Sarajevo, 30 March, 2022

**Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity**

**Peace, Security, Sexual Orientation and Gender Identity**

**Bosnia and Herzegovina inputs for the Report**

By harmonizing existing and enacting new legislation in line with international standards, Bosnia and Herzegovina have made efforts to improve access to the rights of victims of sexual war crimes, violence and torture, including the right to compensation and rehabilitation. Amendments to the BiH Criminal Code were adopted, bringing the definition of sexual violence as a war crime and a crime against humanity in line with international criminal law standards and the case law of international courts and tribunals. This Law applies to all war crimes cases, regardless of the judicial body before which the proceedings are conducted.

The Law on Amendments to the FBiH Criminal Code, adopted in 2014, prescribes imprisonment for inciting national, racial and religious hatred, discord or intolerance by publicly denying or justifying genocide, crimes against humanity or war crimes established by a final decision of the International Court of Justice, International Tribunal for Former Yugoslavia or a domestic court. The Amendments to the Criminal Code of the Federation of BiH adopted in 2016, prescribe the definition of hate crime as any crime committed due to race, color, religion, national or ethnic origin, language, disability, gender, sexual orientation or gender identity. persons. Such treatment will be taken as an aggravating circumstance, if the Law does not explicitly prescribe more severe punishment for a qualified form of criminal offense done out of hatred. More severe punishment is prescribed for qualified forms of crime murders, grievous bodily harm, rape and damage to another's property done out of hatred.

Issues of qualification of armed conflicts in Bosnia and Herzegovina and in the former Yugoslavia, peace negotiations, war crimes and transitional justice are the responsibility of State institutions. After the armed conflicts in Bosnia and Herzegovina, a strong process of retraditionalization and ethnic divisions took place, which resulted in an increased number of marginalized groups. The decline in economic activity further jeopardized their position.

Gender equality institutions in Bosnia and Herzegovina have been established since 2000. Prohibition of discrimination against LGBTI people is regulated through two systemic laws: the Law on Gender Equality in BiH, consolidated text (“Official Gazette of BiH” No. 32/10) - (GEL) and the Law on Prohibition of Discrimination of BiH “Official Gazette of BiH”, no. 59/09 and 66/16) - (LPD). While the GEL prohibits discrimination on the grounds of “sexual expression and / or orientation”, the LPD explicitly protects LGBTI people from discrimination by listing sexual orientation, gender identity and gender characteristics as prohibited grounds of discrimination.

It is important to note that in 2018, Bosnia and Herzegovina adopted the third Action Plan for the implementation of UN Security Council Resolution 1325 "Women, Peace and Security" in Bosnia and Herzegovina for the period 2018-2022.

In the Federation of BiH, LGBTI issues have been relevant only for the last ten years and the greatest achievements have been achieved in the field of awareness raising, thanks to the highest efforts of the NGO sector in which the Sarajevo Open Center NGO plays the most prominent role.

During 2019 and 2020, a Working Group. composed of government representatives from the State, entities, Brčko District level as well as representatives of the non-governmental sector, worked on drafting an Action Plan for the Promotion of Human Rights and Fundamental Freedoms of LGBTI Persons in Bosnia and Herzegovina for the period 2021-2023. The whole process was supported by the European Union (EU) and the Council of Europe (CoE). The document is based on Recommendation CM / Rec (2010) 5 of the Council of Europe to member states on measures to combat discrimination based on sexual orientation or gender identity., the Working Group agreed on the final version of the draft document which was sent to the entity and Brcko District governments for evaluation at the end of 2020.

The document is based on three strategic goals:

1. Existence of effective mechanisms for protection against discrimination and hate crimes for LGBTI people

2. Equal rights of LGBTI people in all areas of public and private life

3. Raised awareness of the need to combat prejudices and stereotypes about LGBTI people

These goals are addressed in almost all the most important areas when it comes to the human rights of LGBTI people, more precisely in the areas of: education and effective protection of LGBTI people throughout the entire police-judicial chain of protection; training of medical workers, general capacity building of relevant institutions when it comes to LGBTI rights, analysis of regulations related to same-sex partnerships, modalities of gender reassignment for BiH citizens (medical and administrative aspects) and a number of activities aimed at raising awareness of status of the LGBTI people in BiH, from general public to the actors from various spheres of society and relevant institutions.

At the cantonal level in the Federation of BiH, gender action plans containing LGBTI issues have been adopted. Such Action Plans have been adopted so far in two out of ten cantons in the Federation of BiH. In February 2020, an Interdepartmental Working Group of the Government of the Federation of BiH was formed, which analyzed the regulations within which same-sex couples from the community can exercise their rights arising from the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). The Interdepartmental Working Group submitted a proposal for a list of regulations that need to be amended and / or adopted in the Federation of BiH to the Federation BiH Government last year (2021).

**GENDER EQUALITY AGENCY OF BOSNIA AND HERZEGOVINA**

**MINISTRY FOR HUMAN RIGHTS AND REFUGEES OF BOSNIA AND HERZEGOVINA**