



***Special report***  
***on situation in the area of migrations***  
***in Bosnia and Herzegovina***

*Banja Luka, November 2018*





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## INTRODUCTION

Migration processes which encompassed Bosnia and Herzegovina in 2018 set certain requirements to its authorities, that is a number of institutions, including the Institution of Human Rights Ombudsman of Bosnia and Herzegovina (hereinafter: the Ombudsman) which was established pursuant to Annexes IV and VI of the General Framework Agreement for Peace in Bosnia and Herzegovina (the Dayton Accords) and the Law on Human Rights Ombudsman of Bosnia and Herzegovina<sup>1</sup> with the aim of promotion of good governance and the protection of the rights and freedoms of the physical and legal persons.<sup>2</sup>

At the beginning of 2018, in the framework of its jurisdiction, the Ombudsman received a couple of complaints from foreign nationals regarding the placement of unaccompanied children of foreign nationals in early 2018 and carried out the monitoring of the situation in the institutions where foreign nationals are accommodated. It was done through the visits to the Immigration Center Istočno Sarajevo and Asylum Center Delijaš (later during the year, visits were made to other institutions where foreign citizens are accommodated).

At its 140th session held on 26 April 2018, the Council of Ministers of Bosnia and Herzegovina discussed information on migration issues, and in this regard called on the Institution of the Ombudsman to urgently draft and submit to the Council of Ministers a Special Report on the State of Migration in Bosnia and Herzegovina (hereinafter: the Special Report), with the proposal of measures and recommendations to the competent authorities of Bosnia and Herzegovina.<sup>3</sup>

Aware of the importance of migration issues in Bosnia and Herzegovina at its 13 sessions held on 23 August 2018 adopted a Decision on drafting a Special Report on the status of migrations in Bosnia and Herzegovina and established a Working Group for drafting the said report.

At the beginning of the preparation of this Special Report, Ombudspersons were puzzled, as well as the other authorities in their procedure with the different categories of foreign nationals. Namely, in different proceedings it is necessary to define the category of foreign nationals, and other characteristics, starting from their name<sup>4</sup>, the term to be applied to them, and the level of rights and entitlements, as well as the obligations pertaining to the various categories of foreign

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<sup>1</sup> Official Gazette of Bosnia and Herzegovina", no. 19/02, 34/05 and 32/06

<sup>2</sup> The Ombudsman is a central Institution for the protection from discrimination and the provision of the access to information. The Institution is accredited in „A“ status by the Sub-Committee for Accreditation (SCA) of the Global Alliance of Human Rights Institutions in 2017. The Ombudsman Institution is faced with many obstacles aggravating its functioning in particular due to the lack of material and financial resources necessary for fulfilling of all aspects of its mandate. This was recognized by the SCA GANHRI in its most recent decision on accreditation dated 24.11.2017 whereby „The SCA acknowledges the complex political situation in which IHROBH operates. The SCA commends the efforts of the IHROBH in advocating for the adoption of amendments to its enabling law to address issues of concern noted previously by the SCA“. There is no doubt that there is a need to adopt the proposed amendments to the Law on Ombudsman and take measures to strengthen the capacity of the Ombudsman Institution to be able to fulfill its mandate in accordance with the Paris Principles.

<sup>3</sup> Information on the Conclusion of the Council of Ministers of Bosnia and Herzegovina no.: 05-07-1-1208-30-1/18 dated 04 May 2018

<sup>4</sup> The officials use different terminology related to migrants in their public discourse: illegal migrants, migrants and refugees. The UNHCR Spokesman for SEE Neven Crvenković defined the migrants and refugees who entered the country in an irregular way, without necessary permissions or documents required according to the legislation governing the immigration issues as irregular rather than illegal migrants since the second term has certain, not accurate “criminal” connotation. The term irregular migrant is preferred by the agencies and bodies of the UN, the Council of Europe, and EU.

nationals. This dilemma was solved by adopting the term of irregular migrants (which will be used in this Special Report) for most of the above - mentioned foreign nationals because, according to the information of the responsible authorities, in most cases they are foreign nationals who entered into Bosnia and Herzegovina without any identification documents at places not foreseen to be the state border crossings, in violation of the applicable legislation of Bosnia and Herzegovina and is not in accordance with the procedures of the competent authorities in Bosnia and Herzegovina regarding entry of a foreign national into the country.

The special report is a result of monitoring of migration processes in Bosnia and Herzegovina, including visits to all places where groups of migrants were located, conversations and interviews with them and with the staff members in the institutions and the venues where foreign nationals were accommodated, meetings with all to the heads of the institutions competent to act in the field of migrations and asylum in accordance with the provisions of the Law on Aliens and the Law on Asylum, and representatives of the international organizations, and local and international NGOs. In addition to that, media reports<sup>5</sup> involving the migrations in Bosnia and Herzegovina were closely followed. In this respect, media reports are mostly linked to the following aspects:

- media are mainly concerned with statistic indicators on the number of foreign nationals staying or found in Bosnia and Herzegovina;
- the difference has not been made between the notions of a foreign national, illegal, that is, irregular migrants, asylum-seekers, refugees, foreign nationals enjoying the subsidiary protection (it should be mentioned that the domestic legislation does not comprise a term of a migrant, and consequently illegal or irregular migrant, but it only uses the term foreign national, therefore this term will be mostly used in this Special Report as well);
- some media outlets create a negative image on foreign nationals staying in Bosnia and Herzegovina on different grounds, and report on them mostly in context of a criminal offence commitment.

Starting from this perception of the media and bearing in mind the need to raise awareness of the distinction of different categories of aliens located in the territory of Bosnia and Herzegovina, the starting point in the development of this Special Report was to monitor migration trends and status issues of foreign nationals as well as defining all categories of foreigner nationals and their status in Bosnia and Herzegovina. The Special Report aims at indicating to the obligations to secure and protect the rights of foreign nationals in Bosnia and Herzegovina, raising awareness of the presence of the problem as well as the obligations of the authorities in Bosnia and Herzegovina that have to be taken in order to secure the rights of foreign nationals, in accordance with international standards Bosnia and Herzegovina has ratified, including the obligations to protect the rights of domiciled people. This is primarily related to the issue of safety and health protection, in particular as regards the possibilities of spreading contagious diseases that accompany migration processes.

On the other hand, through this Special Report, the Ombudsman promotes the values guaranteed by the international human rights standards that must be provided to foreign nationals residing

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<sup>5</sup> <https://www.klix.ba/vijesti/bih/drzavljanin-srbije-priznao-da-je-u-bih-krijumcario-migrante-s-kosova/180510048>;  
<https://www.klix.ba/vijesti/bih/bih-bi-mogla-izgubiti-kontrolu-nad-migracionim-tokovima-i-postati-hot-spot-za-migrante/180509040>.



on the territory under the jurisdiction of the authorities of Bosnia and Herzegovina. The report consists of six chapters dealing with: Chapter I - International standards and legislation of Bosnia and Herzegovina; Chapter II - Institutional mechanisms competent for dealing with migration issues; Chapter III - Situational analysis that includes the situation in the field, and the specially processed situation in the Una-Sana Canton; Chapter IV - The right to asylum involving the asylum application process as well as the rights of asylum seekers; Chapter V - Conclusions of Ombudspersons of Bosnia and Herzegovina; Chapter VI - Recommendations of the Ombudsman of Bosnia and Herzegovina implementation of which should contribute to improving the situation in this area.

Since the Embassy of the Republic of Bulgaria in Bosnia and Herzegovina through its Project „Strengthening the capacity of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina for the implementation of the mandate of a national preventive mechanism in Bosnia and Herzegovina“, supported the preparation of this Special Report Ombudspersons would like to express their sincere gratitude for that support.

# **I LEGAL FRAMEWORK**

## **1.1. INTERNATIONAL STANDARDS**

During the preparation of this Special Report, the Ombudsman analyzed the relevant human rights standards of the United Nations and the Council of Europe ratified by Bosnia and Herzegovina.

### **1.1.1. United Nations standards**

#### **Universal Declaration of Human Rights**

Universal declaration of human rights<sup>6</sup> provides in its Article 1 that „*all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood*“.

The Universal Declaration of Human Rights is the first international document recognizing the right to seek and enjoy asylum from persecution. The proposal of those who drafted the Universal Declaration was to provide the guarantee and the right to the recognition of the asylum, but it was not accepted. It was left to the state-parties to decide on asylum in their territory on their own, as the territorial asylum is the right pertaining to the state, not to an individual, and the state can grant it or refuse it. The authorities of the state, in their discretion, decide on the application for asylum in accordance with the applicable domestic legislation stipulating the conditions and procedure for granting asylum and the rights and obligations of asylum seekers.

Since the Universal Declaration of Human Rights is not a formally binding act (although virtually all of its provisions can be considered to make the principles of international customary law), but has the power of a recommendation to the state-parties, its principles are elaborated in detail in the covenants<sup>7</sup> in order for these general provisions to become mandatory for the state-parties.

Article 14 of the Universal Declaration on Human Rights reads as follows „*Everyone has the right to seek and to enjoy in other countries asylum from persecution. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations*“.

#### **International Covenant on Civil and Political Rights**

Civil and political rights defined by the Covenant on Civil and Political Rights<sup>8</sup> are considered to be universal and belong to every person irrespective of their citizenship, save for the active and passive suffrage. Article 12 of the Covenant provides that „*Everyone shall be free to leave any country, including his own*“.

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<sup>6</sup> Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948.

<sup>7</sup> International Covenant on Civil and Political Rights; International Covenant of Economic, Social and Cultural Rights

<sup>8</sup> Adopted by the Resolution 2200A (XXI) of the General Assembly on 16 December 1966 which entered into force on 23 March 1976. According to the interpretation provided by the UN Commission on Human Rights, the rights specified in the Covenant cannot be limited to nationals but must be accessible to all individuals, regardless of their nationality or absence of citizenship, such as asylum seekers and refugees.

The right to leave the country is linked to the right to seek asylum since the asylum seeker must be present on the territory of a country other than the country of its citizenship or residence and must meet other conditions set out in the international standards for seeking the refugee status. The provisions of the Covenant relate to any person present on the territory falling within the jurisdiction of a member-state, including the asylum-seekers.

Also, the Covenant provides that the rights it protects „ *shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant*“<sup>9</sup>.

### **International Covenant on Economic, Social and Cultural rights**

By ratification of the International Covenant on Economic, Social and Cultural rights<sup>10</sup> the State Parties “*undertake to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources*“<sup>11</sup>.

This Covenant recognizes limitations in ensurance of the rights since their implementation necessitates significant financial and technical means. State Parties undertake to guarantee that the rights enunciated in the present Covenant will be exercised „*without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals*“<sup>12</sup>.

### **Convention Relating to the Status of Refugees and 1967 Protocol Relating to the Status of Refugees**

The Convention<sup>13</sup> and Protocol<sup>14</sup> Relating to the Status of Refugees sets a foundation of international refugee law. The purpose and the aim of the Convention and the Protocol is to ensure protection to the persons who have well-founded fear of persecution for certain reasons in the absence of the protection supposed to be granted by that person’s country of origin.

The Convention comprises the definition of a refugee<sup>15</sup> and the basic principles of their protection. In addition to that, the Convention, in its Article 33 provides the guarantees that „*no Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion* “.

1967 Protocol Relating to the Status of Refugees extended the scope of the Convention, that is, temporary and geographic limitations were removed from the definition of a refugee. Therefore,

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<sup>9</sup> Article 12 para 3 of the International Covenant on Civil and Political Rights.

<sup>10</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with article 27.

<sup>11</sup> Article 2 para 1 International Covenant on Economic, Social and Cultural rights

<sup>12</sup> Article 2 para 2 and 3 ibid

<sup>13</sup> Adopted on 28 July 1951 at the Conference of Plenipotentiaries to United Nations relating to the Status of Refugees and a Protocol relating to the Status of Stateless Persons convened based on the General Assembly Resolution 429 (V) of 14 December 1950

<sup>14</sup> Approved by the Economic and Social Council in resolution 1186 (XLI) of 18 November 1966 and taken note of by the General Assembly in resolution 2198 (XXI) of 16 December 1966. In the same resolution the General Assembly requested the Secretary-General to transmit the text of the Protocol to the States mentioned in article V thereof, with a view to enabling them to accede to the Protocol. Entered into force 4 October 1967, in accordance with article VIII

<sup>15</sup> Article 1 – Definition of the term „refugee“, CHAPTER I. General provisions, 1951 Convention Relating to the Status of Refugees, p.2

pursuant to Article 1, the Protocol will be „*applied by the States Parties hereto without any geographic limitation*“.

### **Declaration on Territorial Asylum**

Declaration on Territorial Asylum<sup>16</sup> foresees that recognition of asylum by a state constitutes an action within its sovereignty and an asylum-seeker invoking the right to asylum will not face „*rejection at the frontier, that is, „if he has already entered the territory in which he seeks asylum, expulsion or compulsory return to any State where he may be subjected to persecution. Exception may be made to the foregoing principle only for overriding reasons of national security or in order to safeguard the population, as in the case of a mass influx of persons*“<sup>17</sup>.

### **The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

The Convention<sup>18</sup> was adopted with the aim of making struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world. It comprises provisions detailed in Article 2 wherefrom arises the duty of each State Party to take „*effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction*“. Torture, according to the Convention, is „*any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person ... by a person ... acting in an official capacity*“<sup>19</sup>. The Convention prescribes that no country will „*expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture*“<sup>20</sup>.

### **Convention on the Reduction of Statelessness**

Convention on the Reduction of Statelessness<sup>21</sup> contains the definition of a statelessness and provides a framework within which a stateless person can legally stay in a country and acquire a legal status. Article 9 of the Convention provides that „*A Contracting State may not deprive any person or group of persons of their nationality on racial, ethnic, religious or political grounds*“.

### **The United Nation Convention on the Rights of the Child**

The United Nation Convention on the Rights of the Child<sup>22</sup> comprises comprehensive standards of the child protection without discrimination, including the migrant children. „*States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status*“<sup>23</sup>.

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<sup>16</sup> Adopted by UNGA on 14 December 1967 by Resolution 2312 (XXII).

<sup>17</sup> Article 2. Declaration on Territorial asylum

<sup>18</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984 entry into force 26 June 1987

<sup>19</sup> Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

<sup>20</sup> Article 3. Ibid.

<sup>21</sup> Adopted on 30 August 1961 by a Conference of Plenipotentiaries which met in 1959 and reconvened in 1961 in pursuance of General Assembly resolution 896 (IX) of 4 December 1954, entry into force: 13 December 1975, in accordance with article 18.

<sup>22</sup> Adopted by the United Nations General Assembly on 20 November 1989

<sup>23</sup> Article 2 of the UN Convention on the Rights of the Child

Article 3 of the Convention reads as follows *“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”*. UN Committee for the Rights of the Child has identified four key principles on which all other rights of the Constitution are based:

- **Principle of non-discrimination** according to which the children must not be subject to discrimination *“irrespective of the child's parents or legal guardian, race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, poverty, disability, birth or other status;”*
- Children have the **right to survival and development** in all aspects of life including physical, emotional, psycho-social, cognitive, social and cultural:
- In making decisions and in all actions concerning children, **the best interest of the child** is a primary consideration. This relates either to decisions made by public administrative authorities or legislative bodies, or the decisions made by the family;
- Participation must be enabled to children in solving of all issues influencing their life and they should enjoy the **freedom to express their opinions**, which should be seriously taken in consideration”.<sup>24</sup>

### **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

This Convention<sup>25</sup> established the rights of migrant workers and members of their families, as well as equal conditions for work of migrant workers and the State Parties nationals. The Convention applies *„ during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence”*<sup>26</sup>.

Pursuant to provisions of Article 5 of the Convention migrant workers and members of their families are exclusively those who: *“Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party”*<sup>27</sup>. Accordingly, the enjoyment of the rights of migrant workers and members of their families is in full correlation with their status, since only migrants with regular status can enjoy these rights.

No migrant worker or member of his or her family shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment<sup>28</sup>.

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<sup>24</sup> the Institution of Human Rights Ombudsman of Bosnia and Herzegovina in co-operation with the Save the Children Norway (Sarajevo, 2009), Analysis of harmonization of the legislation of Bosnia and Herzegovina with the UN Convention on the Rights of the Child, p. 9

<sup>25</sup> Adopted by General Assembly resolution 45/158 of 18 December 1990. Bosnia and Herzegovina ratified the Convention in 1996. It entered into force in 2003. godine. <http://indicators.ohchr.org/>

<sup>26</sup> Article 1 para 2 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

<sup>27</sup> Article 5 para 2. Ibid

<sup>28</sup> Article 10. Ibid

### 1.1.2. The Council of Europe standards

#### European Convention on Human Rights and Fundamental Freedoms

European Convention on Human Rights and Fundamental Freedoms<sup>29</sup> has limited application in sense of *ratione materiae* when it comes to migration and citizenship. The Convention prescribes that „*No one shall be subjected to torture or to inhuman or degrading treatment or punishment*“<sup>30</sup>.

According to the Convention, everyone has the right to liberty and security of person and cannot be deprived of his liberty save in cases of „... *the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition*“<sup>31</sup>.

**Protocol no. 4 to the European Convention** in its Article 2 prescribes that „*Everyone shall be free to leave any country, including his own*“.

#### European Social Charter (revised)

European Social Charter<sup>32</sup> is a the basic European document for the protection of man, family, women, mothers, children, invalids, migrants and others in the field of work, professional orientation, health services, collective bargaining and social security.

Article 12 of the Charter comprises the obligation of the States to to take steps, by the conclusion of appropriate bilateral and multilateral agreements or by other means, and subject to the conditions laid down in such agreements, in order to ensure „*equal treatment with their own nationals of the nationals of other Parties in respect of social security rights, including the retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Parties*“. Precondition for enjoyment of the rights to the workers from other countries is their regulated status, since only the workers who have a regulated status can enjoy these rights.

## 1.2. LEGISLATION OF BOSNIA AND HERZEGOVINA

In preparation of this Report analyzed were the following pieces of domestic legislation:

- The Constitution of Bosnia and Herzegovina<sup>33</sup>;
- The Constitution of the Federation of BiH<sup>34</sup>;
- The Constitution of Republika Srpska<sup>35</sup>;
- The Statutes of Brčko District of Bosnia and Herzegovina<sup>36</sup>;

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<sup>29</sup>On 22 April 2002, Bosnia and Herzegovina has become 44<sup>th</sup> member of the Council of Europe and has undertaken to fulfill the obligations contained in the Opinion of the Parliamentary Assembly of the Council of Europe, among other things, to sign and ratify the European Convention on Human Rights and Fundamental Freedoms which was done on 12 July 2002.

<sup>30</sup>Article 3 of European Convention on Human Rights and Fundamental Freedoms

<sup>31</sup>Article 5. Ibid

<sup>32</sup>European Social Charter (revised), Strasbourg, 3 May 1996. Bosnia and Herzegovina signed it on 11 May 2004 and ratified it on 7 November 2008

<sup>33</sup>Annex IV of the General Framework Agreement for Peace in Bosnia and Herzegovina signed on 14 December 1995

<sup>34</sup>The Constitution of the Federation of BiH „Official Gazette of Federation of BiH“ no. 1/94, 13/97, 16/02, 22/02, 52/02, 18/03, 63/03, 9/04, 20/04, 33/04, 72/05, 71/05, 88/08.

<sup>35</sup>The Constitution of Republika Srpska, „Official Gazette of Republike Srpske“, br. 21/9 – consolidated, 28/94, 8/96, 13/96, 15/96, 16/96, 21/96, 21/02, 26/02, corrigendum, 30/02, corrigendum, 31/02, 69/02, 31/03, 98/03, 115/05, 117/05 and 48/11.

<sup>36</sup>The Statutes of Brčko District of Bosnia and Herzegovina, „Official Gazette of Brčko district of BiH“, no. 17/08 and 39/09.

- Law on Aliens<sup>37</sup>;
- Law on Asylum<sup>38</sup>;
- Law on Citizenship of Bosnia and Herzegovina<sup>39</sup>;
- Law on Border Police of Bosnia and Herzegovina<sup>40</sup>;
- Law on Border Control<sup>41</sup>;
- Law on Police Officers of Bosnia and Herzegovina<sup>42</sup>.

**The Constitution of Bosnia and Herzegovina** provides that „*Bosnia and Herzegovina and both Entities shall ensure the highest level of internationally recognized human rights and fundamental freedoms.....*“, and that the „*The rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Bosnia and Herzegovina. These shall have priority over all other law* “<sup>43</sup>. Furthermore, the Constitution of Bosnia and Herzegovina sets forth that „*The enjoyment of the rights and freedoms provided for in this Article or in the international agreements listed in Annex I to this Constitution shall be secured to all persons in Bosnia and Herzegovina without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status*“.

In Article 2 **the Constitution of the Federation of Bosnia and Herzegovina** provides that „*the Federation undertakes to ensure full national equality, democratic relations and the highest standards of human rights and freedoms, in particular the prohibition of discrimination based on race, color, sex, language, religion or creed, political or other opinions, and national or social origin*“.

The preamble of **the Constitution of Republika Srpska** reads as follows: „*Respecting the will of its constituent peoples and citizens to establish and preserve the Republika Srpska and to base the constitutional establishment of the Republic upon the respect for human dignity, freedom and equality, national equality, democratic institutions, rule of law, social justice, pluralistic society, guarantees for and protection of human freedoms and rights, as well as the rights of minority groups, in line with the international standards, ban on discrimination and respect for the rules of market economy*“. In Article 10 of the Constitution of Republika Srpska highlighted is prohibition of discrimination irrespective of their race, sex, language, national origin, religion, social origin, birth, education, property status, political and other beliefs, social status and other personal attributes.

In Article 13 of the **Statutes of the Brčko District of Bosnia and Herzegovina** provide the following „*Everyone is entitled to the enjoyment of all rights and freedoms guaranteed under the Constitution and laws of Bosnia and Herzegovina, this Statute and the laws of the District, without discrimination of any kind, including discrimination on the basis of gender, race, sexual*

<sup>37</sup> Law on Aliens,“ Official Gazette of BiH“, 88/15.

<sup>38</sup> Law on Asylum,“ Official Gazette of BiH“, no. 11/16 ; Corrigendum of the Law on Asylum,“ Official Gazette of BiH“, no. 16/16.

<sup>39</sup> Law on Citizenship of Bosnia and Herzegovina,“ Official Gazette of BiH“, br. 4/97, 13/97, 41/02, 6/03 and 14/03.

<sup>40</sup> Law on Border Police of Bosnia and Herzegovina,“ Official Gazette of BiH“, br. 50/04, 27/07 and 59/09.

<sup>41</sup> Law on Border Control,“ Official Gazette of BiH“, br. 53/09, 54/10 and 47/14.

<sup>42</sup> Law on Police Officers of Bosnia and Herzegovina, “Official Gazette of Bosnia and Herzegovina”, no. 27/04, 63/04, 5/06, 58/06, 15/08, 63/08, 35/09 and 7/12.

<sup>43</sup> Article II. 1 and 2 of the Constitution of BiH – Human rights and international standards

*orientation, color, language, religion, national or social origin, political or other opinion, membership of a national minority, property, birth or other status“.*

**Law on Border Police of Bosnia and Herzegovina** sets forth the mandate, organization and administration of the border police of Bosnia and Herzegovina. This law establishes the border protection system according to which within the framework of its mandate the Border police of Bosnia and Herzegovina enforces the provisions of the Law on Surveillance and Control of the Crossing of State Border of Bosnia and Herzegovina and the Law on movement and Stay of Aliens and Asylum by preventing, detecting and investigating criminal offences prescribed by the said pieces of legislation.

In particular, the duty to carry out the *„enforcement of the Law on Surveillance and Control of the Crossing of State Border“<sup>44</sup> is foreseen, as well as Providing police support to organizational units within the Ministry of Security in the implementation of the Law on Movement and Stay of Aliens in Bosnia and Herzegovina“<sup>45</sup>. An important segment relates to provision of *„ expert opinion with respect to the validity of documents used or intended to be used for crossing the border (travel documents, personal identification documents and all other documents related to the movement of persons, vehicles and goods across the state border“)*<sup>46</sup>.*

Issues related to border control and crossing of state border of Bosnia and Herzegovina, border crossings, borderline, protected areas and other issues related to the border control are governed by the **Law on Border Control**. These duties involve the following: *„securing the inviolability of the state border, protection of life and health of people, prevention and detection of crimes and misdemeanors, detection and finding the offenders, prevention of illegal cross-border migration and prevention and detection of other hazards to public security, legal order and national security“<sup>47</sup>. Carrying out the border control means to guarantee the inviolability of the state border and prevention of illegal cross-border migration.*

Article 2 para 2 of the Law on Border Control defines that the border police of Bosnia and Herzegovina *„has the obligation to observe the principle of non-refoulement and non-sanctioning of illegal entry or stay in the country of asylum-seekers or persons applying for other form of international protection and refugees“.*<sup>48</sup>

Article 29 of this Law sets forth the obligation of undergoing the border controls as follows *„every person intending to cross the borderline or has already crossed it has the obligation to stop and present the valid travel document. Such a person is obligated to explain to the police officer of the border police of BiH all circumstances related to meeting the conditions for crossing the state border and observe the warnings and orders of the police officer“.*

Border control activities include: control of persons, things and transportation means<sup>49</sup>. In conducting the border control the police officer is authorized to do the following: *„ask a travel document to be presented; check the travel documents; carry out checks to detect and prevent*

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<sup>44</sup> Article 7 para 1 of the Law on Surveillance and Control of the Crossing of State Border of Bosnia and Herzegovina

<sup>45</sup> Article 7. para 5, Ibid.

<sup>46</sup> Article 7 para 9, Ibid.

<sup>47</sup> Article 2 para 1 items: a, b, c, d, e of the Law on Border Control.

<sup>48</sup> „The provisions of this Law do not affect the responsibility of the authorities, and in particular the Border Police of Bosnia and Herzegovina (hereinafter referred to as BPBiH) under the laws of Bosnia and Herzegovina and the 1951 Convention on the Status of Refugees and its 1967 Protocol. The BPBiH is obliged to observe the principle of restitution and prohibition of sanctioning for illicit entry or presence in the country of asylum seekers or persons enjoying other forms of international protection and refugees as prescribed by the Law on Movement and Stay of Aliens and Asylum.“

<sup>49</sup> Article 30 of the Law on Border Control



*threats to national and public security and legal order; enter into the travel document the data on denial of entry into the country and other relevant information; take measures and actions to establish the identity of the persons using the criminalistic investigation methods and means when there is a suspicion of the authenticity of a document for crossing the state border; stop and hold the person as long as necessary to carry out the border check; issue the warnings and orders aimed at conducting the proper, smooth and swift border check; check the records of wanted persons and other relevant records; carry out the frisk or search if the check cannot be conducted in another way*<sup>50</sup>.

Monetary fine in the amount ranging from 300.00 to 1,500.00 BAM will be imposed for a misdemeanor involving *„a physical person trying to cross the state border outside the official working times of a border crossing, or without the valid travel documents or in contravention of the purpose of a border crossing*. Monetary fine is also envisaged for the *persons avoiding the border controls or who leave the area of a border crossing prior to the border control or otherwise try to escape the border control*<sup>51</sup>.

Police Officers of the Border Control Service of Bosnia and Herzegovina carry out the border control duties. Their authorizations and their work status are governed by **the Law on Police Officers of Bosnia and Herzegovina**. Conditions for acquiring and cessation of the citizenship of Bosnia and Herzegovina in accordance with the Constitution of Bosnia and Herzegovina are listed in **the Law on BiH Citizenship**, which also harmonizes the provisions of the entity citizenship law<sup>52</sup>.

### **Law on Aliens**

Taking into account the constant changes in the legislation of the European Union and the obligation to align domestic legislation in this area with European regulations, the Ministry of Security of Bosnia and Herzegovina, through the Strategy on Migration and Asylum and its Action Plan for the period 2012-2015, has envisaged the adoption of two pieces of legislation, namely, the Law on Aliens and the Law on Asylum.

Parliamentary Assembly of Bosnia and Herzegovina at the 19<sup>th</sup> session of its House of Representatives held on 28 October 2015 and 11<sup>th</sup> session of the House of Peoples held on 10 November 2015 adopted the Law on Aliens.<sup>53</sup> This Law<sup>54</sup> governs the area of immigration. It regulates the conditions and procedures for entry of aliens in Bosnia and Herzegovina including the visa and non-visa regime; travel documents for aliens; stay of aliens in BiH; removal of aliens from BiH; admission of aliens and placement of aliens under surveillance; competency of authorities relevant for the implementation of this Law; and the other issues related to the stay of aliens in BiH. This Law also regulates the violations and penalties for breaching the provisions of this Law and other issues related to the stay of aliens in Bosnia and Herzegovina.

A novelty, compared to the Law on Movement and Stay of Aliens and Asylum is that the Law on Aliens foresees that temporary residence can be granted on the grounds of highly qualified

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<sup>50</sup> Article 31 of the Law on Border Control.

<sup>51</sup> Article 62 of the Law on Border Control

<sup>52</sup> Article 1 of the Law on Citizenship of Bosnia and Herzegovina

<sup>53</sup> The first legislative document governing the immigration and asylum issues at the level of Bosnia and Herzegovina was the 1999 Immigration and Asylum Act. With this law in place, the area of immigration and asylum was harmonized with the Constitution and the conditions for further legal and institutional development in this area were created.

<sup>54</sup> Article 1 (Scope of the Law), Law on Aliens, "Official Gazette of BiH", no. 88/15

employment, that is, the introduction of the possibility of the issuance of a „blue card”, in addition to granting the temporary residence to aliens seasonal workers, and in cases of redeployment within a legal entity to managerial positions, experts or trainees who are relocated to Bosnia and Herzegovina while their residence is defined otherwise for purposes of the scientific research.<sup>55</sup>

An alien may enter BiH and stay on its territory with a valid travel document or other ID document to be used for the entry into Bosnia and Herzegovina (most of irregular migrants present in Bosnia and Herzegovina do not possess any identification document). While entering the country an alien has to present the proof of having sufficient subsistence means existence of which is established in a manner described in Article 23 of the Law. An alien is considered to have entered to have entered the country once he/she has crossed the state border of BiH or passed the post where the border control is performed. Border police of Bosnia and Herzegovina makes a decision to refuse the entry at the border crossing if there are reasons for it, that is, if an alien does not fulfill the general and special requirements for entry into Bosnia and Herzegovina. Reasons for refusal of entry<sup>56</sup>, and proceedings and consequences of entry refusal<sup>57</sup> to an alien are defined in articles 24 and 25 of the Law on Aliens.

If an alien has „crossed or attempted to cross the state border outside a border crossing post open for international traffic, or outside a border crossing post designated for the traffic between BiH and neighboring countries”<sup>58</sup>. Most of irregular migrants in Bosnia and Herzegovina had this status because of the manner of their entry into Bosnia and Herzegovina, that is, crossing the state border outside the border crossing.

Freedom of movement of aliens in Bosnia and Herzegovina is prescribed in Article 8 of the Law on Aliens which foresees that *aliens with legal residence in BiH shall enjoy the right to free movement within BiH and free choice of place of residence*. This right can be partially or fully restricted in accordance with the law and *to the extent necessary for a democratic society and the benefit of state or public security, preservation of legal order, prevention of crime, protection of health or morality, or for the protection of the rights and freedoms of others*.

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<sup>55</sup> [http://www.msb.gov.ba/PDF/Strategija\\_HRV\\_2016.pdf](http://www.msb.gov.ba/PDF/Strategija_HRV_2016.pdf) p.31.

<sup>56</sup> Article 24. para 2 (Reasons for refusal of entry) „a) submits a falsified travel document while attempting to enter BiH; b) submits a falsified visa or temporary residence permit while attempting to enter BiH; c) is a citizen of non-visa regime country who had already spent 90 days on BiH territory during any period within 180 days, where the 180 day period refers to the period preceding each day of stay, unless he/she is subject to the provision referred to in Article 20 (Entry on special conditions) of this Law; d) had already completed the period of residence under an international agreement to which BiH is signatory, unless the entry conditions were otherwise acquired; e) is believed to conduct a type of business requiring a work permit, and is not a subject to the provisions of Article 77 (Residence for the purpose of employment without a work permit and certification on registered business) of this Law, f) is subject to BiH visa cancellation or annul.

<sup>57</sup> Article 25 (Proceedings and consequences of entry refusal) „(2) Alien refused to enter BiH due to non-fulfilment of requirements for entering BiH under this Law shall be issued with a decision on refusal of entry. (3) Decision on refusal of entry shall indicate the reason for refusal of entry, and is to be issued on the form filled in by an authorised Border Police officer. The alien shall confirm the receipt of such decision by signing the decision form, and shall keep one copy. If the alien has refused to sign the decision, the fact shall be indicated as a remark in the decision form and considered that the decision is served to him/her. (4) At the border crossing point, an authorised Border Police officer shall inform the alien who is refused entry to BiH to immediately leave the area of border crossing on the account of his/her forbidden entry into BiH. (5) Decision on refusal of entry shall be enforced immediately, by affixing the stamp imprint »ENTRY DENIED« or another appropriate mark to the alien's travel document. If the alien is not in possession of a travel document where the stamp imprint or other appropriate mark could be affixed, this fact shall be indicated as a remark in the decision form. (6) Decision on refusal of entry may be appealed to the Ministry within 15 days following the day of delivery or service of the decision. The appeal shall not stay the enforcement of the decision. (7) Decision on refusal of entry may be appealed to the Ministry within 15 days following the day of delivery or service of the decision. The appeal shall not stay the enforcement of the decision. (8) Alien refused to enter BiH may enter BiH once he/she had corrected the reasons for refusal of entry. (9) If the appellate proceedings reveal that there were no grounds for refusing the alien's entry into BiH, such fact shall be recorded in the Central Database on Aliens, and followed by annulling the stamp on denied entry during the alien's subsequent entry to BiH by affixing the stamp imprint "ANNULLED".

<sup>58</sup> Article 16 (Illegal crossing of BiH state border) Law on Aliens

Article 9 of the Law on Aliens provides for prohibition of discrimination against aliens on any ground including: *their gender or sex, race, color of skin, language, religion, political and other opinion, ethnic and social origin, affiliation to a national minority, property status, status acquired by birth, or any other status.*

During their entrance, movement, stay in and exit from Bosnia and Herzegovina aliens are obliged to *comply with the legal order of BiH while entering, moving and staying in the country, as well as comply with laws, regulations and decisions of the official authorities of BiH*<sup>59</sup>.

At all stages of the proceedings, aliens should be informed of the rights and obligations arising from the law while the authority conducting the proceedings shall make possible for an alien not understanding the language of conducted proceedings to follow the course of the proceedings through an interpreter or translator. The requests for exercising the rights under this Law and evidence substantiating the request, as well as summons, rulings and other writs and documents shall be served in one of the official languages of Bosnia and Herzegovina<sup>60</sup>. During the stay on the territory of BiH, an alien should be in possession of a travel document used for entering BiH or of another identification document or appropriate certificate issued in Bosnia and Herzegovina<sup>61</sup>.

The Service for Foreigners' Affairs Service is competent for initiating and conducting the procedures for establishing identity of aliens. In case the procedure for establishment of alien's identity was initiated by Border Police or Police with a conclusion that it is impossible to immediately verify his/her identity or there are grounds to suspect the veracity of his/her identity statements that cannot be clarified within six hours, the Border Police of Bosnia and Herzegovina notifies the Service about it. An alien without the evidence on his/her identity provides the Service with a statement on his/her identity and biometric data. An alien, whose identity is impossible to immediately verify or there are grounds to suspect the veracity of his/her statements of identity or the identity of whom cannot be verified with certainty even within six hours after being taken to the official premises, is placed under surveillance and may be subjected to the expulsion from Bosnia and Herzegovina<sup>62</sup>.

## **Law on Asylum**

The Parliamentary Assembly of Bosnia and Herzegovina at 24<sup>th</sup> session of its House of Representatives held on 3 February 2016 and 14<sup>th</sup> session of the House of Peoples held on 9 February 2016 has adopted the Law on Asylum. This Law lays down the authorities responsible for its implementation, principles, conditions and procedure for granting a refugee status, the status of subsidiary protection, cessation and revocation of a refugee status and the status of subsidiary protection, temporary protection, identification documents, rights and obligations of asylum-seekers, refugees and aliens under subsidiary protection, as well as other issues related to asylum in Bosnia and Herzegovina<sup>63</sup>.

The first step for aliens in the process of implementation of their right to asylum is ***the expression of the intent to apply for asylum*** in Bosnia and Herzegovina. Pursuant to Article 31 of the Law on Asylum an alien may express the intent to apply for asylum to:

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<sup>59</sup> Article 10 (Obligation to comply with public order of BiH), Law on Aliens

<sup>60</sup> Article 12 (Obligations of the competent authorities in the proceedings), Law on Aliens

<sup>61</sup> Article 13 (Obligation to carry and present a proof of identity), Law on Aliens

<sup>62</sup> Article 14 (Establishing identity), Law on Aliens

The Ombudsman does not possess the data on number of persons subjected to the measure of expulsion from BiH.

<sup>63</sup> Article 1. (subject-matter), Law on Asylum.

- BiH Border Police at a border crossing; or
- organizational units of the Foreigners' Affairs Service.

If an alien expresses the intent to apply for asylum at a border crossing, the BiH Border Police immediately notifies the organizational unit with territorial jurisdiction, which has the obligation to accept the alien. The BiH Border Police or the organizational unit of the Service to which the alien has expressed his/her intent to file the asylum application informs the alien about the procedure for seeking asylum and his/her rights and obligations.

The organizational unit of the Service issues the attestation of the expressed intent to an alien who expresses the intent to apply for asylum, which sets out the movement route and the deadline for approaching the Ministry in order to apply for asylum in person. The organizational unit of the Service shall immediately upon the expression of the intent send a copy of the attestation of the expressed intent to the Ministry, together with copies of personal and other documents of the alien who has expressed the intent, which are relevant to the asylum procedure.

The attestation of the expressed intent to apply for asylum cannot be valid longer than eight days save in cases when a large number of intentions to apply for asylum are expressed at the same time, the attestation of the expressed intent may be valid for 14 days<sup>64</sup>. Organizational unit of the Service in which the intent is expressed is obligated to transfer the person who expressed the intention to the center for reception and accommodation of asylum-seekers.

The Law on Aliens and the Law on Asylum defines the meaning of certain terms as follows:

- a) **Alien** is a person who is not a BiH citizen.
- b) **Stateless person** is an alien who is not considered as a national by any country, in accordance with its legislation.

Pursuant to the Law on Asylum<sup>65</sup>

- a) **Asylum-seeker** is an alien who has filed the asylum application, upon which no enforceable decision has been made in accordance with the Law.
- c) **Asylum** covers both a refugee status and a subsidiary protection status, in accordance with the Law.
- d) **Refugee** is an alien or a stateless person who is recognized as such by the BiH Ministry of Security, in accordance with the *1951 Convention relating to the Status of Refugees* and the *1967 Protocol relating to the Status of Refugees* and this Law.
- e) **Refugee status** is the status recognized in accordance with the decision of the competent authority on fulfillment of requirements mentioned in Article 19 of the Law.
- f) **Alien under subsidiary protection** is an alien whose status of subsidiary protection is recognized by the BiH Ministry of Security, in accordance with the Law.
- g) **Subsidiary protection** is the status recognized in accordance with the decision of the competent authority on fulfillment of requirements mentioned in Article 22 of the Law.

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<sup>64</sup> Article 32 (attestation of the expressed intent), Law on Asylum.

<sup>65</sup> Article 2 (Meaning of the phrases used in the Law), Law on Asylum.

- h) **Temporary protection** is the protection of urgent and temporary character, which is granted to an alien in cases of mass influx, in accordance with this Law.
- i) **Alien under temporary protection** is a national of the third country or a stateless person to whom the protection mentioned in sub-paragraph i) above has been granted.
- j) **Mass influx** is the arrival of a large number of aliens who have left their country of origin and are unable to return there because of an armed conflict or systematic and general violation of human rights.
- k) **Minor** is an alien younger than 18 years of age.
- l) **Unaccompanied minor** is an alien younger than 18 years of age (a minor), who has entered BiH or who, after entering BiH, has remained unaccompanied by a person older than 18 years of age (an adult person) that is responsible for him/her by law or by a power of attorney, until he/she is placed under the care of such person.
- m) **Family member** of an asylum-seeker, a refugee, an alien under subsidiary or temporary protection is a marital or a common-law partner, a minor child of marital or common-law partners, a minor child of any of them, their minor adopted child, a minor adopted child of any of them, provided that they have not established their own families, parents or another legal guardian of the minor, adult children of the asylee (*azilant*), alien under subsidiary protection or alien under temporary protection who, due to their health condition, are not able to take care of their needs, a parent or another legal representative of the child, first-degree relative in a straight ascending line with whom he/she lived in a joined household, provided that it is determined that he/she depends on the care of the applicant, asylee, alien under subsidiary protection or alien under temporary protection.
- n) **Intention to apply for asylum** (hereinafter: intention) is the will, expressed orally or in writing, of a stateless person to submit the application in accordance with Article 31 of the Law.
- o) **Asylum application** is an application filed by an alien and considered a request for recognition of a refugee status or the status of subsidiary protection in BiH.
- p) **Center for reception and accommodation of asylum-seekers** is a specialized institution intended for joint reception and accommodation of asylum-seekers.

## II INSTITUTIONAL MECHANISMS

This Chapter comprises information on the institutions responsible for dealing with migrations in Bosnia and Herzegovina pursuant to the provisions of the Law on Aliens and the Law on Asylum, as well as information on other subjects acting in this field on other grounds, such as the treaties and other documents<sup>66</sup>.

### 2.1. Relevant institutions in Bosnia and Herzegovina

Relevant institutions in Bosnia and Herzegovina according to Article 3 para 1 of the Law on Aliens are the following:

1. Council of Ministers of Bosnia and Herzegovina;
2. Ministry of Safety of Bosnia and Herzegovina;
3. Ministry of Foreign Affairs of Bosnia and Herzegovina;
4. Ministry of Civil Affairs of Bosnia and Herzegovina
5. Ministry of Human Rights and Refugees
6. Foreigners' Affairs Service;
7. Border Police of Bosnia and Herzegovina;
8. Other police agencies in BiH
9. Labor and Employment Agency of Bosnia and Herzegovina
10. Other relevant bodies.

In respect of the asylum, the above list can be extended to include the Court of Bosnia and Herzegovina and the BiH Ministry of Human Rights and Refugees.<sup>67</sup>

#### **Ministry of Safety of Bosnia and Herzegovina**

Ministry of Safety of Bosnia and Herzegovina is responsible for the protection of international borders, internal border crossings and regulation of traffic at the border crossings of Bosnia and Herzegovina. It organizes the procedures and the methods of organization of services related to the movement and stay of aliens in Bosnia and Herzegovina. It has an Asylum Sector and an Immigration Sector (Asylum Sector) and organizational unit responsible for immigration (Immigration Sector).

**Asylum Sector** carries out the administrative and other professional tasks related to the enforcement and implementation of the asylum policy and procedures in Bosnia and Herzegovina, coordinates the work of the competent organizational units, carries out tasks related to the preparation of preliminary drafts, draft laws and bylaws in this field, provides reception, accommodation and support to asylum seekers, monitors the situation regarding the achievement of European standards in this area, carry out analysis and reporting, as well as other activities that, by their nature, fall within the competence of this sector.<sup>68</sup>

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<sup>66</sup>The UN agencies, international and local NGOs

<sup>67</sup> Article 3 of the Law on Asylum "Official Gazette of BiH", no. 11/16 and 16/16

<sup>68</sup> <http://www.msb.gov.ba/onama/default.aspx?id=1673&langTag=bs-BA>

This Sector includes 3 sections:

- a) Asylum Procedure Section;
- b) Support Section and
- c) Acceptation and Program Section.

On 15 August 2018 the Asylum Sector, the Foreigner's Affairs Service and the International Organization for Migrations have signed an Agreement on functioning and the logistic support to the temporary shelter Center „Ušivak“<sup>69</sup>. This agreement regulates co-operation and mutual assistance in improving the migration crisis management system, including accommodation, nutrition, medical care of refugees and migrants, reimbursement of the costs of the utilities and infrastructure maintenance, physical security of property and persons in temporary shelter center „Ušivak“.<sup>70</sup>

This Agreement sets out the obligation of the interested parties in the following fashion:

- Asylum Sector, in accordance with its mandate, carries out the registration of asylum-seekers on the premises of temporary shelter center „Ušivak“;
- the Foreigner's Affairs Service makes co-ordination of work and management of the temporary shelter center and other tasks and duties within its legal mandate;
- the International Organization for Migration organizes construction and technical works in order to put the temporary shelter center in function until its final establishment.

In respect of the registration of the asylum-seekers there are issues related to the updating the data due to organizational problems, that is, human resources available to the Ministry of Safety of Bosnia and Herzegovina, primarily the Asylum Sector<sup>71</sup>. The problem in the process of registration of asylum seekers has emerged since the time when Bosnia and Herzegovina faced intensified migration, that is, when it became part of the current migration routes.

The Asylum Sector faces the problem in accepting the registration requests which do not reach them on time because the Protocol of the Ministry of Safety is not able to bring all received requests up to date and convey them to the Sector for further procedure. These requests remain for long time period in the Protocol of the Ministry of Safety. It is obvious that the document processing system of the Asylum Sector is not functional and efficient, in particular taking into consideration the fact that two persons are engaged on registration of asylum-seekers, one being paid by the UNHCR.

**Immigration Sector** carries out the administrative and other professional tasks related to the enforcement and implementation of the asylum policy and procedures in Bosnia and Herzegovina, tasks related to the preparation of preliminary drafts, draft laws and bylaws in this field, provides reception of the citizens of Bosnia and Herzegovina pursuant to the re-admission agreements, carries out the reception and accommodation of the foreign citizens victims of

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<sup>69</sup> On 21 September 2018 Ombudsperson of Bosnia and Herzegovina Jasminka Džumhur, PhD, along with Deputy Ombudsman Halilović Emina and associates paid a visit to the Ministry of Safety of Bosnia and Herzegovina/Asylum Sector. In this occasion a meeting was held with Deputy Minister of Safety Mr. Baotić Marjan who highlighted the importance of the signed Memorandum of Understanding between the Asylum Sector, the Foreigners' Affairs Service and the International Organization for Migration.

<sup>70</sup> Temporary shelter center „Ušivak“ was opened on 23 October 2018

<sup>71</sup> At the meeting held on 21 September 2018 in the Asylum Sector it was emphasized that only two employees work on registration of asylum-seekers on the territory of the whole Bosnia and Herzegovina.

trafficking in persons, carries out the analysis and reporting, as well as other activities that, by their nature, fall within the competence of this sector. The Sector is organized in two units:

- a) Administrative Affairs, Legislation and Readmission Section;
- b) Analysis, Strategic Planning, Monitoring and Training Section.

On 25 September 2018 representatives of the Ombudsman<sup>72</sup> had a meeting in the Immigration Sector of the Ministry of Safety of Bosnia and Herzegovina<sup>73</sup>. During the meeting with the representatives of the Immigration Sector it was emphasized that a major problem for Bosnia and Herzegovina is the absence of readmission agreements with the MAGHREB countries, which are the countries of origin for a large number of foreign citizens present in the current migration flows on the territory of Bosnia and Herzegovina. In order to overcome this problem, it is necessary to take measures to ensure the efficient implementation of the readmission agreement existing with the countries in the region (Serbia and Montenegro) from territories of which the foreign citizens enter the territory of Bosnia and Herzegovina in order to return them to countries from which they entered to Bosnia and Herzegovina. Ensuring the implementation of the readmission agreement with the countries of the region should be a priority. The importance of strengthening the cooperation of the Border Service and the Foreign Affairs Department is also identified.

When it comes to placing foreign citizens under supervision until leaving Bosnia and Herzegovina, there are two methods to implement this obligation in accordance with the Law on Aliens. One method is to limit their movement in a given area or place with the obligation to report to the organizational unit of the Service for Foreigners or the Police, and the second concerns the accommodation of aliens in the Immigration Center.<sup>74</sup>

The Immigration Sector adopted an Action Plan, which foresees, among other things, the establishment of mixed centers for the accommodation of aliens. Namely, in accordance with the Law on Aliens, it is stipulated that the state can establish "*other specialized institutions for accepting aliens*". Combined centers would be established in the areas most exposed to migration pressure. These centers would imply the gathering of persons expressing their intention to apply for asylum, asylum seekers, but also irregular migrants whose movement is limited to an area or place in Bosnia and Herzegovina. It was stated that drafting of a Rulebook related to the establishment of the mixed centers.

The Ministry of Security allocates funds to ensure the availability of 30 to 40 places for accommodation of persons who are victims of human trafficking throughout the year.

### **Foreigners' Affairs Service**

Foreigners' Affairs Service (hereinfter: the Service) as an administrative organization with operative independence within the Ministry of Security of Bosnia and Herzegovina is holder of the activities in solving the immigration issues. It controls arrival of foreigners from visas regime into BiH through procedures of verification of invitation letters, solves status of foreigners in

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<sup>72</sup> Assistant Ombudsman Emina Halilović, Expert Associate Račić Fatima and Project Associate Gorica Ilić

<sup>73</sup> The interview was held with Deputy Minister Džaferović Murveta and her associates

<sup>74</sup> An appeal against the decision on placing an alien under the supervision rendered by the Department for Foreign Affairs can be submitted within three days to the Ministry of Security of Bosnia and Herzegovina, but the appeal does not postpone the enforcement. Also, if the Ministry does not abolish its decision on placing a foreign citizen under the supervision of the Immigration Center within a period of three days or if it does not decide on appeal within that period, the alien concerned may initiate an administrative dispute before the Court of Bosnia and Herzegovina.



BiH through approval or refusal of foreigner's stay in country, cancellation of stay, expulsion, placing under surveillance, and forced removal of foreigner from country.

The Service conducts all required security checks, prior to making decision on procedure of verification of invitation letter, checks related to previously issued consent for issuing visas type 'D', and prior to solving request for approval of temporary and permanent stay. By tackling required security checks in procedure of verification of invitation letters, or prior that foreigners arrives in BiH, the BiH security system is being protected.

The Service gathers daily data on all aspects of irregular migration and irregular migrants, monitors stay and controls stay of foreigners through their eventual misuse and the illegality of use of stay, and eventual threat to public order or national safety of country by the certain category of foreigners<sup>75</sup>. The Service has its field centers in: Sarajevo, Banja Luka, Mostar, Tuzla, Zenica, Brčko, Dobo, Istočno Sarajevo, Bihać, Travnik, Trebinje, Bijeljina, Livno, Ljubuški, Orašje and Goražde.

In June 2018 the Service established the online system for registration of the stay of aliens in Bosnia and Herzegovina „e-stranac.ba“ which has significantly speeded up the aliens registration process<sup>76</sup>. Also, the Service established biometry registration system that enables the insight into the number of the registered aliens, as well as the number of those who applied for asylum.

Based on the Agreement on Cooperation with the Asylum Sector and the International Organization for Migration, the Service will coordinate the work and manage the temporary reception center "Ušivak". This means that it will perform tasks within the scope of their legal mandate, which include:

- Keeping records of aliens,
- identification and taking of biometric data,
- issuance of the attestations on the intention to apply for asylum in Bosnia and Herzegovina,
- accommodation of foreigners and ensurance of implementation of the procedures prescribed by the House Rules.

### **Border police of Bosnia and Herzegovina**

Border police of Bosnia and Herzegovina as an administrative organization with operative independence within the Ministry of Security of Bosnia and Herzegovina, established for the purpose of conducting police affairs related to the supervision and control of the crossing the borders of Bosnia and Herzegovina and other activities regulated by law. The border control is carried out at 83 border crossings, of which 55 are international and 28 for border traffic. It is structured to ensure coordination of all activities at the central, regional and local levels. It has established an organizational structure whose competence is to detect and counteract illegal migration at the central, regional and local level<sup>77</sup>.

### **The State Investigation and Protection Agency**

The State Investigation and Protection Agency is an operatively independent administrative organization within the Ministry of Security of Bosnia and Herzegovina. It was established to discharge police duties whose competencies include prevention, detection, and investigation of

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<sup>75</sup> <http://sps.gov.ba/nadleznost/?lang=hr>

<sup>76</sup> The system enables the use of so-called passport readers, meaning that the scanning of travel documents allows for the completion of all data in the system, which speeds up and facilitates the whole process.

<sup>77</sup> <http://www.granpol.gov.ba/Content/Read/13?title=Organizacija>

criminal offences related, among other things, to human trafficking. The headquarters of the State Investigation and Protection Agency is in Istočno Sarajevo and it has four regional offices, namely: Banja Luka, Tuzla, Mostar and Sarajevo<sup>78</sup>.

Organizational structure of the Criminal Investigation Department includes the Section for Prevention and Detection of Organized Crime, Crime related to Trafficking in Human Beings, Narcotics and other Criminal Offences in charge of prevention, detection and investigation of organised crime, crime related to human trafficking. This Section also coordinates activities of regional offices in this area.

### **Ministry of Foreign Affairs of Bosnia and Herzegovina**

The Ministry of Foreign Affairs of Bosnia and Herzegovina discharges certain duties related to the migration management system in Bosnia and Herzegovina, including the regular analysis of the work of the diplomatic and consular missions of Bosnia and Herzegovina in the field of visa and passport affairs. Based on the monitoring of migratory movements in Bosnia and Herzegovina, it takes actions, along with other competent state bodies and institutions, to prevent illegal migration and management of migration processes.

### **The Ministry of Human Rights and Refugees of Bosnia and Herzegovina**

The Ministry of Human Rights and Refugees includes the **Sector for refugees, displaced persons and housing** which is in charge of access to the right to work, health care and social protection, as well as education, housing and other rights enshrined by the applicable legislation in Bosnia and Herzegovina. The Sector prepares suggestions for the formulation and enhancement of the policies in the following areas:

- refugees from Bosnia and Herzegovina, displaced persons in Bosnia and Herzegovina, returnees as well as refugee rights in Bosnia and Herzegovina, housing policies, and monitoring their implementation;
- preparation of laws, bylaws and other regulations relating to refugees, displaced persons and returnees, acceptance and refugee rights and housing policy;
- participates in the preparation of proposals for agreements and protocols in the area of refugees, displaced persons, returnees and housing policies; takes care of its implementation;
- cooperates with domestic and international, governmental and non-governmental organizations and institutions and the civil sector in the sphere of their field of work ...

The Ministry also includes the **Sector for Diaspora** which carries out the following duties:

- definition of the policies and implementation of the established policies related to diaspora;
- gives objections, suggestions and proposals in the preparation of legislation, bylaws and other regulations in this area;
- follows-up and gives suggestions for the conclusion of bilateral agreements in the areas of interest for diaspora;
- provides regular information for Bosnia and Herzegovina's diaspora on the situation in Bosnia and Herzegovina, and in particular on issues of importance for the diaspora;
- informs the relevant authorities of Bosnia and Herzegovina with issues related to the diaspora and follows-up the resolution of these issues;

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<sup>78</sup> <http://www.sipa.gov.ba/bs/o-nama/generalne-informacije>

- provides expert assistance to the Bosnia-Herzegovina citizens in the diaspora in the exercise and protection of their rights and cooperates with the relevant ministries in solving these issues ...<sup>79</sup>.

On 24 September 2018 representatives of the Ombudsman<sup>80</sup> had a meeting in the Ministry of Human Rights and Refugees<sup>81</sup> at which were presented the basic information on the Refugee Shelter Center Salakovac, which is divided to two parts: Refugee Reception Center in Salakovac with capacity of 224 places which is operating since 2000 and the Readmission Center in Mostar with capacity of 80-100 places established in 2013.

The third segment of the Salakovac Center is related to the accommodation of the foreign citizens who have expressed intention to seek asylum and the asylum-seekers. This segment is established in 2018. In May this year because of a large number of irregular migrants present in Bosnia and Herzegovina, the Ministry of Safety of Bosnia and Herzegovina asked that a part of space in the Refugee Center be earmarked for the reception of these persons<sup>82</sup>.

In this respect between the Ministry Safety of Bosnia and Herzegovina and the Ministry of Human Rights and Refugees of Bosnia and Herzegovina signed was a Protocol on the Rights and Obligations during the provision of temporary shelter in the Salakovac Center and the Readmission Center in Mostar of foreign citizens who expressed the intention to seek asylum and asylum-seekers in Bosnia and Herzegovina.

Readmission Center in Mostar which operates within the Salakovac Center was formed to provide reception and care to the citizens of Bosnia and Herzegovina who are returned under readmission agreements. Pursuant to the Law on Ministries and Other Administrative Bodies in Bosnia and Herzegovina<sup>83</sup> the reception and care of the citizens of Bosnia and Herzegovina who are returning to Bosnia and Herzegovina under readmission agreements falls within the mandate of this Ministry.

At the end of 2015 the Parliamentary Assembly of Bosnia and Herzegovina adopted the Strategy for the admission and integration of the citizens of Bosnia and Herzegovina who are returning based on readmission agreements. Under this Strategy, Bosnia and Herzegovina assumes the obligation to actively work on the establishment of the admission and integration system earmarked to the domestic citizens returned based on readmission agreements. As much as 21 local community is included into this system<sup>84</sup> in the framework of which the local readmission teams are established<sup>85</sup> and local action plans adopted in the area of readmission. The aim of the establishment of the local readmission teams is to enable adequate coverage of the Bosnia and Herzegovina. It was emphasized that the co-operation with the teams from Republika Srpska is

<sup>79</sup> [http://www.mhrr.gov.ba/organizaciona\\_struktura/default.aspx?id=5&langTag=bs-BA](http://www.mhrr.gov.ba/organizaciona_struktura/default.aspx?id=5&langTag=bs-BA)

<sup>80</sup> Assistant Ombudsman Emina Halilović, Expert Associate Račić Fatima and Project Associate Gorica Ilić

<sup>81</sup> The interview was held with Head of Department Lipjankić Medžid

<sup>82</sup> At its 142<sup>th</sup> session held on 15 May 2018 the Council of Ministers of Bosnia and Herzegovina took note of an Information including the suggested measures to be taken in respect of the irregular migrations and, among other things, adopted the following conclusion: „*The competent authorities of the institutions of Bosnia and Herzegovina are urged to put in place, in cooperation with other competent authorities in Bosnia and Herzegovina, all available capacities for the adequate reception, accommodation and care of migrants, particularly vulnerable categories, in accordance with the applicable laws of Bosnia and Herzegovina and accepted international standards, and organize within 48 hours the transfer and accommodation of migrants who are currently without adequate accommodation.*“

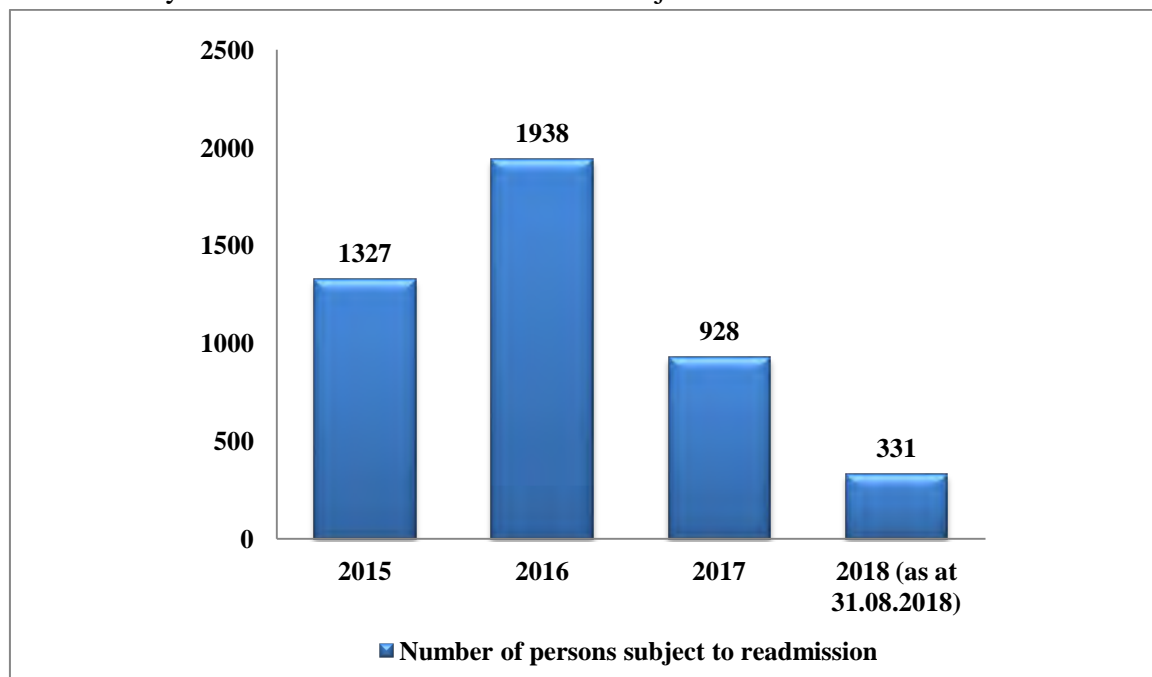
<sup>83</sup> Article 12 of the Law on Ministries and Other Administrative Bodies in Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina", no. 5/03, 42/03, 26/04, 42/04, 45/06, 88/07, 35/09, 59/09, 103/09, 87/12, 6/13, 9/16)

<sup>84</sup> Brčko District of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina (the municipalities Stari Grad Sarajevo, Bosanski Petrovac, Tuzla, Goražde, Bihać, Zavidovići, Živinice, Mostar, Zenica and Bugojno), Republika Srpska (Novi Grad, Foča, Bileća, Kotor Varoš, Kostajnica, Zvornik, Dobo, Prijedor, Bijeljina and Modriča)

<sup>85</sup> These teams include the representatives of the local administration and representatives of the social welfare centers, police administrations, employment offices, and health centers.

better than co-operation with teams from the Federation of Bosnia and Herzegovina because of the complexity of the organizational set-up of the Federation of Bosnia and Herzegovina.

Adopted and signed was a *Protocol on cooperation in admission, escort and temporary sheltering of non-accompanied children returning to Bosnia and Herzegovina under readmission agreements* between the Ministry of Human Rights and Refugees of Bosnia and Herzegovina and the relevant institutions of the Sarajevo Canton which defined the temporary admission, care and accommodation of minors in the Home for Children without the Parental Care Bjelave until their takeover by the social welfare centers with local jurisdiction.



*Preview of the implemented returns based on the readmission agreements for the past period*

In order to establish a functional system for access to and exchange of data and the establishment of a database referring to returnees under readmission agreements in the part related to the place of residence and place of birth, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina and the Identity Documents Agency, Record and Data Exchange (IDEEAA) have signed the Agreement on Continuous Access to Data through Web Services.

The third segment of the Salakovac Center refers to the accommodation of aliens who have expressed intention to apply for asylum and foreigners who are asylum seekers in Bosnia and Herzegovina. The legal status of this decision derives from the Conclusions of the Council of Ministers of Bosnia and Herzegovina, on the basis of which the Protocol on Rights and Obligations of Temporary Accommodation was signed by the Ministry of Human Rights and Refugees of Bosnia and Herzegovina and the Ministry of Security of Bosnia and Herzegovina, according to which the Center in Salakovac and the Readmission Center in Mostar from 18 May 2018 have made available accommodation facilities for the needs of the mentioned persons, which enabled the accommodation of 269 persons in this Center. The Ministry of Human Rights and Refugees state that activities are currently being carried out so that the budget line of the Ministry earmarked for the assistance to the local communities involved in this system in the amount of 150,000 BAM will be reallocated to the lines relating to the provision of food and hygiene needs of the beneficiaries of the Salakovac Center.

It is stated that in the forthcoming period, bearing in mind the weather conditions characteristic for winter period, the energy supply will emerge as a problem<sup>86</sup>, as well as continuous food and hygiene supply in addition to secondary and tertiary medical care.

Costs of health care provision for foreign citizens accommodated in privately owned buildings will also be a challenge.

### **Migration Coordination Body of Bosnia and Herzegovina**

Migration Coordination Body of Bosnia and Herzegovina (hereinafter: the Coordination Body) was established pursuant to the Decision on the Establishment of Migration Coordination Body in Bosnia and Herzegovina<sup>87</sup> as a permanent body in charge for co-ordination of the activities between the relevant institutions dealing with migrations and asylum.

The Coordination Body is composed of the senior civil servants from the Ministry of Security of Bosnia and Herzegovina (Foreigners' Affairs Office, Border Police of Bosnia and Herzegovina, State Investigation and Protection Agency, Immigration Sector and Asylum Sector), Bosnia and Herzegovina's Ministry for Human Rights and Refugees (Sector for Immigration and Sector for Refugees, Displaced Persons, Reintegration and Housing Policy) and the Ministry of Foreign Affairs of Bosnia and Herzegovina (Sector for International Legal and Consular Affairs), while and Deputy Minister of Security was appointed as a Coordination Body Chair.

The Migration Coordination Body looks at the overall situation in the area of migration and asylum, encourages and ensures inter-sectoral cooperation between relevant immigration and asylum institutions and assesses future migration trends proposing the measures for the improvement of migration policy. The competence of the Coordination Body is defined in detail in Article 2 of the Decision on the Establishment of the Coordination Body for Migration Issues in Bosnia and Herzegovina. This Decision stipulates that the Coordination Body, through the Ministry of Security of Bosnia and Herzegovina, submits an annual report to the Council of Ministers of Bosnia and Herzegovina at the latest within 60 days of the expiration of the calendar year for which the report is submitted and may, if necessary, be submitted more frequently.

The Coordination Body submitted to the Council of Ministers of Bosnia and Herzegovina „Report on Work of the Coordination Body as at 31 December 2017“. The report is designed to contain data on activities undertaken thus providing an overview of the implementation of the activities envisaged by the Strategy on Immigration and Asylum and the Action Plan for the period 2016-2020<sup>88</sup>.

### **Free Legal Aid Office of the Ministry of Justice of Bosnia and Herzegovina**

Pursuant to the provisions of the Law on Free Legal Aid at the level of Bosnia and Herzegovina, free legal aid is also provided within the Ministry of Justice of Bosnia and Herzegovina. Article 7 of the said Law defines that mandate for the provision of free legal aid to the bodies and institutions of Bosnia and Herzegovina has the Free Legal Aid Office of Bosnia and

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<sup>86</sup> Currently monthly electricity costs amount at 3,500 – 4,000 BAM, and in winter period it is expected to be around 9,000 BAM.

<sup>87</sup> „Official Gazette of BiH“, no. 10/13 dated 11 February 2013 entered into force on eight day after the publishing.

<sup>88</sup> Report on Work of the Migration Coordination Body in Bosnia and Herzegovina as at 31 December 2017 is available on the web-site of the Ministry of Safety of Bosnia and Herzegovina: <http://msb.gov.ba/dokumenti/strateski/Archive.aspx?pageIndex=1&langTag=bs-BA>

Herzegovina, which is an internal organizational unit within the Ministry of Justice of Bosnia and Herzegovina.

So, the Office is in charge of the provision of free legal aid only in relation to proceedings before the bodies and institutions of Bosnia and Herzegovina. Considering the constitutional competence of these bodies, it can be concluded that in relation to decision-making on the rights of individuals, the body in charge is predominantly the Ministry of Security of Bosnia and Herzegovina. Additional difficulty in obtaining legal aid is the fact that the Office has not been established yet and that legal aid is provided by the administrative inspectors as an additional activity on *ad hoc* basis.

### **Asylum Center Delijaš**

Asylum Center Delijaš<sup>89</sup> (hereinafter: the Asylum Center) is located in the area of Trnovo Municipality, approximately nine (9) kilometers away from the main road and 30 km from Sarajevo. It was opened in September 2014, with a capacity of 154 seats. The Asylum Center currently employs 22 people, of whom 14 are employed by the Asylum Sector of the Ministry of Security of Bosnia and Herzegovina and eight (8) new employees are funded by the United Nations High Commissioner for Refugees.

It consists of an accommodation facility, reception, a building for initial reception of asylum seekers, a restaurant, an infirmary, administrative buildings, a playgrounds, a boiler room, and water supply facilities. It is intended exclusively for asylum seekers and seekers of the international protection in Bosnia and Herzegovina. Only those foreign nationals who have initiated the asylum procedure in Bosnia and Herzegovina may be located in the Asylum Center. They can submit their request for asylum and give a statement of the intention to seek asylum at the borders.

The Asylum Center's management has an electronic database for the registration of the beneficiaries along with taking photographs and fingerprints of asylum seekers for that purpose. The access to database only has a person who makes registration thus providing the personal data protection. If required, interpreters are engaged during the registration by the Ministry of Security of Bosnia and Herzegovina.

The Asylum Center has established an entry/exit record for the facility. Although the center is equipped with kitchen, and the employment of a professional cook is planned, asylum seekers are currently preparing their meals by themselves<sup>90</sup>.

All users of the Asylum Center receive food/hygiene packages and 30 BAM as a monthly allowance for fresh food. In addition to that, the management organizes transport for them to purchase goods when necessary. Primary health care is provided for the beneficiaries of the Asylum Center<sup>91</sup>. The doctor comes every Monday and Friday for three hours, while other health services are provided by the Health Center Trnovo<sup>92</sup>. Foundation Bosnia and Herzegovina Women Initiative has engaged a psychologist who comes on Tuesdays and Thursdays, with the possibility of coming in other days as necessary.

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<sup>89</sup> Visit of the representatives of the Ombudsman took place on 04 April 2018

<sup>90</sup> At the day of Ombudsman's delegation visit there was 107 beneficiaries in the Asylum Center, and in March 2018 most of them originated from Pakistan, Libya, Iran and Syria.

<sup>91</sup> See under primary health care

<sup>92</sup> Representatives of the management emphasized that a contract is signed with the Sarajevo Canton Health Center under which the Asylum Center beneficiaries use their health services.

During the visit, it was established that the Asylum Center was provided with video surveillance. It had only two telephone booths and did not have enough waste containers. Although it is built according to EU standards, the Asylum Center is not adapted to people with disabilities, as there is no adequate access for them.

On 18 September 2018 representatives of the Ombudsman had a follow-up visit to the Asylum Center and found that there was twice as fewer beneficiaries<sup>93</sup> than at time of their first visit. On the day of the Ombudsman's visit there was 46 persons there, out of which ten (10) women, six (6) of them being girls. djevojčica. Five (5) families was found in the Asylum Center, three (3) from Syria and two (2) from Iran.

According to the data presented to the representatives of the Ombudsman the beneficiaries predominantly come from Iran, Syria, Iraq and Turkey. In the discussion with the Asylum Center Manager, he emphasized that a number of the beneficiaries had not been registered yet, according to information available to him the reason for it is the lack of staff (currently two employees) in the Asylum Sector of the Ministry of Safety of Bosnia and Herzegovina. Namely, the current employees engaged on registration cannot process all requests in timely fashion, therefore the process of registration is sometimes taking three months. For that reason it happens that the beneficiaries leave the Asylum Center prior to their registration.

This visit also included conversation with several beneficiaries who were interested in sharing their impressions of this facility. In their view, the biggest problem is that they do not have the Internet in this center, so if they want to make a phone call to their family members, they must leave the Asylum Center and go to Trnovo Municipality where the closest Internet connection can be established. During the conversation, the users pointed out that they were satisfied with the conditions of their accommodation, some of them were engaged in some sports activities, while others prepared some food according to their own wish.

The general impression after visiting this complex is that the premises of the Asylum Center are clean, neat and hygienic. It is praiseworthy that there is also a separate playroom and children's room, a children's playroom, especially having in mind that there are families with children in this Center. Language courses are also organized in the Center, twice a week. Representatives of the NGO „Vaša prava“ are coming to the Asylum Center also twice a week to provide legal assistance to the beneficiaries of the Center.

### **Immigration Center Istočno Sarajevo**

On 05 April 2018 representatives of the Ombudsman visited the Immigration Center Istočno Sarajevo<sup>94</sup> in order to see the situation of the beneficiaries of the Immigration Center, as well as the capacity of the Center.

The Immigration Center in Istočno Sarajevo was established within the Department of Foreign Nationals' Affairs and opened in July 2008. It is a specialized institution for the reception and accommodation of aliens who have to be subject to monitoring under a decision of the competent authority in Bosnia and Herzegovina in accordance with the Law on Aliens.

The Immigration Center currently employs 46 authorized persons, with 11 persons employed in the civil sector. Compared to 2007 there is a decrease in the number of employees for 12 persons due to retirement, finding new job or death. The Management of the Immigration Center asked

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<sup>93</sup> At the day of Ombudsman's delegation visit there was 46 beneficiaries in the Asylum Center, including 5 families, that is, 10 women (6 adult women and 4 girls)

<sup>94</sup> Immigration Center was visited by Jasminka Džumhur, PhD, Assistant Ombudsman Emina Halilović, and Expert Associates Fatima Račić and Damir Perić, and held discussion with acting Manager Vladislav Žuža and Muris Selimović.

the Council of Ministers of Bosnia and Herzegovina to give them permission to hire 20 new staff members, but the request was denied due to the moratorium on new employment.

Capacity of the Immigration Center is 100 places out of which male pavilion has 80 beds, female pavilion 15 beds and two family pavilions where 2 families can be accommodated<sup>95</sup>.

In 2016 there was 280 persons accommodated in the Immigration Center, in 2017 it was 834 persons, and in the period January to March 2018 there was 250 persons. On the day of the Ombudsman's visit there were a number of the beneficiaries whose movement can be restricted under certain legally provided conditions. It is mostly about the persons whose identity cannot be established. Time of their stay in the Center depends mostly on possibility of identity establishment, especially in the absence of any documents after it is found that the data they provided about their identity was false. This additionally prolongs time of their stay in the Center. Some beneficiaries in the Center file a request for the international protection (asylum) which prevents their return to their countries of origin. This also prolongs their stay. Finally, some of the beneficiaries do not want to return to their countries of origin, according to the officials of the Center.

Beneficiaries in the Immigration Center have access to primary health care at the local Health Center in East Sarajevo. Secondary health care is provided to them at the Kasindol hospital, and only if Kasindol hospital is unable to provide it, the health service will be provided at the University Clinical Center in Sarajevo. When initially admitted to the Center, the beneficiaries are given a set of hygiene supplies, clothing and footwear. Within 24 hours, the first medical examination and possible medical treatment is taking place performed and all instructions of the physician are followed promptly. They are also provided with adequate nutrition. Breakfast and dinner are prepared within the premises of the Immigration Center, and lunch is delivered daily by Service for Common Affairs of the Institutions of Bosnia and Herzegovina.

In order to follow-up the situation in the area of migrations, representatives of the Ombudsman paid another visit to the Immigration Center on 17 September 2018<sup>96</sup>. At that occasion they found around 70 persons with only five (5) women and the rest were all men. They were mostly from Iran, Pakistan, Turkey, Algeria, Morocco and Tunisia. Their identity cannot be established

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<sup>95</sup> Representatives of the management of the Immigration Center during the visit of the representatives of the Ombudsman explained the procedure applied to dealing with children. According to the information obtained, the children at the Immigration Center do not stay longer than 24 hours, usually just overnight. This possibility is provided by the Law on Aliens in Bosnia and Herzegovina in exceptional cases and for the shortest possible period. The situation is simple if they have all the necessary documentation to prove their identity, while children whose identity cannot be proven do not stay in the Immigration Center. Officials of the Immigration Center on the field seek voluntary consent of the parents for the child to be accommodated in the Immigration Center, so that the family would not be separated. The Ministry of Security of Bosnia and Herzegovina has signed a protocol on cooperation with non-governmental organizations EMMAUS Solidarity Fund and "Medica" Zenica, taking care of unaccompanied children, or in cases where both mother and child are trafficked. A child who illegally enters with his/her parents in Bosnia and Herzegovina is placed with the parents or in the Immigration Center or at another place assigned to them by the competent service or agency. When it comes to an accompanied child who enters the country illegally, the Foreign Affairs Department will, after clearly identified procedure, take care of such a child and accommodate them in safe house of the "EMMAUS International Solidarity Fund" in Klokotnica. For these children, the Social Welfare Center in charge will appoint a temporary guardian who cares about the child's rights until the child is placed in a safe house when a new temporary guardian is appointed from the Social Welfare Center in the place in which the safe house is located. Social Welfare Center should be involved since the first contact of an unaccompanied minor with the Aliens Affairs Service at any field center. The key point is to provide adequate care to a minor or a person in a state of social need needs to be timely and adequately disposed of. Representatives of the Social Welfare Center together with the inspectors in charge of the foreign nationals must accompany such and accommodate them within the premises of the MFS-EMMAUS, as this is currently the only option for accommodating children foreign nationals in Bosnia and Herzegovina. From then the social assistance for an alien child falls to the Social Welfare Center Doboj Istok and from that moment on they should be included throughout the process until such a child is handed over to the country of origin. Further, attempts are made to establish a true identity of the child in order to establish contact with social services in the child's place of residence (country of origin) from which the child arrived in Bosnia and Herzegovina.

<sup>96</sup> Visit of the Ombudsman's representatives took place on 17 September 2018 (Ombudsperson of Bosnia and Herzegovina Jasminka Džumhur, PhD, Assistants Ombudsman Emina Halilović and Aleksandra Marin Diklić, Expert Advisor Dejana Kozomara, Expert Associates Fatima Račić and Miroslav Milovuk, as well as Project Associate Gorica Ilić).



easily since they often do not possess any identification documents. Also, a significant number of the beneficiaries are perpetrators of various (lighter) criminal offenses, or narcotic drug addicts (psychoactive substances). However, as pointed out in the Immigration Center, there is a suspicion that some people who reside in the Immigration Center "create channels for the exit of people/migrants from Bosnia and Herzegovina". Their addiction which requires a special treatment to be applied to such persons makes their stay in the Immigration Center more expensive and requires additional financial means to provide enough medicines or methadone therapy.

Lack of interpreters is yet another problem emphasized by the management. This aggravates communication with the beneficiaries. It is encouraging four new security workers are to be employed soon. This will strengthen the capacity of the Security Service, which is necessary having in mind the profiles of the beneficiaries (drug addicts, criminal offences perpetrators) which make the majority of the beneficiaries of the Center.

Among the challenges is also the fact that there are no signed readmission agreements with some of the countries that are countries of origin of some beneficiaries. This is chiefly so for the North African countries. As emphasized in the Immigration Center, there are many families from Iran, this is owing to the fact that the citizens of Iran did not need a visa for Serbia where they would come in legitimate fashion to Serbia, and from there they would cross the border to Bosnia and Herzegovina with the intention to reach the European countries. Also, the employees of the Immigration Center contact the Field Office of the Service for the Foreigners' Affairs in Bihać because of many practical problems on the ground. Some of the most pressing problems was solved in a way that irregular migrants from Una-Sana Canton was accommodated in the Immigration Center (20 migrants) pursuant to the instructions and the decisions of the minister of security of Bosnia and Herzegovina. The citizens of Turkey, in particular the families, are not staying long, only until their deportation, and the management of the Center praises the co-operation with Turkish authorities.

During the visit the Ombudsman's team talked to the beneficiaries who described their problems and challenges. There are two cases registered in the Institution of the Ombudsman in respect of the migrations. These are the cases Ž-BL-05-783/18 and Ž-BL-05-784/18 in which the investigation is pending.

### **Refugee Shelter Center Salakovac**

Salakovac Center is located about 15 km from the town of Mostar. It was established in 2000 and in the beginning of its operation served only for the accommodation of the refugees and displaced persons in Bosnia and Herzegovina. In May 2018 for a large number of irregular migrants in Bosnia and Herzegovina, the Ministry of Safety of Bosnia and Herzegovina allocated a part of the premises of the Refugee Shelter for the accommodation of these persons<sup>97</sup>. Since the authorities wanted to enable the access to the rights to these persons as defined by domestic and international standards, between the Ministry Safety of Bosnia and Herzegovina and the Ministry of Human Rights and Refugees of Bosnia and Herzegovina signed was a *Protocol on the Rights*

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<sup>97</sup> At its 142<sup>th</sup> session held on 15 May 2018 the Council of Ministers of Bosnia and Herzegovina took note of an Information including the suggested measures to be taken in respect of the irregular migrations and, among other things, adopted the following conclusion: „*The competent authorities of the institutions of Bosnia and Herzegovina are urged to put in place, in cooperation with other competent authorities in Bosnia and Herzegovina, all available capacities for the adequate reception, accommodation and care of migrants, particularly vulnerable categories, in accordance with the applicable laws of Bosnia and Herzegovina and accepted international standards, and organize within 48 hours the transfer and accommodation of migrants who are currently without adequate accommodation.*“

*and Obligations during the provision of temporary shelter in the Salakovac Center and the Readmission Center in Mostar of foreign citizens who expressed the intention to seek asylum and asylum-seekers in Bosnia and Herzegovina.*

This document clearly defines the obligations and responsibilities of these two Ministries as signatories of the Protocol, in the procedure of accommodation of an alien who has expressed his intent to apply for asylum and asylum seekers, then the termination of the right to temporary accommodation of the beneficiaries, the data exchange methods and mutual cooperation, as well as personal data protection.

Pursuant to the provisions of this Protocol, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina is obliged to provide the alien who has expressed the intention to apply for asylum with equal accommodation conditions as those provided to the asylum seekers, which includes covering the overhead costs, costs of nutrition, personal hygiene items and other hygiene supplies, while the Ministry of Security of Bosnia and Herzegovina is obliged to provide conditions for adequate access to primary health care.

The Salakovac Center consists of eight barracks, seven being currently available to accommodate foreign nationals who intend to apply for asylum and asylum seekers in Bosnia and Herzegovina, while the refugees are accommodated in the barrack which is physically separated from the others. The bedrooms are triple and there are separate bathrooms for women and men. There is an electric kettle and a fridge available to the beneficiaries in the barracks.

On the day of visit<sup>98</sup> there were 133 beneficiaries accommodated in the Center out of which 58 children<sup>99</sup>, and their gender structure was 69 men and 64 women. This Center mostly accommodates families with children. According to data obtained from the official sources of the Center, the country of origin of the most of the beneficiaries, that is, the persons who have expressed their intention to seek the asylum in Bosnia and Herzegovina is from Iran, Afghanistan, Iraq, Syria and Pakistan. The Refugee Center director reported that all but one beneficiary have expressed their intention to seek the asylum.

At the day of visit 30 beneficiaries had the asylum cards, while 102 beneficiaries had attestations on the intention to seek asylum. The attestations validity expired for the most of the beneficiaries (only eight persons<sup>100</sup> had valid attestations on the day of visit), while the deadline of the asylum cards validity was 14 September 2018.

Director of the Salakovac Center emphasized the problem of a large number of unregistered beneficiaries, pointing out that since May this year when a decision was made to accept these persons, a representative of the Ministry of Security of Bosnia and Herzegovina, the Asylum Sector, visited this Center only once and stayed for two days there, although from the beginning of its operation to the date, more than 700 beneficiaries was accommodated in the Center. According to his knowledge, two workers of the mentioned Asylum Sector have been most recently present in the Una-Sana Canton due to the large number of irregular migrants in the area.

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<sup>98</sup> Visit of the Ombudsman's representatives took place on 19 September 2018 when the Ombudsman's representatives talked to the director of the Refugee Center Denjo Edin

<sup>99</sup> Age structure at the day of the Ombudsman's delegation visit: 0-4 years– 17 children; 4-10 years – 29 children; 10-16 years – 12 children.

<sup>100</sup> For five persons their attestations on the intention to seek the asylum were to be expired on 28 September 2018, while for other three persons the expiry date was 30 September 2018

According to the information received, the beneficiary primary health care costs are borne by the Ministry of Security of Bosnia and Herzegovina, as defined and signed by the Protocol, in such a way that health care is provided by the Health Center Mostar under the signed contract. Also, twice a week, the First Aid and Emergency Medical Service comes to the Refugee Center and examines the newly arrived aliens. Secondary health care costs are borne by the UNHCR through the Foundation Bosnia-Herzegovina Women Initiative, while the necessary medicines for the Refugee Center are supplied from Sarajevo twice a week and are available at all times. In May, when the Center began to accept the migrants, the Red Cross activists used to examine all incoming beneficiaries, noted their general health condition, and provided health care to those who had symptoms of some of the contagious diseases. Also, the beneficiaries were examined by psychiatrists and psychologists, while the Bosnia-Herzegovina Women's Initiative Foundation engaged a pediatrician who examined and vaccinated children. As the Director of the Refugee Center pointed out during the visit, there is no problem in providing health care services. The Salakovac Center currently has only one vehicle provided by the Ministry of Human Rights and Refugees of Bosnia and Herzegovina, which is also used for the transportation of the beneficiaries in certain situations, so that the purchase or donation of another vehicle would be extremely important.

The nutrition is provided by the Red Cross including necessary food stuffs, fruits, a daily cooked meal, as well as necessary hygienic items. During their stay in the Salakovac Center, the beneficiaries get a package with necessary hygienic items, and after that the hygiene items are distributed once a month. According to its Director, the Salakovac Center has sufficient amount of food until the end of the year. As far as clothing is concerned – it is secured from donations of the citizens, and Director of the Center expresses his hope that footwear will be provided through additional donations, given the weather conditions and the fact that the winter is coming.

Hygiene within the complex is maintained by the beneficiaries and monitored by three experts in public health issues. In order to keep this situation at acceptable level the House rules were established defining the obligations of the accommodated families in respect of maintaining the cleanliness and general hygiene. Representatives of the Ombudsman during their visit have noted that it would be necessary to pay even more attention to this issue, in particular given the fact that a large number of children are settled there.

Foreign nationals who have expressed their intention to apply for asylum and asylum seekers in Bosnia and Herzegovina, located in the Salakovac Center, enjoy the freedom of movement, and according to the House rules they must return to 10.p.m. Exterior part of this facility is covered by video surveillance. The House rules are fixed to the entrance door of the objects, and translated into the languages of the beneficiaries, so that everyone has the opportunity to get acquainted with their rights and obligations. Translators are provided by the Foundation Bosnia-Herzegovina Women's Initiative, and in the conversation with them it was emphasized that it is necessary to engage additional translators.

In occupational segment the NGOs coming on a daily basis to the Center play a great role since they envisage different activities in the field of education and sports for the beneficiaries. First of all, there is a Foundation of Bosnia-Herzegovina Women Initiative representatives of which is engaged in literacy campaigns and organization of language courses. The NGO World Vision

has equipped a room for children placing toys, learning material and similar items there. Their representatives work with children every day. The role of these activists, who work with children in groups according to their age includes the activities aimed at the development of linguistic and social skills of children. The establishment of "Children's Corner" is of particular importance having in mind that these children are not part of the preschool or educational system and that this is their only activity.

Activists of the World Vision are engaged on a service contract and there are a pedagogue, a psychologist and a social worker directly involved with children in form of a workshop. Engaged are also two interpreters in order to assist in adequate implementation of the activities (Farsi and Arabic languages). Representatives of the NGO „Vaša prava“ are coming into the Salakovac Center on a daily basis to provide necessary legal aid to the beneficiaries.

Employees of the Salakovac Center, 18 of them are engaged based on a service contract. Out of total number of employed staff, four 4) are funded by the the Ministry of Human Rights and Refugees of Bosnia and Herzegovina, while the budget for the others is ensured by the UNHCR. Members of Security Service have necessary certificates and two guards are engaged at the Reception at all times.

## **2.2. Other subjects**

The United Nations agencies<sup>101</sup> and some NGOs are involved in the activities in the field of migrations and asylum based on the agreements signed with the Ministry of Security, The Ministry of Human Rights and Refugees or the UN agencies<sup>102</sup>.

### **International Organization for Migration**

International Organization for Migration (hereinafter: the IOM) works with partners in the international community to assist in responding to the growing operational challenges in managing migration, improving understanding of migration issues, and promoting social and economic development through migration.<sup>103</sup> In Bosnia and Herzegovina, IOM teams for the protection and assistance to migrants are funded through the US Bureau for Refugees and Migration, "Strengthening Capacities and Mechanisms to Identify and Protect Vulnerable Migrant Categories in the Western Balkans Region". Teams are contributing to filling the gaps and strengthening the capability of participants in the migration process in Bosnia and Herzegovina to support and monitor the situation of vulnerable categories and to help them coordinate with government actors on the ground. Teams provide assistance on request of the Foreign Affairs Service or address requests that have been directly received by IOM by other actors of this process.<sup>104</sup>

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<sup>101</sup> International Organization for Migration, UN High Commissioner for Refugees.

<sup>102</sup> International Solidarity Forum, MFS-EMMAUS, Vaša prava and Bosnia Herzegovina Women Initiative.

<sup>103</sup> Information provided by the International Organization for Migration, email dated 14 May 2018

<sup>104</sup> Mobile teams ensure necessary assistance and protection of the migrants in need. This includes the following: secondary examination of the newcomers migrants in order to assess their vulnerability and their need for direct assistance through the PRM with support of the Fund for Direct and Emergency Aid, referral to the relevant institutions and agencies for medical care, safe transportation of migrants until the Service for the Foreigners' Affairs, translation services, psycho-social anamnesis, conducting the surveys to collect migration related data through the IOM-s Displacement Tracking Matrix (started in 2018); – assistance in voluntary return and family reunion (AVRR), organization of information and counseling sessions and other activities related to AVRR;

On 25 July 2018 The Council of Europe Development Bank (CEB) has awarded a million euro grant from the IOM Refugee and Migrant Fund. Grant is intended to serve as a support to the Ministry of Security of Bosnia and Herzegovina and at the same time enables IOM to respond to the current situation as a result of the large inflow of irregular migrants and asylum seekers from the end of 2017 and the beginning of 2018. It is foreseen that IOM will undertake the obligation to renovate and equip existing facilities on the ground<sup>105</sup>, and to purchase the containers/sleeping bags, sanitary facilities and materials for the accommodation of about 400 persons. Initially, this grant enables the establishment of the temporary reception Center "Ušivak" equipped with containers<sup>106</sup>.

### **United Nations High Commissioner for Refugees**

United Nations High Commissioner for Refugees (UNHCR) is authorized by the United Nations to direct and coordinate international activities on the protection of refugees and the resolution of refugee issues around the world. UNHCR has been present in Bosnia and Herzegovina since 1992 at the request of the UN Secretary General. The agreement on cooperation with Bosnia and Herzegovina was concluded in March 1994, the agreement defines the role of UNHCR in the field of international protection and humanitarian assistance to refugees and other persons of interest to the UNHCR.

In 2018, UNHCR has active partnership agreements with the Ministry of Security of Bosnia and Herzegovina, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina, with three non-governmental organizations - the Bosnia-Herzegovina Women Initiative Foundation, Vaša Prava (Your Rights) of Bosnia and Herzegovina and Catholic Relief Services, as well as two contracts with UN agencies (UNV and UNOPS).

UNHCR has expanded the Information Center<sup>107</sup> to enable the referral of asylum seekers to relevant institutions. The UNHCR staff working in the Information Center is supported by the UNHCR partner for psychosocial and legal services. The UNHCR Information Center has recently received a daily average of 70 new asylum seekers in Bosnia and Herzegovina (1042 received so far in 2018). Out of the total number of visitors to the Information Center in 2018, about 85% belonged to the age group from 18 to 59, and 14% were children. Women make up 10% of the total.

Most asylum seekers who visited the Information Center needed accommodation and food, and many needed medical assistance (due to injuries, chronic illnesses). The staff of the UNHCR Information Center is in daily coordination with the Asylum Sector because UNHCR's policy is that asylum seekers are first referred to available places in the Asylum Center Delijaš. Only if there is no place in the Asylum Center Delijaš, UNHCR provides alternative temporary

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– continuous tracking of migration trends, in particular related to the migrants vulnerability and the need for the assistance to the vulnerable categories of migrants;

– coordination with other participants engaged in the provision of the direct assistance to the migrants and asylum-seekers in Bosnia and Herzegovina including the local NGOs and other international organizations<sup>104</sup>.

<sup>105</sup>Renewal and provision of equipment for the existing objects on the ground: Hotel SEDRA Hotel and Student Dormitory in Bihać

<sup>106</sup>Initially it was planned to put in place 22 containers. According to information obtained on 21 September 2018 from the IOM at the meeting with the Head of Mission and Regional Coordinator Mr. Peter Van der Auweraert when the shelter center "Ušivak" had not been put in function yet. The shelter center „Ušivak“ has started its operation on 23 October 2018

<sup>107</sup>In Sarajevo, UNITIC building. Since March 2018, the UNHCR has made available the Information Center to the Ministry of Security/Asylum Sector for registration of asylum seekers who are not accommodated in the Asylum Center Delijaš near Trnovo. UNHCR further facilitated the registration process by increasing the capacity of the Ministry of Security of Bosnia and Herzegovina with additional staff working on registration and determination of refugee status.

accommodation in local hostels<sup>108</sup>. People temporarily accommodated in hostels receive a hot meal a day and can expect a small individual assistance in hygienic supplies, in exceptional cases the costs of small medical interventions are covered<sup>109</sup>. The number of visitors to the Information Center for the period May - September 2018 has significantly decreased. On average, 20 to 30 people turn to the Information Center daily, indicating a trend of reduction, although, according to the data of the Ministry of Security of Bosnia and Herzegovina, the number of entries to Bosnia and Herzegovina has increased<sup>110</sup>.

A very important issue for UNHCR is to speed up the registration process. In this context, UNHCR provides support through the engagement of additional personnel who will work on the registration process in the Ministry of Security of Bosnia and Herzegovina/Asylum Sector<sup>111</sup>.

### **International Solidarity Fund EMMAUS**

International Solidarity Fund EMMAUS<sup>112</sup> (hereinafter: MFS-EMMAUS) has been engaged in the fight against human trafficking and illegal migration in Bosnia and Herzegovina since 1999, that is, from the very beginning since this issue has emerged in our country<sup>113</sup>. MFS-EMMAUS in Bosnia and Herzegovina has 263 permanent employees out of which 167 are medical staff. From the beginning of 2009 until 2017, 58 people were accommodated in the Immigration Center Duje, according to the decision of the Foreigners' Affairs Service, 49 of which were minors. In 2018, 26 applicants for asylum were accommodated in the immigration center, out of which five (5) were placed according to the decision of the Foreigners' Affairs Service. In the Immigration Center, irregular migrants and asylum seekers who cannot be placed in the Immigration Center are accommodated. This includes the unaccompanied minors<sup>114</sup>, mothers with minor children, families, and persons with reduced intellectual capacity.

As part of the Immigration Center Duje, there is also a building for children and young people, which together with three (3) bungalows has a capacity of around 100 places, and currently asylum seekers and irregular migrants are accommodated in this building. On 28 September

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<sup>108</sup> In 2018, 3128 nights were provided.

<sup>109</sup> Text in original (abbreviated) form submitted by the UNHCR Representative.

<sup>110</sup> According to the data of the Ministry of Security/Asylum Sector on 20 September 2018, the number of persons who entered the territory of Bosnia and Herzegovina was 14,969 out of which 13,958 declared the intention to seek asylum. On 20 September 2018 the Human Rights Ombudsman of Bosnia and Herzegovina, Dr. Jasminka Džumhur, Assistant Ombudsman Halilović Emina and their colleagues, held a meeting with representatives of the UNHCR. The aim of the meeting was the exchange of information regarding the realization of the rights of aliens who expressed their intention to seek asylum or were granted the status of asylum seekers in Bosnia and Herzegovina.

<sup>111</sup> Accelerating the registration process implies that requests are considered on an individual basis as soon as possible, in order to determine who meets the requirements for providing international legal protection and who does not.

<sup>112</sup> On 15 May 2018 Assistant Ombudsman Emina Halilović and her associates visited the associations "HO International Solidarity Forum - EMMAUS". On that occasion, she met with Amel Efendić, head of the MFS-EMMAUS office, and a project manager for combating trafficking in human beings and illegal migration.

<sup>113</sup> In cooperation with the Ministry of Security of Bosnia and Herzegovina, the State Coordinator and the Department for Combating Trafficking in Human Beings in Bosnia and Herzegovina, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina, the Service for Foreign Affairs, and other state institutions and agencies as well as non-governmental organizations, MFS-EMMAUS is engaged in the provision of direct assistance and protection projects for victims of trafficking in human beings and illegal migrants, and prevention and awareness raising among risk groups and the general population, as well as education and capacity building of local institutions on the treatment of these problems.

<sup>114</sup> Representatives of MFS-EMMAUS explained the procedure for the placement of the minors. When a minor appears before the staff of the Foreigners' Affairs Service, they first assess whether it is a child or not because many foreign citizens are trying to realize their rights by falsely portraying their age. Those who are actually minors, after they come to the Foreigners' Affairs Service and express their intention to seek asylum, are transported to the Asylum Center in Delijaš. After their reception in the Asylum Center the employees of the "BiH Women's Initiative" visit those minors to make their psychosocial history, which it a bit problematic because these minors do not have appointed guardians by the competent Social Work Center, so that it is very difficult without a guardian to determine what it is their best interest. Minors brought up to the Center by the Foreigners' Affairs Service to the Reception Center have limited movement i.e. they can move outside the Duje Reception Center only during the time period determined by their appointed guardian, while their movement within the Reception Center is not restricted. The Reception Center cannot accept a minor who does not have an appointed guardian.

2018 there were two (2) persons accommodated in the Immigration Center, which means that the capacity of the Immigration Center has not been nearly exhausted, although the building was built according to ISO standards<sup>115</sup> (24 square meters for two children)<sup>116</sup>. The rooms are fully equipped.<sup>117</sup> Immigration Center Duje has new apartments, so it is possible to use the capacity of the building for children and young people by transferring minors to new apartments, and all other asylum seekers would be accommodated in a building with a capacity of about 100 places<sup>118</sup>.

### **Non-governmental organization "Vaša Prava"**

According to the provisions of the Asylum Act, *the asylum seeker will be granted access to free legal aid during the procedure*<sup>119</sup>. Legal assistance to asylum seekers, victims of trafficking in other persons under international protection in Bosnia and Herzegovina is provided by the NGO Vaša prava, on the basis of the signed Protocol with the Ministry of Security of Bosnia and Herzegovina. In addition, in accordance with the Protocol with the Ministry for Refugees and Displaced Persons, legal assistance is also provided by the NGO Vaša prava to the beneficiaries under the jurisdiction of this Ministry.

Legal assistance consists of the representation in administrative proceedings based on a request for international protection, representation before the Court of Bosnia and Herzegovina, as well as representation before the Constitutional Court of Bosnia and Herzegovina, the Court of Human Rights in Strasbourg and the UN Committee on Human Rights<sup>120</sup>.

In addition to the legal component, in the work of this NGO informative component plays a very important role, thus supporting all legal activities through the organization of comprehensive information campaigns. So far, the experience of the Human Rights Ombudsman of BiH in the field of the migration and asylum shows that the NGO Vaša prava BiH has acted extremely correctly and all complaints received by the Ombudsmen of Bosnia and Herzegovina are mostly received from this NGO, which confirms their commitment to work and solving the problem of asylum seekers in Bosnia and Herzegovina. NGO "Vaša prava BiH" is a non-governmental and non-profit organization that provides free legal assistance to citizens in Bosnia and Herzegovina. When it comes to legal assistance provided by "Vaša Prava BiH" in the field of migration and asylum in Bosnia and Herzegovina, activities are funded by the UNHCR. In Bosnia and

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<sup>115</sup> Since October 2008, MFS EMMAUS has ISO 9001: 2008 certification, which guarantees the quality of services provided to all vulnerable categories, including trafficking victims. This certificate is renewed on an annual basis, depending on the improvement of the quality of services.

<sup>116</sup> On 28.09.2018 Emina Halilović, Assistant Ombudsman, together with her associates, held a meeting with the head of the MFS-EMMAUS Office of the Project Manager for combating trafficking in human beings and illegal migration. On this occasion, it was noted that only 2 foreign citizens were accommodated in the Immigration Center.

<sup>117</sup> Asylum seekers or adult asylum seekers may move outside the Immigration center, but are required to sign an agreement to move outside the Immigration center at their own risk, as well as returning up to 21 hours in the Immigration center. The Immigration center has 6 guards who have the work contract and the duty to provide safety.

<sup>118</sup> According to the information obtained at the meeting MFS-EMMAUS representatives participated in the preparation of the previous action plan as members of the coordination team, where it was found that at some point they could provide services for 2000 people. The Immigration has at its disposal 5200 square meters of land owned by them, with the approval of the local community, to contain containers to accommodate 500 people, by accommodating 300 asylum seekers and 200 foreigners - migrants. According to the representatives of the MFS-EMMAUS, the best location would be the Duje Center, because they have full staff and logistics necessary for accommodating and providing care of these persons. The daily costs of possible accommodation of these persons would be 50 BAM and this price includes health care, accommodation, food, hygiene supplies and all other necessary things for the normal life of those persons. Currently, such capacities in human and material terms do not have any other organization in Bosnia and Herzegovina.

<sup>119</sup> Article 29, paragraph 1, item d, Law on Asylum, "Official Gazette of BiH", no. 11/6 and 16/16

<sup>120</sup> Through the network of legal assistance offices and mobile teams, Vaša Prava BiH provide all forms of legal assistance, in accordance with domestic legislation, the European Convention on Human Rights and other international instruments for the protection of human rights.

Herzegovina, this NGO has ten offices<sup>121</sup>, but there are also mobile teams covering areas without the field presence. "Vaša Prava BiH" currently has 42 employees, of which 38 are lawyers. Out of this number, 13 lawyers<sup>122</sup> are engaged in cases related to migration.

Representatives of this NGO point out the fact that persons who enter Bosnia and Herzegovina as part of current migration flows are not familiar with the asylum procedure. According to the opinion of the representatives of this organization, those persons can be divided into two groups, namely those who indicate their intention to submit an application for asylum (among which a large number of those who use the attestation of their intention to legally move in Bosnia and Herzegovina and during its validity period reach the north of Bosnia and Herzegovina in order to continue further travel to European countries) and persons who do not want to be entered into any records kept in Bosnia and Herzegovina. They also state that there are a certain number of people smugglers among the aforementioned persons.

If the employees of this NGO have any suspicion related to smugglers it is reported to the State Investigation and Protection Agency by "Vaša Prava BiH"<sup>123</sup>.

In the period from 01 January 2018 to 25 September 2018 the NGO "Vaša prava BiH" provided free legal aid (information, counseling, representation) for 2,409 asylum seekers or persons who expressed their intention to apply for asylum. In addition, the information on the asylum procedure for more than 3000 users was provided. During this period, the lawyers of this NGO monitored the procedures for receiving asylum applications (698), registrations (209) and interviews (15)<sup>124</sup>.

The process of scheduling the reception of asylum applications and registration is aggravated after the expiration of the validity of the attestation of the intention to seek asylum. Due to unjustifiably long registration process, the persons who expressed their intention are not able to access the rights guaranteed by the Law on Asylum<sup>125</sup>.

### **The Bosnia-Herzegovina Women Initiative Foundation**

Psychosocial support for asylum seekers and refugees is provided by the Bosnia-Herzegovina Women Initiative Foundation, an independent and non-profit foundation based in Bosnia and Herzegovina dedicated to supporting the initiatives of women's civil society organizations (CSOs) promoting women's human rights, empowering women and gender equality<sup>126</sup>. Provision of services of Bosnia-Herzegovina Women Initiative Foundation is supported by the UNHCR.

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<sup>121</sup> At a meeting held on 20 September 2018, representatives of the NGO Vaša prava have pointed out that since 1 September the office in Bihać was also established.

<sup>122</sup> Out of 13 lawyers engaged in cases related to migrations, eight is located in Sarajevo, four in Bihać and one in Mostar. These data were provided on the meeting held on 20 September 2018.

<sup>123</sup> The above was highlighted at a meeting held on September 20, 2018.

<sup>124</sup> The number of interviews relates only to asylum seekers who expressed their intention during 2018. The largest number of persons is located in the Immigration Center Lukavica. These data were received on October 2, 2018. by the representatives of the Association "Vaša prava BiH".

<sup>125</sup> In particular, this relates to the situation of newborn children who cannot be entered in birth registers without valid parents' asylum seekers card as well as the situation of enrolling minor children in primary and secondary schools. Once the registration process has been completed, asylum seekers are often waiting for the issuance of the asylum-seeker cards. The situation is the same with regard to the applications for the extension of the asylum seeker card. In some cases, only the procedures for the reception of asylum applications were held in order to issue asylum seeker cards, while the registration procedure was never scheduled. The Ministry of Security of Bosnia and Herzegovina gives priority to the interviews and decisions on the applications for asylum of persons placed in the Lukavica Immigration Center.

<sup>126</sup> The main short-term projects of the BH Women Initiative Foundation are: economic empowerment of women, prevention of trafficking among high-risk groups in asylum centers and psycho-social assistance to refugees and asylum seekers in reception centers.



Since the beginning of 2018, the BH Women Initiative Foundation has increased its capacity primarily in terms of strengthening communication with the asylum-seekers. This NGO has translators/interpreters for all languages spoken by the asylum seekers present in Bosnia and Herzegovina, including translators for non-frequent languages on the Balkans. Translators are mobile 24 hours a day and are available to all authorities<sup>127</sup>. The Bosnia-Herzegovina Women Initiative Foundation has psychologists as well as social workers in its staff.

In order to provide psycho-social assistance to persons placed at the Immigration Center in East Sarajevo, representatives of the BH Women Initiative Foundation are present once a week in the Center. They also provide assistance and support in the Delijaš Asylum Center, and are present every day at the refugee and reception center in Salakovac. This Foundation actively works on integration of children of asylum seekers into a regular education system<sup>128</sup>. In order to achieve this goal they formed a classroom for children called "My School" at the Salakovac refugee and shelter center, thus enabling children to be included in the regular education system. This work consists of daily activities which are, mostly intended to removal of language barriers.

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<sup>128</sup> According to the information from the meeting of September 20, 2018, the Bosnia-Herzegovina Women Initiative Foundation undertook activities to enroll two children from Syria (for which the registration process was pending) in the school thus including them into the regular education. Representatives of the Foundation highlighted the problem of verification of school completion for children who have finished school in their countries of origin because they do not have any documents that could be used as evidence of completed classes. It was also pointed out that they had previously undertaken activities (in the period 2015-2016) that enabled three children refugees to be enrolled in pre-school institutions in Sarajevo.

### III SITUATION ANALYSIS

#### GENERAL INFORMATION

The trend of increase in number of foreign nationals entering the territory (often generally called the migrants) in Bosnia and Herzegovina began in March 2016, after the closure of the so-called Balkan route, which was previously used starting from Gevgelija and going further towards Hungary and Croatia.

Information collected by the Ombudsmen during the survey indicate that in 2017 only sporadic, and controlled entry and movement of migrants was recorded in Bosnia and Herzegovina, where Bosnia and Herzegovina was mainly a country of transit for foreign citizens originating from other countries, and as a country of origin, for the citizens of Bosnia and Herzegovina who go to other countries because of the economic and political situation in the country. Institutional capacities in this period were sufficient for the fulfillment of all obligations established by law.

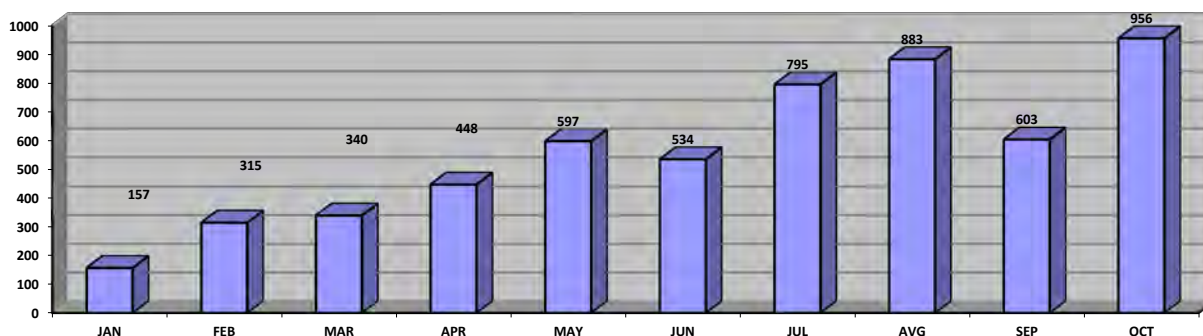
However, in 2018, Bosnia and Herzegovina is experiencing a dramatic increase in the number of migrants who mainly use Bosnia and Herzegovina for transit to European Union countries. Statistics on illegal crossings and attempts at illegal crossings collected by the Border Police of Bosnia and Herzegovina in 2017 and 2018 indicate to a widespread area of entry, with three main directions of migration:

- one from Serbia to Bijeljina,
- other from Serbia to Višegrad and Zvornik and
- from Montenegro to Trebinje, Bileća and Gacko, recently to Foča.

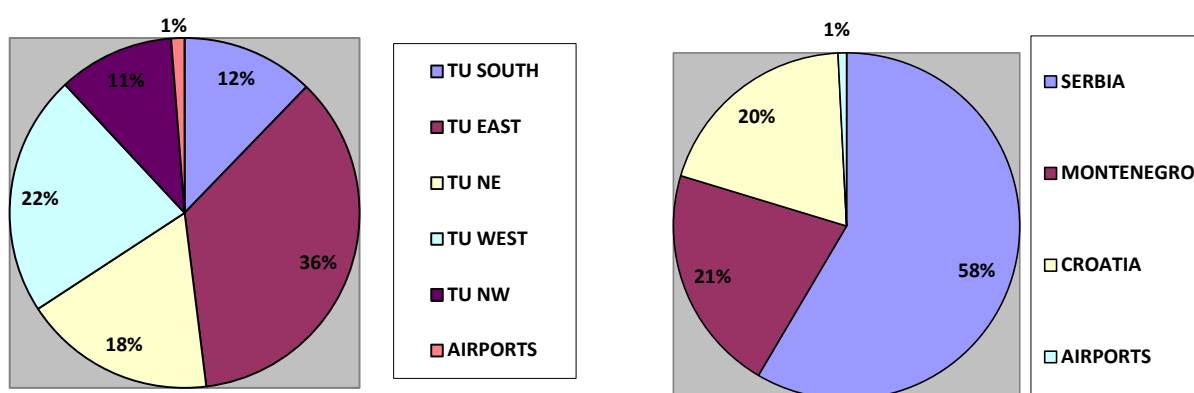
In most cases they are irregular migrants who entered or enter Bosnia and Herzegovina without any identification documents, in places that not intended for crossing the state border in violation of the legal provisions applicable in Bosnia and Herzegovina and is not in accordance with the procedures of the competent authorities in Bosnia and Herzegovina regarding the entry of a foreigner into the country.

In the period April-October 2018, the Ombudsman carried out monitoring of the situation in this area, and concluded that in BiH so-called mixed migrations are taking place. The motives of migration are overlapping, so we have foreigners who are looking for better living conditions or so-called economic migrants (citizens of Pakistan, Iran, Iraq, Morocco, Tunisia, Algeria, Libya, Afghanistan) and foreigners seeking refuge/persons under international legal protection (Syria). The increased and uncontrolled entry of foreign citizens into Bosnia and Herzegovina and the continuity of that process impose the obligation of additional mobilization of material, financial and human resources that Bosnia and Herzegovina does not possess.

**Diagram showing the monthly increase in inflows of foreign nationals for 2018**



**Overview of the detected illegal crossings of the state border by field offices and the border with neighboring countries is given in the following diagrams:**



Ombudspersons of Bosnia and Herzegovina highlight that the current situation does not qualify as individual cases, but as increasingly organized and more frequent attempts to enter the country of Bosnia and Herzegovina, which can certainly pose a threat to general security and public peace and order. On the other hand it poses serious operational difficulties in provision of the state border protection. Bearing in mind the daily growth in the number of migrants in Bosnia and Herzegovina, it is necessary for the competent authorities to take additional measures to protect the state border of Bosnia and Herzegovina and, in particular, the safety of the citizens of Bosnia and Herzegovina.

According to the latest indicators, as of 31 October 2018 in Bosnia and Herzegovina about 22,000 migrants were registered. By comparing the indicators from the first and second monitoring, it can be concluded that migration flow trends show a constant increase. For instance, only in October as much as 5,000 irregular migrants were registered.

Interviews with migrants found in Bosnia and Herzegovina show that neighboring countries do not register them in order to avoid their return through the readmission process. With the increased influx of migrants to Bosnia and Herzegovina the first problems in the process of readmission of migrants to the neighboring countries occurred. Due to the increase in the number of migrants in February 2018, a regular readmission procedure began in Serbia, which means that the authorities in Bosnia and Herzegovina must place the foreigners for whom there is indisputable evidence that they entered Bosnia and Herzegovina from Serbia in the Immigration Center and conduct regular proceedings for readmission that lasts between two and three weeks,

which creates an additional problem for Bosnia and Herzegovina due to limited accommodation capacities.

The Foreigners' Affairs Service pointed to the problem of smuggling of foreign nationals, and according to data received by the Border Police of Bosnia and Herzegovina, the cases that have been processed in addition to the collected criminal intelligence data point to several forms of smuggling of people. The first form is that persons enter to Bosnia and Herzegovina legally through the international border crossing at Airport Sarajevo Airport using the benefits of a visa-free regime, and then get illegally smuggled from Bosnia and Herzegovina across the land borders. The second form is by means of the forged documents, travel documents, Schengen visas, residence permits in EU countries for air transport in relation to Sarajevo - some of the EU countries in which persons have family members or relatives.

It is a disturbing fact that, according to some information, some 50,000 foreigners from the Maghreb countries are located on three islands in Greece, which are transiting through Albania and Montenegro to Bosnia and Herzegovina in smaller groups of 15 people, without any control and registration. Although they have halted the registration of foreign nationals, in the process of readmission the Montenegro authorities are looking for evidence, any certificate or a card with a picture of an alien that was issued by any authorities of Montenegro, which prevents the return of a foreigner based on readmission from Bosnia and Herzegovina to Montenegro<sup>129</sup>.

## THE SITUATION IN UNA-SANA CANTON

Bearing in mind that the largest number of migrants in Bosnia and Herzegovina due to the proximity of the border with the Republic of Croatia, is located in the Una-Sana Canton area, from October 08 to 10 October 2018 and again on 16 October 2018 representatives of the Ombudsman Institution visited this Canton. During the visit, the representatives of the Ombudsman took stock of the situation in the temporary facilities used by migrants, namely: temporary reception center Sedra, ex-students dormitory Borići and tent settlement Trnovi near Velika Kladuša, and held meetings with representatives of the municipal administration of Bihać and the Municipality of Velika Kladuša, Foreigners' Affairs Service, Bihać Field Office, Bihać Social Welfare Center and representatives of international and local NGOs that are actively involved in the process of providing care of foreign nationals in the Una-Sana Canton<sup>130</sup>.

During the visit of the Ombudsman of Bosnia and Herzegovina they concluded that there are no official statistical data on the number of foreign citizens currently present in Una-Sana Canton<sup>131</sup>, but the estimation of their number is carried out on the basis of the delivered meals by the Red Cross of the Una-Sana Canton<sup>132</sup> (hereinafter referred to as the RC USK). Migrants in

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<sup>129</sup> Migrants' statements are given to the competent authorities in Bosnia and Herzegovina upon registration.

<sup>130</sup> Representatives of the Ombudsman Institution on 08 October 2018 held a meeting with the advisor of the Municipality of Velika Kladuša, Delić Husein. On 10 October 2018 the meeting was held with representatives of UNHCR, IOM, UNICEF, BHVI, Žene sa Une and Vaša Prava BiH.

<sup>131</sup> Ombudspersons of Bosnia and Herzegovina dr. Jasminka Džumhur and Prof. Dr. Ljubinko Mitrović visited the reception centers for migrants in Una-Sana Canton on 16 October 2018

<sup>132</sup> In accordance with its guiding principles, their mission and vested public authority, the Red Cross is a voluntary, humanitarian organization based on humanitarian activities. In addition to delivering training and organization and provision of care and certain forms of social protection for persons in need, the Red Cross participates in the actions of search, saving and taking care of the population. Namely, the Red Cross has established a search service that provides assistance to victims of armed conflicts, natural disasters and other emergency situations. It also enables the reunion and maintenance of relations between the family members separated due to the above-mentioned situations. On 5 June 2018, the Red Cross of the Federation of Bosnia and Herzegovina signed an agreement with the IOM on the basis of which the RC of the USK undertook the obligation to provide

Una-Sana Canton area are located in the aforementioned facilities, and a significant number of migrants are located in private accommodation based on private arrangements. Since the system of acceptance or registration of migrants has not been established, nor have any actions taken to determine their status in accordance with the applicable legal regulations governing the stay and movement of asylum seekers and asylum in Bosnia and Herzegovina, this can not be said with certainty of the exact the number of migrants in the Una-Sana Canton area.

Support to the migrants in Una-Sana Canton is realized through the IOM and UNHCR, which also manage the process of migrations in this area. IOM carries out rehabilitation and installation of heating in facilities earmarked for the migrants, as well as the food provision through its implementing partner the RC USK, while UNHCR enables the migrants to enjoy primary health care through signed protocols on cooperation with the local health centers.

The visits of the Ombudsman of Bosnia and Herzegovina revealed that the support of the authorities of Bosnia and Herzegovina to local communities was lacking, both in Bihać and Velika Kladuša<sup>133</sup>. Despite the great care and extraordinary efforts of the local community in providing care of the migrants, the conditions under which migrants reside are below any minimum. In the situational analysis, the Ombudsman of Bosnia and Herzegovina will present the situation on the Una-Sana Canton, accommodation capacities and material conditions of accommodation, as well as the insurance of the rights of migrants that under the Law on Aliens and the Law on Asylum.

For the purpose of giving a complete picture of the situation on the ground, in this part of the Report, information on migrants located in the area of the City of Bihać and the Municipality of Velika Kladuša has been presented. The information is structured in a way to present the situation regarding accommodation, the exercise of the right to health, social protection and legal aid. A special part of the Report is dedicated to the migrant children.

## **CITY OF BIHAĆ**

### **Accommodation**

#### **a) Dački dom- Borići**

The number of migrants in the territory of the City of Bihać is increasing every day, on average by 50 to 100 migrants. For this reason, in April 2018, the city administration of the City of Bihać for the accommodation of migrants has provided the abandoned Dački dom (Borići Student

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food and hygiene supplies to migrants located in the abovementioned accommodation capacities. For these locations, the Red Cross, as the implementing partner of the International Organization for Migration, has undertaken to distribute three meals a day (two hot meals and one lunch package), 850 to 900 meals for Borići, 400 meals for Sedra and 350 meals for Trnovi Camp.

<sup>133</sup> According to the information obtained at the meeting of 08 October 2018 representatives of Velika Kladuša held their first meeting with representatives of the Ministry of Security only in July 2018. The meeting provided a plan for the taking care of migrants in the Una-Sana Canton area, and it was concluded that the Council of Ministers of Bosnia and Herzegovina reached an agreement to build a reception center - Medeno Polje. This is the land plot owned by Agrokomerc, where 60 tents are placed (donation from Austria). In order to put the camp in function the IOM requested the Waterworks Company to provide water supply. However, the Water Company could not establish a regular water supply without the consent of the owner (Agrokomerc), and requested from the Supervisory Board of Agrokomerc their consent, but it has not yet been reached. The Municipal Council on the thematic meeting adopted a conclusion in which they turn the attention of all interested parties to the fact that the European Union will not finance the construction of centers located within the 30 km from the state border, so that in this light no reception centers are acceptable on the territory of Velika Kladuša. This conclusion was sent to the Ministry of Security and international organizations. From then until the day of the visit of the representatives of the Ombudsman Institution, there were no contacts between the Ministry and the representatives of the Service for Foreigners' Affairs.

Dormitory), which is located in Borići<sup>134</sup> and is about 2 km away from the city center. The facility is owned by the Municipality of Bihać, and the object is managed by the IOM<sup>135</sup>. The capacities of the Đački dom are used to accommodate migrants - single men, adult men and elderly minors.

On 10 October 2018 representatives of the Ombudsman Institution visited Borići and concluded that Đački dom in Borići is absolutely unsuitable for the stay of migrants. The building has only exterior walls without carpentry and any furniture, completely devastated with a leaking roof. Migrants around the building have set up tents in which they daily stay and make their so called tent settlement. Given the diversity of the cultural and traditional climate from which migrants come, often there are verbal, and often, physical conflicts<sup>136</sup>.

The beneficiaries are provided with six containers for hygiene (toilets and showers) and one container for people with disabilities. In accordance with its capacities, the Red Cross established info-point on the spot, where data on the needs of users are collected, along with distribution of blankets, sleeping bags and pads, sorting the clothes, footwear and hygiene items<sup>137</sup>.

The city administration has approved the rehabilitation of the building so that at least the conditions for the winter will be improved in such a way that the building be closed by carpentry, roofing and flooring<sup>138</sup>. The heating of the Đački dom is implemented by the IOM. The city of Bihać has provided regular cleaning of this area, the Public Utility Company of Bihać daily cleans and removes waste. Health Center Bihać provides health care in a way that has a signed contract with "Doctors Without Borders".

#### **b) Temporary reception center Sedra**

The temporary reception center Sedra (hereinafter: the Center) is located 5 km from the entrance to the City of Bihać, on the road to Cazin. The building was built in 1984 as a hotel, with the original accommodation capacity of 36 rooms, or 200 people. In order to ensure the accommodation of vulnerable categories<sup>139</sup> (families, single parents, mothers with children,

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<sup>134</sup> According to the information obtained at the meeting on 09 October 2018, the City of Bihać has no jurisdiction in resolving the legal status of migrants. The competent Ministry of Security of Bosnia and Herzegovina has not established adequate cooperation with this local community, nor has it fulfilled its role and has not undertaken the obligation to resolve the status of these persons. According to their knowledge, most of these persons have the status of irregular migrants. They also point out that the number of migrants continues to increase, that the city administration does not have the capacity to adequately manage the migrant crisis and express concern for safety and property of the citizens of Bihać. Representatives of the City of Bihać participate in the meetings of the Una-Sana Canton Coordination Team, held for the purpose of exchanging information between representatives of state authorities, international and non-governmental organizations. These meetings are held twice a month.

<sup>135</sup> Representatives of the Ombudsman Institution were not able to access legal documents on the establishment and management of Đački dom. Namely, according to the representatives of the city administration, the City administration has good cooperation with the IOM, so in April this year, the Mayor of the City of Bihać for the accommodation of migrants allocated Đački dom located in Borići. City administration officials say the goal was to move migrants away from the streets of Bihać.

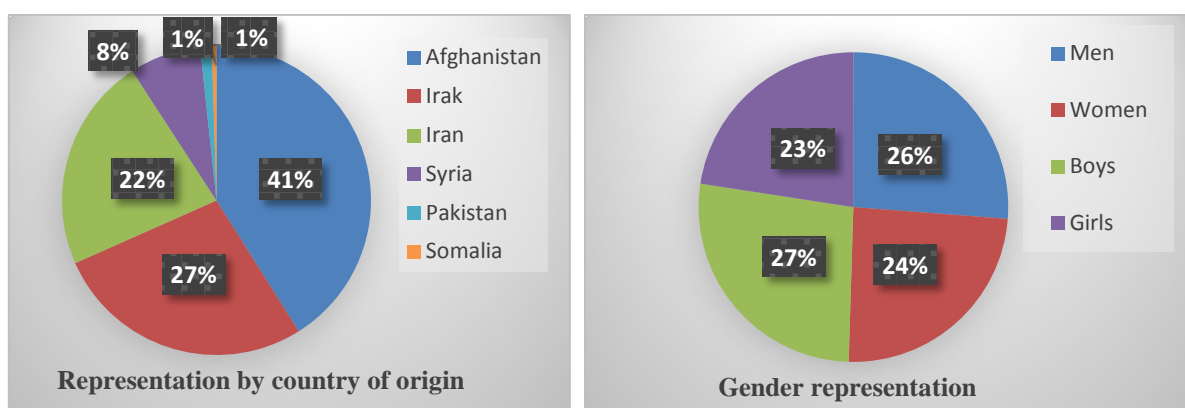
<sup>136</sup> <https://www.klix.ba/news/black-chronicle/fight-between-migrants-accomodated-in-velika-kladusa-six-persones-injured/181103070>; <https://www.klix.ba/news/black-chronicle/at-the-railway-station-in-sarajevo-the-police-intervened-again-for-the-fight-between-the-migrants/181101120>; <https://www.klix.ba/news/black-chronicle/in-migrants-fight-in-livno-injured-one-person/181031060>; <https://www.klix.ba/news/black-chronicle/migrant-in-velika-kladusa-was-prevented-from-attempt-to-inlict-self-injury-by-cold-veapon/181024083>; <https://www.klix.ba/news/black-chronicle/in-the-fight-of-migrants-in-sarajevo-seriously-injured-iranian/181021010>; <https://www.klix.ba/news/black-chronicle/due-to-the-conflict-between-them-detained-more-migrants-in-the-bihac-area-they-also-attacked-the-police/181009110>

<sup>137</sup> The Red Cross pursues its general goals and specific tasks through the volunteers. Within the provision of the humanitarian care of migrants, the Red Cross of Una-Sana Canton and the Red Cross of the City of Bihać have 50 regularly engaged volunteers, while volunteers from other cantons, towns and municipalities are mobilized if necessary.

<sup>138</sup> Subjective impression: dirty, unconditionally, over 90% are men, mostly families do not stay (women and children), and at this moment, Đački dom cannot be regarded as a center or an organized accommodation for its beneficiaries.

<sup>139</sup> Profiling of migrants based on the priority list is done by UNHCR on the ground. Most of these are located in Borići and Velika Kladusa.

unaccompanied children<sup>140</sup>, victims of violence) located in the Una-Sana Canton area, the Ministry of Security of Bosnia and Herzegovina opened the Center in July 2018. The facility is privately owned, and funding is equally financed by the European Commission Humanitarian Aid (hereinafter: ECHO), IOM and UNHCR<sup>141</sup>. The Center is managed by the IOM, which also carries out the internal registration of migrants. Internal registration includes collecting of basic data: first and last name, date of birth, country of origin, and gender. After collecting the above data, it is possible to issue cards with an ID number<sup>142</sup>. Issuance of the ID cards is a verification/control mechanism so that their presence in the Center can be checked<sup>143</sup>. At the time of the visit, 420 persons stayed in the Center, with an average duration of 38 days<sup>144</sup>. Out of the total number of the beneficiaries located in the Center, 108 are men, 100 women, 204 children out of which 111 boys and 93 girls. Since the establishment of the Center, 97 families have been registered in the Center<sup>145</sup>. With the support of UNICEF, Sedra has established a safe corner for children and a corner for mothers and babies<sup>146</sup>.



The first 150 beneficiaries of the Center are located in the old block of the hotel in rooms with a bathroom, and the rest of rooms are for two or more families. Upon arrival to the Migrant Center, a standard package of hygiene and linen is provided<sup>147</sup>. Also, they get the blankets, pillows, while the essential hygiene items are provided on a daily basis.

The Center is adapted in such a way that the gallery and larger spaces are divided, and additional rooms built so that it can accommodate 400 people at the moment. Deep cleaning of the Center was carried out, large defects removed, showers were installed for men and women, but the entrance to the shower rooms is from the outside. The big problem was the lack of drinking water, so that the IOM representatives invested in the construction of the chlorination devices.

<sup>140</sup> One is an unaccompanied minor (17 years old) to whom by the Social Welfare Center Cazin was assigned as a guardian. It is a boy who was caught in a fight, with serious injuries, undergone surgery and was released from the hospital, after which he was placed in the Center.

<sup>141</sup> The IOM provides funds for housing and food, and the UNHCR for the protection and health care.

<sup>142</sup> It is actually a serial number of the ID card.

<sup>143</sup> At the entrance to the Center there is a reception office, where the beneficiaries present their ID card upon each entry / exit from the Center. It means that their entries and exits are registered on the spot. The safety of Center is kept by Security Management Company Fileković. The Center has the house rules - they have to return to the Center before 22:00. Apart from the fact that their ID card serves as a verification mechanism, the beneficiaries use the ID card as an access to the services in the Center, and present them when taking a meal.

<sup>144</sup> Since the establishment of the Center 602 beneficiaries have been registered. The first departures from the Center were recorded on 30 July 2018, i.e. several days after its establishment.

<sup>145</sup> There are currently two children with special needs in the Center.

<sup>146</sup> From 20 August 2018, a corner for children in Sedra was established. On a daily basis, volunteers work with over 80 children. In September, work with a total of 35 mothers with babies was recorded in the corner for mothers and babies. UNICEF supports the work of both corners until 31 March 2019

<sup>147</sup> They are provided with 2 sets of bedding. Since the Center has a laundry, washing is possible every 15 days.

Although the water quality finally after numerous tests reached satisfactory values, the issue of regular water supply for the Center has not been solved, so drinking water is used from the water chiller<sup>148</sup>. Namely, for the needs of the beneficiaries of the Center, the water tank was brought and placed within the Center premises, and water for the showers was supplied by the Cazin Fire Fighting Company. On average, 10 cubic meters of water per day are used for hygiene. Also, there is not a permanent solution to the heating issue. Only part of the facility has necessary installations in place, while the boiler requires a large investment. The Center has a kitchen with a restaurant where food is served once a week, and the food is prepared by the Cantonal Red Cross<sup>149</sup>.

The beneficiaries were provided with two hot meals and one dry meal as a lunch package<sup>150</sup>. Food is prepared in accordance with European standards, and babies up to 6 months of age are given adjusted dietary supplements.

Regarding the legal status of the beneficiaries, it was concluded that on 9 October 2018, that is, the day of the visit of the Ombudsman representatives, all users possessed attestations of the intent to seek asylum<sup>151</sup>. All data on migrants (name and surname and date of arrival/accommodation in the Center), which are located in the Center, are forwarded by the IOM representatives primarily to the UNHCR and Foreigners' Affairs Service.

### **Health care**

For the beneficiaries of the Borići Student Dormitory primary health care is provided under the contract between the UNHCR and the Danish Refugee Council (hereinafter referred to as DRC) is provided by the Bihać Health Center. On the other hand, under the same contract, the Cazin Health Center provides primary health care for the beneficiaries of the Sedra Reception Center. Doctors come to the Center every day from Monday to Friday, three hours a day and there are preliminary medical examinations, the so-called medical screening examinations to check if there are the cases of lice and scabies. In case that laboratory tests, specialist medical examinations or similar services the UNHCR provides transportation to the hospital, while the DRC carries out logistic preparations for the provision of health care at the hospital.

### **Psychosocial care**

Psychosocial care for the beneficiaries located in the Sedra Center is provided by the Bosnia-Herzegovina Women's Initiative Foundation and NGO „Žene sa Une“<sup>152</sup>. Psychosocial care implies vulnerability assessment and continuous monitoring of the needs of migrants as well as

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<sup>148</sup> Initially, the water was not good for drinking for two months. In the meantime, the IOM again installed the chlorination device. Although water quality finally reached the satisfactory level after a number of tests, the water reservoir broke down and the Center was flooded. After that, the cistern was brought again. There is no immediate solution for water supply, so water is purchased. The installations are old and every day some defects are being repaired due to the overload of the building. The issue of water supply should be resolved within 7 days from the day of the visit.

<sup>149</sup> The IOM delivers food to migrants. Steps are taken in order to provide adequate accommodation conditions.

<sup>150</sup> Breakfast from 8:30 to 9:30 in the restaurant; lunch from 13:00 to 14:30 in the restaurant; dinner from 19:00 to 20:00 - package.

<sup>151</sup> Representatives of the Ombudsman Institution on 9 October 2018 visited the Sedra temporary shelter center in order to determine the situation on the ground. On this occasion, they were informed by the representatives of the IOM, coordinator Ms. Nataša Omerović that the Asylum Sector demands the payment of residence tax. In order to maintain the legal status of migrants, the Service for Foreigners Affairs renewed the attestation of the intent to seek asylum, trying to override the period until the arrival of the Asylum Sector. It was then agreed that an application for asylum can be submitted by anyone, regardless of whether his / her certificate of expiration has expired, it is only important that the person is in the Center. Cooperation with the Service for Foreigners is excellent. However, until the issue of paying the residence tax is settled, a certain number of persons will remain without an asylum application.

<sup>152</sup> On 10 October 2018 representatives of the Ombudsman held a meeting with Ms. Aida Behrem, Director of the NGO „Žene sa Une“.



raising awareness of local communities in order to integrate them into society. One of the key segments of integration into society is the provision of adequate education to the children of these persons in the reception centers. Foundation Bosnia-Herzegovina Women's Initiative started working in Bihać 3 September 2018. It currently has two social workers who are appointed guardians for unaccompanied children. Since the establishment of the Foundation of Bosnia and Herzegovina Women Initiative in Bihać, 63 unaccompanied minors have been registered, of which 61 boys and two (2) girls. In 99% of cases, they are young people at the brink of maturity.

„Žene sa Une“ is an NGO established and registered for the first time in September 1994, and it functions in accordance with the principles of humanity, impartiality and independence. This NGO currently has 25 employees of various profiles such as doctors, nurses, psychologists and social workers. Namely, with the increased influx of migrants into the Una-Sana Canton area, this NGO expressed interest in creating a partnership in order to provide comprehensive support and assistance to migrants. With the Save the Children as partner organization, in early May of 2018, a survey was conducted on the needs assessment of families with children. The aim of the research was to determine the number of migrant children living in the Una-Sana Canton area<sup>153</sup>.

### **Free legal aid**

Free legal assistance to migrants is provided by the NGO "Vaša prava BiH"/“Your rights BiH” as of 01 September 2018. They have an established office in Bihać, and the opening of the office in Sedra is envisaged with the aim to provide free legal aid to migrants every day from 8:00 to 16:00. Creation of posters – information material on the provision of free legal aid by the NGO is under way, and the posters will be translated into all necessary languages and displayed in all locations where migrants are located or along their movement routes.

### **The position of children in reception centers**

Since 11 June 2018 the NGO "Žene sa Une" established a space for children called "Child friendly space" in Đački dom in Borići, that is, a safe corner for children. A safe corner for mothers and babies<sup>154</sup> is located in the drop-in center for children, or in the Safe House<sup>155</sup> located in the vicinity of the Đački dom in Borići. Initially, the housing of the most vulnerable categories in the Safe House was realized with the support of the Care International, while the continuation of the implementation from July 2018 was provided through the UNHCR. As part of the care in the Safe House in September, 11 families with a total of 42 people were registered. Currently there are 23 persons in the Safe House, which has a capacity of 26 beds.

From 20 August 2018, with the support of UNICEF, for children in Sedra established was a Corner for children as well. On a daily basis, volunteers work with more than 80 children. In September, work with a total of 35 mothers with babies was recorded in the corner for mothers and babies. UNICEF will support the work of both corners until 31 March 2019.

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<sup>153</sup> The assessment was done simultaneously in Sarajevo, Mostar, Velika Kladusa and Bihać, and within the framework of the Child Protection Coalition conducted by UNICEF, SOS Children's Villages, Save the Children, World Vision and MFS-EMMAUS. After the assessment, it became clear that number of families with children is high.

<sup>154</sup> The corner for mother and children is the corner where mothers can change, feed, bathe their babies, and so on.

<sup>155</sup> A Safe House provides adequate accommodation for women and children victims of trauma and violence during the process of their recovery. Stay in the Safe House includes appropriate professional assistance, individual and group therapy, counseling, family therapy, occupational therapy, and economic empowerment through attending the training for employment and self-employment.

Nine employees of the mentioned NGO work every day in a Corner for children, as well as in the Corner for mother and child including weekends from 09:00 to 17:00. Employees have a sufficient number of didactic materials for work with children, as well as materials for educational, creative and sports-recreational activities. Representatives of the NGO point out that the interest of women for safe corners is very high<sup>156</sup>. Representatives of Save the Children are in the phase of negotiating for the allocation of an additional room<sup>157</sup> in which will be held activities for the category of children aged 14+.

The Social Welfare Center Bihać (hereinafter: SWC Bihać) has a very important role in the treatment of children, that is, in the process of appointing a legal guardian. SWC Bihać is the only social welfare center in the Una-Sana Canton area dealing with migration issues, care of migrants and appointment of guardians to the minor children<sup>158</sup>. In 2017 this SWC provided guardianship for 25 children and in 2018 for 60 minors. Due to the scope of work, the SWC Bihać is facing numerous difficulties in its work<sup>159</sup>. The difficulties are primarily related to the procedure of appointment of a legal guardian and registration of the newborn children delivered in the Una-Sana Canton. Specifically, in accordance with Article 16 of the FBiH Law on Registry Books<sup>160</sup>, this Center is required to ensure that the newborn migrant children are entered in the birth register and that the employees themselves give the names to the newborn babies in the event that their mothers and the newborn babies leave the hospital and they lose track of them. For this reason, the SWC Bihać has sent a letter to the Foreigners' Affairs Service to check if the parents of these children are in Bosnia and Herzegovina so they can contact them and, with their knowledge, complete the process of registration of their children. The SWC Bihać is understaffed and lacks financial and material resources, which has a negative impact to the realization of the rights of citizens of the Una-Sana Canton.

## **MUNICIPALITY OF VELIKA KLADUŠA**

Representatives of the Municipality of Velika Kladuša do not have information about the total number of migrants currently in the area of this municipality nor have the information on their legal status. Taking into account the fact that the number of migrants continues to increase, representatives of municipal authorities have stressed that they do not have the capacity to adequately manage the migrant crisis and have expressed concern about the safety of citizens. Particularly, the problem of the lack of an adequate control/monitoring mechanism of this process is highlighted.

### **Trnovi – tent settlement**

The tent settlement that was in the center of Velika Kladuša, based on the relevant decision of the local authorities, was relocated to the land Trnovi owned by the Municipality, at a distance of

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<sup>156</sup> Activities of this NGO carried out in the corner for children and the corner for mothers and babies included the following: 188 pieces of information, 396 times organized the distribution of clothing items, distributed 661 hygiene parcels, 528 food rations (milk for babies is not distributed, only the juices for babies +1), 247 mothers received advice on breastfeeding, 235 advices on rest and discussions with staff.

<sup>157</sup> An additional room is necessary because they are adolescents who require special attention and the organization of a specific types of the activities.

<sup>158</sup> On 9 October 2018, representatives of the Ombudsman Institution visited the Social Welfare Center in Bihać. On that occasion, a conversation was held with the director of the Center Senad Tutić and Dijana Nuspahić.

<sup>159</sup> Although not competent, the Social Welfare Center in Bihać, taking into account the best interests of the minor, takes over the role of the competent center and appoints guardians for minors located in the Sedra Center. The Sedra Center is located in the municipality of Cazin, which means that the institution in charge of the designation of a guardian should be the Social Welfare Center Cazin. According to information provided at the meeting, the representatives of the Social Welfare Center of Cazin refuse to appoint guardians to minors who are located in the Sedra Center.

<sup>160</sup> "Official Gazette of the Federation of BiH", No. 37/12

about 3 km from the center. There are currently around 250 to 300 migrants in Trnovi, including some unaccompanied children. The largest number of migrants comes from Afghanistan, then from Pakistan, Syria, Iran and Iraq. During the visit, representatives of the Ombudsman Institution noted:

- at location in Trnovi, the Public Utility Company Vodovod i Kanalizacija (hereinafter: the Utility Company) provided migrants with drinking water, electricity from generators, sanitary facilities and containers for waste disposal. Sanitary conditions are very bad.
- Food for migrants is provided by the Red Cross of the Una-Sana Canton, including breakfast from 9:30 - 10:30<sup>161</sup>, and lunch from 15:00-16:00. Although food is provided to all migrants, there are many other things that they need. These are, first of all tents, sleeping cots, blankets, pillows and adequate winter clothing and footwear.
- Primary health care is provided by mobile teams of doctors of the International Organization "Doctors Without Borders". Primary health care is provided daily from 09:00 to 14:00. It has been found that a large number of migrants have scabies and asthma, while one is suffering from cancer.
- Two police officers take care of the tent settlement's security.

In their conversation with migrants, the representatives of the Ombudsman concluded that almost 99% of migrants do not have a regulated status, that is, their registration was not done by the Ministry of Security/Asylum Sector or the Foreigners' Affairs Service. These persons are not familiar with the procedure or the procedure for acquiring the right to asylum in Bosnia and Herzegovina, nor the rights they are entitled to under the Law on Aliens and the Law on Asylum of Bosnia and Herzegovina. They point out that in addition to NGOs, they receive help and support from the local population who allow them to take shower in their homes and then return them to the tent settlement.

According to information provided by the migrants, they are trying to cross the border between Bosnia and Herzegovina and the Republic of Croatia, mostly during the night, at a 70-kilometer long borderline. They claim that they succeed after 7 to 10 attempts to cross the border through the forest roads. In their conversation with the Ombudsman, the migrants complained of the ruthless treatment of the Croatian police. They state that, in attempts to cross the border, the border police of the Republic of Croatia seizes their travel documents, money and mobile phones (destroying cell phones in a way that destroy the mobile phone charge point by a screwdriver) as well as to inflict them bodily injuries, showing bruises on the hands, under the eyes and broken teeth, and they also showed medical documentation in which the fractures of the arm and the ribs are contained. Also, migrants pointed to the fair treatment by the border police of the Republic of Slovenia, but they state that they have to pay a fine for the illegal crossing of the border in the amount of 230 € or in the amount of funds currently in their possession. They highlighted the problem of communicating with an interpreter/translator from Palestine who works in a Reception center in Slovenia who prevents them from being admitted to the Reception center by dismissing all their claims as false, and their documents as forged.

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<sup>161</sup> In order to provide better conditions for accommodation and food, the Red Cross has rented a house (in Drmaljevo nearby Trnovi) with the area of 500 m<sup>2</sup> in which (as of 10 September 2018) the migrants present in the area of Velika Kladuša receive meals according to the established schedule. Representatives of the Red Cross suggested to the IOM to rent the second floor of the same building for the accommodation of migrants located in the area of Velika Kladuša, i.e. the Trnovi camp (capacity 250 people (above the restaurant).

Representatives of the Ombudsman concluded that the immediate action of the competent authorities, primarily the Ministry of Security of Bosnia and Herzegovina, is necessary in order to move migrants from the territory of the tent settlement Trnovi near Velika Kladuša. It is a tent settlement (plastic tents), located near the sewers which does not meet even basic conditions for human residence.

## COMPLAINTS REGISTERED AT OMBUDSMAN INSTITUTION

From 2016 to 2018 the Ombudsmen of Bosnia and Herzegovina received and processed 48 individual complaints related to migration and asylum issues in Bosnia and Herzegovina. In 2016, two cases were received concerning the detention of juvenile foreign nationals in the Immigration Centre<sup>162</sup>. In 2017, 6 cases were received. The issues were related to detention of minor foreign nationals, conducting proceedings in relation to the asylum seekers' application in Bosnia and Herzegovina<sup>163</sup>. In 2018, 40 complaints were received.<sup>164</sup>

On 18 December 2017, the Ombudsman of Bosnia and Herzegovina issued its recommendation no. P-334/17 to the Foreigners' Affairs Service, the Ministry of Security of Bosnia and Herzegovina recommending them that, in accordance with the Law on Aliens and the Law on Asylum in all future procedures of rendering decisions involving the measure of putting under control or taking other measures in relation to unaccompanied or accompanied minors, in particular when the minor has expressed his/her intention to seek the asylum or has already filed the application for asylum, take into account the obligation to implement Article 3 of the Convention on the Rights of the Child and the principles of the best interests of the child, and that in accordance with the provision of Article 123, paragraph 4 of the Law on Aliens of BiH, the measure of keeping the unaccompanied minors in an immigration center should be applied exceptionally, only as the last possible resort and for the shortest possible time.

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<sup>162</sup>Ž-SA-05-1200/16, Ž-SA-05-1285/16.

<sup>163</sup>Ž-SA-01-125/17, Ž-SA-01-73/17, Ž-SA-05-239/17, Ž-SA 05-97/17, Ž-SA-05-910/17, Ž-SA-05-908/17.

<sup>164</sup>Ž-SA-05-592/18, Ž-SA-05-593/18, Ž-SA-05-594/18, Ž-SA-05-595/18, Ž-SA-05-596/18, Ž-SA-05-597/18, Ž-SA-05-598/18, Ž-SA-05-599/18, Ž-SA-510/18, Ž-SA-01-563/18, Ž-SA-01-568/18, Ž-SA-01-564/18, Ž-SA-01-567/18, Ž-SA-05-565/18, Ž-SA-01-566/18, Ž-SA-05-399/18, Ž-SA-01-445/18, Ž-SA-05-532/18, Ž-SA-05-531/18, Ž-SA-05-432/18, Ž-SA-05-128/18, Ž-SA-01-689/18, Ž-SA-01-690/18, Ž-SA-01-691/18, Ž-SA-04-415/18, Ž-SA-01-900/18, Ž-SA-05-779/18, Ž-SA-05-765/18, Ž-SA-05-889/18, Ž-SA-05-599/18, Ž-SA-05-607/18, Ž-SA-05-611/18, Ž-SA-05-610/18, Ž-SA-05-609/18, Ž-SA-05-608/18, Ž-SA-05-531/18, Ž-SA-05-889/18, Ž-SA-05-995/18, Ž-BL-05-783/18, Ž-BL-05-784/18.

## IV RIGHT TO ASYLUM

The Asylum Law governs the implementation of the right to asylum in Bosnia and Herzegovina. For the purposes of this Law, *international protection/asylum*<sup>165</sup> covers both a refugee status and a subsidiary protection status, and the authorities of Bosnia and Herzegovina are obliged to provide refugees or eligible foreigners. Accordingly, according to the Law on Asylum, the right to asylum has a *foreigner*, that is, a person who is not a citizen of Bosnia and Herzegovina<sup>166</sup>, as well as a *stateless person*<sup>167</sup> who is not considered by any state in accordance with domestic legislation as its own national.

*Refugees* within the meaning of Article 2, item e) of the Law on Asylum shall be considered to be an alien who, due to the established fear of persecution based on race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality or habitual place of residence, it can not be, or because of fear, not be placed under the protection of that country.

Applicant for international protection, i.e. *asylum seeker*<sup>168</sup> is an alien who submits an asylum application for which an enforcement decision has not been made in accordance with the Asylum Law.

*An alien under subsidiary protection* is an alien to whom the Ministry of Security of Bosnia and Herzegovina has recognized the status of subsidiary protection in accordance with the Asylum Act<sup>169</sup>. It is a person who does not fulfil the conditions for refugee status, but for which there are serious reasons for believing that he would face the real risk of being subjected to the death penalty, ie execution, torture or inhuman or degrading treatment or punishment in the country of origin or in the country of commonplace place of residence, or there is a serious individual threat to the life or face of a civilian because of non-selective violence in situations of international or internal armed conflict, which can not, or because of fear, do not wish to be placed under the protection of that country<sup>170</sup>.

The foreigners can be placed under international protection in cases that they:

- a) express the intention to seek asylum;
- b) receive an attestation of the expressed intention to seek the asylum;
- c) Apply for international protection/asylum.

After starting the procedure involving the right to asylum, the Asylum Sector of the Ministry of Security of Bosnia and Herzegovina is obliged to do the following:

- a) registration of asylum seekers which includes the filling in the form, taking photographs, taking fingerprints, copying the documentation and issuing the asylum seeker card.
- b) an interview - a detailed interview conducted by the Asylum Sector officials. The interview enables the asylum-seeker to present the reasons for submitting the application, and, if necessary, such interview can be repeated several times to fully and accurately determine the factual situation.
- c) considering the submitted applications individually and making decisions on these applications.

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<sup>165</sup> Article 2 Item d), of the Law on Asylum, ("Official Gazette of Bosnia and Herzegovina", no. 11/16 and 16/16)

<sup>166</sup> Article 2, Item a), Law on Asylum, "Official Gazette of BiH", no. 11/16 and 16/16.

<sup>167</sup> Article 2, Item b), Law on Asylum, "Official Gazette of BiH", no. 11/16 and 16/16.

<sup>168</sup> Article 2, item c), Law on Asylum, "Official Gazette of BiH", no. 11/16 and 16/16.

<sup>169</sup> Article 2, item d), Law on Asylum, "Official Gazette of BiH", no. 11/16 and 16/16.

<sup>170</sup> Article 22, paragraphs 1 and 2, Law on Asylum, "Official Gazette of BiH", no. 11/16 and 16/16.

Upon consideration of the filed applications, or after the conducted procedure on the application for asylum, the Ministry of Security of Bosnia and Herzegovina/the Asylum Sector makes a decision by which:

- a) the international protection/asylum is granted and the refugee status recognized;
- b) no international protection/asylum is granted, but the status of subsidiary protection is recognized (a person with a recognized subsidiary protection is entitled to stay in Bosnia and Herzegovina for a period of 1 year);
- c) the procedure for international protection/asylum is suspended and the deadline for leaving the territory of Bosnia and Herzegovina is determined (with a detailed explanation of the reasons for such a decision);
- d) the application for international protection/asylum is rejected for having no grounds, and the deadline for leaving the territory of Bosnia and Herzegovina is determined. In this case, the asylum seeker has the right to file a lawsuit before the Court of Bosnia and Herzegovina in order to reverse a negative decision within 60 days or within eight (8) days if it is an urgent procedure. Until the final decision on his status is reached, or until the Court of Bosnia and Herzegovina has decided on the complaint of the applicant, the applicant keeps the status of the international protection/asylum.

#### **4.1. Procedure on asylum request**

The first step for foreigners in the procedure for exercising the right to asylum is to express the intention to seek asylum in Bosnia and Herzegovina. This intention can be expressed to the Border Police of Bosnia and Herzegovina or the Foreigners' Affairs Service, i.e., the nearest field office of the Foreigners' Affairs Service. The Border Police of Bosnia and Herzegovina or the organizational unit of the Service to which the alien has expressed the intention to submit an application for asylum informs the alien of the asylum procedure and its rights and obligations<sup>171</sup>. The organizational unit of the Service, within 3 days from the day of announcing the intention, delivers a copy of the attestation of the expressed intention with copies of personal and other documents of the foreigner relevant to the asylum procedure to the Ministry of Security of Bosnia and Herzegovina<sup>172</sup>.

Pursuant to Article 15 of the Law on Asylum *"foreigners who wish to submit their applications for asylum, asylum seekers, refugees, aliens under subsidiary and temporary protection have the right to be informed in a language they understand or can reasonably be assumed to understand about the procedures, rights and obligations that, in accordance with this Law, derive from their status. This information may be provided in writing, in the form of a flyer, in a language understood or understood by a stranger."*

During the field visits, the representatives of the Ombudsmen have noted that the attestation of the expressed intention to seek asylum is available only in the official languages in use in Bosnia and Herzegovina. It is not clear how the communication between a border police officer and/or an officer of the Foreigners' Affairs Service and a foreigner is conducted, having in mind multiple countries of origin of the aliens and the variety of languages spoken or understood, including some languages spoken on a small territory. The question arises as to how an alien

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<sup>171</sup> Article 31, paragraph 3 of the Law on Asylum.

<sup>172</sup> Article 32 paragraph 3 of the Law on Asylum.

understands the meaning of the document obtained, *which is called the Attestation of the expressed intention to seek asylum*.

Therefore, already in the first communication of the alien with the authorities of Bosnia and Herzegovina, the implementation of the obligations under Article 15 of the Law on Asylum has not been ensured, which further complicates the legality of the proceedings.

The Ombudsman of Bosnia and Herzegovina is aware of the existence of a leaflet on the rights of asylum seekers available in several foreign languages, but it is questionable in which phase of their stay in Bosnia and Herzegovina foreign nationals get this leaflet, and whether getting acquainted with the information on this leaflet is an integral part of the procedure conducted upon the application for the asylum. It should be written somewhere that a foreigner is familiar with his/her rights in a language he/she understands, and in addition to mention the method used to get him/her acquainted (verbally or through a flyer), and that this information forms an integral part of the registration procedure.

*Attestation of the expressed intention to seek asylum*<sup>173</sup> issued by the Field Office of the Foreigners' Affairs Service, contains the following information:

- personal information of the alien, as a rule, based on self-identification, because irregular migrants do not usually have any documents (name, surname, date and place of birth, citizenship, gender, accompanying family members, possession of travel documents, photograph);
- determination of the movement direction, where the most frequently a foreign national is asked to report to the Asylum Centre Delijaš near Trnovo;
- the deadline, that is the date by which the foreign national has to contact the Asylum Sector.

The attestation also contains a note on whether a foreigner understands one of the official languages of Bosnia and Herzegovina, or which other language s/he understands. In the note which is present on the attestation it is said that the attestation is considered to be the right to remain in Bosnia and Herzegovina during its validity along the declared movement direction, and if the alien does not file the application for asylum within the deadline specified in the attestation, it will be deemed that the intention was not stated at all. At the same time, it is noted that the attestation constitutes an invitation for lodging the applications for the asylum and commencement of the registration procedure, and the contact phone of the Asylum Sector was given. The Asylum Law has established that the validity period of the attestation of the expressed intention to seek asylum can not be longer than eight (8) days, and that exceptionally, in case of a large number of simultaneously expressed intentions for submitting an application for asylum, the validity period of the certificate on the expressed intentions can be 14 days<sup>174</sup>.

The Ombudsman notes that, unfortunately, this exception of 14 days and before the increased inflow of migrants became a rule, although it is not clear whether a clause was activated in the event of a large number of simultaneously stated intentions. Since the Ombudsman, according to the collected data, established that this clause is activated when influx foreigners is exceeding 5,000 persons, and having in mind that according to the latest data, currently 3,000 to 5,000 foreigners – migrants is there in Bosnia and Herzegovina, it is unclear why this 14-day deadline is left. The issue is problematic because during this period a foreigner to whom an attestation of

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<sup>173</sup> Form No. 1 <http://sluzbenilist.ba/page/akt/IKofUY4w6z4>

<sup>174</sup> Article 32, paragraphs 4 and 5 of the Law on Asylum.

the expressed intention to seek the asylum is issued is free to move in the whole territory of Bosnia and Herzegovina while not having the fixed address of residence. This is evident because in spite of the insufficient capacity (for these occasions of massive influx of foreigners) of the Asylum Centre in Delijaš, it was almost never full at any moment. Also, the Ombudsman's staff, during their visit to Delijaš, found there a number of asylum seekers who were duly registered in the Asylum Centre Delijaš, but no interview was conducted with them, regardless of the time lapsed since their registration. With the aim of speeding up the procedure and registration of asylum seekers, the UNHCR established an Info Centre in Sarajevo in the UNITIC building where asylum seekers and refugees can receive, *inter alia*, humanitarian, legal, psychosocial assistance and accommodation assistance. According to information obtained from the Asylum Sector<sup>175</sup>, the total number of foreigners who have declared their intention to seek asylum, from 01 January to 31 April 2018 was 2,762, while 383 foreign nationals undergo the registration. This raises the question of whether the foreign nationals failed to follow the instruction present at the attestation for their lack of desire to register in this status or their lack of understanding of the document itself due to the language barrier or the lack of capacity of the Asylum Sector for processing all issued attestations of the expressed intention to seek the asylum.

The situation on the ground, in particular interviews with foreigners – migrants placed in tents, in the park, across the road from the City Hall in Sarajevo<sup>176</sup> indicate that all those interviewed have the attestations. In the conversation with the aforementioned persons, it became clear that these persons who have the attestations of their intent to seek the asylum do not wish to be accommodated in the Delijaš Asylum Centre, because it is too far from the city, as well as they do not want to be accommodated in the hostels and private accommodation because their rooms are too small<sup>177</sup>. Families with children are mainly interviewed.

During this visit, the Ombudsmen of Bosnia and Herzegovina noted that hygiene is at very low level, since the park as such is not intended for stay of a large number of people in a prolonged time period. The sanitary situation is very bad, and there is concern that the current situation can negatively affect both the health of these persons who live in the park as well as the citizens of Sarajevo. For this reason, the Ombudspersons of Bosnia and Herzegovina find that an urgent action is necessary to ensure the adequate acceptance and accommodation of these persons.

In conversation with these persons, it became clear that foreigners who possess an attestation of their intention to seek the asylum, but are not registered as asylum seekers, cannot open a bank account, for which is necessary to have an identification document. An asylum-seeker's card constitutes a valid identification document that can be presented in the bank in order to open an account. In order to receive money, migrants who have not yet registered as asylum seekers are often forced to use the services of citizens of Bosnia and Herzegovina to receive, on their behalf, funds from abroad sent to them, and some of those citizens ask for some percentage of the amount received.

In order to reduce the number of people who have expressed their intention to seek asylum in the streets of Bosnia and Herzegovina, and especially when it comes to the vulnerable category of persons, UNHCR has placed a certain number of these people in private accommodation and hostels. Ombudspersons of Bosnia and Herzegovina concluded that the competent services do

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<sup>175</sup> Meeting of representatives of the Ombudsman with Deputy Minister of Security Marjan Baotić, Head of the Asylum Sector, on 03 May 2018

<sup>176</sup> Interviews conducted on 8 May 2018, in cooperation with representatives of BHWomen Initiative

<sup>177</sup> During the talks with foreigners - migrants were present volunteers from EU countries, on the question of who finances their work, they stressed that they work voluntarily and on their own initiative decided to volunteer in Bosnia and Herzegovina.



not have accurate data on the number of asylum seekers who are placed in this way, although pursuant to Article 38, paragraph 2 of the Law on Asylum, *"an alien who expressed his intention to apply for asylum, and is located at a private address shall be obliged to make a report of stay to the competent organizational unit of the Service or the police administration/station, within three days from the date of the stated intention, and before submitting the application for asylum."*

The key question is what is happening to foreigners who have an attestation of their intention to seek asylum, but they could not be registered within the deadline specified by the law, nor did they report to the destination defined in the attestation. This is significant because Article 35, paragraph 2 of the Law on Asylum stipulates that *"exceptionally, if a foreigner does not apply for asylum without justified reasons within the deadline specified by the attestation, he will be deemed to have given up his intention, on which the Ministry shall notify the Service. In further proceedings, the law governing the movement and residence of foreigners shall apply to him."*

This means that he may be subject to sanctions for illegal residence in Bosnia and Herzegovina.

Ombudspersons of Bosnia and Herzegovina note that even the the law enforcement officers do not know who decides about the place where a foreigner who has expressed his intention to seek asylum will be placed until the final decision on the asylum application is made, would it be the Delijaš Asylum Center or a private accommodation in Ilidža provided by Mr. Tim Clancy and an NGO, whether it would be a hotel, a hostel or some private accommodation, which are all the option under the Asylum Act.

According to information obtained during the talks with law enforcement officers in Bosnia and Herzegovina and international organizations, the Asylum Sector currently registers persons who have expressed their intention to seek asylum in December 2017. This fact indicates to a huge backlog, especially given the increased inflow of migrants in the first four months of this year and the continuation of this trend in May. This creates the space for migrants to stay in the territory of Bosnia and Herzegovina, because the attestations enable them to move freely. The fact that registration of asylum is an actual filter which confirms the seriousness of the stated intention to seek asylum in Bosnia and Herzegovina, not only the way for the migrants to legalize their stay, without the real intention of seeking asylum. Without registration, it is impossible to access the further stages in implementation of the right to asylum, such as an interview.

Ombudspersons of Bosnia and Herzegovina note that even at this stage, even before the increase in the number of migrants in 2018, there was a certain backlog, and that the period between the registration and interview was more than six months, in some cases more than a year. The Asylum Act stipulates that a decision on the asylum application should be made within six months from the date of submission of the application, and this decision can exceptionally be made within 18 months if:

- a) the determination of the facts on which the asylum application is based is difficult;
- b) a large number of foreigners apply for asylum in a given period;
- c) The delay can be attributed to the omissions of the asylum seeker in terms of fulfilling the obligations from Article 40, paragraph 3 of this Law, as well as other objective reasons<sup>178</sup>.

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<sup>178</sup> Article 42 (deadlines for issuing a decision) Asylum Law, "Official Gazette of BiH", No. 88/15.

The interview must be completed within 18 months from the date of registration. Without conducting an interview, a decision can not be made, which creates uncertainty on the part of the asylum seekers and since the decision is the basis for exercising the right to a remedy, in case the application for asylum is refused. At all times, the authorities in Bosnia and Herzegovina are obliged to enable the asylum seeker the access to the rights prescribed by law. Ombudspersons of Bosnia and Herzegovina especially want to point out the provision of Article 42, paragraph 3 of the Law on Asylum, which gives the Asylum Sector the possibility to make a decision on the asylum application within 30 days if there is a basis for the refusal of asylum, and according to the accelerated procedure.<sup>179</sup>

The Ombudsmen of Bosnia and Herzegovina find that the Ministry of Security of Bosnia and Herzegovina, the Asylum Sector, cannot respond adequately to this task, due to the lack of human resources, as there has been a multiple increase in the number of asylum seekers. Immediately after the expressed intention to seek asylum, the Asylum Sector should commence the registration of the asylum seekers as soon as possible and that asylum seekers have the rights laid down in Article 76 of the Asylum Law in the whole course of this process.

#### **4.2. Rights of asylum seekers**

The Asylum Law<sup>180</sup> has established that the asylum seeker is entitled to:

- a) stay in Bosnia and Herzegovina;
- b) information;
- c) accommodation in a center for asylum seekers;
- d) primary health care;
- e) access to primary and secondary education;
- f) access to the labor market;
- g) access to free legal aid;
- h) monitoring the course of the proceedings in a language that he/she understands or for which he is reasonably assumed to understand;
- i) psycho-social assistance.

The asylum seeker exercises these rights upon the presentation of the asylum seeker's card. The funds for the costs arising from this process are ensured by the Ministry of Security of Bosnia and Herzegovina, from the budget of the institutions of Bosnia and Herzegovina, approved for this purpose or through donations for the asylum purposes in Bosnia and Herzegovina.

#### **Primary health protection**

According to the Law on Asylum, asylum seekers residing in Bosnia and Herzegovina are entitled to primary health care. Field tests showed different indicators. For irregular migrants located on the streets in Bosnia and Herzegovina, primary health care provides the UNHCR. In practice, problems arise if a person registered as an asylum seeker in Bosnia and Herzegovina has a need for secondary health care (Article 76 of the Law on Asylum only speaks of primary health care). Ombudspersons of Bosnia and Herzegovina registered the case of an asylum seeker who was at the University Clinical Center Sarajevo for four (4) months and whose health care

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<sup>179</sup> Accelerated procedure for the refusal of asylum applications provided for by Article 45 of the Law on Asylum.

<sup>180</sup> Article 76 of the Law on Asylum, "Official Gazette of BiH", no. 11/16 and 16/16.

costs amounted to approx. 20.000,00 BAM. This is an illustration of the situation, and it was the case processed by the Ombudsman *ex officio*.

### **Social protection**

The social protection primarily involves the family reunification and the protection of particularly vulnerable categories, such as persons without legal capacity, children, unaccompanied children, elderly and frail persons, severely ill persons, persons with disabilities, pregnant women, single parents with a minor children, persons with mental disorders and victims of trafficking in human beings, victims of torture, rape or other psychological, physical and sexual violence, such as victims of female genital mutilation. Individual complaints received by the Ombudsman of Bosnia and Herzegovina in the past period indicate that there are categories of children who are with parents or guardians, but in practice they happen to be accommodated in the Immigration Center because the identity of their guardians can not be established, since they are usually persons who are irregular migrants who does not carry with them any identification documents<sup>181</sup>. The second group consists of the children on the move in the territory of Bosnia and Herzegovina, without parents or guardians.

According to information from the NGOs, on 08 May 2018, there were about 130 children in Bosnia and Herzegovina, out of which five (5) were without parental care. None of these children without parental care had an assigned guardian as necessary according to the Law on Asylum, and, also to the provisions of the Convention on the Rights of the Child. This raises the issue of the competent social welfare center, which, according to the law, should appoint a guardian to ensure the best interests of the child. Ombudspersons of Bosnia and Herzegovina are demanding urgent action concerning the appointment of guardians to such children as soon as possible, in order to protect the best interests of the child.

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<sup>181</sup> A specific case is registered with the Ombudsman Institution

## V CONCLUDING CONSIDERATIONS

The situation in the field of migration in Bosnia and Herzegovina can be divided into two periods: the period until 31 December 2017 and the period from 1 January 2018 until the moment of drafting of this Special Report.

The first period was featured by sporadic, controlled entry and movement of migrants since Bosnia and Herzegovina was recognized as a transit country for migrants from other countries at the same time being the country of origin from which its own citizens migrate to other countries due to the economic and political situation prevailing in the country. Institutional capacities were sufficient in the first period to meet all the obligations established by the law.

The second period was featured by dramatic increase in number of migrants entering (on a daily basis) the territory of BiH and using it mostly for transit towards the European Union countries. Since the beginning of 2018 until the date of this submission drafted registered was 9,326 migrants and it is estimated that around 3,000 of them are currently located in Bosnia and Herzegovina. It was found that around 25% are migrants from Syria, while the rest 75% economic migrants. Also, it should be highlighted that all registered migrants fall within the category of so-called irregular migrants<sup>182</sup>, that is, the aliens with non-regulated status (in percentages more than 98%). A number of migrant families with children were also present in the country.

In Bosnia and Herzegovina, the process of the so-called mixed migration is taking place. The motives of migration are overlapping, so there are foreign nationals looking for better living conditions – economic migrants and foreigners seeking refuge – persons under international legal protection. Bosnia and Herzegovina is predominantly a transit country for the citizens of Pakistan, Iran, Iraq, Morocco, Tunisia, Algeria, Libya, Syria, Afghanistan ... The increased inflow of all categories of migrants and the continuity of that process require additional mobilization of material, financial and human resources, which Bosnia and Herzegovina cannot provide. On the other hand, it should be emphasized that the complex economic, political and social situation in Bosnia and Herzegovina is causing an increase in number of nationals of Bosnia and Herzegovina who leave the country in pursuit for better life elsewhere.

Assessment of the situation in the field of migration in Bosnia and Herzegovina in 2018, and through the conducted monitoring process, which included visits to all institutions where foreign citizens are located, interviews with all categories of migrants and staff in these institutions, holding meetings with all managers of institutions that, in accordance with the provisions of the Law on Foreigners and the Law on Asylum, are competent to act in the field of migration and asylum, as well as representatives of international organizations, domestic and residential non-governmental organizations, indicates that there is a need for urgent action. The increased inflow of all categories of migrants and the continuity of that process poses the obligation of additional mobilization of material, financial and human resources. At the same time, the Ombudsman, based on the received complaints, find that in Bosnia and Herzegovina there is a complex

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<sup>182</sup> They are mostly migrants who entered into Bosnia and Herzegovina without any identification document in places not foreseen to serve as state border crossing points while moving from a country to another thus violating the legislation applicable in these countries, that is, against the will of the authorities of the countries onto which territory they enter. Most of migrants have expressed their intention to seek asylum although Bosnia and Herzegovina for them is a transit country mostly. The officials use different terminology related to migrants in their public discourse: illegal migrants, migrants and refugees. The UNHCR Spokesman for SEE Neven Crvenković defined the migrants and refugees who entered the country in an irregular way, without necessary permissions or documents required according to the legislation governing the immigration issues as irregular rather than illegal migrants since the second term has certain, not accurate “criminal” connotation. The term irregular migrant is preferred by the agencies and bodies of the UN, the Council of Europe, and EU.

economic, political and social situation, which makes it difficult for the citizens of Bosnia and Herzegovina to realize the constitutionally guaranteed human rights. Such a complex situation imposes an obligation to ensure the principles of the rule of law in the process of border control and the entry and movement of foreigners, while respecting human rights guaranteed by international standards.

Ombudspersons also want to point out some positive developments related to the field of migration:

- *A new Law on Aliens* governing the conditions and procedure conditions and procedures for entry of aliens, visa and non-visa regime, travel documents for aliens, stay and removal of aliens, admission of aliens and placement under surveillance, competency of authorities relevant for the implementation of this Law, breaches and other issues, was adopted;
- *A new Law on Asylum* governing the issues related to conditions and procedure for granting a refugee status, the status of subsidiary protection, cessation and revocation of a refugee status and the status of subsidiary protection, temporary protection, identification documents, rights and obligations of asylum-seekers, refugees and aliens under subsidiary protection, as well as other issues related to asylum, was adopted;
- *A new Law on Free Legal Aid Provision*<sup>183</sup> aiming at securing to every physical person the efficient and equal access to justice in proceedings before the authorities and institutions of Bosnia and Herzegovina established to protect and realize their individual rights, obligations and interests;
- *Amendments to Law on Prohibition of Discrimination*<sup>184</sup>, which strengthened protection mechanisms and defines discrimination on grounds such as the age, disability and sexual orientation, gender identity and gender characteristics, were adopted;
- *A Strategy in the Area of Migrations and Asylum and the Action Plan for the period 2016-2020*<sup>185</sup> were adopted. The underlying principles of the Strategy are the legality, safety of the state, international co-operation and integrations.
- *A Co-ordination Body for the Issues of Migrations in Bosnia and Herzegovina*<sup>186</sup> as a permanent body entrusted with co-ordination of the activities between the responsible institutions dealing with the issues of migrations and asylum
- Co-operation between the responsible institutions dealing with migrations and th NGOs was established in a way that the NGO “Vaša prava BiH”/”Your Rights BiH” provides the legal assistance to the persons under the international protection based on a Protocol signed with the Ministry of Security of Bosnia and Herzegovina. From the Ombudsman’s case-law it is obvious that all complaints lodged within the Institution in respect of migration and asylum were submitted by the NGO “Vaša prava BiH”
- Women NGO Foundation BH Women’s Initiative provides psycho-social support to persons under international protection, while the NGO MFS-EMMAUS implements projects involving the direct assistance to victims of trafficking in persons and migrants, in addition to prevention and awareness-raising among the groups under risk and general

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<sup>183</sup> Official Gazette of BiH, no. 83/16

<sup>184</sup> Official Gazette of BiH, no. 66/16

<sup>185</sup> Strategy in the Area of Migrations and Asylum and the Action Plan for the period 2016- 2020

<sup>186</sup> Decision of the Council of Ministers of Bosnia and Herzegovina on establishment of the Co-ordination Body for the Issues of Migrations in BiH, Official Gazette of BiH no.: 10/13 dated 11 February 2013

population. This model of co-operation between the NGOs and the Ministry in charge of migration issues and the Ombudsman can serve as a good practice example.

Nevertheless, Ombudspersons of Bosnia and Herzegovina are expressing their concerns regarding the inefficiency in the actions of the competent authorities, which is evident in all stages of treatment of foreigners, which are presented by the mentioned stages:

Concerns regarding *the first contact of a foreigner* with the competent authorities of Bosnia and Herzegovina are:

- failure to meet the legal obligation to provide information to foreigners about their rights in their own language or language they understand;
- the procedure for communication regarding the issuance of attestations of the expressed intention to seek asylum and the fact that this attestation is only provided in the official languages of Bosnia and Herzegovina, and that the current way of communication with foreign nationals failed to ensure their understanding of the meaning and the legal background of this attestation;
- failure to ensure the adequate institutional practical guidance to the migrants who expressed the intention to seek asylum and the fact that a remark present on the above mentioned attestation according to which the migrants are directed to the Asylum Center Delijaš are often purely formal, lacking the substance and that most of these persons ends up in the streets of Sarajevo and other BiH cities;
- failure to ensure the transportation of migrants, in particular the groups, or the families with children and the fact that this form of care-taking is implemented sporadically on a case-to-case basis, without clearly defined criteria, which creates a space for the action of various mediators, including smugglers in persons, who started to determine the routes of their movement within BiH and further.

The concerns of the Ombudsmen regarding the weaknesses in *the procedure for exercising the right to asylum* are:

- Acceptance by the authorities that the deadline of 14 days for registration envisaged for exceptional situations became a regular deadline, instead of eight (8) days, even before a massive influx of foreign nationals has occurred;
- Failure to provide timely registration of all persons who have expressed their intention to seek asylum. The fact that out of 2,762 persons who have expressed their intention to seek asylum in the first four (4) months and who have been furnished with an attestation of such intention, only 383 were registered raises serious concerns, and such a backlog cannot be fixed without taking urgent additional activities. This process should be a priority in the activities of the competent authorities, because only in this way is possible to determine the actual number of foreign citizens seeking protection as asylum seekers in Bosnia and Herzegovina, compared to the number of those who are using these procedural weakness and inefficiency of the competent authorities as a way of legalizing their stay in Bosnia and Herzegovina in order to illegally cross into some of the European Union countries;
- Weaknesses in the registration process automatically result in the inability to organize interviews with asylum seekers, with the aim of making a final decision. It is noteworthy that even before the increased influx of migrants there has been a backlog in this process and that often the interview is conducted after the expiration of the deadline of six (6) months. It is indisputable that the Law allows the for a deadline to be prolonged, but with

the fulfillment of certain conditions, while in certain cases it was not possible to determine the existence of these conditions;

- Without an interview, a decision cannot be made, which prevents access to the court, and prolongs the period of uncertainty of the asylum seeker, and the state generates costs, especially if it is established in the course of the procedure that the asylum application has no grounds;
- Slowness of the procedures causes the situation that the migrants who are in different stages of the asylum procedure are not adequately taken care of, so that they can be spotted in the streets of cities, due to which some international organizations (UNHCR, IOM) have intervened, as well as NGOs, informal groups and individuals, especially in order to take care of particularly vulnerable categories, placing these persons in hostels and private accommodation;
- There is no adequate record in possession of the competent services on the number of asylum seekers accommodated in hostels and private accommodation, although Article 38, paragraph 2 of the Law on Asylum stipulates that *"an alien who has declared the intention to apply for asylum is located at a private address, is obliged to make a registration of residence to the competent organizational unit of the Service or to the police administration/station, within three days from the date of the stated intention, and before submitting the application for asylum."*
- Failure to provide care for children without parental care since a number of unaccompanied children is found in Bosnia and Herzegovina for whom no guardian is appointed to take care of their best interest in the course of the asylum procedure. It happens that an interview for registration be conducted in the absence of a guardian, not even a guardian for a special case, which means that the whole procedure is sometimes done without the appointment of a child's guardian;

Taking the above into account, Ombudspersons of Bosnia and Herzegovina point out to the weaknesses of the institutional mechanisms responsible for the implementation of procedures for the provision of status and other rights guaranteed by the legislation of Bosnia and Herzegovina and ratified international standards.

Ombudspersons of Bosnia and Herzegovina note that the institutional mechanisms in charge of migration related issues in Bosnia and Herzegovina failed to completely and adequately, in accordance with law, organize and take all necessary activities with the aim of making appropriate decisions, in particular in the manner and within the deadlines prescribed by law. The competent authorities justify such failure on their part by lack of human and technical resources, such explanation was given to the Ombudsman in the course of preparation of this report.

## VI GENERAL RECOMMENDATIONS

In respect of situation in Bosnia and Herzegovina concerning migration and asylum as presented in this Special Report Ombudspersons of Bosnia and Herzegovina issued the following recommendations to **the Council of Ministers of Bosnia and Herzegovina**:

- ❖ Activate all the measures envisaged by the Migration and Asylum Strategy and Action Plan for the period 2016-2020, which include, inter alia: increasing the efficiency of surveillance and control of the state border of Bosnia and Herzegovina, significantly improving the system of controlling the entry and stay of aliens in Bosnia and Herzegovina thus raising the protection and security of citizens of Bosnia and Herzegovina to a higher level;
- ❖ In addition to the existing accommodation capacities intended for accommodation of all categories of migrants, i.e. asylum seekers in case of a significantly increased inflow of foreign citizens, provide additional accommodation capacities;
- ❖ Establish clear operational procedures for all competent authorities with a clear definition of decision-makers in cases that could not be foreseen in procedures. In particular, define the role of international organizations, non-governmental organizations and volunteers in order to systematically and adequately utilize their willingness to assist in the process;
- ❖ Increase the number of personnel, i.e. strengthen the capacities of institutional mechanisms dealing with migration issues, including the Asylum Sector, the Border Police of Bosnia and Herzegovina and the Service for Foreigners' Affairs;
- ❖ Establish an operational body with a high degree of mobility and full involvement of members of this body in solving migration issues compared to their regular work engagement. This body should be operational 24 hours a day;
- ❖ Request financial, material and technical support, and human resources from the European Union, IOM, UNHCR, ICRC, UNICEF, UN Women, Save the Child, and other stake-holders that have resources and the mandate to act in this area;
- ❖ Continuously hold regional high-level meetings with neighboring countries and countries on the migration routes of all categories of migrants with a view to defining a common strategy of action given the evident different practices of some countries, which indicates to a possible departure from international standards in providing care of various categories of migrants;
- ❖ To initiate the procedure for the conclusion of readmission agreements with the countries of origin of some migrants registered in Bosnia and Herzegovina, with which these agreements are not signed, such as Algeria and Morocco.



# ANNEX I - SCHEDULE OF CONDUCTED VISITS AND MEETINGS

Date	Representatives of the Ombudsman	Visited Institution	Name and surname of the counterpart
04 April 2018	Jasminka Džumhur, PhD, Emina Halilović, Fatima Račić, Damir Perić	Asylum Center Delijaš nearby Trnovo	Dževad Koštović
18 September 2018	Jasminka Džumhur, PhD, Emina Halilović, Aleksandra Marin-Diklić, Dejana Kozomara, Fatima Račić, Miroslav Milovuk, Gorica Ilić		
05 April 2018	Jasminka Džumhur, PhD, Emina Halilović, Fatima Račić, Damir Perić	Immigration Center Istočno Sarajevo	Muris Selimović Vladislav Žuža
17 September 2018	Jasminka Džumhur, PhD, Emina Halilović, Aleksandra Marin-Diklić, Dejana Kozomara, Fatima Račić, Miroslav Milovuk, Gorica Ilić		
06 April 2018	Jasminka Džumhur, PhD, Emina Halilović, Fatima Račić, Damir Perić	IOM	Peter VAN DER AUWERAERT Irma Sadiković
20 September 2018	Jasminka Džumhur, PhD, Emina Halilović, Fatima Račić, Gorica Ilić		

<b>06 April 2018</b>	<b>Jasminka Džumhur, PhD, Emina Halilović, Fatima Račić, Damir Perić</b>	<b>UNHCR</b>	<b>Francesca Bonelli Ljiljanja Kokotović Seid Husagić</b>
<b>20 September 2018</b>	<b>Jasminka Džumhur, PhD, Emina Halilović, Fatima Račić, Gorica Ilić</b>		
<b>10 October 2018</b>	<b>Emina Halilović, Aleksandra Marin-Diklić, Dejana Kozomara, Fatima Račić,</b>		
<b>18 April 2018</b>	<b>Emina Halilović, Fatima Račić, Damir Perić</b>	<b>University Clinic Center Sarajevo</b>	<b>dr.sci.med. Rusmir Baljić</b>
<b>03.05. 2018. godine</b>	<b>Jasminka Džumhur, PhD, Emina Halilović, Fatima Račić, Damir Perić</b>	<b>The Ministry of Safety of Bosnia and Herzegovina / Asylum Sector</b>	<b>Marijan Baotić</b>
<b>21 September 2018</b>	<b>Jasminka Džumhur, PhD Emina Halilović, Fatima Račić, Gorica Ilić</b>		
<b>03 May 2018</b>	<b>Jasminka Džumhur, PhD, Damir Perić</b>	<b>Border Police of Bosnia and Herzegovina</b>	<b>Zoran Galić Slobodan Krstić</b>

<b>08 May 2018</b>	<b>Jasminka Džumhur, PhD, Emina Halilović, Fatima Račić, Damir Perić</b>	<b>Foundation BH Women Initiative</b>	<b>Marijana Dinek Lejla Aličić-Ćoralić Šemsudin Ljumanović</b>
<b>20 September 2018</b>	<b>Jasminka Džumhur, PhD, Emina Halilović, Fatima Račić, Gorica Ilić</b>		
<b>10 October 2018</b>	<b>Emina Halilović, Aleksandra Marin-Diklić, Slavica Drinić</b>		
<b>08 May 2018</b>	<b>Jasminka Džumhur, PhD, Emina Halilović, Fatima Račić, Damir Perić</b>	<b>Vaša prava BiH/Your Rights BiH</b>	<b>Emir Prcanović Amra Kadré Adnan Šehić</b>
<b>20 September 2018</b>	<b>Emina Halilović, Fatima Račić, Gorica Ilić</b>		
<b>10 October 2018</b>	<b>Emina Halilović, Aleksandra Marin-Diklić, Slavica Drinić</b>		
<b>10 May 2018</b>	<b>Jasminka Džumhur, PhD, Emina Halilović, Fatima Račić, Damir Perić</b>	<b>Foreigners' Affairs Service</b>	<b>Slobodan Ujić Mirsad Buzar Branislav Mojević Mirsad Hadžić</b>
<b>21 September 2018</b>	<b>Jasminka Džumhur, PhD Emina Halilović, Fatima Račić, Gorica Ilić</b>		
<b>09 October 2018</b>	<b>Emina Halilović, Aleksandra Marin-Diklić, Dejana Kozomara, Fatima Račić</b>		

<b>19 September 2018</b>	<b>Jasminka Džumhur, PhD, Emina Halilović, Aleksandra Marin-Diklić, Dejana Kozomara, Fatima Račić, Miroslav Milovuk, Gorica Ilić</b>	<b>Refugee Shelter Center Salakovac</b>	<b>Edin Denjo</b>
<b>24 September 2018</b>	<b>Emina Halilović Fatima Račić Gorica Ilić</b>	<b>The Ministry of Human Rights of Bosnia and Herzegovina</b>	<b>Medžid Lipjankić</b>
<b>25 September 2018</b>	<b>Emina Halilović Fatima Račić Gorica Ilić</b>	<b>The Ministry of Safety of Bosnia and Herzegovina /Immigration Sector</b>	<b>Murveta Džaferović</b>
<b>08 October 2018</b>	<b>Emina Halilović, Aleksandra Marin-Diklić, Dejana Kozomara, Fatima Račić, Miroslav Milovuk, Slavica Drinić</b>	<b>Municipality of Velika Kladuša Camp/Tent settlement Trnovi</b>	<b>Husein Delić</b>
<b>09 October 2018</b>	<b>Emina Halilović, Aleksandra Marin-Diklić, Dejana Kozomara, Fatima Račić, Slavica Drinić</b>	<b>City of Bihać</b>	<b>Jadranka Redžić</b>
	<b>Emina Halilović, Aleksandra Marin-Diklić, Dejana Kozomara, Fatima Račić, Miroslav Milovuk, Slavica Drinić</b>	<b>Temporary Reception Center Sedra</b>	<b>Nataša Omerović</b>

	<b>Emina Halilović, Aleksandra Marin-Diklić, Dejana Kozomara, Fatima Račić, Slavica Drinić</b>	<b>Social Welfare Cente Bihać</b>	<b>Senad Tutić Dijana Nuspahić</b>
	<b>Emina Halilović, Aleksandra Marin-Diklić, Dejana Kozomara, Fatima Račić, Miroslav Milovuk, Slavica Drinić</b>	<b>Red Cross of Una-Sana Canton and City of Bihać</b>	<b>Husein Kličić</b>
<b>10 October 2018</b>	<b>Dejana Kozomara, Fatima Račić, Miroslav Milovuk</b>	<b>NGO „Žene sa Une“</b>	<b>Aida Behrem</b>
	<b>Emina Halilović, Aleksandra Marin-Diklić, Dejana Kozomara, Fatima Račić, Miroslav Milovuk, Slavica Drinić</b>	<b>UNICEF</b>	<b>Nevenka Lukin</b>

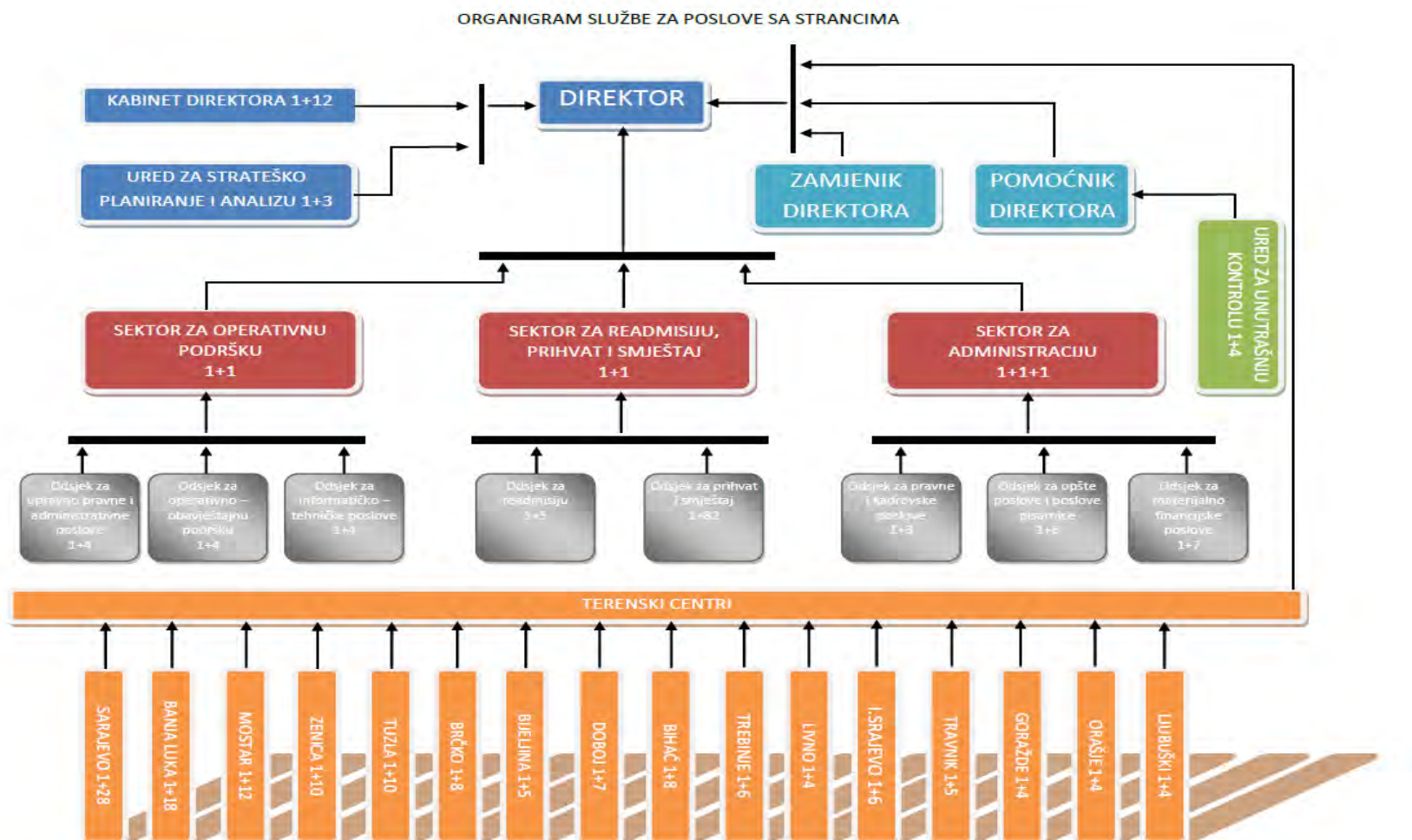
**ANNEX II - TABELAR PREVIEW OF STATISTICAL DATA ON PEOPLE FOUND AT THE ILLEGAL CROSSING OR ATTEMPTED CROSSING AND PERSONS PREVENTED FROM CROSSING THE STATE BORDER IN 2018**

Number of persons found illegally crossing state borders by their country of origin 2018 <sup>187</sup>		Number of persons found illegally crossing state borders by month in 2018								Persons prevented from crossing the state border in 2018		Number of persons already controlled in BiH with valid attestations on expressed intention to seek asylum in BiH and like	
COUNTRY OF ORIGIN	NUMBER OF PERSONS	MONTH	Border crossing BIH	FIELD OFFICE						MONTH	NUMBER OF PERSONS	MONTH	NUMBER OF PERSONS
Pakistan	1135	January	157	47	70	10	14	16	0	Januar	125	Januar	0
Iran	937	February	315	25	184	20	24	54	8	Februar	309	Februar	62
Syria	874	March	340	70	175	39	25	29	2	Mart	503	Mart	103
Afganistan	656	April	448	78	264	48	36	22	0	April	624	April	81
Iraq	545	May	597	129	303	63	62	34	6	Maj	1963	Maj	70
Libya	247	June	534	55	90	67	278	38	6	Juni	1507	Juni	16
Palestine	112	July	795	82	136	212	155	194	16	Juli	1906	Juli	0
Algeria	94	August	883	95	326	280	114	56	12	August	2155	August	3
Holders of passport with inscription of Republic of Kosovo	83	September	603	39	224	109	159	56	6	Septembar	2699	Septembar	5
India	81	October	956	63	229	144	287	91	13	Oktobar	1919	Oktobar	18
Morocco	65	November								Novembar		Novembar	
Turkey	54	December								Decembar		Decembar	
Bangladesh	40												
Tunisia	20												
China	11												
Yemen	10	SERBIA	2749										
East Timor	9	MONTENEGRO	621										
Sri Lanka	8	CROATIA	2156										
Albania	8	AIRPORTS	69										
Cuba	5	WITHIN BiH	33										

<sup>187</sup> Data in the table provided by the Border Police of Bosnia and Herzegovina on 03 December 2018

<b>Vietnam</b>	4												
<b>Nepal</b>	4												
<b>Somalia</b>	4												
<b>Jordan</b>	3												
<b>DAR Sahara</b>	3												
<b>Egipat</b>	2												
<b>Nigeria</b>	2												
<b>Macedonia</b>	2												
<b>Camerun</b>	1												
<b>CAF rep</b>	1												
<b>Comores</b>	1												
<b>Myanmar</b>	1												
<b>Danmark</b>	1												
<b>Spain</b>	1												
<b>UAE</b>	1												
<b>UNKNOWN</b>	603												
<b>TOTAL</b>	<b>5628</b>	<b>TOTAL</b>	<b>5628</b>	<b>683</b>	<b>2001</b>	<b>992</b>	<b>1246</b>	<b>598</b>	<b>69</b>	<b>TOTAL</b>	<b>13710</b>	<b>TOTAL</b>	<b>358</b>

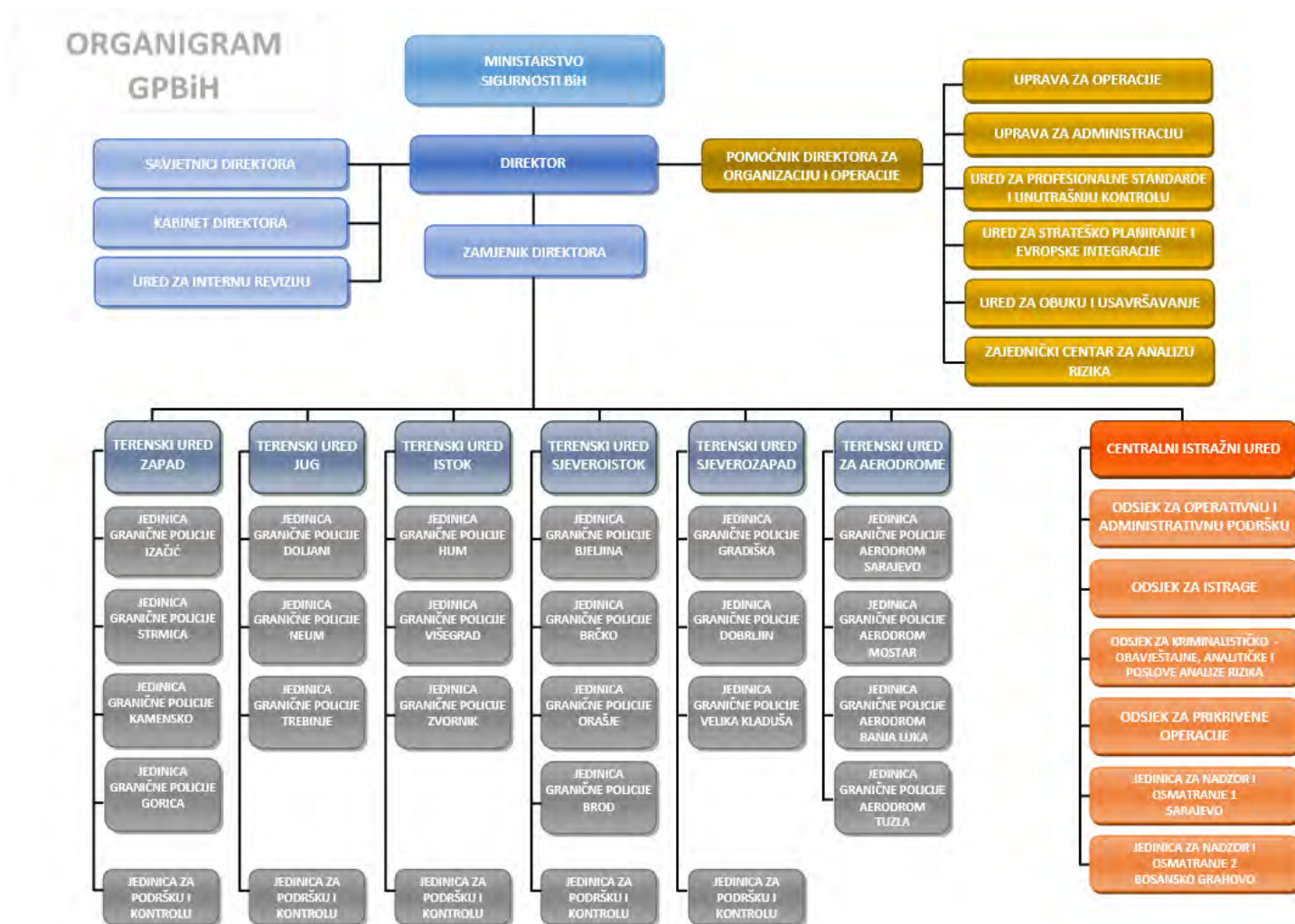
# ANNEX III – ORGANIGRAM OF FOREIGNERS' AFFAIRS SERVICE<sup>188</sup>



<sup>188</sup> Downloaded from: <http://sps.gov.ba/organizacija/?lang=hr>



# ANNEX IV- ORGANIGRAM OF BORDER POLICE OF BOSNIA AND HERZEGOVINA<sup>189</sup>



<sup>189</sup>Downloaded from: <http://www.granpol.gov.ba/Content/Read/13?title=Organizacija>

## ANNEX V – OVERVIEW OF DATA ON MIGRATIONS IN THE PERIOD BEFORE SEPTEMBER 2018<sup>190</sup>

DATE	BORDER POLICE		FOREIGNERS' AFFAIRS SERVICE (FAS)				ASYLUM				
	ILLEGAL MIGRANTS <sup>191</sup>	HANDLED OVER TO FAS	ILLEGAL MIGRANTS ACCEPTED BY BORDER POLICE DISCOVERED BY FAS <sup>192</sup>	INTENTION TO SEEK ASYLUM (NUMBER OF PERSONS)	READMISSION OF FOREIGNERS IRRESPECTIVE OF THEIR COUNTRY OF ORIGIN		NUMBER OF PERSONS IN IMMIGRATION CENTER	NUMBER OF PERSONS ACCOMMODATED IN SALAKOVAC(MHRR)	NUMBER OF PERSONS ACCOMMODATED IN DELJAŠ ASYLUM CENTER (MS)	INTENTION TO SEEK ASYLUM (NUMBER OF PERSONS)	APPLICATION FOR ASYLUM (NUMBER OF PERSONS)
					ACCEPTANCE	HANDOVER					
1	2	3	4	5	6	7	8	9	10	11	12
<b>January</b>	<b>138</b>	<b>50</b>	<b>268</b>	<b>148</b>	<b>34</b>	<b>161</b>	-	-	-	<b>163</b>	<b>38</b>
<b>February</b>	<b>607</b>	<b>246</b>	<b>411</b>	<b>234</b>	<b>50</b>	<b>89</b>	-	-	-	<b>301</b>	<b>79</b>
<b>March</b>	<b>983</b>	<b>333</b>	<b>629</b>	<b>513</b>	<b>96</b>	<b>105</b>	-	-	-	<b>430</b>	<b>135</b>
<b>April</b>	<b>1090</b>	<b>346</b>	<b>1454</b>	<b>1322</b>	<b>39</b>	<b>90</b>	-	-	-	<b>870</b>	<b>131</b>
<b>May</b>	<b>2593</b>	<b>533</b>	<b>2368</b>	<b>2322</b>	<b>63</b>	<b>83</b>	-	-	-	<b>1032</b>	<b>43</b>
<b>June</b>	<b>1994</b>	<b>263</b>	<b>2481</b>	<b>2437</b>	<b>37</b>	<b>53</b>	-	-	-	<b>895</b>	<b>257</b>
<b>July</b>	<b>2512</b>	<b>412</b>	<b>2183</b>	<b>2075</b>	<b>13</b>	<b>75</b>	-	-	-	<b>843</b>	<b>26</b>
<b>August</b>	<b>2582</b>	<b>242</b>	<b>2505</b>	<b>2346</b>	<b>35</b>	<b>57</b>	-	-	-	<b>907</b>	<b>390</b>
01.09.2018	131								54		
02.09.2018	82	3	97	94			79	126	54		
03.09.2018	88	8	178	173			77	126	49	25	
04.09.2018	144	12	119	107	5		73	126	57	17	
05.09.2018	61		156	153	4		78	134	57	29	
06.09.2018	50	20	141	129		1	77	129	62	7	
07.09.2018	157							129	64	1	3
08.09.2018	75								63		
09.09.2018	100	9	156	141		14	66	126	63		
10.09.2018	76	1	171	164			68	126	59	4	
11.09.2018	82	14	223	218	4	2	68	131	47	30	
12.09.2018	121	7	109	101		3	69	126	47	34	
13.09.2018	152	37	141	141		11	58	129	51	29	
14.09.2018	116	8						129	51		
15.09.2018	138	2							47		
16.09.2018	84	5	303	291	6		70	130	47		
17.09.2018	93	12	321	313	3	4	74	138	46	7	
18.09.2018	68		178	172	3	4	71	133	42		
19.09.2018	92	8	171	169			71	125	42	66	
20.09.2018	140	12	206	195	7	4	78	125	42	82	
21.09.2018	97	4						125	39	60	1
22.09.2018	133	6							39		
23.09.2018	38		147	143			81	121	39		
24.09.2018	107		161	158			87	122	38	36	
<b>September</b>	<b>2425</b>	<b>168</b>	<b>2978</b>	<b>2862</b>	<b>32</b>	<b>48</b>	-	-	-	<b>427</b>	<b>4</b>
<b>2018</b>	<b>14924</b>	<b>2593</b>	<b>15277</b>	<b>14259</b>	<b>399</b>	<b>761</b>	-	-	-	<b>5868</b>	<b>1103</b>

<sup>190</sup> Data of this overview provided by the Immigration Sector of the the Ministry of Safety of Bosnia and Herzegovina on 25 September 2018

<sup>191</sup> Persons discovered while illegally crossing the border or in an attempt to illegally cross the border

<sup>192</sup> Irregular migrants discovered by the Foreigners' Affairs Service in the course of their operative activities or taken over from other agencies