

## **Written Contribution to the Report for BiH 2016**

### **Political Criteria**

#### **Area: Governance**

### **The Institution of Ombudsman for Human Rights**

Three Ombudsmen were appointed for a period of 6 years in November of 2015, by decision of the Parliamentary Assembly BiH. Although significant efforts had been made in 2015 to draft and submit to the legislature the new proposal of the Law on Ombudsman for Human Rights, the Council of Ministers BiH only finalized the proposal in March 2016 and it was put in legislative procedure in April 2016. The Law was sent back to the Constitutional-Legal Committee of the Parliamentary Assembly, following the first reading in the House of Representatives of the Parliamentary Assembly.

Compared to the current Law, the Draft Law a) better defines the Institution's jurisdiction, b) transfers jurisdiction for the Appointment Procedure for Ombudsmen to the Joint Committee for Human Rights, c) introduces a division between the areas of action of Ombudsmen.

The Civil Society has concerns that the Draft Law which has been submitted to the legislative procedure by the Council of Ministers BiH clashes with the recommendations by the ICC Sub-Committee on Accreditation, the Venice Commission, the Universal Periodic Review and other mechanisms and bodies. The Institutional mandate has not been clearly defined by the law, especially the section that addresses promotion of human rights and areas of action - it becomes apparent that sufficient field presence of the Institution has not been secured.

The Civil Society Organizations have also warned that the decision-making process which requires consensus can lead to decisions not being made due to one ombudsman's objections.

Specifically, the biggest issues with the law are a) the discriminatory structure of having three ombudsmen who will always be elected from the three constituent peoples, b) unclear division of jurisdictions between different ombudsmen and the Institution as a collective, c) financial independence of the institution.

The Institution is expected to work more on resolving the backlog of complaints, get more involved in local communities, approach the advocacy of human rights and draft special reports, and work on establishing and strengthening the division for elimination of all forms of discrimination, in accordance with the Law on Prohibition of Discrimination BiH.

The Ombudsman institution started working on the LGBTI Special Report only 3 years after this request has been initiated by a group of NGOs, and 10 months after it was ordered by the PA BiH Human Rights Committee.

## **Political Criteria**

### **Area: Human rights and protection of minorities**

#### **Combating Discrimination**

Bosnia and Herzegovina still has high levels of discrimination, despite the existence of the current Law on Prohibition of Discrimination BiH. Discrimination on the grounds of ethnicity and gender is particularly pervasive, although there are many cases of discrimination at the workplace (mobbing) and in education, social care and healthcare. Civil Society Organizations are constantly issuing recommendations and warning of the problem of multiple forms of discrimination, especially against persons with disabilities, Roma people, LGBTI individuals and returnees.

The proposal on the Changes and Amendments to the Law on Prohibition of Discrimination BiH has been submitted to the legislative procedure in April 2016 and it has been adopted after the first reading in the House of Representatives of the Parliamentary Assembly BiH. The Proposal offers better solutions which aim to improve the implementation of the Law and to better protect human rights.

In addition to the procedural matters, the Changes and Amendments also prescribe age, disability, sexual orientation, gender identity and sexual characteristics as grounds on which discrimination is prohibited. The prohibition of discrimination on the basis having links to a discriminated group will also be introduced and the definitions of harassment and sexual harassment have been improved. The incitement to discrimination is no longer limited to questions of religious, national and racial hatred - now it is prohibited on all grounds.

The Changes and Amendments to the Law will, if accepted, significantly improve the legal framework, but the implementation of the law will depend on the readiness of the institutions to react to instances of discrimination.