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1. **Measures taken at national level to ensure respect for and protection of the right to privacy, including in the context of digital communication**

Prior to responding to this and other questions, it is necessary to briefly present the current constitutional structure of Bosnia and Herzegovina, in order to make our answers given to you as accurate as possible, and to enable you to have a clearer idea of ​​the current situation in this regard in Bosnia and Herzegovina.

According to Article I/3. of the Constitution of Bosnia and Herzegovina, Bosnia and Herzegovina consists of two entities: the Federation of Bosnia and Herzegovina and the Republic of Srpska. A special role in Bosnia and Herzegovina has the Brcko District of Bosnia and Herzegovina which is defined as joint ownership (condominium) of the entities pursuant to Amendment I to the Constitution of Bosnia and Herzegovina, that is, a unit of local government with its own institutions, laws and regulations. Without going into more details about the constitutional structure of Bosnia and Herzegovina, it is worth noting that it consists of multiple authority levels with their powers and functions, which will certainly be clearer from the responses that follow.

According to Article III/1. Of the Constitution of Bosnia and Herzegovina establishment and operation of joint and international communications facilities falls within the jurisdiction the institutions of Bosnia and Herzegovina (state level). Therefore, the Ministry of Transport and Communications of Bosnia and Herzegovina is established at the state level within the Council of Ministers of Bosnia and Herzegovina.

Also, it is important to point out that the Parliamentary Assembly of Bosnia and Herzegovina has adopted the Law on Communications governing this area in more details, as it also established a special agency to monitor and oversight these activities, this is the Communications Regulatory Agency of Bosnia and Herzegovina.

While governing this area, measures are taken to harmonize it with Article II/3.f of the Constitution of Bosnia and Herzegovina enshrining the right to the private and family life, home and correspondence, and with Article 8 of European Convention for the Protection of Human Rights and Fundamental Freedoms.

Furthermore, the Parliamentary Assembly of Bosnia and Herzegovina in 2004 has adopted the Law on Intelligence and Security Agency of Bosnia and Herzegovina which provided legal grounds for the establishment of the Intelligence and Security Agency of Bosnia and Herzegovina jurisdiction of which covers the collection of data related to the security threats to Bosnia and Herzegovina, and co-operation with other intelligence and security agencies in other states.

The establishment of this agency is a major advance because it enabled more effective parliamentary oversight in relation to the previous period when there were two entity agencies that carried out the mentioned tasks.

Furthermore, the reform of defense sector took place in Bosnia and Herzegovina, that is, the establishment of the Armed Forces of Bosnia and Herzegovina, operations of which include certain oversight of communications and information collection. In this way, in the opinion of the most experts, the level of civilian oversight is raised compared to the period when defense was the responsibility of the entities.

Bosnia and Herzegovina is also, for a quite long period now, harmonizing its legislation with regulations of the European Union in the framework of its accession process. In this regard Bosnia and Herzegovina has adopted the Personal Data Protection Act harmonized with relevant directives of the European, and established the appropriate Personal Data Protection Agency of Bosnia and Herzegovina which had acted in the previous period in cases involving the unauthorized audio-visual recording, that is, using this method for data collection.

Although the matters falling within the realm of criminal law in BiH are governed by the Criminal Code of BiH and entity regulations related to criminal law, provisions in this area are quite similarly incorporated in the law. Thus, both the state and the entity criminal legislation qualify any unauthorized interception and audio and video recording as a criminal offense. The differences in the mentioned laws solely relate to the length of the prescribed criminal sanctions. Criminal law prescribes that anyone who uses special devices without authorization to intercept or audio record a conversation or a statement that it is not intended or allowed to be in his/her possession or who enable an unauthorized person to get familiar with the conversation or statement which is intercepted or illegally audio recorded, or whoever intercepts or records others' messages from a computer system shall be criminally liable.

**2. Measures taken to prevent violations of the right to privacy, including to ensure that relevant national legislation complies with international human rights law.**

Annex I of the Constitution of Bosnia and Herzegovina listed 15 international mechanisms which are part of the formal constitutional law and are directly applicable in Bosnia and Herzegovina.

Likewise, Bosnia and Herzegovina is a member-state of the Council of Europe, and it acceded to the European Convention on Human Rights and Fundamental Freedoms, so the citizens can lodge their application to the European Court of Human Rights in cases that could be brought under protection of Article 8 European Convention on Human Rights.

Based on the above-mentioned international mechanisms, as well as others acceded to by Bosnia and Herzegovina, there is an obligation of the authorities of Bosnia and Herzegovina to submit various reports, facilitate visits of the members of the different committees and commissions, and submit reports on the implementation of the recommendations given by these bodies.

Also, all persons who believe that their constitutionally guaranteed rights, are violated including the right to privacy, they file complaint with the Constitutional Court of Bosnia and Herzegovina.

Furthermore, the Institution of Human Rights Ombudsman of Bosnia and Herzegovina, in accordance with the Law on Human Rights Ombudsman of Bosnia and Herzegovina can investigate all cases pointing to violations of law by the authorities, and has the power to exercise and access to data are classified as confidential.

Specificity of Bosnia and Herzegovina is also reflected in the fact that, pursuant to the General Framework Agreement for Peace, the international community, and various international organizations provided a high level of support in all areas during recovery of the country and society. On this basis, in making ofd various laws such as the Law on the Intelligence and Security Agency a number of international experts provided their assistance and it was taken into account that these laws should be in line with international instruments.

**3. Specific measures that have been taken to ensure that procedures, practices and legislation regarding the surveillance of communications, their interception and the collection of personal data, are coherent with international human rights law.**

With regard to this question, the same answer can be provided as in question number 2. It should be noted that Bosnia and Herzegovina harmonized its regulations and adjusts to the achievements of the European Union, as well as some of its members had always provided a high level of assistance in this process. Taking into account the European Union's commitment to human rights and the rule of law, we consider it a good process for this purpose.

**4. Specific measures that have been taken to ensure that procedures, practices and legislation regarding the surveillance of communications, their interception and the collection of personal data, are coherent with international human rights law.**

In Parliamentary Assembly of Bosnia and Herzegovina (which is consisted of two Houses),there are established: Joint Commission for supervision of the work of the Intelligence and Security Agency and the Joint Commission for Defense and Security (where members are delegates from both Houses), while in these houses are formed Commissions for supervision and monitoring the field of communications. Additionally, we should mention the Joint Commission for Human Rights, Rights of the Child, Youth, Immigration, Refugees, Asylum and Ethics.

**5. Any other information on the protection and promotion of the right to privacy in the context of domestic and extraterritorial surveillance and/or interception of digital communications and collection of personal data**

Ombudsman Institution has no information that would indicate violations in connection to extra-territorial supervision.

However, we can point to certain events to which, in our view, are not given enough attention.

Until a few years ago three telecom operators that are successors of former system, the PTT (post, telephone, and telegraph) were the only providers of internet, fixed and mobile telephony.

Several years ago in Bosnia and Herzegovina took place liberalization and opening of communication market, starting from several companies that offer cheaper calls to abroad (according to some estimates currently about a quarter of BiH citizens live outside BiH).

This was followed by a larger number of private companies that offer Internet services, as well as the telephony.

It was largely followed by lowering prices and improving quality of services, but we believe that BiH authorities have not sufficiently considered the negative consequences.

We are of the opinion that currently in BiH attention should not be so much paid to legislation, but to evaluation of capability of BiH authorities to prevent possible abuses and collection of personal data of citizens by both private companies and private individuals, that is, to full implementation of regulations.

Several years ago BiH authorities have launched several campaigns aimed at raising awareness among young people about the harmful effects of exposure on the Internet and social networks, but such efforts are lacking in the case of using wireless internet in public places, restaurants and alike, and what could jeopardize the right to privacy.

**INSTITUTION OF HUMAN RIGHTS OMBUDSMAN OF**

**BOSNIA AND HERZEGOVINA**