This submission is made by Women Organising for Change in Bosnia and Herzegovina, which is an initiative by the Women’s International League for Peace and Freedom (WILPF). The initiative focuses on the importance of taking into consideration existing experiences and empirical knowledge of women who went through an armed conflict and struggled for human rights, in an attempt to change the dominant narrative of women as victims. Through it, WILPF advocates for women’s perspectives to be represented at all levels in the peace-building process, it puts the spotlight on women’s peace activism during war, defends the human rights of women and promotes social, economic and political justice. Our organisation also submitted a joint report to the UPR of Bosnia and Herzegovina, a copy of which is available as an annex to this report.¹

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Abbreviations

BiH: Bosnia and Herzegovina

ESCRs: Economic, social and cultural rights


BiH’s report to CESCR: Third periodic report submitted by Bosnia and Herzegovina under articles 16 and 17 of the Covenant, due in 2018, E/C.12/BIH/3, 24 April 2019
I. Impacts of economic reforms

Bosnia and Herzegovina ("BiH") has been undergoing political and economic reforms since the end of the war in 1995. The most recent comprehensive economic reform processes that took place in the country were defined by the Reform Agenda for Bosnia and Herzegovina 2015 – 2018 (the “Reform Agenda”), agreed and endorsed by the BiH Council of Ministers, Government of the Republika Srpska and Government of the Federation of Bosnia and Herzegovina in July 2015.² The Government of Republika Srpska and the Government of the Federation of Bosnia and Herzegovina are referred to as the “two entities” in this report.

The measures defined under the Reform Agenda became part of BiH’s EU accession path and are supported by international financial institutions.⁴ The Reform Agenda conditioned positive growth of BiH’s economy to structural reforms in labour legislation, public administration, employment policy in the public sector, improvements in the business climate (including restructuring of public enterprises), social welfare (including pensions), health sector, and rule of law.⁴

BiH today is a poor country. In its report to the CESCR, the Human Rights Ombudsman of BiH writes that “it is noticeable that many citizens live in poverty and face social exclusion”.⁵ According to a 2016 policy brief commissioned by NGOs,⁶ 900,000 people (about 28%) lived in absolute poverty (living with approximately 120 EUR per month). Additionally, 17% of the population lived on 46 – 76 EUR a month, which is characterised as extreme levels of poverty, far below the absolute poverty line. Another 700,000 people lived on the verge of poverty.⁷ The poor economic situation and continuous political

³ In 2014 Germany and the United Kingdom launched a joint initiative aiming at revitalisation of the BiH's EU integration process. The initiative was subsequently adopted by the EU and became a pre-requisite for BiH on its way to EU membership. The new requirements from the EU on BiH were laid down in three steps – signing of a letter of intent, a written commitment to implementation of reforms framed within the language of socio-economic reforms, good governance and rule of law; the signing would then be followed by the membership application to the EU; and the full implementation of the agenda would lead to a positive opinion from the European Commission. Successful implementation of the Reform Agenda is required in order to comply with the EU acquis for future application and negotiations towards EU accession. The implementation also relies on lending agreements with the International Monetary Fund (IMF), the World Bank and the European Bank for Reconstruction and Development (EBRD), the European Investment Bank (EIB) and a number of other donors. In addition, IMF’s budgetary support to BiH is conditional on the progress of structural reforms and is tied to a number of conditionalities. Generally speaking, BiH was the country with the highest number of conditionalities on an IMF loan in the world in 2013 (85 conditions) and in 2014 (92 conditions). For more information, see True et al “A Feminist Perspective on Post-Conflict Restructuring and Recovery – The Case of Bosnia and Herzegovina”, WILPF, Sarajevo, 2017.
⁴ Reform Agenda for Bosnia and Herzegovina 2015 – 2018.
⁵ https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/BiH/INT_CESCR_IFL_BiH_35580_E.PDF
⁷ Ibid.
crisis have led to massive emigration.⁸ According to EUROSTAT, the EU statistical agency, 154,902 citizens of BiH have moved to one of the European Union’s Member States in the last 5 years. In 2018 alone, the number was recorded at 53 520. It is worth noting that these figures deal with legal emigration to the EU only; therefore, the total figures for emigration are likely to be higher than that. Furthermore, the reasons for emigration, as stated by EUROSTAT are overwhelmingly “remunerated activities”, meaning labour migration, and the majority of those leaving BiH are male.⁹

BiH has obligations to undertake all necessary steps to the maximum of its available resources in order to progressively ensure the full realisation of ESCRs. This duty also implies a prohibition of measures that would diminish realisation of the rights guaranteed by the Covenant, except when justified by certain strict criteria. Yet, instead of investing into realisation of these rights, which inevitably requires expansion of public spending, the government introduced austerity measures through the Reform Agenda. The main goal of the economic reforms introduced by the Reform Agenda was fiscal consolidation, i.e. reduction in the depth of the government’s spending deficits. This implied cuts in public spending through, inter alia, reorganisation of the health sector (including privatisation of some of the healthcare services); privatisation of utilities; slashing of public sector pays and pensions; cut in benefits; and flexibilisation of the labour market. In addition, surtax was imposed on petrol, leading to a general increase in prices in a situation where the population is already impoverished.¹⁰

Despite the foreseeable impact of the reforms on the rights covered by the Covenant, the reforms were not planned in an inclusive and transparent way, and in particular women’s voices were excluded throughout the implementation phase. This lack of inclusion led to reforms being completely gender and conflict blind¹¹ and without mechanisms for rigorous gender impact assessments. The austerity

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⁸ As stated by the Commission Opinion on Bosnia and Herzegovina’s application for membership of the European Union COM(2019) “the country’s economic growth remains below potential and the impact of macroeconomic improvements have yet to be felt by the majority of the population. The emigration of youth and working-age population is among the most pressing challenges” pg. 11.

⁹ See Eurostat statistics on Asylum and managed migration for Bosnia and Herzegovina https://ec.europa.eu/eurostat/data/database


¹¹ BiH is still struggling with the aftermaths of the war in 1992-1995. The consequences of the war on the social infrastructure have been severe, as well as on the lives of women and men in the country. However, no comprehensive mechanism has ever been put in place to deal with the highly gendered, conflict-related needs, many of which directly relate to economic, social and cultural rights. For further analyses see True et al “A Feminist Perspective on Post-Conflict Restructuring and Recovery – The Case of Bosnia and Herzegovina”, WILPF, Sarajevo, 2017.
measures are shouldered by various parts of society, and particularly by the most marginalised, but without gender analysis informing these measures, women are affected more than any other group. Several human rights mechanisms have recognised the specific and disproportionate impacts of austerity-driven policies on women’s human rights. In its statement on public debt and austerity measures, the CESCR recognised that “reductions in the levels of public services or the introduction of or increase in user fees in areas such as childcare, and preschool education, public utilities and family support services have a disproportionate impact on women, and thus may amount to a step backwards in terms of gender equality (arts. 3 and 10).” In March 2019, as part of its list of issues for the review of BiH, the CEDAW Committee asked BiH to “explain if there are any steps taken to assess the impact of the Reform Agenda on women’s enjoyment of their rights” and in its General Recommendation (GR) 35 on gender-based violence against women, it has stressed that austerity measures “further weaken the state responses” to gender-based violence.

Most of the progress reported in BiH’s report to the CESCR pertains to the adaptation of various laws. However, as noted in the EU Commission’s Opinion on BiH’s application for membership of the EU, BiH lacks implementation capacities across policy areas, thus, the sole adoption of laws remains insufficient to demonstrate substantive improvement in the population’s enjoyment of ESCRs. Furthermore, the effects of the reforms on overall equality in society, especially on gender equality, remains insufficiently analysed, researched and understood.

12 For further analyses see True et al “A Feminist Perspective on Post-Conflict Restructuring and Recovery – The Case of Bosnia and Herzegovina”, WILPF, Sarajevo, 2017.
15 List of issues and questions in relation to the sixth periodic report of Bosnia and Herzegovina, CEDAW/C/BIH/Q/6, 20 March 2019, paragraph 17
16 CEDAW/C/GC/35, paragraph 7.
A. Lack of mechanisms to monitor the impact of economic reforms on human rights

The implementation of the Reform Agenda officially ended in 2018 but many reforms remain unimplemented, in particular those pertaining to the health sector and social welfare. Recent political discussions in the country have focused particularly on renewing efforts with respect to reforms pertaining to these sectors. A new set of socio-economic reforms is expected in the forthcoming period. Ensuring compliance with human rights, especially with economic and social rights, in a country still dealing with the effects of violent conflict, is extremely important. Continuing reforms without proper gender, human rights and conflict impact assessments will contribute to the on-going social conflict in BiH, and increase the risk of re-occurrence of the conflict.

Since the reforms are closely tied to the integration of BiH in the EU, the way the country reports and captures gendered implications of the reforms is hugely important. There are no qualitative mechanisms for data collection and while the State makes an effort to collect sex disaggregated statistical data, the actual capacity of BiH institutions to do rigorous gender impact assessments and analysis is limited, because gathering of proper gender-sensitive socio-economic data does not exist throughout the country.

B. Gendered impacts of the economic reforms on the rights to work and to social security

The on-going reforms envision the largest investments to be made within the infrastructural sector (such as telecommunications, construction, transport and hydropower). Jobs created through such

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17 It is anticipated that BiH will roll out a new set of socio-economic reforms in the forthcoming period, in line with the country’s obligations under the Economic Reform Programme as per the agreement with the EU Commission and EU Member States. For more details see Commission Opinion on Bosnia and Herzegovina’s application for membership of the European Union COM(2019) 261.

18 “The enjoyment of human rights on the basis of equality between men and women must be understood comprehensively. Guarantees of non-discrimination and equality in international human rights treaties mandate both de facto and de jure equality. De jure (or formal) equality and de facto (or substantive) equality are different but interconnected concepts. Formal equality assumes that equality is achieved if a law or policy treats men and women in a neutral manner. Substantive equality is concerned, in addition, with the effects of laws, policies and practices and with ensuring that they do not maintain, but rather alleviate, the inherent disadvantage that particular groups experience.”, General comment No. 16 (2005), The equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the International Covenant on Economic, Social and Cultural Rights), UN Index: E/C.12/2005/4 11 August 2005, paragraph 7

19 BiH collects extensive data through three different statistical agencies and publishes various analyses. However, very little of this data is useful when trying to understand the levels of social inequality, including inequalities based on gender. For example, the Agency for Statistics of BiH and the two entities’ statistical offices publish a bulletin called “Women and Men in Bosnia and Herzegovina”, but the statistics gathered in it cannot be used to track improvements in structural equality between women and men. The data is very basic and does not show, for example, how many women have access to adequate health care facilities, what sort of health services are available to them, how many women have health coverage, therefore making it very difficult to create any meaningful understanding of gendered needs in the process of creating and implementing reforms.
investments are focused on heavily male-dominated sectors and will therefore mostly benefit male employment, while investments in sectors and social infrastructure where women are overrepresented, such as hospitals, schools, community projects and so forth, are not prioritised. This was noted by the CEDAW Committee in its list of issues for BiH. 20

As recognised by various human rights bodies, cuts in public sector services and jobs will disproportionately impact women who are more likely to depend on public services, including for health-related issues. Women are also culturally and socially expected to fill gaps in care deficits by taking up more unpaid care work at home or low-paid care work by, for instance, working as domestic workers.21 In BiH, domestic workers are often hired in the informal labour market and, thus, do not have access to benefits such as healthcare coverage or pensions.

BiH reported to the CEDAW Committee that work, employment and access to economic resources were priorities in the Gender Action Plan for BiH (2013-2017) and that, despite these measures, the representation of women in the labour market remains low.22 This is the result of reforms planned and executed without understanding their gendered impacts and without mechanisms for corrective measures where adverse effects on gender and other inequalities are detected. Unless the understanding of gendered impacts of reforms is properly mainstreamed into government policies and programmes, the measures foreseen in the Gender Action Plan will remain a separate framework, inadequate to deal with structural gender inequalities.

Most of the efforts reported by BiH with respect to articles 3 and 6 of the Covenant relate to the State’s efforts to support women’s entrepreneurship, particularly in rural areas. While we welcome these efforts, we stress the connection between women’s participation in the economy and the role of support systems, such as childcare, accessible and adequate health care, labour rights and decent work as key elements of gender equality. Without strategic investments in these sectors, the efforts to

20 The CEDAW Committee indicated that BiH’s “information before the Committee reports that public investment under the Reform Agenda largely made to infrastructural sector, where men dominate, whereas investments in women-dominated sectors have been reduced” and requested BiH “to explain whether any steps have been taken to assess the impact of the Reform Agenda on women’s enjoyment of their rights.” See, List of issues and questions in relation to the sixth periodic report of Bosnia and Herzegovina, CEDAW/C/BIH/Q/6, paragraphs 17 and 21 (March 2019)
22 Sixth periodic report submitted by Bosnia and Herzegovina under article 18 of the Convention, due in 2017, CEDAW/C/BIH/6, 11 July 2018, paragraphs 157 and 158.
support women’s entrepreneurship will push women into an economic system characterised by precarious work, weakened labour rights and low salaries. Furthermore, the foreseen economic reforms fail to recognise and value women’s unpaid care work. The planned investments do not target infrastructure and public services needed to support women’s equal participation in the economy. This coupled with the abovementioned male-dominated labour emigration from BiH will further increase the burden of care work on women and shrink the space available for their participation in economic and political decision-making processes.

Part of the Reform Agenda dealt with reforming labour law. While the new labour laws have brought positive developments with respect to protection of minors and women, compulsory insurance, increased legal protection against discrimination, harassment, sexual harassment and gender-based violence, as reported by the Human Rights Ombudsman of BiH, some analysis show that the new labour laws have not properly dealt with job insecurity, temporary, part-time, non-unionised jobs with fewer benefits, lower-wages, wages that for many continue to be unpaid by the employer, and deterioration in safety at work. This situation will undoubtedly have adverse effects on women. The Independent Expert on Foreign Debt has noted for instance that: “Reforms that result in a reduction in the percentage of workers covered by collective bargaining arrangements also exacerbate gender pay gaps. Evidence shows that collective bargaining arrangements play an important role in reducing employer discretion and gender pay gaps.” While legal mechanisms are foreseen for redress of workers’ rights violations, these procedures are lengthy and workers are generally scared to lose their job if they resort to them and complain.

In the last few years, BiH has seen an increase in protests among women workers from the manufacturing sector (for example the women workers of companies such as Fortuna Gračanica, Borac Banovići, Aida Lukavac, Dita Tuzla and so forth). They have protested against corruption, 

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23 https://tbinternet.ohchr.org/Treaties/CESCR/SharedDocuments/BIH/INT_CESCR_IFL_BIH_35580_E.PDF
24 For more information see Vasa prava, 2016. Analysis of labour legislation in Bosnia and Herzegovina with focus on rights of woman employed in service and trade sectors. Sarajevo: Vasa Prava
26 The problems with inefficiency in implementing legal protection with respect to labour rights is supported by the report from the Institution of Human Rights Ombudsman of BiH, which in its report states that they receive frequent complaints pertaining to labour rights.
mistreatment, unlawful privatisations etc. Some of these women, reaching retirement age, have been faced with the fact that despite having worked their whole lives, and earned their right to retirement, they cannot access it because the factory has not paid compulsory social contributions for several years. According to a former director of the Tax Administration of the Federation of BiH, in 2016, 80% of the overall debt that private and public companies owned to the Tax Administration (2,324,934,567.95 BAM) was due to unpaid social contributions (for pensions, health insurance and insurance in case of unemployment).28

C. Gendered impacts of the reform on the right to health

The healthcare system of BiH is decentralised along the two entities. In the Federation of BiH the healthcare system is further decentralised along cantonal lines. There is limited access to healthcare, particularly in rural areas and services are of poor quality. It is estimated that around 15 % of the population are not covered by any form of health insurance and the majority of those without coverage are working in the informal economy.29 Furthermore, a significant number of those that are insured through their employment have limited, or non-existent, access to healthcare because their employers do not fulfil their legal obligation to pay contributions for health benefits.30 This affects women in two ways: like the rest of the population they have limited access to healthcare but they in addition have to shoulder the deficit in care for their family members through unpaid care work. Those that have access to healthcare face severely degraded services and many healthcare service providers are collapsing. For women, degraded services can also mean that maternity wards in their vicinity are being shut down, or that they have to travel for hours to get to a gynaecologist.31

Thus far, BiH has focused its health sector reform on re-organisation, with attention paid to “outstanding debts” and “more precise regulations of the network of health care institutions”.32 Such focus has led to the abolishment of different segments of the public healthcare sector, such as dental care (which served as preventive protection within the system of public health), women and maternity care (specifically affecting rural areas), and specialised institutions for health protection of school-age children and students. The abolishment of these specialised units will likely lead to overburdening of

30 Ibid.
31 According to General Comment No. 14 (2000): The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights) the right to health contains the elements of availability, accessibility, acceptability and quality (para. 12).
the primary public healthcare sector, such as general medical practitioners who are already working under severe constraints. Through privatisation of parts of the healthcare services, BiH is increasingly moving towards a profit-driven healthcare system, which will provide services only to those who can afford it. In addition to limitations to access to health for all, women will be forced to shoulder the deficiency in health services through unpaid care labour in the household.

International human rights obligations persist throughout any programme for economic reconstruction and austerity measures, including privatisation of key public services, such as health care. If such measures have an adverse effect on women, it may constitute indirect discrimination in the enjoyment of the right to health under articles 3 and 10 of the Covenant. 33

Questions:

- How will the State ensure meaningful assessments of the impacts of the past and future reforms on the enjoyment of ESCRs, inclusive of gender impact assessments?
- How will the State use findings from these assessments to take corrective actions where negative impacts are found, such as direct or indirect discrimination or increase in poverty levels?
- How will the State safeguard substantive gender equality throughout the reform processes in order not to maintain but rather alleviate the disadvantage position of women in the BiH, in line with CESCR’s General Comment 16?
- How will the State consult with activists for women’s rights and equality during the planning phase of the upcoming reforms? Describe specific activities developed to date, in particular with regard to measures taken to ensure women’s full participation in the public discussions pertaining to these reforms.
- What measures are taken by the State to assess the impacts of austerity measures, in particular of the cuts in public sector services such as healthcare, and women’s ability to access the labour market?
- Does the State track the gendered impacts of the various investments in the country, for example does it track how many women compared to men have accessed jobs created through new investments?

33 It is worth recalling that, in its General Recommendation 24, the CEDAW Committee stated that the State should take all measures to the maximum extent of their available resources to ensure that women realise their rights to health care. Furthermore, the State cannot relegate its obligations by resorting to private sector agencies.
• Has the government exhausted all available public resources to ensure provision of adequate, accessible and affordable health care to women before resorting to private sector agencies?
• Can the State provide information on the availability of preventive and curative health measures, in rural and urban areas?
• How is the State addressing the risk of women shouldering the deficiency in health services through their unpaid care work?

II. Migrants and asylum-seekers

Since the end of 2017 BiH has seen a steady increase in the number of arrivals of asylum seekers and migrants.\textsuperscript{34} The UN estimates that as of June 2019, 34,967 asylum-seekers and migrants arrived to BiH. Out of these, 32,430 persons expressed the intent to seek asylum, while 1,767 persons actually submitted a request for asylum.\textsuperscript{35} Due to confusing and complicated bureaucracy in the country, unclear institutional jurisprudence, failure on behalf of the State and UN agencies\textsuperscript{36} responding to the crisis to ensure adequate camps to accommodate migrants and asylum seekers, many are forced to sleep rough on the streets, in makeshift camps, squats and private accommodations.\textsuperscript{37}

Furthermore, as the government has failed to ensure accessible asylum procedures,\textsuperscript{38} many asylum-seekers are left holding only attestations of the expressed intention to seek asylum. These attestations are granted upon their first registration in the country and expire after 14 days.\textsuperscript{39} As a consequence, many migrants and asylum seekers are today living in BiH with expired attestation papers. According to testimonies of migrants and asylum seekers, on some occasions the authorities have simply refused to renew papers. All of this puts these people, many of whom are women, in harm’s way. Activists and solidarity groups regularly report of migrants being denied access to for example health-care due to their “irregular” status.

\textsuperscript{34} https://ec.europa.eu/echo/where/europe/bosnia-and-herzegovina_en
\textsuperscript{35} Please see UN Interagency Operational Update, Bosnia and Herzegovina, 1-30 June 2018 https://www.undp.org/content/dam/unct/bih/PDFs/UNCTBiHSitReps/Inter-agency%20refugee%20and%20migrant%20operational%20update%20June%202019.pdf
\textsuperscript{36} IOM, UNHCR and UNICEF, supported by EU funds.
\textsuperscript{37} https://data2.unhcr.org/es/documents/download/63869, page 2 and 23
\textsuperscript{38} See the newly published report from the Institutions of Human Rights Ombudsman for Bosnia and Herzegovina – “Special Report on the Status of Migration in Bosnia and Herzegovina”, from January 2019. See also Commission Opinion on Bosnia and Herzegovina’s application for membership of the European Union COM(2019) 261, pg. 7.
\textsuperscript{39} https://data2.unhcr.org/es/documents/download/63869, page 23
In October 2018 the cantonal government of Una Sana Canton adopted a decision by virtue of which freedom of movement was completely restricted for migrants. The decision allowed the police to establish “check-points” in order to prevent migrants from entering this Canton unless IOM indicated that there was space to accommodate them. Later on, this decision was modified and permission to access the canton is now granted by the local authorities instead of IOM. At the check-point, the police searches vehicles for migrants (by using racial profiling as a method) and if found, they are taken out of the busses and left to, either go back where they came from at their own expense, or stay at the site, which is basically a meadow with not even minimum decent conditions. This approach has been used towards all migrants including groups in vulnerable situations such as, families with children, unaccompanied minors, women, people with disabilities, etc. These severe limitations to freedom of movement later continued with new limitations related to movement within the Una Sana Canton itself, which, according to reports from informal aid groups, made access to legal aid, health care, and even buying food much more difficult, if not impossible.

BiH’s report to the CESCR does not reflect on this situation. While we welcome the reported progress in the realisation of the rights of refugees, displaced persons and returnees in connection to the 1992-1995 war, we regret that the government has omitted to provide any information on the current crisis unfolding on its territory with respect to migrants and asylum-seekers, and the lack of appropriate response thereof.

Most migrants and asylum-seekers live in inhumane conditions in BiH, which pushes them to leave the country as soon as possible. Recently, the authorities of Una Sana Canton started relocating migrants and asylum-seekers residing in private accommodation in the city of Bihac and its surroundings to “Vučjak”, a location which both the UN and the EU Commission have referred to as entirely inadequate as it is located in the vicinity of a landmine affected area, and is a former landfill. The location poses serious health hazards and there are no sanitary facilities and no access to running water or electricity. The precarious situation in these informal accommodation sites puts women at risk of gender-based violence, as the most basic security is not ensured. There are also documented

41 Paragraphs 29 – 37 of BiH’s report to CESCR
43 http://europa.ba/?p=64769
cases of migrants and asylum-seekers being detained in cage-like holding cells at the southern part of border crossing into BiH, including families with children.44

Activists from the field also report that the absence of any integration mechanisms and of accessible asylum procedures entail that a noticeable number of those that had applied for asylum eventually decide to leave the country having waited for more than a year to hear anything in relation to their asylum application.

The only possibility for migrants and asylum-seekers to leave the country is to pay smugglers, and according to some journalists the price of smuggling people into Europe is rising sharply.45 Single women and women traveling with children, unaccompanied and separated children, face a high risk of becoming victims of trafficking or exploitation.46 Following a considerable number of human trafficking cases in the wake of the end of the war, BiH eventually established protocols, strategies and policies to combat trafficking in human beings as explained in detail in the State’s report. However, it is unclear how these measures are being implemented in relation to the precarious situation and specific challenges that women and girls migrant and asylum-seekers are facing.47 In March 2019, in its List of Issues, the CEDAW Committee requested information on the specific situation of migrant and refugee women and girls.48

In an open letter to the Ministry of Security of BiH, the Commissioner for Human Rights of the Council of Europe expressed concern about the low levels of engagement of BiH in providing durable and

45 See Euronews “Western Balkan route for migrants, refugees stuck at borders” from 30/11/2018.
47 In its Progress report on the implementation of the Beijing Declaration and Platform for Action in BiH within the Beijing +25 process BiH reports that “Certain areas in BiH are especially affected by migrant crisis (Bihać area) and attention to a large number of women is given by international organisations. Despite these efforts, a systemic protection is needed for children and women, particularly in their access to education and health care. There are cases of violence against migrant women especially girls, as well as the cases of trafficking in women for prostitution. Due to a lack of appropriate accommodation for migrants, they are accommodated in a safe house intended for women victims of domestic violence in Bihać, which makes it harder to work with victims of gender-based violence in this region”. Can be found at https://www.unece.org/fileadmin/DAM/RCM_Website/Bosnia_and_Herzegovina.pdf This confirms the acute situation the migrants and asylum-seekers find themselves in with respect to accommodation, health care and education but it also testifies to the lack of resources directed towards appropriately responding to the harms women and children are put due to the poor management of the situation.
48 The CEDAW Committee requested information on “measures in place to protect migrant and asylum-seeking women, particularly single women and women with children, from trafficking or exploitation, including through strengthening the capacity of the Centres for Social Welfare, the police and health care facilities, and to develop gender-sensitive procedures for processing asylum applications. List of issues and questions in relation to the sixth periodic report of Bosnia and Herzegovina, CEDAW/C/BIH/Q/6, 20 March 2019, paragraph 17."
humane solutions pertaining to asylum seekers and other migrants and urged it to do so in compliance with human rights.49

In relation to the CESCR statement on States’ duties towards refugees and migrants,50 we draw attention to the fact that BiH has received substantial EU assistance to respond to the humanitarian disaster unfolding on its territory. Most of this assistance has, however, been channelled through international organisations, primarily IOM (in cooperation with the UNHCR and UNICEF).51 Consequently, international organisations have taken over the establishment and running of a number of accommodation sites. This has resulted in a situation in which the responsibility to protect asylum-seekers and migrants’ enjoyment of their human rights has de facto shifted in many aspects from the State to international organisations to the detriment of asylum-seekers and migrants. Lacking a mechanism for so doing, activists have been unable to hold the IOM or other international organisations accountable for poor management of the camps, despite reports from migrants residing in the camps, journalists and activists of, inter alia, inadequate living conditions, poor and insufficient access to food and poor hygiene facilities. The State remains responsible and should be ensuring that international organisations do not breach international human rights law and international refugee law.

49 Accessible through https://rm.coe.int/commdh-2018-12-letter-to-the-authorities-regarding-the-migration-situation/1680870e4d
50 The CESCR statement on States’ duties towards refugees and migrants reiterates that “All people under the jurisdiction of the State concerned should enjoy the Covenant rights: this includes asylum-seekers and refugees, as well as other migrants, even when their situation in the country is irregular”; further reminding States Parties that, while the Covenant recognizes that the rights can progressively be realized to the maximum of available resources, “this does not mean that States parties may infinitely postpone taking action in order to secure the rights of individuals under their jurisdiction”. (see Duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights, Statement by the Committee on Economic, Social and Cultural Rights, UN Index: E/C.12/2017/1, 13 March 2017, paragraphs 56-58)
51 The European Commission, via European Civil Protection and Humanitarian Aid Operations (ECHO), in June 2018 provided 1.5 million Euros earmarked for the migration-situation (see Inter-agency operational update June 2018 available at http://ba.one.un.org/content/dam/unct/bih/PDFs/UNCTBiHSitReps/Inter-agency_Refugee_Migrant_SituationReport_June.pdf). In July, The European Commission and Council of Europe Development Bank respectively announced €1.5 million and €1 million in humanitarian assistance to refugees and migrants in BiH (see Inter-agency operational update July 2018 available at http://ba.one.un.org/content/dam/unct/bih/PDFs/UNCTBiHSitReps/Inter-agency_Refugee_Migrant_SituationReport_July.pdf). In October 2018, the EU Delegation to BiH announced that the EU had allocated more than 7.2 million euros in grants provided through an Instrument for Pre-Accession Assistance (IPA) special measure and would be implemented by the International Organization for Migration (IOM) in partnership with UNHCR and UNICEF (announcement available at http://europa.ba/?p=60117). In November 2018, it was announced that the European Commission ECHO had allocated an additional 500,000 Euros for the assistance (announcement available at https://reliefweb.int/report/bosnia-and-herzegovina/eu-provides-500-000-refugees-and-migrants-bosnia-and-herzegovina).
Questions:

- What are the concrete steps the State has taken to ensure humane, dignified and lawful conditions of detention and accommodation of asylum-seekers and migrants, making sure that gender-sensitive measures and reception conditions respond to the specific needs of women and girls, and that appropriate procedures and oversight mechanisms are put in place to protect them from the risk of trafficking, abuse and other violations they can be exposed to, due to the precarious situation they find themselves in?

- What steps are being taken in order to ensure accessible procedures for seeking asylum?

- How is the State monitoring the implementation of the right to non-discriminatory access to ESCRs for all asylum-seekers and refugees, as well as other migrants, even when their situation in the country is “irregular”?

- Are there mechanisms put in place that enable assessment of the situation of women asylum seekers and migrants, particularly with respect to early identification and referral of identified victims of trafficking?

- Is the State undertaking systematic and continuous efforts to sensitise and build the capacities of public bodies, including the judiciary, police, border authorities, health and education personnel, civil servants, municipal and government officials, and others, to promote and protect the human rights of refugees, asylum seekers and migrants, and to address discriminatory attitudes and stereotypes?

- What programmes are in place to ensure durable social integration of refugees and asylum seekers in economic, social and cultural life, ensuring that they have access to education, health services and housing without discrimination?

III. Business operations, environmental concerns and the right to water: The Women of Kruščica

Kruščica is a small rural village, located by a small river with the same name. It belongs to the Vitez municipality. Prior to the war in BiH the municipality was known as a popular tourist and leisure destination for local population, given its rich landscape of its pristine river. In 2017, it became known for a women-led community struggle to save the river from being destroyed by plans to construct mini-
hydro plants. The construction plans would effectively put the community’s access to water in danger, thus violating their right to water,⁵² to adequate standards of living and to health.

To date, around 300 new hydropower dams are planned for construction, on nearly all the country’s 244 rivers, resulting in waterways destroyed because of the issuance of permits without rigorous and transparent social and environmental impact assessments.⁵³ Most of these rivers are pristine or “near-natural” and present biological hotspots and homes for many endangered species.⁵⁴ The population affected by these plans has systematically been excluded from decision-making processes.⁵⁵

Despite the fact that the river Kruščica is in the very vicinity of the Kruščica village, the village is not connected to a public water supply system. In addition, nearly 80% of the river’s capacity is diverted to the water supplies of nearby cities.⁵⁶ The inhabitants of the village use wells and other traditional water allocation systems as the Kruščica river is their only access to clean and drinking water. The river is already at its biological minimum, as 80 percent of its capacity is already diverted to water supply systems outside the village. The private investor’s plans to build two small hydropower dams on the river would lead to its further depletion.⁵⁷

This depletion would endanger the Kruščica inhabitants’ access to sufficient amounts of safe and potable water. It would also exacerbate existing poverty levels in the community, as the eco-touristic

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⁵² According to the Committee on Economic, Social and Cultural Rights, General Comment No.15: Right to Water (Art.11 and 12 of the Covenant) “Water is a limited natural resource and a public good fundamental for life and health. The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights.” E/C.12/2002.11, para.1.

⁵³ Map of planned HPP can be found at https://e360.yale.edu/assets/site/_1500x1500_fit_center-center_80/HPP_BALKAN_2017_map_web.jpg. See also article on CS protests available at https://www.dw.com/bs/borba-rijeke-bih-i-dalje-traje/a-47686712?fbclid=IwAR1tQR-rClb8JQ-A1Pug0V7EcaHdR2drCISu4CryAcN7TFGraVmeaFYN22Y

⁵⁴ A detailed assessment of 22,000 miles of Balkan rivers commissioned by WWF and other conservation groups has classified 30 percent of the region’s rivers as pristine or “near-natural” and another 50 percent as in good condition. That contrasts sharply with the situation in Western Europe, where most rivers have been dammed or subjected to intensive development. Scientists and conservationists say that if the proposed scale of Balkan dam building proceeds, thousands of miles of waterways, home to scores of endemic or endangered species, will be irreversibly degraded and polluted. For further information see the academic article from 8 May 2018 available at https://e360.yale.edu/features/a-balkan-dam-boom-imperils-europes-wildest-rivers


⁵⁶ In 1967, the final agreement was reached and the relevant decisions were made by the council of the municipality of Vitez and the council of the municipality of Zenica, and the construction of the water supply system Kruščica already began in 1968. By the end of 1969, the catchments were built at the spring, and the 22 km long Kruščica-Zenica pipeline began operating the same year. The maximum capacity of the source is 520l/sec, which according to the agreement of the municipalities is divided in 23% for Vitez and 77% for Zenica. See more at http://www.vikze.ba/o-nama/historijat/

⁵⁷ The Law on Waters in the FBiH stipulates that “the use of water to supply the population with drinking water, sanitary needs and the needs of fire protection has priority over the use of water for other purposes”. See text of law at http://www.voda.ba/zakoni/47bos.pdf
potential of the surroundings of the Kruščica river has been used by the local community as part of the community development plans. The depletion of river would also have particular gendered consequences, as in water-deprived households, women and girls tend to carry the burden of water collection.

The plans and permits for construction of the two hydropower dams were “approved” in 2012 and 2016 but without information and meaningful consultation of the local population affected by this project. The lack of information and meaningful consultations with the local population constitutes a violation of inter alia their right to participate in public affairs related to water. In its last review of BiH (2014), the Committee on the Rights of the Child (“CRC”) expressed concern that international human rights, environmental and other standards are not adequately monitored, protected and fulfilled to ensure that persons and communities are not negatively affected by the private sector. The CRC also noted that issues relating to the environmental and health impact of business activities are not addressed in a transparent manner that allows for informed public scrutiny and participation.

Moreover, there is no publicly available information on whether BiH intends to develop a national action plan on business and human rights to ensure that its domestic laws regulating the private sector

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58 The area of Kruščica has been a protected natural site, dating back from Austro-Hungarian times onward. Kruščica has long tradition as excursion site and this community puts all its efforts to develop the touristic potential of the area. Their plan is to produce and sell local, organic products and improve tourist offer in order to keep young people in the community by offering them new job opportunities. They believe that a construction of 2 mini HPP, and the subsequent river depletion that would follow as a result of it, would destroy the community’s developmental opportunities.

59 In looking at SDGs and the connection between access to water and gender equality, UN Women points at the fact that globally “in 80 percent of households with water shortages, women and girls are responsible for water collection.”

60 The locals in Kruščica consider that all the problems began at Local Community Organization of Kruščica, which worked against the interests of the community. As an argument for such opinion, they indicate that the Local Community Council (“LCC”) never, contrary to its obligations, informed them about the public discussion that was obligatory. Responding to their breach of obligations the local community, led by the village women, stood up against the current members of LCC initiating a mistrust vote and eventually electing new members. See also Bavcic, E. 2019.

61 The public discussion that was held was held in a formulaic way, during which only few locals that supported the project could give their opinion.

62 According to CESCR General Comment No.15, the State must ensure people’s participation in decision-making processes that will have an effect on their right to water (E/C.12/2002.11, para.48). Furthermore, special attention must be given to those individuals and groups who have traditionally faced difficulties in exercising their rights, such as women or rural population (E/C.12/2002.11, para.16 (a) and 16 (c)); See also Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, Common violations of the human rights to water and sanitation, A/HRC/27/55, para. 25, 32, 68, available at https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/069/10/PDF/G1406910.pdf?OpenElement; and the Report of the Special Rapporteur on the human right to safe drinking water and sanitation, A/69/213, para. 78, available at https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/490/08/PDF/N1449008.pdf?OpenElement

and investment are consistent with the UN Guiding Principles on Business and Human Rights and other relevant human rights standards.\textsuperscript{64}

**Questions:**

- **How is the state guaranteeing, without discrimination, the right to water and ensuring environmental sustainability and democratic and transparent management of natural resources?**
- **Is there an effective and accessible complaint process in place with respect to the allocation of permits pertaining to the construction of hydropower plants so as to ensure compliance with international human rights law?**
- **Has the State taken measures to ensure that private enterprises, including when contracted by the State, operate under adequate regulatory frameworks, that safeguard environmental sustainability, and comply with human rights standards, including by giving priority in the allocation of water to the right to water for personal and domestic use?**
- **Are there independent monitoring mechanisms put in place in order to prevent abuses of the regulatory framework pertaining to environmental protection and investment in natural resources and effective sanctions for non-compliance?**
- **What are the mechanisms to ensure the inclusive, informed and meaningful participation of affected communities in decisions on development projects?**
- **Is the State conducting human rights and environmental impact assessments related to business activities and investment projects? If so, are those assessments take into account the impacts of investments on gender-based discrimination, women’s health, gender-based and sexual violence, gendered division of labour on family and community levels, and women’s access to and control of social and economic resources in line with the UN guidance on gender dimensions of the UN Guiding Principles on Business and Human Rights?\textsuperscript{65}**

\textsuperscript{64}In its General Comment 24, the CESCR recognised that: “Among the groups that are often disproportionately affected by the adverse impact of business activities are women, children, indigenous peoples, particularly in relation to the development, utilization or exploitation of lands and natural resources, peasants, fisherfolk and other people working in rural areas, and ethnic or religious minorities where these minorities are politically disempowered.” It also recommended that States Parties address the specific impacts of business activities on women and girls, including indigenous women and girls, and to incorporate a gender perspective into all measures to regulate business activities that may adversely affect ESCRs, including by consulting the Guidance on National Action Plans on Business and Human Rights. See General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, E/C.12/GC/24, paragraphs 8 and 9.

• Do communities have access to affordable and accessible legal assistance, with specific regard to the needs of women and marginalised groups, in lodging complaints about allegations of human rights violations resulting from business activities, including in the mining and hydropower sectors?

IV. Shrinking space for activism and increase in repressive measures towards human rights defenders and activists

During the last UPR cycle (2014) BiH accepted several recommendations relating to freedom of expression and assembly; protection of journalists and human rights defenders; and accountability of police officers involved in interfering with these rights. However, since 2014, various administrative units of the State, namely entity and/or cantonal governments, have used repressive measures to restrict the activities of human rights defenders and civil society groups and organisations on several occasions. These repressive measures manifest through inter alia the exercise of political pressure; the use of unnecessary and excessive force by militarised and heavily armed police against peaceful protests; criminalisation of protests and arbitrary arrests with the purpose of intimidating the public from future protests. There are several cases demonstrating the use of repressive measures, including those against the ‘Justice for David’ campaign described in our Annex to this submission. Here, we will focus on the gendered aspects of repressive measures used in the Kruščica case.

Police Brutality: The Women of Kruščica

During the 18 months in which the women of Kruščica were trying to stop the start of the construction of the hydropower dams (See section above for full background), they experienced serious police intimidation. On 24 August 2017, around 100 local police officers and 150 members of special police forces went to the village with an order to forcefully remove about 50 women from their peaceful sit-in protest and to clear the way to the river for the construction machinery.

During the police intervention, many women experienced violence, (e.g. being dragged to the road, stripped of their clothes, insulted, and pushed around, etc.). The arrested women were taken to the police station. Those who were injured and who subsequently received medical attention were not provided with medical forms. This impeded them from being able to provide proof of injury and to potentially file complaints against the police for their injuries.

The women taken to the police station complained about inhumane conditions while in custody and about the lack of information on their rights and on the grounds for their arrest. During individual questioning by the police, women felt intimidated and were warned that if they ever went to the bridge again, they would be arrested and receive high fines. The intimidation and threats of high fines is a deliberate technique used by the police, which is aware of the marginalised socio-economic status of the community (rural with high levels of unemployment) and of the fact that they cannot afford paying fines. For most of these women paying a fine of 100 euros means losing almost half of the monthly household budget, as their household budget is rarely over 250 euros a month.

Twenty-two women were later charged with passive resistance and obstruction. The Court considered however that there was insufficient evidence to establish individual responsibility and closed the case. Women’s access to justice and to the judicial system is restricted, mainly because they do not have enough money to pay the high costs of legal representation needed to revoke the contested construction permits. Many of these women are unemployed or earn minimal wages that are often below the national average salary. Funding for legal representation had to be collected through an NGO-led campaign, which enabled two proceedings leading to the revocation of the construction permits and permanent stop to construction plans. The Human Rights Ombudsman of BiH opened an *ex officio* investigation into the violent police crackdown, and more recently in May 2019, the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and the Special Rapporteur on the situation of human rights defenders sent a communication asking the BiH government to provide further clarification of the events and action to be taken.67

In light of the police reaction to these protests, it is ironic that in its report for the Beijing+25 review report, BiH referred to the fact that “women take an active part in the preservation of the environment and example are the women from Krusčica who insisted on the protest to ban the construction of a hydroelectric power plant in their local community.”68

67 https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23528
68 See report submitted by BiH for For the Beijing+25 Regional Review Meeting, 29 - 30 October 2019, and available under “National Reviews” at: https://www.unece.org/index.php?id=51017
Questions:

• What steps have been taken to prevent, investigate, prosecute and adequately punish attacks and other forms of abuse against human rights defenders and activists, including those perpetrated against the women of Kruščica?

• What measures have been taken to address obstacles to women’s access to justice including monetary barriers and intimidation by law enforcement officers?