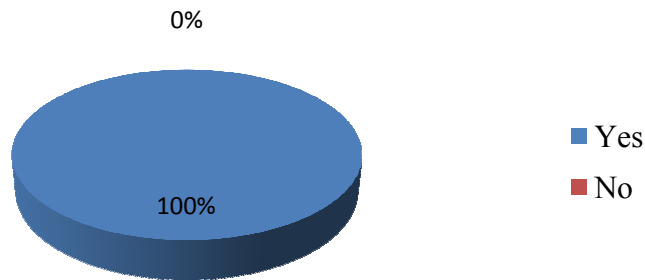


Chart 7

Out of the total number of the respondents, 89% stated that the Centres had the necessary independence in their work and 11% of the respondents pointed out that the Centres were subject to pressures in work, as presented in Chart 8. To the question where they were asked to state the occurrences of pressures, the respondents stated that the parties made pressure on the Centre officers for faster case processing and that parties often demanded rights for which the required funds were not provided.

Do the Centres have the necessary independence in their work?

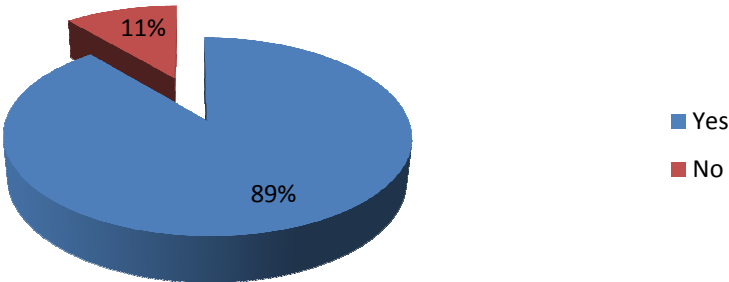


Chart 8

Out of the total number of the respondents, 22% stated that Law on Principles of Social Protection, Protection of Civil Victims of War and Protection of Families with Children of FBH is one of the laws hampering the work of the Ministries, 11% of the respondents specified the Law on Protection from Domestic Violence of FBH, 11% of the respondents stated that their worked was hampered by the Family Law of FBH, 11% of the respondents stated no laws were hampering their work, 11% of the respondents stated that all positive regulations needed to be changed and create conditions for their implementation. These data are presented in Chart 9.

Which Laws hamper the work?

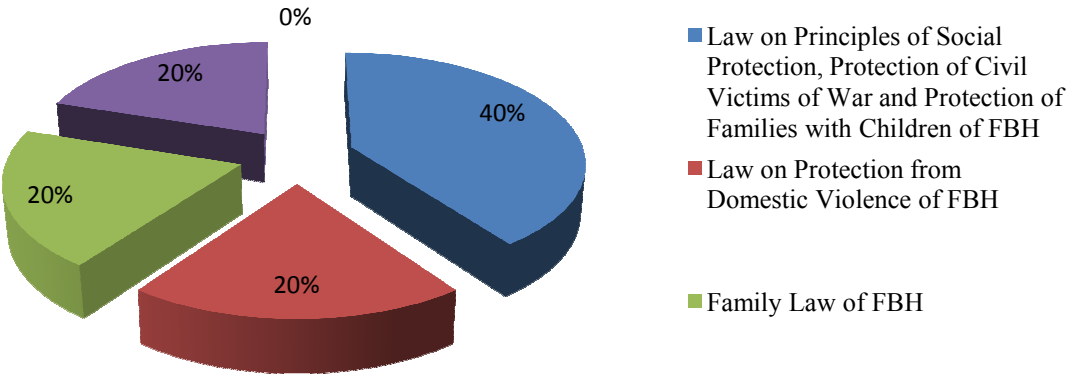


Chart 9

As presented in Chart 10, out of the total number of the respondents, 55% answered that it was necessary to ensure material and human resources for the implementation of the law, 11% of the respondents stated it was necessary to ensure stable conditions for

financing, 11% of the respondents answered it was necessary to broaden the scope of the children's rights and 11% of the respondents stated it was necessary to provide expert training of the staff.

What needs to be changed?

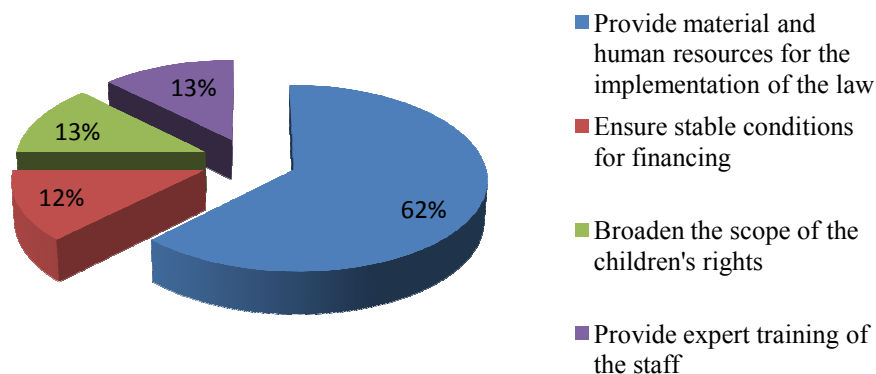


Chart 10

To the question on suggestions and proposals, the majority of the respondents answered it was necessary to ensure conditions for the implementation of the laws, material and human resources for the work of the Centres, education of the staff for a more efficient processing of cases, provide appropriate premises for the work of the staff. Approximately 11% of the respondents stated it was necessary for the founders of the Centres to become more involved in the capacity building of the Centres, hire new professional staff and the key issue was the financing of the Centres, whereby the establishment of a stable financing system was proposed. One of the proposals stated in the questionnaire was to implement activities in local communities aimed to promote “a healthy family”.

VIII CONCERNS AND OBSERVATIONS OF THE OMBUDSMEN

In the entire Report, the Ombudsmen explained and dealt with the importance of the SWCs in BH. We would like to point out once again that since the establishment of the Department for Monitoring Children's Rights, the Ombudsmen of BH have been advocating capacity building of the SWCs and they are aware of all the difficulties they encounter, although they are the "responsible party" in the investigation procedures of the Institution of the Ombudsman whose work we analyse and supervise. In 2013, the Ombudsmen and staff of the Department visited the SWCs in Sarajevo, Banja Luka, Tuzla, Bihac, Mostar and Brcko in order to provide conditions for successful cooperation in the protection of the children's rights. The most important thing is to work together to reach the same goal, which is the provision of protection and exercise of the children's rights in order to improve the children's rights.

On the other hand, the Ombudsmen are aware that they visited "large" SWCs (professional/staffed, specialised work by fields, etc.)⁶³, but that there are often problems in the work of "small" SWCs, i.e. the SWCs in small municipalities. It is concluded with certainty that the activities and work of the SWCs depend on the financial situation of a municipality (municipal budget), as well as openness of a Municipality Mayor or members of a Municipal Assembly. The greatest issue for the SWCs is financing because the social welfare institutions are perceived as the institutions that "only spend". Undoubtedly, all of this is reflected on the scope and quality of services provided by the SWCs, which also prevents from meeting the needs of beneficiaries. The SWCs also have a problem with expert staff, particularly in small municipalities.

The Ombudsmen express their concern because of the administrative workload of professional workers in the SWCs, which results in a reduced number, diversity and quality of services. They also point out, having in mind the research results, that a number of the SWC hire staff not involved in expert activities.

Parties of the Institution of the Ombudsman, namely the citizens, in their correspondence with the staff from the Institution of the Ombudsman often criticise the SWCs for not devoting enough time, stating they are not numbers and that their particular case requires time, individual work programme and not "formulaic" work

⁶³ Signed Memorandum on Cooperation between the SWCs and Ombudsmen

because they expect to be devoted time and to be listened to, showed respect and willingness to help. All of this inevitably affects the protection of the children's rights. At the same time, the staff of the SWCs have the feeling they are misunderstood and insufficiently appreciated by other experts with whom they cooperate in their scope of work. To a great extent, the Ombudsmen share the opinion of the SWCs that the role of the SWCs in the society is not appreciated enough and that their social and material status is below of what they deserve.

In this sense, the Ombudsmen are of the opinion that it is necessary, primarily at the level of the Entities and BD, to initiate planning and development of strategies for the development of social protection. Reform projects are required to provide systematic changes in the social protection, particularly in terms of the development of a social protection model at the local level and standards in the organisation of the SWCs. The network of the SWCs is well developed: every municipality/city has a centre or service, but professional capacities of the staff in the social protection need to be improved. The social protection system needs to be organised flexibly and be suitable for different needs of the citizens in different periods of their lives, provide equal access to services, individualised support services, improve harmonisation of costs in the welfare sector and encourage development of local capacities for the support to the citizens, particularly children. A modern social protection system, needs to be established, in compliance with capacities of the society, based on human rights and equal possibilities.

IX RECOMMENDATIONS OF THE OMBUDSMEN

Recommendations to the Government of the Federation of Bosnia and Herzegovina

To take additional efforts with the aim to develop an adequate strategy document for a comprehensive development of the social protection in the Federation of Bosnia and Herzegovina;

For the purpose of the development of the Strategies for the development of the Social Protection, the Federal Ministry of Labour and Social Policy commits to include relevant Cantonal Ministries responsible for social and child protection in the adoption of the Strategy;

To take additional efforts and consider for the process of categorisation/classification of the children in the Federation of Bosnia and Herzegovina to be regulated in a manner to be unified in the entire territory of the Federation of Bosnia and Herzegovina, namely to standardise observation instruments and procedures and evaluate capabilities of a child, which would also imply increased expertise of members of Committees for categorisation/classification and ensure that the categorisation process becomes multidisciplinary in the true sense;

In accordance with available funds, to make additional budget allocations for the financial support to the social protection services and employment of additional professional staff;

To consider the possibility of the establishment of the child protection fund for the social equalisations of rights for all in the territory of FBH, modelled after the existing Public Fund in the Republic of Srpska.

Recommendations to the Government of the Republic of Srpska

To take additional efforts with the aim to develop an appropriate strategic document for a comprehensive development of the social protection in the Republic of Srpska;

For the development of the Strategy, as a document for a long-term improvement and development of the SWCs and social policy, to include representatives of the SWCs from the entire territory of the Republic of Srpska;

In accordance with available funds, to make additional budget allocations for the financial support to the entity social protection services and employment of additional professional staff.

Recommendations to the Government of Brcko District

To take additional efforts and measures to develop an appropriate strategic document for a comprehensive development of the social protection in Brcko District;

In accordance with available funds, to make additional budget allocations for the financial support to the social protection service and employment of additional professional staff;

Recommendations to the Ministry of Civil Affairs of BH

In line with its powers in terms of coordination in the domain of labour, health care and education, to develop a comprehensive information on the implementation of measures set out in the document on the "Protection of Children Without Parental Care at Risk of Separation in BH 2006-2016" document, with a particular emphasis on the adoption of the Action Plan for the transformation of institutions for children without parental care and provision of minimum social services;

Together with the Ministry of Health and Social Welfare of the Republic of Srpska and Federal Ministry of Labour and Social Policy, to consider the possibility of the establishment of mechanisms to resolve conflicts of competence between the SWCs in the territories of different Entities and between the Cantons.

Recommendations to Cantonal Ministries responsible for Social Protection

To consider the possibility of establishment within the SWCs:

1. Disciplinary Centre for children neglected in upbringing;
2. Reception Centre for children;
3. Diagnostics and Observation Centre for children with difficulties in development.

Recommendations to the Ministry of Administration and Self-Governance and Ministry of Health and Social Welfare of the Republic of Srpska

To consider the possibility of establishment within the municipalities:

1. Disciplinary Centre for children neglected in upbringing;
2. Reception Centre for children;
3. Diagnostics and Observation Centre for children with difficulties in development.

Recommendations to the Ministry of Health and Social Welfare of the Republic of Srpska, Federal Ministry of Labour and Social Policy, Department for Health and other Services of the Brcko District BH and Cantonal Ministries responsible for social protection

To find adequate legislative solution to regulate the issues on the exemption of the SWCs, in a manner to ensure the possibility of exemption of the SWC by a competent authority in specific cases.

Relevant authorities are hereby called upon to inform the Ombudsmen of BH about measures taken in line with the Recommendations within 60 days after the date of the receipt of the Recommendations.

ANNEX I

GENERAL INFORMATION ABOUT INSTITUTIONS

Name of Institution	Total Number of Employees of the Institution	Number of Employees with University Degree	Number of Employees with College Degree	Number of Employees with Secondary School Degree	Number of Services in Institution	Number of Expert Teams	Child and Family Protection					
							Number of Psychologists	Number of Pedagogues	Number of Defectologists	Number of Social Workers	Number of Jurists	
Bileća Social Welfare Centre	8	5	2	/	/	2	as needed	1	as needed	1 + 1 graduate economist	1	/
Trnovo Municipality	19	9	2	3	2	3	/	/	/	/	/	/
Visegrad Social Welfare Centre	6	2	3	1	/	1	/	/	/	4	/	/
Trebinje Social Welfare Centre	22	14	2	6	2	6	1	/	1	6	2	2
Novo Gorazde Social Welfare Centre	2	1	1	/	/	1	/	1	/	1	/	/
Rudo Social Welfare Centre	6	2	2	2	/	/	1	/	/	2	1	1
Pale Social Welfare Centre	10	2	5	2	/	3	1	/	/	4	1	1
Rogatica Social Welfare Centre	8	4	2	2	/	1	/	1	1	2	2	2
Istocno Novo Sarajevo Social Welfare Centre	5	2	2	1	/	1	1	/	/	2	1	1
Doboj Jug Municipality	4	2	1	1	/	/	/	/	/	/	3	3
Service for Expert, General and Social Affairs	9	3	/	6	/	/	/	/	/	1	2	2
Kreševo Municipality, Service for Economy, Veterans Disability and	3	2	1	/	/	1	/	/	/	2	1	1

Kozarska Dubica Social Welfare Centre	10	8	/	2	/	2	/	1	/	5	2
Sipovo Social Welfare Centre	6	3	1	2	3	1	3	/	/	2	/
Novi Grad Social Welfare Centre	14	7	1	6	5	1	5	/	1	4	2
Ljubinje Social Welfare Centre	3	2	/	1	1	1	1	/	/	1	/
Kupres Social and Child Protection Service	1	1	/	/	1	/	1	/	/	/	/
Kostajnica Social Welfare Centre	4	1	2	1	1	1	1	1	/	1	1
Vukosavlje Municipality	2	1	1	/	/	/	/	/	/	/	1
Istocni Stari Grad Municipality	1	1	/	/	1	/	1	/	1	/	/
Srebrenica Social Welfare Centre	4	1	1	2	/	1	/	/	/	2	1
Sokolac Social Welfare Centre	6	3	2	/	1	1	1	/	1	1	1
Nevesinje Social Welfare Centre	7	4	1	1	/	2	/	/	/	2	1
Bratunac Social Welfare Centre	6	2	1	3	1	1	1	/	/	1	1
Tomislavgrad Social Welfare Centre	5	1	3	1	/	1	/	/	/	3	1
Maglaj Social Welfare Centre	9	2	3	3	/	1	/	/	/	2	2
Kakanj Social Welfare Centre	12	5	3	3	/	3	/	1	/	5	2
Gornji Vakuf - Uskoplje Social Welfare Centre	6	2	3	1	/	1	/	/	/	3	1
Siroki Brijeg Social Welfare Centre	8	3	3	2	3	3	3	1 as needed	/	2	1
Gracanica Social Welfare Centre	6	3	/	2	/	1	/	/	/	2	1
Velika Kladusa Social Welfare Centre	11	8	/	2	/	7	/	1	/	3	2

Doboj Istok Social Welfare Centre	4	/	2	2	/	1	1	/	/	1	1
Kladanj Social Welfare Centre	6 + 1 temporary	2	1	4	1	1	1	1	/	2	/
Sarajevo - Vogosca Cantonal Social Welfare Centre	12	8	1	3	/	/	1	1	/	4	2
Donji Vakuf Social Welfare Centre	6	4	2	/	/	1	/	/	/	2	2
Vares Social Welfare Centre	8	5	/	2	/	2	1	1	/	1	/
Ze-Do Social Welfare Centre	12	5	1	4	2	2	2	occasionally/ external expert associate		3	1
Social Welfare Centre, Teocak Municipality	4	2	/	2	/	1	/	1	/	/	1
Olovo Social Welfare Centre	6	1	3	2	/	1	/	/	/	4	/
Gradacac Social Welfare Centre	12	6	2	4	/	1	1 - temporary	/	1	4	1
Kalesija Social Welfare Centre	10	6	/	2	5	1	1	/	/	2	1
Prozor - Rama Social Welfare Centre	5	3	1	1	/	/	/	/	/	2	1
Sanski Most Social Welfare Centre	14	6	1	7	/	1	1	/	1	3	2
Busovaca Social Welfare Centre	6 + 1 temporary	3 + 1 temporary	1	1	1	3	1	/	/	1	1
Konjic Social Welfare Centre	10	7	/	3	/	1	1 external associate	/	/	4	2
Domjjevac Social Welfare Centre	2	1	/	1	/	/	/	/	/	/	/
Cazin Social Welfare Centre	12	9	1	2	3	9	1	/	/	5	1
Stolac Social Welfare Centre	6	2	2	2	2	1	/	/	/	2	2

Sarajevo Canton Social Welfare Centre	154	102	21	22	10	3 (in every service)	1	1	/	1	1
Lopare Social Welfare Centre	6	1	2	2	3	1	/	/	/	1	1
Prnjavor Social Welfare Centre	13	6	3	3	/	2	2	1	/	5	1
Bijeljina Social Welfare Centre	30	15	9	5	4	10	3	1	2	11	3
Srbac Social Welfare Centre	8	3	2	3	3	1	1	/	/	2	/
Foca Social Welfare Centre Foca	/	7	2	2	1	1	/	1	1	4	1
Vlasenica Social Welfare Centre	6	1	4	1	/	1	1	1	1	3	1
Bihac Social Welfare Centre	19	13	3	4	/	11	1	1	/	8	1
Cajnice Social Welfare Centre	6	3	1	2	/	1	/	1	/	1	1
Social Welfare Department, Kiseljak Municipality	4	2	/	2	/	/	/	/	/	/	/
Istocna Ilidza Social Welfare Centre	8	5	1	2	/	1	1	1	/	2	1
Krupa na Uni Municipality	1	/	/	1	/	/	/	/	/	/	/
Ribnik General Administration Department	2	2	/	/	/	/	/	/	/	/	1
Gradiska Social Welfare Centre	18	13	/	4	1	1	1	/	/	7	1
Doboj Social Welfare Centre	35	14	7	11	3	3	1	/	/	9	2
Buzim Social Welfare Centre	7	4	2	1	/	1	/	1	/	1	1
Social Welfare Centre, Brod Municipality	12	4	3	4	3	3	1	/	/	2	4
Samac Social Welfare Centre	8	5	2	1	2	2	/	/	1	2	1

ANNEX II

Questionnaire for Social Welfare Centre/Social Protection Service	
<p><i>The questionnaire was developed with the aim of obtaining an insight into the situation with the role of the Social Welfare Centres in the protection of the children's rights and capacities of institutions providing the protection. You will answer the questions by circling one of the given answers and entering data on a blank line where it is required. Please be sincere in answering the questions and do not skip questions because your every answer is important.</i></p> <p style="text-align: center;"><i>Thank you for your cooperation!</i></p> <p style="text-align: center;"><i>Institution of Human Rights Ombudsman of BH</i></p>	
GENERAL INFORMATION	
1. Full Name of the Institution:	
2. Entity/District :	
3. Canton:	
4. Municipality:	
5. Director:	
6. Method of Financing:	a. founder funds b. entity c. canton – if applicable d. own activity e. donations f. all of the above g. other _____
7. Does your Centre/Service have the Rulebook on Internal Organisation and Classification of Jobs?	1. YES 2. NO
8. Total number of systematised jobs in line with the Rulebook on Internal Organisation and total number of employees in the Institution:	
9. Number of expert teams:	
10. Which are the teams?	

11. Employee structure:	
12. Number of employees with University Degree:	
13. Number of employees with College Degree:	
14. Number of employees with Secondary School Degree:	
15. Number of unskilled/unqualified employees:	
16. Number of services in the Institution:	
17. Employee gender structure:	1. male, number: _____ 2. female, number: _____
18. Number of expert associates in expert teams:	Number of Psychologists:
	Number of Pedagogues:
	Number of Defectologists:
	Number of Social Workers:
	Number of Jurists:
19. Does your Centre/Service have the Managing Board:	1. YES 2. NO
20. Who makes the Managing Board:	a. representatives of the founder, Number: _____ b. representatives of the institution, Number: _____ c. representatives of the Ministry, Number: _____ d. other _____
21. Do members of the Managing Board receive compensation?	1. YES 2. NO
21a. If the answer is YES, out of which funds this compensation is paid and in what amount?	
22. Gender structure of the Managing Board:	1. male, number: _____ 2. female, number: _____
23. Does your Centre/Service have appropriate Disciplinary Centre for children neglected in upbringing?	1. YES 2. NO
24. Does your Centre/Service have appropriate Reception Centre for children?	1. YES 2. NO
25. Does your Centre/Service have appropriate Diagnostics and Observation Centre for children	1. YES 2. NO

with difficulties in development and children neglected in care in upbringing?	
26. Does your Centre/Service have appropriate Shelter for victims of domestic violence, etc.?	1. YES 2. NO
27. Does your Centre/Service have appropriate Centre for home based assistance and care?	1. YES 2. NO
POPULATION	
28. Number of population within the competence of the Social Welfare Centre/Social Protection Service?	
29. Number of population – children within the competence of the Social Welfare Centre/Social Protection Service?	
30. Number of processed cases in 2012?	
31. Number of processed cases referring to children in 2012?	
CONDITIONS OF WORK	
32. Where is the Social Welfare Centre/Social Protection Service located?	a. own premises b. leased premises c. other
32a. If the answer is b., what is the amount of the monthly lease for the premises in out of which funds is it financed?	
33. Are you satisfied with the conditions of your work?	1. YES 2. NO
33a. If the answer is NO, what needs to be improved? _____ _____ _____	
34. How do you evaluate technical equipment of the Social Welfare Centre/Social Protection Service?	a. very good b. satisfactory c. bad d. very bad

<p>35. How often expert associates attend various educational seminars?</p>	<p>a. not even once a year b. once a year c. twice a year d. three times a year e. more</p>
<p>COOPERATION WITH RELEVANT STAKEHOLDERS</p>	
<p>36. How do you evaluate cooperation with competent Courts?</p>	<p>a. completely successful b. mostly successful c. I don't know d. mostly unsuccessful e. completely unsuccessful</p>
<p>37. How do you evaluate cooperation with relevant Ministries?</p>	<p>a. completely successful b. mostly successful c. I don't know d. mostly unsuccessful e. completely unsuccessful</p>
<p>38. How do you evaluate cooperation with other Social Welfare Centres/Social Protection Services?</p>	<p>a. completely successful b. mostly successful c. I don't know d. mostly unsuccessful e. completely unsuccessful</p>
<p>39. How do you evaluate cooperation with police and Prosecutor's Office?</p>	<p>a. completely successful b. mostly successful c. I don't know d. mostly unsuccessful e. completely unsuccessful</p>
<p>40. How do you evaluate cooperation with non-governmental sector?</p>	<p>a. completely successful b. mostly successful c. I don't know d. mostly unsuccessful e. completely unsuccessful</p>
<p>41. How do you evaluate cooperation with the media?</p>	<p>a. completely successful b. mostly successful</p>

	c. I don't know d. mostly unsuccessful e. completely unsuccessful
42. Do you think that the Social Welfare Centres/Social Protection Services have the necessary independence?	1. YES 2. NO
43. Do you think that the Social Welfare Centres/Social Protection Services are subject to various types of pressure?	1. YES 2. NO
43a. If the answer is YES, can you explain?	
_____ _____ _____ _____	
LEGISLATION	
44. Since the Social Welfare Centres/Social Protection Services act in different domains and apply different legislation, can you identify which laws hamper your work?	
_____ _____ _____ _____	
45. How should they be changed?	
_____ _____ _____ _____ _____	
46. Please point out problems the Social Welfare Centres encounter in their work, not covered by this questionnaire?	
_____ _____ _____ _____ _____ _____	

Questionnaire filled in by (First and Last Name, Education and Position in the Institution):

ANNEX III

Questionnaire for Relevant Ministries	
<p><i>The questionnaire was developed with the aim of obtaining an insight into the situation with the role of the Social Welfare Centres in the protection of the children's rights and capacities of institutions providing the protection. You will answer the questions by circling one of the given answers and entering data on a blank line where it is required. Please be sincere in answering the questions and do not skip questions because your every answer is important.</i></p> <p style="text-align: center;"><i>Thank you for your cooperation!</i> <i>Institution of Human Rights Ombudsman of BH</i></p>	
GENERAL INFORMATION	
1. Full Name of the Institution:	
2. Entity/District :	
3. Canton:	
4. Municipality:	
5. Minister:	
SOCIAL WELFARE CENTRE/SOCIAL PROTECTION SERVICE	
6. How do you evaluate cooperation with the Social Welfare Centre/Social Protection Service within your competence?	a. completely successful b. mostly successful c. I don't know d. mostly unsuccessful e. completely unsuccessful
7. Do you think that the Social Welfare Centre/Social Protection Service perform their work well?	1. YES 2. NO
7a. If the answer is NO, what should be improved?	
_____ _____ _____	
8. What is the duration of a procedure after an appeal upon a decision of Social Welfare Centres/Social Protection Services?	
9. Number of processed cases in 2012?	

10. Number of processed cases referring to the children's rights in 2012?	
11. What are the most frequent complaints referring to the children's rights? <hr/> <hr/> <hr/>	
12. How does the second instance authority most frequently act in the second instance procedure?	a. they confirm the first instance decisions b. they invalidate the first instance and return the case for a repeated procedure c. they invalidate the first instance decisions and the second instance authority pronounces a decision d. other _____
13. Please provide statistical data on how you decided upon complaints in 2012, particularly in cases when complaints referred to the children's rights.	
14. Do you perform a supervision of the Social Welfare Centres/Social Protection Services and how?	1. YES 2. NO
15. Do you think that the Social Welfare Centre/Social Protection Service has the necessary independence?	1. YES 2. NO
16. Do you think that the Social Welfare Centre/Social Protection Service is subject to various types of pressure?	1. YES 2. NO
16a. If the answer is YES, can you explain? Pressures are present in a way <hr/> <hr/> <hr/>	
LEGISLATION	
17. Since the Social Welfare Centres/Social Protection Services act in different domains and apply different legislation, can you identify which laws hamper the work? <hr/> <hr/> <hr/> <hr/> <hr/>	
18. How should they be changed? <hr/> <hr/> <hr/> <hr/> <hr/>	
19. What are your suggestions or proposals in terms of the improvement of the Social Welfare Centres'	

efficiency:

ANNEX IV

With reference to

the international documents: Convention on the Right of the Child, Covenant on Economic, Social and Cultural Rights, Covenant on Civil and Political Rights, Convention on the Elimination of all Forms of Discrimination, Convention on Elimination of Racial Discrimination, Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment, and Action Strategy of the Institution of the Human Rights Ombudsmen for the period 2010 – 2014 specifying the obligation for a more intensive cooperation with the BH institutions in the further development of democracy based on the rule of law and respect for human rights, which primarily involves joint analyses and assessments on violations of human rights;

Deeply aware

that the reinforcement of the rule of law and respect for human rights in Bosnia and Herzegovina can be successfully ensured only with an active involvement, direct cooperation and regular coordination between all subjects, including the cooperation of the Institution of the Human Rights Ombudsman, as a national mechanism for the protection of human rights, with institutions dedicated to citizens and which provide them services;

The Human Rights Ombudsmen of Bosnia and Herzegovina (hereinafter: Ombudsmen of BH), Mr Ljubomir Sandic, Ms Jasminka Dzumhur and Ms Nives Jukic, as well as the Directors of the Social Welfare Centre (hereinafter: SWC):

Borka Vukajlovic, Director of the Banja Luka Social Welfare Centre,

Zora Dujmovic, Director of the Mostar Social Welfare Centre,

Mirsada Poturkovic, Director of the Sarajevo Social Welfare Centre,

Sonja Brcinovic, Director of the Tuzla Social Welfare Centre,

Natasa Stevanovic, Head of the Sub-Department for Social Protection - Brcko Social Welfare Centre,

Aida Omanovic, Director of the Bihac Social Welfare Centre,

agreed to arrange their communication and cooperation by the following

MEMORANDUM ON COOPERATION

I General Principles

Signatories hereby agree to encourage close cooperation and information exchange for the implementation of activities aimed at the development of a comprehensive Special Report on “Children in Conflict Divorces” of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina in 2013, and development of Special Report on “The Role of Social Welfare Centres in the Protection of the Children’s Rights”.

The cooperation will be based on the following principles:

- **Partnership** – *the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina and Social Welfare Centres shall cooperate in partnership,*
- **Transparency** – *the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina shall present information on the results of its activities in timely manner,*
- **Information Exchange** – *the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina shall develop a mailing list for easier and more convenient communication and information exchange.*

II Area of Cooperation

- *The objective of the research by the Institution of the Human Rights Ombudsman in Bosnia and Herzegovina (hereinafter: Institution of the Ombudsman), based on mutual cooperation with the competent SWC, is to identify and determine reasons and causes leading to the violation of children's rights in conflict divorces, and on the basis of the research propose to the competent authorities at all levels possible solutions whose implementation should improve and protect the children in conflict divorces, which would provide elimination and reduction of adverse effects of parent's divorce on the emotional development of the children and their psychophysical health.*
- *A comprehensive analysis of the conflict divorce issues requires active participation of the competent guardianship authorities, as the most important link in the chain of providing the protection of children and exercise of their rights in a local community. Representatives of the guardianship authorities encounter daily all the issues and they are direct witnesses of numerous violations of the children's rights, entitling them to propose legislative and professional solutions to the issue, whereby the signatories of the Memorandum agreed to cooperate in the research which is the subject of this Memorandum.*
- *The importance and role of the SWC in the protection of the rights of the citizens is invaluable and it is a pillar in the development of a society, hence there is a need to provide continuous capacity building of the SWC, a precondition to which is a comprehensive analysis of the current position of the SWC in BH. In the framework of the cooperation based on the principles of this Memorandum, the signatories shall jointly implement this activity taking full account of the expert opinion of the SWC.*

III Activities for Establishment of Cooperation

- *The SWC shall ensure that the representatives of the Institution of the Ombudsman hold interviews/discussions with the representatives of the expert teams working on cases referring to the issue of conflict divorces, i.e. expert staff.*
- *The representatives of the SWC shall agree to fill in questionnaires/surveys, noting that the questionnaires/surveys shall be delivered to all the guardianship authorities in Bosnia and Herzegovina.*
- *Within a period of 60 days after the date of signing the Memorandum, in consultation with the representatives of the Institution of the Ombudsman, the SWC shall provide the observation of relevant procedures conducted by the competent guardianship authority, in line with the assessment by the expert team of the SWC, including the subject and dynamics of the*

observation, in relation with divorce and issuance of decisions of the children's rights, with a prior consent from the parties in the proceedings.

- *The representatives of the SWC shall commit to fill in the questionnaires referring to their capacities and which will be sent by the Institution of the Ombudsman for the purpose of the development of the Special Report on the "Role of Social Welfare Centres in the Protection of the Rights of the Child".*

IV Mechanisms for Establishment of Cooperation

- *Upon signing the Agreement, the signatories shall appoint persons responsible for coordination of activities set out in this Memorandum. The Institution of the Ombudsman shall develop a mailing list to ensure continuous exchange of relevant information.*
- *Within its capacity, the Institution of the Ombudsman shall hold a coordination meeting with the signatories of the Memorandum, at least once during the implementation of the activities set out in the Memorandum.*
- *During the development of the Report and all the activities, the Ombudsmen of BH shall commit to fully protect identities of professionals at the Centres and parties in the proceedings. The Institution of the Ombudsman shall guarantee confidentiality and professionalism in all situations, including confidentiality of all information in reporting and analysing.*
- *The Ombudsmen of BH leave to the professionals to assess in which proceedings and activities they shall allow the presence of the Institution of the Ombudsman, taking into account all circumstances and particularities of every individual case.*
- *Before the finalisation of the Report, the Ombudsmen of BH shall commit to present all the research results to the Directors of the Centres in a joint meeting, and allow them to present proposed recommendations that the Ombudsman shall send to the competent executive and legislative authorities in Bosnia and Herzegovina.*

V Entry into Force of the Memorandum on Cooperation

The Memorandum on Cooperation shall enter into force on the date of signing and concluded for a definite period until 31 December 2013.

Banja Luka,

Date:

Number: