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特别报告员贝尔诺尔·穆尼奥斯的报告

增 编

对波斯尼亚和黑塞哥维那的访问 *
(2007 年 9 月 24 日至 10 月 2 日)

* 本内容提要以所有正式语文分发。报告本身载于内容提要附件，仅以原文分发。本报告脚注原文照发。

内 容 提 要

应政府邀请，教育权问题特别报告员贝尔诺尔·穆尼奥斯·比拉洛波斯于 2007 年 9 月 24 日至 10 月 2 日对波斯尼亚和黑塞哥维那作了正式访问。他访问了萨拉热窝、巴尼亚卢卡、莫斯塔尔、泽尼察、维泰兹和普里耶多尔。访问期间，特别报告员同两个实体（塞族共和国和波斯尼亚和黑塞哥维那联邦）的政府代表、教授、教师、家长、工会和公民社会代表等进行了 40 多次不同的会晤。特别报告员对波斯尼亚和黑塞哥维那政府发出邀请表示感谢，并对在访问期间同他见面的人表示感谢。

波黑的教育体系高度分散，现有 14 个主管教育的部门，因为教育方面的权限被下放给两个实体和布尔奇科区。《初等和中等教育框架法》及《高等教育框架法》是教育的法律标准的基石。

特别报告员采用四项标准分析国家在享受教育权方面的义务：可获得性、可利用性、可接受性和适合性。接着，特别报告员对他认为影响到教育权的享受的两个主要问题发表看法：教育体系的过度分散和过度政治化，以及种族群体的隔离和基于种族动机的同化进程。

最后，特别报告员向中央政府、实体和州主管机构以及国际社会、捐助国和捐助机构、公民社会组织提出建议。

Annex

**REPORT OF THE SPECIAL RAPPOREUR
ON THE RIGHT TO EDUCATION**

MISSION TO BOSNIA AND HERZEGOVINA

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I. introduction

1. The declaration of independence of Bosnia and Herzegovina from the Socialist Federal Republic of Yugoslavia in April 1992 was followed by a three-year-long armed conflict. The General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement) signed in Paris on 14 December 1995,¹ ended the war, retained Bosnia and Herzegovina within its internationally recognized borders and set up its constitutional framework.²

2. Bosnia and Herzegovina is home to people of different ethnic, religious and cultural backgrounds, including Bosniaks, Serbs, Croats, Roma and Jews. It consists of two entities - the Federation of Bosnia and Herzegovina and the Republika Srpska - each with its own Government, President, Parliament and various administrative bodies. In addition, the District of Brcko is a self-governing administrative unit.³

3. Bosnia and Herzegovina is a parliamentary democracy, with a bicameral parliament consisting of the House of Representatives (42 members) and House of Peoples (15 members: 5 Bosniaks, 5 Serbs and 5 Croats). It has a rotating three-member Presidency and members are directly elected from the Federation of Bosnia and Herzegovina (Bosnian and Croat members) and Republika Srpska (Serbian members). The Presidency appoints the Chairperson of the Council of Ministers, who in turn appoints other ministers. These appointments, however, must be approved by the House of Representatives.

4. The Dayton Peace Agreement also established the Office of the High Representative, which is responsible for overseeing implementation of civilian aspects of the Agreement.⁴ The High Representative is now also the European Union Special Representative. In February 2007, the Peace Implementation Council decided to postpone the closure of the Office of the High Representative until June 2008, a decision to be reviewed later in 2008.⁵

¹ General Framework Agreement for Peace in Bosnia and Herzegovina, signed in Paris on 14 December 1995.

² Constitution of Bosnia and Herzegovina, annex 4 of the Dayton Peace Agreement.

³ In accordance with the Final Award (1998), the territory of the District belongs simultaneously to both entities in condominium. The District is self-governing and has a single, unitary, multiethnic, democratic Government. See for more information www.ohr.int.

⁴ Article II of Annex 10 of the Dayton Peace Agreement.

⁵ Declaration by the Steering Board of the Peace Implementation Council.

5. Even though annex 6 (on human rights) to the Dayton Peace Agreement sets forth the direct applicability of 15 international human rights instruments⁶ and the Constitution of Bosnia and Herzegovina provides for the direct application of the rights and freedoms set forth in the European Convention on Human Rights, which have priority over all other law,⁷ the complex constitutional and administrative framework is often an impediment for the implementation of international human rights instruments.

6. Depending on how the 1 State, 2 entities, 1 autonomous district and 10 cantons are counted, Bosnia is divided into 3, 4 or 14 territorial jurisdictions with separate sets of laws. This fragmentation often represents a major obstacle for the effective protection of human rights of all citizens in Bosnia and Herzegovina, which will be further discussed in section III.

II. GENERAL VIEW OF THE EDUCATION SYSTEM

A. National legal framework

7. The Constitution of Bosnia and Herzegovina establishes that all persons within its territory shall enjoy the human rights and fundamental freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols.⁸ The Constitution

⁶ Appendix to Annex 6 of the Dayton Framework Agreement for Peace in BiH and listing the 1948 Convention on the Prevention and Punishment of the Crime of Genocide; 1949 Geneva Conventions I-IV on the Protection of the Victims of War, and the 1977 Geneva Protocols I-II thereto; 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Protocols thereto; 1951 Convention relating to the Status of Refugees and the 1966 Protocol thereto; 1957 Convention on the Nationality of Married Women; 1961 Convention on the Reduction of Statelessness; 1965 International Convention on the Elimination of All Forms of Racial Discrimination; 1966 International Covenant on Civil and Political Rights and the 1966 and 1989 Optional Protocols thereto; 1966 Covenant on Economic, Social and Cultural Rights; 1979 Convention on the Elimination of All Forms of Discrimination against Women; 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; 1987 European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; 1989 Convention on the Rights of the Child; 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; 1992 European Charter for Regional or Minority Languages; 1994 Framework Convention for the Protection of National Minorities.

⁷ Annex 4 of the Dayton Peace Agreement, Art. II (2).

⁸ See article 2 of Protocol N. 1 to the European Convention for the protection of Human Rights and article 10 of the European Social Charter.

also makes an enumeration of rights, which includes the right to education.⁹ Both entities also have a provision in their Constitutions establishing the obligation to ensure the highest level of internationally recognized human rights, including the right to education.¹⁰

8. The education system in Bosnia and Herzegovina is highly fragmented; there are 14 ministries of education.¹¹

9. Responsibilities for education, as distinct from the human right to education, have been completely devolved to the entities. This is the result of a combination of dispositions of the Constitution of Bosnia and Herzegovina, the Constitution of the Federation of Bosnia and Herzegovina and the Constitution of the Republika Srpska.¹² Education is managed by entities according to their political organization; thus, in the Republika Srpska, authority is concentrated in the entity's Ministry of Education and Culture, with a reduced participation of municipalities;¹³ in the Federation of Bosnia and Herzegovina, education is the responsibility of each of its 10 cantons, with a limited participation of the entity government - Federal Ministry of Education and Science.¹⁴ Education responsibilities in the Federation of Bosnia and Herzegovina, may be further devolved from cantons to municipalities, in cases where the majority of the population of the municipality is other than that of the canton as a whole.¹⁵ Moreover, education is independently governed by the District of Brčko.

⁹ Constitution of Bosnia and Herzegovina, Article II.3.1.

¹⁰ Article II.2 of the Constitution of FBiH states that the Federation will ensure the application of the highest level of internationally recognized rights and freedoms provided in the documents listed in the Annex to the Constitution, including the right to education (literal m). The Constitution of RS provides that the constitutional arrangement of the Republic shall be based upon, among others, the guarantee and protection of human freedoms and rights in accordance with international standards. In addition, article 38 consecrates the right to education.

¹¹ This includes 10 cantonal Ministries, 2 Entities' Ministries, the State level Ministry of Civil Affairs and the Head of the Education Department of Brčko.

¹² Article III of the Constitution of BiH which gives an extensive list of the competencies of the State of BiH, where education is not included; article II.3 (a) which states that all powers and governmental functions that are not included in this list fall under entities' competencies; Article I.1 (1) of the Constitution of FBiH and article 3 of the Constitution of RS.

¹³ Articles 68.12 and 102.5 of the Constitution of RS.

¹⁴ Article III.4 (b) of the Constitution of the FBiH.

¹⁵ Article V.2 (2).

10. The State Government has a very limited role to play in education policies in Bosnia and Herzegovina. The Ministry of Civil Affairs of Bosnia and Herzegovina, regardless of the legislation establishing its responsibility for coordinating activities and harmonizing plans of the entity authorities and defining a strategy at the international level in the field of education,¹⁶ does not have substantive responsibilities in education, nor the authority vis-à-vis the cantons required to carry out its legal obligations.¹⁷

1. Framework Law on Primary and Secondary Education in Bosnia and Herzegovina

11. The Framework Law on Primary and Secondary Education was adopted by the State Parliament, on 30 June 2003, as a result of the pressure exerted by the international community, in particular the Council of Europe. The adoption of this law was one of the commitments made by Bosnia and Herzegovina upon its accession to the Council of Europe in 2002.¹⁸

12. The Law regulates the principles of preschool, elementary and secondary education and enshrines the obligations of education authorities, including those of both entities and the District of Brčko, to ensure educational services under equal conditions for all students. According to the Law, the purpose of education is to contribute to the creation of a society based on the rule of law and respect of human rights through the optimum intellectual, physical and social development of the individual, according to each one's potential and abilities. Furthermore, it provides that all public primary schools are to have assigned catchment areas from which pupils are drawn. These areas are designed to ensure that all children can attend schools in their neighbourhoods and to curtail the practice of sending children to schools based on ethnic criteria.

13. The Law establishes the principle of compulsory primary education, duration of which will be increased to nine years throughout Bosnia and Herzegovina.

14. The Law also establishes a common core curriculum for all public and private schools. This common core curriculum consists of the curricula and syllabi of all subjects of primary and secondary education that have an agreed common core as broad as possible. According to the Law, common core curriculum should be developed by a temporary ad hoc body whose members are appointed by the 13 ministers for education and the District of Brčko. Such a curriculum should, among other principles, ensure that positive relations and a feeling of commitment to the State of Bosnia and Herzegovina are developed through the educational process. Taking into account the best interest of the student, parents, teachers and the society, it

¹⁶ Article 15 of the Law on Ministries and Other Bodies of Administration of BiH.

¹⁷ See OSCE, "Rising a debate: Is BiH respecting its international commitments in the field of education questions for the citizens of BiH", p. 5, document provided to the Special Rapporteur by the OSCE Mission to BiH.

¹⁸ See Parliamentary Assembly of the Council of Europe, "Honouring of obligations and commitments by BiH, Doc. 10200, 4 June 2004, paragraph 132.

should also ensure the consistency of education standards in all schools and at all levels. Its application should correspond to the developmental needs of all children. The Law also provides that the standards of students' achievements and assessments are the responsibility of the Standards and Assessment Agency established by the inter-entity agreement of 2000. The various ministers for education adopted the common core curriculum in 2003 and its implementation plan was introduced for the school year 2003/04. However, the curriculum has not been implemented uniformly by the entities, in particular in some cantons in the Federation of Bosnia and Herzegovina.¹⁹

15. With regard to the management of education institutions, the Law provides that each school should have its own board. The board is mainly responsible for the setting and implementation of school policy. Its members are elected from school staff, school founders, the local community and parents. Its composition must reflect the ethnic, religious and cultural structure of students and parents, school staff and the local community. The director of each public school is appointed by the school board, according to entity and canton laws and school rules. In addition, a parents' council and a students' council should also be established. Parents council members are appointed by the parents of students, according to general school acts. Students' councils are established with the help of the school, according to its rules.

2. Law on the Agency for Preschool, Primary and Secondary Education

16. In October 2007, the State Parliament adopted the Law on the Agency for Preschool, Primary and Secondary Education. It establishes such an agency and regulates its legal status, organization, competences and other issues related to its work. The agency would be an independent organization with an expert body - the board - composed of seven members: two from each constituent people and one member from the others.²⁰

17. The Law derogates some provisions of the Framework Law on Primary, Secondary Education in Bosnia and Herzegovina with regard to the authorities responsible for establishing education standards: the Curriculum Agency and the Standards and Assessments Agency.²¹ According to article 17 of the new law, the entity Governments are to revoke the decisions on establishing the education standards and assessment agency for the Federation of Bosnia and Herzegovina and the Republika Srpska within three months from the day of its effectiveness.²²

¹⁹ See para. 63.

²⁰ Constituent people makes reference to the 3 ethnic groups composing BiH: Bosniacs, Croats and Serbs.

²¹ See paras. 11-15.

²² The law entered into force on 28 November 2007 (art. 18).

18. The agency for preschool, primary and secondary education would be in charge of development of common core curricula in preschool, primary and secondary education. It would also be responsible for establishing the standards of knowledge, the assessment of the results achieved, standards for other technical affairs in the field of knowledge standards and education quality assessment. The agency would monitor, evaluate, advance and develop the common core curricula and monitor its implementation. Furthermore, it would provide guidelines for the preparation of training programmes on the application of curricula for teachers and other education experts. It would also provide them with advice on the development and implementation of new syllabi. The agency would therefore centralize the tasks regarding the development of the common core curriculum, as well as the quality standards and assessments in the field of education at the State level.

19. The Council of Ministers of Bosnia and Herzegovina would be in charge of appointing the agency's board and the Ministry of Civil Affairs would participate in its work and supervise the implementation of the Law, which reinforces the competencies of the State regarding educational matters. The board should, inter alia, establish standards of knowledge and assessments of the results achieved, approve the common core curricula for the primary and secondary education and provide advice and recommendations to competent educational authorities concerning the issues within its competence.

3. Framework Law on Higher Education in Bosnia and Herzegovina

20. After long political debate and discussions, the Framework Law on Higher Education was adopted on 30 July 2007. This should be seen as an example of the country's commitment to carrying out necessary reforms of the education system, in compliance with the fundamental principles and shared values of the Member States of the Council of Europe, as expressed by the Declaration of Ministers for Education adopted in Bologna in 1999.²³ The Law would allow diplomas and academic titles and degrees issued by Bosnian universities to be recognized by all the countries that have signed the declaration.

21. The Framework Law regulates the organization of higher education in Bosnia and Herzegovina and the responsibilities of competent authorities. It also establishes bodies for its implementation and the methods to ensure quality in higher education.

22. The Law states that access to higher education regulated by licensed higher education institutions in Bosnia and Herzegovina shall not be restricted, directly or indirectly, on any actual or presumed grounds such as gender, race, sexual orientation, physical or other impairment, marital status, colour, language, religion, political or other opinion, national, ethnic or social origin, association with a national community, property, birth, age or other status.

²³ BiH also ratified the Lisbon Convention regarding the recognition of qualifications concerning Higher education in the European region in 2004.

23. In addition, the Law gives legal personality and institutional autonomy to all licensed higher education institutions. It also provides that they enjoy significant freedom with regard to teaching and in scientific and research work. The Law also establishes the institutions that are in charge of higher education at the State and local levels, determining their competencies.

24. The Ministry of Civil Affairs of Bosnia and Herzegovina is responsible for the implementation of the Law, and, among other tasks, for the coordination and development of higher education in the country in consultation with relevant ministries.²⁴ A Rector's Conference of Bosnia and Herzegovina will be established by an agreement of the universities and will determine and represent the common interests of universities. In addition, a centre for information and recognition of documents is responsible for several tasks regarding the recognition of degrees and diplomas.

25. Moreover, the agency for development of higher education and quality assurance, which would be an autonomous administrative body, would be competent to set criteria for accreditation of higher education institutions and adoption of norms setting minimum standards in the field of higher education. The agency would give recommendations on criteria and standards to the Ministry of Education of the Republika Srpska, cantonal ministries and the District of Brčko for the establishing or closing of higher education institutions and for restructuring study programmes.²⁵ The agency would be managed by a director and two deputies appointed by the Council of Ministers of Bosnia and Herzegovina and would be governed by a governing board composed of 10 members, 3 from each constituent people and 1 representing others, appointed by the Parliamentary Assembly of Bosnia and Herzegovina.²⁶ The agency would be financed by the Bosnia and Herzegovina budget.

26. The Law provided that higher education institutions were to have harmonized their statutes and other general acts with the provisions of the Framework Law by February 2008; the same applied to the laws of the Republika Srpska, and cantonal laws on higher education.²⁷ Moreover, accreditation for higher education institutions was to be conducted within two years of the date of the Law entering into force (August 2007).

27. Cantonal ministries and the Ministry of Education of the Republika Srpska are competent for all the areas that are not included in the Law. Therefore, the State formulates general standards for higher education institutions, while cantonal authorities and the Ministry of Education of the Republika Srpska are in charge of licensing the operation of individual universities.

²⁴ Article 42.

²⁵ Articles 48 and 49.

²⁶ According to article 62 the Council of Ministers should appoint the Governing Board and the director no later than 8 February 2008.

²⁷ Articles 60.1 and 66.

28. The Special Rapporteur would like to point out that many interlocutors encountered during his visit to Bosnia and Herzegovina, including university authorities, professors and students, expressed their concern at the difficulties in implementing the Law, particularly in the cantons. Moreover, the Special Rapporteur was informed that the deadlines established by the Law to harmonize higher education institutions and cantonal laws on higher education with the Framework Law (February 2008) have not been respected. The Special Rapporteur invites authorities to reach agreements promptly to allow the implementation of the Law. This would help solve one of the most serious problems of higher education in Bosnia and Herzegovina, namely the problem of recognition of university diplomas. This issue further delays the implementation of complex measures required to accelerate the entry into force of the Bologna process in Bosnia and Herzegovina.

29. In addition, it is imperative that the mechanism established by the Law for the accreditation of higher education institutions be implemented. This would permit management of the uncontrolled growth in Bosnia and Herzegovina of higher education institutes experienced in recent years, which has had a very negative impact on the quality of tertiary education in the country.²⁸

30. The Special Rapporteur invites authorities to establish information mechanisms, such as dissemination and sensitization programmes, in order to facilitate the participation of a wide variety of stakeholders, such as students, professors and university authorities, to provide input to the process.

31. The Special Rapporteur welcomes the adoption of the Framework Laws on Primary and Secondary Education in Bosnia and Herzegovina, on the Agency for Preschool, Primary and Secondary Education and on Higher Education in Bosnia and Herzegovina. He also recognizes the efforts made by Bosnian authorities to establish a general framework to reform the education. However, he considers that this is only the beginning of a long process of implementation that, to be successful, will necessitate the full engagement and support of all the relevant authorities, in particular at the local level.

B. Enjoyment of the right to education

32. The international obligations of States with regard to the enjoyment to the right to education as defined by the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and other international instruments include the obligation of enabling all children to benefit from education and of making primary education compulsory and free of charge.²⁹

²⁸ See Supra Acceptability - quality, para. 48.

²⁹ Article 26 Universal Declaration of Human Rights, article 13 International Covenant on Economic, Social and Cultural Rights, articles 28 and 29 of the Convention of the Rights of the Child.

33. In order to facilitate the analysis of these obligations, it has been established that the right to education is guided by four principles: availability, accessibility, acceptability and adaptability.³⁰ The Special Rapporteur intends to analyse some aspects of these four principles in this section. However, he will also address other related issues in the second part of the present report, insofar as they refer to the most important challenges for the right to education in Bosnia and Herzegovina.

1. Availability

34. Functioning educational institutions and programmes have to be available in sufficient quantity for all school-age children.

35. Primary education is compulsory for all children in Bosnia and Herzegovina, as established by the Framework Law on Primary and Secondary Education. This provision constitutes a positive step in terms of availability. However, according to data compiled by the ministries of education and non-governmental organizations in 2003, approximately 1,300 children nationwide did not attend school. The Human Development Report /Millennium Development Goals for Bosnia and Herzegovina indicated that, in 2002, literacy rates for people aged 15 and over was 82.3 per cent for women and 96 per cent for men; the percentage left outside primary schools was estimated at 4 per cent.³¹ In this regard, the Special Rapporteur expresses his concern regarding the absence of statistics or indicators that would allow adequate and accurate analysis of the situation of the enjoyment of the right to education in Bosnia and Herzegovina. There are no official statistics neither on enrolment, school completion or dropout rates, nor on teacher-student ratio and gender parity, which would reflect the general situation of the country.³²

36. The Special Rapporteur welcomes initiatives such as the action plan on school enrolment and completion in Bosnia and Herzegovina, adopted by 13 ministries of education of Bosnia and Herzegovina,³³ which requests relevant authorities to ensure regular and systematic collection of

³⁰ See Special Rapporteur on the right to education, E/CN.4/1999/49, para. 42 and following; General Comment on the right to education ESCR Committee, E/C.12/1999/10, para. 6 and Special Rapporteur on the right to education E/CN.4/2005.50, para. 2 and following.

³¹ Action Plan on school enrolment and completion in BiH, Entity and cantonal Ministers of education of BiH, May 2006, p. 7.

³² In this regard see Committee on the Rights of the Child, Concluding Observations on BiH, CRC/C/15/Add.260, paragraphs 18 and 19.

³³ The Action Plan was elaborated by the Task Force on school enrolment and completion of BiH with the collaboration of OSCE Mission to BiH in February 2005 and was adopted by the Ministries on education in May 2006. This Plan of Action makes part of the Education Reform Strategy, which was presented by BiH Entity Education Ministers, the FiBH Deputy Minister of Education and the BiH Minister for Human Rights and Refugees to the EU in Brussels in 2002. This document goal is to de-politicize education and create conditions that will ensure equal access to high quality modern education in BiH.

data on school enrolment and completion. However, he believes that concerted efforts should be made to create an official statistics database at the national level. Such a database would compile the information necessary to assess the enjoyment of the right to education in the whole territory of Bosnia and Herzegovina, including all levels of education, from preschool to university, as well as non-formal education. Furthermore, it is necessary that the country's public authorities engage in developing and using indicators that can identify the root causes of segregation and discrimination, in a manner that ensure the effectiveness of the policies that guarantee the inclusion of all students. In the process of generating and applying indicators, municipalities also should play a significant role.

37. In addition, there is a gap in the coverage of preschool education. According to unofficial statistics, only 6 per cent of children are covered, while there are hardly any preschool institutions in rural areas.³⁴ The Special Rapporteur invites education authorities to adopt measures promptly, such as by-laws and rules and regulations, to implement the framework laws on preschool, and on primary and secondary education, which establishes that preschool education should be an integral part of the education system and be regulated in detail through entity, cantonal and District of Brčko legislation.³⁵

38. States have to ensure that the necessary investments are made in order to make education available to all children. For instance, it is necessary to provide schools with adequate infrastructure and teachers with competitive salaries. In Bosnia and Herzegovina, the funds for salaries and allowances constitute, on average, over 80 per cent of total resources, which reduces infrastructure investments; other expenses required to ensure adequate teaching conditions, such as equipment and textbooks, account for less than 20 per cent of total resources.³⁶ Moreover, the allocation of resources is not uniform; it depends on independent and often uncoordinated decisions of the entities and the cantons.

39. The Special Rapporteur believes that improvements should be made to school infrastructure. Students and teachers have complained about the lack of resources and the inadequate studying and teaching conditions. In addition, schools are not equipped according to students' and teachers' needs. The equipment in primary and secondary schools is outdated, with no computers or access to information technology. Libraries do not have a sufficient number of books.³⁷

³⁴ ICVA, *op. cit.*, p. 31.

³⁵ In this regard see the recommendations made by the Committee on the Rights of the Child CRC/C/15/Add.260, paragraph 59 (d).

³⁶ HUJIĆ Faruk, Report on primary and secondary education in BiH - Budget quality analysis, May 2007. Document provided to the Special Rapporteur during his visit to BiH.

³⁷ See ICVA, Independent NGO report on the implementation of measures within the mid-term development strategy BiH and realization of rights within social protection, education, environment, August 2005-July 2006, p. 35.

40. With regard to the employment conditions of teachers, in spite of the investment of the majority of total education resources in salaries, in some cases they are not even sufficient to pay the consumption basket.³⁸ The Special Rapporteur welcomes the decisions of a few cantons to establish a teacher rank aimed to improve teachers' revenues. However, these measures are not generalized and the majority of teachers are still struggling with low salaries. The Special Rapporteur encourages all relevant authorities to devote more resources to the education sector, not only to improve salaries, but also to improve infrastructure conditions in all schools, in both the urban and rural areas.

2. Accessibility

41. Education institutions and programmes have to be accessible to everyone, without discrimination, which includes economic and physical accessibility.

42. According to the Framework Law on Primary and Secondary Education, primary education is free of charge and every child has the right to benefit from it. Nevertheless, the Special Rapporteur observed that there are economic obstacles in the access to education. Parents are responsible for paying certain fees, such as textbooks, transport to school and meals. The inability of parents to finance their child's education has been identified as one of the reasons for non-enrolment and non-completion of primary school.³⁹ Another reason is restricted access to schools for children in remote rural areas. Families living in remote zones are often discouraged from sending their children to school, mainly due to costs of transportation or because of security considerations on the way to school.⁴⁰

43. In addition, over-aged children have to pay very high fees in order to have access to education.

44. The Special Rapporteur has observed that several education authorities have implemented some measures in order to eliminate obstacles in access to education, in particular for vulnerable groups.⁴¹ Moreover, he is aware of the long-term measures to remove financial and administrative barriers to schools envisaged by the action plan on school enrolment and completion adopted by the ministries of education. The plan includes catch-up classes and support for disadvantaged children, as well as procurement of textbooks and meals.⁴²

³⁸ The Special Rapporteur has been informed that the average salary is 800 MKB, which is not enough to pay basic costs of life in some parts of BiH. Conversation with teachers in a primary school in the canton of Sarajevo.

³⁹ Action Plan on school enrolment and completion in BiH, op. cit., p. 7.

⁴⁰ Ibidem, p. 7.

⁴¹ Some schools have programmes of distribution of free meals for poor and marginalized children. In some cantons textbooks are free for some children. There are also programmes of reutilization of textbooks.

⁴² Ibidem, p. 11 and 12.

45. The Special Rapporteur calls upon education authorities at all levels to implement promptly the action plan measures and encourages them to act in an articulated and coordinated way, in order to achieve equal access of all children in Bosnia and Herzegovina, in particular to primary school. Major efforts must be made to define a common national policy regarding equal access to education, based on the legal framework that already exists. Disarticulated policies on this matter are generating inequality and are affecting the enjoyment of the right to education of children.

3. Acceptability

46. Acceptable education means that acceptable teaching methods and contents should be used by States. Education should be relevant, culturally appropriate and of good quality.

47. There is a great discrepancy in the quality of education among schools. For many years, it was due to the absence of strong coordination mechanisms and quality assurance bodies, as well as of adequate legislation that would have set the same quality standards for the whole territory of Bosnia and Herzegovina.⁴³ The Law on The Agency for Preschool, Primary and Secondary Education provides an appropriate legal framework to overcome this obstacle. The Special Rapporteur notes with satisfaction that, in January 2008, the Council of Ministers of Bosnia and Herzegovina issued a number of decisions referring to the implementation of that law and the necessary harmonization of lower-level legislations.⁴⁴ Nevertheless, it is worth mentioning that there is no reference in these decisions to the actual date by which lower-level jurisdictions should harmonize their laws with the Framework Law.

48. Moreover, the Special Rapporteur has observed that there is insufficient investment in teacher training, despite recognition by the authorities that there is a high number of non-qualified teachers. There are no incentives for teachers to acquire teaching qualifications.⁴⁵ The Special Rapporteur has been informed of cases where teachers have paid out of their own pockets to receive training. Universities are in charge of teacher training, although there are no clear rules on their role. In addition, there are no adequate channels of communication between universities and the bodies in charge of the elaboration of curricula, the pedagogical institutes.

49. Given the inaction of the State, some non-governmental organizations and the international community are assuming the responsibility for training teachers. The Special Rapporteur would like to recall that it is the obligation of the State to continually improve the material conditions of teaching staff,⁴⁶ which includes the obligation of providing them with opportunities for

⁴³ See, OSCE, op. cit., p. 10.

⁴⁴ Information provided by OSCE Mission to BiH.

⁴⁵ Information provided by several teachers interviewed by the Special Rapporteur in Sarajevo, Zenica and Mostar.

⁴⁶ Article 13.2 (e) of the International Covenant on Economic Social and Cultural Rights.

professional development. He therefore invites authorities of Bosnia and Herzegovina to adopt measures that ensure equal access of every teacher to qualification. He also invites authorities to establish clear criteria regarding the role of universities in relation to the training of teaching staff.

4. Adaptability

50. Education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students.

51. Currently, human rights education and sexual education are the only cross-cutting topics in the curricula, and taught either in democracy or biology courses. In some schools, non-governmental organizations provide human rights education and sexual education, thus substituting the State, which is responsible for ensuring that the education system is adaptable.

52. The Special Rapporteur believes that it is necessary to include programmes on sexual education and human rights as individual subjects into the curriculum of the Federation of Bosnia and Herzegovina and the Republika Srpska.

53. In addition, he encourages the Government of Bosnia and Herzegovina to implement the plan of action for the first phase of the World Programme for Human Rights Education.⁴⁷

III. MOST IMPORTANT CHALLENGES

54. During his visit, the Special Rapporteur identified two main issues which affect the enjoyment of the right to education in Bosnia and Herzegovina: the excessive fragmentation and politicization of the education system; and the segregation between ethnic groups and assimilation processes based on ethnic motives.

A. Fragmentation and politicization

55. As stated above, education in Bosnia and Herzegovina is the responsibility of 14 ministries of education, each with its own education policies and budget. There is no coordination or cooperation between them. The State Ministry of Civil Affairs acts as mediator between the ministries, but has no power to give instructions. Likewise, the Ministry of Education and Science of the Federation of Bosnia and Herzegovina operates as a mediator between cantonal ministries and the Ministry of Civil Affairs, and has no power to address instructions to cantonal ministries. The Ministry of Education and Culture of the Republic Srpska has its own policies and is completely independent of the Ministry of Civil Affairs.

56. There are some initiatives that promote coordination between ministries. Most of them are implemented by the international community, such as the coordination board for the interim agreement on returnee children and the task force on the education of Roma. The

⁴⁷ See A/59/529/Rev.1.

Special Rapporteur commends these initiatives; nevertheless, he is concerned about the lack of mechanisms to ensure implementation throughout the country once recommendations have been made.⁴⁸

57. With regard to the inter-ministerial conference, in which all ministries of education are convened to discuss information regarding the field of education and to harmonize its activities, the Special Rapporteur is concerned that this body does not meet regularly and has not been given any binding decision-making powers. In this regard, the Special Rapporteur encourages the recently established conference of ministers for education in Bosnia and Herzegovina⁴⁹ to play an effective role in ensuring coordination and cooperation among the 14 ministries of education. He calls on its members to overcome their differences⁵⁰ and start to work together in view of the unification of the Bosnian education system.

58. Currently, as a result of the lack of coordination between ministries responsible for the implementation of laws, national laws are simply not implemented. In addition, this lack of clarity opens the door to politicization in all issues related to education.⁵¹

1. Fragmentation

59. The Framework Law on Primary and Secondary Education is the most representative example of the non-implementation of national laws. According to article 59 of the Law, all State, entity, cantonal and District of Brčko laws, as well as other relevant regulations in the field of education, were to have been harmonized with its provisions within six months of the date of entering into force, 1 January 2004. This did not occur.

⁴⁸ See OSCE, *op. cit.*, p. 1.

⁴⁹ By a Memorandum of understanding signed by Entity Prime Ministers, the Mayor of Brčko District and the Chairman of the Council of Ministers on January 2008.

⁵⁰ The Special Rapporteur has been informed about some difficulties in coordination among the Ministries of FBiH. Four Croat-majority canton Ministers of education refused to attend a meeting of the Text Book Council chaired by the Minister of education of FBiH, alleging that strengthening the education system at the federation level is unacceptable.

⁵¹ In February 2005 the Committee on Economic, Social and Cultural Rights analyzed this first report submitted by BiH. It recognized the difficulties preventing the implementation of the Covenant - the effects of the armed conflict - but noted that the constitutional framework for BiH imposed by the DPA “confers limited responsibility and authority to the Government at the State level, in particular in the field of economic, social and cultural rights, and creates a complex administrative structure, which often results in the lack of harmonization and implementation of laws and policies relating to the equal enjoyment of economic, social and cultural rights by the population”. UN E/C.12/BiH/CO/1 24 January 2006.

60. For example, the nine-year education provision (article 16.3) is not implemented uniformly in all parts of the country.⁵² The Republic of Srpska introduced it before the adoption of the law, at the start of the 2003/4 school year. In the Federation of Bosnia and Herzegovina, the Federal Ministry of Education coordinated the development of this model, as well as a model curriculum for the first grade for the 2004/5 school year. However, when the models were presented to the cantonal ministries of education for their adoption, some of them refused to endorse them. As a result, children in Bosnia and Herzegovina are following different study programmes, depending on the place where they live. In addition, even in those cantons where the nine-year module was adopted, there are different levels of implementation. Complaints were heard about the lack of clear guidelines to implement the provision in a cohesive manner, as well as the lack of trained teachers, in both The Republic of Srpska and The Federation of Bosnia and Herzegovina.

61. The Special Rapporteur considers the lack of uniform implementation of the nine-year education a potential impediment for the mobility of pupils and a threat to their freedom of movement.⁵³

62. There is a variety of curricula in Bosnia and Herzegovina. Each ministry of education decides which curriculum should be taught in the schools under its jurisdiction. The Framework Law on Primary and Secondary Education attempted to address this situation, with the provisions of a common core curriculum (arts. 42 and 43). The objective was to ensure that students across the country learn a minimum of common elements and to facilitate the mobility of pupils. Nevertheless, as already mentioned, it has not been implemented in all schools of Bosnia and Herzegovina, in spite of its adoption in 2003.⁵⁴

63. With regard to the subjects covered by the common core curriculum, some are the same for all the pupils in Bosnia and Herzegovina, while the remainder vary according to the canton or entity curricula. Subjects such as maths and sciences are almost entirely covered by the common curriculum, while language, literature, history, geography, nature and society and religious instruction are almost completely different, depending on the area of the country where they are taught and the ethnic majority. For example, countries used as references in history curricula are the neighbouring countries, such as Serbia and Croatia, and not Bosnia and Herzegovina.

64. The adoption of the Law on the Agency for Preschool, Primary and Secondary Education constitutes a step in the right direction. Nevertheless, the Special Rapporteur is concerned that this Law risks having the same fate as the Framework Law on Primary and Secondary Education, especially when considering that most of the problems in the implementation of the common core curriculum derive from the difficulty in reaching agreements on sensitive subjects.

⁵² According to article 16 of the Framework Law on Primary and Secondary Education, the deadline to implement the nine years education was 2004.

⁵³ See OSCE, *op. cit.*, p. 9.

⁵⁴ See note 23 Framework Law on Primary and Secondary Education in BiH.

65. Textbooks also constitute a challenge. In spite of efforts, mainly promoted by the international community, in particular by the Organization for Security and Cooperation in Europe (OSCE),⁵⁵ textbooks on sensitive subjects remain ethnically oriented.

66. The Special Rapporteur encourages ethnic group leaders and politicians to actively collaborate with the Agency for Preschool, Primary and Secondary Education to define and implement an ethnically sensitive common-core curriculum. The new curriculum should incorporate an intercultural approach, through which the cultural specificities can be preserved, in conformity with international human rights standards, in particular with article 28 of the Convention on the Rights of the Child. In other words, this curriculum must be objective, not ethnically coloured and should integrate minimum quality standards.

67. Moreover, the provisions of the Framework Law on Primary and Secondary Education on catchment areas are not implemented. According to article 12, all public primary schools should have a catchment area. All students of compulsory school age living within that area have a right to enrol and attend school. Attendance at school is mandatory, unless the student attends a private school or is exempted from attendance as further provided in the Law.

68. The Special Rapporteur has observed that this principle is not being uniformly applied in Bosnia and Herzegovina. One of the main reasons is the inadequate content of curricula. In some areas, parents prefer to send their children to a school outside the catchment area because of the curriculum content.⁵⁶

69. The Special Rapporteur believes that the high level of fragmentation of the education system in Bosnia and Herzegovina constitutes a serious obstacle to the enjoyment of the right to education. It has an important impact on all its components: availability, accessibility, acceptability and adaptability.⁵⁷ The difficulty in reaching agreements between all the actors involved in the decision-making process on the implementation of education policies is seriously jeopardizing the education system itself.

⁵⁵ For example, in 2004, the OSCE mission together with the Council of Europe and the Georg Eckert Institute, supported the establishment of a commission for history and geography textbook authors. The commission developed a set of guidelines. However those guidelines do not bind education authorities. Moreover, there is another project of the canton of Mostar, jointly with the OSCE, aimed to issue history textbooks, which reflects different views on BiH's history, including representatives of constituent nationalities. However, due to a lack of consensus these textbooks skip the war period.

⁵⁶ For example, the Special Rapporteur was informed that this occurs in schools located at the Entities' border, in schools located at canton's borders or even within cantons.

⁵⁷ The Committee on the Rights of the Child has expressed the same concern. CRC/C/15/Add.260, para 8.

70. The Special Rapporteur believes that it is imperative to implement the national legislation that already exists. In this regard, he encourages Bosnian authorities, in particular the ministries of education, to implement more effective mechanisms of cooperation between ministries.

71. The Special Rapporteur also invites all stakeholders involved in the education process, in particular political authorities, to start considering the possibility of enlarging the responsibilities of the State in the field of education. The Ministry of Civil Affairs could play a leading role. For this purpose, it would be necessary to grant more faculties or prerogatives to the ministry. This would allow it to play an active role in the implementation of national legislation with regard to education. Such increased powers should be accompanied by the provision of necessary resources, as well as mechanisms aimed to ensure equal representation of all ethnic groups and minorities.

2. Politicization

72. Education in Bosnia and Herzegovina is widely perceived as a political tool; in practice, the school becomes a sort of “cold war” zone where students become victims of the bitterness and stereotypes projected by adults. This is not only reflected in the organization of the education system, but also in the lack of implementation of national laws. It also has an impact on the lack of coherent and uniform education policies.

73. According to OSCE, the 10 cantons of the Federation of Bosnia and Herzegovina, while all ethnically mixed to some extent, are often described in terms of the majority that dominates each one: five cantons are said to be Bosniak majority cantons, three are Croat majority cantons, and two are mixed and effectively divided among Bosniaks and Croats. In each of these cantons, the dominant majority tends to determine the shape and content of education. This is also true in the case of the Serb-dominated Republic of Srpska.⁵⁸

74. The Special Rapporteur observed that, in spite of the provision of the Framework Law on Primary and Secondary Education aimed at forbidding activities of political parties in schools,⁵⁹ those parties still have a considerable influence. School boards are generally controlled by the main political party, which often has a nationalist and/or ethnic orientation.

75. According to the Framework Law, the director of each public school is appointed by the school board, in accordance with the proceedings envisaged by entity, cantonal and District of Brčko laws, and school rules. The Framework Law contains some provisions aimed at protecting schools from political influence.⁶⁰ However, the Special Rapporteur observed that these provisions are not sufficient.

⁵⁸ OSCE Mission to BiH, Background report: Education in BiH: A neglected security issue, Vienna, 28 June 2007, p. 4.

⁵⁹ Article 40 of the Framework Law on Primary and Secondary Education.

⁶⁰ Article 51 of the Framework Law on Primary and Secondary Education.

76. The Special Rapporteur was informed about a case in Zenica, where a school director appointed by the school board was not confirmed by the cantonal ministry, which did not invoke any legal basis. As a result of the insistence of the school board to maintain the appointment, three of its members were changed by the ministry. The new school board appointed a different candidate, who was not qualified for the position. The dismissed candidate brought his case before a tribunal, which decided to nullify the procedure, declaring that the second candidate was not qualified, and ordered a new appointment process to be held.

77. The Special Rapporteur is concerned that the above case indicates a trend of political influence in the nomination of school directors and teachers in general. He is also concerned by denouncements regarding the impunity of these kinds of actions. The Special Rapporteur welcomes the decision of the tribunal of Zenica. However, he remains concerned by the fact that this is an isolated case.

78. The Special Rapporteur therefore calls on the Bosnian authorities to ensure employment stability of education staff, based on objective, predetermined criteria for selection. In addition, he invites authorities to establish effective procedures to eliminate political interference in schools, for example, by eliminating the prerogative of ministers to confirm school directors.

79. Moreover, the excessive fragmentation makes cantons more vulnerable to political influence. In cantons with a very limited jurisdiction, for example over only five primary schools, political groups have the possibility of exerting more pressure on local authorities.⁶¹ In addition, ministers for education are often changed, which constitutes an obstacle to the continuity of education policies.

80. The absence of a national teachers' trade union in Bosnia and Herzegovina, reflects the politicization of education. Bosniak and Croat teachers' trade unions have not reached an agreement to constitute a unified trade union federation. In addition, teachers' trade unions play an active role neither in education reform nor in the implementation of education legislation.

81. The Special Rapporteur welcomes efforts made by some trade unions to fight discrimination in schools, such as campaigns against segregation in schools. However, he considers that teachers should be much more involved in the education reform process in the fight against all forms of discrimination in schools and in the protection of the human right to education.

82. The Government of Bosnia and Herzegovina acknowledges the politicization of education and that it constitutes an obstacle to the establishment of an education system in compliance with its international obligations.⁶² The Special Rapporteur believes that this acknowledgement is a

⁶¹ For example, two new textbooks on history and geography have been withdrawn from a canton's education system, because of a demonstration of a group of veterans against them. These textbooks were the result of a project sponsored by the OSCE and the CoE, which was aimed to exclude ethnically coloured references in those textbooks.

⁶² Meeting with the Minister of Civil Affairs, 1 October 2007.

good sign. Nevertheless, he is very concerned about the lack of political willingness at the local level to transform the Bosnian education system into a system that respects human rights. He is also concerned by the fact that most of the initiatives to reform the education system have come from the international community. This reinforces the perception of a lack of interest of local politicians to improve the education system.

83. The Special Rapporteur urges political leaders, at both the federal and local levels, to overcome their differences and work together on the reform of the education system. The fact that local authorities use their autonomy in education matters to maintain discrimination on ethnic grounds constitutes a high risk of destabilization in the whole country. It could become a security issue in itself, as it hinders the development of a functional democratic State.⁶³

B. Discrimination

84. Non-discrimination is a fundamental human rights principle, enshrined in article 26 of the Universal Declaration of Human Rights and reaffirmed in many other treaties, including the International Covenant on Economic, Social and Cultural Rights, in which it is stated that the rights enunciated in the Covenant are to be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.⁶⁴

85. With regard to the right to education, the specific issue of equal rights in education is addressed in different human rights instruments, such as the Convention against Discrimination in Education, the Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child. The right to education is also noted and protected by the First Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, equally binding on Bosnia and Herzegovina.

86. As stated above, education institutions must be available and accessible to everyone, without discrimination. Furthermore, education must be acceptable and adaptable, responding to the needs of students in their diverse social and cultural settings.⁶⁵ In order to respond to the needs of changing societies and communities, education must therefore remain open for review and revision.

87. Sadly, discrimination on different grounds and in different forms still exists in Bosnia and Herzegovina and has negative effects on the full enjoyment of human rights. One of the main challenges for Bosnia and Herzegovina today in the field of education is therefore to identify

⁶³ See OSCE, Mission to BiH, Background report: Education in BiH: A neglected security issue, op. cit, p. 3.

⁶⁴ IESCR, Article 2 (2) and Convention on the Rights of the Child, Article 28.

⁶⁵ General comment of the Committee on Economic, Social and Cultural Rights, paragraph 13 (2) (d).

policies and implement strategies that are based on equality and non-discrimination. An inclusive approach would improve access to education for all and guarantee that national norms fully integrate overall values of justice, equality and human dignity.

88. Although the Special Rapporteur acknowledges the right of parents to ensure that the religious and moral education of their children is in accordance with their own convictions, as stipulated in article 13 (3) of the International Covenant on Economic, Social and Cultural Rights, he notes that the precise content of this provision is disputed worldwide. However, the Special Rapporteur notes with concern the increasing influence of religious leaders and communities on education and curricula. He is particularly concerned by a recent initiative aimed at introducing religious education in preschool institutions in Sarajevo and Tuzla canton. Most experts would agree that such a subject should not be taught until students are older. This initiative could increase the potential for further divisions based on religion and for subsequent discrimination.

1. Assimilation

89. Before the 1992-1995 war, Bosnia and Herzegovina was distinguished by its multi-ethnicity and multiculturalism. It developed its education system to respond to its needs and realities. However, the system suffered not only from physical destruction during the war, but remains today under political, nationalist and ideological pressures that were compounded by the war. Besides the killings, destruction and other hardships of the war, thousands of Bosnians, including Bosniaks, Serbs, Croats, Jews, Roma and others, were forced to leave their homes and resettle.

90. Major problems arose when people started coming back to their homes that had been “ethnically cleansed” during the war. The domination of majority groups over minorities was to a large extent reflected in education policies. Some children from majority groups were openly hostile towards children from minority groups, the latter ones having access only to education that suited the needs of children belonging to the majority community. Obviously, there was also an unwillingness to accept living in multinational communities; introducing principles seeking common policies in education remained a major challenge. In addition, the complexity of the political system and disorganization left the education system open to manipulation by those in power.

91. The Special Rapporteur observed that, in some areas, children belonging to a different ethnic group than the majority faced a lack of educational structures suited to their specific cultural needs. This was true for all ethnic groups, including Bosniaks, Serbs and Croats, depending on the area they are located. However, he observed that this phenomenon predominates in the Republic of Srpska.

92. The Special Rapporteur calls upon federal, entity and cantonal authorities to offer all children, regardless of their ethnic origin, an acceptable and adaptable education in particular concerning the so-called national subjects: language, literature, history, geography, nature and society and religious instruction. It is unacceptable that children belonging to a minority in a specific area of the country are compelled to follow a curriculum that does not respect their cultural specificities.

2. Segregation

93. “Two schools under one roof” is a phenomenon that emerged after the war and has existed ever since. This practice sees children of different ethnicities attend the same school but are taught different curricula and at separate times. Children do not even meet during breaks and teachers use separate teachers’ rooms. The same also applies to the school administration.

94. The Special Rapporteur notes with regret that, although there was no segregation at schools before the war, some political authorities erroneously find that such separation is unavoidable. Many argue that each child must learn in his or her mother tongue. They affirm this even though, according to a citizen opinion survey conducted in 2006,⁶⁶ 90 per cent of respondents believed that, in Bosnia and Herzegovina, there were three languages with minor differences (44 per cent), or “who cares, as long as we all understand each other” (46 per cent). Only 8 per cent stated that the three languages were significantly different.⁶⁷ Although respect for diversity and multi-ethnicity is formally supported by the majority of relevant authorities, the presence of 54 “two schools under one roof” in the country indicates otherwise.⁶⁸

95. Even though Bosnia and Herzegovina was, and still is, under great political pressure from different international forums to solve the problem of “two schools under one roof”, it has still not identified measures to do it in an effective and sustainable manner.

96. The Special Rapporteur believes that segregation on ethnic grounds constitutes an unacceptable practice and can only reinforce existing prejudices, intolerance and social divisions.

97. Furthermore, the Special Rapporteur believes that, if students are neither given opportunities nor encouraged to build strong networks of friendship, tolerance and mutual respect as a basis of the educational process, the country risks failing to build a peaceful and developed society.

98. The situation, however, differs from one canton to another and some progress has been made. For example, in Mostar, a secondary school decided to merge both Bosniak and Croat school administrations into one legal entity. In that school, Bosniak and Croat children learn some subjects in the same classroom. The Special Rapporteur observed that students in the school had no objections to studying together with persons belonging to a different ethnic group and were open to going further in the ethnic integration process. The Special Rapporteur acknowledges that this is far from being a model of successful multi-ethnicity, but believes that it is a step in the right direction.

⁶⁶ Contracted by OSCE’s Education Department. The survey was provided to the Special Rapporteur by the OSCE mission to BiH.

⁶⁷ The ethnic background of persons surveyed follows: 43 per cent Bosniak, 14 per cent Croat, 36 per cent Serb and 7 per cent other.

⁶⁸ Information from OSCE mission to BiH.

99. Furthermore, the Special Rapporteur considers that District of Brčko constitutes an example that should be followed in the rest of Bosnia and Herzegovina. Bosniak, Croat and Serb students study together with the same curriculum, with respect for their own language and cultural specificities. The Special Rapporteur is aware of the objections against the adoption of this model in the rest of the country, but he shares the opinion of the Organization for Security and Cooperation in Europe that, with sufficient political will, it would be possible.⁶⁹

3. Minorities

100. Bosnia and Herzegovina ratified the Framework Convention for the Protection of National Minorities of the Council of Europe in 2000. In addition, a law on the protection of national minorities was adopted in 2003. According to the law, entities and cantons should ensure that persons belonging to a national minority may, if they so request, receive teaching in their language.

101. With regard to the Roma population, an action plan on the education needs of Roma and members of other national minorities in Bosnia and Herzegovina was adopted in 2004.⁷⁰ Its goals included the removal of financial and administrative barriers to Roma school enrolment and completion, the participation of Roma parents and communities in the education process, increasing Roma teaching staff and sensitizing non-Roma teaching staff to the needs of Roma students.

102. The Special Rapporteur welcomes these initiatives. Nevertheless, he is concerned that they may remain on paper without measures taken to ensure their practical implementation. He is particularly concerned by the lack of access to education for a large number of Roma children because of the absence of identity documents.⁷¹

103. The Special Rapporteur encourages Bosnia and Herzegovina to implement expeditiously the recommendations made by the Committee on the Rights of the Child regarding discrimination suffered by minority children in Bosnia and Herzegovina, that the State Party strengthen its administrative and judicial measures to prevent and eliminate de facto discrimination against children, in particular, Roma children and children belonging to ethnic and/or religious minorities and other nationalities.⁷²

⁶⁹ OSCE Mission to BiH Education Department, Lessons from education reform in Brčko, October, 2007.

⁷⁰ Adopted by the Ministers of Education of BiH in February 2004.

⁷¹ Information provided by a Roma organization on 27 September 2007.

⁷² CRC/C/15/Add.260, para. 26.

IV. RECOMMENDATIONS

104. The Special Rapporteur recommends that the central Government, entity and cantonal authorities:

- (a) Implement the first stage of the World Programme for Human Rights Education, approved by the General Assembly;**
- (b) Define a comprehensive policy that involves education authorities at all levels on equal access to primary education. This policy must define the responsibilities of each education authority, at the national, entity, cantonal and municipality levels, as well as the concrete measures that should be adopted by each of them;**
- (c) Adopt effective measures to promptly harmonize lower-level legislation with the different framework laws on education. These measures should include operational guidelines addressed to all actors involved in the educative process, in order to facilitate the task of implementation;**
- (d) Develop a plan of action to abolish the educational modalities and processes based on assimilation and segregation, especially those known as “two schools under one roof”;**
- (e) Establish a national programme for the development and application of education indicators in close cooperation with State bodies and entities, cantons and municipalities. These indicators should guide public policies regarding education and determine the factors that form the basis of discrimination, segregation and assimilation;**
- (f) Invest more resources in infrastructure for education, including that for primary, secondary and tertiary education;**
- (g) Provide support for schools through financial means and expert support, for the implementation of the framework laws;**
- (h) Establish a national programme for training professional staff in the education system, which should be based on intercultural education;**
- (i) Provide support for teachers, through professional development, for the implementation of the framework laws.**

105. Universities responsible for teacher training should include in their study programmes intercultural education and improvement of practical programmes in teacher training curricula. Universities should evaluate the possibility of including teaching practices in the syllabus of programmes aimed at instructing teachers.

106. The Special Rapporteur recommends that the international community, donor countries and institutions:

- **Support the implementation of the Agency for Preschool, Primary and Secondary Education, as well as teacher training programmes, by funding and by building capacities, including technical assistance**
- **Offer technical and financial assistance for the development of a plan of action to abolish the educational modalities and processes based on assimilation and segregation, especially those known as “two schools under one roof”**

107. The Special Rapporteur recommends that civil society organizations strengthen and expand networks of activists working on the right to education, in order to allow progress in awareness raising and sensitivity to current needs of the right to education.

108. Students should establish a national independent organization for the defence, protection and promotion of their rights.

109. Organizations and trade unions should get involved in the education reform process and the fight against all forms and types of discrimination in schools, including segregation and assimilation practices.
