



Gender equality in Bosnia and Herzegovina - in matter and manner

Equity is not equality: women in prison system in Bosnia and Herzegovina

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Summary

Relevant surveys show that prison systems and regimes are typically designed for male prison population, while needs of women prisoners are generally neglected despite of the fact that important international reports instruct implementation of different gender biased prison conditions. B&H is not exception in this regard, since the prison systems in B&H is invariably designed for the majority of the male prison population from the architecture of prisons, to security procedures, to facilities for healthcare, family contact, work and training. Therefore, the focus of this study is on important question: Does equal conditions, programs and treatments in male and female prisons (sections of prisons) in B&H provide equality and equity of women in its true sense. Addressing this question is important not only for achieving equality and equity of women in prison system of B&H but it is a vital in order to draw the attention of society on this neglected and vulnerable category of prisoners. This research provided a comprehensive evaluation of environment in B&H's prison system for women and determined coherence of the existing conditions with the specific needs of women prisoners, and produced a set of recommendations that can be used by the governmental stakeholders, prison management and prison staff in order to successfully accommodate specific needs of women prisoners in B&H's prison system.



1. WOMEN PRISON SYSTEM IN B&H: WEAKNESSES AND PROBLEMS

1.1. Why there is an urgent need to give attention to women in prison

More than half a million women and girls are held in prisons throughout the world, either as detainees or sentenced prisoners. In Europe, about 100 000 women and girls are in prison (UN Office on Drugs and Crime, 2008). Women are in the minority of prisoners around the world, constituting an estimated 2 to 9% of national prison populations. Only 12 prison systems worldwide report a higher percentage than that. The median level in Europe is 4.4%. In Europe, Spain has the highest percentage of women in prison (almost 8%) and Azerbaijan the lowest (less than 1.5%) (Walmsley, 2006) (WHO Regional Office for Europe, 2009). In Bosnia and Herzegovina (B&H) data from SPACE¹ study from 2008 to 2010 shows similar trends (CoE, Université de Lausanne, 2010).

Even though women are a minority in prison populations all over the world, the female prison population is increasing significantly.² The rate of increase in the number of women in prison is much greater than that for men (Bastick, A commentary on the standard minimum rules for the treatment of prisoners, 2005). For instance, in B&H, the number of women in prison has increased by more than 200% in the past 10 years versus a 50% increase in the number of men in prison during the same period (Prison Reform Trust, 2006)³ Some of the increase is the result of global displacement of women due to war, social unrest, economic crises and gender-insensitive criminal justice systems. Many women in prison serve a short sentence, which means that the turnover rate is high.

Most offences for which women are imprisoned are non-violent, property or drug-related (Quaker Council for European Affairs, 2007). Worldwide, women are more often imprisoned for drug offences than for any other crime (Taylor, 2004).⁴ Similar situation is in B&H where according to the data from Statistical yearbooks of FB&H (Federal Office of Statistics, 2011) and RS (Republika Srpska Institute of Statistics, 2011) 83% of women are imprisoned for non-violent and property crimes.

The majority of such women usually come from socially disadvantaged communities and groups. Women prisoners typically come from economically and socially disadvantaged segments of society. Typically, they are unemployed, have low levels of education and have dependent children. Many of them have histories of alcohol and substance abuse. A high proportion of women prisoners have experienced violence or sexual abuse in certain period of their life and for them imprisonment generates new mental health problems or exacerbates existing ones. Consequently, research in some countries has found that mental disabilities among female prisoners are more common compared to male prisoners, and that women are much more likely than men to harm themselves or to attempt suicide, which highlights the need to provide appropriate mental health services oriented to the gender-specific needs of women offenders.⁵ Furthermore in a lot of cases women are carers, sometimes the sole carers, of their families and the sudden change of their role from caregiver to 'criminal' and isolation from loved ones usually have an intensely adverse effect on their mental wellbeing. 'At the same

¹ Council of Europe Annual Penal Statistics, SPACE (Statistiques Pénales Annuelles du Conseil de l'Europe)

² This increase has largely been ascribed to States' adoption of harsher reactions to the non-violent crimes for which women are usually apprehended (property and drug-related offences, characterized in many administrations as petty or less serious ones.) (Penal Reform International, 2007)

³ Also for instance, in England and Wales, the number of women in prison has increased by more than 200% in the past 10 years versus a 50% increase in the number of men in prison during the same period (Prison Reform Trust, 2006). In Barbados, Mexico, Bolivia, Colombia, Kenya, Australia, New Zealand, the USA and Kyrgyzstan, between 1994 and 2004 the female prison population increased at a far faster rate than the male prison population. For example: in Mexico, a 235% increase in female, compared to 134% increase in male prison population; in Kenya, a 100% increase in female, compared to 24% increase in male prison population. In Australia, between 1984 and 2003, there was a 75% increase in the imprisonment rate for men, whereas the equivalent rate for women soared by 209% (Quaker United Nations Office, 2008)

⁴ 'The majority of these women do not need to be in prison at all. Most are charged with minor and non-violent offences and do not pose a risk to the public. Many are imprisoned due to their poverty and inability to pay fines. A large proportion is in need of treatment for mental disabilities or substance addiction, rather than isolation from society. Many are victims themselves but are imprisoned due to discriminatory legislation and practices. Community sanctions and measures would serve the social reintegration requirements of a vast majority much more effectively than imprisonment' (UN Office on Drugs and Crime, 2008)

⁵ See for example, Laishes, J., The 2002 Mental Health Strategy for Women Offenders, Correctional Service Canada, 2002, pp. 6-7 (http://www.csc-scc.gc.ca/text/prgrm/fsw/mhealth/toc_e.shtml); Ross, H., Glaser, F., & Stiasny, S. (1988); Sex differences in the prevalence of psychiatric disorders in patients with alcohol and drug problems. *British Journal of Addictions*, 83, 1179-1192; Prison Reform Trust Factfile, p. 16, with information from Prison Service (June 2004) Safer Custody News, London, Prison Service; Rickford, D., *Troubled Inside: Responding to the Mental Health Needs of Women in Prison*, Prison Reform Trust, 2003, pp. 4 and 17.

time, there tends to be greater stigma attached to women's imprisonment than men's, and women who have been in prison may be ostracized by their families and communities' (United Nations, 2000)

So it is justifying stating that women constitute a vulnerable group in prisons, due to their gender. Although there are considerable variations in their situation in different countries, the reasons for and intensity of their vulnerability and corresponding needs, a number of factors are common to most.

These include:

- The challenges they face in accessing justice on an equal basis with men in many countries;
- Their disproportionate victimization from sexual or physical abuse prior to imprisonment;
- A high level of mental healthcare needs, often as a result of domestic violence and sexual abuse;
- Their high level of drug or alcohol dependency
- The extreme distress imprisonment causes to women, which may lead to mental health problems or exacerbate existing mental disabilities;
- Sexual abuse and violence against women in prison;
- The high likelihood of having caring responsibilities for their children, families and others;
- Gender-specific healthcare needs that cannot adequately be met;
- Post-release stigmatization, victimization and abandonment by their families (Handbook for prison managers and policymakers on Women and Imprisonment).

Due to all previously mentioned factors and despite the fact that most UNs, EUs, QUNOs est. reports emphasize different needs of women prisoners, prison systems and prison regimes are almost invariably designed for the majority male prison population providing equal treatment for women and man. This problem is recognized in the '*QUNO Women in prison: A commentary on the UN Standard Minimum Rules for the Treatment of Prisoners*' (2008) where is stated: '*The needs and concerns of women prisoners are different from those of men prisoners... Women prisoners have different health needs, including those related to sexual and reproductive health... Women prisoners suffer from very high rates of mental illness. Whilst problems such as overcrowding, poor hygiene, and inadequate visiting facilities affect both men and women prisoners, there are many concerns that are specific to women, or which affect women prisoners in a different or particularly harsh way*⁶. Even the *UN Standard Minimum Rules for the Treatment of Prisoners* (1955), adopted more than 50 years ago, themselves reflect this shortcoming.⁷

1.2. Prison system in B&H

Current situation in prison system in B&H is burdened with a lot of problems including all the above mentioned. Namely, after dramatic changes in the B&H legal system on June 23, 2008 at the session of the Council of Ministers of B&H, 'Bosnia And Herzegovina Justice Sector Reform Strategy 2008 – 2012' was adopted with the objectives classified in five areas and a set of agreed strategic programs and activities. These have been important achievements but analysis of the 'Action Plan for the Implementation of the Justice Sector Reform Strategy in Bosnia and Herzegovina (2009 – 2013)' (B&H JSRS AP, 2012) 'Report on Implementation of

⁶ The treatment of women in prison must be guided by not only the UN Standard Minimum Rules for the Treatment of Prisoners and other prison-specific guidelines, but by all applicable human rights (and, where relevant, International Humanitarian Law) instruments. These include the:

- The Universal Declaration of Human Rights (United Nations, 1948);
- Convention on the Elimination of All Forms of Discrimination against Women (United Nations, 1979);
- The United Nations Standard Minimum Rules for the Treatment of Prisoners (United Nations, 1955);
- The Basic Principles for the Treatment of Prisoners (United Nations, 1990);
- The 2006 European Prison Rules (Council of Europe, 2006);
- The European Parliament (2008) resolution on the particular situation of women in prison and the impact of the imprisonment of parents on social and family life;
- The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (United Nations, 1988);
- The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 2004);
- Kyiv Declaration on Women's Health in Prison etc.

⁷ The United Nations (UN) *Standard Minimum Rules for the Treatment of Prisoners* (Resolution 663 C (XXIV) of 31 July 1957, and amended by Resolution 2076 (LXII) of 13 May 1977.) were adopted by the First UN Congress on the Prevention of Crime and the Treatment of Offenders in 1955, and approved by the UN Economic and Social Council in 1957.⁵ They remain the key point of reference in designing and evaluating prison conditions. However, they did not draw sufficient attention to women's particular needs. With the increase of the women prisoner population worldwide, the necessity to bring more clarity to considerations which should apply to the treatment of women prisoners has acquired importance and urgency.



the Justice Sector Reform Strategy in Bosnia And Herzegovina and its Action Plan For 2012' (B&H JSRS AP, 2012), as well as two revised B&H JSRS AP has shown that in terms of women prisoners any activities has not been undertaken or planned. Even though, Strategy within the strategic program number 2.1.1. anticipate development of a proposal for the amendment of laws and regulations that would ensure compliance with the regulations and standards of the European Prison Rules and Best Practices in B&H and Europe as the activity 2.1.1.6. Report on Implementations in the section 2.1.1. fails to address the issues of women prisoners.

At the same time progressive legal framework in the field of gender equality on a state and entity level was established. But, overview of programs and activities of BH JSRS in the area of execution of criminal sanctions, legal framework for the execution of criminal sanctions and legal framework in the field of promoting and protecting women's human rights shows that the question of equity of women in prison system of B&H is resolved superficially without taking into consideration that equal treatment of women and man in prison is not equity in its true sense.

Prison system in B&H today is characterized by fragmentation, both in terms of organizational structure, and in terms of the legislative framework that regulates it. Legislative framework exist on state and entity level and it is important to point out that in all Laws (Law on execution of criminal sanctions of Republica Srpska) (Law on execution of criminal sanctions of Federation of B&H) (Law on execution of criminal sanctions of B&H) for execution of criminal sanctions does not provide specific sections or parts of sections that are related to the execution of criminal sanctions for women. It is evident that the most legal provisions are generally relating to males rather than women prisoners. Certain articles of these laws only in certain matter distinguish women from man prisoners.⁹

Execution of criminal sanctions is distributed among the three levels of government under the Ministry of Justice of B&H and the Ministries of Justice in the entities.⁹ At a state level operate only detention unit while State-level prison is under construction. The prison system of Federation of Bosnia and Herzegovina (FB&H) is in the Division for the Execution of Criminal Sanctions, operating under the Ministry of Justice of FB&H. It is consistent of eight penal institutions.¹⁰ All of them are intended for the imprisonment of men while women are imprisoned only in a Section for women of Prison in Tuzla. Similar situation is also in the prison system of Republic of Srpska (RS) where out of six prisons only a section of one of them is intended for the imprisonment of women (KPZ Kula).¹¹ The prison system of RS is also in the Division for the Execution of Criminal Sanctions, operating under the Ministry of Justice of RS.

So it is evident that prison systems in B&H is invariably designed for the majority male prison population from the architecture of prisons, to security procedures, to facilities for healthcare, family contact, work and training. In identifying the policy problem this study was informed by 'Report of visit to prison establishments in the FB&H and RS on behalf of the Council of Europe' that address current state in women's prisons: *'...women's prisons are an adaptation of prisons for men... As a consequence, prisons tend not to meet the needs of women prisoners, and women in prison are affected by imprisonment in a particularly harsh way. All too often, the human rights and basic dignity of women in prison are systematically violated.'*

Furthermore in the Health Care Assessment of the prisons of Bosnia and Herzegovina (Council of Europe – Field Office Sarajevo, 2004) various problems of women in prisons are recognized

⁹ eg, all three laws make it possible to delay prison sentence for pregnant women and mothers of a child to certain age-old, then the statutory standards of accommodation LECS B&H in art. 19/2 determines the existence of a maternity ward and a children's rooms and RS LECS. 63/1 specifies that the mothers and mothers who nurture the children are separated from other prisoners, then RS LECS art. 87 and LECS FB&H art. 48, in the context of health care govern certain questions on the keeping of the child with mother during sentence. On this issue RS LECS - provide child are with mother until the child reaches one year of age, after which the child is (in agreement with the mother) given to family or social welfare authorities, while Federation's LECS determines that the child can be with (if mother wants to) mother up to the age of three years old. RS LECS in art. 64/1 defines the specific issues of women in a way that "special attention to the needs of the women in terms of their physical, professional, social and psychological needs are given when making decisions concerning any aspect of their stay in the institution."

⁹ In the Brcko District of B&H there is no facility for execution of criminal sanctions. Imposed sanction will be executed in prisons in the entities. The legal basis for this is the Memorandum of Understanding between the Brcko District of B&H and its entities. In Brčko there is only detention unit.

¹⁰ Those prisons are: KPZ Sarajevo (male prisoners), KPZ Sarajevo - department of Ustikolina (male prisoners), KPZ Tuzla (male prisoners, Section for the minors and a Section for women), KPZ Tuzla –department of Orašje (male prisoners), KPZ Mostar (male prisoners), KPZ Zenica (male prisoners and a Section for the minors), KPZ B&H Hać (male prisoners), KPZ Busovača (male prisoners).

¹¹ Those prisons are: KPZ Kula (male prisoners, Section for the minors and a Section for women), OZ Doboj (male prisoners), OZ Foča (male prisoners), OZ Trebinje (male prisoners), OZ Bijeljina (male prisoners) and OZ Banja Luka (male prisoners).

¹² For example:

- Twinning Light Project : Support to correctional institutions in B&H (BA 06 IB JH 02 TL) "Final report" (Twinning Light Project, 2008)
- OSCE: Torture, harassment and disciplinary procedures in penal institutions in Bosnia and Herzegovina - Assessment of human rights in penal institutions in Bosnia and Herzegovina (OSCE, 2011)
- Bosnia and Herzegovina Ministry of Human Rights and Refugees Bosnia and Herzegovina: Report of the authorities of Bosnia and Herzegovina on the visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) Bosnia and Herzegovina (Bosnia and Herzegovina Ministry of Human Rights and Refugees, 2011) etc.

¹³ Further variables and great number of their indicators were examined in this research: Geographical position as a factor of gender based discrimination; Accommodation conditions in prisons for women; Masculine management; Security classification of prisons (sections of prisons) for women; Internal classification of women prisoners within prisons; Strip searching; Supervision of women prisoners by women; Complaint mechanisms; Separation of female and male prisoners; Family and social contact; Hygiene, healthcare and HIV/AIDS; Gender sensitive education and training programs; Women with disabilities; Women who are foreign nationals and Minority women.

¹⁴ The treatment of women in prison must be guided by not only the UN Standard Minimum Rules for the Treatment of Prisoners and other prison-specific guidelines, but by all applicable human rights (and, where relevant, International Humanitarian Law) instruments. These include the:

- Universal Declaration of Human Rights;
- International Covenant on Civil and Political Rights;
- International Covenant on Economic, Social and Cultural Rights;
- Convention on the Rights of the Child;
- Convention on the Elimination of All Forms of Discrimination against Women;
- Convention on the Elimination of Racial Discrimination; and
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol.

¹⁵ Law on execution of criminal sanctions of Republika Srpska (Official Gazette of RS, 85/2005, 72/2009 & 31/ 2011), Law on execution of criminal sanctions of Federation of B&H (Official Gazette of FB&H, 13/98) and Law on execution of criminal sanctions of B&H (Official Gazette of B&H 13/05, . 53/07, 97/07)

and accentuate such as problem with location of prisons for women, deficiencies in accommodation, challenges and problems with family and social contact, problems with hygiene and especially deficiencies within healthcare system. It is also very important that beside above mentioned reports all the others international and local reports as well as academic literature does not pay any particular attention to women in prisons.¹²

The lack of equality of women in B&H prison system is also visible through the information of the Institution of Human Rights Ombudsman of B&H in the 'Special Report on The Situation of Human Rights in Institutions For Execution Of Criminal Sanctions In Bosnia And Herzegovina' (The Institution of Human Rights Ombudsman/Ombudsmen of BiH, 2012) where is stated that: *'Unfortunately, in these institutions is still a common practice that women are working engaged only in traditionally female jobs such as sewing or handicrafts, or performing auxiliary tasks in the kitchen and hygiene... In Tuzla, the imprisoned women also complained about the lack of understanding for their specific needs that are biological determined, and that they do not get enough hygiene supplies.'*

Bearing in mind all the above mentioned it is necessary to urgently take actions to improve current state in women's prison facilities not only for achieving equality and equity of women in prison system of B&H but also in order to draw the attention of society on this neglected category.

1.3. Methodology

In conducting this study I was aware of the constraints in conducting research in prisons. Prison is an environment that requires researcher to constantly adapt and change the ways they regard themselves and, subsequently, how they present themselves to others and interact with the others. Furthermore, gaining access to prison as academic researcher requires knowledge of rules and regulations, but also requires ingeniousness. Designing acceptable instruments that protect the participants and remain applicable to the research design are inevitable challenges that arise when doing prison research (Lucic-Catic, 2011). Combination of qualitative and quantitative methodologies, together with narrative dialogue with participants, and regular dosage of involvement and distance create a tension out of which credible research can be built (Robson, 2002).

This research was guided by the following hypothesis:¹³

- H1: The prison environment in B&H's prison system does not take into account the specific needs of women prisoners.
- H2: Deficiencies and gaps in recognition of specific needs of women prisoners in B&H's prison system lead to gender based discrimination and violation of their human rights.
- H3: Deficiencies of treatment specifically tailored to the needs of women lead to inadequate resocialization and reintegration.

Analysis of relevant provisions of the international documents¹⁴ and their implementation in the provisions of state and entities Laws on execution of criminal sanctions as well as in prison sections for women in B&H, semi-structured qualitative interviews and focus groups with women prisoners were the research methods used in this study.¹⁵



The selection of interviewees was based on a purposeful sampling strategy which enable identification and selection of individuals with the key connection to the problems identified throughout variables and indicators in this study (Tonkiss, 2006). The people who were approached for the interview were: wardens of the prisons, a treatment staff, members of the health service, members of the security service and members of the disciplinary commissions.¹⁶

The interviews were semi-structured qualitative interviews based on a series of open-ended questions¹⁷ and topics carefully prepared in advance. The reason for choosing semi-structured interviews as one the methods of data collection is because they offer a flexible technique that can be used for a variety of research purposes.¹⁸ Interviewees were asked for permission to record the interview, but they declined due to the prison protocols. Due to that copious notes were taken and the full transcript of the conversation was made immediately after the interview.

The perspective of women prisoners was explored through focus groups in both prisons that allowed comparison of conditions in women prisons of two entities. The reasons for choosing focus groups as a means of data collection are eloquently expressed by (Robson, 2002): They are *'a highly efficient technique for qualitative data collection since the amount and range of data are increased by collecting from several people at the same time'*.

In analyzing the obtained data this research relied on thematic analysis (Huberman & Miles, 1994), complemented with content analysis where appropriate.¹⁹ The validity of the research was achieved by using the strategy of triangulation, which is one of the most popular techniques in achieving trustworthiness of the results. Interview data and the data obtained with the method of focus groups were complimented with analysis of the provisions of previously mentioned international documents and provisions of state and entities Laws on execution of criminal sanctions. The corroboration of multiple techniques and sources of data increased the validity and reliability of findings.

¹⁶ As a researcher I was also ware of the fact that lack of a sufficient time to break down the barriers and gain trust of interviewees I carried out the interviews as a 'conversation', as much as possible, and compatible with the need for structural analysis. This 'narrative' stile allowed me to better negotiate the maze of identity-shaping interactions and observations that inevitably emerged as a product of multiple and unforeseeable embedded contexts and situations (Clarke, 2008).

¹⁷ In order to keep an open mind around issues of discrimination of women in prison system in B&H and opportunities for improvement I chose open-ended questions. (Cohen, Manion, & Morrison, 2000) argue that open-ended questions are more flexible, allow interviewers to go into more depth and are useful for clarifying possible misunderstandings. Furthermore, open-ended questions encourage cooperation, help establish rapport and can give unexpected answers as well as produce insights that the researcher did not anticipate.

¹⁸ In addition, semi-structured interviews can gather factual information, collect statements, and most importantly explore in some depth people's own experiences, motivations and reasoning (Drever, 2003). The questions were used for open discussion and provide further prompts, instead of restricting interviewees' responses (Bryman, 2004).

¹⁹ Since content analysis runs the risk of ignoring context and multiple meanings its combination with thematic analysis reduced this problem.

2. KEY FINDINGS FROM THE FIELD

2.1. Geographical position as a factor of gender based discrimination

Geographical dispersion of prisons for women is one of the indicators of the gender based discrimination that is recognized also by Louise Arbour (former UN High Commissioner for Human Rights) who stated: *'Women ... [serve] their sentences in harsher conditions than men because of their small numbers. They have suffered greater family dislocation than men, because there are so few options for the imprisonment of women.'* (Quaker United Nations Office, 2008).

As previously explained, in B&H there are only by one section for imprisonment of women within correctional facilities for men in each entity (KPZ Tuzla and OZ Kula) that by certain extent represent gender based discrimination. Namely, existence of institution for imprisonment of women at only one location in entity in most cases generate situations where women are located far away from their residence that directly affects their possibility of maintenance of family and social contact.²⁰ FB&H occupies 51% of the territory of B&H, that is exactly 26 110, 50 km² while RS occupies 49% with 24,857 km² (Statistical yearbooks of FB&H (Federal Office of Statistics, 2011) and RS (Republika Srpska Institute of Statistics, 2011)).²¹ Even though women prison population in B&H is rather low in comparison to male that cannot be justification for deprivation of a series of rights of women prisoners through geographical dispersion. Namely, several members of correctional officers stated that the lack of family contact due to the large distance of prison from place of residence cause serious problems in treatment programs and their resocialization. One prisoner pointed out that the hardest part of her imprisonment was the fact that during her time in prison she did not see her children not even once because they live far away from prison in which she is serving her sentence and their bad financial situation.

Bearing in mind all the above mentioned, but also the fact that building, or opening new sections for incarceration of women most likely is not manageable financially, other means of overcoming of the discrimination and aberration of rights of women prisoners that are generated by this shortcoming have to be found.²²

2.2. Accommodation conditions in prisons for women

KPZ Tuzla has two spatially separated accommodation capacity. One object is in the center of town (section for women and minors) and the other one (for men) is located at Kozlovac out of the city (previously on that place was agricultural unit of that prison). Women and minors are separated in different dormitories while sharing outdoor space. All women are placed in large dormitories with the capacity from 8 to 12 persons. They are well lighted but furniture is old and neglected. This type of housing directly affects privacy of women as a basic need.

The main accommodation problems are bad toilets. They are placed out of the dormitories and are designed for male population that this prison in the time of construction was nominated for. There is lack in amount of showers and toilet bowls as well as sinks (poor conditions in hygiene connected to this topic will be discussed in the section 3.9. 'Hygiene, healthcare and HIV/AIDS').

²⁰ The problems with maintenance of family and social contact as a result of the geographical dispersion of prisons for women can occur from various reasons. Primarily, family members and friends may not be able to frequently, or at all visit imprisoned women because of a lack of transportation from their place of residence to correctional facility (trains, busses, etc.) or because of lack of finance to pay for the transportation (cost of transportation are increased in a cases larger distance) that is not a case with prisons for men in B&H. Secondly, women prisoners cannot use out institutional benefits (going out, weekends, holidays and annual leave) by its full extent due to previously mentioned reasons.

²¹ See the map in the Appendix I

²² Some of the ways of overcoming of those negative effects can be achieved through financial help, organized visits, transportation and other forms of cooperation with centers for social care.



The fact that women and minors share space for work and free activities directly affect their possibility of enjoying these rights. Few members of correctional officers stated that due to that fact they are facing great difficulties in their everyday work on resocialization. Namely, according to them, adequately arranged free time is a very important tool in the process of resocialization.

KPZ Kula occupies a large area that includes the area suitable for industrial use. The prison is designed for men, women and minors where each population has physically separated housing. Women are placed in large dormitories with the capacity from 6 to 7 persons. In this prison also, the main accommodation problems are toilets that are not in the accordance with special needs of women. The prison warden Vukašin Crnjak stated that: *'Space where women prisoners are currently housed is located at ground floor of the administration building which once was a clinic and is not adequate for their accommodation.'* (SRNA, 2012).

Both prisons do not have capacity for housing of mothers with children and in cases that imprisoned women has to stay in prison with a child they are placed in regular dormitories that violate series of their rights and child wellbeing. In the time of research in KPZ Tuzla was imprisoned only one mother with a child. She is imprisoned in regular dormitory that she is occupying with her child. Since the living conditions are not designed for mothers with children all specific needs of a mother and of a child are not meet. According to the statements of prison staff (correctional officers, security officers, and management and health workers) this situation is causing many problems and distress for them and for imprisoned mother and child. Furthermore, prisons also do not have 'child friendly' rooms adapted for prevention of traumatization of children. According to the statements of the prisoner interviewed within the focus groups those deficiencies are often causes of reduction of family visits.

2.3. Security classification of prisons (sections of prisons) for women and separation of female and male prisoners

A security classification of prison as well as a prisoner's security classification determines the parameters of their liberty.²³ Prisons are operated pursuant to rules that determine the degree of supervision and control imposed on prisoners, according to their security classification. Security classifications direct decisions such as the granting of leave from the prison, access to visitors and access to work programs.²⁴

By examining the variable security classification of prisons for women we determined that there are three key ways in which women prisoners in B&H are discriminated against: inadequate classification of prisons (housing of women prisoners at a higher security level than one's classification), lack of classification of women prisoners within the prison and discrimination in risk assessment.

Inadequate classification of prisons (housing of women prisoners at a higher security level than one's classification)

Inadequate classification of prisons (housing of women prisoners at a higher security level than one's classification) is a serious way of gender based discrimination because all prisoners should be housed in accommodation appropriate to the security classification that is assigned to them. However, worldwide very often there are far too few places for women, so even

²³ European Prison Rules, Rule 18.10 state that: 'Accommodation of all prisoners shall be in conditions with the least restrictive security arrangements compatible with the risk of their escaping or harming themselves or others.' (Council of Europe, 2002)

²⁴ In many countries there is often limited accommodation for women prisoners compared to male prisoners. Furthermore, the type of available accommodation for women prisoners tends to be limited. For example, in a region where there might be six men's prisons of different security classifications, there may be just one women's prison, or even only one section for women prisoners within the prison for men (that case is in B&H). Where this is the case, that one prison's regime will probably be determined by the maximum security requirement. 'This means that women prisoners are particularly likely to be held according to a security classification that is stricter than could be justified by any assessment of the risk that they pose' (Quaker United Nations Office, 2008)

when women have been classified, they are accommodated within existing security regime without paying proper attention and without taking into account the compliance of their classification with a degree of security of institutions. This generates certain practical problems that represent discrimination. Namely, if a low or open security prisoner is in a maximum security prison, then they do not have the same access to the entitlements of a low security prisoner and *vices versa*.

²⁵ The UN Standard Minimum Rules for the Treatment of Prisoners promote the use of open institutions as most favorable to rehabilitation. The use of open institutions is more likely to be appropriate for women prisoners, who are less likely than men to have been convicted of violent acts.

²⁶ United Nations Standards Minimum Rules for the Treatment of Prisoners in the article 63 proscribes (United Nations, 1955):

- (1) The fulfillment of these principles requires individualization of treatment and for this purpose a flexible system of classifying prisoners in groups; it is therefore desirable that such groups should be distributed in separate institutions suitable for the treatment of each group.
- (2) These institutions need not provide the same degree of security for every group. It is desirable to provide varying degrees of security according to the needs of different groups...
- (3) It is desirable that the number of prisoners in closed institutions should not be so large that the individualization of treatment is hindered. In some countries it is considered that the population of such institutions should not exceed five hundred. In open institutions the population should be as small as possible.
- (4) On the other hand, it is undesirable to maintain prisons which are so small that proper facilities cannot be provided.

Article 67 - The purposes of classification shall be:

- (a) To separate from others those prisoners who, by reason of their criminal records or bad characters, are likely to exercise a bad influence;
- (b) To divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation.

Article 68

So far as possible separate institutions or separate sections of an institution shall be used for the treatment of the different classes of prisoners.

Article 69

As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a program of treatment shall be prepared for him in the light of the knowledge obtained about his individual needs, his capacities and dispositions. (United Nations, 1955)

In B&H there are only two security classifications of prisons: 'closed' and 'semi closed' type of prisons. In FB&H there is only one prison with security classification 'closed' (KPZ Zenica) while in RS there are two (OZ Foča and OZ Banja Luka). Neither of them has sections for incarceration of women. All women prisoners in B&H are incarcerated in correctional facilities with security classification 'semi closed' that is a lowest existing in a country. At first glance that fact is positive but general deficiency of prisons with a lower security classification (therefore and women's prisons) is an evident form of discrimination.²⁵ Namely, if take into account type of crime that incarcerated women in B&H have committed it is obvious that most of them should be incarcerated in lower security facility.

Most of the interviewed women within a focus group pointed out this problem saying that those who serve their sentence for murder have same rights as those who are incarcerated for a property related crime. Correctional officers are struggling to overcome this problem with internal classification of prisoners but they admit that it is just a way of dealing with problems but not solving them.

Lack of classification of women prisoners within the prison

The problem of inadequate external classification derives the problem of inadequate classification of women prisoners within the prison. Internal classification of prisoners within the prisons in B&H is determined separately for each prison by the Regulation of the internal classification of prisoners and it is not tailored differently for women and men. Even though adequately conducted internal classification should impacts upon every aspect of their prison experience, including their freedom of movement, the frequency and type of contact they have with their children and other family members, and the educational and vocational opportunities available to them it is not the case in prisons in B&H.²⁶ Namely, according to the members of correctional officers internal classification is implemented only partially because of lack of basic conditions. Within the sections for women there are no possibilities for their separation in physically separated unites (according to internal classification criteria). Classifications exist only in the form of correctional treatment. All women, regardless of security risk they pose, stay together in same rooms (dormitories), recreational and working areas etc. Therefore, almost entire process of internal classification is reduced to limitation of usage of amenities out the institution (holiday, weekend, going out, etc.). At the time of research all prisoners in both prison were divided in four classification groups and in both prisons officer stated that only difference between those groups are amenities. The same housing, same treatment programs, same living conditions, same level of security, etc. are applied an all categories. One prisoner from focus group pointed out this problem by saying that she is imprisoned for drug related offence and that her roommate is imprisoned for murder and that both of them are at the same internal classification category.



Discrimination in risk assessment

These problems in B&H's prison system are exacerbated by the fact that security classification assessments assess 'needs' as risk factors, discriminating against women on the basis of their social and economic disadvantage. Namely, during the interviews all correctional officers in both prisons stated that risk assessment tools that are used for internal classification and reclassification in prisons for women are the same tools that are used for dominant male prison population.²⁷ Due to the specific nature of women usage of those tools present gender based discrimination based on which women are deprived and denied of certain rights. Risk assessment tools applied to women prisoners must be reviewed to ensure that women's vulnerability, including mental and physical disability, is not unjustifiably assessed as a security risk. Women must not be punished for their disadvantage.

Separation of female and male prisoners

Due to the separation of female and male prisoners UN Standard Minimum Rules for the Treatment of Prisoners (United Nations, 1955) in the article 8 proscribe that all men and women shall as far as possible be detained in separate institutions or in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate. Namely, Rule 8 of the UN Standard Minimum Rules for the Treatment of Prisoners is clear in requiring that men and women be imprisoned separately. However often, as a result of the lack of facilities for women's incarceration, women in many countries are imprisoned in places where men and women share facilities. While formally male and female prisoners are held separately, in practice they are not.

It is often the case that women prisoners that are held in a mixed prison (prison with men's and women's sections) have less access to education and work programs than the male prisoners in the same institution. In both prisons correctional officers stated that women have fewer possibilities to use exercise equipment and areas set aside for training and work. *'Whilst the provisions in the European Prison Rules present the possibility of offering these activities as mixed activities they are clear that such a policy can only be implemented with a number of important safeguards.'* (Quaker United Nations Office, 2008). Most interviewed prisoners stated that they have problems with their free time (lack of content) and that their access to work is limited in comparison to men in same prison. Furthermore, correctional officers in KPZ Tuzla pointed out that they have to find a way of sharing already limited work opportunities between imprisoned women and minors.

In KPZ Tuzla and KPZ Kula sections for women are physically separated from sections where men are held. Supervision of sections for women (inside living area) is conducted exclusively by female staff members. Most women in those prisons have a rather large degree of freedom in terms of their work and movement due to the fact that they mostly work within prisons capacity (such work in kitchen, laundry rooms, storages etc.) where they are not under surveillance of prison guards (security officers). Occasionally during their work they are controlled only by members of corrections service.

At KPZ Kula a lot of working places are outside prison (restaurant Kula and storages) where women are working unattended. But after returning from work women come to the living areas that are under supervision of female guard officers.

²⁷ Furthermore they pointed out that in prison system in B&H there is no unified tools for risk assessment of prisoners for internal classification. While external security classification of men prisoners is based upon length of sentence on which they are convicted every prison has different ways of assessing risk factors for internal classification.

²⁸ Namely, according to Law on execution of criminal Sanctions organization of inmates life and work in open type (minimum security) institutions is regulated by self-discipline and personal responsibility encouraged and controlled by treatment officers while semi-open institutions have physical security and prison guards secures order and controls movement of inmates.

We can conclude that women working in the areas unattended, especially working outside prison building, are subject of the regime that is characteristic for institutions that are classified as 'open type institutions'. That is a case only while they are working. Once they finish their work and they came back to living areas, recreational areas, cantinas and cafeterias etc. they are supervised by prison guard that is characteristic of the 'semi open type' of institution.²⁸ It indicates the inconsistency in external and internal classification that lead to uneven treatment and uneven possibilities for man and women prisoners in B&H's prison system. Also, this mixture of 'open' and 'semi open' treatment in one correctional facility (with previously determined security classification) is against various laws proscriptions and adversely affect correctional treatment of women. Those findings are also relevant for previously explored indicators 'inadequate classification of prisons (housing of women prisoners at a higher security level than one's classification) and a lack of classification of women prisoners within the prison'.

2.4. Supervision of women prisoners by women

UN Standard Minimum Rules for the Treatment of Prisoners (United Nations, 1955) in the article 53 proscribes:

- '(1) In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution.*
- (2) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.*
- (3) Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts set aside for women.'*

Imprisoned women all around the world are at risk of rape, sexual assault, torture or any other form of maltreatment. This is particularly case when male staff is employed in inappropriate capacities in women's prisons or sections of prisons. This problem is also recognized in the Report of the Special Rapporteur on violence against women of the mission to the United States of America on the issue of violence against women in state and federal prisons (E/CN.4/1999/68/Add.2, paras. 55, 58.) where is stated that: *'The presence of male corrections officers in housing units and elsewhere creates a situation in which sexual misconduct is more pervasive than if women are guarded by female officers.'*

Furthermore, the dependency of prisoners upon prison staff leads to increased vulnerability to sexual exploitation, as it pushes them to trade sex for favors. Prisoners who are abused or exploited by prison staff have little opportunity of escaping from their abuser. Those who file a complaint or take legal action are at risk of retaliation.

Regarding the presence of male officers in B&H's sections of prisons for women we determined that in those sections are present both male and female staff. The ratio of male and female staff in those sections is still in favor of male prison staff. Although all correctional officers are female, male staff is prevailing in security staff section (prison guard). Regarding the access of male members of staff to certain parts of the facility we established that there is no special regulation on this matter and that that question is left on the will of employees.



Attention should also be paid to arrangements for transport of women prisoners, as this is a time when they often come into contact with male staff and are vulnerable to abuse. Female prisoners should always be accompanied by a female staff member during transfers that in B&H's prisons is not always a case. According to the prison personnel due to the lack of female personnel women prisoners in most cases are not accompanied by a female officer when leaving facility for medical exam or other reasons. This practice is extremely inappropriate and has to be subject to immediate change.

2.5. Strip searching

Strip searching is one aspect of unnecessarily harsh security regimes. Women prisoners experience strip-searching in a discriminatory manner - the effect on women prisoners is disproportionately greater than the effect on men. There are various reasons for this that derive from specific nature of women. Therefore strip search should never be routine procedure, but it should be conducted exceptionally. Any decision to strip-search a woman should be taken on a case-by-case basis. No woman should be strip-searched unless, in the specific circumstances, it is reasonable and justifiable to do so. Strip-searching must never be used as a punishment.

In B&H's prison system searches of prisoners are conducted upon 'Basic training manual for prison staff no. 1 of Council of Europe' where is stated that strip search will be conducted when prisoner is admitted to the institution, before entering to the vehicle (for purpose of transportation out of the institution), before restraining with handcuff, after all visits, upon returning to the prison after any reason of absence and before disciplinary hearing²⁹. In entire manual there is not even one remark about special treatment of women prisoners during those procedures. During the interviews within focus groups, when asked about their experience with strip search, most prisoners stated that they feel powerless and that entire procedure is degrading. Some of them noted that strip searching is a price that they have to pay if they want to see their children or families and that due to that fact they are sometimes even reluctant to receive visits.

Furthermore, where a strip search is deemed justified, male members of staff should never be present. Male staff members should not conduct pat searches of women. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) Standards (CPT, 2002) specifies that: *'persons deprived of their liberty should only be searched by staff of the same gender and that any search which requires an inmate to undress should be conducted out of the sight of custodial staff of the opposite gender.'*³⁰ This provision is fully respected in B&H's prisons even though problem of a lack of sensitivity and education on this matter of female officers is revealed. During the interviews conducted with prison staff (from security sections primarily) it is determined that they have not received any form of training on specificity of strip search upon the women have suffered violent and/or sexual assault³¹ nor about sensitivity of women whose cultural and religious practices that emphasize modesty (that is largely present in B&H culture), and that strip search of those categories of women is conducted on usual way. By doing so, even not deliberately, prison officers violate a series of provisions of international rules that regulate treatment of prisoners. For example: European Prison Rules (European Union, 2006) in the article 54.3 states that: *'Staff shall be trained to carry out these searches in such a way as to detect and prevent any attempt to escape or to hide contraband, while at the same time respecting the dignity of those being searched*

²⁹ The individual is mandatory searched in the following cases:

- before entering the consignment vehicle, thereby eliminating the possibility that the vehicle enters the unauthorized item that could be used to attack and attempt to escape or self-harm, or abuse in any other way
- before handcuffing, thereby eliminating the possibility that person can keep unauthorized item that could be used to drive handcuffs or after removing handcuffs for assault on an officer or other person or inflict self-harm;
- After the visit, including a visit by a lawyer, consular officers or other persons, thereby eliminating the possibility of abuse of illicit items if it came into the individuals' possession during the visit. Proper search prevents introduction of prohibited items to the room in which the subject resides and generally to the institution
- Upon returning from any activity to the institution or the room in which he resides. Thus preventing individuals of importing illegal items to the premises;
- Before a disciplinary hearing in order to prevent that the searched individual disseminates unauthorized item to a room for questioning. Unauthorized item could be used for an attack, self-injury, taking of hostages or escape.

³⁰ The CPT Standards, CPT/Inf/E (2002) 1 - Rev. 2003, VII. Women deprived of their liberty, para 23.

³¹ Women prisoners, as a group, have a higher incidence as victims of previous sexual assault than the general community and then male prisoners. Research in Australia indicates that 89% of women prisoners had been sexually abused at some point in their lives, and 70-80% of women in prison were survivors of incest (Kilroy, 2001). Further, *'Significant numbers of these women were abused as children by people in a position of authority or trust'* (Sisters Inside Inc., 2004)

and their personal possessions.' (Emphasis added). Also UN Declaration on the Elimination of Violence against Women (United Nations, 1993) in the article 4(f) is stating: *'Develop, in a comprehensive way, preventive approaches and all those measures of a legal, political, administrative and cultural nature that promote the protection of women against any form of violence, and ensure that the re-victimization of women does not occur because of laws insensitive to gender considerations, enforcement practices or other interventions.'* etc.

Also, interviewed prisoners stress out the problem of searching the infants of mothers in prison and children visiting female prisoners. They stated that in most occasions they have given up receiving visits from their children due to the extreme anxiety caused by their searching. Therefore during the searching of personal belongings of infants and children (such as underwear, baby food, feeding bottles, diapers, etc.) care should be taken to cause minimal distress to the child and mother and to act in compliance with hygiene rules.

2.6. Family and social contact

Adequate contact with the outside world is an important component of strategies to reduce the harmful effects of imprisonment and assist with social reintegration of all offenders. One of the key elements of successful social reintegration has been identified as strong family ties and support from partners. Separation from families and children has a particularly detrimental effect on women. As previously mentioned women have primary responsibility for the family. Women prisoners are more likely than men prisoners to have been the sole or primary career for young children and other family members, such as older relatives, prior to imprisonment. They are likely to suffer particularly from separation and worry about the wellbeing of their family members and children. Unfortunately, since women prisoners are often housed at a long distance from their homes, due to the limited number of female prisons, they are likely to receive fewer visits from their families compared to their male counterparts.³² However, the special needs of women to have access to their families and children are rarely taken into account in regulations relating to prison visits.

³² The negative effects of such geographical isolation have been recognized by a Canadian court: in considering living conditions in the federal penitentiary for women in 1991, the court that incarcerating the defendant there would constitute cruel and unusual punishment because of its geographical distance from her home (Daniels, 1996)

The difficulty in maintaining contact causes both the woman and her family to suffer. It aggravates the damage to family ties caused by imprisonment and has a particularly harsh impact on young children. Research shows that lack of adequate contact with children and family members is a key source of anxiety for female prisoners. This dislocation of career relationships also makes a woman's reintegration into society after prison more difficult. Prisoners who maintain family ties while in prison display fewer disciplinary problems and have better physical and mental health while in prison, and have been shown to be more likely to reintegrate successfully into the community upon release and less likely to re-offend (Harrison, 2000)

Research of this indicator showed that in sections of prisons for women in B&H there are no policies regarding those issues and that provisions of ZIKS (that is not gender sensitive) are in use. Correctional officers stated that lack of family contact cause serious problems with resocialization of prisoners and that no social or any other type of help, in context of maintaining family contacts, is provided for socially vulnerable categories of women who are domiciled far from prison.

As it will be discussed later on (section 2.9.), this is particularly a problem with women prisoner who are foreign nationals and minority women.



Further problem present conditions during prison visits. Conditions in which visits are conducted are of great importance to maintaining social links and for preserving prisoners' self-respect. As previously discussed in section 2.2. 'Accommodation conditions in prisons for women' both prisons for women in B&H have equal conditions for visits for man and women prisoner that is pure example of statement that equity is not equality in prison system. Namely, in both prisons there are no special and children friendly adapted areas for visit. Interviewed prisoners stated that current environment for a visit is hostile in terms of the physical surroundings as well as staff attitudes. Prison personnel pointed out that they have never received any type of education or training for stress reduces for children when visiting. The entire situation is aggravated with the fact that children are being submitted to body search when visiting (according to 'Basic training manual for prison staff no. 1 of Council of Europe'). Children and their belongings should be searched with sensitivity that requires special training of staff on those issues. During research we established that there are not any types of programs and education of staff involved in visits of children that will sensibilised them on vulnerability of this category.

Furthermore there is a question of physical contact during visits, especially of mothers and children. Namely, it is considered good practice to allow for physical contact during visits and to resort to the physical separation of visitors only in exceptional situations. There should be no restrictions especially to physical contact between mothers and their children that is not always a case in B&H's prisons. Physical contact is generally forbidden and the contact of mothers with their children is allowed only exceptionally when it does not represent security and safety threat (that depends on the assessment of guards). Several prisoners during interviews stated that whether they will be allowed to have a physical contact with their children during visit depended only on a will of guards. They also said that those inconsistencies are frustrating and discriminatory.

2.7. Hygiene, healthcare and HIV/AIDS

Women in prison often have more health problems than male prisoners. As indicated before, many have chronic and complex health conditions resulting from lives of poverty, drug use, family violence, sexual assault, adolescent pregnancy, malnutrition and poor health care. Therefore female prisoners often have greater primary healthcare needs in comparison to men (WHO, 2007). Women's prisons require a gender-specific framework for health care that pays special attention to reproductive health, mental illness, substance use problems and physical and sexual abuse. Timely access to all services available for women outside prison should be available for women inside prison.

Women's specific health care needs in prisons in B&H are almost completely unmet. The prison environment does not take into account the specific needs of women, such as accessibility to regular showers (discussed in a section of accommodation), the greater need for personal care products due to menstruation, the need to make sanitary napkins and the like available free of charge and to dispose of them properly and adequate nutrition for pregnant women and for women with such diseases as HIV.

The greater need for personal care products (due to menstruation and other facts) are not recognized and existing programs deal with this issues only superficially. Every woman has right to certain amount of hygiene products regardless of their individual needs (this is especially

problem with sanitary napkins). This is a problem that most women in focus group indicated. Combining this fact with a fact that, according to their statements, most women do not receive help in form of hygiene supplies from outside of prison leave them in a very discriminatory position. Imprisoned women must have adequate and culturally appropriate sanitary and washing facilities, in particular for menstruation, if pregnant or nursing. Even though women must have a way to safely dispose of bloodstained articles, and they should be able to obtain new underwear as required most of them stated that it is not a case. The *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment) has observed that failure to provide such basic necessities as sanitary towels and tampons 'can amount, in itself, to degrading treatment'.³³ Taking into account determined state on those issues in both prisons we can conclude that treatment of women prisoners is discriminatory and degrading.

³³ The CPT Standards, CPT/Inf/E (2002) 1 - Rev. 2003, VII. Women deprived of their liberty, para. 31.

The problem is deepened with the lack of special healthcare programs concerning menstruation, menopause and women's sexual health. All interviewed members of prison staff stated that those questions are not discussed more than it is necessary to take care of certain problems that appear on this meter. Furthermore they stated that prison staff never had any form of education and training about menopause and often they are not aware of the intense stress that menopause may place upon a woman in prison.

³⁴ Women have a considerably higher risk of contracting HIV from sexual activity than men, and injecting drug users may contract HIV through sharing needles. Women arrested for drug-related offences or for prostitution are thus at high risk of already being infected with HIV when they enter the prison system. Further, the risk of HIV transmission is increased where a woman's genital tract is torn or bleeding during sex, such as when a woman is violently raped, or otherwise subjected to rough sex. A large proportion of women in prison have been victims of sexual abuse, which may have exposed them to a heightened risk of HIV infection. In many countries, many or most women in prison will not know their HIV status (Reyes, 2001)

The issue of HIV, hepatitis C and other sexually transmitted diseases (STD) is also resolved vaguely.³⁴ (Reyes, 2001) Namely, according to the statement of imprisoned women, most of them in the moment of entering to prison do not know if they are HIV positive or if they have hepatitis C or STD. Once they enter prison testing on those diseases is not offered to them. They are only asked about their medical condition and medical history (they can present documentation but only if they brought it) including those conditions without further testing. So, as a sanitary personnel stated it is often possible that women are infected and not treated at all. That also increases possibility of spreading the infection within prison.

In addition to previously discussed, women in prison have alarmingly high rates of mental health problems such as post-traumatic stress disorder, depression, anxiety, phobias, neurosis, self-mutilation and suicide. This is frequently a result of lifetime abuse and victimization. Research indicates that women in prison have mental health problems to a much higher degree than both the general population and male prisoners (Bastick, A commentary on the standard minimum rules for the treatment of prisoners, 2005). Whether a woman's mental ill health improves or worsens while imprisoned depends on several factors including the prison structure, the treatment options, including the availability of trauma-responsive programming and the facilities and services provided to women. Treatment offered in prisons in B&H for mental illness is medication, counseling, rehabilitation programs and specialist nursing for prisoners with mental health difficulties.

2.8. Gender sensitive education and training programs

To ensure equity and equality of women prisoners in its true sense it is vital to have educated and sensitized prison personnel on all levels. There are many reasons for this necessity and most of them are discussed through other variables and indicator. The important finding of



our research, that has to be stress out, is a complete lack of gender sensitive education and training programs for prison staff. Namely, though the series of variety of prison employees (correctional officers, guards, management, sanitary services workers, etc.) we tried to determine the existence of specific trainings and educations for prison employees on gender issues and we found out that no member of prison staff received any form of training or education on any type of gender issues (specific needs of women, healthcare, victimization, etc.). Basically, prison staff is shifted from section for women to section for man and even into section for minors on regular bases and they perform their duties on a same way wherever they are assigned to work.

The existence of specific rehabilitation programs based on gender differences of prisoners as well as existence of trainings and educations for prisoners based on their gender roles was the variables questioned in this research. One of the striking, though unsurprising, observations of our research is that the rehabilitation and treatment needs of some important groups of offenders are neglected, particularly women. A key task in considering the treatment and rehabilitation of women prisoners is the identification and assessment of their needs, both criminogenic and noncriminogenic. This identification should be done at both the population level and at the individual level. Both these aspects of identification require that we have in place a comprehensive assessment system capable of identifying areas of need. This system of assessment of needs of women as specific and different category of prisoners does not exist in any of B&H's prisons. *'All treatment and rehabilitation programs are created regardless of gender or age (minors) of a prisoner and the assessments of their needs is conducted equally.'* stated most of prison personnel.

The fact that interventions offered based on the uncritical assumption that the program needs of women prisoners are the same as those of men is a serious problem that can lead to inadequate rehabilitation programs.

2.9. Women who are foreign nationals and minority women

Foreign national women are also present in B&H's prison system and their treatment has to be in accordance with international standards that unfortunately currently is not a case. Namely, in KPZ Tuzla there is one woman with Canadian nationality, while in KPZ Kula there is not any. Even though the percentage is small their specific needs has to be taken care of especially bearing in mind their gender.

Foreign women in prison generally come from extremely impoverished backgrounds, are likely to be linguistically and culturally isolated in prison, and have difficulties negotiating an unfamiliar legal and penitentiary system. This is also case in B&H's prisons (sections) for women. Interviewed woman (Canadian nationality) stated that even she know language quite well since she is living in B&H for a quite long time in prison she had a difficult time to fit in.

Foreign women in B&H's prison routinely face more day-to-day difficulties. If their number enlarges current state in prisons will not be able to deal with this category of prisoners properly. Namely, even though *'The Seventh UN Congress on the Prevention of Crime and the Treatment of Offenders Annex II Recommendations on The Treatment of Foreign Prisoners'* (UN General Assembly, 1985) states that: *'Foreign prisoners should have the same access as national pris-*

oners to education, work and vocational training' foreign women prisoners in B&H are unable to access, or they are not offered, educational and other services in prison. Asked on possibility of educational or training program as well as legal help on foreign languages, wardens of both prisons stated that for women prisoners who speak different languages no educational programs are provided. The situation is exacerbated by the fact that even rehabilitation programs cannot be conducted due to the language barriers. In prisons KPZ Tuzla and KPZ Kula there is not even one program conducted to reduction of linguistically and cultural isolation. Imprisoned women of foreign nationality in B&H's prison system are left to their own.

The provision of the above mentioned document that states that: *'Foreign prisoners should be informed promptly after reception into prison, in a language which they understand and generally in writing, of the main features of the prison regime, including relevant rules and regulations.'* in prisons in B&H is also violated. In general, detected lack of models for assistance with unfamiliar legal and penitentiary system for imprisoned women of foreign nationality is discrimination upon various criteria.

Foreign prisoners also may struggle simply to subsist in prison. In many cases, prisoners rely upon family members to bring them food and necessary goods such as clothing, blankets, hygiene products and medicine (especially women due to previously discussed poor hygiene conditions in prisons). This problem should be treated within existing services such as Centers for social work. Ministry of justice of the entity can create cooperation agreement that will resolve those issues.

The geographical isolation of women's prisons may cause particular problems due to which family contact is a special issue for prisoners who are foreign nationals. In general, women imprisoned abroad rarely, if ever, receive family visits. The cost of sending letters or making long-distance phone calls is often prohibitive, and permitted call times may fail to take account of time differences. In B&H, women trying to stay in touch with relatives by post face lengthy delays, aggravated if prison censors take their letters away for translation. This makes maintaining family ties still harder, increases the likelihood of family break-up, and causes additional psychological and emotional suffering for the prisoner. Imprisoning a mother from another country may also devastate her family at home. In B&H's legal provision related to imprisonment there is no specific provision for female foreign national women with children, so if situation that women with baby should be imprisoned in prison in B&H we will face great difficulties.

All the above mentioned is related to problems that minority women imprisoned in B&H's prison system are facing. Even though, substantive solution would be a reexamination of prosecution and sentencing practices with regard to foreign nationals, particularly women with family responsibilities there are certain possibilities that, if not overcome, they will reduce those issues. Such solutions can be establishment of mechanisms for providing family contact via phone calls or letters on lower costs etc.



3. POLICY OPTIONS FOR ACHIEVING EQUITY AND EQUALITY OF WOMEN IN PRISON SYSTEM OF B&H:

3.1. Current policy option

This study comprised of series of in depth interviews with key stakeholders in both entities, focus groups with women prisoners and analysis of relevant provisions of the international documents and their implementation in the provisions of state and entities Laws on execution of criminal sanctions. Based upon a research we determined state of women prisoners in a prison system of B&H.

Unfortunately, we determined that current policy option on a state of women prisoners in B&H's prison system is non-existing one. The research confirmed all three hypotheses and with valid arguments we can state that:

- The prison environment in B&H's prison system does not take into account the specific needs of women prisoners.
- Deficiencies and gaps in recognition of specific needs of women prisoners in B&H's prison system lead to gender based discrimination and violation of their human rights (numerous CPT reports are warning on those issues).
- Deficiencies of treatment specifically tailored to the needs of women lead to inadequate re-socialization and reintegration.

By examining fifteen (see foot notes 13) variables and great number of their indicators we came to conclusion that two sections (departments) for the imprisonment of women in both entities in B&H are strictly designed for prevalent male population of prisoners. Namely, from questions of accommodation, livability, healthcare, hygiene, etc. it is evident that women prisoner in B&H serve their sentence in prisons that according to almost all criteria are discriminatory.

Housing of man and woman is equal, treatment programs are the same, classification (internal as well as external) criteria and risk assessment tools do not take into account specific need of women (they are equal to those used for man). Family and social contact is deprived due to the numerous factors, gender sensitive education and trainings for women prisoners do not exist, strip searches are routine, healthcare and conditions for maintenance of personal hygiene are same as in parts of prison for man. In almost all aspects of prison life, the fact that women are different and that they have special needs due to their biological determination, are neglected.

Standard gender neutral correctional procedures that are dominant in B&H's prison system, have also disadvantaged women in that such procedures do not take into account the histories of abuse of many female offenders and they withhold many of services and opportunities, accessible to male prisoners. The failure of B&H's prison system to address the underlying factors leading to offending behavior by women is reflected in the increasing rate of reoffending among women.

Recognition of the different or 'special' needs of women is thus called for. This would mean that women and men would receive differential treatment, as long as such treatment did not put women in a more negative position than the absence of such a standard.

3.2. Policy option I

Having in mind complexity of prison system in B&H it is evident that the present problem of gender neutral correctional procedures cause severe gender based discrimination. Therefore, based upon this research several policies options can be proposed.

A first policy option is to create a handbook on women and imprisonment in B&H that can be used by stakeholders, prison managers and prison personnel of all levels, as well as by policy-makers for improvement of state of incarcerated women in B&H. In long term, application of this handbook will lead to the creation of a common and unified gender sensitive correctional procedure in all prisons in B&H and ultimately contribute to a higher level of equity and equality of woman in a true sense.

This handbook s should contain resolution of all problems identified through this research as previously described in the section of problem definition.

The main focus of the handbook is woman prisoners and guidance on the components of a gender sensitive approach to prison management, taking into account the typical background of female prisoners and their special needs as women in prison. Therefore it should be used in conjunction with general prison management manuals and relevant international instruments covering the treatment of all prisoners.

The main international standards relating to the treatment of prisoners, such as the *United Nations Standard Minimum Rules for the Treatment of Prisoners*, the *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* and the *Basic Principles for the Treatment of Prisoners* should be applied to all prisoners without discrimination. However, practice has shown that, due to their small numbers, women prisoners are discriminated against in many ways and the rules included in these instruments cannot be applied in all cases, often for practical reasons. Therefore guidance that this handbook will offer is needed as to ways in which such discrimination can be reduced or eliminated by changing management practices and introducing measures that compensate for inadequate facilities and resources to address the special needs of female prisoners.

Through this handbook further issues should be brought to attention and resolved:

- Ensure that prison management and prison personnel is gender sensitive;
- Employ female prison staff in a key position in the sections of prisons for women. To protect women from any type of inconveniences it is necessary to create internal rule book which will proscribe that male staff should only have access to facilities where women are accommodated when supervised by a female member of staff. To protect women's privacy, male staff should not have access to bathroom areas, or perform roles where women might be seen undressed. Specialist staff, such as male medical staff and teachers should not be prevented from carrying out their duties, however, in line with rules and procedures set out in legislation and regulations and subject to adequate safeguards being in place to prevent any abuse. Further steps in achieving equity and equality in a true sense through supervision of women prisoners by women can be accomplished by improvement in trainings of staff. Namely, staff training must incorporate sensitization to the vulnerability of women prisoners to abuse, and the policies and procedures for



preventing and responding to it that currently is not a case in B&H's prisons for women. Furthermore all prison must have in place policies to prevent, investigate and provide for effective redress for any physical, sexual or psychological violence.

- Provide entire prison personnel with special training on the needs of women prisoners;
- Develop gender sensitive classification system and risk assessment tools. Those problems can be overcome by introducing classification methods and tools that address gender specific needs and circumstances. The gender sensitive risk assessment and classification of prisoners should take into account the very low risk most women prisoners pose to others (especially having in mind type of crime women prisoners in B&H are incarcerated for) and the particularly harmful effects high security measures and increased levels of isolation can have on them. Furthermore it is vital to enable essential information about women's backgrounds, such as violence they may have experienced, history of mental disabilities and drug abuse, as well as parental and other caring responsibilities to be taken into account in the allocation and sentence planning process. Also it is necessary to ensure that women's sentence plans include programs, which match their gender specific needs. An additional consideration at the time of the admission should be the careful noting of the number and personal details of the children of women being admitted to prison, which should include their names, ages and their location. This information will be valuable in assisting with contact between the mother and child if required, as well as in gathering data about the parental status of women in prison, with a view to increasing knowledge about the situation of female prisoners who are mothers and improving the suitability and effectiveness of criminal justice responses to female offenders, while taking account of the best interests of their children.;
- House all women prisoners in accommodation that is physically separated from accommodation that men occupies;
- In all occasion ensure that women prisoners are supervised by female prison staff;
- Consider eliminating body search of visitors, especially children by using alternative means of screening;
- Consider body searches of prisoners as exception rather than routine;
- Ensure that male personnel are never involved in body search and that they are not in a places where they can watch body search while conducted by female staff;
- Introduce specific programs that address underlying factors that lead to criminal offences in women;
- Introduce a gender specific framework for healthcare in sections for women in prisons;
- Within the healthcare programs emphasize reproductive and sexual health, mental health, treatments for substance abuse and counseling for victims of violence; Women should be offered free testing for HIV and other diseases, and counseling on testing provided. At the same time, prisoners should be protected from involuntary testing of their blood: there should be provision for the consent of the person tested and for confidentiality. Women going through the prison system, whether they have HIV or not, have a unique opportunity to receive education on HIV and other sexually transmitted diseases and this opportunity have to be used. It is vital to create programs of education (possibly in cooperation with NGO sector) on those issues since prison is probably the only place where those women can be educated about it.
- Ensure that specific hygiene needs of women are met properly (especially for women who are pregnant, breastfeeding and menstruating);
- For improvement in family and social contact take measures to compensate difficulties in undertaking family visits; Certain ways of neutralization of those problems can

contain further solutions: Encourage visits to female prisoners by assisting with transportation especially where visits to mothers are concerned; Extend the length of visits when families confront difficulties in visiting due to the long distances involved, lack of resources and transport; If it's by any mean possible provide overnight accommodation for families travelling a long way, for free; Ensure that visits with children are always open and special rooms are available that provide informal communication in a pleasant and comfortable environment; Staff should show understanding that children may be tired and restless during visits, especially if they have traveled long distances and have to wait for extended periods before they can see their mothers; It is good practice to provide play areas for visiting children that is a way of making the visit less intimidating for the child, while enabling parents to have some privacy; Never prohibit family visits as a disciplinary measure in response to rule breaking by female prisoners; Grant prison leave to the greatest extent possible taking into account risk factors and family circumstances related to the prisoner. And finally this gap can be overcome by development of cooperation with social services and NGOs that will assist with contact between women prisoners and their families.

- Provide children friendly environment for visit;
- Train staff to be sensitized for those type of visits;
- Ensure prison activities and programs that take into consideration specific needs of women;
- For foreign and minority women compensate for difficulties in family contact (longer visit, incising the number of phone calls etc.);
- Provide language course; Part of the solution for this problem is offered by British Chief Inspector of Prisons who has said that prisons that receive foreign national prisoners should carry out a needs analysis to identify which languages they speak and provide reception packs and/or language tapes in those languages. (Edgar, 2004)
- Develop cooperation with NGO sector.

Therefore, this handbook aims to assist legislators, policymakers, prison managers, staff and nongovernmental organizations to implement the resolutions and recommendations of the United Nations to address the gender-specific needs of women prisoners.

3.3. Policy option II

One of the aspects of this research was a review of variety of literature relevant for women in prisons worldwide, whilst different models of dealing with these issues were analyzed. This research identified 'enhancing alternative criminal sanctions for women' as well as 'addressing women pathways into criminal justice system' as a way of dealing with the problem of 'incarcerated women'.

Research of incarcerated women in B&H showed that the majority of these women do not need to be in prison at all. Most of them are charged with minor and nonviolent offences and do not pose a risk to the public. Many are imprisoned due to their poverty and inability to pay fines. A large proportion is in need of treatment for mental disabilities or substance addiction, rather than isolation from society. Many are victims themselves but are imprisoned due to discriminatory legislation and practices. Community sanctions and measures would serve the social reintegration requirements of a vast majority much more effectively than imprisonment.



Taking into consideration the most common offences which lead to women's imprisonment and the harmful effects of imprisonment on the social reintegration of a large majority of female offenders it is justify to puts forward some recommendations on enhancing alternative criminal sanctions for women.

So it is necessary to provide a wide range of options for prosecutors and courts, to divert women who have committed minor and nonviolent offences from prosecution. In B&H Laws on criminal procedure of state and entities (Criminal Procedure Code of B&H, 2010) (Criminal Procedure Code of RS, 2010) (Criminal Procedure Code of FB&H, 2010) offer variety of alternative criminal sanctions such as work for community service and home imprisonment with electronic surveillance. Unused potential also represent possibility of mediation that is regulated upon the Law of mediation procedure. (Law on Mediation Procedure, 2004). According to the article 4. of this Law: *'If before initiating court proceedings interested parties have not attempted to resolve the dispute by mediation, the judge overseeing the proceedings may, if assesses that the it appropriate, at the preliminary hearing, propose to the parties to attempt to solve the dispute by mediation.'*

Therefore it would be advisable not only to increase usage of existing alternatives to prison, but to develop gender sensitive alternatives to prison, taking into account the most common need of women offenders, such as counseling for victims of domestic violence.

Furthermore, gender can plays a critical role throughout the criminal justice process. A review of women's life circumstances and of the backgrounds of female offenders in the system makes clear that there are more effective ways to prevent and address women's criminality than are currently in use in B&H. Criminal justice practice could be improved by addressing women's pathways into the criminal justice system, their differences in offense patterns from the patterns of male offenders, their experiences in the criminal justice system, and their responses to programs.

This policy option covers some of the issues that stand out in relation to women's increasing imprisonment and measures that can reduce their rate of incarceration, when it does not serve the purposes of justice or social reintegration. By high lighting and drawing attention to some key issues, this policy option aims to generate further research and the development of policies and strategies to reduce the female prison population in different in B&H.³⁵

³⁵ In this context, readers may also wish to consult the UNODC Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment and the UNODC Handbook on Restorative Justice Programs for further practical guidance.

It is important to stress out that this policy option does not offer solution for remain women prison population considering that incarceration of women cannot be fully avoided with suggested programs.

3.4. Combining instead of comparison of policy options

Based upon comprehensive research three policy options were considered:

- A current policy option consists of the non-gender sensitive treatment of women in prison system in B&H;
- Policy option I is creation handbook on women and imprisonment in B&H;
- Policy option II assumes 'enhancing alternative criminal sanctions for women' as well as 'addressing women pathways into criminal justice system' as a way of dealing with the problem of 'incarcerated women'.

Comparing those three policy options in relation to criteria for improvement in position of women prisoners in order to successfully accommodate specific needs of women prisoners in B&H's prisons, effectiveness, cost efficiency and personnel necessary for their implementation we came to the conclusion that proper combination of policy option I and policy option II is the best solution for B&H context.

Adequate combination of those two policy options will serve as a guideline for action that is feasible and realistic in the short term (policy option I), but sustainable in a long term (policy option II) because it will produce lasting changes in the prison system. Also this will raise issues for further work in improving practices at the penitentiary level. Application recommendations in those two policy studies, in the longer term, can lead to reducing gender based discrimination in prison system of B&H beyond pure norm.

Namely, a handbook for women and imprisonment as a policy option I, aims to assist all relevant stakeholders to implement the resolutions and recommendations of the United Nations to address the gender-specific needs of women prisoners, while increasing awareness about the profile of female offenders and suggesting ways in which to reduce their unnecessary imprisonment, by rationalizing legislation and criminal justice policies, and providing a wide range of alternatives to prison at all stages of the criminal justice process are outputs of policy option II.

Therefore we strongly recommend combining usage of both policy options, but we should emphasize that each of those policy option is sustainable and enforceable by itself. For achieving equity and equality of women that had committed certain criminal offence and that are already imprisoned implementation of policy option II has to be considering as a top priority.



4. Conclusions and recommendations

Taking into account all previously explained issues this research proposes the following recommendations for the advancement of situation of women prisoners:

- Creation of a handbook for women and imprisonment in B&H's prison system;
- Enhancing alternative criminal sanctions for women in B&H's criminal justice system and
- Addressing women pathways into criminal justice system.

Handbook for women and imprisonment in B&H's prison system should resolve identified problems in the current position of women prisoners regarding:

- Accommodation conditions in prisons for women;
- Inadequate classification of prisons (housing of women prisoners at a higher security level than one's classification);
- Lack of classification of women prisoners within the prison;
- Discrimination in risk assessment;
- Separation of female and male prisoners;
- Supervision of women prisoners by women;
- Strip searching;
- Family and social contact;
- Hygiene, healthcare and HIV/AIDS;
- Gender sensitive education and training programs and
- Women who are foreign nationals and minority women.

The recommendations and guidelines proposed after this research will fill the gaps in current policy (almost non existing one) and increase the knowledge of relevant stakeholders in prison system of B&H. They will also serve as a guideline for action that is feasible and realistic in the short term, but sustainable because it will produce lasting changes in the prison system of B&H.

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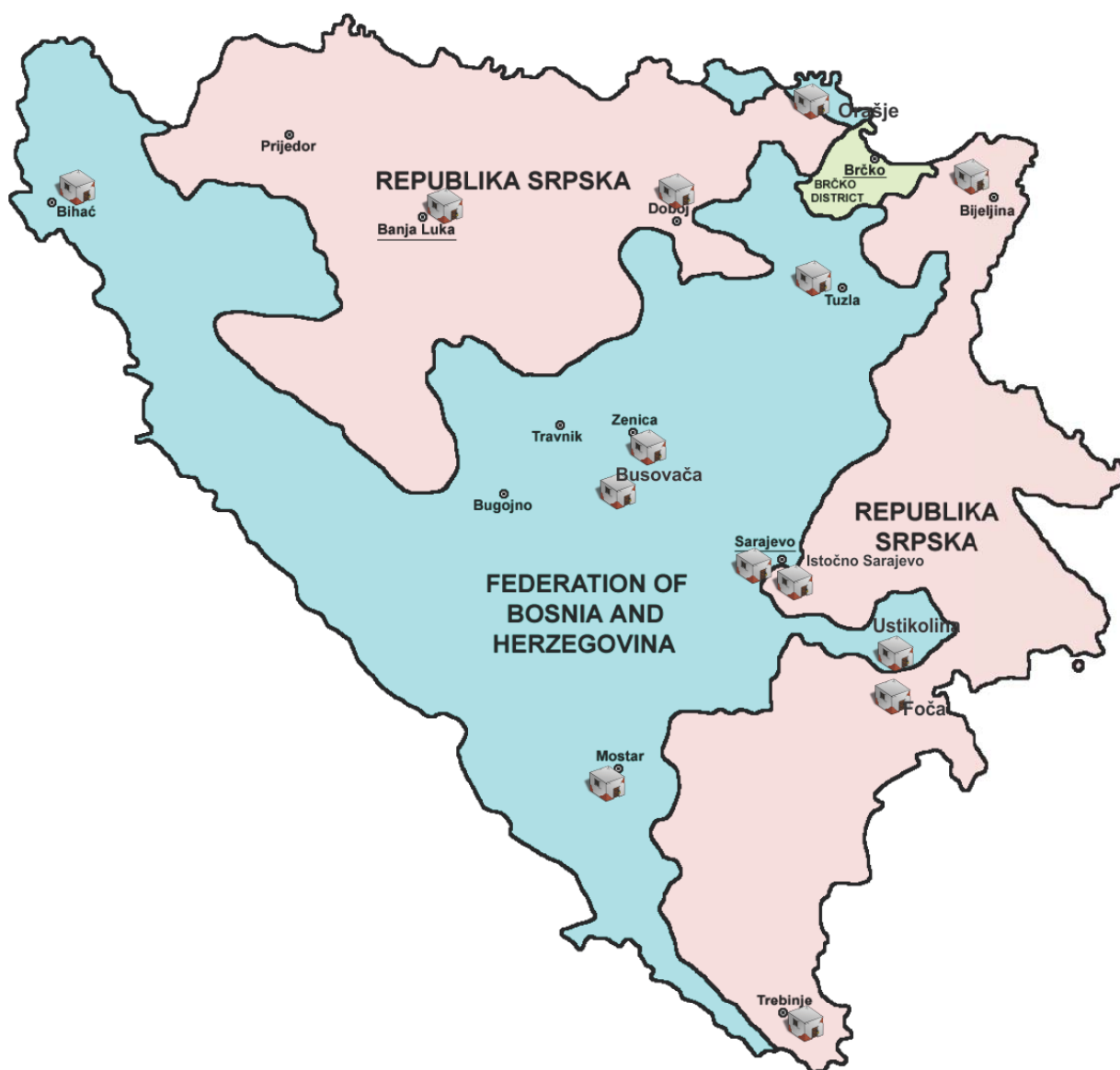
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APPENDIX I





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A "Policy Development Fellowship Program" has been launched by the Open Society Fund BiH in early 2004 with the aim to improve BiH policy research and dialogue and to contribute to the development of a sound policy-making culture based on informative and empirically grounded policy options. The program provides an opportunity for selected fellows to collaborate with the Open Society Fund in conducting policy research and writing a policy study with the support of mentors and trainers during the whole process. Ninety fellowships have been granted since the starting of the Program.