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## STRATEGY FOR PREVENTING AND COMBATING DISCRIMINATION

Challenges and opportunities for progress in B&H

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### CONTENT

Summary

1. PROHIBITION OF DISCRIMINATION IN THE LEGAL SYSTEM OF BOSNIA AND HERZEGOVINA	2
2. DEFINING THE PROBLEM: WHY WE NEED A STRATEGY	4
2.1. Expected impact of the Law prohibiting discrimination	5
2.2. Key stakeholders in prevention of and fight against discrimination	5
2.3. Possible options for developing a coordinated approach	7
3. THE B&H STRATEGY FOR PREVENTING AND COMBATING DISCRIMINATION	9
4. THE PROCESS IS AS IMPORTANT AS THE CONTENTS	12



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### Summary

The Law prohibiting discrimination is to a large extent already harmonised with EU Community Law and international human rights standards but equal opportunities and effective protection against discrimination are still not safeguarded. A significant number of activities have been implemented but the progress achieved is still limited. This policy paper advocates for adoption of a strategic document (a public policy) for prevention and combating against discrimination, discusses its presumed impact and provides guidelines for the content as well for the process of development.

## 1. PROHIBITION OF DISCRIMINATION IN THE LEGAL SYSTEM OF BOSNIA AND HERZEGOVINA

Discrimination is prohibited by the Constitution of Bosnia and Herzegovina, Entity Constitutions and all major laws governing rights in different areas. However, only after the enactment of the Law prohibiting discrimination ("Official Gazette of B&H", no. 59/09) a coherent legal framework was established to support efforts aimed at prevention of and protection against discrimination.

For the first time all prohibited forms of discrimination on any ground and/or in accessing any of the guaranteed rights were defined. Determined were ways of protection against discrimination, particularly the procedure before the Human Rights Ombudspersons' Office and the competent courts. The Ministry for Human Rights and Refugees is entrusted with the role of supervising the implementation of the Law. The Law also set forth a large number of new procedural actions that facilitate the process of proving discrimination before competent courts, and reaffirmed the role of non-governmental organisations in protecting the rights of vulnerable categories by filing collective complaints.

The Law prohibiting discrimination can be regarded not only as a valuable instrument for determining discriminatory acts but also as an instrument for protection against discrimination, especially before the competent courts. It is important to note that, even though this Law was enacted in response to one of the requirements imposed by the European Union for visa liberalisation, our legislator opted not to meet the minimum requirements of the anti-discrimination directives, but instead it expanded the prohibition of discrimination on any violation of the rights, on any ground, thus taking the approach of the European Convention on Human Rights and Fundamental Freedoms and its Protocol 12.

In this sense, the Law is revolutionary because for the first time it clearly defined protection against discrimination in the legal system of Bosnia and Herzegovina, and enabled easier and more efficient access to justice than ever before. Now, anyone who believes to have been a victim of discrimination can file a complaint to the Ombudspersons' Office, or to a competent court. A person does not have to exhaust all available legal remedies to obtain protection against discrimination before the Constitutional Court of Bosnia and Herzegovina i.e. the European Court of Human Rights. The Law also defines the general nature of the judicial protection against discrimination – civil proceedings – although some actions, which are de facto forms of discrimination, can be tried in criminal proceedings.

The effect of this Law is already measurable. Despite the fact that the number of final judgments is rather insignificant, one particular judgment has far-reaching consequences. Namely, in the case popularly called "Two Schools under One Roof", one judicial institution has established that such a practice is discriminatory and it represents segregation. This phenomenon in Bosnia and Herzegovina has been for years a matter of controversial discussions, but today no one can challenge the fact that such practice represents discrimination.

What novelties did the Law bring into legal system of Bosnia and Herzegovina?

- For the first time it defined all forms of discrimination
- It established protection mechanisms against discrimination
- It facilitated the process of proving discrimination
- It affirms the role of the HR Ombudsperson's Office in fighting discrimination
- It sets the obligation of the Ministry of HR and Refugees to monitor the application of the Law and propose measures to remove discrimination

## 2. DEFINING THE PROBLEM: WHY WE NEED A STRATEGY

Discrimination in its manifestations is present in every society. By enacting anti-discrimination legislation Bosnia and Herzegovina has acknowledged discrimination as a social problem. Results of public opinion poll on the perception and experience of discrimination confirm that discrimination is indeed the problem in our society (high 86.3%). Reports of the Human Rights Ombudspersons' Office, civil society organisations, European Commission Progress reports on Bosnia and Herzegovina, UN Universal Periodic review on human rights in Bosnia and Herzegovina also identify the challenges faced by Bosnia and Herzegovina when it comes to different manifestations of discrimination.

According to these reports, the citizens of B&H seem to be more willing to respond to discrimination relating to mobbing, discrimination based on national or social origin, ethnic affiliation, social status and sex, and education.

What's concerning is the fact that the Ministry of Human Rights and Refugees of Bosnia and Herzegovina has not prepared a single annual report on discrimination nor has the central database of discrimination cases (envisaged under the Rules on data collection about discrimination cases) been established.

At the same time, one can notice that not many cases are pending before the competent courts. However, this data must be taken with caution, because the exact information on the number of cases is not available, since the database on discrimination cases has not yet been established. Final judgments were rendered in three cases, and there are still some 30 cases pending before the competent courts. The Ombudspersons' Office noted an increase in the number of discrimination cases reported. In 2013 they received 257 reports, which is an increase of 33%.

There is an obvious gap between the perception of public opinion and the impact that this Law has in practice. In addition, capacities of the institutions and organisations that could ensure a stronger impact of this Law have not been fully developed.

An increasing number of the activities aims at promoting the importance of this Law. Certain organisations have been working with the representatives of the judiciary who had no formal training relating to this Law in order to enhance their capacities. Free legal aid provided by non-governmental organisations has been taking form of a strategic litigation that may have an impact on changes in the areas in which discrimination is rooted through systematic omissions.

However, it is important to note that there is still no comprehensive approach to the challenges of prevention of and fight against discrimination. Bearing in mind the importance of the problem of discrimination it is necessary to create a framework for coordinating the activities of all stakeholders involved. Allowing the prevention of and fight against discrimination to be governed by the rules of demand and supply should not be an option from the perspective of public policy papers.

The analysis presented below will offer the argument in favour of creating a public policy paper to ensure a coordinated and focused approach to this challenge. The analysis covers the following areas:

- Expected impact of the Law prohibiting discrimination,
- Key stakeholders in prevention of and fight against discrimination,
- Possible options for developing a coordinated approach.

### Why public policy?

Public policy is coordinated and focused government action aimed at impacting social trends in most objective, optimal and rational manner.

### 2.1. Expected impact of the Law prohibiting discrimination

The text of the Law (Article 1) establishes that the purpose of the Law is to provide a framework for implementation of equal rights and opportunities to all persons in B&H, and to define a system of protection against discrimination. Expected impact of this Law refers to two objectives:

- Achieving equal rights and opportunities,
- Defining a system of protection against discrimination.

It must be stressed, however, that the text of the Law with the exception of Article 1 generally regulates the system for protection against discrimination, while the implementation of equal opportunities is less emphasized. Yet, these two objectives are the two sides of the same coin. The basic prerequisite for achieving equal rights and opportunities is the absence of discrimination. However, in certain areas the implementation of equal rights and opportunities will not be possible even when people or groups of people are not victims of discrimination. The Law does not define the responsibilities of relevant government institutions to take proactive steps to achieve this objective.

Some other laws that fall within a broader framework of prevention of and fight against discrimination define the obligation to act in order to achieve the goals of equal rights and opportunities and discrimination such as the Gender Equality Law, the Law on Protection of National Minorities, the laws on professional rehabilitation, training and employment of persons with disabilities and others.

At the same time, the HR Ombudspersons' Office and the Ministry of Human Rights and Refugees are obliged, on the basis of complaints received and data collected to propose appropriate legal and other solutions and measures to the relevant institutions of Bosnia and Herzegovina. Thus, the two institutions can, based on data available on the cases and form of discrimination, propose measures that will, among other things, strive to achieve equal rights and opportunities.

One such measure that may be proposed in order to create a comprehensive and coordinated approach might be the adoption of a strategic document for preventing and combating discrimination and providing equal rights and opportunities.



### 2.2. Key stakeholders in prevention of and fight against discrimination

At first glance, one can note that the number of key stakeholders in the prevention of and the fight against discrimination is fairly significant. In addition to the Ombudspersons' Office and the B&H Ministry of Human Rights and Refugees, which have a special place under the Law, other significant stakeholders include judges, free legal aid centres, non-governmental organisations and private legal aid providers – attorneys.

The number of stakeholders is by far bigger, especially if we take into account the need for proactive action by other competent institutions in the areas where intervention is required to remove deficiencies in institutional or legislative response, i.e. to be able to provide effective protection on appeals in administrative proceedings.

The table below compares the key stakeholders in relation to their role by group of activities that are necessary to achieve the objectives of the Law prohibiting discrimination.

INFORMATION	CAPACITY BUILDING	ADVOCACY	EFFICIENT PREVENTION	PROTECTION
CSO	CSO	CSO	MHRR	JUDICIARY
(FREE) LEGAL AID PROVIDERS	MHRR			
OMBUDSPERSONS' OFFICE	OMBUDSPERSONS' OFFICE	MHRR		
MHRR	OTHER STAKEHOLDERS	OMBUDSPERSONS' OFFICE		

It is visible from this brief analysis that majority of stakeholders have roles in several groups of activities, whereas the judiciary primarily occurs in the activities related to protection. The analysis also compares the direct influence of certain stakeholders in relation to the groups of activities. For example, the Ombudspersons' Office, although it does not have any direct impact on the protection provided by the judiciary, can use its recommendations to significantly increase the quality of complaints filed before the competent courts, and it may use the force of arguments provided for in the judgments to affect the assessment of evidence by judges.

Similarly, the analysis compares the roles of each individual key stakeholder in the process. However, it is important to recognise the how relevant it is to build and strengthen the capacity of each individual key stakeholder.

In the context of Bosnia and Herzegovina in which the concept of discrimination was not legally regulated, the awareness of the existence of discrimination as well as knowledge of the elements of different forms of discrimination are not yet satisfactory. This applies to both the institutional actors and the civil society organisations.

Take for example the judiciary, which carries out legal proceedings to establish the existence of discrimination, the activity that prior to enactment of the Law was generally exercised by the Constitutional Court of Bosnia and Herzegovina. General courts still lack case law relating to some elements of discrimination. While it will be relatively easy for judiciary to establish the existence of some of the prohibited grounds or consequences of discrimination in light of legitimate aim or proportionality of measures applied, the general courts will have to, for the first time, consider some relatively complex legal issues.

Similarly, one could assume that due to lack of capacities of the legal aid providers the quality of complaints filed to the Ombudspersons' Office i.e. the competent courts will be fairly poor. To illustrate this, out of 979 discrimination cases filed only 191 have not been rejected as inadmissible. Of that, discrimination was established in only 5 cases, which is about 2%. In most cases the appellants failed to prove some of the elements of discrimination, which led to rejecting their appeals.

### 2.3. Possible options for developing a coordinated approach

The matrix for analysis of the options for development of public policies provides an overview of the possible approaches that can lead to achieving the objectives of the Law. Rationale of the Law neither provides the analysis of legislative impacts nor does it define the challenges in implementing the Law in practice. Therefore, this matrix helps us define the activities that could contribute to more efficient implementation of the Law. Finally, each option is assessed against the objectives to be achieved in each group of activities, i.e. against the effectiveness of public policy.

POSSIBLE OPTIONS	Status quo	Activities within the existing strategies/ Action plans	Separate strategy/ Action plan
<b>IMPACT ON ACHIEVING THE GOALS SET PER ACTIVITY GROUP</b>			
INFORMATION	LIMITED PROGRESS	POSSIBLE	EFFICIENT
CAPACITY BUILDING	LIMITED PROGRESS	PROVIDED THAT IT IS PLANNED	EFFICIENT
ADVOCACY	LIMITED PROGRESS	POTENTIALLY MORE EFFICIENT	EFFICIENT
PREVENTION	LIMITED PROGRESS	POTENTIALLY MORE EFFICIENT	EFFICIENT
PROTECTION	LIMITED PROGRESS	LIMITED IMPACT	EFFICIENT
<b>ANALYSIS OF THE PUBLIC POLICY PAPER EFFICIENCY</b>			
INVESTMENT INTO CAPACITY BUILDING	NOT NEEDED	SIGNIFICANT	NECESSARY
COORDINATION, MONITORING AND EVALUATION	LIMITED	LIMITED	EFFICIENT
COMPREHENSIVE CHARACTER	NONE	LIMITED	FULLY COMPREHENSIVE
FINANCIAL COSTS	INSIGNIFICANT	CONSIDERABLE	CONSIDERABLE
PLANNED IMPACT	LIMITED	DIFFICULT TO MEASURE	MEASURABLE
EVALUATION	LEAST DESIRABLE	DESIRABLE	OPTIMAL

- Status quo

Status quo, meaning that nothing would be done in terms of coordination of activities is the least desirable situation. The possibility of assessing the impact of the Law in five years after the enactment thereof is limited. Although there is a certain number of organisations that conduct activities, there are also a number of activities that have not been conducted, which reduces the chances of progress.

- Activities within the existing strategies/Action plans

The second option is to define the activities in the field of prevention of and fight against discrimination through other existing or new sectoral public policy papers such as those relating to gender equality, the rights of persons with disabilities and the rights of children. As already pointed out these policies were aimed at achieving equality between these groups and removing barriers that prevent them from enjoying the rights in all spheres of public and social life. Generally, these documents define discrimination as a cause of exclusion, but they do not define the actions required to achieve the objectives set by the Law prohibiting discrimination. Potentially, such activities could be defined in the implementing acts of these policies (annual plans, action plans, operational plans), thereby providing the room for implementation of the activities on prevention of and fight against discrimination.

The goal of any public policy is to ensure coordinated action by all relevant institutions, and the inclusion of these activities in sectoral public policies can potentially provide for an accommodated approach to every group affected by that policy. To achieve this, however, it is quite possible that the investments into capacity development and financial costs of these objectives through sectoral policies would be considerable or even higher than investments in implementing a single strategy by single coordinating structure. The activities could be efficiently defined within sectoral strategies through the support of coordinating mechanism of a special strategy.

Although desirable and potentially efficient, this option is not comprehensive. It depends on the existence of sectoral public policies, which are not currently available for all groups potentially exposed to discrimination such as e.g. ethnic groups, LGBT, religious minorities, linguistic minorities and others. Also, there could be possible overlapping, at least in the segment of capacity building of the judiciary because each public policy will strive to ensure progress in this area but it will build the capacities primarily from the perspective of a group covered. Finally, impact on the objectives of the Law will be hard to measure and it will require coordination on the part of the Ministry for Human Rights and Refugees of Bosnia and Herzegovina, which will require additional funds.

- A Separate strategy/Action plan

Adoption of a public policy exclusively focused on preventing and combating discrimination appears to be optimal option. The need to pass a separate public policy is acknowledged by the European Commission in the progress report of Bosnia and Herzegovina for 2014<sup>1</sup> as well as by the United Nations in the last report of the Universal Periodic Review of Bosnia and Herzegovina<sup>2</sup>, which was carried out in June 2014. Neighbouring countries also have adopted policies aimed at preventing and combating discrimination.

This public policy could largely contribute to achieving the objectives set in each group of activities and it could be an efficient approach from the perspective of public policies. Potentially, it would have a lesser financial impact than integrating the activities into existing activity framework, but considerably higher than maintaining the status quo. Having in mind the planned impacts of implementation of this strategy, they could lead to reduction of costs, which would otherwise be incurred in the court proceedings.

<sup>1</sup> EC Progress report of Bosnia and Herzegovina for 2014. (Available at: [http://eu-monitoring.ba/site/wp-content/uploads/2014/10/delegacijaEU\\_2014100811032318bos.pdf](http://eu-monitoring.ba/site/wp-content/uploads/2014/10/delegacijaEU_2014100811032318bos.pdf))

<sup>2</sup> Report on Universal Periodic Review of Bosnia and Herzegovina for 2014 (Available at: [http://lib.ohchr.org/HRBodies/UPR/Documents/Session20/BA/A.HRC.28.17\\_Bosnia\\_and\\_Herzegovina\\_E.doc](http://lib.ohchr.org/HRBodies/UPR/Documents/Session20/BA/A.HRC.28.17_Bosnia_and_Herzegovina_E.doc))

### 3. THE B&H STRATEGY FOR PREVENTING AND COMBATING DISCRIMINATION

The Strategy to prevent discrimination should imply a system of public policy measures, requirements and instruments, which Bosnia and Herzegovina need to implement in order to prevent i.e. reduce the occurrence of all forms of discrimination, especially discrimination against particularly vulnerable persons of groups.

In drafting of strategy methodology one should take into account the existing good practice of strategic planning in Bosnia and Herzegovina. To this end, in the absence of regulatory framework at the level of the institutions of Bosnia and Herzegovina, one can benefit from the Public policy development handbook for civil servants in Bosnia and Herzegovina<sup>3</sup>. Strategic planning process entails defining of strategic and mid-term objectives, measures and effects, defining of annual results based on strategic framework analysis and defining of the mission and vision and legal regulations.

This analysis will offer only some examples of the possible strategic objectives, mid-term objectives, and activities that stem from a brief analysis of the current situation and key stakeholders. The optimal strategy development process will be described below.

Strategic objective of the Strategy should be based on expected impacts of the Law prohibiting discrimination. The strategic objective is a long-term objective the implementation of which is supported by the Strategy. This does not mean that the strategic objective will be fully reached by the expiry of the Strategy, but its contribution in achieving the objective must be measurable after that date. Accordingly, we propose that the strategic objective be defined as:

*„Ensuring an efficient protection against all forms of discrimination and promotion of equal rights and possibilities of all groups in a society“*

Contribution to achieving the strategic objective is supported by a number of mid-term objectives, usually 3-5, which must be measurable at the end of the implementation of the Strategy. Therefore, they must be feasible in the period of the implementation of the Strategy, and are usually followed by a public policy, which ensures that the next set of mid-term objectives build on the achieved results. In the context of groups of activities required to meet the objectives set by the Law, the following five mid-term objectives were proposed:

- *Improved availability of information about prevention of and fight against discrimination;*
- *Improved capacities of key stakeholders to provide support and protection to victims of discrimination;*
- *Activities aimed at eliminating the problems and challenges identified by the competent institutions;*
- *Improved prevention of all forms of discrimination through awareness raising campaign about the causes of discrimination and consequences for the offenders; and*
- *Supported development of an efficient judicial protection against all forms of discrimination.*

<sup>3</sup> Public policy development handbook for civil servants in Bosnia and Herzegovina, UNDP B&H, 2010 (Available at: [http://www.fzzpr.gov.ba/upload/file/dokumenti/normativni\\_dokumenti/prirucnik\\_zastratesko\\_planiranje.pdf](http://www.fzzpr.gov.ba/upload/file/dokumenti/normativni_dokumenti/prirucnik_zastratesko_planiranje.pdf))

It is clear from the way these objectives were phrased that the proposed focus of implementation of this first Strategy has been placed on establishment of mechanism for a comprehensive and coordinated approach to achieving of the strategic objective.

All objectives with the exception of the objective no. 3 are aimed at strengthening of the capacities of key stakeholders to provide efficient prevention of and protection against all forms of discrimination. These objectives were mainly derived from the analysis of key stakeholders, which were found to have insufficiently developed capacities to deliver on their roles. The mid-term objective no. 3 is far more complicated because it is aimed at eliminating the problems and challenges identified by the competent institutions, i.e. the institutions that are not the key stakeholders. The objective no. 3 is the pillar that promotes equal rights and opportunities for all groups in a society, because it will entail the activities designed for different groups in the society based on the recognised obstacles. At the same time, due to complex constitutional setup of Bosnia and Herzegovina, an addition challenge will be to encourage the numerous institutions to identify the problems in their respective departments and to conduct appropriate activities in this regard.

The matrix, which is an integral part of this analysis, does not include activities per individual group, because there is no relevant analysis of the initial state of each individual group and their respective challenges. The activities in the segment of this objective should be based on relevant research and case law of the competent courts, especially when it comes to system failures.

Thus, for example, one of the activities in the area of the rights of ethnic groups in B&H could be:

- *„Developing a model and plan for elimination of segregation in schools better known as “two schools under one roof”“*

Or the rights of national minorities:

- *„Developing a plan to ensure equal participation of national minorities in the work of legislative bodies in B&H through amendments to the constitutions and/or relevant regulations“*

Or the rights of persons with disability:

- *„Developing a plan of adapting the school facilities throughout B&H to enable the access to children with disability“*
- *„Establishing a fund to finance assistants for support of inclusive education of children with disability“*

Or the rights of LGBT

- *„Regulate LGBT partner communities to ensure the enjoyment of the rights and obligations in the sphere of private and family life“*

These are only examples of possible activities that could be developed based on existing case law. It is very important to understand that each activity must be based on analytical strategic planning methodology, which would ensure the feasibility thereof. The ambitious activities, which realistically cannot be implemented during the life of the Strategy, could be defined as mid-term objectives, which could then be broken down into several activities that contribute to meeting that objective.

AN EXAMPLE OF POSSIBLE STRATEGY LOG FRAMEWORK MATRIX				
STRATEGIC GOAL: ENSURING AN EFFICIENT PROTECTION AGAINST ALL FORMS OF DISCRIMINATION AND PROMOTION OF EQUAL RIGHTS AND POSSIBILITIES OF ALL GROUPS IN A SOCIETY				
MID-TERM OBJECTIVE 1 IMPROVED AVAILABILITY OF INFORMATION ABOUT PREVENTION OF AND FIGHT AGAINST DISCRIMINATION	MID-TERM OBJECTIVE 2 IMPROVED CAPACITIES OF KEY STAKEHOLDERS TO PROVIDE SUPPORT AND PROTECTION TO VICTIMS OF DISCRIMINATION	MID-TERM OBJECTIVE 3 ACTIVITIES AIMED AT ELIMINATING THE IDENTIFIED PROBLEMS AND CHALLENGES	MID-TERM OBJECTIVE 4 IMPROVED PREVENTION OF ALL FORMS OF DISCRIMINATION THROUGH AWARENESS RAISING CAMPAIGN ABOUT THE CAUSES OF DISCRIMINATION AND CONSEQUENCES FOR THE OFFENDERS	MID-TERM OBJECTIVE 5 SUPPORTED DEVELOPMENT OF AN EFFICIENT JUDICIAL PROTECTION AGAINST ALL FORMS OF DISCRIMINATION
ACTIVITIES				
INCREASING THE NUMBER OF HIGH-QUALITY MATERIALS ABOUT THE WAYS OF RECOGNISING DISCRIMINATION AND PROTECTION AGAINST DISCRIMINATION	ESTABLISHING AND STRENGTHENING THE MECHANISM FOR COORDINATION, MONITORING AND EVALUATION OF THE STRATEGY	MEASURES FOR DIFFERENT GROUPS IN SOCIETY, IN ACCORDANCE WITH RECOGNISED PROBLEMS SUCH AS: PERSONS WITH DISABILITY NATIONAL MINORITIES ETHNIC GROUPS IN B&H WOMEN AND MEN LGBT SENIOR CITIZENS CHILDREN RELIGIOUS GROUPS LANGUAGE MINORITIES AND SO ON.	DELIVERING A PUBLIC INFORMATION CAMPAIGN ON CAUSES OF DISCRIMINATION AIMED AT GENERAL PUBLIC	SUPPORTING STRATEGIC LITIGATIONS
MAKING CASE LAW ON DISCRIMINATION AVAILABLE IN LANGUAGES USED IN B&H	PRODUCE REGULAR ANNUAL REPORTS WITH RECOMMENDATIONS FOR COMPETENT AUTHORITIES		PROMOTION OF SUCCESSFUL APPROACHES IN PROVING DISCRIMINATION AND PROTECTION AGAINST DISCRIMINATION BY JUDICIARY	
DEVELOPING OF THEMATIC REPORTS ON DISCRIMINATION AGAINST DIFFERENT GROUPS IN SOCIETY	CONTINUING REGULAR TRAINING PROGRAMMES FOR JUDICIARY AND ORGANISING LEGAL CLINICS ABOUT THE CHALLENGES IN PROSECUTION OF DISCRIMINATION CASES		CONDUCTING A RESEARCH ON OBSTACLES THAT PREVENT DIFFERENT GROUPS IN A SOCIETY FROM ACCESSING EQUAL RIGHTS AND OPPORTUNITIES	
ESTABLISHING OF A COMPREHENSIVE DATABASE AND IMPROVING ADMINISTRATIVE DATA SOURCES AND REGULAR PUBLICATION THEREOF	DEFINING PRIORITY INSTITUTIONS AND DELIVERING TRAINING FOR THE PERSONS RESPONSIBLE OF ADMINISTRATIVE PROCEEDINGS		PROMOTING THE SUCCESS STORIES OF STRATEGIC LITIGATIONS	
MAKING MATERIAL AVAILABLE AND ADOPTING THEM FOR THE USE OF ALL GROUPS (ROMA, PERSONS WITH VISUAL IMPAIRMENTS)	ORGANISING REGULAR TRAININGS FOR NGOS ORGANISING REGULAR TRAININGS FOR (FREE) LEGAL AID PROVIDERS		IMPROVING THE SYSTEM OF PROCESSING OF CASES PRESENTED BEFORE THE OMBUDSMAN	

#### 4. THE PROCESS IS AS IMPORTANT AS THE CONTENTS

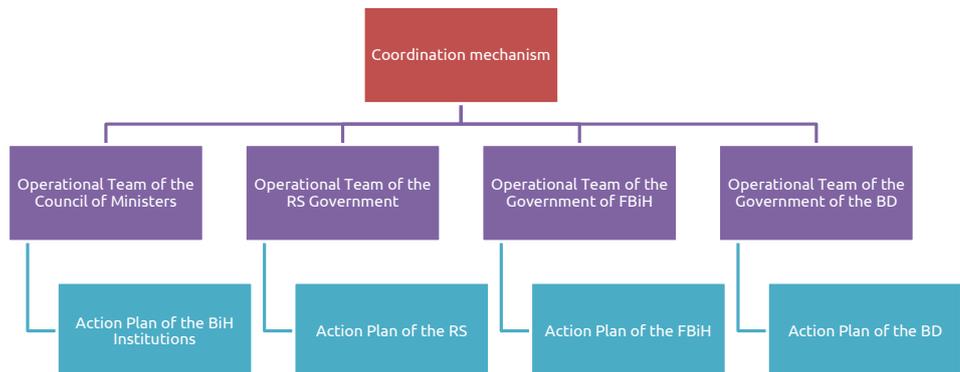
Drafting of a strategy paper could potentially serve as one of the key drivers of a wider social response to discrimination challenges. Therefore it needs to be carefully planned. Participation of key stakeholders is extremely important, since a considerable amount of activities is aimed at strengthening of their capacities. Considering a large number of key stakeholders, an additional challenge will be not only to engage their representatives in the process but also to inform and consult as many institutions and organisations as possible without hindering the efficiency of the working group tasked with drafting the strategy paper.

The Ministry of Human Rights and Refugees, as Ministry responsible for monitoring the implementation of the Law prohibiting discrimination and an authorised proponent of the strategy papers to be adopted by the Council of Ministers of Bosnia and Herzegovina should launch the process of strategy drafting. Opinions and approval of the competent authorities are also necessary to ensure the commitment of all relevant government institutions to implementation of the Strategy.

Considering the constitutional division of responsibilities, it would be necessary for the working group to include representatives of Entities and Brčko District to ensure compliance of this Strategy with the strategic frameworks and regular work programming processes at all levels of government in Bosnia and Herzegovina. This process alone is a challenge, especially because mid-term objective no. 3 will require involvement of a larger number of competent institutions, which in some areas may include 14 or more institutions.

One possible model to overcome this problem could be not to define all the activities in mid-term objective no. 3 of the Strategy, but instead to have these activities coordinated by a coordinating mechanism established by the Council of Ministers of B&H, while specific steps leading to such activities could be defined as a part of annual action plans of authorities on different levels. In this process one could use the existing models of cooperation among different levels of government such as ministerial conference of education ministers, judicial training centres, Steering Board of institutional gender equality mechanisms, the Council for Children, the Committee for Roma, and other coordination mechanisms established for other public policies.

Accordingly, the implementation structure could look like this:



Of course, such implementation structure requires a lot more investment into coordination, but its impact on the work programming of government is far greater. Also, for the sake of better coordinated and harmonised approach throughout the territory of B&H, it would be necessary to develop mechanisms of joint annual consultative planning sessions and thematic working groups comprised of representatives of authorities from different levels authorities to agree on joint approach to certain problems. At the professional level, the thematic groups could propose activities that could help the operational teams to define the activities within their annual action plans.

The role of a coordination mechanism is very important because this mechanism could ensure coordination of all action plans, and it could focus them on the objectives projected in the Strategy. In order for this mechanism to deliver on its role, it should have political support of all levels of government. This mechanism should also initiate and support the process of monitoring and evaluation of action plans.

Particularly important is the participation of representatives of civil society organisations, especially if we have in mind the significant role these organisations have in accordance with the Law. The coordination mechanism and operational teams should involve civil society organisations, while in the process of drafting of operational plans all groups affected by the plans should be consulted.

This publication is part of the Human Rights Papers series published by Sarajevo Open Center. Human Right Papers offer both general and specific reports, as well as other relevant publications, on the human rights situation in Bosnia and Herzegovina. These reports and publications form a base for further lobbying directed at the state of Bosnia and Herzegovina, but also international institutions.

The Human Rights Papers series' editor-in-chief is Saša Gavrić. The list of papers published so far includes:

Saša Gavrić (autor): Human Rights of Lesbian, Gay, Bisexual and Trans\* People in Bosnia and Herzegovina: New Approaches? Current situation and guidelines for future actions of institutions and civil society, Sarajevo: Sarajevo Open Centre, 2014. Dostupno na: [http://soc.ba/site/wp-content/uploads/2014/12/LGBTOSOBE\\_eng\\_01.pdf](http://soc.ba/site/wp-content/uploads/2014/12/LGBTOSOBE_eng_01.pdf)

Marina Veličković (autor): Parties, Elections, Parliaments: Women in Politics in Bosnia and Herzegovina. A story in numbers. Sarajevo: Sarajevo Open Centre, 2014. Dostupno na: [http://soc.ba/site/wp-content/uploads/2014/09/marina\\_eng.pdf](http://soc.ba/site/wp-content/uploads/2014/09/marina_eng.pdf)

Initiative for the monitoring of the European Union integration of Bosnia and Herzegovina, 2014 Alternative Progress Report. Sarajevo: Sarajevo Open Centre, 2014. Dostupno na: [http://soc.ba/site/wp-content/uploads/2014/07/Alternativni-izvjestaj-2014\\_ENG\\_zaweb.pdf](http://soc.ba/site/wp-content/uploads/2014/07/Alternativni-izvjestaj-2014_ENG_zaweb.pdf)

Esther Garcia Fransioli (autor): Annual Report on the State of Women's Rights in Bosnia and Herzegovina 2013. Sarajevo: Sarajevo Open Centre. Ko-izdavači: Prava za sve i Fondacija Cure, 2014. Dostupno na: <http://soc.ba/site/wpcontent/uploads/2014/04/Godisnji-izvjestaj-o-stanju-ljudskihprava-zena-uBiH-u-2013.pdf>

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