

2014-05-12

## Fråga-svar

### Bosnien-Hercegovina. Myndighetsskydd

#### Fråga

Sammanställning av landinformation om myndighetsskydd i Bosnien.

#### Svar

##### Polis

US Department of State (2014):

The government has effective mechanisms to investigate and punish abuse and corruption; however, political pressure often prevented the use of these mechanisms. While there were no reports of impunity during the year, there were continued reports of corruption within the entity- and state-level security services. Professional standards units are the internal affairs investigative units in each entity's interior ministry and in the Brcko District. Throughout the year, mostly with assistance from the international community, the government provided training to police and security forces designed to combat abuse and corruption and promote respect for human rights. (Sid. 6)

Bertelsmann Foundation (2014):

The security sector in BiH is highly fragmented, with competencies divided among several different levels of government. State-wide coordination mechanisms are in place but their mandate is weak and their operational capacity is low. A state-level directorate

responsible for coordination of police bodies is functional, and mechanisms for coordination among police agencies and for exchanging electronic data between police and prosecution services are being developed, although formal cooperation continues to be weak.... (sid. 5)

EU Committee for the Prevention of Torture. CPT (2013):

As regards the standardised custody registers (registar/knjiga osoba lišenih slobode) kept in all police stations,18 the information gathered by the delegation shows that there has been no progress in the Republika Srpska in ensuring that the entries in the custody records in police stations were accurately and comprehensively filled out. Further, police stations did not contain one unique custody register for persons deprived of their liberty on their premises....(sid.20)

### **Domstolar och åklagarväsende**

US Department of State (2014):

The state constitution does not explicitly provide for an independent judiciary, but the laws of both entities do. Political parties and organized crime figures sometimes influenced the judiciary at both the state and entity levels in politically sensitive cases.( Sid. 7)

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The court system suffered from large backlogs of cases and the lack of an effective mechanism to enforce court orders. Inefficiency in the courts undermined the rule of law by making recourse to civil judgments less effective. The government's failure to comply with court decisions has led plaintiffs to bring 1,433 cases before the ECHR after exhausting all legal measures domestically. (sid.8)

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The law provides for criminal penalties for official corruption, but the government did not implement the law effectively. Government officials frequently engaged in corrupt practices with impunity and corruption remained prevalent in many political and economic institutions in the country...(sid. 18)

Bertelsmann Foundation (2014):

In practice, recourse to civil judgment is undermined by inefficiencies in the court system. There is a backlog of nearly two million unresolved civil cases in BiH, more than half of which involve unpaid utility bills, and a lack of an effective mechanism to enforce court orders. Access to justice in civil trials is also restricted

in practice as there is no state-level law on free legal aid; free legal aid continues to be provided mainly by NGOs. (sid 12)

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As with many other reform areas, anti-corruption efforts in Bosnia and Herzegovina (BiH) are poorly implemented due to lack of political will to enforce legislative and institutional frameworks. Anti-corruption efforts tend to be pushed by international organizations; much of the legislative and institutional framework to deal with corruption in BiH was put in place using the High Representative's executive powers prior to 2006. Politicians have spent more time since then attempting to undo these reforms than encouraging their implementation. The 2012 European Commission progress report concludes that corruption "remains widespread throughout the public and private sector." (sid 29)

#### EU Committee for the Prevention of Torture. CPT (2013):

Many persons interviewed by the delegation stated that they had complained about ill-treatment by law enforcement officials to the prosecutor or to the judge before whom they were brought, but this had met with no response. Even when a detained person displayed visible injuries or made a statement alleging ill-treatment, there was usually no apparent follow-up by the prosecutor or judge other than, at times, to order a medical examination. Moreover, when such an examination was carried out, the person concerned was often scolded by the same crime inspectors who he or she alleged had inflicted the ill-treatment and the examination was carried out in their presence. ... (sid 16)

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As regards the right of access to a lawyer,<sup>15</sup> the situation remains unsatisfactory. Access to a lawyer as from the outset of deprivation of liberty was not being granted in the vast majority of cases. Instead, such access only occurred when the person was brought before a prosecutor to give a statement or at the hearing before a judge. Moreover, it was usually not possible for a person to consult with his or her lawyer in private prior to appearing before a prosecutor or a judge. (sid. 18)

#### UN Committee on the Elimination of Discrimination Against Women (2013):

##### Judicial Protection

The State has no specific measures of effective protection from gender-based discrimination on the basis of sex. The courts are burdened with a large number of cases, there is no special department to deal with working legislation, and the level of knowledge and sensibility of judges and prosecutors for the rights of women and gender-based discrimination is worryingly low. On the other hand, women who want to take action

against gender-based discrimination are faced with long-term legal procedures and difficulties in proving discrimination, have a difficult access to court in terms of litigation costs, including costs for attorneys, as well as problems in having access to free legal aid as it does not exist in some parts of the country. Only a limited number of NGOs and trade unions provide free legal assistance. Thus only a small number of women address the courts to protect their rights.(sid. 21)

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The Law on Protection from Domestic Violence of FBiH does not provide for the obligation of funding Safe Houses for women and children victims of violence from the public budget, and they subsist almost entirely on donations from international organizations, one-off donations from the entity budgets, with an almost complete absence of support from local communities<sup>76</sup>. This example speaks in favor of the claim that the RS and FBiH governments do not recognize the obligation to fund the law enforcement and public policies in the actual practice. (sid. 46)

## **Socialtjänst**

Council of Europe - Secretariat of the Framework Convention for the Protection of National Minorities (2014):

While progress has been made towards ensuring that Roma do not lack identity documents, Roma continue to suffer from high unemployment rates, exclusion from access to social insurance, poor health and substandard living conditions. Roma children also face persistent inequalities with regard to access to education. (sid. 2)

Council of Europe - European Committee of Social Rights (2014):

In BD, proceedings concerning social welfare entitlements are instituted, at the request of a party, its legal representative or ex officio, by authorised officers of the Sub-Department for Social Security. The procedure is governed by the Law on Administrative Procedure of BD. Appeals can be lodged within 15 days with the Appellate Commission of BD, whose decisions can be challenged through an administrative dispute before the Court of BD (under the Law on Administrative Disputes of BD). Proceedings before the Basic Court start only when the decision has become final in the administrative procedure. Free of charge or subsidised legal assistance is available to BD citizens who do not have sufficient means to cover the legal costs. (sid. 22)

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According to the report in the Republic Serpska, the Entity has jurisdiction over social security, which ensures quite uniform set of rights afforded and their implementation. In the Federation of Bosnia and Herzegovina (FBiH) the situation is quite complicated due to the division of responsibilities between the entity and

cantons. A significant difference in the implementation of the aforementioned entity laws on social protection comes from a very different economic situation of the entities. As a result of this situation, the levels of social security entitlements exercised by older people in the Federation are very unequal. (sid. 31)

Bertelsmann Foundation (2014):

Social protection is regulated at the entity level in Republika Srpska (RS), while competences are shared between the entity and canton governments in the federation. The systems are not harmonized. There are contributory and non-contributory schemes in both entities. The social security system encompasses social insurance, social assistance, family and child assistance and war veterans' protection. Within the social insurance scheme are pension and invalidity insurance, health insurance and health protection, and unemployment insurance. (sid. 21)

International Organization for Migration. IOM, Tyskland. Bundesamt für Migration und Flüchtlinge. BAMF (2013):

In the Federation of Bosnia and Herzegovina, social welfare benefits include: medical insurance for the claimant and his/ her family members; financial assistance amounting to 114 BAM (57 EUR) for one member household + 10% for each additional household member; 50 BAM (25 EUR) per month for utilities (water, sewage, electricity etc), however, some cantons and municipalities are unable provide such commitments (for example the Centre Municipality of Sarajevo). Additional benefits differ between cantons and municipalities.

In the Republic of Srpska, social welfare assistance includes medical insurance for the claimant and his/ her family members and financial assistance amounts up to 41 BAM (21 EUR) per household member. (sid. 6)

UN Children's Fund, UNICEF beskriver 2013 i sin rapport "Gap Analysis in the Area of Social Protection and Inclusion Policies in Bosnia and Herzegovina" socialt skydd i landet gällande barn, familjer, arbetslösa, sjuka, äldre m.fl.

## Lagstiftning/internationella konventioner

Council of Europe - Secretariat of the Framework Convention for the Protection of National Minorities (2014):

National minority laws are now in place both at State and Entity level and in some cantons. However, the implementation of these laws remains weak, especially in the fields of culture, education and the establishment of effective consultation and participation mechanisms, and is hampered by a lack of coordination among the authorities concerned as well as high thresholds applied to the exercise of some rights. Moreover, the continuing failure to amend the State Constitution means that persons belonging to national minorities, along with other persons who do not identify themselves as belonging to one of the three constituent peoples, are still deprived of the possibility of acceding to certain political offices at State level. (sid. 1)

Council of Europe - European Committee of Social Rights (2014):

The European Social Charter (revised) was ratified by Bosnia and Herzegovina on 7 October 2008. The time limit for submitting the 3rd report on the application of this treaty to the Council of Europe was 31 October 2012 and Bosnia and Herzegovina submitted it on 3 June 2013. On 4 April 2013, a letter was addressed to the Government requesting supplementary information regarding Article 23. The Government submitted its reply on 26 September 2013. Comments on the report from the Sarajevo Open Centre, Transgender Europe, and ILGA-Europe were registered on 22 July 2013.

This report concerned the accepted provisions of the following articles belonging to the thematic group "Health, social security and social protection:..."

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According to the report, in FBiH Law on Health Insurance governs health insurance as part of social security making a unique system based on principles of reciprocity and solidarity. Article 2 of this Law stipulates that citizens are entitled to mandatory health insurance, extended health insurance and voluntary health insurance. The Health Insurance and Reinsurance Institute has been established by virtue of Article 16 of this Law. The Parliament of FBiH determines the basic package of health care rights every year. In accordance with Article 32, health care provided includes emergency medical treatment as well as treatment of contagious, chronic diseases in life threatening conditions, healthcare of children up to 15 years of age, pre-natal health care, mandatory immunisation, work-related injuries, healthcare of persons aged 65 and above etc. (sid.13)

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The Committee notes that Bosnia and Herzegovina has not ratified

the European Code of Social Security. Therefore, the Committee cannot take in consideration other sources such as the resolutions of the Committee of Ministers on the compliance of the States bound by the European Code of Social Security. (sid. 18).

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Social protection in RS is governed by the Law on Social Protection (Official Gazette of RS, 37/12) adopted and entered into force in 2012, outside the reference period, which is presented in detail in the report. Other relevant laws are the Family Law (Official Gazette of RS 54/02, 41/08) and the Law on Child Protection (Official Gazette of RS 4/02, 17/08, 1/09) (sid. 19).

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In BD, the right to social protection is governed by the Law on Social Protection of BD (Official Gazette of BD, 1/03, 4/04, 19/07, 2/08). (sid. 20)

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US Department of State (2014):

The country's minorities experienced problems with discrimination in employment, occupation, and education in both the government and private sectors. While the law prohibits discrimination, human rights activists frequently complained that authorities did not adequately enforce the law. (sid. 26)

Bertelsmann Foundation (2014):

Although many exemplary laws and institutions are in place in BiH and are designed to guarantee democracy, the rule of law and a functioning market economy (many of which were imposed by the High Representative or negotiated under the tutelage of international organizations), many of these reforms remain unimplemented due to a fundamental lack of political will. (sid.4)

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In practice, recourse to civil judgment is undermined by inefficiencies in the court system. There is a backlog of nearly two million unresolved civil cases in BiH, more than half of which involve unpaid utility bills, and a lack of an effective mechanism to enforce court orders. Access to justice in civil trials is also restricted in practice as there is no state-level law on free legal aid; free legal aid continues to be provided mainly by NGOs.(sid. 12)

UN Committee on Economic, Social and Cultural Rights redovisar 2013 i sin rapport "Concluding observations on the second periodic report of Bosnia and Herzegovina" lagar och ratifikationsläge för konventioner.

## Frivilligorganisationer

International Organization for Migration. IOM, Tyskland. Bundesamt für Migration und Flüchtlinge. BAMF (2013):

### X. INTERNATIONAL AND NON-GOVERNMENTAL ORGANIZATIONS IN BOSNIA AND HERZEGOVINA

An important number of International Organizations (IOs), Development Cooperation Agencies and Non Governmental Organizations (NGOs) are still present and operating in Bosnia and Herzegovina.

Below is a list of the main IOs, Development Cooperation Agencies and NGOs.

The Municipalities are able to provide the complete list of associations and agencies in a given city or area....(sid. 19)

US Department of State (2014):

A variety of human rights groups and NGOs generally operated without restriction, investigating and publishing their findings on human rights cases. Government officials, however, were often inefficient and slow to respond to their view. (sid. 20)

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Denna sammanställning av information/länkar är baserad på informationssökningar gjorda under en begränsad tid. Den är sammanställd utifrån noggrant utvalda och allmänt tillgängliga informationskällor. Alla använda källor refereras. All information som presenteras, med undantag av obestridda/uppenbara fakta, har dubbelkontrollerats om inget annat anges. Sammanställningen gör inte anspråk på att vara uttömmande och bör inte tillmätas exklusivt bevisvärde i samband med avgörandet av ett enskilt ärende. Informationen i sammanställningen återspeglar inte nödvändigtvis Migrationsverkets officiella ståndpunkt i en viss fråga och det finns ingen avsikt att genom sammanställningen göra politiska ställningstaganden. Refererade dokument bör läsas i sitt sammanhang.

## Källförteckning

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