14 October 2015

**Human Rights Council Resolution 29/22- „Protection of the family“**

**Information of Bosnia and Herzegovina on implementation**

Legislation

The Constitution of Bosnia and Herzgovina (Article II 3(j) ), the Constitution of Federation of Bosnia and Herzegovina (chapter II, Article 2 (j)) and the Constitution of Republika Srpska (Article 36) are providing full protection of family, mother and children.

Specific legal protection of the family in Bosnia and Herzegovina is contained in entity family laws: Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District, which are regulating family issues, marriage, parents and children, adoptions, care, property-legal relations, proceedings before the relevant authorities in relation to marital and extra-marital relationships. Family laws provide the definition of family.

In Federation of BiH, the Constitution of Federation of Bosnia and Herzegovina, in particular the provisions of Article III.2.j) provides that all the people in the territory of the Federation of Bosnia and Herzegovina shall enjoy the right to protection of families and children. Article III.2.e), in conjunction with Article III.3. (3) of the FBiH Constitution, provides that the Federal Government has the right to make policy and to enact laws concerning social policy.

According to the provisions of Article III.2.e) and Article II.3. (1) and (2) of the FBiH Constitution, the Federal Government and the Cantons are jointly responsible for social policy, which includes the protection of families with children.

The responsibilites are exercised jointly or separately, or by the Cantons, but in coordination with the Federal Government. Cantons and the Federal Government regularly aree regarding the responsibilites.

In this domain Cantons have the right to make policies and to enact laws (Article III.3. (4)), as well as to implement social policies and to establish social welfare services (Article III.4.j)).

In the Federation of BiH, funds for financing the protection of families with children, in accordance with the Law on Public Revenue of the Federation of BiH, are provided in the budget of cantons and municipalities (Article 11, item 5).

In the Federation of BiH, the Law on Social Protection, Protection of Civilian War Victims and Families with Children, as one of the rights to social protection, provides social and other professional services (Article 19, paragraph 1, item 5). These services also include the counseling services within the institutions dealing with the family issues.

In addition, the Family Law of the Federation of BiH stipulates that the guardianship authority shall assist parents in settling their social, material and personal relations, and if the interest of the child requires it, parents will be reffered to a counseling centre (Article 151, paragraph 2).

In addition to 79 Social Work Centers in Federation of BiH , support to the families in terms of taking care of their family situation is provided through counseling centers, and the Law on Social Protection, Protection of Civilian War Victims and Families with Children provides that non-governmental organizations may also provide it (Article 4).

FBiH Family Law ("Official Gazette of BiH", No. 36/05) defines the family, marriage and legal relations in marriage, relations between parents and children, adoption, custody, legal effects of extra-marital union of man and woman, the rights and duties of family members in the Federation of BiH and procedures of the competent authorities with respect to marriage and family relations (Article 1). According to this Law, family is community of parents, children and and other blood relatives, adoptive parents and adopted children living in joint household (Article 2, par.2).

The Constitution of Republika Srpska - Article 36 provides for full protection of mother and children which is further regulated in the Family Law of Republika Srpska ("Official Gazette of Republika Srpska" no. 54/02 and 41/08), the Law on Child Protection of the Republika Srpska ("Official Gazette of Republika Srpska", No. 4/02), the Law on Social Protection ("Official Gazette of Republika Srpska", number 37 / 12) and the Labour Law - Consolidated text (Official Gazette of RS, No. 55/07), as well as a number of by-laws derived from these laws.

The Family Law of the Republika Srpska, provides domestic legal relationships between spouses, parents and children, adoptive parent, guardian, relations between relatives in the marriage, extramarital or adopted family, and procedures of the competent authorities in connection with family relations and custody (Article 1) . According to Article 2 of this Law, family is defined as a living community of parents, children and other relatives. The Family Law of the Republika Srpska (Article 95) provides that the guardianship authority provide assistance to parents in settling their social, material and personal circumstances and relations, or directs them to the proper counseling centers, if it is in the interest of children.

The Law on Child Protection of the Republika Srpska regulates the system of child protection based on rights and duties of parents to take care of the upbringing and education of their children, the child's right to life conditions that will provide a proper psychophysical development and obligation of the state to provide it to them. Under the Article 6 of the Law on Child Protection of RS ("Official Gazette" no. 04/02, 17/08,01/09), family consists of marital or extramarital partners, children (legitimate, illegitimate, adopted and step-children and children placed under guardianship and foster care) and relatives living together in the same household.

The Law on Social Protection of Republika Srpska prescribe the rights and benefits of families with children. The Law on Social Protection of RS (Article 60), among other, provides competence of social welfare centers which provides social services in the process of deciding on entitlements to social protection, provides diagnostic services and implement appropriate treatments, advisory and therapeutic services and professional assistance to beneficiaries, as well as the work on the establishment of family advisory centers which provide services to families and individuals.

Social welfare centers or social welfare services during the exercise of its statutory duties, usually carry out the mediation between parents and between parents and children. The social work centers or social welfare services perform the conciliation procedure of spouses who want to start divorce proceedings but which have under-age or adopted children, or children with extended parents right, under the provisions of the Family Law of RS. The conciliation procedure is a form of protection of the family and attempt to maintain the family community. Also, the social work centers or social care service decides in cases of disagreement of parents on the exercise of parental rights (Article 85), and assists parents in settling their social, material and personal circumstances and relations, or directs them to the proper advisory centers, if it is in the interest of children (Article 95).

Mediation services in Republika Srpska are free. In Republika Srpska exists 45 social work centers, while in 17 municipalities these centers are not established but they operate through the administrative services of local selfgovernment. In developed municipalities, within the social work center operates the counseling center.

The Labour Law of Republika Srpska, provides exercising the rights of women to maternity leave, maternity leave duration, return to work at their own request before the expiry of the maternity leave and payments of the women during maternity leave.

The Family Law of the Brčko District ("BD Official Gazette", number 23/07) regulates the family-legal relationships between spouses, parents and children, adoptive parents and adoptees, guardians and relationships between other relatives in marriage, extramarital or adoptive families, and procedures of the competent authorities regarding family law relationships and custody (Article 1). Accordnig to this Law, family is a vital community of parents and children and other relatives (Article 2, paragraph 1).

Regulation of relations within the family (Article 2, paragraph 2) is based on: the privacy of family life; equality, mutual assistance and respect of family members; the obligation of parents to ensure protection of the interests and welfare of the child and their responsibility in raising, upbringing and education of the child; obligation of Brčko District to provide protection to the family, mother and child in accordance with international conventions; provide foster care for children without parental care.

Sub department for social protection- Service for protection of family and children performs the activites of social work centers of Brčko District.

Protection against domestic violence

Bosnia and Herzegovina has a quality legal, international and national framework which creates conditions for prevention and fight against violence against women and domestic violence. In addition to the international legal instruments, which are contained in the Constitution of BiH and form an integral part of it so they are directly applicable, including, documents on human rights protection, particularly, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), BiH has also signed and ratified other international legal documents that create a legal basis as a form of general prevention of violence against women and domestic violence.

The Law on Gender Equality in Bosnia and Herzegovina ("Official Gazette", Nos. 16/03, 102/09) recognizes domestic violence as a form of gender-based violence, regulates, promotes and protects gender equality and guarantees equal opportunities for all citizens, in both the public and private domain, and prohibits direct and indirect discrimination based on sex.

The entities in Bosnia and Herzegovina have adopted the laws on protection against domestic violence. These laws regulate protection from violence, the notion of domestic violence, persons who are considered as family members, the manner of protection of family members, and the type and purpose of sanctions for perpetrators of violent acts.

The Law on Protection from Domestic Violence of Federation of BiH ("Official Gazette of FBiH", No. 22/05 and 51/06) and the Law on Protection from Domestic Violence of RS ("Official Gazette", No. 118/05, 17/08) defines protection from domestic violence, the notion of domestic violence, individuals who are considered family members in terms of this Law, ways of protecting family members, and the types and purposes of misdemeanor sanctions against the abusers.

Economic protection - family benefits

The Law on Social Protection, Protection of Civilian War Victims and Families with Children in Federation of BiH regulates: basis of social protection of citizens and their families, the basic right to social protection and beneficiaries of social protection (Article 1).

Financial and other material assistance are one of the rights of social protection and consists of cash allowances, cash benefits for care and assistance by another person, and other material aid (Article 21).

The fundamental rights which, in terms of this Law are exercised by the families with children, include: child’s allowance; reimbursement of the salary to the employed wife/mother, for the period when she is absent from work due to the pregnancy; allowance during the period of pregnancy and childbirth for unemployed wife/mother; support in feeding the child under the age of 6 months and additional food supply for nursing mothers; placement of children in pre-school institutions with meals provided; ensuring one meal during classes in primary schools; school fees and scholarships for students.

Cantonal legislation closely regulates the conditions, manner, procedure, organs, and funding for the above mentioned rights (Article 90, paragraph 2).

The Law on Social Protection of Republika Srpska regulates regulates the rights and regulations applied to social welfare, its organization and financing as well as other activities relating to the realization of social welfare.

Activities of social protection/welfare/security include measures and actions to create conditions for the performance of protective functions of family, conditions for independent life and work of persons in need or their activation in accordance with their abilities, provision of means to indigent and unfit for work persons and other citizens who are in need and provision of other forms of social assistance.

Article 20 of the Law on Social Protection stipulates the following rights: allowance, attendance allowance, support of the equalization of opportunities of children and youth with disabilities, placement in an institution, placement in a foster family, home help and home care, day care, one-time cash assistance and counselling. In addition to the rights under this Law, any local government may issue a decision in accordance with the needs of the citizens to provide additional entitlements and services and set conditions and criteria for granting them and other forms of social protection if they provide necessary funding.

In accordance with the Law on Child Protection, through the Public Fund for Child Protection of the Republika Srpska is conducted realization and financing of rights of general interest and Republika Srpska is responsible for the following: maternity allowance; baby package; child allowance; the developmental needs of children; the pre-school education for children without parental care, children with disabilities and children hospitalized for a long period of time.

The Law on Child Protection of RS (Article 41) prescribes the sources of funds for financing the above-mentioned rights of child protection.

According to the Social Care Law of Brčko District ("Official Gazette of Brčko District 1/03, 4/04) family benefits are: attendance allowance; permanent basic allowance; family benefits: - baby package maternity allowance Family benefits in sufficient amount: child allowances: - regular bonuses benefits paid to young married couples and other appropriate assistance: average net monthly income other type, families with single parent, vulnerable families – equality principle.

In 2008, the Council of Ministers of Bosnia and Herzegovina has adopted a decision on the establishment of the Steering Board for Coordination of the Project “Strengthening the system of social protection and inclusion of children in BiH” . The steering boards were also formed at the entity level and the Ministry of Human Rights and Refugees is coordinating them through the Expert Gropu at the state level.

Within the project "Strengthening social protection and inclusion of children in BiH", whose implementation was supported by UNICEF in order to improve child development and parenting capacity, was established 10 integrated centers for parents and children (ICRD) in the Federation of BiH and RS. They are complementary to all existing municipal services providing services in the areas of health, nutrition, education and social protection and do not replace existing services in these areas, but their aim is to help them to function better and to complement existing gaps in services they provide at the municipal level.

The Steering Board for the coordination of the Project decided to initiate the project activity for establishment of the Integrated Center of early development of children's growth and development for parents and children in the territory of FBiH. Integrated Early Childhood Development for parents and children is a model which aims to improve and achieve challenging and responsible parenting and early development of children aged 0-10 years, with a special focus on children aged 0-3 years. In collaboration with the Federal Ministry of Education and Science, the Federal Ministry of Health and the Federal Ministry of Labour and Social Welfare, UNICEF has developed the proposal of the model of the integrated center of early childhood development and work programs of the center.

Under the above mentioned Project, in March 2012, the Council of Ministers of Bosnia and Herzegovina, has adopted the Decision on the adoption of the Framework Policy for Improvement of Early Childhood Development in Bosnia and Herzegovina.

Standard of living

Notwithstanding certain progress in terms of economic growth in the past decade and the global economic crisis has a significant impact on the living standard. Furthermore, rural families, Roma, internally displaced persons, returnees, families with two or more children and families with children with invalids make a large part of socially vulnerable population.

In June 2015, the Council of Ministers rendered the Decision Adopting the Action Plan for Children for Bosnia and Herzegovina 2015 – 2018. Through the initiatives of the Council for Children, the Action Plan envisages three measures relating to the direct protection of families at the local level in Bosnia and Herzegovina which relates to:

* Start the initiative to establish poverty reduction strategies and programs at the local and community levels, ensuring equitable access to basic services, such as adequate nutrition, housing, water and sanitation, as well as to social and health services and education
* Start the initiative to adopt temporary special measures and affirmative action and take measures to improve the availability of employment for youth and children to raise the standard of living among its most needy children and families disproportionately affected by poverty
* Start the initiative for introducing a universal child allowance scheme to redress disparities and guarantee an adequate standard of living for all children in its territory