**REPORTS ON DISCRIMINATION, SEGREGATION AND THE RIGHT TO ADEQUATE HOUSING**

QUESTIONNAIRE

**BASIC INFORMATION**

1. Name of Individual, Organization, Institution, Agency or State: The Institution of The Human Rights Ombudsman of Bosnia and Herzegovina

Type of Entity\*

☐ National Government or federal governmental ministry/agency

☐ Inter-governmental organization or UN agency

☐ Local or regional government, agency, representative or mayor

☐ Association, tenant union or housing cooperative

☐ NGO network, umbrella organization

☐ Community-based NGO

☐ Academia

☐ Foundation

☐ National human rights organization, ombudsperson

☐ Real estate, urban planning or construction

☐ Real estate investor or investment fund

☐ Trade Union

☐ Other:

2. Categorization of your Work

Please select one or more responses, as appropriate.

☐Public administration

☐Advocacy

☐Funding

☐Legal Assistance

☐Networking

☐Policy

☐Research

☐Technical Assistance

☐Training

☐N/A

☐Other:

3. City/Town: Banja Luka

4. State/Province: Bosnia and Herzegovina

5. Country (please indicate your region or “international” if focus the work of your organization covers multiple countries); Click here to enter text.

**HOUSING DISCRIMINATION**

7. What specific forms of de facto or legal discrimination or barriers towards equal enjoyment of the right to adequate housing do the following groups face in your country (please provide evidence with examples, studies, reports and relevant statistical information):

* People of African Descent, or Roma
* Racial, caste, ethnic, religious groups/minorities or other groups
* Migrants, foreigners, refugees, internally displaced persons
* Women, children or older persons
* Indigenous peoples
* Persons with disabilities
* LGBTQ persons
* Low income persons, including people living in poverty
* Residents of informal settlements; persons experiencing homelessness
* Other social groups, please specify

-In Bosnia and Herzegovina, the Roma population lives in collective centers or in smaller settlements consisting of several housing units. An Action Plan for Roma Housing was adopted in 2008, but its implementation is poor.

In 2014, the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina prepared a Special Report on the Situation of Roma in Bosnia and Herzegovina, which you can view at the following link:

<https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2013121011144464eng.pdf>

-The migration processes encountered by the authorities in Bosnia and Herzegovina in 2018 have placed certain demands on a number of institutions, including the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina, which has prepared a Special Report on the State of Migration in Bosnia and Herzegovina; One of the biggest problems these people face is accommodation. More information you can find here:

<https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2019010713545979eng.pdf>

- The Institution of the Human Rights Ombudsman of Bosnia and Herzegovina prepared, in 2010, special reports dealing with the human rights situation of the elderly and persons with disabilities:

<https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2013020406211683eng.pdf>

<https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2013020406303506eng.pdf>

8. Discrimination in housing can affect various dimensions of the right to adequate housing and other human rights. Could you provide more details regarding the specific areas in which housing discrimination is experienced? Below are examples of various forms of discrimination that can be experienced in relation to different dimensions of the right to adequate housing:

*Accessibility*

* Discrimination in relation to access to land, including water and natural resources essential for habitation;
* Discrimination in relation to housing for rental or for acquisition or in accessing public or social housing;
* Access to emergency and/or transitional housing after disaster, conflict related displacement or in case of homelessness, family or domestic violence;
* Accessibility of housing for persons with disabilities or older persons, including access to housing for independent living or to care homes;
* data collection or requirements to furnish certain certifications resulting in the exclusion of particular persons from accessing housing;

*Habitability*

* discrimination in relation to housing conditions, overcrowding or housing maintenance;
* Exposure to health risks within the home, including lack of ventilation, heating or insulation, exposure to fire or housing collapse risk, unhealthy building materials, or other unhealthy housing covered by the WHO Guidelines on housing and health;
* Exposure to other risks which render housing uninhabitable, including sexual or gender-based violence, interference with privacy and physical security in the home and neighbourhood;
* Discrimination in relation to housing renovation or permission of housing extension;

*Affordability*

* Discrimination in relation to access to public benefits related to housing;
* Lack of equal access to affordable housing;
* Discrimination in public and private housing financing;
* Discrimination related to housing and service costs, housing related fees, litigation or taxation;

*Security of tenure*

* Discrimination in relation to ownership or inheritance of housing and land and related natural resources including water including on the basis of a distinction between formal and informal tenure arrangements;
* Discrimination in relation to evictions, resettlement and compensation for loss or damage of housing, land or livelihoods;
* Differential treatment in land or title registration, permission of housing construction;

*Availability of services, materials, facilities and infrastructure*

* Discrimination in relation to access to work, schooling, health care or public benefits based on the residential address or related to a lack of an official address;
* Public transportation services and transportation costs;
* Provision of water, sanitation, energy, waste collection and other utility services; their quality or cost, including interruptions/blackouts including policies relating to disconnection from utility services;
* spatial disparities in access to health care, education, child care, cultural and recreational facilities;

*Location*

* Discrimination in relation to freedom of choice of the place of residency within the country, within a particular region or location;
* Discrimination based on place of residence or address, such as exclusion from invitation to job interviews or access to credit;
* Exposure to environmental health risks, such as external air quality, flooding, toxic ground exposure; noise; risk of landslides etc.;
* Living quality and physical security in the neighbourhood, including geographical disparities in policing and law enforcement;

*Cultural adequacy*

* Discrimination in relation to the recognition of culturally adequate dwellings as housing as well as equal access to public space;
* Prohibition of accessing, maintaining or constructing culturally adequate housing;
* Lack of recognition of mobile forms of residency.

In this particular case, we can enclose a few examples from the practice of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina. Namely, in the post-war period in the entire territory of Bosnia and Herzegovina, people encountered various situations in which they were put at a disadvantage when it comes to housing or housing conditions. For example: There is ongoing Ombudsmen's action from which it is evident that the complainant repossessed apartment in the municipality of Drvar, but the building in which the apartment is devastated and therefore unsuitable for apartment life. Drvar municipality in its response noted that in the framework of its powers and in accordance with available resources would take part in the reconstruction of residential buildings damaged by war. In this connection, the Ombudsmen requested of the Municipality information as to whether and when the planned reconstruction of the building in which the apartment of the complainant is. The above shows that in some cases citizens formally exercise their right to return of property, the property returned, but it cannot be used in full scale. Therefore, the question arises whether a citizen really exercised the right to property; In a case it is alleged that the Company „Čistoća“ a.d. Banja Luka, does not collect waste in the Street Od Zmijanja Rajka, in which the majority of inhabitants are elderly, weak and disabled persons. The inhabitants have to carry the bags with waste for a kilometer until the closest garbage bin. On 22 September 2017 Ombudspersons issued their recommendation no. P-225/17 by which they ask the mentioned Company to find the appropriate solution for waste collection in the Street Od Zmijanja Rajka in Banja Luka. On 17 October 2017 the Company „Čistoća“ replied to the Ombudsman asserting that the mentioned issue did not fall within the mandate of the utility company. The Company carries out the services involving the collection and disposal of the communal waste, while the placement of the garbage bins was the responsibility of the Banja Luka Town Administration. The complainant lives in a street which is not accessible for the utility company vehicles. The Law on Public Services and Utilities does not define the distance from the place of residence and the garbage bin, so that the complainant should seek the solution for his problem in the Municipal Administration Utilities Department. The recommendation was not accepted. On a positive side, it happens that the utility companies resolve the issue and rectify a human rights violation following the intervention of the Ombudsman; A complainant emphasizes that his family house was damaged during the floods in 2014. The Commission of the Municipality of Banovići assessed the damage, but the landslide is still active and it causes further damage to the house. The complainant points out that in 2013 the infrastructure was built including the paving of roads in Omazići and during these works rainfall and fecal sewerage was directed to his property where an open channel was built, which also affects the landslide and causes very bad smell. After the investigation the Ombudsman issued a recommendation188to the Municipality of Banovići: with no delay, in accordance with the law to ensure taking the efficient measures to solve the issue of sewerage in local community Omazići; The Ombudsmen point to the fact that during 2015 the Institution received complaints of dis-placed persons in Sarajevo Canton. Their housing problem has not been resolved since the end of the war, because their apartment building was razed to the ground, and has not been restored. Even 21 years after the end of the war, these citizens have the status of displaced persons, because a rational renovation/ reconstruction of damaged/destroyed apartment buildings or individual construction are impossible due to technical and financial reasons. Responsible authorities urged complainants to be patient, saying that measures were taken to solve the problem. However, the issue has not been solved to date. Ombudspersons note that the complainants are not responsible for the situation, but still have to suffer the consequences. It is hard to believe that in this case the effective exercise of the rights and interests of citizens is ensured and that the authorities have taken measures to efficiently resolve the issue of displaced persons. Ultimately, one can say that the authorities failed to take action within a reasonable time in order to address this problem, thus violating the rights of the displaced persons. For more examples, you can see the Annual Reports of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina: https://www.ombudsmen.gov.ba/Dokumenti.aspx?id=27&tip=1&lang=BS

9. Are there any particular current laws, policies or practices in your country, region or town/community that contribute to or exacerbate discrimination in relation to the right to adequate housing?

Discrimination is a complex concept, which in the legal system of Bosnia and Herzegovina was for the first time fully defined by the adoption of the Law on Prohibition of Discrimination from 2009. With the entry into force of this Law, the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina has been assigned the role of a central institution for protection against discrimination.

10. Can you explain exemptions in national law that allow (certain) public, private or religious housing providers to give preferential or exclusive access to housing to members of a particular group, for example based on membership, employment contract, public service, age, disability, civil status, sex, gender, religion, income or other criteria?

Law on Prohibition of Discrimination: Article 5 (Exceptions to the principle of equal treatment) Legal measures and actions shall not be considered discriminatory when they are reduced to unfavorable distinction or different treatment if they are based on objective and reasonable justification. The following measures shall not be considered discriminatory when they achieve a legitimate aim and if there is a reasonable relationship of proportionality between the means employed and the aim pursued and when: a) they result from the implementation or adoption of temporary special measures designed to prevent or compensate which persons suffer and which are determined by the grounds specified in Article 2 of this Law, especially for members of vulnerable groups, such as: disabled persons, members of national minorities, women, pregnant women, children, youth, the elderly and other socially excluded persons, civilian victims of war, victims of criminal proceedings, displaced persons, refugees and asylum seekers; that is, to enable their full participation in all areas of life; b) are based on a characteristic relating to any of the grounds referred to in Article 2 of this Law when, in limited circumstances, due to the nature of the specific professional activities in question or the context in which they are performed, such a characteristic is a real and determining condition in terms of vocation choice. This exception will be subject to periodic review; c) are based on the distinction, exclusion or preference in respect of employment as a member of the staff of an institution carried out in accordance with doctrines, basic tenets, dogmas, beliefs or teachings of a particular religion or belief, since discrimination, exclusion or preference done conscientiously so as not to injure the religious feelings of members of that religion or that religion; d) determine the maximum age most suitable for termination of employment and determine the age as a condition for retirement; e) are based on citizenship in the manner prescribed by law; f) are based on the implementation of reasonable accommodation in order to ensure the principle of equal treatment of persons with disabilities. Employers are therefore obliged to take appropriate measures in the specific case, in order to enable the disabled person to gain access, participate or advance in employment, or to participate in training, if such measures do not impose a disproportionate burden on the employer; g) placing at a disadvantage in the regulation of family rights and obligations when determined by law, and especially with the aim of protecting the rights and interests of children, which must be justified by a legitimate purpose, protection of public morals and favoring marriage in accordance with family provisions the law; https://advokat-prnjavorac.com h) when establishing employment, include in membership, and in activities that are in accordance with the science and business of registered churches and religious communities in BiH, as well as other public or private organizations that act in accordance with the constitution and laws, if required by religious doctrines, beliefs, or goals.

11. In case there may be differential treatment of particular groups in relation to housing, please explain why such treatment could be justifiable according to international human rights standards - for example positive measures benefiting a particular group to overcome systematic discrimination or disadvantage-or if it would amount to discrimination?

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**SPATIAL AND RESIDENTIAL SEGREGATION**

12. What forms of spatial segregation along racial, caste, ethnicity, religion, nationality, migration status, heritage, economic status/income or other social grounds can be observed in urban and urban-rural contexts in your country?

There are settlements inhabited by Roma, and this is in most cases in the suburbs

13. What impacts do these forms of spatial and residential segregation have on affected communities? Please point to indicators such as rates of poverty, un-employment and under-employment; prevalence rates of malnutrition; disparities in access to services and facilities (such as access to schooling, health care or other public benefits); disparities in access to infrastructure (lack of and/or poor quality provision of water, sanitation, transportation, energy, waste collection and other utility services); rates of exposure to environmental health risks (poor air quality, flooding, toxic ground exposure, etc).

The complex economic crisis, coupled with low levels of education and job qualifications, worsens employment difficulties for Roma. This, in part, accounts for their poor social integration and adequate measures to counteract this must be taken accordingly. At the same time, implementation of the Action Plan for employment of Roma have not fully met expectations. As of 31 August 2013, there were 289 Roma (189 male and 100 female) in the records of the Employment Bureau of the RS. From 2011 to August 2013, a total of 125 Roma from the list of the Employment Bureau of the RS have been employed. At the same time, in the records of the Employment Bureau of the FBiH there were 2,597 persons who have declared themselves as Roma (1.181 female). Funds spent from the projects focusd on employment of Roma have resulted in the hiring of 106 Roma and self-employment of 88 Roma (not including 2013.)

According to the information of the Ministry of Human Rights and Refugees of BiH (in the text of the BiH MHRR), significant progress has been made in the housing of Roma, which is the result of significant allocations of financial resources for this purpose. Thus, on the initiative of this Ministry, budget funds for housing Roma in the amount of three million KM are regularly planned on an annual basis. Two million KM is intended for housing and improvement of infrastructure in Roma settlements. So far, a total of 10 million euros has been invested in housing Roma, including budget funds, co-financing from implementers, general and other donors. In over 60 municipalities, projects have been implemented or are still being implemented. Over 600 housing units have been built or reconstructed, and about 400 Roma families are beneficiaries of infrastructure projects. The implementation of projects from 2013 with IPA funds intended for the construction or reconstruction of an additional 150 housing units is in progress. Since 2009, the BiH MHRR has allocated around 700,000.00 KM in the budget for the employment of Roma. These funds are implemented through employment bureaus that issue public calls. Over 300 Roma went through Roma employment and self-employment programs, of which a very small number remained employed after the expiration of the contract. The current approach in the field of Roma employment is yielding results, with indicators related to the sustainability of such investment significantly reducing the effectiveness of this grant. The Ministry intends to propose an integrated approach to Roma social employment for future grants. In the opinion of the Ministry, it is necessary to create new modalities to direct the available grant funds directly to the roads, ie the employment bureaus, for programs supported by the local community, which should contribute to their sustainability.

14. Have any particular historical or current laws, policies or practices in your country, region or town/community caused or exacerbated segregation?

War events in the period from 1992-1995. years in the territory of Bosnia and Herzegovina influenced that

15. In your view, what factors (current or historical) are the principal *drivers* of spatial and residential segregation in urban and urban-rural contexts in your country?

Consequences of war, cost of living, unemployment...

16. Are there examples in your country of where spatial and residential clustering has been a result of voluntary choices of residence by members of particular groups?

The Roma population in Bosnia and Herzegovina in most cases is based on certain settlements, due to the conditions that suit them for their way of life.

17. The preservation of cultural identity, the right to self-determination of indigenous peoples and the protection of minority rights are examples of grounds for which groups may choose to live separately. Can you comment on how these forms spatial/territorial separation are evidenced in your country, if these communities they are subject to discrimination and suffer adverse consequences from spatial segregation such as through disparities in access to services, infrastructure, living conditions, etc.?

18. In your view, are certain forms of observed residential separation/voluntary clustering compatible with human rights law and if so why? (for example to protect rights of minorities or to respect the freedom of choice of individuals to decide with whom to live together).

This represents freedom of choice

19. Are there any laws or policies requiring certain individuals (and their families) to live in particular housing provided to them or in a particular geographical area (e.g. asylum seekers, migrants, IDPs, refugees, ethnic, religious, linguistic or other minorities, indigenous peoples, persons with disabilities, public service and military personnel)?

There are special accommodations for migrants in Bosnia and Herzegovina

20. In your view, what are the principal *barriers* to diminishing spatial, including residential segregation?

They can be: economic circumstances, prejudices of individuals, special requirements of individuals, ....

**MEASURES AND GOOD PRACTICES TO CURB DISCRIMINATION AND REDUCE SEGREGATION**

21. What laws, policies or measures exist at national or local level to prevent or prohibit discrimination in relation to the right to adequate housing?

The constitutions in force in Bosnia and Herzegovina generally contain provisions prohibiting discrimination. The Law on Prohibition of Discrimination elaborates it in more detail, Law on Protection of the Rights of Members of National Minorities of Bosnia and Herzegovina

22. Have your State, regional or local Government adopted any positive measures, such as measures of affirmative action, to reduce discrimination, segregation or structural inequality in relation to housing? To what extent have such initiatives been successful to address housing discrimination and segregation?

We can say that the state, through the Action Plans, as was the case with the Roma population, tried to solve the problem of their attitude. As for the refugee population, for example, there are ministries in this direction at both the state and ethnic levels that deal with the issues of refugees and their return to their homes. As a form of assistance, they help through public calls for the allocation of funds for the renovation of houses or apartments, their adaptation, and even through programs related to employment and job search.

23. Have any particular laws, policies or measures been implemented to limit or reduce residential segregation? To what extent have such policies raised human rights concerns?

The Law on Prohibition of Discrimination; Law on Protection of the Rights of Members of National Minorities of Bosnia and Herzegovina

24. What is the role of the media, as well as other non- governmental organizations, of religious and governmental institutions, in fostering a climate that reduces or exacerbates discrimination in relation to housing and segregation?

The role of the media is great in this sense, because in most cases the first information about the vulnerability of minorities comes from them. There are many associations that deal with the issues of various minorities. The members of these associations provide mutual assistance and support in order to integrate into society and adapt individuals to it. They also educate ignorant members on how to exercise their rights.

25. Which institutional mechanisms exist to report, redress and monitor cases of discrimination or segregation in relation to the right to adequate housing and how effective have they been to address discrimination?

Through online reporting of discrimination, through complaints to the Institution of the Human Rights Ombudsman

26. In your view, what are the principal barriers to seek justice for discrimination/segregation in relation to the right to adequate housing?

Citizens' lack of information, prejudices, fear of consequences

27. Can you specify how individuals and groups subject to structural discrimination or experiencing segregation can submit complaints to administrative, non-judicial or judicial bodies to seek relief? Please share any leading cases that have been decided by your courts or other agencies in this respect.

They can appeal to the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina, there is also free legal aid at the local level.

**DATA ON DISCRIMINATION IN HOUSING AND SPATIAL/RESIDENTIAL SEGREGATION**

28. Is any data on housing disparities, housing discrimination and spatial segregation collected and publicly available? If so where can it be accessed? Are there any practical or legal barriers to collect and share such information in your country?

The Institution of the Human Rights Ombudsman of Bosnia and Herzegovina publishes special reports on the occurrence of discrimination on the territory of Bosnia and Herzegovina, and this issue will also be published in the annual reports of the institution. All data is publicly available and you can find it on this site: https://www.ombudsmen.gov.ba/Default.aspx?id=0&lang=BS

29. Can you kindly share any studies or surveys by local, regional or national Governments or by other institutions to understand better housing disparities, housing discrimination and spatial segregation and how it can be addressed (e.g. title and link, or kindly submit document).

<https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2013121011144464eng.pdf>

<https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2019010713545979eng.pdf>

<https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2013020406211683eng.pdf>

<https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2013020406303506eng.pdf>

30. Can you provide information and statistics related to complaints related to housing discrimination, how they have been investigated and settled, and information on cases in which private or public actors have been compelled successfully to end such discrimination or been fined or sanctioned for non-compliance?

We are not able to give accurate statistics, but here is an example from practice: complainant appealed to the institution because he had to move out of the accommodation he received as alternative accommodation, and the building was demolished in accordance with the Regulation Plan of the City of Mostar, where he lives with his family of 12 members. He applied to the City of Mostar to be granted other suitable accommodation on the basis of displaced person status. The Service for Social and Housing Affairs, Health, Displaced Persons and Refugees of the City of Mostar submitted a response on March 17, 2020. in which he points out that “the applicant and his son, the City of Mostar, in 2012, allocated two housing units in a Roma settlement in Bišća Polje, which they left of their own free will, after which the City of Mostar, at their repeated request, allocated one larger room in the North Camp facility for temporary use, until other accommodation is arranged ”. They further point out that "a check in the official records established that the complainant does not have the status of a displaced person and therefore does not meet the conditions for the allocation of alternative accommodation". The City of Mostar emphasizes that, "regardless of the formal assumptions and conditions that are legally prescribed, there is not a single vacant housing unit, especially not the area in which 12 people can be accommodated." The complainant was duly informed about the previous one, after which he did not address the Institution again.