

Follow-Up Report

ON THE SITUATION IN CARE INSTITUTIONS FOR PERSONS WITH INTELLECTUAL
AND MENTAL DISABILITIES IN BOSNIA AND HERZEGOVINA



Banja Luka, April 2024





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The quality of a society's commitment to human rights is perhaps best measured by how it treats its most vulnerable members, particularly those who face substantial barriers to integration and participation due to intellectual and mental disabilities. This report, diligently prepared by the Human Rights Ombudspersons of Bosnia and Herzegovina (BiH), with the support of the United Nations Population Fund (UNFPA), provides a comprehensive analysis of the current state of care institutions that serve this important segment of our community. It highlights both the progress made and the challenges that persist in protecting the rights and ensuring the dignity of individuals with intellectual and mental disabilities.

The significance of this report cannot be overstated. Care institutions play a crucial role not just in providing basic needs but also in fostering conditions for personal autonomy, inclusion, and participation in societal life. The review reveals that while strides have been made towards improving institutional care, much work remains to align practices with the best international human rights standards. The findings detailed herein, based on rigorous monitoring and feedback from the institutions themselves, spotlight the urgent need for continued development and reform.

The longstanding partnership between the Ombudspersons institution in Bosnia and Herzegovina and UNFPA is a testament to their joint, unwavering commitment to strengthening human rights in BiH. Together, we have strived to enhance the lives of those affected by intellectual and mental disabilities through targeted interventions and systemic reforms. This report is not only a reflection of our joint beliefs but also a call to action for all stakeholders involved.

As we present this report, let us reaffirm our dedication to the principles of equality, respect, and human dignity. It is our collective responsibility to ensure that every individual, regardless of their mental or intellectual capacity, is given the opportunity to live a fulfilling life, free from discrimination and neglect. Let this document serve as both a benchmark for our current efforts and a blueprint for future actions to enhance the care and integration of persons with intellectual and mental disabilities into all aspects of Bosnian society.

We express our gratitude to all those who contributed to this report and to the ongoing efforts to improve the quality of life for persons with disabilities in BiH. It is through our shared commitment and continued collaboration that we can hope to achieve a society that upholds the dignity of every individual and provides the support necessary for each person to reach their full potential.

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SUMMARY

Disability, especially that which is related to intellectual and mental disorders, represents a challenge for both the individuals affected by it and society as a whole. Bosnia and Herzegovina, like many other countries, is facing the numerous challenges in providing quality care for people with intellectual and mental disabilities. This issue requires special attention and tailored approaches to ensure equality and respect for human rights and preserve the dignity of each individual.

International human rights standards, especially the Convention on the Rights of Persons with Disabilities, emphasize the need to enhance respect for and protect the human rights of all persons with disabilities, including the provision of various types of support. In order to achieve this task, it is important to ensure the monitoring of the exercise of the rights by persons with disabilities, which should be based on the principles of comprehensiveness, continuity and inclusivity, with consultations with persons with disabilities and all the entities involved in their care, especially with associations involved in the protection and promotion of their rights. Special attention should be given to persons with intellectual and mental disabilities accommodated in residential institutions, bearing in mind that a significant number of these persons were declared legally incompetent and that in many cases they do not participate in making decisions that concern their status. International human rights standards indicate the importance of personal autonomy and independence of persons with disabilities, including freedom of choice.

One of the rights related to social protection is placement in an appropriate social protection institution in order to provide the beneficiaries with housing, food, clothing, care, assistance, upbringing and education, training for income generating activities, work, cultural and entertainment, recreational and rehabilitation activities, health care and other services. Institutions that provide accommodation and support to the people with intellectual and mental disabilities

play an important role in ensuring their well-being, development and integration into the community. In order to ensure progress and provide as best care as possible, it is important to work permanently on strengthening these institutions, providing adequate training to employees, establishing clear guidelines and standards, and drawing closer to inclusive practices. Monitoring the situation in these institutions and submitting reports to competent authorities and the public represent a good starting point for undertaking activities aimed at improving their work.

In 2009 and 2018, the Ombudsmen of Bosnia and Herzegovina prepared reports on the situation in care institutions for persons with intellectual and mental disabilities and issued recommendations to the competent institutions. The *2009 Special Report on the Situation in Care Institutions for Mentally Disabled Persons in Development Ages in BiH* highlighted the problem of the lack of a clear definition of persons with intellectual and mental disabilities and the negative reflection on the enjoyment of rights for this category, which the Ombudsmen of BiH also reiterated in their *2018 Special Report on the State of the Rights of Persons with Intellectual and Mental Disabilities in Bosnia and Herzegovina*. As more than five years have passed since the last report, the Ombudsmen of Bosnia and Herzegovina decided to prepare the *Follow-Up Report on the Situation in Care Institutions for Persons with Intellectual and Mental Disabilities in Bosnia and Herzegovina*, appreciating that this is an objective period for revisiting the situation, with a special focus on the implementation of the recommendations. The aim of the Report is to quantitatively and qualitatively assess the situation in the field of institutional care for persons with intellectual and mental disabilities in Bosnia and Herzegovina and its compliance with international human rights standards, and based on the results of the research, make recommendations to improve the situation. The situational analysis was conducted on the basis of the responses of the institutional mechanisms on the implementation of the recommendations from the *2018 Special Report on the State of the Rights of Per-*

sons with Intellectual and Mental Disabilities in Bosnia and Herzegovina, the Ombudsmen's actions in response to complaints or by virtue of their office, preventive actions, visits to care institutions where people with intellectual and mental disabilities are accommodated, and the views of the Social Welfare Centers (SWC) and Mental Health Centers (MHC) as key institutions. The BiH Ombudsmen acted in the cases of persons with intellectual and mental disabilities based on received complaints or by virtue of their office. The complaints indicate several problems: the poor socioeconomic situation of the family where a person with intellectual and mental disabilities lives; lack of support; inadequacy of rights to needs; placement in an institution; deprivation of legal capacity, the appointment of guardians, etc.

In the Republika Srpska, the *Follow-Up Report* covers two health care institutions that provide long-term care for the people with mental health issues: Special Hospital for Chronic Psychiatry Modriča and the public health care institution Psychiatric Hospital Sokolac. A visit was also made to the care institutions for the persons with intellectual disabilities founded by the Government of the Republika Srpska: Home for Persons with Disabilities Višegrad and Home for Persons with Disabilities Prijedor.

In the BiH Federation, we visited the following Federation institutions: Institution for Social and Health Care Bakovići, Institution for Social Care, Health Care, Upbringing and Education Pazarić, and Institution for Social and Health Care Drin Fojnica.

In addition to the above-mentioned institutions, due to the specificity of the categories of beneficiaries they care for, the monitoring included two cantonal social care institutions, namely the Cantonal Public Institution Home for Social and Health Care of Persons with Disabilities and Other Persons Sarajevo and Home for Social and Health Care of Persons with Disabilities and Other Persons Stolac.

The Institute for Special Education and Upbringing of Children Mjedenica, as one of the most important educational institutions, is also analyzed in the report of the BiH Ombudsmen. Bearing in mind the importance of caring for and rehabilitating all categories of the population who are in social need, the Report also includes the Duje Reception Center as one of the largest projects of the Association, Humanitarian Organization International Forum of Solidarity - EMMAUS.

The Convention on the Rights of Persons with Disabilities was adopted as the umbrella international instrument that defines the rights of persons with disabilities and their protection, which, in terms of its legal force, is above national laws. On March 12, 2010, Bosnia and Herzegovina ratified the Convention on the Rights of Persons with Disabilities and the Optional Protocol (*Official Gazette of BiH - International Treaties*, No. 11/09). The Convention, as an international instrument, introduces a social model, instead of a medical model, of disability. Its key starting point is that the problems of people with disabilities arise from the limitations imposed by society. Furthermore, in order to ensure the implementation and monitoring of the Convention at the country level, the States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor the implementation of the present Convention. In the current practice, the States Parties mainly designated an institution for the protection and promotion of human rights as a national mechanism to monitor the implementation of the Convention. Bosnia and Herzegovina has not yet implemented the obligation to designate the

mechanism for monitoring the implementation of the Convention as defined in Article 33.

The implementation of obligations arising under international human rights standards for persons with disabilities includes the implementation of the 2030 Agenda for Sustainable Development and the Sustainable Development Goals, especially in conjunction with the Convention articles related to the rights of persons with disabilities, namely: Article 5 (Equality and non-discrimination), Article 9 (Accessibility) and Article 24 (Education); Article 27 (Work and Employment); Article 28 (Adequate Standard of Living and Social Protection); Article 31 (Statistics and Data Collection); and Article 32 (International Cooperation).

In relation to the implementation of the Convention on the Rights of Persons with Disabilities in Bosnia and Herzegovina, the Committee on the Rights of Persons with Disabilities expressed concern over the fact that the national legislation mainly maintains the concept of disability and the disability certification system that focuses on disability and is based on a medical approach to disability; there is a prevalence of derogatory language in reference to persons with disabilities in the laws; there is a lack of active involvement of organizations of persons with disabilities in making decisions and processes that affect their lives; there is a lack of or insufficient support, including financial support, for organizations of persons with disabilities, and there are no national action plans for the promotion and protection of persons with disabilities. Concern was also expressed about insufficient compliance of domestic laws with the Convention and uneven implementation of the Convention within the country itself (CRPD/C/BIH/CO/1).

In its Concluding Observations, the Committee recommends the State party to adopt disability definitions in domestic laws and systems for disability certification and assessment which are grounded in a human rights-based approach to disability; to eliminate all derogatory language from laws and statutes; to ensure that representative organizations of persons with disabilities are fully connected and meaningfully, trans-

parently and regularly consulted in the drafting, implementation and evaluation of laws, policies and action plans that have an impact on persons with disabilities, and provide sufficient and continuous financial resources for these purposes; to develop action plans for the implementation of the Convention with clear benchmarks, timelines and appropriate funding; to enhance harmonization of the legislation with the Convention and to ensure that the application of the Convention is extended to the entire territory of the State party (CRPD/C/BIH/CO/1).

In monitoring the exercise of the rights of persons with intellectual and mental disabilities, it is necessary to point out the constitutional powers in institutional actions. Given that the Report focuses on the situation in care institutions for this group of population, the primary focus is on economic, social and cultural rights. The complex set-up of Bosnia and Herzegovina, established in accordance with Annex IV to the Dayton Accords, has a significant impact on the exercise of the rights spelled out in the Constitution of Bosnia and Herzegovina. According to the provisions of Article III/3 of the Constitution of Bosnia and Herzegovina, social welfare and social protection are expressly assigned to the two entities and the Brčko District of Bosnia and Herzegovina, while in the BiH Federation, social protection is the joint responsibility of the BiH Federation and the cantons. The Ministry of Civil Affairs of Bosnia and Herzegovina has limited responsibility, namely, it is responsible for the performance of the tasks and duties assigned to Bosnia and Herzegovina and relating to: defining the basic principles of coordination of activities, harmonizing the plans of the entity authorities and defining strategies on an international level in the fields of health and social protection; pensions; science and education; work and employment; culture and sports.

During the preparation of this Report, the legislative measures undertaken were analyzed, which should contribute to the improvement of the status of persons with intellectual and mental disabilities. These measures include:

1. Amendments to the Law on the Prohibition of Discrimination (Official Gazette of BiH, Nos. 59/09 and 66/16), which establish a framework for the exercise of equal rights and opportunities for all persons in Bosnia and Herzegovina and regulate the system of protection against discrimination in such a way that disability is included as a ground of discrimination. The BiH Ombudsman is the central institution for protection against discrimination, responsible for handling complaints and undertaking activities on the promotion of human rights.

2. Adoption of the Decision of the FBiH Government on *the development of the Strategy for Advancement of the Rights and Status of Persons with Disabilities in the Federation of Bosnia and Herzegovina 2022-2027*.

3. Adoption of the *Strategy for Advancement of the Social Status of Persons with Disabilities in the Republika Srpska 2017-2026*.

4. The RS Government adopted the *Strategy for Mental Health Development in the Republika Srpska 2020-2030*. This Strategy aims to improve the existing and develop new ways of protecting mental health not only of individuals but also of society as a whole.

5. The RS Government adopted the *Social Protection Strategy of the Republika Srpska (2023-2029)*. One of its goals is to improve inspection in the field of social protection, to continuously ensure adequate accommodation capacities of the beneficiaries of the social protection institutions, to redefine the minimum requirements for the social protection institutions to begin to provide services and perform social protection activities and to establish a licensing system for the social protection institutions in order to increase the quality of services, etc.

6. The Draft Law on Mental Health Protection of the BiH Federation has been prepared and is currently in parliamentary procedure. This law regulates the protection of mental health at all three levels of health care (primary, secondary and tertiary), and for the first time clearly estab-

lishes the principles on which this system should be based and spells out a number of rights of persons with mental disabilities, which was not the case until now.

7. The *Law on Mental Health Protection (Official Gazette of the Republika Srpska, No. 67/20)* was adopted in the RS. It regulates the promotion of mental health, prevention and early detection of mental health disorders, rights and obligations in its protection and medical intervention for persons with mental disorders. This law also regulates the confidentiality of data from medical documentation and records of persons with mental health issues, social inclusion and life in the community, prohibitions in the protection of mental health and supervision and other issues of importance for the protection of mental health.

8. The *Law on Social Protection Institutions* was adopted in the FBiH (*Official Gazette of the BiH Federation, No. 64/22*).

9. The *Draft Law on Uniform Principles and Framework of Material Support for Persons with Disabilities in FBiH* was prepared. It provides the definitions of persons with disabilities and disability itself, uniform principles and an institutional model for assessing the degree of disability, a framework and a uniform approach in relation to material support for persons with disabilities.

10. The Governing Board of the Institute for Medical Expertise in FBiH adopted the *Rulebook on the Uniform Criteria and Rules of the Medical Expertise Procedure (Official Gazette of FBiH, No. 63/21)*, which regulates the uniform criteria and rules of the medical expertise procedure. The Rulebook contains a uniform List of Disabilities, which implemented the Recommendation of the BiH Ombudsmen to put the disability assessment back in the legal framework and to stop applying the Instructions based on the discretionary assessment of the Medical Commission.

11. The *Law on Parent Caregivers in the BiH Federation* was adopted in FBiH (*Official Gazette of*

the BiH Federation, No. 75/21), which also has implications for children with disabilities.

12. The appointment of the Council for Persons with Disabilities is in the process of being adopted by the Council of Ministers of Bosnia and Herzegovina, as requested by the recommendation of the Ombudsmen in the Special Report on the effectiveness of legal arrangements in the field of professional rehabilitation and employment of persons with disabilities in Bosnia and Herzegovina

13. In the FBiH, the *Law on Material Support for Families with Children* was adopted (*Official Gazette of the BiH Federation*, No. 52/22), which made a significant step forward in improving the status of families with children. The main goal of the Law is to provide children in the FBiH with approximately equal material conditions for healthy and proper psychophysical development in the family, and to ensure access to rights in the field of protection of families with children under equal conditions.

14. The *Family Law of the BiH Federation* and the *Law on Non-Contentious Proceedings of the BiH Federation* are in the process of being amended in order to implement the ruling of the European Court of Human Rights in the case of Hadžimejlić et al. v. Bosnia and Herzegovina, which established that the rights of persons who were deprived of legal capacity and placed in the social care institutions were violated.

15. In February 2020, the Federation Ministry of Labour and Social Welfare issued an *Instruction* with the aim of regulating the procedure and way of justifying the earmarked funds for beneficiaries who were granted funds based on fees for organizing games of chance. In this way, there is greater control over the use of funds intended for the associations' project activities.

16. The *Law on Amendments to the Law on the Human Rights Ombudsmen of Bosnia and Herzegovina* was adopted, creating a legal framework for the establishment of an independent preventive mechanism.

17. Bearing in mind the numerous challenges and problems faced by the people with disabilities in terms of accessibility, the Ombudsmen created a document in 2022 entitled *Guidelines for Improving Daily Communication with Persons with Disabilities*. Adjusting communication is one of the key ways to exercise the human right to freedom of expression.

The *Law on Social Protection Institutions of FBiH* regulates the activities and rights of beneficiaries of the services provided by social care institutions in FBiH, the basic and special standards regarding the performance of their prescribed activities and the protection of the rights of the beneficiaries placed in social protection institutions, governance, supervision and management bodies, financing, supervision of work and other issues of importance for the work and functioning of social care institutions of the FBiH. The BiH Ombudsmen note that after the adoption of the Law, visible progress has been achieved through action of the Federation Ministry of Labour and Social Welfare in the field of social protection, including the implementation of a significant number of recommendations that the Ombudsperson of BiH issued in 2018. The legal framework was further improved by the adoption of the Rulebook on minimum standards for the provision of social care services and social support in social care institutions in FBiH. This Rulebook regulates the standards that treat support and types of support for beneficiaries in institutions, general minimum standards of space and equipment, and standards of professional and other jobs. Bearing in mind that the Rulebook was adopted in December 2023, the BiH Ombudsmen will monitor its implementation. Efforts to create a legislative framework indicate a systematic, coordinated and comprehensive approach, but at the same time, the absence of action by other authorities whose actions are set out in law is evident. The failure of the Federation Ministry of Justice, the Federation Ministry of Health and the cantonal ministries of education to pass secondary legislation required by the Law within the legally set deadlines reduces the effect of passing the Law and makes it difficult for persons with intellectual disabilities

placed in social protection institutions to access the right to health care, education, etc. The procedure for appointing members of the Supervisory Board in accordance with the adopted Law has not yet been finalized. This is also confirmed by the Conclusion of the Government of the BiH Federation V. number: 854/2023 of 14 June 2023, which adopted the Information of the Federation Ministry of Labour and Social Welfare on the continuation of the work of management and supervisory boards of the Federation social protection institutions after the expiration of their mandates, until they are relieved of their duty or the new management and supervision bodies are appointed.

The ***Law on Social Protection of the Republika Srpska*** prescribes the procedure for placing a person in a social protection institution. The changes made in 2019 related to placement in an institution located outside the territory of the RS. Namely, the Center can place a person in an institution located outside of the RS territory if there is no institution within its territory that provides the necessary service, if the accommodation capacities in the institutions in the RS are full or if it is in the best interest of the person in need of accommodation. In such a case, the Center has to obtain prior consent of the Ministry of Health and Social Welfare. There were no changes in the rest of the Law.

The ***Law on Social Protection of the Brčko District of BiH*** regulates the principles of protection of older, infirm and other persons in social need, the minimum scope of the right to certain forms of social protection and the requirements for access to those rights, the principles of organization in the field of social protection and financing of this activity, as well as other issues of importance for access to social protection by the citizens of the BDBiH. Beneficiaries of social protection for the purpose of this law are the persons in social need. In their response to the recommendations of the BiH Ombudsmen, the BDBiH Government stated that the reasons why some recommendations have not yet been implemented may be due to politics - because they are not political imperative or in political focus -

so advocacy is needed, and it is not possible to set a time frame because the guardianship authority is not the only actor in the process, although it is an important link with a wide range of powers. This requires: training of officers in charge of guardianship cases on the work with persons with mental health issues and their families; systematization of positions under the jurisdiction of guardianship authorities; amendments to the Law on Public Administration.

There is still no single definition of ***disability*** in Bosnia and Herzegovina. Currently, various entity-level and cantonal laws define a person with a disability depending on the matter they regulate (laws in the field of social protection, health care, etc.). At the level of the BiH Federation, the Republika Srpska and the Brčko District of BiH, there is no database of persons with disabilities, with certain parameters based on which the exact number of persons with disabilities and their structure would be determined, while one of the obligations highlighted by the European Commission Report is to improve data collection, including data disaggregated by sex.

The laws on professional rehabilitation and employment of persons with disabilities in both entities have not yet been amended to implement the Ombudsmen's recommendations from the *Special Report on Experiences in the Application of the Laws on Professional Rehabilitation and Employment of Persons with Disabilities*. The Law has not yet been adopted in the BDBiH. Regarding beneficiaries, it can be concluded that the majority of persons placed in the institutions are those who are completely deprived of legal capacity (more than half of the beneficiaries placed in social care institutions), and that their guardians are in most cases professional workers of Social Welfare Centers (SWC). In most cases, those persons were deprived of legal capacity at the request of their relatives. The procedure of placement in a social care institution is generally initiated when relatives do not want or can no longer take care of the person deprived of legal capacity. The procedure can also be initiated at the request of the person being accommodated, or a relative, or ex officio. A crucial role in

this procedure is the field work of an expert team that collects social background data, talks with the person who is in the process of being accommodated in a social care institution, as well as with relatives, and explore the possibility of staying in the local community. A significant factor is the consent to accommodation that the person in the placement procedure gives or refuses to give during the hearing on the record. This is followed by the process of seeking consent from a social welfare institution, legal solutions, and arrangement of accommodation costs and care obligations. The ability of the maintenance obligors to participate in the coverage of accommodation costs is always examined. If the stated funds are not sufficient, the consent of the relevant Ministry of Labour and Social Welfare is sought that they will cover the difference, i.e. accommodation costs. After obtaining the consent of the Ministry, the search for an institution providing the best conditions for accepting the beneficiary begins.

It can be concluded from the responses provided by the Social Welfare Centers, that the deprivation of legal capacity is proposed in most cases by relatives who have an interest in having the person deprived of his or her legal capacity in order to exercise their rights in the field of social protection and acquire inheritance rights or the right to a family pension. In any case, before appointing a permanent guardian, it is necessary to determine the eligibility of certain persons to perform that role. Special care should be taken of the property of the ward, which, if any, is inventoried, and if it is immovable property, a notice of guardianship is entered with the competent authority for geodetic survey and property affairs.

Social Welfare Centers point out that professionals as appointed guardians very often have to postpone their regular jobs or scheduled meetings in order to be able to carry out their responsibilities as guardians and to reschedule their private and family obligations in order to do what the ward(s) need.

At the request of the guardianship authority, not a single non-contentious proceeding has been initiated before the competent court, and accord-

ingly, no decision has been made on the forced placement of the ward in a social care institution. During the period 2018-2022, not a single person whose guardian is a professional of the Social Welfare Center was moved out of a social protection institution.

The guardianship authority of the BDBiH states that the burden of "paperwork" and the handling of cases in the first instance leave little room for dedication to professional work, which requires the fulfillment of the responsibilities and duties of the guardianship authority. On several occasions, the guardianship authority was the proponent of amendments to the *Law on Public Administration of the Brčko District of BiH* in terms of understanding the policies of the BDBiH and the need to establish a social care institution - a social welfare center. However, the ultimate decision-makers ignored this need. The guardianship authority believes that it is necessary to make changes to the organizational plan - to systematize jobs, to assign clear tasks to employees, as is the practice in all other centers in BiH, e.g. accommodation; guardianship of minors/adults; divorces, custody and maintenance of personal relationships; domestic violence; family protection (comprehensive work with families in need of support, counseling, supervision, monitoring). Training programmes are needed for officers handling guardianship cases and in general, for the persons who work with the people with mental disorders and their families.

A very important segment refers to the classification, qualification and capacities of the staff in social welfare institutions. It is noticeable that the systematization has been significantly improved, and therefore, the number of employees has also increased. Managers of social welfare institutions are making additional efforts to change the educational and qualification structure, but the problem of inadequate expertise remains. It is a process of transformation that requires a long period of time. Regarding the staff, it is important to point out that it is still not enough to hire a qualified person, but a system of training and supervision should be estab-

lished because working with the beneficiaries of social welfare services requires continuous training. The Tables below provide the infor-

mation on the number of employees and accommodated beneficiaries by institution.

Name of institution: FBiH	Total number of employees	Number of beneficiaries
Institution Bakovići	168	338
Institution Pazarić	160	336
Institution Drin	249	490
Nahorevo Care Home	89	183
Institution Mjedenica	109	workshops 32; temporary accommodation 27; kindergarten 24; school 123
Stolac Care Home	64	155
Center Duje	268	459

Tabular presentation of the number of beneficiaries and employees in institutions in the BiH Federation territory

Name of institution /hospital: RS	Total number of employees	Number of beneficiaries /patients
Sokolac Hospital	122	131
Modriča Hospital	185	285
Prijedor Care Home	74	177
Višegrad care Home	90	190

Tabular presentation of the number of beneficiaries and employees in institutions in the Republika Srpska territory

The issue of health care and social protection is regulated differently in the BiH Federation and the Republika Srpska, which is also reflected in the status of institutions that care for people with intellectual and mental disabilities who require longer-term care, and which is often related to the economic and social status of their families. In the BiH Federation, care is provided exclusively in social care institutions, while in the Republika Srpska, this category is provided with care in health care institutions (special hospitals) and in social protection institutions. The issue of official mandates of the competent ministries has a number of implications, including the issue of the competent ministry's support to institutions and oversight of their work. The Ministry of Health and Social Welfare of the Re-

publika Srpska combines both health care and social protection, unlike the Federation Ministry of Labour and Social Welfare, which links labour to social protection as an economic category. This structure in the FBiH is arranged differently at the cantonal level in such a way that in some cantons it follows the Federation structure, and in others, the responsibility for social protection and health care falls under one ministry, and labour under another. The above indicates the need to review such a system of action in FBiH with the aim of integrating health care and social protection, given that international standards classify these two segments in the category of social rights, unlike labour right, which is considered an economic category. Social and economic rights are partly based on different prin-

principles, but also on the very method of financing. The role of the competent ministries is crucial for the efficient functioning of institutions that house people with intellectual and mental disabilities. Thus, in the Republika Srpska, the mode of operation and functioning of health care institutions is under the jurisdiction of the Ministry of Health and Social Protection. The Ombudsmen state that this Ministry is dedicated and agile in its work, especially when it comes to social care institutions. Better communication between the competent ministry and the care homes in Višegrad and Prijedor has been noticed. Employees often refer to the views of the Ministry regarding the greatest possible engagement and socialization of the beneficiaries. On the other hand, the Ministry's lack of agility is noticeable in relation to accommodation of persons staying in the Modriča Special Hospital, where the accommodation and living conditions are hardly tolerable. In this hospital, it is necessary to take measures so that the conditions are acceptable for the health condition of the patients and the medical treatment for which they are placed there. Currently, the conditions in which the patients live call into question the effectiveness of any medical treatment.

In general, the positive shift refers to the reduction of debt of those institutions, but significant investment and ensuring an adequate financing system are still necessary. Specifically, with the adoption of the Law on Social Care Institutions in the BiH Federation, the method of financing the institutions has changed. In the past, the institutions were financed almost exclusively with funds paid for the services and with the support from donors, while the new law stipulates that the institutions are partially financed from the FBiH budget in accordance with the Federation regulations on the allocation of public revenues. The Ombudsmen believe that it is necessary to consider the possibility of stable financing of the institutions through the treasury system of operations, because currently, the institutions generate more than 90% of their income from the services they provided, which is extremely risky business in the case of delay or non-payment of social care services. The above can also be related to the cantonal social care institutions, which

are financed from the cantonal budgets and accommodation fees, donations and other sources.

The issue of financing of the care institutions should be related to the work of professional staff in those institutions. It is known what occupational therapy includes and how many resources are needed for its implementation, and so, in addition to the human factor, additional material resources are also important. There is a noticeable shortage of health care personnel due to the trend of workers going to work abroad or to other health care institutions. One of the main reasons is low income, that is, low salaries in social protection in general.

The significance of the role of the centers for the protection of mental health (MHCs) has not yet been recognized in society, which is partly caused by the attitude towards medical institutions where people with intellectual and mental disabilities are hospitalized. Thus, the answers of the MHCs in the Republika Srpska indicate that the competent persons from the hospitals (discharge coordinators) do not establish specific cooperation with the care coordinators at the MHCs, which deprives them of information and access to the services provided by these centers. Most of the responses submitted by MHCs emphasize that no mobile teams have been formed to provide support and assistance to the beneficiaries who were previously hospitalized or placed in social institutions in taking daily therapy. The reason for this is the lack of medical staff. In order to improve the situation, the MHCs suggest the following:

- Continuous work on quality establishment and/or improvement of cooperation with other institutions and organizations related to the protection of mental health in the territory of the municipality/city.
- Increasing the number of teams in MHCs (regular work in MHCs, mobile team), primarily through the motivation of medical doctors to specialize in psychiatry and child and adolescent psychiatry in accordance with the assessment of the institution and MHC (team leaders). Speciality studies should be financially supported by the

competent ministry and/or founder of the institution (city) as an additional motivation for choosing a specialty.

- Establishment of a uniform way of working in hospital discharge planning, especially in the case of assessed complex discharges, during the hospital stay, with the active participation of the person with mental health issues and his or her family members/legal representative/person of trust, in designing an individual recovery plan.
- Continuity of destigmatization activities (media appearances by professionals in the field of mental health protection, but also by the people with experience of psychiatric diseases, i.e. beneficiary speakers).
- Promotional and preventive activities in the community.
- Designing and improving the existing standards and norms pertaining to internal organization of the MHCs (number and structure of employees) in order to harmonize them with the actual needs.
- Training of employees.

Summarizing the responses of the MHCs in the BiH Federation, we conclude that the staff meets daily with persons who, after completing treatment, were placed in social or health care institutions. The services of mobile teams that visit patients who need support or assistance in receiving daily therapy do not exist at every MHC, but procedures have been established for home and other visits. In practice, mobile teams are formed as needed or in emergency cases. Such visits are carried out in cooperation with the Social Welfare Center (SWC) or the family medicine service in order to ensure adequate care for patients by keeping records regularly and supervising regular receipt of therapy. There is a difference among MHCs in adopting and implementing special procedures for work with patients who were hospitalized or placed in social institutions. Namely, while some MHCs act according to the existing procedure, such as the procedure for forced hospitalization and dealing with patients in medical emergencies who require immediate admission for treatment in the psychiatric ward, others do not have such a special procedure in place, except that some apply

individual treatments to patients with a psychiatrist and a psychologist. In their work, MHCs pay special attention to the prevention of institutionalization and hospitalization of patients, as well as to readmission of persons discharged from hospital treatment in social care institutions to community settings. They also emphasize the necessity of professional training and regular exchange of information with the psychiatric ward. MHCs in the BiH Federation highlighted the following proposals for improving the situation:

- MHC teams fully staffed.
- Ensuring adequate equipment, space and resources for work, such as vehicles for mobile teams.
- Carrying out regular supervision.
- Financial support for beneficiaries to cover travel costs for visiting the MHC.
- Emphasis on the need to protect mental health of MHC staff.
- Increase in salaries of the MHC employees.
- Expansion of the early prevention system (kindergartens, schools) and promotion of mental health in all social aspects.
- Education in special areas, such as alcoholism and psychoactive substances and prevention of their abuse.

It is important to recognize that placement in an institution is not the only solution for people with intellectual and mental illnesses. Alternatives, such as community support, inclusive education and independent housing, need to be developed and supported to ensure that every person has the right to choose and the opportunity to fully participate in society. Recently, deinstitutionalization has been advocated more and more in Bosnia and Herzegovina, which is also an obligation under international standards. In order to achieve deinstitutionalization, it is necessary to create preconditions, such as mobilization of families and relatives of persons placed in institutions, as well as society as a whole. When talking about the mobilization of the family, it is necessary to take into account the circumstances, especially socioeconomic, in which the family

lives, but also the fact that the interest in maintaining contact is very low.

During the visit to certain institutions, the problem of readmission was emphasized, because it was recognized through a person's stay in a health institution that the person could continue an independent life in the family and community, but at that moment there is no cooperation with the family, and Social Welfare Centers and Mental Health Centers lack capacity for that.

In order to create an environment that will provide better living conditions and support for people with intellectual and mental disabilities in Bosnia and Herzegovina, it is necessary to establish a continuous dialogue, cooperation and engagement of all relevant institutions. Only joint efforts can bring about changes that will ensure the right of every individual to quality life, dignity and equality.

Following the visits and the analysis of the responses received, with this report, the Ombudsmen of Bosnia and Herzegovina issue recommendations to all competent authorities for the purpose of improving the status of persons with intellectual and mental disabilities, listed in Chapter IX - Recommendations.

I. INTRODUCTION

Human Rights Ombudsmen of Bosnia and Herzegovina (hereinafter: the BiH Ombudsmen) defined the monitoring of the exercise of the rights of vulnerable categories, i.e. persons with disabilities, as one of the priority areas of action in one segment of the execution of their proactive mandate. Special attention within this category is devoted to persons with intellectual and mental disabilities who are placed in social protection institutions. The Convention on the Rights of Persons with Disabilities (CRCD) defines that persons with disabilities, including persons with long-term physical, mental, intellectual or sensory disorders, which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others (Article 1).

International human rights standards, especially the Convention on the Rights of Persons with Disabilities, emphasize the need to promote and protect the human rights of all persons with disabilities, including those who need more support. In order to achieve this task, it is important to ensure the monitoring of the realization of the rights of persons with disabilities, which should be based on the principles of comprehensiveness, continuity and inclusivity, with the consultation with persons with disabilities and all entities involved in their care, including associations that work on protection and promotion of their rights. Special attention should be given to persons with intellectual and mental disabilities placed in institutions, because a significant number of these persons are often deprived of their legal capacity, and so, they do not participate in making decisions concerning their status. This is important because international human rights standards point to the importance of personal autonomy and independence of persons with disabilities, including freedom of choice.

1.1. Goal and purpose

The aim of research is to quantitatively and qualitatively assess the situation in the field of institutional care for persons with intellectual and mental disabilities in Bosnia and Herzegovina and the compliance of relevant laws and documents with international human rights standards, and based on the results of research, to make recommendations aimed at improving the situation.

1.2. Methodology

As the BiH Ombudsmen have previously prepared reports on the situation in institutions for the care of persons with intellectual and mental disabilities (the BiH Ombudsmen, 2009, 2018)¹ (hereinafter referred to as: institutions), the methodology used in the preparation of this Report is based on a comparison with findings from the previous reports. In this Report, legal terms are used as they currently read, as well as the terms that the institutions covered by this Report used in their statements. In their 2009 *Special Report on the Situation in Care Institutions for Mentally Disabled Persons in Development Ages in Bosnia and Herzegovina*, the BiH Ombudsmen underlined the problem of the lack of a clear definition of persons with intellectual and mental disabilities and its negative reflection on the enjoyment of rights by this category, which they reiterated in their 2018 *Special Report on the State of the Rights of Persons with Intellectual and Mental Disabilities in Bosnia and Herzegovina*. The presented legal provisions clearly

¹ Special Report on the Situation in Care Institutions for Mentally Disabled Persons in Development Ages in Bosnia and Herzegovina, September 2009, available at: https://www.ombudsmen.gov.ba/documents/obudsmen_doc201302040_1071133bos.pdf
Special Report on the State of Human Rights of the Persons with Intellectual and Mental Disabilities in Bosnia and Herzegovina, February 2018, available at:

https://www.ombudsmen.gov.ba/documents/obudsmen_doc2018051809032286bos.pdf

indicate that they are not in line with international standards.

In the first phase of the research, the focus was on the collection and analysis of relevant documents regulating the rights of persons with intellectual and mental disabilities, and on the establishment and functioning of institutions. The relevant documents cover the legal framework, which includes international human rights treaties ratified by Bosnia and Herzegovina, recommendations of the treaty monitoring bodies, the Constitutions (Constitution of Bosnia and Herzegovina, Constitution of the BiH Federation, Constitution of the Republika Srpska and Statute of the Brčko District of BiH), the relevant legislation, policies and strategies related to this issue. The assessment of the legislative framework should provide the information on whether the legal framework is the basis for quality and efficient care for persons with intellectual and mental disabilities and for ensuring the enjoyment of rights in the scope and manner defined by inter-

- a. Desk review of primary data and information, such as constitutions, laws, regulations, policies, strategies and research.
- b. Review of the secondary literature, including qualitative and quantitative information, such as reports and opinions and recommendations of international and regional mechanisms for the protection of human rights, including in particular the recommendations of the UN treaty monitoring bodies and the Universal Periodic Review (UPR), as well as research conducted by non-governmental organizations, the academic community and other stakeholders.

national human rights standards. In addition to the legal framework, the research also included the results of other research, primarily the research conducted by the Institution of Human Rights Ombudsmen of Bosnia and Herzegovina.

Qualitative and quantitative methods were used in the research, and the practical approach to the research is based on the collection of information and its analysis, which includes: review of relevant legislation and other documents; design of questionnaires for Social Welfare Centers and Mental Health Centers; visits to social protection institutions and health care institutions for long-term care of persons with mental disorders included in the research in order to assess the situation. This included visits to all buildings, all rooms, conducting interviews with the beneficiaries, patients and employees, and taking other necessary actions. The main working methods were as follows:

- c. Questionnaires submitted to institutional mechanisms in order to obtain the information on the implementation of the recommendations made by the BiH Ombudsmen in the 2018 Special Report, the information on the issue of placing people in institutions, on the performance of the work of guardians of people in and outside institutions, on the capacities of Social Welfare Centers, as well as the information on the frequency of work with the persons who were placed in social care or health care institutions, and after the completion of treatment, seek mental health services from the Centers;
- d. Visits to institutions and conducting interviews.

1.3. Structure of the Report

This Report was prepared on the basis of the conducted research and it consists of the following chapters:

1. Introduction
2. International standards and recommendations of the UN and UPR treaty bodies
3. Positions of international bodies regarding the application of international standards in Bosnia and Herzegovina
4. Legislative framework
5. Situational analysis
 - Acting according to the recommendations of the BiH Ombudsmen from the Special Report on the State of the Rights of Persons with Intellectual and Mental Disabilities
 - Activities related to protection and preventive action
 - Handling complaints
6. Care institutions for persons with intellectual and mental disabilities
7. Research on the role of other entities in the care for persons with intellectual and mental disabilities
8. Concluding observations - Institutions
9. General comments and recommendations

Due to the comprehensiveness of the analysis of the human rights of persons with intellectual and mental disabilities placed in institutions, the chapter that provides an overview of the situation in social protection and health care institutions includes: legal status, method of management and their financing, accommodation capacities and their occupancy, rights of persons placed in institutions (beneficiaries), social pro-

tection of beneficiaries (standard accommodation, nutrition, hygiene, occupational therapy, educational work, contacts with family, free time, excursions and other activities), health care (medication, specialist examinations, speech pathology treatment, physical therapy and multisensory therapy), education, accommodation prices and the structure of employees, transparency of work and spending.

1.4. Time frame

Further to their conclusion number: Oi-K-SA-418-1.7/23 of 19 May 2023, adopted at the IV regular session, the BiH Ombudsmen decided to proceed with the preparation of the Report. The drafting process went through several stages: the preparatory stage for the selection of the research methodology, a list of sources of information was created and a clear research plan was defined. In the information gathering phase, based on the methodology and assessment plan, relevant legislation, reports, analyzes and other quantitative and qualitative data were collected and reviewed. As part of the report preparation phase, the collected information, including the

relevant legislation, and the findings of questionnaires were analyzed, visits were made to institutions and interviews were conducted with the beneficiaries and staff, with a comparison with the findings from the previous reports, and recommendations were made on the basis of the results of the above activities.

II. INTERNATIONAL STANDARDS AND RECOMMENDATIONS OF THE UN AND UPR TREATY BODIES

The issue of the rights of persons with disabilities is regulated by a series of international and regional documents that serve as guidelines and a framework for the protection of their rights and the promotion of inclusiveness. Thus, at the level of the United Nations (UN), access to, and protection of, the rights of persons with disabilities are defined in the Convention on the Rights of Persons with Disabilities (**CRPD**) and also by: the International Covenant on Economic, Social and Cultural Rights (**ICESCR**); the International Covenant on Civil and Political Rights (**ICCPR**); the International Convention on the Elimination of All Forms of Racial Discrimination (**CERD**); the Convention on the Elimination of All Forms of Discrimination Against Women (**CEDAW**); Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (**CAT**); the Convention on the Rights of the Child (**CRC**); and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (**CMW**). The international documents that protect human rights start from the basic principle that every human being has inherent, equal, inalienable and universal rights that spring from dignity of all human beings. Bosnia and Herzegovina ratified all these instruments and they have constitutional force as they are an integral part of the Constitution of Bosnia and Herzegovina (Annex I – Additional Human Rights Agreements).

According to these legal instruments, States Parties undertake to ensure the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake, inter alia: to adopt all appropriate legislative, administrative and other measures; to take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise; to undertake or promote research and development to meet the specific needs of a per-

son with disabilities; to provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services, equipment and facilities; and to promote the training of professionals and staff working with people with disabilities in the rights recognized in the Convention. With regard to economic, social and cultural rights, each State Party undertakes to take measures with to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations that are immediately applicable according to international law.

Advocates of rights in the field of social protection can refer to these legal instruments and seek judicial protection of these rights given the fact that these instruments are legally binding, and they can seek judicial protection of these rights. In the event that several international instruments define or protect the same rights, the individual has the right to protection under all existing (adopted) instruments and provisions of agreements that protect the individual in the best way, i.e. under the instrument that ensures the highest degree of protection. The list of economic and social rights according to international standards is very long, but in order to understand the dimensions of the obligation of the State Party to ensure the rights of persons with mental disabilities, we will list only some of the social rights whose enjoyment was in the BiH Ombudsmen's focus during their visits to the various institutions:

– Every person has economic, social and cultural rights that enable dignity, freedom and individual development (UNDHR 22; CEDAW 11:1 e; CERD 5e; CRC 27).

- Every person has the right to an adequate standard of living, including food, clothing, housing and health care (ICESCR 11; CEDAW 14h; CERD 5e, III, CRC 27:1).
- Parents have the primary responsibility to ensure that their child has an adequate standard of living, and the state has a duty to provide assistance because it is responsible for the realization of this right (CRC 27:2,3).
- Every person has the right to social security (UNDHR 22; ICESCR 9; CEDAW 11:1 e, 14C, 13a; CERD 5e, iv; CRC 26).
- Every person has the right to social services and security in case of illness, old age or other circumstances, including the child (UNDHR 25; CEDAW 11:2 c; CERD 5e, iv; CRC 18:2,3).

The Convention on the Rights of Persons with Disabilities was adopted as an umbrella international instrument which defines the rights of persons with disabilities and their protection. In terms of its legal force, the Convention takes precedence over national law. As an international instrument, the CRPD introduces a social model instead of a medical model of disability, the key premise of which is that the problems faced by the persons with disabilities arise from the limitations imposed on them by society.

The basic principles on which the Convention rests are the principle of non-discrimination, the full and effective participation and inclusion in society, respect for differences and acceptance of persons with disabilities as part of human diversity and humanity, equality of opportunity, and accessibility (Article 3).

The recognition of legal capacity is closely related to the enjoyment of many other human rights provided for in the Convention, including but not limited to, the right of access to justice (Article 13), the right to freedom from involuntary placement in mental health institutions and freedom from involuntary treatment of mental illness (Article 14), the right to the protection of a person's physical and mental integrity (Article 17), the right to freedom of movement and nationality (Article 18), the right to choose where and with whom to live (Article 19), the right to

freedom of expression (Article 21), the right to marry and start a family (Article 23), the right to consent to medical treatment (Article 25) and the right to vote and to be elected (Article 29). Without recognizing the person as a person before the law, the realization and implementation of these and many other rights provided for in the Convention is significantly threatened.

The Convention indicates that the States Parties recognize the importance of access to the physical, social, economic and cultural environment, including education, with a special focus on inclusive education (Article 24), health care, habilitation and rehabilitation (Articles 25 and 26), employment (Article 27), adequate standard of living and social protection (Article 28), and guarantees the enjoyment of civil and political rights and fundamental freedoms. Ensuring the accessibility of those rights is key to the enjoyment of these rights by persons with disabilities, which is the reason why the CRPD gives special attention to this factor when defining individual rights.

In order to ensure the implementation and monitoring of the Convention at the national level, the CRPD prescribes that States Parties, in accordance with their system of organization, will designate one or more focal points within government for matters relating to the implementation of the Convention, and will give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels. Also, States Parties will, in accordance with their legal and administrative systems, establish, maintain and strengthen a framework at the national level, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the Convention. When designating or establishing such a mechanism, States Parties will take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights (Article 33). In the current practice, States Parties have in most cases designated a state institution for protection and promotion of human rights as

a national mechanism for monitoring the implementation of the Convention. Bosnia and Herzegovina, however, has not yet implemented the obligation from Article 33 of the CRPD and has not designated a mechanism for monitoring the implementation of the Convention.

2.1. Regional standards (Council of Europe)

The **Revised European Social Charter** (BiH ratified it in 2008) guarantees the social rights that improve the standard of living and social protection of all residents of a country, without discrimination on any grounds. The Charter also improved the scope and content of the rights provided by the European Convention on Human Rights and Fundamental Freedoms, with a special focus on their economic and social dimensions. States Parties to the Charter are obliged under Article 31 to ensure that their citizens have the right to: housing, health, education, employment, legal and social protection, freedom of movement and non-discrimination. The right of persons with disabilities to independence, social integration and participation in the living community is particularly highlighted in Article 15 of the Charter. In this way, the specific status of persons with disabilities is emphasized. In the context of persons with disabilities, it should be pointed out that Bosnia and Herzegovina has not ratified Article 15.

The **Council of Europe Disability Strategy 2017-2023** sets out the priority areas of the Council of Europe in this area, gives guidance for action and inspires member States and other stakeholders on activities and measures to ensure implementation of priorities at national and local levels. The Strategy sets out the commitment of the Council of Europe and its member States to make the rights (civil, political, economic, social and cultural) a reality for all persons with disabilities, regardless of their disorders. The Council of Europe bodies, Member States and other relevant stakeholders should strive to promote equality and non-discrimination of all persons with disabilities, in particular through

an inclusive education system and the development of training, communication and employment initiatives. Therefore, the main strategic goal of this document is to ensure an equal status and the full participation of persons with disabilities in all spheres of social life through the improvement of the legal, institutional, social and economic framework for the protection against discrimination on the model of the human rights-based approach to disability.

2.2. Positions of the Committee on the Rights of Persons with Disabilities

In order to understand the provisions of the CRPD and ensure their effective implementation in the member States, the Committee on the Rights of Persons with Disabilities issued a series of general comments (authentic interpretation) explaining in more detail certain provisions of the Convention.² This section provides a brief overview of key general comments that should be taken into account when designing policies, including the adoption of laws related to persons with disabilities.

General Comment No. 1 on Article 12 of the Convention refers to **equal recognition before the law**, which is a basic general principle of human rights protection and is indispensable for the exercise of other human rights. States Parties should refrain from any action that deprives persons with disabilities of the right to equal recognition before the law and take appropriate measures to prevent other actors from interfering with the ability of persons with disabilities to realize and enjoy their human rights, including the right to legal capacity.

General Comment No. 2 on Article 9 of the Convention refers to **accessibility** as a basic pre-

² The general comments serve to facilitate the practical implementation of specific human rights and form a set of criteria for evaluating the progress of states in the implementation of these rights. These comments cover the interpretation of the provisions of the specific right from the agreement, as well as their linkages with other rights from the same agreement and the rights from other agreements.

condition for persons with disabilities to live independently and participate fully and equally in society. Without access to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, persons with disabilities would not have equal opportunities for participation in their respective societies. According to this general comment, the States Parties should adopt action plans and strategies to identify existing barriers, set time frames with specific deadlines and provide both the human and material resources necessary to remove the barriers. Once adopted, such action plans and strategies should be strictly implemented.

General comment No. 3 on women and girls with disabilities reflects an interpretation of Article 6 of the Convention that is premised on the general principles outlined in Article 3 of the Convention. Article 6 of the CRPD recognizes that **women with disabilities** are subject to multiple discrimination and requires that States Parties take measures to ensure the full and equal enjoyment by women with disabilities of all human rights and fundamental freedoms. ...This general comment reminds that States Parties must adopt a twin-track approach by: (a) systematically mainstreaming the interests and rights of women and girls with disabilities in all national action plans, strategies and policies concerning women, childhood and disability, as well as in sectoral plans concerning gender equality, health, violence, education, political participation, employment, access to justice and social protection; and (b) taking targeted and monitored action aimed specifically at women with disabilities.

General Comment No. 4 on the right to inclusive education is an interpretation of Article 24 of the Convention, according to which education should be inclusive at all levels, including preschool, primary, secondary and higher education. The basic characteristics of inclusive education include: recognition that everyone has the ability to learn; adaptability to meet each person's needs and help them reach their full poten-

tial; training and support for teachers and staff to have the right attitudes and skills; equal welcome to all students; building a safe, positive learning-friendly environment; development of students' confidence to enable them to move on to further education, training or work; development of partnerships with the wider community, including parents, teachers, students and organizations of persons with disabilities; close monitoring of progress in inclusive education, with the support of organizations of persons with disabilities and parents/guardians, when necessary. Only inclusive education can provide quality education and social development of persons with disabilities (OHCHR Study, 2013).

General Comment No. 5 in relation to Article 19 of the Convention recognizes the **equal right of persons with disabilities to live independently and be included in the community**, with the freedom to choose and control their lives. The systemic realization of the right to independent living in the community requires structural changes. In particular, this applies to deinstitutionalization in all its forms. It also entails the obligation to release all individuals who are confined against their will in mental health services or other disability-specific forms of deprivation of liberty. General Comment No. 4 foresees the duty to protect, which requires States Parties to take measures to prevent family members and third parties from directly or indirectly interfering with the enjoyment of the right to live independently and to be included in the community. Support should always be based on individual requirements, not on the interests of the service provider. State Parties should establish a mechanism for monitoring service providers, adopt measures which protect persons with disabilities from being hidden in the family or isolated in institutions and children from being abandoned or institutionalized on the grounds of disability, and establish appropriate mechanisms to detect situations of violence against persons with disabilities. States Parties should also prohibit directors and/or managers of residential institutions from becoming guardians of residents and empower family members to support persons with disabilities to realize their right to live inde-

pendently and be included in the community. Deinstitutionalization requires a systemic transformation, which includes the elimination of institutionalizing regulations as part of a comprehensive strategy, along with the establishment of a range of individualized support services, including individualized plans for transition with budgets and time frames, as well as inclusive support programmes. Therefore, a coordinated cross-government approach which ensures reforms, budgets and appropriate changes of attitude at all levels of government, including local authorities, is required.

The General Comment defines the obligations of States parties to guarantee the full implementation of Article 19 of the Convention:

- Repeal all laws that prevent any person with disabilities, regardless of the type of disorder, to choose where and with whom and how to live, including the right not to be confined on the basis of any kind of disability;
- Enact and enforce laws, norms and other measures with the purpose of making local communities and the environment, as well as information and communication, accessible to all persons with disabilities;
- Ensure that social protection programmes meet the requirements of the diverse range of persons with disabilities on an equal basis with others;
- Insert the principle of universal design for both physical and virtual space in policies, law, standards and other measures, including monitoring the realization/implementation of obligations;
- Provide all persons with disabilities with substantive and procedural rights to live independently within the community;
- Inform persons with disabilities about their right to live independently and be included in the community in ways they can understand and provide empowerment training with the aim of supporting persons with disabilities to learn how to enforce their rights;
- Adopt clear and targeted strategies for deinstitutionalization, with specific time frames and adequate budgets, in order to eliminate all forms of isolation, segregation and institutionalization

of persons with disabilities; special attention should be paid to persons with psychosocial and/or intellectual disabilities and children with developmental disabilities currently in institutions;

General Comment No. 6 refers to Article 5 of the CRPD, which clarifies the obligations of States parties regarding **non-discrimination and equality**. The effective realization of the right to equality and non-discrimination requires the adoption of a series of implementing measures.

General Comment No. 7 refers to the **participation of persons with disabilities**, including children with developmental disabilities, through organizations of persons with disabilities, in the implementation and monitoring of the Convention. With these comments, the Committee interpreted the provisions of Article 4, paragraph 3 of the Convention, as well as the provisions of Article 33, paragraph 3, for the purpose of proper and full implementation of the Convention, emphasizing the importance of ensuring the participation of organizations of persons with disabilities in the process of implementation of the obligations under the Convention.

When establishing the rights of persons with disabilities, regardless of disability type, the Member State, in accordance with the CRPD, is obliged to: harmonize domestic legislation with the Convention; adopt national plans and development strategies on the rights of persons with disabilities; give Constitutional recognition to the rights of persons with disabilities; establish councils at the municipal level on the rights of persons with disabilities; include disability as a prohibited ground of discrimination in anti-discrimination frameworks; adopt national plans for the empowerment of women with disabilities; adopt measures to improve accessibility; amend laws to abolish guardianship; establish national plans to prevent neglect, abuse and ill-treatment of persons with disabilities; officially recognize sign language; implement inclusive education strategies; take affirmative actions to

promote employment for persons with disabilities; ensure that disability allowances are not affected as a result of austerity measures; ratify the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled; and ratify the Optional Protocol to the Convention (A/72/55).

2.2.1. Institutionalization

The CRPD Committee expressed concern about the persistent institutionalization of persons with disabilities, including by dint of budget allocations and the lack of or insufficient support services, including personal assistance, for persons with disabilities in their communities. The CRPD Committee recommended that Member States establish, in close consultation with organizations of persons with disabilities, national strategies and frameworks, with clear time frames, budget allocations, indicators and benchmarks to promote independent living schemes that respect the autonomy, self-determination and freedom of choice of persons with disabilities and ensure that accessible and inclusive support services, including personal assistance, are provided in local communities.³

³ *Ibidem*, p.10.

2.2.2. Liberty and security of the person

Freedom and security of the person is one of the most precious rights of every human being, in particular of persons with disabilities, and above all, of persons with intellectual disorders and psychosocial disabilities, in accordance with Article 14 of the Convention.

The CRPD Committee adopted Guidelines on the Right to Liberty and Security of Persons with Disabilities (hereinafter: Guidelines), where the Committee stated that the absolute ban of deprivation of liberty on the basis of actual or perceived disorder has strong links with Article 12 of the Convention on equal recognition before the law. In its General Comment No. 1 on equal recognition before the law, the CRPD Committee has clarified that States parties should refrain from the practice of denying legal capacity of persons with disabilities and detaining them in institutions against their will, either without their free and informed consent or with the consent of a substitute decision-maker, as this practice constitutes arbitrary deprivation of liberty and violates Articles 12 and 14 of the Convention (paragraph 40).

Enjoyment of the right to liberty and security of the person is central to the implementation of Article 19 on the right to live independently and be included in the community. The CRPD Committee has stressed this relationship with Article 19. It has expressed its concern about the institutionalization of persons with disabilities and the lack of support services in the community, and it has recommended implementing support services and effective deinstitutionalization strategies in consultation with organizations of persons with disabilities. In addition, it has called for the allocation of more financial resources to ensure sufficient community-based services (Guidelines, paragraphs 8 and 9).

2.2.3. Involuntary or non-consensual commitment regarding mental health institutions

Involuntary commitment of persons with disabilities on health care grounds contradicts the absolute ban on deprivation of liberty on the basis of impairments (article 14(1)) and the principle of free and informed consent for health care. The CRPD Committee has repeatedly stated that States parties should repeal provisions which allow for involuntary commitment of persons with disabilities in mental health institutions based on actual or perceived impairments. Involuntary commitment in mental health facilities carries with it the denial of the person's legal capacity to decide about care, treatment, and admission to a hospital or institution, and therefore violates article 12 in conjunction with article 14.

The CRPD Committee has emphasized that States parties should ensure that the provision of health services, including mental health services, are based on free and informed consent of the person concerned. In its General Comment No. 1, the Committee stated that States parties have an obligation to require all health and medical professionals (including psychiatric professionals) to obtain the free and informed consent of the persons with disabilities prior to any treatment. The Committee stated that in conjunction with the right to legal capacity on an equal basis with others, States parties have an obligation not to permit substitute decision-makers to provide consent on behalf of the persons with disabilities.

All health and medical personnel should ensure appropriate consultation that directly engages the person with disabilities. They should also ensure, to the best of their ability, that assistants or support persons do not substitute or have undue influence over the decisions of persons with disabilities (paragraph 37).

The CRPD Committee has called on States parties to protect the security and personal integrity of

persons with disabilities who are deprived of their liberty, including by eliminating the use of forced treatment, seclusion and various methods of restraint in medical facilities, including physical, chemical and mechanic restrains.

The CRPD Committee has paid special attention in the Guidelines to the issue of restrictions on liberty of persons with disabilities the basis of perceived danger of persons to themselves or to others. The involuntary detention of persons with disabilities based on risk or dangerousness, alleged need of care or treatment or other reasons tied to impairment or health diagnosis, such as severity of impairment or for the purpose of observation, is contrary to the right to liberty and amounts to arbitrary deprivation of liberty and is contrary to article 14 of the Convention. In this regard, persons with intellectual or psychosocial impairments are frequently considered dangerous to themselves and to others when they do not consent to or resist medical or therapeutic treatment. Legal systems based on the rule of law have criminal and other laws in place to deal with violations of those obligations. In its General Comment No. 1, the Committee stated that decisions about medical and psychiatric treatment must be based on a determination of the person's autonomy, will and preferences (paragraphs 21 and 42 of the Comment). Deprivation of liberty on the basis of actual or perceived impairment or health conditions in mental health institutions which deprives persons with disabilities of their legal capacity also amounts to a violation of article 12 of the Convention.

III. POSITIONS TAKEN BY INTERNATIONAL BODIES IN RELATION TO BOSNIA AND HERZEGOVINA

The implementation of obligations under international human rights standards regarding persons with disabilities includes ensuring the implementation of *the 2030 Agenda for Sustainable Development* and the *Sustainable Development Goals*, particularly in relation to the articles of the Convention on the Rights of Persons with Disabilities, namely: article 5 (Equality and non-discrimination); article 9 (Accessibility); article 24 (Education); article 27 (Work and employment); article 28. (Adequate standard of living and social protection); article 31 (Statistics and data collection); and article 32 (International cooperation).

The Committee on the Rights of Persons with Disabilities (CRPD Committee) has expressed its concern that the national legislation maintains a disability concept and system for disability certification which are centered on impairment and based on a medical approach to disability; that derogatory language in reference to persons with disabilities prevails in national legislation; that organizations of persons with disabilities are not actively involved in making decisions and processes that affect them; that there is lack of, or insufficient, support, including financial support, for organizations of persons with disabilities and that there are no national action plans to promote and protect persons with disabilities. The Committee has expressed its concern about insufficient harmonization of domestic laws with the Convention and an uneven implementation of the Convention within the state (CRPD/C/BIH/CO/1).

In its Concluding Observations, the CRPD Committee⁴ recommends the State party to adopt disability definitions in domestic laws and systems for disability certification and assessment

which are grounded in a human rights-based approach to disability; to eliminate all derogatory language from laws and statutes; to ensure that representative organizations of persons with disabilities are fully connected and meaningfully, transparently and regularly consulted in the drafting, implementation and evaluation of laws, policies and action plans that have an impact on persons with disabilities, and provide sufficient and continuous financial resources for these purposes; to develop action plans for the implementation of the Convention with clear benchmarks, timelines and appropriate funding; to enhance harmonization of the legislation with the Convention and to ensure that the application of the Convention is expanded to the entire territory of the State party (CRPD/C/BIH/CO/1).

⁴ Concluding observations of 12 April 2017, available at: http://www.mhrr.gov.ba/ljudska_prava/Prava_osoba_sa_invaliditetom/Zakljucna%20razmatranja%20i%20preporuke%20Komitetu%20za%20prava%20osoba%20sa%20invaliditetom%20za%20BiH.pdf

IV. LEGAL FRAMEWORK

The Constitution of Bosnia and Herzegovina guarantees the protection of human rights and fundamental freedoms. The BiH Constitution has a declaratively maximum degree of recognition of the rights, which is expressed in Article II. Human Rights and Fundamental Freedoms. This Article emphasizes that the BiH Constitution is a far-reaching document that requires “the highest level of enjoyment of internationally recognized human rights and fundamental freedoms”. Furthermore, the Constitution requires that the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and its Protocols “apply directly” and “have priority over all other law” in Bosnia and Herzegovina, and the basic human rights are catalogued in a separate paragraph. The enjoyment of the rights and freedoms provided for in the BiH Constitution will be secured to all persons in Bosnia and Herzegovina without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status (Article II. 4.).

In monitoring the realization of the rights of persons with intellectual and mental disabilities, it is necessary to indicate the constitutional powers that an institutional action is based on. In the complex set-up of Bosnia and Herzegovina, established in accordance with Annex IV to the Dayton Agreement, economic, social and cultural rights are the responsibility of the two entities and the Brčko District of BiH. In the BiH Federation, certain rights fall under the joint responsibility of the BiH Federation and the cantons, where the BiH Federation is responsible for making policies, while the cantons are responsible for their implementation.

According to the provisions of Article III.2. of the Constitution of the BiH Federation, the Federation government and the cantons are responsible for: guaranteeing and implementing human rights, health, environmental protection policy, communication and transport infrastructure in accordance with the Constitution of Bos-

nia and Herzegovina, social welfare, enforcement of laws and other regulations on citizenship and travel documents of citizens of Bosnia and Herzegovina from the territory of the Federation, as well as residence and movement of foreigners, tourism and the use of natural resources.⁵

According to the provisions of Article III.4. of the Constitution of the BiH Federation, the cantons are responsible for all other matters that are not expressly assigned to the Federation government.

The responsibilities of the ministries are defined at the level of Bosnia and Herzegovina. The Ministry of Human Rights and Refugees of Bosnia and Herzegovina is responsible for monitoring and implementing international conventions and other documents in the field of human rights and fundamental freedoms and for promoting and protecting individual and collective human rights and freedoms (Article 12). The Ministry of Justice of Bosnia and Herzegovina is responsible for ensuring that the legislation of Bosnia and Herzegovina and its implementation at all levels are in accordance with the obligations of Bosnia and Herzegovina arising under international agreements (Article 13). The Ministry of Civil Affairs is responsible for carrying out tasks and duties which are assigned to Bosnia and Herzegovina and relate to defining the basic principles of coordination of activities, harmonization of plans of entity authorities and defining strategies on an international level in the areas of: health and social protection; pensions; science and education; labour and employment; culture and sports (Article 15). Constitutional powers were among the starting points in considering the status of persons with intellectual and mental disorders in BiH.

⁵ http://predstavnickidom-pfbih.gov.ba/upload/file/ustav/ustav_precisceni_tekst.pdf

4.1. Legislation of Bosnia and Herzegovina

The *Law on the Human Rights Ombudsman of Bosnia and Herzegovina* (Official Gazette of BiH, Nos. 32/00, 19/02, 35/04, 32/06, 61/23) defines the powers and responsibilities of the Institution. Under that law, the BiH Ombudsmen is an independent institution set up in order to promote good governance and the rule of law and to protect the rights and freedoms of natural and legal persons, as enshrined in the Constitution of Bosnia and Herzegovina and the international treaties appended thereto. The Institution of the Ombudsmen established the Department for Monitoring the Exercise of the Rights of Persons with Disabilities (hereinafter: The Department), which receives and registers complaints about violations of rights and freedoms, and acts *ex officio* in cases related to violations of the rights of persons with disabilities, especially in cases when persons with disabilities have been:

- a. Denied respect for dignity and personal autonomy, including freedom of personal choice and independence;
- b. Denied the right to equal opportunities and exposed to discrimination;
- c. Prevented from being fully and effectively included in society.

In 2009, Bosnia and Herzegovina adopted the *Law on Prohibition of Discrimination* (Official Gazette of BiH, No. 59/09 and 66/16), which establishes a framework for the exercise of equal rights and opportunities for all persons in Bosnia and Herzegovina and regulates the system of protection against discrimination based on any ground such as race, colour, language, religion, ethnicity, disability, age, national or social background, connection with a national minority, political or other opinion, property status, membership in trade union or any other association, education, social status and sex, sexual orientation, gender identity, sexual characteristics, as well as any other circumstance serving the purpose of or resulting in prevention or restriction of any individual from recognition, enjoyment or

realization, on an equal footing, of rights and freedoms in all areas of life.

The prohibition of discrimination applies to all public authorities, all natural and legal persons, in public and private sectors, in all spheres, particularly: employment, membership in professional organizations, education, training programmes, housing, healthcare, social protection, the use goods and services designated for the public and public places, and conducting of economic activities and public services.

The BiH Ombudsmen is the central institution for protection against discrimination, which is responsible for handling complaints and taking activities aimed at promoting human rights.

4.2. The BiH Federation legislation

The realization of the rights of persons with intellectual and mental disorders and their placement in institutions within the territory of the BiH Federation are governed by the following primary and secondary legislation:

- Law on Social Protection Institutions of the BiH Federation (Official Gazette of the BiH Federation, No. 64/22);
- Law on the Principles of Social Protection, Protection of Civil War Victims and Protection of Families with Children of the BiH Federation (Official Gazette of the BiH Federation, Nos. 36/99, 54/04, 39/06, 14/09, 7/14 - decision of the BiH Constitutional Court, 45/16, 19/17 - as amended, 40/18);
- Law on Health Care (Official Gazette of the BiH Federation, Nos. 46/10, 75/13);
- Law on Health Insurance of the BiH Federation (Official Gazette of the FBiH, Nos. 30/97, 7/02, 70/08, 48/11, 100/14 - decision of the Constitutional Court, 36/18 and 61/22);
- Law on the Protection of Persons with Mental Disorders of the BiH Federation (Official Gazette of the BiH Federation, Nos. 37/01, 40/02, 52/11 and 14/13);
- Law on the Federation Ministries and Other Bodies of the Federation Administration (Official

Gazette of the BiH Federation, Nos. 58/02, 19/03, 38/05, 2/06, 8/06, 61/08, 80/10 - decision of the Constitutional Court, 48/11);

– Rulebook on the minimum standards for the provision of social care and social support services in social care institutions of the BiH Federation (*Official Gazette of the BiH Federation*, No. 96/23);

– Rulebook on the organization and work of the commission for the protection of persons with mental disabilities (*Official Gazette of FBiH*, No. 53/01);

– Rulebook on the selection, organization and work of the Commission for monitoring the protection of the rights of persons with mental disorders of the BiH Federation, (*Official Gazette of the BiH Federation*, No. 44/13);

– Rulebook on the organization and more detailed requirements for space, medical and technical equipment and professional staff, which must be fulfilled by the mental health centers in the community, as well as training in the field of abuse of psychoactive substances (*Official Gazette of the BiH Federation*, No: 73/11).

The **Law on Social Protection Institutions of the BiH Federation** (hereinafter: the Law on Social Protection Institutions of the FBiH or LSPI FBiH) regulates the activities and services for the beneficiaries of the social protection institutions in the BiH Federation, the basic and special standards regarding the performance of their prescribed activities and the protection of the rights of the beneficiaries placed in those institutions, governance, supervision and management bodies, financing, supervision of work and other issues of importance for the work and functioning of the social protection institutions of the Federation (Article 1).

The Federation social protection institutions are:

- Institution for social and health care Bakovići
- Institution for social and health care Drin
- Institution for social and health care Ljubuški
- Institution for social care, health care, upbringing and education Pazarić, and
- Institution for social care, upbringing and education Sarajevo.

The above social protection institutions are successors to the institutions whose founding rights and obligations were taken over by the Parliament of the Federation of Bosnia and Herzegovina under the Law on Taking Over the Rights and Obligations of the Founders of Social Protection Institutions in the Federation of Bosnia and Herzegovina (*Official Gazette of FBiH*, Nos. 31/08 and 27/12).

The Federation social protection institutions are public institutions that have the status of a legal entity and carry out their activities through social care and support, health care, upbringing and education with the aim of implementing the process of continuous development and preparation of the beneficiaries for independent living in the community, including rehabilitation, reintegration and resocialization of the persons in need of this type of protection (Article 4, paragraph 4 of the LSPI FBiH). Work in institutions is based on the principles of efficiency, sustainability, public information and transparency.

Social care of persons implies institutional and organized satisfaction of the basic needs of life in terms of housing, nutrition, maintenance of personal hygiene and the like, while ensuring adequate material, technical and spatial conditions for their optimal execution. The social care service is provided as:

- continuous long-term accommodation
- full-day or half-day stay
- temporary accommodation, or
- organized community housing.

Social support means professional work that is carried out through professional social work, psychosocial support and the organization of occupational activities and therapies, with the provision of adequate professional resources for optimal execution with the aim of rehabilitation, reintegration and resocialization of the beneficiaries and their training for as independent living as possible (Article 6, LSPI FBiH). There are four levels of support required for beneficiaries of social care services:

- I degree support for the beneficiaries who lack ability to take care of themselves alone and to engage in activities of daily living, which is the reason why they need continuous support;
- II-degree support for the beneficiaries who can take care of themselves and engage in activities of daily living, with the physical presence and support of another person;
- III-degree support for the beneficiaries who can take care of themselves and engage in activities of daily living, but due to insufficient knowledge and skills, they need to be supervised and supported by other persons;
- IV-degree support for the beneficiaries who can perform all activities of daily living either alone or when encouraged and reminded.

The Law on Social Institutions of the BiH Federation defines in detail access to education and health care for persons placed in social care institutions. In accordance with the professional assessment by the competent professional body, a child placed in a social protection institution of the Federation is included in regular or adapted educational programmes at educational institutions operating in the area where the Federation social protection institution is located. The training programmes are developed by the Federation social protection institution within six months from the date of receipt of the decision that the requirements for performing the core activity have been fulfilled. The prepared training programmes are submitted for approval to the cantonal ministry responsible for education in the area where the Federation social protection institution is located.

Health care is provided in accordance with health care and health insurance regulations. In accordance with Article 89, paragraph 3, in conjunction with Article 8, paragraph 4 of the LSPI FBiH, the Federation Minister of Health is obliged to define the minimal standards, i.e. general and special requirements that must be met by the Federation social protection institutions for the provision of health care services, within six months from the date of entry into force of the Law. The LSPI FBiH entered into force in July

2022, and the rulebook has not yet been adopted.

Depending on the identified needs of the beneficiaries, the experts of the Federation social protection institutions are obliged to develop *an individual support plan* for each individual beneficiary. An individual plan is developed in cooperation with the beneficiaries, their legal representatives and their family members, and contains planned goals, activities, indicators, deadlines and those responsible for the implementation of activities, which provides professional support in the best interest of the beneficiary during his or her stay in the Federation social protection institution, and the manner of their monitoring and review (Article 12, the LSPI FBiH).

The Law on Social Institutions of the FBiH stipulates the obligation of the Federation Minister of Labour and Social Welfare to prescribe, in consultation with the Federation Minister of Health, the Federation Minister of Education and Science and the Federation Minister of Justice, within six months from the date of entry into force of the Law, special standards and criteria for an individual assessment of beneficiaries upon admission to the Federation social protection institutions, as well as standards for assessing the need for their further stay in the institution. The LSPI FBiH entered into force in July 2022, and the rulebook has not yet been adopted.

The right to priority accommodation is available to the beneficiaries of services referred to the institution by the competent guardianship authority. In the event that the request for beneficiary's placement cannot be met immediately when the institution is at full capacity, a list of accommodation requests will be created. Beneficiaries who are entitled to priority accommodation, their legal representative or immediate family member, and the payer have access to the list of requests (Article 38, the LSPI FBiH)

The ***Law on Health Care of the FBiH*** regulates the principles, measures, the manner of organization and implementation of health care, the authorities responsible for social care for the health of the population, rights and obligations of persons when receiving health care and the content, method and supervision of health care within the territory of the BiH Federation.

Persons suffering from mental disorders who pose a danger to their own lives, to the lives of others and to property, will, in a medical emergency, be admitted to an appropriate healthcare facility for temporary in-patient treatment. The method and procedure, as well as the organization and conditions of treatment of persons suffering from mental disorders, is carried out in accordance with the regulations on the protection of persons with mental disorders.

The ***Law on the Protection of Persons with Mental Disorders of the FBiH*** prescribes the basic principles, the way of organization and implementation of protection, as well as the prerequisites for the application of measures and treatment of persons with mental disorders, and defines a person with mental disorders as a mentally ill person, a person with a mental disorder, insufficiently mentally developed person, an alcohol or drug addict or a person with other mental disorders. A person with severe mental disorders is the person who is unable to understand the meaning of his or her own actions or cannot control his or her will or his or her abilities are reduced to such an extent that he or she needs psychiatric help. In accordance with this law, the protection and improvement of health of persons with mental disorders is achieved by:

- Enabling appropriate diagnostic assessment and treatment of persons with mental disorders;
- Conducting scientific research in the field of protecting and improving the health of persons with mental disorders and protecting them against medical or scientific research conducted without their consent or the consent of their representatives;
- Including persons with mental disorders in educational programmes conducted in a mental

health institution or another institution where they are accommodated;

- Recovery of persons with mental disorders and their inclusion in the family, work and social environment, respecting the choice of a person with mental disorders whenever possible;
- Training of persons dealing with the protection of persons with mental disorders and improving their health; and
- Creating associations of persons with mental disorders for the purpose of realizing their rights.

The procedure for admitting persons with mental disorders to a health care institution is described in Article 21 of the Law, which defines that accommodation is based on consent if the person is able to understand the purpose and consequences of such accommodation. Admission on behalf of a person who is unable to understand the purpose and consequences of such accommodation requires a written consent of the person's legal representative.

The Law also defines forced detention in a health institution from the moment of the psychiatrist's decision on detention until the court's decision on forced accommodation, and forced accommodation (Articles 22-37). The health care institution that forcibly detained a person with a mental disorder is obliged to notify the competent court, as well as to the issuer of the referral, the legal representative of the person forcibly detained, the competent social welfare center and the commission for the protection of persons with mental disorders, of the forced detention without delay, and no later than within 24 hours of the decision on forced detention, directly or via electronic means of communication, together with the medical documentation on the examination of the person with mental disorders and an explanation of the reasons for involuntary detention (Article 27). The above-described procedure also applies to a person with a mental disorder who is forcibly detained in the event that he or she has already been placed for treatment in a health care facility with his or her consent, which the person subsequently revoked, or in the meantime conditions that correspond to

the conditions for forced placement have arisen (Article 28).

The procedure for forced placement of a person with mental disorders in a health care facility is decided by the competent court in non-contentious proceedings (Article 29). Upon completion of the procedure, the court is obliged to issue a decision immediately, and within three days at the latest, on whether the person detained in the health care facility should continue to be detained or will be released from the health care facility. The court notifies the social welfare center of its decision (Article 32). The detention period cannot be longer than six months (Article 33). If the health care institution assesses that the person who has been forcibly placed should remain in the institution after the expiration of the period of forced accommodation determined by the court's decision, it is obliged to propose to the court a decision on the extension of the period of forced accommodation 15 days prior to the end of that period. The court may order an extension at intervals not exceeding six months (Article 34).

The Law defines in Articles 38-42 discharge from a health care institution. When a person with mental disorders needs to be discharged from a health care institution, while the person is not able to take care of himself/herself because of his or her psychophysical condition and the conditions in which he or she lives, nor does he or she have anyone who would be legally obligated to, and could, take care of him or her, the person will be transferred from the health care institution to the social institution in accordance with the procedure set forth in the regulations on the principles of social protection, protection of civilian victims of war and protection of families with children. The health care institution will immediately notify the court that made the decision on forced accommodation or discharge of the person's relocation.

The use of physical force in the protection of persons with mental disorders is regulated by Article 45-50 of the Law. Physical force or seclusion will be applied only if it is the only means to prevent a person from endangering the life or

health of others, or his or her own life or health, or from violently destroying or damaging someone else's property of greater value - to the extent and in the manner necessary for the removal of the danger caused by the violent behavior of a person with mental disorders. The decision on the use of physical force or seclusion is made by a psychiatrist, who supervises its implementation. When, due to extreme urgency, it is not possible to wait for the psychiatrist's decision, the decision on the use of physical force or seclusion can be made by a medical doctor or nurse/technician, who are obliged to immediately inform the psychiatrist who will decide on the further use of physical force. It is mandatory for medical professionals to ensure constant monitoring of the person's physical and mental condition. The person will be warned prior to the use of physical force - if it is possible considering the circumstances of the case.

The *Law on the Federation Ministries and Other Bodies of the Federation Administration* defines that the Federation Ministry of Labour and Social Welfare performs administrative, professional and other tasks set forth in the Law which are related to the powers of the Federation in the field of social welfare, labour, pension and disability insurance, namely: labour policy and employment, labour relations and labour rights, protection at workplace; pension and disability insurance; international conventions in accordance with the Constitution of Bosnia and Herzegovina, contracts and bilateral agreements in the field of work and employment; social security and solidarity, the protection of civilian victims of war; family protection, adoption and guardianship; social protection and other tasks set forth in the law (Article 11).

4.3. The legislation of the Republika Srpska (RS)

The realization of the rights of persons with intellectual and mental disorders and their placement in institutions in the Republika Srpska is governed by the following regulations:

- The Law on Social Protection (*Official Gazette of the RS*, No. 37/12, 90/16);
- The Law on Health Care of the Republika Srpska (*Official Gazette of the RS*, No. 57/22)
- The Law on Mental Health Protection (*Official Gazette of the RS*, No. 67/20)
- The Law on the System of Public Services (*Official Gazette of the RS*, Nos. 68/07, 109/12)

The rulebooks adopted in the field of social protection, which refer to the issue of accommodation:

- Rulebook on needs assessment and orientation of children and youth with developmental disorders (*Official Gazette of the Republika Srpska*, Nos. 117/12 and 16/2018)
- Rulebook on exercising the right to day care (2014)
- Rulebook on exercising the right to home support and care (2014)
- Rulebook on the requirements for the establishment of social protection institutions and the performance of social activity (90/2017, 89/2022 and 70/2023)
- Rulebook on the content and manner of keeping the register of social protection institutions (2014)
- Rulebook on determining the capacity of a person in the procedure for the exercise of the social protection entitlements and determining the functional state of the beneficiary (*Official Gazette of the RS*, Nos. 116/12, 11/13 and 09/17)

The **Law on Social Protection of the Republika Srpska** prescribes the procedure for placing persons in a social protection institution. The changes made in 2019 were related to the placement in an institution located outside of the RS territory. The Center can place a person in an institution located outside the RS territory if there is no institution in the RS that provides the necessary service, if the institutions in the RS are at full capacity or if it is in the best interest of the person being placed (Article 38a). In that case, the Center obtains the consent of the Ministry of

Health and Social Protection prior to placing the person.

One of the social protection rights is placement in an appropriate social protection institution in order to provide housing, food, clothing, care, assistance, care, upbringing and education, income generation training, work, cultural and entertainment and recreational and rehabilitation activities, health care and other services to the beneficiaries. The competent Center makes a decision following a procedure that includes an assessment of the living conditions and the condition of the beneficiary and his or her environment, consideration of other possible forms of care, and based on the opinion that care in an institution is the most effective form of protection of a person.

The contract on placement is concluded by the provider of institutional accommodation and the competent Center. The contract for placement in an institution ends with an agreement of the contracting parties, by cancellation of the contract, termination of the contract and death of the beneficiary. The social protection institution and the competent Center are obliged to exchange information about the condition and needs of the beneficiaries on a regular basis.

Accommodation costs charged to the budget can be covered for persons who do not have property or relatives who are obliged by law to support them. Exceptionally, placement in a social protection institution or another institution at the expense of the budget can also be granted to a person who owns property which represents an obstacle to the exercise of this right, provided that the owner transfers ownership of his/her property or part thereof, free of charge, to the local governance unit. A person whose property is an obstacle to his or her exercising the right to be placed in an institution can give consent for the registration of the right of mortgage pending settlement of the estimated costs calculated on the basis of the right to be placed in the institution.

Accommodation in a social protection institution at the expense of the budget will not be granted to a person who can be provided with care services by family members, who, in accordance with the law, have an obligation to support the person if they have excess housing space and other property. A person who has sold or donated his or her property does not have the right to placement in an institution at the expense of the budget for the period for which the amount of accommodation costs is equal to the market value of the property.

The Center that refers a person to an institution is obliged to provide him or her with the basic clothing and footwear, as well as to cover the costs of his or her transportation to the institution. Funds for these expenses will be provided from the funds of the beneficiary, maintenance obligors or from the budget funds earmarked for social protection. The Center provides funds for personal needs in the form of pocket money to a person who has no income, on a monthly basis, in the amount of 5% of the price of accommodation.

The beneficiaries who have realized the right to accommodation in an institution, but cannot obtain health insurance on other grounds, have their health insurance covered from budgetary funds earmarked for the exercise of the right to accommodation.

The Rulebook on determining the capacity of a person in the process of exercising social protection rights and the functional state of beneficiaries, issued by the Minister of Health and Social Protection, established a social assessment model. The Rulebook prescribes the conditions for the assessment of the ability and functional state of adults in the procedure for exercising social protection rights, the composition, conditions for the formation and the manner of work of the first and second instance expert commissions. The Rulebook states that the term disorder or illness means “*disorder or illness due to which a person cannot perform independently age-appropriate activities*”.

In the Republika Srpska, the *Law on the Protection of Mental Health* was adopted and it regulates the promotion of mental health, prevention and early detection of mental health disorders, rights and obligations in its protection, and medical intervention for persons with mental health disorders. The law prescribes the confidentiality of data from medical documentation and records of persons with mental health disorders, social inclusion and life in the community, prohibitions in the protection of mental health, supervision, as well as other issues of importance for the protection of mental health.

The RS Government adopted the Strategy for the Development of Mental Health in the Republika Srpska for the period 2020-2030. This Strategy aims at improving the existing and developing new ways of protecting mental health not only of individuals but also of society as a whole. Also, the goal is to reduce the occurrence of mental problems and disorders, increase the availability of quality and timely provision of health care services, rehabilitation and social inclusion of persons with mental health disorders, while strengthening the role of these persons in decision-making in the aforementioned processes, with a view to achieving personal satisfaction, mental health of citizens, reducing the costs of mental health services, and encouraging economic and social development.

The RS Government has adopted the Social Protection Strategy of the Republika Srpska (2023-2029), the goals of which are, among others, to improve inspection in the field of social protection, to secure continuously adequate accommodation capacities for beneficiaries in social protection institutions, to redefine the minimum conditions for social protection institutions to start working and perform social protection activities, to establish a licensing system for social protection institutions in order to increase the quality of service provision, etc.

4.4. Legislation of the Brčko District of BiH (BDBiH)

The Statute of the Brčko District of BiH prescribes the exercise of the public powers of the BDBiH in matters of social protection.

The *Law on Social Protection of the Brčko District of Bosnia and Herzegovina* (Official Gazette of the Brčko District of BiH, Nos. 01/03, 04/04, 19/07, 02/08, 21/18 and 32/19) regulates the principles of protection of older people, infirm and other persons in social need, the minimum scope of the rights to certain forms of social protection and the requirements for their realization, the basis of the organization in the field of social protection and the financing of activities, as well as other issues of importance for the realization of social protection of the citizens of BDBiH. Beneficiaries of social protection for the purpose of this law are the persons who are in social need, including:

- a child with special needs and moderate, severe and profound mental disorders, with multiple developmental disorders, a child with autism, as well as a child with physical developmental disorders who does not have the conditions in his or her family, so long as there is a need for this form of protection;
- an adult disabled person with physical and sensory disorders, a severely chronically ill person and a mentally retarded person who is unable to live independently in a family due to unfavorable health, social, housing or family conditions, and persons with behavioral disorders;
- an old person who, due to unfavorable health, social, housing and family circumstances, is unable to live alone or in a family.

The Government of the BDBiH, which is responsible for social protection, can expand the circle of beneficiaries of social protection from the previous paragraph in accordance with the plans for the development of social protection. Accommodation costs, i.e. part of the costs of accommodation in an institution that provides social protection services or in another family,

are borne by the protection beneficiary, the parent or relative who is obliged to support the beneficiary, the competent authority or other organization or persons who committed to paying the costs. The beneficiary co-finances the costs with all his/her income and earnings, minus the amount of funds for personal needs. The beneficiary's parents and relatives who are obliged to provide support also co-finance the accommodation costs of the beneficiary, except for the persons with mental developmental disorders and severe and severe mental disabilities, as well as persons with multiple disabilities with severe and profound mental disorders, and persons with autism and mentally ill persons who have been appointed a guardian.

The *Law on Health Care in the Brčko District of BiH* (Official Gazette of the Brčko District of BiH, No. 5/2023) defines the basic principles, the manner of organizing and implementing the protection and improvement of mental health, as well as the assumptions for the application of measures and treatment of persons with mental disorders. Health protection includes a system of social, group and individual measures, services and activities for improving and preserving people's health, preventing diseases and injuries, early detection of diseases, timely treatment, health care and rehabilitation, as well as the application of health technologies. Funds for health protection at the BDBiH level are provided from the District budget, and health care is provided at the primary, secondary and tertiary levels.

Persons suffering from mental diseases who pose a danger to their own lives, to the lives of citizens or to the property, will, in a medical emergency, be admitted to an appropriate healthcare facility for temporary in-patient treatment, in accordance with the Law on the Protection of Persons with Mental Disorders. An important role is played by Mental Health Centers (MHCs), which can be organized as an independent health institution or as part of a primary health care center. The MHCs perform the promotion and prevention of mental health, diagnosis and treatment of persons with mental disorders, prevention of disability and rehabilitation

of mentally ill persons, and provide care and assistance to the disabled, which includes continuous monitoring of persons with mental disorders after hospitalization, including support and work with families, psychological counseling in the family and community, sociotherapeutic and occupational work in the community, as well as an assessment of mental health risks in the community.

The ***Law on the Protection of Persons with Mental Disorders*** prescribes the basic principles, the manner of organization, implementation of protection and improvement of mental health, as well as the prerequisites for the application of measures and treatment of persons with mental disorders. For the purpose of this law, a person with mental disorders is a person who receives mental health care due to mental disorders or illness. Beneficiaries of mental health care services of the Mental Health Center are included in the primary, secondary and tertiary preventive activities of the Mental Health Center. Regarding admission of persons, it is regulated from the moment of arrival or bringing of a person to that institution for examination or treatment until the decision is made on voluntary accommodation or involuntary detention in a health care institution.

V. SITUATIONAL ANALYSIS

As part of the situational analysis, the BiH Ombudsmen will primarily present the responses received from the institutional mechanisms regarding the implementation of the recommendations from the *2018 Special Report on the State of the Rights of Persons with Intellectual and Mental Disabilities in Bosnia and Herzegovina*. Also, a significant part of this chapter covers the activities undertaken by the BiH Ombudsmen within the framework of protection and preventive action in connection with the realization of the rights of persons with intellectual and mental disorders. Ultimately, through the complaints received, as well as those registered ex officio, the BiH Ombudsmen will emphasize the most frequent violations of the rights of persons from this category.

5.1. Compliance with the recommendations of the BiH Ombudsmen from the 2018 Special Report on the State of the Rights of Persons with Intellectual and Mental Disabilities in Bosnia and Herzegovina

In order to determine the facts related to the implementation of recommendations with reference to the exercise of the rights by persons with intellectual and mental disorders, the Ombudsmen sent a request to all relevant public authorities on 06 September 2023 seeking their responses on the implementation of the recommendations. The responses received can also be used as indicators for assessing progress. In order to make it reader-friendly, the responses of the authorities are presented below with a reference to the text of the recommendations.

The Federation of Bosnia and Herzegovina

The Ministry of Labour and Social Welfare of the BiH Federation submitted the information on compliance with the recommendations, which indicates that a large number of recommenda-

tions have been implemented with the adoption of the LSPI F BiH. The BiH Ombudsmen note that certain provisions of the Law prescribe the deadline by which the obligations must be fulfilled, and that for some of these obligations the deadlines have passed, while the prescribed obligations have not been fulfilled. In this context, it is necessary to consider the response submitted by the Ministry. The following is stated in the information provided by the Federation Ministry of Labour and Social Welfare by Act No. 05-49-1332/18 EZ dated September 29, 2023:

- The *Law on Social Protection Institutions in the Federation of Bosnia and Herzegovina* was adopted, which regulates the operation of social protection institutions in a comprehensive manner, including the statement that *the provision of Article 72 of the aforementioned law stipulates that financial and performance audits of the Federation institutions are performed by the Audit Office for Institutions in the Federation of Bosnia and Herzegovina* /recommendation by the Ombudsmen/.
- Management and governance of the Federation social protection institutions (Articles 43-66 of the Law). Under the law, the Governing Board (GB) consists of five members and no member of the GB can be an employee of the institution or a member of the body that exercises any form of supervision over the work of the Federation social protection institutions. The same requirements are prescribed for members of the Supervisory Board. Allowances for the role of the members of the Governing Board and Supervisory Board are paid from the Federation budget, from the Federation Ministry of Labour and Social Welfare item (the recommendation of the Ombudsmen requested a review of efficiency and sustainability of the management structures in the social protection institutions).
- The content and types of professional supervision, as well as the authority responsible for carrying out professional supervision,

are prescribed by the new Law/the recommendation of the Ombudsmen, which refers to the review of the then model of professional supervision in social protection institutions/.

- Health care and health protection of persons in institutions. Article 87 of the Law stipulates that the Federation Ministry of Health shall, within one year from the date of entry into force of the Law on Social Protection Institutions in the BiH Federation, develop and submit to the parliament a special regulation that will regulate the exercise of the right to health care and health insurance for persons who are accommodated in social protection institutions outside the canton where these persons reside. Article 87, paragraph (2) prescribes that the law will also regulate the issue of application and procurement of medicines in social protection institutions that provide health care services, while paragraph (3) of the same article prescribes that the provisions of Articles 9 and 22 apply pending the adoption of a separate regulation from paragraphs (1) and (2) of Article 87 of the Law /recommendation of the Ombudsmen that the Federation Ministry of Health and the Federation Ministry of Labour and Social welfare should initiate legal arrangements that will ensure the same level of health care to the beneficiaries placed in institutions in the area where the institution operates, regardless of where the beneficiary resides /.
- Introduction of several key principles that represent the legal framework for the protection of persons residing in the Federation social protection institutions. Special respect for the best interest of the beneficiary, particularly in the initial professional assessment procedures, the creation of individual plans and the review of the need for further stay in the institution.
- Introduction of the legal provisions explicitly prohibiting discrimination and coercion, except in cases and in the manner set forth in the aforementioned Law and the Law on the Protection and Treatment of Children and Minors in Criminal Proceedings. The benefi-

ciaries accommodated in institutions have the right to be informed, participate in decision-making, freedom of choice of services, the rights to privacy and confidentiality of personal data and to make a complaint.

In its response, the Ministry also pointed to the implementation of the recommendations for the establishment of professional standards in social protection institutions. These recommendations were implemented in such a way that the Federation Minister of Labour and Social Welfare adopted the Rulebook on minimum standards for the provision of social care and social support services in the social protection institutions of the BiH Federation:

Regarding the recommendation on education of persons with intellectual and mental disabilities, the Ministry of Labour and Social Welfare indicated in its response that *“the cantonal minister responsible for upbringing and education in the area where the Federation social protection institution is based, will define, in cooperation with the Federation Ministry of Education and Science, the minimum standards, i.e. general and special requirements that must be fulfilled by the Federation social protection institutions in terms of space, equipment and personnel for the implementation of adapted educational and training programmes, according to the activities of the Federation social protection institutions for which they are registered”*.

The Ministry of Health, Labour and Social Welfare of the Herzegovina-Neretva Canton

In their previous report, the BiH Ombudsmen issued a recommendation to the Ministry of Health, Labour and Social Welfare of the Herzegovina-Neretva Canton and to the Stolac Home that the Stolac Home should function in accordance with the minimum standards, which refers to the quality of accommodation and hygiene, professional and occupational work, higher quality and permanent health care, and the qualifica-

tion structure of employees in accordance with the needs of the people it cares for.

The Institution of the Human Rights Ombudsmen of BiH received a document number: 04-31-1008/21 dated 29 September 2023 from the **Ministry of Health, Labour and Social Welfare of the Herzegovina-Neretva Canton**, which states the following:

"In the area of the Herzegovina-Neretva Canton, with reference to the ruling in the case of Hadžimejlić et al. which refers to the placement of mentally ill persons in social welfare institutions, we have to inform you an insignificant number of mentally ill persons have been placed through the Center for Social Welfare, at least of those for whom the Ministry co-finances their accommodation. Recently, they have been working towards finding a solution for return and reintegration into their own families.

In regular communication between the Social Welfare Centers/Social Welfare Services and the Ministry of Health, Labour and Social Welfare of the Herzegovina-Neretva Canton, they are referred to the procedures to be applied when placing mentally ill persons. It is important to emphasize that they are also referred to use the resources of the Mental Health Centers where they exist.

Cooperation is regularly maintained with the "Home for Social and Health Care of Persons with Disabilities and Other Persons". Given that the Home in Stolac expanded its capacities with the completion of the "left wing", the social welfare inspector from this Ministry ordered the Home in Stolac to submit a request for a decision on the expansion of the Home's capacity. These days, the Commission appointed by the Ministry of Health, Labour and Social Welfare should conduct an inspection and determine the conditions of space, staff and equipment according to the Rulebook on the Minimum Standards for the Provision of Social Services (Official Gazette of the Herzegovina-Neretva Canton, No. 4/16, 2/22).

The Institution of the Human Rights Ombudsmen of BiH was informed by act No. 02-667/23

of 22 September 2023 it received from the **Institution Home for Social and Health Care of Persons with Disabilities and Other Persons Stolac** that *the Institution expanded its accommodation capacity with the completion of the left wing; that 3 social workers, one occupational therapist and a psychologist as professional staff were employed which they consider to be sufficient for the number of beneficiaries accommodated in the Institution. Regarding caregivers and medical staff, they fully agree that their number is insufficient, but the financial capabilities of the Institution do not allow the employment of new workers of that profession. Over the past two years, the Institution replaced all laminate flooring with PVC flooring, and replaced all wooden doors with PVC doors. At the beginning of the year, the Social Service and the Institution's expert team make individual plans for every beneficiary and try to improve the quality of life of beneficiaries and prepare them for the potential return to their families and independent living. The referral Social Welfare Centers which placed them in the Institution are regularly informed, twice a year, of all beneficiaries and their progress in the Institution, as well as of the beneficiary's state of health, and in the case of private beneficiaries, their guardians or families are informed. Most of the beneficiaries have certain activities during the day in the form of pottery and carpentry workshops, working in the kitchen, on the farm or helping the staff of the Institution in their regular activities. Regarding the deinstitutionalization of social care beneficiaries and alternative accommodation models, we highlight insufficient progress made in this field and believe that Bosnia and Herzegovina and its ministries should have a vision and pass new laws that would regulate this area in a better way".*

The Republika Srpska

The Institution of the Human Rights Ombudsmen of BiH received an act No. 11/05-533-128-1/23 on 18 September 2023 from the **Ministry of Health and Social Protection of the Republika Srpska**, which states the following:

With reference to your act number: Ž-LI-02-158/23 dated 06 September 2023, in which you request information on the implementation of the recommendations made in the 2018 Special Report on the State of the Rights of Persons with Intellectual and Mental Disabilities, we inform you of the following:

The Ministry of Health and Social Protection of the Republika Srpska does not agree with the 2018 Special Report on the State of the Rights of Persons with Intellectual and Mental Disabilities because it was not possible to submit remarks, suggestions and comments, even though the report was produced generally for Bosnia and Herzegovina, and not for the Republika Srpska.

Also, the sample, the way of working, methodology of data processing and reporting is not clear, and we believe that the above is not acceptable for the Republika Srpska.

Bearing in mind the above, it is necessary that the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina respects the competences of the Republika Srpska and the competences of the Ministry of Health and Social Protection of the Republika Srpska, i.e. the primary and secondary legislation, as well as the fact that it does not have the competence to participate in professional supervision of the work of social protection institutions without respecting the existing primary and secondary legislation.

The Brčko District of Bosnia and Herzegovina

On 3 October 2023, the Ombudsmen received an act No. 05-1535AM-0002/23 from the **Government of the Brčko District of BiH - Department of Health and Other Services**, which states the following:

Adults with intellectual and mental disorders:

- *The database on persons with intellectual and mental disorders was established at the internal level of the guardianship authority. These data are intended for the purposes of records that contain data (accessible only to authorized officers) from the cases of persons who are beneficiaries of the services of the Psychosocial Protection Service, with a note that the variables used in the database are included in the official, unified database of the guardianship authority – Sub-Department for Social Protection of the Department for Health and Other Services of the Government of the Brčko District of BiH - recommendation of the Ombudsmen*
- *Greater engagement and availability of relatives who would be appointed as guardians in relation to the recommendation of the Ombudsmen which referred to the review of the system in which employees of the social welfare centers act as guardians for too many persons deprived of legal capacity.*
- *Cooperation between relevant ministries and institutions has intensified - recommendation of the Ombudsmen*
- *Adequate professional assessment of the best interests of the beneficiary is intensified in order to strengthen cooperation with the family, visits, relationship dynamics, behavior and health status of the resident, and special needs that can affect the positive outcome of treatment - recommendation of the Ombudsmen*
- *The establishment of quality control of support through strengthening the quality and efficiency of service provision, guardians are fully focused on the daily professional support for employees of the guardianship body – Sub-Department for Social Protection, Department of Health and Other Services of the Government of the Brčko District of BiH. The initiative, advocacy and networking with Associations with the aim of paying special attention to older people with dementia through special care programmes are particularly emphasized - recommendation of the Ombudsmen*

Minors with intellectual and mental disorders:

- *The process of drafting a new Decision on classification is underway, where the term*

"mentally underdeveloped" will be replaced by the term "with intellectual disorders".

- *After submitting the final findings and opinions, the Department of Health and Other Services makes a decision on the categorization or recategorization of a person, and these decisions are the basis for exercising the rights related to social and child protection of the Brčko District of BiH.*

The response of the BDBiH Government also states the following:

1. *The reasons why some recommendations have not yet been implemented may be political - they are not imperative or a focus, which requires advocacy; the time frame is difficult to determine at this moment because the guardianship authority is not the only actor in the process, although it is an important link with a wide range of powers.*
2. *There is a need for training of officers who work on guardianship cases and in general who work with people with mental disorders and their families; systematization of positions under the jurisdiction of guardianship authorities; Amendments to the Law on Public Administration.*

The Public Procurement Agency of Bosnia and Herzegovina

In the *Special Report on the State of the Rights of Persons with Intellectual and Mental Disabilities*, the BiH Ombudsmen recommended to the Council of Ministers of Bosnia and Herzegovina that they should provide an exception to the application of the Law on Public Procurement in relation to the procurement of clothing, footwear and personal items for the persons with intellectual and mental disorders placed in health facilities and social institutions, for the purpose of maintaining their personality and preserving their dignity.

The Council of Ministers forwarded the recommendation to the Agency for Public Procurement of Bosnia and Herzegovina, whose response con-

tained in the act No. 02-07-1835-3/23 dated 26 September 2023 is quoted in full below due to the importance of the issue:

The BiH Agency for Public Procurement on 19 September 2023. received the act of the General Secretariat of the Council of Ministers of BiH, referring the act of the Institution of Human Rights Ombudsmen regarding the implementation of the recommendations from the Special Report on the State of Persons with Intellectual and Mental Disabilities for further action.

The aforementioned act recommended the BiH Council of Ministers to provide an exception to the application of the Law on Public Procurement in relation to the procurement of clothing, footwear and personal items for the persons with intellectual and mental disorders placed in health and social institutions, with the aim of maintaining their personality and dignity.

Under the Stabilization and Association Agreement between the European Communities and their Member States, on the one hand, and Bosnia and Herzegovina, on the other hand ("Official Gazette of BiH" - International Treaties, No. 10/08, 1/2017 and 8/2017), Bosnia and Herzegovina committed itself to harmonizing its legislation with the EU acquis.

We consider it important to emphasize that the Law on Public Procurement (Official Gazette of BiH, No. 39/14) is largely aligned with EU Directives from 2004. The Law on Amendments to the Law on Public Procurement (Official Gazette of BiH, No. 59/22) is partially harmonized with the valid EU directives in the field of public procurement (2014/24/EU and 2014/25/EU), and the procurement of clothing, footwear and personal items is not exempted under these directives either.

We hereby draw your attention to the fact that contracting authorities should consider the possibility of applying the provisions of Article 7 of the Law on Public Procurement (Official Gazette of BiH, Nos. 39/14 and 59/22), which regulates the awarding of subsidized contracts.

Namely, it is set forth in this Article that:

“(1) The provisions of this law shall also apply to contracts that are directly subsidized by the contracting authority with more than 50%:

a) if those contracts include works within the meaning of Annex I to this law;

b) if those contracts include works on hospitals, facilities intended for sports, recreation and rest, school and university buildings and buildings used for administrative purposes.

(2) The provisions of this law also apply to contracts that the contracting authority directly subsidizes with more than 50% for contracts for the provision of services related to works within the meaning of paragraph (1) of this article.

(3) The contracting authority that grants such subsidies is obliged to ensure compliance with the provisions of this law in cases where a subsidized contract is awarded by another natural or legal person, i.e. it is obliged to comply with the provisions of this law itself in cases where it awards a subsidized contract for or on behalf of those natural or legal persons.”

The aforementioned provision of the Law, which was adopted in accordance with the EU directive on public procurement, foresees the application of the Law only in the case of procurement of directly subsidized contracts that include works or contracts that include services related to works within the meaning of paragraph (1) of Article 7 of the Law, subsidized by more than 50%, while the law does not apply to the procurement of subsidized goods and other services.

However, the question is whether the Law applies also to goods and other services (services not related to works) subsidized by the contracting authority because they are not mentioned in the provisions of Article 7 of the Law. In order to answer this question, it is necessary to start from the definition itself, that is, from the meaning of subsidy.

According to one of the simpler definitions, "subsidy" (Latin: sub-venire) means systemic material support or assistance from the public budget or funds in areas of public interest. According to another, more complex definition, a subsidy (English: subsidy, subvention, German: subvention) is a

form of financial assistance that the state gives to institutions and businessmen (incentivizing production, protection of population standards) for a strictly defined purpose. Depending on the purpose, there is a difference among a large number of subsidies: according to duration (permanent and occasional), according to the type of user organization (commercial and non-commercial organizations), according to the source of funds (from the budget, from different funds), according to purpose (grants, allowances, premiums for prices under social control, export premiums, development premiums, tax reliefs, exemption of companies from paying taxes, contributions, customs duties, etc.)

It can be concluded from the above that subsidies are a kind of economic and social policy instruments. In this regard, an answer should also be sought to the question of subsidizing the procurement of goods and other services, which are not mentioned in Article 7 of the Law.

Namely, the subsidy has a strictly defined purpose and is intended for a specific category of users. Consequently, we are of the opinion that not all goods and services subsidized by the contracting authority can be exempted.

An example of subsidized contracts for the procurement of goods that are not subject to the Law is, for example, the procurement of orthopedic aids that are subsidized by, for example, health insurance institutes, because it concerns a precisely defined category of beneficiaries, in this case the concrete disabled persons. An example would also refer to subsidization of costs for socially vulnerable categories of the population in terms of city transport, medical costs, utility costs, soup kitchens, firewood, costs of funeral services, etc. Also, subsidizing student transportation could also be included under the exemption. The amount of subsidies in these examples is not important and can be as much as 100%, and, accordingly, the Law does not apply because all these examples are about a specific category of population, whose members are identifiable by name.

On the other hand, e.g. the procurement of medicines that will be used in a clinical center is not

exempted from the Law, because in that case, it is the activity of the clinical center for which it was founded, and not about subsidized goods. Likewise, for example, the procurement of medicines that are fully or partially financed by the Health Insurance Institutes, is covered the Law, because it is about a wider category of insured persons (and thus probably also for the procurement of diabetes test strips) that, at the time of procurement, is not identified. Also, the subsidy applies not only to citizens, but also to other individuals and legal entities, such as sports or other associations, cultural and artistic societies, etc., but even these entities have a specific name, like citizens who have their first and last name.

The above-mentioned is a general clarification of the provision of Article 7 of the Law, which regulates subsidized contracts.

5.2. Activities related to protection and prevention

The BiH Ombudsmen have undertaken a series of activities aimed at raising the issue of persons with intellectual and mental disorders, especially persons placed in institutions. This chapter presents the activities of the BiH Ombudsmen relating to preventive action, which were implemented through initiatives, received opinions and comments on regulations, and various meetings.

Feedback on the Law on Social Protection Institutions in the BiH Federation

The BiH Ombudsmen received on 10 December 2020 an act of the Federation Ministry of Labour and Social Welfare (hereinafter: FMLSW) requesting comments on the Draft Law on Social Protection Institutions in the BiH Federation (hereinafter: the Draft), which regulates in a comprehensive manner the establishment, operation, management, etc. of the social protection institution.

The Ombudsmen submitted their comments noting that a number of recommendations that the BiH Ombudsmen had sent were included in

the Draft (act of the Ombudsmen, No. Oi-K-BL-3/21 dated 11 January 2021).

Opinion on the Proposal of the Law on Parent Caregivers in the BiH Federation

The Ombudsmen received an inquiry from the Life with Down Syndrome Association of the BiH Federation, requesting an opinion on the Proposal of the Law on Parent Caregivers in the BiH Federation. On 30 August 2021, the Ombudsmen sent to the Parliament of the BiH Federation an act supporting the intention of the competent authorities in the BiH Federation to adopt this law and stating that such and similar measures are an example of affirmative actions that the competent authorities are obliged to implement under the Law on the Prohibition of Discrimination in BiH, with the aim of equalizing the status of persons with disabilities as a vulnerable category with other categories of citizens. In the submitted opinion, the BiH Ombudsmen expressed their concern over the allegations that associations of persons with disabilities are not adequately included in the process of drafting this regulation. The Ombudsmen reiterated that the UN Convention on the Rights of Persons with Disabilities prescribes in Article 4, paragraph (3) that when developing and implementing policies and laws aimed at implementing the Convention, as well as in other decision-making processes on issues that directly concern persons with disabilities, the States parties will do so in close consultation and with active participation of persons with disabilities, including children with disabilities, through organizations that represent and act for them. It was pointed out that the UN Committee on the Rights of Persons with Disabilities, in its Concluding Observations on the initial report of Bosnia and Herzegovina on the application of the UN Convention on the Rights of Persons with Disabilities from 12 April 2017, expressed concern about the lack of transparent procedures and laws regarding consultations with associations of persons with disabilities, and recommended Bosnia and Herzegovina to adopt formal and transparent mechanisms for

regular consultations with associations/organizations of persons with disabilities.

Meeting with relevant institutions

Certain problems related to the placement of persons in social welfare institutions, particularly in the Central Bosnia Canton, resulted in the fact that the BiH Ombudsmen organized a meeting on 13 April 2023, at the Parliamentary Assembly of Bosnia and Herzegovina in Sarajevo, on the **placement of persons with mental disorders in social protection institutions.**

The objective of the meeting was the exchange of current practices related to the placement of the persons with intellectual and mental disorders, and it was also the opportunity for constructive discussion aimed at finding the most effective arrangements in line with the UN Convention on the Rights of Persons with Disabilities. Another objective of the meeting was to discuss the current situation regarding the implementation of the ruling of the European Court of Human Rights on the appeal in the case of *Hadžimejlić et al. v. BiH*. The meeting was held after we learned that non-contentious proceedings are initiated by the Social Welfare Centers in the Central Bosnia Canton, after which the competent municipal courts order compulsory placement in social protection institutions, while in other cantons placement of this category is carried out on a voluntary basis and certain review is conducted when necessary.

According to the information collected by the Ombudsmen through written communication with Social Welfare Centers in the major cities in the BiH Federation and during the meeting, there are different practices in the process of placing persons with intellectual and mental disorders in institutions in the BiH Federation. Accommodation is mostly done on a voluntary basis, but there are also difficulties in work, such as in the Cantonal Center for Social Work in Sarajevo and the Bosnian-Podrinje Canton, which are listed below:

- Long waiting lists in some institutions in which capacity is reached;
- Frequent urgent requests from institutions to terminate accommodation or discharge a beneficiary from the institution due to his/her violation of house rules, etc.;
- There is pressure from the local community, citizens and non-governmental organizations for accommodation of persons with mental disorders and their adequate care;
- Cases where, due to extremely serious socio-health reasons, placement in a social protection institution is necessary, but the person does not give consent;
- In rare cases, an institution's capacity cannot meet our request.

The following conclusions were adopted in the meeting:

1. Bosnia and Herzegovina did not take adequate measures to implement the rulings of the European Court of Human Rights on the appeal in the case of *Hadžimejlić et al. v. BiH* from 2015, and because of the unresolved issues, the situation on the ground is extremely difficult.
2. The Federation Ministry of Health, the Federation Ministry of Labour and Social Welfare and the Federation Ministry of Justice are key to solving the issue in question, and the issue of the implementation of the ruling should be solved in coordination with these ministries.
3. The Federation Ministry of Justice, in cooperation with the Council of Europe and legal experts, drafted amendments to the Law on Non-Contentious Proceedings in the BiH Federation and the Family Law of the BiH Federation, which will be submitted to the parliamentary procedure. The amendments provide for the judicial review of accommodation, as well as limited legal capacity, but these amendments will not fully implement the ruling in the case of *Hadžimejlić et al. v. BiH*.
4. According to the available information, it is only in the Central Bosnia Canton that Social Welfare Centers may initiate non-

contentious proceedings in which the competent municipal courts issue a decision ordering forced placement in social protection institutions. In other cantons, the accommodation of persons with mental disorders is done exclusively on a voluntary basis. The problem for institutions arises the moment when the courts issue a decision ordering forced placement in social protection institutions, for which there is no legal basis. Forced accommodation cannot be carried out in social protection institutions, but only in health care institutions.

5. In order to solve accumulated problems in practice, it is crucial to adopt a legislative framework that will ensure actions by Social Welfare Centers and social protection institutions which is entirely based on international standards.

5.3. Handling complaints

The BiH Ombudsmen handled complaints in the cases of persons with intellectual and mental disorders either in response to submitted complaints or by virtue of their office. The complaints indicate several problems:

a) Poor economic and social situation of the family in which a person with intellectual and mental disorders lives

It is stated in the complaint⁶ that the complainant takes care of her daughter who is deprived of legal capacity and that her monthly income is 200,00 BAM monthly income. She states that she is in a difficult financial situation and has poor health. The Ombudsmen asked the competent Social Welfare Center to take measures within its jurisdiction to determine the social status of the family and possibly grant social assistance.

b) Lack of support

The complainant applied for help in realizing the extended right related to social protection (personal assistance or in-home care) for his son born on 11 March 2003 who was diagnosed with multiple disorders - primary intellectual disorders. The complainant is dissatisfied with the decision of the Assembly of the City of Prijedor on personal assistance services, establishing this right as an extended right and excluding persons with intellectual disorders, regardless of the degree of disability and regardless of the degree of functional degree of independence. The Ombudsmen of Bosnia and Herzegovina sent a recommendation to the Assembly of the City of Prijedor to amend the decision on the requirements for personal assistance. The Ombudsmen's recommendation was not complied with and the explanation was that the opinion of the expert team of the Social Welfare Center was that there is no legal basis for changing the existing decision on the requirements for personal assistance, because any change would violate the concept and the

very notion of personal assistance as an extended social protection right.⁷

c) Adjustability of the right to the needs

The BiH Ombudsmen handled a complaint that indicates that the complainant is not able to exercise the right to be allocated an apartment in accordance with her needs in the Municipality of Ilijaš. The complainant states that the allocated apartment is extremely substandard, with high humidity, outdated carpentry, poor insulation and poor plumbing. The Ombudsmen's recommendation was implemented in such a way that the Municipality of Ilijaš allocated the complainant a new apartment on the ground floor of the building as temporary housing.⁸

d) Placement in institution

The complainant appealed to the Institution of Ombudsman on behalf of his sister, stating in the complaint that after the death of their mother, the sister was placed in the Education and Rehabilitation Center in 2007 in order to complete her assistant cook education, which she eventually did. After ten years of his sister's stay in the Duga Center, he was informed by phone that his sister "will be kicked out of it because of her outbursts over the last month", which was the reason why the complainant sought assistance from the Institution of Ombudsmen. During the proceedings before the Ombudsmen Institution, the Social Welfare Center made a conclusion stating that the Center "will work on her transfer to another institution proposing that the Expert Team prepare her for such reallocation in order for her to accept that fact as best as she can... We note that ... we work intensively, and that there are currently no conflicting situations on her part. Also, her brother expressed his satisfaction with the current situation..."⁹

The BiH Ombudsmen registered ex officio the case regarding the publication of disturbing photos showing residents of the Pazarić Institute for the Care of Mentally Disabled Children and

⁶ Case registered as Ž-BL-04-712/20;

⁷ Case registered as Ž-BL- 02-242/21

⁸ Case registered as Ž-SA-02-631/21

⁹ Case registered as Ž-SA-02-106/20

Youth. Representatives of the Institution of the Ombudsmen visited the Pazarić Institute and interviewed its director, medical staff, caregivers and residents. They also discussed the necessity and ways of establishing minimum standards for the provision of services at the Institute.¹⁰

e) Appointment of a guardian

The complainant in the case¹¹ states that by the Decision of the Social Welfare Center Teslić¹² was appointed as the special guardian of her brother, who is placed in the Home for Persons with Disabilities Prijedor. The complainant states that the Center wants to relieve her of her duties as a guardian, even though she duly submitted all reports related to the manner of disposing of funds, including the bills, at the request of the Center. The Center appoints its employee as a guardian. During the proceedings before the Ombudsmen Institution, the competent ministry annulled the decision of the Social Welfare Center in Teslić twice. The competent ministry states in its decisions, among other things, the provisions of the Family Law, under which the guardianship authorities are obliged to use all forms of social protection, methods of social and other professional work, as well as the services of health, social and other institutions in preparing their decisions, i.e. measures. However, the Ombudsmen did not find in the files of the Center a single finding of a social worker complying with those provisions or dealing with the actions of XX (the complainant's brother) in general or those of the social protection institution (with which the guardianship authority is obliged to exchange information related to the beneficiary), so that the multi-year stay of the beneficiary in the institution comes down to scant information on when he left and then was readmitted to the institution and when he received the packages.

On 22 May 2023, a meeting was held with the Federation Minister of Labour and Social Welfare. One of the topics of the meeting was the issue of placement of persons with mental disorders, on the basis of a court decision, in social

protection institutions; other topics were the problems in the application of the Law on Parents and Caregivers; application of the Law on material support for the families with children in the BiH Federation when it comes to the means test; adoption of the Law on Sign Language of the BiH Federation; and inequality of persons with disabilities with regard to the conditions that caused disability and disability onset time.

¹⁰ Case registered as Ž-SA-02-1274/19

¹¹ Case registered as Ž-BL-04-759/22

¹² Decision of the Social Welfare Center Teslić, No. 10-550-1466/08 of 25 August 2008

VI. CARE INSTITUTIONS FOR PERSONS WITH MENTAL AND INTELLECTUAL DISABILITIES

Institutions for care of persons with intellectual and mental disabilities, in addition to social protection institutions/social care institutions, also include health/medical institutions, i.e. health care institutions that provide long-term care for persons with mental health issues.

With the entry into force of the LSPI FBiH, a better legal framework was established for the care of socially sensitive categories in social protection institutions. The law clearly indicates that within a period of six months after its entry into force, regulations will be passed regarding the establishment and implementation of minimum standards of professional work, ensuring the fulfillment of the necessary infrastructure requirements and solving the issue of health and education of the beneficiaries of social protection institutions in a uniform manner.

Bearing in mind that the process of reorganization, re-registration, or transformation of social protection institutions in the territory of the BiH Federation is underway, the BiH Ombudsmen visited the institutions as follows: the Institution for social and health care Bakovići, the Institution for social care, health care, upbringing and education Pazarić, and the Institution for social and health care Drin Fojnica.

In addition to the above-mentioned institutions, due to the specificity of the categories of beneficiaries they care for, two cantonal social welfare institutions are included in the monitoring, namely the Cantonal Public Institution Home for Social and Health Care of Persons with Disabilities and Other Persons Sarajevo and Home for Social and Health Care of Persons with Disabilities and Other Persons Stolac.

The Institute for Special Child Education and Upbringing Mjedenica, as one of the most important educational institutions, is also the subject of analysis in the report of the BiH Ombudsmen. Bearing in mind the importance of

carrying for and rehabilitating all categories of the population in social need, the report also includes the Duje Reception Center as one of the largest projects of the Association HO International Forum of Solidarity – EMMAUS.

The *Follow-Up Report* also includes health care institutions that provide long-term care for persons with mental health problems: Special Hospital for Chronic Psychiatry Modriča and Public Health Institute JZU Psychiatric Hospital Sokolac.

The visit was also made to social protection institutions for the care of people with intellectual disorders, founded by the Government of the Republika Srpska: Home for Persons with Disabilities Višegrad and Home for Persons with Disabilities Prijedor.

In the rest of this chapter, the BiH Ombudsmen present the method of reception, organizational structure, accommodation capacities, occupational engagement, health care, as well as the procedure for using physical force for each institution separately.

The issues of establishing contact with family members, the public procurement procedure, the method of financing institutions and cooperation with other institutions and organizations are not addressed individually because they are implemented in the same way in all institutions.

Beneficiaries are allowed to communicate with family members on a daily basis. Relatives and friends can visit beneficiaries in the visiting room, which provides the necessary privacy, but they can also visit them in other premises of the institution.

Public procurement is conducted in accordance with the Law on Public Procurement of Bosnia and Herzegovina and primary and secondary legislation. After the approval of the financial plan, the management boards of the institutions

also adopt the public procurement plan, which serves as the basis for the implementation of the public procurement procedure.

The institutions cooperate with all bodies and organizations as required by the Law and other regulations. In addition to the above, institutions cooperate with numerous individuals and legal entities that provide them with various types of support. Such support is particularly important due to the possibility of involving beneficiaries in various forms of social interaction.

6.1. The Federation of Bosnia and Herzegovina

The adoption of the LSPI FBiH improved the legal framework for the functioning of institutions providing accommodation to persons with intellectual and mental disorders. The issue of appointing management structures (management board, supervisory board, director), financing, etc. is regulated in a uniform way.

Management of institutions

The governing body of the institution is the management board whose election, composition and powers are defined by the Law on Social Protection Institutions of the BiH Federation and the Regulation on the Procedure for Proving the Fulfillment of General and Special Requirements for Appointment to Governing, Supervisory and Management Bodies in Federation Social Protection Institutions.

Governing boards are appointed and dismissed by the Government of the BiH Federation for a four-year term, while individual members of the management board can be appointed to the same position for a maximum of two consecutive terms. The governing board consists of five members, of which at least two are legal professionals. As a rule, one member is appointed from among the professional staff of the institution, one from among the legal representatives of the beneficiaries who are accommodated in the institution, and three from among the profession-

als in the field and profession determined by the special criteria for appointment to the management board of the institution.

The *body which supervises* the operations of all the Federation social protection institutions is the supervisory board as a unique mechanism for supervising the operations of all social protection institutions in the Federation, which is appointed and dismissed by the Government of the BiH Federation for a term of up to four years, while individual members of the supervisory board can be appointed to the same position for a maximum of two consecutive terms. In this way, streamlining is achieved, which also has positive financial implications, because before the LSPI FBiH was adopted, each institution had a separate supervisory board whose allowances were paid from the funds paid for the accommodation of beneficiaries. Supervisory boards of the Federation social protection institutions consist of up to five members who are appointed exclusively as experts in the fields and professions as defined by the special criteria for the appointment to the supervisory board, of whom at least three are economists.

According to the information received during the preparation of this report, the Government of the BiH Federation selected candidates for supervisory boards by its Conclusion V. number: 613/2023 of 04/13/2023. The Federation Ministry of Labour and Social Welfare requested, in accordance with Article 28 of the Regulation on the procedure for proving the fulfillment of general and special requirements for appointment to governing, supervisory and management bodies in the Federation social protection institutions, that each selected candidate provide evidence of the absence of obstacles to his or her appointment. The procedure for appointing supervisory board members has not yet been finalized. This is confirmed also by the Conclusion of the Government of the BiH Federation V. number: 854/2023 of 14 June 2023, adopting the Information of the Federation Ministry of Labour and Social Welfare on the continuation of the work of governing and supervisory boards of the Federation social protection institutions after

the expiration of their mandates, pending their dismissal or the appointment of new management or supervisory bodies. Paragraph 2 of the Conclusion stipulates that the governing and supervisory boards, appointed by the decisions of the Federation Ministry of Labour and Social Welfare with the consent of the Government of the BiH Federation, will continue their operations in the composition in which they currently perform their functions pending the dismissal or appointment of new governing or supervisory bodies.

The management body of the institution, the director, organizes and manages the institution, represents and represents the institution towards third parties and is responsible for the legality of the work. The director of the institution is appointed and dismissed by the management board for a term of four years, with the prior consent of the Government of the BiH Federation.

The payment of allowances to the members of the governing and supervisory boards is made by the Federation Ministry of Labour and Social Welfare from the Budget of the BiH Federation. Allowances for members of the governing and supervisory boards of institutions are regulated by the Decision of the Government of the BiH Federation on the level of directors' salaries and allowances for work in the governing and supervisory boards of social protection welfare institutions (*Official Gazette of FBiH*, No. 82/19). The director's salary is regulated by LSPI FBiH.

Financing of the institutions

Institutions are financed in accordance with Article 66 of the LSPI FBiH:

- a) from fees for services rendered;
- b) from the budget of the Federation in accordance with the Federation regulations on the allocation of public revenues;
- c) from subsidies, donations and other sources.

The funds transferred from the budget of the BiH Federation are used to co-finance the current operations of those Federation social protection institutions that are unable to ensure regular functioning from the revenue generated from the services provided, as well as capital investments aimed at ensuring the necessary infrastructure for the work of the Federation institutions.

The Federation Ministry of Labour and Social Welfare, in accordance with its competences, i.e. competent inspection bodies, supervise the intended use of these funds.

Under LSPI FBiH the Federation institutions of social protection are obliged to establish a public registry of subsidies and donations, while their content and maintenance will be prescribed by the Federation Minister of Labour and Social Welfare, with the prior opinion of the Federation Minister of Finance.

6.1.1. Institution for Social and Health Care Bakovići

The team for the drafting of the *Follow-Up Report* visited the Bakovići Institution and held interviews with the director, managers of the key sectors and the beneficiaries accommodated in that institution. During the visit, the following was presented: Strategy for Transformation of the Care Institution for Mentally Disabled Persons Bakovići 2021-2023, adopted by the Management Board of the Institution on 22 February 2021, the Activity Report of the Care Institution for Mentally Disabled Persons Bakovići for 2023, the Report on the financial audit, which includes the balance sheet as of 31 December 2020, and the Rulebook on internal organization and systematization of duties and tasks of the Institution from 9 September 2022. The visit included a tour of all the rooms, including the room for isolation and fixation, dislocated facilities where the beneficiaries are accommodated, an inspection of the daily activity log book as well as the sports and recreational part of the Institution (courtyard, garden, field area).

After inspecting the premises of the Bakovići Institution, the Team found that the dormitories are separated for the beneficiaries of different sexes. Dormitory rooms have a minimum of two and a maximum of six beds, which are not bunk beds. The beneficiaries have unhindered access to the beds. Beds for immobile beneficiaries are adequate (medical electric hospital beds). The rooms are sufficiently ventilated and have enough natural light, while the windows do not have bars. Each dormitory room has a wardrobe for storing clothes.

Each of the eight wards has a common room and a kitchenette. The weekly menu is clearly displayed in the kitchen. Bathrooms are neat and tidy and accessible to the beneficiaries, with built-in handrails. The institution has a laundry room, and there is a daily schedule for maintaining personal and room hygiene.

Activity

The activity of the Bakovići Institution is defined by the provisions of the LSPI FBiH, and includes the provision of social care and social support services, as well as health care to persons accommodated in the institution with the aim of teaching them independent living and work skills in accordance with their own abilities and preferences.

The social care service is provided as continuous long-term accommodation or as organized community-based housing.

The social support service includes all types of professional work, which takes place through professional social work and psychosocial support, organization of work activities, occupational therapies, rest and recreation, and cultural and entertainment activities and other treatments depending on the identified needs of the service beneficiaries.

The health care service includes a set of professional medical and therapeutic procedures, measures and activities aimed at monitoring the

general state of health, i.e. observing and recording the general appearance, functionality, changes in behavior and other indicators of health difficulties of the accommodated beneficiaries with the aim of ensuring the protection of their health, as well as their physical and social recovery, with a special emphasis on nutrition, maintenance of personal hygiene, distribution and control of taking the prescribed therapy, implementation of health education and advisory work and support to the beneficiary and his/her family members.

In carrying out the prescribed activities, the management and all employees of the Bakovići Institution are obliged to adhere to the principles of humanism, inclusion and the best interest of the accommodated person, especially in the procedures of the initial expert assessment, the creation of individual plans and the review of the need to retain of the person in the institution.

The Bakovići facility keeps a record of beneficiaries, which is maintained in electronic and written forms, with all technical and organizational measures taken to protect data related to the identity of the persons placed in the facility and the protection of personal data.

Organizational structure

Under the Rulebook on the internal organization and systematization of duties and tasks in the Institution dated 9 September 2022, in addition to the director and the internal auditor, two sectors were established:

1. Sector for legal issues and human resources, accounting and material and financial affairs, procurement and auxiliary technical affairs – Group for projects and public relations;
2. Sector for psychosocial, sports, rehabilitation and medical services, with its departments/services of social work, community-based housing, support and psychosocial rehabilitation of beneficiaries, sports recreation and physical rehabilitation operate; medical support/services.

The Rulebook on Internal Organization and Systematization of Duties and Tasks systematizes 244 jobs in the Institution, and currently 168 positions are filled (122 indefinite employment contracts; 45 fixed-term employment contracts; 1 contract with the director), of which 47 are men and 121 woman. The average age of employees is 41 years, for men 40 years, and for women 42 years.

The professional staff of this institution consists of 57 nurses/technicians, twelve assistants, seven trained occupational therapists, four occupational therapists, one social pedagogue, one psychologist, one pedagogue/service manager, one educational rehabilitator, six social workers and one doctor of nursing practice /manager.

Filled positions by qualification

University degree	24
Associate degree	5
Secondary education	93+26
Primary education	20

Table: *Qualification structure of employees*

In 2023, the Federation Employment Institute co-financed the employment of a total of 35 employees on the basis of the Programme for co-financing of joint projects with other legal entities, of whom four employees have a university degree, and 31 secondary education. The Federation Employment Institute, through the Cantonal Employment Service of the Central Bosnia Canton, co-financed the employment of four employees for 2023 (two with secondary education and two with primary education).

In May 2022, with the co-financing by the Fund for Professional Rehabilitation and Employment of Persons with Disabilities, one person with disabilities was employed. The shifts are scheduled in such a way that care is provided to beneficiaries is organized 24 hours/day.¹³

¹³ Working hours are organized as follows: daily working hours are determined on a rolling basis, starting at 07:00 to 07:30 and ending at 15:30 to 16:00. The daily shifts are set as follows: work from 7:00 a.m. to 7:00 p.m. for workers who work in 12-hour shifts (in the 12-24-48 cycle); work from 7:00 a.m. to 7:00 p.m. for workers who work in two-day shifts.

Professional bodies and commissions

Within the framework of the Bakovići institution, two expert bodies and several commissions were established in accordance with the competences and identified needs of this establishment.

Professional college - Operational body for the execution of the tasks with the aim of maintaining good cooperation and communication among departments/services in the establishment. The college holds meetings as necessary to review all the tasks.

Professional team – The professional work of employees is organized in two parts: The professional management team, which consists of managers of the following departments/services: social work, community-based housing, support and psychosocial rehabilitation of beneficiaries, sports, recreation and physical rehabilitation and medical support/services, and professional team

The night shift is set as follows: work from 7:00 p.m. to 07:00 a.m. for workers who work in one-night shifts.

consisting of heads of the departments/services in the sector for psychosocial, sports, rehabilitation and medical services and all professional workers within the wards/services: social worker, psychologist, educational rehabilitator, nurse/technician, senior sports recreation trainer, physiotherapist, occupational therapist and speech therapist.

Commissions - The Commission for the admission and discharge of beneficiaries, the Commission for Public Procurement, the Commission for conducting public calls for the employment of required workers, as well as other commissions appointed in accordance with the established competences and identified needs of the Institution.

Housing capacities

The Bakovići institution is located on an area of 3.29 hectares and has 3,074 m² of usable area (institutional accommodation). The capacity is 270 beds in the classic form of

accommodation and 60 beds in apartments and houses for assisted living. According to the Decision on determination of the accommodation capacity in the Bakovići Institution, the Ward for immobile and semi-mobile persons is a separate unit, with 17 beds. The establishment provides organized housing services in a house in Fojnica (with two residential units), in Kiseljak (with three residential units), in Gojevići (with two residential units), in Bakovići (with two residential units) and in the Social Settlement (seven residential units). In addition to the buildings where the beneficiaries are accommodated, there are also supporting facilities (workshops, garage, warehouse, etc.).

The number of beneficiaries as of 3 October 2023 is 338, of which 278 beneficiaries are accommodated in eight wards - classic form of accommodation, and a total of 60 beneficiaries live under the housing programme with continuous and daily supervision and support from assistants.

No.	Place of accommodation	Men	Women	Total
1.	Ward I	37	0	37
2.	Ward II	38	0	38
3.	Ward III	0	37	37
4.	Ward IV	0	43	43
5.	Ward V (enhanced care)	11	10	21
6.	Ward VI a	0	21	21
7.	Ward VI b	22	0	22
8.	Ward VII	40	0	40
9.	Ward for immobile and semi-mobile persons (Facility for enhanced care for beneficiaries)	7	10	17
10.	Fojnica House (two residential units)	4	5	9
11.	Gojevići House (two residential units)	5	4	9
12.	Apartments Kiseljak (three residential units)	7	7	14
13.	Social welfare settlement (seven residential units)	12	7	19
14.	Bakovići House (two residential units)	5	4	9
TOTAL		185	152	337

Tabular overview as on 31 December 2022

The price of the daily service of the social part of beneficiary care in the amount of 42.00 BAM is effective from 1 September 2022, which amounts to 1,260.00 BAM, or 1,302.00 BAM (depending on the number of days in the month) on a monthly basis for all beneficiaries. The representatives of the establishment state that the price of the services is not realistic and

optimal for the implementation of all duties and does not reflect the actual costs of accommodation of the beneficiaries, as it covers only regular costs and ensures the smooth functioning and execution of current duties, while this amount is not sufficient for the development of the establishment in terms of its transformation and deinstitutionalization.

Admission to the Institution

The request for placement in the establishment is submitted exclusively through the competent Social Welfare Center (SWC) according to the place of residence of the person for whom the request is submitted. The SWC processes the request and sends the request with documentation of the potential beneficiary to the establishment. Immediately after receiving the request, the Commission for the Admission and Discharge of the Beneficiaries of the Institution's Service considers it, and no later than seven days from the receipt of the request, and delivers a response to the applicant, after which the exact date of admission to the establishment is communicated orally.

It can happen that two or three requests for placement are submitted to the Institution on a daily basis. As of 03 October 2023, a total of 81 requests were submitted, of which 34 were approved.

Legal capacity

According to the representatives of this institution, the largest number of beneficiaries placed in the establishment have been completely deprived of capacity. A small part of them are deprived of their capacity only partially or the capacity deprivation process is ongoing. According to the statistical data provided by the Institution, it looks like this:

- a) Completely deprived of legal capacity – 210 persons
- b) Partially deprived of legal capacity – 14 persons
- c) Capacity deprivation procedure in progress – 5 persons
- d) Statement on voluntary placement – 104 persons

When it comes to guardianship, a total of 209 people are under guardianship, where percentage-wise around 40% of guardians are appointed ex officio, while in 60% of cases, relatives of

the beneficiaries of the services of this institution are appointed as guardians.

Occupational engagement

Ten days after the admission of the beneficiary, an individual assessment of the needs, strengths, risks, abilities and interests of the beneficiary, the capacity of the service provider and an individual service plan for the beneficiary is conducted, depending on which ward/service they are assigned to. The assessment is carried out by professional staff (social worker, psychologist, educational rehabilitator, nurse/technician, senior sports recreation coach, physiotherapist, occupational therapist, speech therapist). An informed consent to work and occupational engagement is sought to ensure that the decisions of the beneficiary correspond to their individual psychophysical characteristics and affinities to the greatest extent.

During 2022, a total of 90 individual service plans were created. The beneficiaries are provided with advisory support with the aim of better functioning towards themselves, others and the environment in which they live, as well as support in solving possible conflict and crisis situations. According to data from 2022, the educational rehabilitator worked individually with 20 beneficiaries in the area of daily behavior and functioning. The psychologist¹⁴ worked individually with 68 beneficiaries with the aim of assessing the psychophysical condition, psychological empowerment and help in solving the problems and difficulties that the person faced. The pedagogue worked individually with 49 beneficiaries with the aim of optimizing and objectifying/determining cause-and-effect links and relationships in a given situation in order for them to understand, accept, and then overcome them.

¹⁴ During 2022, the psychologist held interactive workshops on the following topics: Raising awareness of the harmful effects of smoking, Peaceful conflict resolution, Psychosis - return and prevention of symptoms; What is CBT and how can it help me - for members of the professional team, Essentials of good communication - prepared for implementation and intended for all interested employees in the establishment.

EMAE-2 multifocal observation as part of occupation workshops was done for 60 beneficiaries, and based on that, individual work with them was planned.

Occupation engagement includes: art workshop at the Institution, handicraft workshop, sublimation printing workshop, music workshop and natural cosmetics workshop. Also, occupational engagement includes group psychological treatment, eco-section and cosmetic corner. Walking in the nearby local environment, going to religious buildings and going to the cinema are regularly possible for the sublimation printing.

The beneficiaries' work engagement is adapted to their abilities. Based on the assessment, it is organized as follows:

1. occupational engagement in a tailor's workshop: three times a week – 6 beneficiaries;
2. occupational engagement in the kitchen: every working day – 34 beneficiaries;
3. occupational engagement in the ward: every working day – 131 beneficiaries;
4. occupational engagement in the laundry room: every working day – 11 beneficiaries;
5. occupational engagement within the Procurement Unit: every working day – 4 beneficiaries;
6. occupational engagement within the Technical Affairs Unit: every working day – 6 beneficiaries;
7. occupational engagement in agriculture: 55 beneficiaries.

The establishment has House Rules which contain a schedule of activities, and the beneficiaries are responsible for adhering to the tentative daily schedule of activities.

Health care

The health care ward takes care of the beneficiaries' health needs, including administering the prescribed therapy and providing assistance in maintaining personal hygiene. The ward organizes work with a general practitioner who comes

twice a week, and with a neuropsychiatrist and an internist who come once a week. The service organizes other examinations as ordered by the doctor. Laboratory and radiological tests are performed in the competent health care center. The Health Care Service, in cooperation with the Social Welfare Service, delivers the beneficiaries' health booklets to the competent Social Welfare Centers for authentication and obtaining stamps. Also, the Service regularly distributes medicines in accordance with the prescribed therapy, after which it must prepare a report on the consumption of medications. Compared to 2018, when the price of health care services in this institution was 8.86 BAM per day, in 2023, the price of health care services increased by 1.37 BAM per day, so the health care fee paid for beneficiaries is now 10.23 BAM per day.

Use of physical force to protect persons with mental disorders/fixation room

There is a room for seclusion and fixation, which is used if the health condition of the beneficiary deteriorates to the degree of a person's tendency towards self-harm or aggressive behaviour towards other beneficiaries and the staff, and cannot be controlled in any other way. The room is covered by video surveillance. Seclusion in a room is carried out according to the *Institute's Instruction on the procedure for seclusion of beneficiaries*, number: 02-34-1001/07 of 30 November 2007 and the *Instruction on the case of worsening of the beneficiary's condition* number: 01-34-223/10 of 15 February 2010. During the period when the Ombudsmen Institution team visited the institution, there were no beneficiaries in the isolation room.

The so-called "seclusion list" dated 26 September 2023 was inspected and the following was stated:

"Reason, method and measure of seclusion: He ran outside the gate, ran along the road, when he tried to go back, he threw himself on the ground next to the stream, tore up things, tried to hit the technician with a stone, his backpack was

taken away, so he ran to the room... During the isolation, urination, defecation, vomiting, circulation, fluid/food intake, blood pressure, the therapy used and other observations are monitored.

During isolation, fixation is applied only in case of aggressiveness.”

During the visit, the Ombudsmen team had direct access to the reports of the on-call staff. The reports contain data on the numerous conditions of beneficiaries in each ward, on the number of epileptic attacks, manifestations of aggressiveness, hygiene treatment (bathing, etc.), on which beneficiaries had calls, who had a visit, who was leaving the institution, all important changes experienced by the beneficiary and where it is necessary to monitor the situation.

6.1.2. Institution for social and health care Drin Fojnica

The team of the Ombudsmen Institution responsible for the preparation of the *Follow-Up Report* visited the Institution for Social and Health Care Drin Fojnica (hereinafter: Drin Institution) and spoke with the director, employees and beneficiaries placed in this establishment. The visit included a tour of all premises, including the Urlenike facility, which is under construction, as well as the infirmary and rooms for the accommodation of beneficiaries, and the team inspected the books and activity log book. Each ward has its own living room and kitchenette, which are separated for beneficiaries of different sexes.

Activity

The Drin Institution is establishment of special social interest in the field of social protection, founded in 1955. The activity of the Institution includes the provision of social care services, psychosocial rehabilitation and primary health care support for persons with intellectual disabilities, with combined disorders and persons with mental and psychoorganic diseases in accordance with the provisions of the LSPI FBiH and the Rules of the Institution.

In the course of 2022, the Drin Institution provided accommodation services at different levels of support for a total of 24 wards and housing units within the establishment, and in the local community for 489 beneficiaries from all over Bosnia and Herzegovina. The total number of employees in 2022 was 249, of whom 157 are caregivers, employees who provide health care and physical therapy services, and employees who conduct occupational treatments, while 15 are professional employees of various profiles.

Organizational structure

Under the Rulebook on internal organization and systematization of duties and tasks in the Drin Institution, the internal organization was established as follows: Office of the Director, Legal Department, Financial and Accounting Department, Department for Technical Affairs, Department of Social Care, Psychosocial and Health Support, Ward A (main building), Ward B (Urlenike), Ward C (external units) and Social Welfare Department.

According to the Activity Report, a total of 249 employees work in the Drin Institution, of whom 80 are men and 169 are women, whose qualification structure is presented in the Table below.

Qualification	Number	Men	Women
University degree	29	14	15
Associate degree	3	0	3
Highly skilled	6	6	0
Secondary education	111	38	73
Skilled	63	19	44
Lower skilled	37	3	34
TOTAL	249	80	169

The schedule of employees at the Drin Institution is organized in such a way that care for beneficiaries is organized 24 hours/day.¹⁵

¹⁵ The working time is distributed as follows: the daily working time of a full-time worker of 40 hours starts at 07:00 and ends at 15:00. The working week of workers who work part-time of 39.5 hours lasts 6 working days, and takes place in shifts. The working hours for workers who work in shifts are 12-24-12-48 (12 hours of work - 24 hours of rest - 12 hours of work - 48 hours of rest).

Professional bodies and commissions

In order to regulate certain issues in the establishment, commissions are established as working bodies. For example: Admission Commission, Employment Commission, Commission for the reception and control of goods and donations, Commission for inventory of funds and sources of funds, Commission for putting fixed assets into use, Commission for the implementation of the procurement procedure, Commission for preparation of normative acts, Commission for

Accommodation capacities

The capacity of the Drin Institution is designed to accommodate 500 beneficiaries, and at the time of the visit, there were 490 persons from all categories, ranging from mental retardation to the psychiatric patients, and persons of all ages. Of the total number of beneficiaries, as of 31 December 2022, there were 286 male and 203 female beneficiaries, of whom 442 were mobile, 17 semimobile and 30 immobile beneficiaries. Of the total number of accommodated persons, 277 are older than 45 years, and 30 of them are younger than 18 years. The Drin Institution accommodates the following categories of beneficiaries:

- people with intellectual disorders;
- persons with mental disorders (for whom the hospitalization process has been completed and who, in the opinion of a specialist doctor,

the evaluation and sale of official motor vehicles through closed written bids, Commission for the evaluation and sale of dental equipment through closed written bids and Commission for the preparation of menus.

The commissions have a duty to keep records regularly during their work, and to present all conclusions, observations, statements, decisions, situations, drafts, remarks, suggestions and the like to the Director of the Institution through their regular activity reports.

- need prolonged treatment and accommodation in a social welfare medical institution);
- mentally ill persons who committed a criminal offense in a state of insanity;
- geriatrics - people who, due to degenerative changes in the CNS caused by the aging process, have mental disorders.

The Institution accepts all the above-listed categories for accommodation as mobile, semimobile and immobile persons (drin.ba/kako-izvrsiti-smjestaj).

Most of the beneficiaries placed in the Institution come from the Zenica-Doboj and Sarajevo Cantons, through the Social Welfare Centers. A very small number of the beneficiaries are placed in private accommodation: as on 31 December 2022, a total of 28 persons were accommodated in this way.

CANTON/RS	Number of the SWC beneficiaries	Private	Total
Sarajevo	133	7	140
Zenica-Doboj	156	4	160
Tuzla	32	0	32
Una-Sana	58	11	69
Bosnian Podrinje	9	0	9
Herzegovina-Neretva	7	3	10
West Herzegovina	3	0	3
Canton 10	7	0	7
Central Bosnia	46	3	49
Posavina	2	0	2
Brčko District of BiH	3	0	3
Republika Srpska	4	0	4
Montenegro	1	0	1
TOTAL	489		

Tabular presentation of the regions from which beneficiaries come, as on 31 December 2022

Admission to the Institution

The request for placement in the Drin Institution is submitted exclusively through the Social Welfare Center with jurisdiction in the place of residence of the person for whom the request is submitted. The Social Welfare Center conducts professional processing and sends the request with the documentation of the potential beneficiary to the Institution. Immediately upon receipt, the request is considered by the Commission for Admission and Discharge of Beneficiaries of the Institution's Services, and no later than seven days from the date of receipt of the request, a response is delivered to the applicant, after which the precise date of admission to the Institution is communicated verbally.

In the course of 2022, 90 requests for admission were sent to the Drin Institution, of which the Admission and Discharge Commission rejected 10, put on the waiting list 48 requests and recorded 14 requests as having given up placement, based on the information of the competent centers/services that they were placed in another social protection institution.

When a beneficiary is admitted, discharged or dies in the Drin Institution, the Department of Social Work keeps records in the registry book and registry file. Deaths are reported to the registry office according to the place of residence and the families and the competent Social Welfare Center are notified.

Occupational engagement

Occupational therapy for the beneficiaries with a lower level of intellectual functioning aims to expand life experience and create certain habits for them. This therapy has a positive impact on the creation of work and daily routines, on the behavior and communication with the environment, as well as on the formation of different attitudes.

Occupational therapy is carried out with the beneficiaries who are developing or have developed the basic routine and skills, and for whom a precisely defined goal is set through the therapy activities. Occupational therapy is carried out in six workshops. Occupational therapy was carried out by occupational therapy assistants as

part of the five workshops for performing occupational therapy activities.¹⁶

In addition to the aforementioned workshops, a significant number of beneficiaries are engaged in various activities and auxiliary jobs in all departments of the Institution. The total number of engaged beneficiaries in the workshops is around 120. All treatments are carried out according to the principle of an individual approach to the beneficiary. A certified occupational therapist was hired, who coordinates the work of occupational therapy. During the year, the institution also organized day trips to various cities.

Health care

Health care at the Drin Institution is provided in three infirmaries (for Ward A, Ward B and Ward C), and there are also a file cabinet, a medication storage place and a physical therapy cabinet. The wards are responsible for taking care of the beneficiaries' health condition, and in the clinics, medical examinations and diagnostic processing take place, instructions for examinations in health care institutions and hospitalization are given, and prescribed therapy is applied and measures are taken to prevent further complications.

During 2022, a total of 6,498 specialist consultative examinations were performed in the establishment, while the number of various interventions/services of nurses/technicians of the Institution was 21,535 (Drin Report, 2022: 25).

In 2023, the price of a health service is 9.13 BAM per day. Medicines and medical supplies are procured in accordance with public procurement procedures.

6.1.3. Institution for social care, health care, upbringing and education Pazarić

The team for the development of the *Follow-Up Report* visited the Pazarić Institution for Social Care, Health Care, Upbringing and Education (hereinafter: the Pazarić Institution), and held interviews with the social worker/head of service and the lawyer of this institution. During the visit, the team was presented with the 2022 Report on the work of this Institution, which was adopted by the decision of the Governing Board on 7 March 2023, as well as the House Rules, adopted by the decision of the Governing Board dated 9 November 2023. Although the *Follow-Up Report* team requested on several occasions the activity log books of the services of this institution, they were not shared with the team.

The visit included a tour of all the premises of the Institution, including the rooms for receiving and storing medicines, the dental office and the infirmary, as well as an inspection of the patient protocol, the intervention protocol and the record lists of physical restraints of the beneficiaries.

Having inspected the accommodation capacities of this institution, we concluded that the living conditions are satisfactory. A maximum of six beneficiaries are accommodated in a dormitory room.

The beds are wood and metal, each with a thicker mattress and the pillow and clean linen. Medical hospital beds are provided for immobile beneficiaries. The same-sex dormitory rooms have sufficient light but are not ventilated enough, and the windows do not have metal bars. The toilets are accessible, with built-in handrails, visibly cleaned, but with a dominant unpleasant odour. Almost every facility has a common room, the so-called living room, and a kitchen. The menu is weekly, and the nutrition standard is satisfactory in terms of foodstuffs and the needs. According to the staff of this Institution, the menu is enhanced with vegetables and fruits from the local farms and greenhouses.

¹⁶ Textile workshop 1 (20 beneficiaries); Textile workshop 2 (20 beneficiaries); Textile workshop - tailoring (10 beneficiaries); Workshop for making small objects from wood (30 beneficiaries); Art workshop (20 beneficiaries) and Workshop for making natural cosmetics (18 beneficiaries).

On the day of the visit, the team for the development of the *Follow-Up Report* attended several occupational activities/therapies: coloring, drawing and potting (work on aluminum foil), jewelry making, a music section and a weaving workshop. During the realization and organization of occupational activities, professional workers adjust them to the interests and wishes of the beneficiaries.

The team prepared in advance a uniform list of questions for all institutions covered by this report, to which the Pazarić Institution submitted answers on 21 December 2023. In addition to the situational analysis that includes the space and accommodation conditions, the information from those answers are presented below.

Activity

The Pazarić Institution is a public institution and the legal successor to the Pazarić Public Institution for the Care of Mentally Disabled Children and Youth. The Pazarić Institution has the status of a legal entity with the rights, obligations and responsibilities established by the Law and the Rules of the Institution for Social Care, Health Care, Upbringing and Education Pazarić (*Official Gazette of the FBiH*, No. 57/23). In accordance with the LSPI FBiH, the supervision of the professional work of this institution is carried out a special commission formed by the Federation Minister of Labour and Social Welfare. The commission has supervised this institution continuously since August 2023.

According to the responses submitted by the Pazarić Institution, the persons cared for by this institution are persons with disabilities, aged up to 30, and in social need according to the regulations in the field of social protection, namely:

- persons with permanent physical disorders or permanent physical development disorders;
- persons with intellectual development disorders of a moderate, severe and profound degree;
- persons with mental disorders;

- persons with combined disorders;
- children with mild intellectual development disorders who have been diagnosed with behavioral and emotional disorders.

Organizational structure

The new Rulebook on the minimum standards for the provision of social care and social support services in the social protection institutions of the FBiH defines a deadline of 90 days to prepare a *Situational Analysis and a Plan for Adjustment with Established Standards*, which will be sent to the BiH Federation Government for adoption. After that, the drafting of a new act on the internal organization and systematization of jobs will begin in order to harmonize it with the new Rulebook on minimum standards. The Rulebook entered into force on 14 December 2023.

The Governing Board of the Pazarić Institution consists of five members and met 14 times until 30 November 2023. Currently, the Governing Board has four members because one member was dismissed at his own request. The Supervisory Board of the Pazarić Institution has three members and met 12 times until 30 November 2023.

In the Pazarić Institution, the following services were established and are functioning: Social Service, Health and Medical Protection and Care, Training and Rehabilitation Service, Technical and General Services, Legal and Administrative and Technical Services, and Accounting and Financial Services.

Currently, there are 144 employees under a permanent employment contract, while 1+15 were hired under a fixed-term employment contract (through the Federation Employment Agency). Of the total number of employees, 34 are men and 125 are women.

Title	Number of planned positions	Filled positions
Director		
Assistant director	1	-
Head of service	6	6
Business secretary	1	1
Social worker	3	3
Head of Non-Institutional Care Department	2	2
Chief nursing officer	1	1
Charge nurse/technician	6	6
Ward nurse for healthcare services	14	8
Chief physical therapist	1	1
Physical therapist	6	4
Pharmaceutical/medical technician	1	1
Caregiver	67	60
Speech pathologist (educator rehabilitator)	3	2 Recruitment procedure for 1 officer underway
Psychologist	3	3
Speech therapist	1	1
Family-based educator	3	3
Educator	5	5
Therapy Ward Manager	1	1
Ergotherapist	1	1
Sports therapist	1	1
Occupational farm therapist	1	1
Occupational tiler therapist	1	1
Occupational therapist in the weaving workshop	2	1
Occupational therapist in the tapestry workshop	1	1
Occupational instructor	9	8
Music therapist	1	-
Psychosocial therapist	1	1
Expert associate for safety at work and fire protection	1	1
Driver transport manager	1	Recruitment procedure underway
Driver	2	2
Maintenance manager	1	1
Electro-mechanical technician	1	1
Stoker	2	1
Carpenter	1	1
Fitter	1	1
Grass and park maintenance worker	1	-
Chief laundress	2	2
Laundress	5	5
Hair dresser	2	1
Expert associate coordinator for legal affairs	2	2
Expert associate coordinator for information and communication	1	1
Receptionist	5	4

Expert associate for finance, plan and analysis	1	1
Bookkeeper operator	1	1
Material and financial accounting	1	1
Procurement officer	1	1
Cashier/liquidator	1	1
Storekeeper	2	2
Chef	1	1
Cook	8	7
Public procurement officer	1	1
Assistant cook	2	1
Internal auditor	1	Repeated re- recruitment proce- dure underway

Accommodation capacities

The accommodation capacities of the Pazarić Institution in the institutional part and in residential units in the local community are determined by the Management Board according to prescribed standards, i.e. general and special conditions in accordance with the provisions of the Law and other regulations adopted on the basis of the Law. Accommodation is done after a declaration of the person's voluntary consent to accommodation, and this is the obligation of the referring authority of the competent Social Wel-

fare Center. The price of accommodation is determined in accordance with Article 70 of the LSPI FBiH and is 42.00 BAM per day, and is reviewed once a year. A total of 336 persons are accommodated in the Pazarić Institution, of whom 197 are male and 139 are female. The largest number of beneficiaries are accommodated in the Resnik facility - 266, followed by the Ramići I facility - 24 beneficiaries and Ramići II - 46 beneficiaries.

Accommodation capacity	Current number of beneficiaries	Resnik	Ramići I Ramići II	Number of beneficiaries by sex
340	336	266	Ramići I 24 Ramići II 46	Men 197 Women 139

178 beneficiaries, of whom 113 adults and 44 minors, are completely deprived of capacity.

The guardians for 138 beneficiaries are mostly professional workers of Social Welfare Centers, while parents or family members are appointed as guardians of 70 beneficiaries.

Occupational engagement

Occupational engagement is diverse, with a focus on sports therapy/training. People with developmental disabilities can participate in several sports disciplines and in a variety of physical activities that are adapted to the abilities of people with developmental disabilities in order to avoid a negative impact

on their physical condition and mood. Through regular physical activities, this population achieves numerous psychological, functional and medical benefits, which leads to an improvement in mood and relief from anxiety. Sports activities/training at the Pazarić Institution are conducted in several ways, and beneficiaries are included according to their individual abilities (psychophysical and health condition).¹⁷

¹⁷ Sports activities are organized for the beneficiaries within the institution, in the sports hall, under the super-

The representatives of the Pazarić Institution state that sports therapy is best defined as “the provision of non-surgical, non-pharmacological interventions of a wide range of sports activities in order to help athlete beneficiaries to alleviate negative physical, mental, emotional or behavioral consequences and to return to an optimal level of health”.

According to the representatives of the Pazarić Institution, individual sports in which athletes compete are: swimming, athletics, table tennis, and group/team sports are: basketball, football and volleyball. During 2023, several beneficiaries took part in international competitions outside BiH and mostly won gold medals. The Special Olympics of Bosnia and Herzegovina plays a key role in improving the quality of life of people with developmental disabilities. The primary goal is not only to promote sports activities, but also a wider range of health, family, educational and inclusive programmes. The mission is to support people with intellectual disabilities and differences in order to realize their potentials within the abilities of each person. It is important to emphasize that the Special Olympics of Bosnia and Herzegovina operates in accordance with the Accreditation Rules of the Special Olympics World Games, which gathers more than five million people with developmental disabilities from nearly 200 countries.

Health care

In accordance with the provisions of the LSPI FBiH, health care of beneficiaries is provided in health care institutions. Regular and continuous supervision and monitoring is performed by health care personnel (nurses/technicians, physical therapists, caregivers).

The Pazarić Institute has signed a contract with the Sarajevo Canton Public Healthcare Centers, which provide primary health care services, and

vision of a sports therapist. Sports activities/training are designed and organized both individually and as a group, sections for team competitions are formed, when the beneficiaries-athletes compete within the Special Olympics of Bosnia and Herzegovina.

specialist examinations are performed at the Konjic General Hospital, with which the Pazarić Institute concluded a contract. According to the needs and instructions of doctors, the beneficiaries are also referred to other health care institutions for treatment. Health care is provided in accordance with health care and health insurance regulations and includes services and activities for preserving and improving health, prevention and early detection of diseases, as well as timely treatment and rehabilitation.

For the beneficiaries of the Pazarić Institution whose residence is outside the place of the seat of the Institution, primary health care is organized in accordance with individual contracts with the primary health care center located in the place of the seat of the social welfare institution and the relevant health insurance institute of the canton.

Due to all the problems with the regulation of health care of the population in the territory of the BiH Federation, which is related to insurance holders according to place of residence, the Pazarić Institution emphasized the importance of adopting a separate regulation under Article 87 of the LSPI FBiH, which the Federation Ministry of Health should submit to parliament for adoption, and which should regulate the issue of health care for the beneficiaries placed in social protection institutions whose residence is outside the place of the seat of the institution.

Use of physical force to protect persons with mental disorders/fixation room

Physical restraint of the beneficiaries is regulated by the Rulebook on Physical Restraint of Beneficiaries of the Pazarić Institution, number: 02-1-318/01-1/20 dated March 9, 2020. Physical restraint in the protection of persons with mental disorders is applied exclusively when it is the only means to prevent a person from endangering his or her life and health and those of another person, or from violently damaging property of greater value.

The decision to use physical restraint is made by a psychiatrist or neuropsychiatrist and orders its application, and is carried out by employees or medical workers of the Institution. On the day of team's visit, no beneficiaries were placed in seclusion .

An inspection was made of the record sheets on the physical restraint of the beneficiaries, which, in addition to the basic information on the person being placed in seclusion/physically restrained, also contains data on the type and duration of the measure, as well as the reasons for taking the measure. By inspecting the record sheet on the physical restraint of the beneficiaries on 15 November 2023, the following is stated as the reasons for taking the measure:

The beneficiary is aggressive, destructive, naked in the hallway, had a head injury, hits and pushes other beneficiaries, slams the door.

The supervision of the implementation of the measure taken is carried out by the employees/ medical workers of the Institution.

6.1.4. Cantonal Public Institution Home for Social and Health Care of Persons with Disabilities and Other Persons Sarajevo

The team for the development of the *Follow-Up Report* visited the Cantonal Public Institution Home for Social and Health Care of Persons with Disabilities and Other Persons (hereinafter: Nahorevo Home). On that occasion, an interview was conducted with representatives of the social and legal services, as well as with the beneficiaries. The visit includes a tour of all rooms, an inspection of the activity log and book, as well as the sports and recreation area (courtyard, garden). The rooms are adapted for people with disabilities.

Activity

The Nahorevo Home is a social protection institution founded by the Sarajevo Canton, which provides accommodation and care services for

adults with disabilities who are in social need. The Nahorevo Home is financed from the funds of the Sarajevo Canton budget, which include accommodation fees, as well as from donations and other sources, in accordance with laws and other regulations.

The area of the Nahorevo Home consists of one building with an area of 3,600 m² and an outdoor area (land) of 25,558 m². The facility is owned by the Clinical Center of the University of Sarajevo (KCUS), and the Nahorevo Home uses it under a lease agreement concluded between KCUS as the lessor and the Sarajevo Canton (the Ministry of Labour, Social Welfare, Displaced Persons and Refugees of the Sarajevo Canton, the Ministry of Health of the Sarajevo Canton and the Nahorevo Home) as a lessee.

The core activity of the Home is:

- a) Social and health care for adults with physical and mental disabilities, persons with permanent disabilities in physical or mental development, mentally ill and chronically ill persons, persons with specific illnesses if there are no basic conditions for their accommodation in their own or another family or another institution, and they do not need hospital treatment or it has been completed.
- b) Provision of care, nutrition, health care, rehabilitation (medical, psychosocial), work and occupational therapy services to beneficiaries in accordance with their remaining abilities, and cultural, entertainment, sports and other activities.

Management structure

The governing body of the Nahorevo Home is the Governing Board, appointed by the Sarajevo Canton Government for a four-year term. The Governing Board consists of five members, two of whom are professional employees of the Home. The Governing Board meets on a monthly basis, and more often if necessary.

The function of the operations control body is performed by the Supervisory Board appointed by the Sarajevo Canton Government for a period of four years. The Supervisory Board consists of three members, one of whom is an employee of the Home. The Supervisory Board held 12 meetings in 2022.

The management body is the director, who organizes and manages the work, acts for and on behalf of the Nahorevo Home towards third parties and is responsible for the legality of the work. The director is appointed by the Sarajevo Canton Government.

Organizational structure

The internal organization and organization of the work process of the Nahorevo Home is defined by the Rulebook and other normative acts of the institution and is adapted to the needs of

the beneficiaries of the services. According to the Rules of Procedure, the duties and tasks within the responsibility of the Nahorevo Home are carried out through eight organizational units: the Office of the Director, the Social Care Service, the Health Insurance Service, the Financial and Accounting Service, the Legal and Human Resources Service, the Warehouse, Procurement and Nutrition Service, the Services Unit and the Day Center Service.

According to the 2022 Activity Report, in the Nahorevo Home as on 31 December 2022, there were a total of 89 employees, whose qualification structure is shown in the Table below.

	University degree	Highly qualified	Secondary education	Skilled	Low skilled	Total
Total staff	18	3	37	10	21	89
Term	1					1
Number of employees with a permanent contract	14	3	33	8	18	76
Number of employees with a fixed-term contract	3		4	2	3	12

During 2022, the status of employees in the Nahorevo Home was improved by the adoption of the Law on Amendments to the Law on Salaries and Benefits in Social Protection Institutions in the Sarajevo Canton, which made it possible to

regulate the salary increase by 10% - 20% in the Rules of Operation for employees who work under difficult conditions and who are in direct contact with beneficiaries.

Accommodation capacities

The capacity of the Nahorevo Home is 200 beds, and as on 31 December 2022, 183 beneficiaries were accommodated, of whom 106 females and 77 males. The inspection of the situation on the ground showed that the Nahorevo Home had remodeled and rearranged the departments, although there is still a need for larger accommodation capacities.

The Nahorevo Home accommodates mostly older people. Of the total number of accommodated persons (182), 149 are older than 50 years of age, while only 14 persons are below 40.

According to the reason for the accommodation, as on December 2022, six people were accommodated in the Nahorevo Home due to old age; eight people due to serious chronic diseases; four people due to lack of housing; nine people due to impaired family relationships; nine people due to social need; 11 people due to inability to live independently and 11 people due to physical disabilities and 115 people due to manifest psychological disorders.

Admission to the Institution

The procedure for admitting a beneficiary to an institution is initiated by submitting a request by the Cantonal Social Welfare Center in whose area the person resides, providing the complete social background data of the potential beneficiary.

The service can also be provided under private contracts, up to a maximum of 30% of the accommodation capacity of the Nahorevo Home, as well as 3% of the accommodation capacity for persons residing in the territory of the BiH Federation.

The entire documentation required for accommodation is collected and processed by the social service and submitted to the Expert Team for admission and discharge of beneficiaries for further consideration. The expert team makes decisions/conclusions on admission to the Home

and discharge of the beneficiaries from the Home, and decides other relevant issues. The beneficiaries are admitted on the basis of the established waiting list after the Expert Team makes a decision, with mandatory testing of the new beneficiary.

In the past year, a total of 100 requests for accommodation were submitted, of which 63 were submitted through the Cantonal Social Welfare Center, and 37 were based on private contracts. 66 beneficiaries were admitted, of whom 40 beneficiaries through the Cantonal Social Welfare Center and 26 beneficiaries based on private contracts, while 10 persons could not be admitted to the institution.

Occupational engagement

Occupational therapy at the Nahorevo Home aims at the psychosocial and functional rehabilitation of the beneficiaries, and encourages motivation, the development of learning skills and relationships with others. In this way, they acquire specific competencies and build self-confidence. The administration of the Nahorevo Home planned and designed occupational activities, which are adapted to the actual psychophysical abilities of the beneficiaries so that they feel useful. Occupational therapy includes all creative, recreational, educational and other activities aimed at improving the beneficiaries' psychophysical condition. The activities carried out at the Home are: drama group, art group, music group, handicraft, art workshop, social games, culinary group, ecological group, horticulture, sports activities and spiritual rehabilitation.

Health care

The Home has one infirmary and it signed contracts with external providers. In 2022, 925 different specialist examinations were performed on the premises of the Institution as part of the Health Care Service. Each examination is recorded in the Patient Protocol. In 2022, there were a total of 512 transports of the beneficiaries to

other health care institutions (for laboratory testing, dental treatment and other examinations for diagnostic and therapeutic purposes).

6.1.5. Public Institute for Special Education and Upbringing of Children Mjedenica

The team for drafting the *Follow-Up Report* visited the public Institute for Special Education and Upbringing of Children Mjedenica (hereinafter: Mjedenica Institution), and on that occasion an interview was held with the director, employees and beneficiaries. All rooms were visited.

Activity

The Mjedenica Institution has existed since 1947. The mission of this institution is to ensure the most adequate professional multidisciplinary support for children with developmental disorders their parents, and to improve their status in society. The main reason for children's stay in this institution is education. The establishment has five segments of work:

- Kindergarten Sun in Mjedenica,
- Elementary school,
- Boarding school for students (educational work and psychosocial rehabilitation),
- After-school care,
- Occupational workshops.

Organizational structure

The organizational structure of the Mjedenica Institution is based on the provisions of the Law on the Institute for Special Education and Upbringing of Children Mjedenica, on the pedagogical standards and general norms for elementary upbringing education and the norms for work space, equipment, teaching aids and tools by subject for elementary school, the Law on Elementary Education of the Canton of Sarajevo, the Law on Preschool Education, the Law on Social Protection, the Rules of the Public Institute Mjedenica and other regulations.

The governing body is the School Board. The School Board has five members, and it consists of a representative appointed by the Ministry of Education and Science of Sarajevo Canton, a representative of the municipality where the Mjedenica Institute is located, a representative of the parents, and two representatives of employees. The president and members of the School Board are appointed and dismissed by the Sarajevo Canton Government. The government makes regulations regarding the election of the School Board, and these regulations ensure adequate representation of parents, students, employees of the Mjedenica Institute, founder, etc. School Board members are appointed for a period of four years, with the possibility of one re-election. The Mjedenica Institute is managed by a director, who is appointed by the School Board after a public hiring procedure for a period of four years, with the possibility of re-election. The Supervisory Board of the Mjedenica Institute consists of a representative appointed by the Ministry of Education and Science of the Sarajevo Canton, a representative of the municipality where the Institute is located, and a representative of the Mjedenica Institute who is chosen from among the employees. The president and members of the Institute's Supervisory Board are appointed and dismissed by the Sarajevo Canton Government. Members of the Supervisory Board are elected for a period of four years, with the possibility of one re-election. Duties and tasks of employees are defined as the responsibilities of a specific workplace, which under the rulebook implies a set of the same or related functionally related duties that are distributed within a 40-hour work week.

According to the submitted tables on the structure of employees required for the execution of the duties and tasks at the Mjedenica establishment, 106 jobs are currently systematized, and a total of 109 workers are employed. The structure of employees consists of professional workers, teachers, educators, work instructors and medical and auxiliary/technical staff.

Occupational engagement

Occupational workshops are an organizational part of the activities of the Mjedenica Institution and fully fit into the concept of the Institution's work and care of children and youth with severe intellectual disorders. Currently, 28 beneficiaries (15 females and 13 males) are attending occupational workshops. The workshops function as a day center because the beneficiaries come from their families. Modernly conceived, scientifically based and adequately organized educational work achieves the goals and tasks arising under the work programme and enables education, rehabilitation and socialization of students. By staying and working in the day center, the beneficiaries' functional abilities are significantly developed and improved, which significantly affects the improvement of functional abilities in the family and inclusion in the wider social community. Two meals (breakfast and lunch) are provided for workshop beneficiaries. Three working instructors and a cleaning lady work in the workshops. Each beneficiary will, according to the assessment, be included in an individual or group work programme. Other professional and logistical support is provided by all services of the Institute.

Occupation programmes and activities take place in the workshops as follows: wood and metal processing workshop, embroidery and tapestry workshop, ceramics workshop, art workshop and workshop for correctional-rehabilitation and recreational work.

Activities in the workshops are grouped according to complexity, and residents are involved according to their intellectual abilities. The work takes place under the constant supervision of occupational therapists. Works from the workshops are exhibited at appropriate events and exhibitions in a wider community.

Educational work is carried out with the aim of developing psychophysical abilities and movement coordination, forming and maintaining working habits, training for performing work operations, developing positive traits (discipline, persistence, perseverance) and developing hab-

its for maintaining personal hygiene and environmental hygiene. Educational work includes: development of work habits, work and cooperation in a group for maintaining personal and workplace hygiene, exercise and training for independent work and execution of orders, motivation for work and getting used to work discipline, development of social orientation and skills in the wider social environment (moving on the street, behavior in public transport, etc.).

After-school care

After-school care is provided to students after school and has its own pedagogical, educational, health and social values. After-school care services are used by 27 students. At after-school care, students are included in extended speech pathology treatment in accordance with individual needs and rehabilitation programmes. After-school care is provided every working day from 7:30 a.m. to 4:30 p.m. according to pre-arranged school shifts. For all activities and monitoring of the achievements of students, a record of stay with an activity log is kept. The multidisciplinary approach is manifested in collaboration among all members of the Institute's professional team, namely, the director, pedagogue, psychologist, social worker, speech therapist and medical staff.

Kindergarten Sun at Mjedenica

Kindergarten Sun provides equal conditions for care, development and upbringing of children of preschool age and the unity of educational influences on children in the preschool institution, the family and the social environment. Educational work is focused on the early treatment of children with developmental disorders. Some children in the period of growing up already show or have difficulties in motor skills, cognition, communication and other areas of development. 24 children attend the kindergarten (19 boys and 5 girls).

The age of children currently included in organized preschool upbringing and education in the

kindergarten is carried out with children from the age of three until they start school, with the planned expansion of the capacity of the kindergarten to include children aged 1-3, circumstances and conditions permitting. The group leader works directly with the children 25 hours a week. The remaining working time of a total of 40 hours is intended for preparation, work with parents, professional development and other responsibilities.

The programmatic tasks and content in the kindergarten include all developmental areas: cognitive skills, communication, motor development, self-help and socio-emotional development, and are adapted to the children in the course of their implementation in such a way that everyone can follow them in accordance with their own abilities. The goal of educational work with preschool children with difficulties is the systematic development of self-care, cognition, motor skills, communication, emotional and social behavior and play, in order to achieve the highest degree of independence possible that will contribute to better integration into everyday life.

As part of the kindergarten, numerous activities, shortened, supplementary and individual programmes for children, as well as instructional and advisory work with parents, are organized and implemented. This kindergarten supports research by educators, including their visits to the families and homes of the children who are their students. The kindergarten has an open concept, which includes the organization and implementation of volunteer work in the kindergarten, as well as cooperation with the university departments and students' internships.

Education

In the 2022/2023 school year, out of 123 enrolled students, 122 (99.19%) were graded students, while one 8th grade student was not graded (0.81%) due to health and other reasons. Special classes were organized for that student, but the parents were unable to send the child.

Out of 122 graded students, 56 of them were evaluated numerically, and 66 students were evaluated descriptively, which is in accordance with the percentage of classes in which teaching and learning take place. All evaluated students received a passing grade, and all students whose behavior was evaluated had exemplary behavior.

During the 2022/2023 school year, team analyses were made and used to develop action plans for individual students or classes in order to improve the quality of work and thereby improve student achievements, which included: creating the most adequate class schedules according to the place of implementation and the implementer, adaptation of the space, preparation and implementation of joint classes/ workshops, introduction of new content from different fields (occupational therapy, practical work), creation, implementation, evaluation of individual support programmes and individual care plans, professional orientation programme. For each work plan/programme, separate records are maintained/prescribed.

In the school year 2023/2024, 113 students (68 boys, 45 girls) attend elementary school. Education is provided free of charge.

6.1.6. Institution Home for Health and Social Care of Persons with Disabilities and Other Persons Stolac

Home for Health and Social Care of Persons with Disabilities and Other Persons Stolac (hereinafter: Stolac Home) was established by the Decision of the Assembly of the Herzegovina-Neretva Canton (hereinafter: HNC Assembly) of 29 October 2008, under the Constitution of the Herzegovina-Neretva Canton (HNC) (*Official Gazette of the HNC*, numbers: 2/98, 4/00 and 7/04) and the Law on Social Protection of the HNC (*Official Gazette of the HNC*, number: 4/16) in order to improve quality life of beneficiaries and preserve their psycho-physical and social abilities. The Stolac Home started operating on 4 June 2013, and the HNC Assembly transferred its powers over the Stolac Home to the HNC Government.

Pursuant to the Law on Social Protection (*Official Gazette of HNC*, No. 1/16) and its 2016 amendments, the Rulebook on Minimum Standards for the Provision of Social Services (*Official Gazette of HNC*, No. 4/16) was adopted, which set the conditions that this institution should fulfill depending on the needs and type of beneficiary groups to whom the service is provided, while respecting the ethical principles and rules of all professions.

According to the employees, the Stolac Home maintains good cooperation with the Health Center in Stolac and all health care institutions in the HNC. The largest number of beneficiaries in this institution come from the HNC. The administrative supervision of the Stolac Home consists of five members, and the fee per member is 150.00 BAM per meeting.

The report preparation team visited and inspected all the premises of the Home. In the premises, the flooring was changed in such a way that plasticized flooring was installed, which are more suitable for maintaining hygiene in accordance with the recommendation of the BiH Ombudsmen issued in the previous. The beneficiaries' rooms are neat and warm, with wooden doors. The rooms have beds for three to five beneficiaries. The beneficiaries of the same sex share a bedroom. Access to the building is provided by a disabled access ramp and a staircase, while the interior of the building is not adapted to the people with disabilities, i.e. there are no ramps or an elevator. The employees keep records of their work in the log books. According to the submitted statement, the Stolac Home provides accommodation services to the beneficiaries in the following wards:

- Ward for persons with mild, moderate and severe mental disorders
- Ward for people with mental illnesses
- Ward for semimobile and immobile persons
- Ward for older persons and persons with dementia.

The creative workshop is located in the courtyard with a separate access adapted to the per-

sons with disabilities. According to the employees, it is difficult to heat those rooms in the winter, so the workshops are held in a separate room inside the accommodation facility. The beneficiaries are allowed to move around the yard, where there are benches, plenty of greenery and walking areas.

Management structure

The governing body is the Administrative Council, which is appointed by the HNC Government for a four-year term. The Administrative Council consists of five members, of whom three members are nominated by the Government, a member from among professional workers employed at the Stolac Home, and a member nominated by the HNC Ministry of Health, Labour and Social Welfare.

The managing body is the director, who organizes and manages the work, acts for and on behalf of the Stolac Home towards third parties and is responsible for the legality of its activities. The director is appointed and dismissed by the Governing Board of the Stolac Home, with the prior consent of the HNC Government and at the proposal of the HNC Ministry of Health, Labour and Social Welfare.

Accommodation capacities

The Stolac Home's capacity is 250 beds. It accommodates beneficiaries of services from a wider region. The Stolac Home is primarily intended for the beneficiaries from the HNC and other cantons in the BiH Federation, as well as from the Republika Srpska, and, if necessary, also for the beneficiaries from the neighboring countries.

In 2022, the Stolac Home provided accommodation for 155 beneficiaries, of whom 125 beneficiaries were accommodated through the cantonal Social Welfare Centers, and 30 beneficiaries are placed in private accommodation¹⁸ The insti-

¹⁸ Data from the Activity Report and the Financial Report for the period 01 January 2022 – 31 December 2022.

tution has expanded its accommodation capacity by opening a new wing, where only older people are accommodated. This institution currently has 20 unoccupied beds for new residents. According to the statement submitted by the Stolac Home to the Institution of the Ombudsmen, the institution currently provides accommodation for 154 beneficiaries, of whom 72 are women and 82 are men. The competent Social Welfare Center referred 109 people for placement in the Stolac Home, and 45 people were placed at their personal request or at the request of their guardians or families.

Organizational structure

In their 2018 *Follow-Up Report*, the BiH Ombudsmen issued a recommendation to the competent ministry and the Stolac Home to ensure an adequate qualification structure of employees, taking into account the structure of the per-

sons cared for in the institution (insufficient staff and professionals in the Home). In response to this recommendation, the Stolac Home submitted the following statement in its act number: 02-667/23 of 22.9.2023:

“...we have 3 social workers, an occupational therapist and a psychologist employed as professional staff, which we consider sufficient for this number of beneficiaries. As for caregivers and medical staff, we fully agree that their number is insufficient, but the financial capabilities of the Institution do not allow employment of more people of this profession...”

According to the submitted statement, at the request of the Ombudsmen Institution from 15 January 2024, number: 02-12/24, currently, there are 64 employees at the Stolac Home:

Overview of filled positions by qualification	
University degree	7
Associate degree	3
Secondary education	52
Elementary education	2

Qualification structure of employees

Financing and prices of services

Under the annual 2022 report, revenue and profit increased by 11% compared to the same period of the previous year, which is the result of an increase in the accommodation price. Total expenditures for this accounting period show an increase of 12.4% compared to the previous accounting period.

According to the representatives of the Stolac Home, the price of services is BAM 40.00/per day for mobile beneficiaries, and BAM 45.00/per day for immobile beneficiaries.

Occupational therapy

In order to improve the quality of life of adults with mental disorders, various programmes are provided, such as, for example, a recreational programme, creative workshops, support workshops, and other services of organized use of free time, and art therapy and physical therapy, which the team attended during their visit.

The Stolac Home owns a certain area of land on which various agricultural crops are grown for the purposes of the Home. Workers are hired to work in the greenhouses, although the beneficiaries make a big contribution: as part of their occupational therapy activities, they perform

lighter tasks (harvesting, watering, weeding, etc.).

Programmes of kinesiotherapy and sporting and recreational activities, as well as music therapy and musical activities are implemented for the beneficiaries. The following is stated in the information on the implementation of the recommendations from the 2018 Special Report on the State of the Rights of Persons with Intellectual and Mental Disabilities, document number: 02-667/23 of 22 September 2023:

At the beginning of the year, the Social Service and the Institution's expert team adopt individual plans for each beneficiary, and try to improve the quality of life of the beneficiaries and prepare them for possible return to their families and independent living.

The information on all beneficiaries and their progress in the establishment, as well as the beneficiaries' state of health, is regularly shared, twice a year, with the reference Social Welfare Centers from which they come, and in the case of private beneficiaries, with their guardians or families.

Most of the beneficiaries are engaged in certain activities during the day such as activities in the pottery and carpentry workshops, work in the kitchen, on the farm or helping the staff of the establishment in their regular activities.

But we emphasize that a number of the beneficiaries are unable to participate in these activities due to their psychophysical condition. Regarding the deinstitutionalization of social care beneficiaries and alternative accommodation models, we highlight insufficient progress in this field and believe that Bosnia and Herzegovina and its ministries should have a vision and pass new laws that would better regulate this area.

Health care

The beneficiaries of the Stolac Home are provided with round-the-clock primary health care services under a contract concluded between the Home and the Stolac Primary Healthcare Center, as well as regular examinations by a psychiatrist and a general practitioner. The price of health

insurance is BAM 7.00 per beneficiary. During the visit to the Stolac Home, the team determined that there is space intended for an outpatient clinic for the basic needs of the beneficiaries, and if necessary, examinations are performed at the Stolac Primary Healthcare Center.

Family visitation

Family visitation is regulated by the House Rules, which serve as an instrument for the necessary order and organization of collective life, hygiene, peace, respect for the person, pleasant stay, services and regulation of treatment of property, equipment and facilities of the Stolac Home. Visitors are obliged to report upon arrival. Visits to service beneficiaries take place every day between 14:00 and 17:00. Exceptionally, visits may be allowed outside the set period, with the approval of the management.

6.1.7. Duje Reception Center

Appreciating the importance of institutions in Bosnia and Herzegovina that provide accommodation for persons with intellectual and mental disorders, and their important role in providing the necessary care, support and therapy, the team for the preparation of the *Follow-Up Report* visited the Duje Reception Center (hereinafter: Duje Center), and interviewed the assistant director, employees and beneficiaries, and made a tour of the pavilions where the beneficiaries are accommodated.

Activity

The Duje Center has been operating since 2004 as a care and rehabilitation center for all categories of the population who are in social need and is one of the largest projects of the Association HO International Forum of Solidarity - EMMAUS (hereinafter: the Association). The work of the Duje Center is focused on rehabilitation and resocialization, with the ultimate aim of reintegrating the service beneficiaries into the community. Since Duje Center operates as part of the Association, its establishment and status-related

changes are governed by the Statute of the Association which is seated in Klokočnica, Municipality of Dobož East.

The accommodation pavilion was also visited. The pavilions where disabled and older people are accommodated have only the ground floor and are adapted to the movement of those people. A large number of beneficiaries participate in the creative workshops. The rooms are neat and warm. The walls are decorated, and there is a TV set in the living room. Two female employees work in the tailoring workshop, and the beneficiaries help as much as they can if they wish, which is also the case in the laundry room.

There are four beds in each bedroom. Some rooms have iron beds, others have wooden beds. According to the staff, the reason for this is that the Center depends on donations and the beds are changed accordingly.

It was found out during the visit to Ward III that one bathroom/toilet was being renovated, while there was no hot water in the other toilet. The bathroom has hot and cold water. The hygiene was not satisfactory, but as the staff said, one beneficiary was having a bath just before the visit of the team.

Workers keep records of their work by ward.

The ward accommodating men with mental illnesses (mainly schizophrenia) has bars on the windows, which is not the case with the ward where women with mental illnesses are accommodated.

Management structure

The Assembly is the highest body of the Association, and consists of 20 members. The permanent members of the Assembly are the founders of the Association, who are representatives of branches, chapters, clubs, economic entities founded by the Association. The Assembly holds meetings at least once every two years. The executive body consists of the Governing, the Director of the Association and the Secretary. The

Governing Board has seven members who held six meetings in 2023. The persons responsible for the Duje Center, headed by the Director of the Association, form a professional team, which includes: assistant director, a medical doctor, a chief physician and his deputies, a social worker, a psychologist and a neuropsychiatrist. The Supervisory Board consists of three members, who are elected by the Assembly for a four-year term.

The activities of the Duje Center is controlled by the Ministry of Labour and Social Welfare of the Tuzla Canton, to which an annual activity report is submitted. Representatives of the Ministry visit the establishment at least once a year.

The majority of financial resources are provided through the projects implemented by the Association and by donations of long-term partners.¹⁹ The financing is done in large part from the funds paid for the accommodation, partly from the Ministry of Labour, Social Welfare and Returns of the Tuzla Canton, and also in part from the beneficiaries through their own payments and through private contracts.

The Duje Center maintains good cooperation with the Government of the Tuzla Canton, all health care and educational institutions in the Canton, Social Welfare Centers and other institutions and organizations in BiH and abroad.

Organizational structure

The Duje Center employs 268 people, of whom 181 are women and 87 are men. The majority of

¹⁹ Association MFS – EMMAUS is a member of several major international non-governmental organizations. A large number of domestic socially responsible companies and individuals support the work of the Association with their funds. The Association has implemented a number of projects in cooperation with Emmaus International, INHOPE from the Netherlands, IHH from Turkey, Proplan from the Netherlands, WAMY-NEDWA from Saudi Arabia, Dubai Charity Association and Sharjah Charity International from the UAE, BHB from Austria, Save the Children, Embassies of the UK, the Netherlands, the United States of America, the BiH Ministry of Security, the BiH Ministry of Human Rights and Refugees, the Ministry of Labour, Social Welfare and Returns of Tuzla Canton and many others.

employees are hired under a permanent employment contract (178 employees), while 90 employees are hired under a fixed-term employment contract. Of the total number of em-

ployees, 69 have a university degree, one employee has an associate degree, and 149 employees have secondary education.

Lawyer	1
Psychologist	2
Pedagogue-psychologist	1
Speech pathologist	2
Neurologist/psychiatrist	3
Physical therapist	3
Occupational therapist	8
Social worker	6
Nurse/technician	58
Caregiver	19
Administrative workers	52
Other staff	116

Number of employees by parts of the work process as on 26 December 2023

Staff training programmes at the Duje Center (internal and external) are implemented through seminars, professional lectures, courses, tours and visits to the same or similar establishments, and various lectures organized by the Center every month. In order to improve human resources and mutual relations, team supervision is held every month for employees, and workshops aimed at *preventing workplace burnout* are also held throughout the year.

Accommodation capacities

The following centers exist within the Duje Center:

- Center for older and infirm people
- Center for people with disabilities
- Center for people with mental disorders.

During the visit by the Ombudsmen Institution team in 2017, 12 children were accommodated in the Duje Center who could remain there until the age of 26. During the visit to the Center in 2023, we noticed that the Duje Center no longer accepted children. After submitting a request for registration for placement of children, the Federation Ministry of Justice rejected the request

due to the lack of educator who would organize life outside the establishment.

459 people in the age group 18-80 are accommodated in the Duje Center, of whom 216 are women and 243 are men. Most of the beneficiaries come from the Tuzla Canton (377), followed by those from the Republika Srpska (21), the BDBiH (9), and from other cantons (52). Out of a total of 459 beneficiaries, 153 of them were deprived of capacity. Beneficiaries' guardians are their relatives, and for around 60% of beneficiaries, the guardians are employees of Social Welfare Centers. The beneficiaries are accommodated based on a written consent of the person being accommodated or his or her legal representative.

In 2023, the Duje Center had 100 admissions and 87 discharges, of which 16 beneficiaries were returned to their families.

The price of accommodation per beneficiary is BAM 38.00 per day, and for beneficiaries from other cantons with which the Duje Center has not signed a cooperation agreement, the costs

include health care costs in the amount of BAM 100.00 per month.

Occupational therapy

Occupational treatments are carried out in accordance with the degree of disability of the beneficiary. A great contribution to the work of the Duje Center is made by the beneficiaries who, within the occupational therapy and their assignments, bring their daily routine closer to a family atmosphere. The occupational content at the Duje Center is diverse and includes: a tailoring workshop, an art workshop, music therapy (30-40 minute music treatments), a handicraft workshop and a music workshop. The beneficiaries, together with the employees, are involved in maintaining hygiene and cleanliness.

The Duje Center owns land, with greenhouses where different agricultural crops are grown for the Center's purposes. Workers are hired to work in the greenhouses, and the beneficiaries who, as part of their occupational therapy activities, perform lighter tasks (harvesting, watering, weeding, etc.) also contribute.

A prerequisite for the implementation of various activities, the ultimate goal of which is to increase the quality and variety of services provided to beneficiaries, is the construction of a special and adapted accommodation facility.

Health care

The Duje Center does not employ doctors - they are hired exclusively on the basis of a service contract. The beneficiaries of services have access to primary health care services at the Center, and to secondary and tertiary health care services in public healthcare institutions in the Tuzla Canton.

Preventive actions and the use of physical force for the purpose of protecting persons with mental disorders are regulated by the Working Instructions on the procedures for the use of physical force in the protection of persons with men-

tal disorders, adopted by the Duje Center. According to the Center, this document is harmonized with the Law on the Protection of Persons with Mental Disabilities of the BiH Federation. Physical intervention and/or mechanical immobilization are applied exclusively if this is the only means to prevent the beneficiary from endangering, during outbursts, his or her own life or health and the life or health of another person, as well as from destroying or damaging property of greater value. The decision to apply mechanical immobilization is made by a neuropsychiatrist who supervises its application.

The Duje Center has medical equipment, an infirmary, a dental office and a physical therapy room, and social and speech pathology services and a psychologist are available to the beneficiaries. According to the information that the Ombudsmen team received during the visit, the Association is implementing numerous projects in an effort to modernize the Duje Center and bring it closer to the European institutions for care and rehabilitation of vulnerable groups of society. The planned construction of a modern clinic is of crucial importance, as it will improve the quality of services provided to beneficiaries.

6.2. The Republika Srpska

Longer-term institutional care of persons who, due to mental health problems and intellectual disabilities, are unable to function without supervision and assistance is provided in social protection institutions and in special hospitals. The Government of the Republika Srpska is the founder of two social protection institutions for care of people with intellectual disabilities: Home for Persons with Disabilities Višegrad (for female persons) and Home for Persons with Disabilities Prijedor (for male persons). The health care facilities intended for long-term care of patients with mental health problems are the Public Special Hospital for Chronic Psychiatry Modriča and the Public Healthcare Institution Special Psychiatric Hospital Sokolac.

6.2.1. Health care institutions

Medical interventions for people with mental disorders are performed in healthcare institutions at the primary, secondary and tertiary levels of health care, as follows: primary healthcare center, specialist psychiatric clinic, hospital, special hospital, clinical center and institute for forensic psychiatry. At the primary level of care, the organizational form is the Center for the Protection of Mental Health. At the secondary and tertiary levels, mental health care services are provided by the Clinic for Psychiatry at the University Clinical Center of the Republika Srpska, the Public Healthcare Institution Psychiatric Hospital Sokolac, the Special Hospital for Chronic Psychiatry Modriča, the Neuropsychiatry Ward of the Gradiška Hospital, the Psychiatry Service at the Saint Apostle Lucius Hospital Doboj, Psychiatric Service of the Public Hospital "Dr. Mladen Stojanović" Prijedor and the Psychiatry Ward of the Public Hospital Trebinje. Accommodation and treatment services for forensic patients are provided at the Public Healthcare Institute of Forensic Psychiatry Sokolac.

For the purposes of this Report, the team visited the Psychiatric Hospital Sokolac and the Special Hospital for Chronic Psychiatry Modriča.

6.2.1.1. Public Healthcare Institution Special Psychiatric Hospital Sokolac

The Public Healthcare Institution Special Psychiatric Hospital Sokolac (hereinafter: the Sokolac Hospital) was established by the Decision of the Republika Srpska Government. This psychiatric institution is located in the immediate vicinity of the city, at a distance of two km, and receives patients from all over Bosnia and Herzegovina.

Activity

The Sokolac Hospital began operating in 1958 as an institution for the treatment of chronic mental patients. The beneficiaries who receive care

at this establishment are the people with mental disorders.

The current professional services formed in the establishment are: Legal Service, Economic Service, Technical Service, Service for Medical Affairs, Women's Rehabilitation Ward, Women's Acute Ward, Men's Rehabilitation Ward and Men's Acute Ward.

During our visit of the premises of this establishment, most of the beneficiaries were found in the communal space. The bedrooms and beds were neat and tight. In the rooms, the beneficiaries are provided with wardrobes for storing clothes and shoes. The temperature in the rooms was pleasantly warm, while the windows in the bedrooms were open to bring in fresh air. The beneficiaries are divided into single sex wards. The bedrooms are ventilated and lit. No handrails were observed in the corridors. The bathrooms are neat and tidy, clean, with hot water. As the visit took place in the winter, the yard was covered with snow, but it could be noticed that in the warmer seasons the yard is rich in greenery.

Governing and supervisory authorities

There is a Governing Board, which consists of three members. In 2023, they met once. The members of the Governing Board receive each BAM 100.00 per month. In the submitted statement, they point out that this institution does not have a supervisory board.

Organizational structure

In February 2021, the Governing Board of the Sokolac Hospital adopted the Rulebook amending the 2018 Rulebook on Internal Organization and Systematization of Positions. According to the Rulebook, there should be 163 positions. Staff training is carried out in accordance with the needs of the institution.

Rulebook on systematization foresees 163 positions	
Positions filled	122
Employed under permanent employment contracts	117
Women	68
Men	49

Specialists	4
Residents	4
Total number of professionals	8

Qualification structure of employees as on 04 December 2023

Accommodation capacities

At the time of the team's visit, 131 patients were accommodated in the Sokolac hospital, while the accommodation capacity is 156 beds. During the period between 01 January 2023 and 30 June 2023 there were 147 patients. The largest number of patients (130) were placed on the basis of a voluntary statement. The price of accommodation per day at acute psychiatric care is BAM 130.00 and at chronic psychiatric care BAM 78.00. Patients with serious mental illnesses are placed in the Sokolac Hospital. Organization-wise, the hospital has six wards, two of which are male and two female, and each ward has one open (rehabilitation) and one closed (acute) unit. The patients at Sokolac Hospital are people with chronic mental illnesses. Out of the total number of patients, 20 were deprived of capacity. Family visits are regulated by the House Rules.

Occupational engagement

Occupational therapy for patients includes music therapy, time spent in the library, and some female patients also knit. Most of them spend most of their time farming, and that is what fulfills them the most. Educational work, free time, excursions and other activities are mostly carried out as part of occupational therapy, with the aim of better and more efficient rehabilitation and

resocialization of patients. The time for recreational activities in the therapy rooms is scheduled after lunch, around 15:00 hours.

Health care

Health care is organized at the secondary level and is carried out at the Hospital, while laboratory and X-ray services and specialist consultations outside the Sokolac Hospital are provided in the primary health care centers in Sokolac and Rogatica, and in the Public Healthcare Institution East Sarajevo Hospital, the Public Healthcare Institution University Hospital Foča and the Public Healthcare Institution General Hospital Zvornik.

Family contacts

Patients may have visitors every day from 7:00 a.m. to 7:00 p.m., with mandatory reporting patient visitation to the ward staff. This and the manner of conversation with the practicing physician is regulated by the House Rules adopted in 2019. Visits may be restricted or prohibited in terms of time and number of visitors if it is established that the visit would be harmful to the patient.

Use of physical force in the protection of persons with mental health disorders/fixation room

Physical force is used in accordance with Article 36 of the Law on the Protection of Mental Health in the Republika Srpska. Physical restriction of movement of persons with mental health disorders is introduced in the psychiatric ward of the hospital, in the psychiatric clinic of the clinical center, in a special hospital or in an institute for forensic psychiatry, and is applied exceptionally, when it is the only way to prevent the person from:

1. seriously endangering his or her life and safety,
2. seriously endangering the life and safety of other persons,
3. destroying property of greater value.

A psychiatrist or a neuropsychiatrist, etc., is obliged, before applying physical restraint, to warn the person that measures of physical restraint will be taken. Information on the measures and duration of physical restraint of persons with mental health disorders, as well as the name of the psychiatrist or neuropsychiatrist, must be entered in the medical documentation. The team was given access to the Register of Restrictions/Seclusion.

6.2.1.2. Public Institution Special Hospital for Chronic Psychiatry Modriča

The team visited the Special Hospital for Chronic Psychiatry Modriča (hereinafter: Modriča Hospital), where a meeting was held with the director of the hospital and medical staff, and interviews were conducted with patients.

Activity

The Modriča Hospital is a public health institution that provides services to chronic psychiatric patients suffering from schizophrenia and other psychoses, in the spheres of diagnosis, treatment, care and psychosocial rehabilitation. The

hospital is a legal successor to the Institute for Treatment, Rehabilitation and Social Protection of Chronic Psychiatric Patients Jakeš Modriča. It is located in Garevci near Modriča, over an area of 50,000 m². As a health institution of public interest, it is financed from the RS Health Insurance Fund (90.89%), Social Welfare Centers (7.40%), and other revenues are 1.71%.

It was stated in the Ombudsmen's 2018 *Special Report on the State of the Rights of Persons with Intellectual and Mental Disabilities in Bosnia and Hercegovina* that the pavilions where the beneficiaries stayed were old, unadapted buildings and that the conditions were bad. The director of the hospital at the time mentioned a plan to build a new facility with a capacity of 120 beds, and to close the buildings older than 50 years with the intention of bringing them closer to the standards of modern psychiatric treatment. However, five years later, the situation is almost unchanged. The only investment in the last five years was the change of woodwork (windows) in two pavilions. The visit revealed that the buildings are in an extremely bad condition, both exterior and interior of the buildings. Hygiene conditions in these buildings are poor, the beddings are worn out. Communal rooms are small in size and are intended for all patients. They do not even meet the minimum level of comfort for patients. The Ombudsmen emphasize again that of particular concern is the fact that patients with reduced mobility, for whom the space is not adapted, and people with different diagnoses spend most of their time in these rooms, which calls into question the adequacy of their stay in the Special Hospital. The problem of dilapidated heating furnaces persists for many years. The special hospital secured the purchase of new furnaces with its own funds, but the problem of old pipes remains.

A large number of female patients are accommodated in the rooms, so one gets the impression of overcrowding. Most of the rooms are gloomy and without adequate lighting. In response to the question about painting the rooms, the hospital staff said that the walls are so bad that

there are always moisture stains coming through paint.

The bathrooms are worn out, have an unpleasant odour and are locked. The radiators are dilapidated and the walls are perforated.

Since it is a hospital that was founded and exists for the treatment of patients, after visiting the establishment, the question arises, apart from the professional staff: can it be expected to achieve the purpose under the present conditions in which the patients stay in the hospital? The state of the institution is best illustrated by the fact that some patients ask to go to an isolation room where there are only two beds and a small window.

There is the Governing Board, which is appointed by the RS Government for a term of four years. The Governing Board consists of five members, and in 2023 it met three times. The Board members receive a monthly fee of BAM 400.00 each. The Modriča Hospital does not have a Supervisory Board in accordance with legal provisions. The director of the hospital is appointed for a four-year term by the Republika Srpska Government, as the founder.

Organizational structure

185 people are employed in the Modriča Hospital, of whom 165 on the basis of a permanent employment contract and 20 on the basis of a fixed-term contract. The structure of employees is 125 women and 60 men. There are 132 professionals. A new rulebook on systematization of positions is in the process of being drafted.

Accommodation capacities

The patients in the Modriča Hospital are adults, who are accommodated in pavilions. The accommodation capacity of the hospital is 285 patients, and over the last two years all the beds in the hospital have been occupied. Out of 285

patients, 81 had the legal capacity denied, and, the capacity denial procedure was still pending for two patients. Employees of the Social Welfare Centers serve as guardians of 29 patients, while the guardians of the remaining 52 patients are family members and relatives.

The Modriča Hospital is organized in wards and units:

1. *Psychiatric ward*, which includes an admission unit, laboratory diagnostics and hospital pharmacy.

2. *In-patient psychiatric wards*: Closed male psychiatric ward -12 beds, closed female psychiatric ward -16 beds, open male psychiatric ward - 42 beds, open female psychiatric ward - 21 beds. Closed male and female psychiatric wards are intended for patients who, due to their mental condition, need a psychiatric diagnosis and treatment under special protected conditions. This includes patients with all types of psychotic disorders in psychotic decompensations, depressed patients at risk of committing suicide, and patients with acute reactive states. Open psychiatric wards provide prolonged psychiatric treatment and rehabilitation of patients.

3. *The Somatic Medicine Ward* treats patients who, in addition to psychiatric illnesses, suffer from a defined somatic illness. There is a unit within this ward with 16 beds for immobile patients. The ward provides in-patient treatment of older patients who suffer from chronic psychiatric diseases, and have mobility difficulties or are immobile.

4. *Rehabilitation wards*, a total of three, where, in addition to regular health care and protection services, certain rehabilitation contents are provided by the rehabilitation team through individual plans for each patient, based on a multifocal analysis and assessment of the patient's abilities. A House for Protected Housing Kladari has operated as part of the Special Hospital for Chronic Psychiatry in Modriča for several years.

5. *Rehabilitation Service*, with a Psychiatric Rehabilitation Unit, where activities are carried out through individual and group work with patients, and with the Occupational Therapy Unit, where the rehabilitation potential is assessed, individual patient rehabilitation plans are developed, and rehabilitation content is planned and implemented through work and occupational types of activities according to the programme which takes place through diverse content, depending on the category of patients and their preferences.

6. *Social Work Unit*, whose work is focused on representing the rights and interests of patients in accordance with present legal regulations, and on cooperation with relatives of persons with mental health problems, with the relevant Social Welfare Centers and Mental Health Centers.

The Modriča Hospital also established the Quality Management Service, the Legal Unit and General Services, the Economic and Financial Unit, the Public Procurement Unit, the Patient Nutrition Unit and the Technical Unit.

In 2023, there were 75 requests for hospital admission, 50 hospital admissions and 24 discharges as on 30 November 2023. Patients come with a referral letter, while the number of beneficiaries placed through the Social Welfare Center is decreasing. Those are mainly the patients who have stayed in the hospital for several years and who have nowhere to go. The problem of discharge of patients who are in remission, but whose families do not want to receive them back or have nowhere to return, was highlighted. The hospital staff received training on the discharge of patients in accordance with the Law on the Protection of Mental Health of the RS, which - as they said - was well designed but cannot be applied to patient discharge.²⁰ Some patients have stayed in the hospital for more than 20 years.

²⁰ An example of a patient in remission: when he was discharged from the hospital, his parents did not want to take him back home, so he was placed in a Home for Older and Infirm People through the competent Social Welfare Center.

Public procurement

Public procurement is carried out in accordance with the Law on Public Procurement and procedures PR-17-009 - Procurement of Goods, Services and Works, UP-17-006 - Procurement of Medicines, and UP-17-009 - Procurement of Food. Medicines are procured through a call for tenders issued by the Health Insurance Fund of the Republika Srpska. The problem is that patients often suffer from other illnesses in addition to mental illnesses, and the Special Hospital pays for their examinations and medicines because patients and health insurance funds do not have or do not want to allocate funds for their procurement. The funds that the Special Hospital receives are fixed, and so problems arise in these cases because the procurement of medication for treatment of other diseases suffered by patients is done by the Special Hospital; however, as was emphasized during the visit, not a single patient will be left without the necessary medication.

Family contacts

During the visit to the Modriča Hospital, the management mentioned as a problem the fact that certain relatives cut off contact with patients after they are placed in the hospital for treatment. The team is familiar with the so-called clinical pathway, a document that is drawn up when a patient is admitted to the hospital, which simultaneously describes the usual way of providing multidisciplinary clinical treatment to a certain type of patient and serves to record the services actually provided during one phase of health care, after which it is possible to determine whether the person is able to live independently in the community and whether he/she needs support outside of the institution. With the involvement of the Modriča Hospital staff, the clinical pathway, which lasted two years, in 2017 was shortened to one year. After that, many patients go into remission of the disease and are able to leave the hospital. Then there are problems with their families who do not want them back. The Special Hospital there-

fore becomes not only a health care institution but also a social care institution.

The Modriča Hospital organizes a family meeting every year, where families and relatives have the opportunity to visit the hospital and meet patients.²¹ While socializing, the information is exchanged about the conditions of stay and treatment, which gives the management an opportunity to present the work and plans for the next year. According to the Modriča Hospital, the family meeting is very important for patients because of the role of their relatives in their treatment.

Rehabilitation House Kladari – House for Protected Housing

The House for Protected Housing has operated under the Modriča Hospital since 2002. The establishment of such a house within an in-patient psychiatric institution represents a bridge between institutional treatment and rehabilitation of patients and their return to the community, i.e. their resocialization. The House functions as a separate organizational unit because it is located four kilometers from the Special Hospital, and as a separate household whose activity is to train patients for out-of-hospital life and fitting in with the family environment. Twelve patients of different ages live and receive treatment in the rural household environment, where they perform daily household chores. Life in the House is organized in such a way that the medical staff (nurse/technician) and the housekeeper stay with the patients every day, while the doctor visits the patients as part of regular daily visits. The content of life in the House is not strictly prescribed or forced, but are rather integrated into the usual rural environment in which the House is located, so that the patients, according to their affinities and to the extent that suits them, engage in the work in the garden, flower

²¹ Meetings were not held during the coronavirus pandemic. The last family meeting was held on September 23, 2023. years. The special part of the programme involved the patients who sang songs, danced and recited, which they had prepared with occupational instructors and occupational therapists.

garden, orchard, in the field, as well as in growing domestic animals. Patients also independently prepare meals and maintain household hygiene. The selection of patients staying in protected housing is done primarily by respecting their wishes, keeping in mind more their social needs and less the type and manifestation of symptoms. Patients can engage in hobbies or occupational activities offered by the Hospital's Occupational Therapy Unit. It is possible to travel daily to the Hospital or to the city, where they meet their social needs, such as visiting friends, socializing, entertainment, visiting the family, shopping, obtaining information, etc.

6.2.2. Social protection institutions for care of persons with intellectual disabilities

Institutions for social care of persons with intellectual disabilities were established by the Government of the Republika Srpska as social protection institutions, namely the Home for Persons with Disabilities Višegrad and the Home for Persons with Disabilities Prijedor. The bodies of the institution are the director and the Governing Board. The Governing Board is appointed and dismissed by the Republika Srpska Government. Internal, expert and inspection supervision is carried out in the field of social protection. Internal supervision can be regular or extraordinary, and is carried out ex officio or at the request of the beneficiary of the right, that is, at the request of the founder of the social protection institution. The Ministry responsible for social protection supervises the professional work of social protection institutions, regardless of who owns the institution. Expert supervision includes an overview of the state of work organization, work of professional staff, workers in other social protection jobs, associates, use of professional work methods, compliance with prescribed procedures, quality and scope of services provided. Supervision is carried out by the inspectorate responsible for social protection. The institution of social protection is obliged to facilitate the implementation of supervision.

Prices of services in social protection institutions

The Minister of Health and Social Welfare annually issues a Decision on the protected price of accommodation (*Official Gazette of the Republika Srpska*, No. 3/2023), which sets the monthly price of accommodation services for the beneficiaries covered by the social protection system of the RS in the social protection institutions founded by the RS Government. The price of accommodation in homes for persons with disabilities for an adult person with a disability was BAM 850.00 per months in 2023, and the price of accommodation of a child with developmental difficulties (mental disorders, multiple disorders, physical disorders) was BAM 906.00.

6.2.2.1. Public Institution Home for Persons with Disabilities Prijedor

Activity

The Public Institution Home for Persons with Disabilities Prijedor (hereinafter: Prijedor Home) was founded by the decision of the Government of Republika Srpska in 1996 and is a legal successor to the Institute for the Protection of Male Children and Youth with Developmental Disorders, which was formed in 1961.

The Prijedor Home cares for children, young people and male adults with difficulties in intellectual functioning, of different ages and with different types of disabilities, who require a certain level of health care. Care includes social protection (accommodation, food, safety, clothing, cultural and entertainment activities, etc.), as well as upbringing, education, development of job skills and work engagement of residents, as well as health care (primary and secondary health care).

The budget of the Prijedor Home for 2022 was BAM 2,551,338.00. The debt of the Social Welfare Centers in the Republika Srpska was BAM 328,309.81 as on 31 December 2022. During the same period, the debt of the Social Welfare Cen-

ters in the BiH Federation amounted to BAM 10,590.69. The debt of the BDBiH amounts to BAM 4,181.68, while the amount of BAM 25,162.56 is the debt from abroad.

The total surface area that the Prijedor Home has at its disposal is around 3.5 hectares.

At the time of the visit by the team, the majority of beneficiaries were attending creative workshops. The rooms where the workshops are held are warm and the walls are decorated. There are four beds in each room (some rooms have iron beds, others have wooden beds). According to the staff, the reason is that the wooden beds are "weaker". Hygiene of the rooms is at a high level.

The bedding is clean and tidy. The impression is that the beneficiaries spend a lot of time in workshops and doing other activities and that the rooms are used only for rest and sleep. There is an unobstructed access to all beds, the rooms are painted in warmer colors, and because of tidiness there is no impression that the rooms are overcrowded.

Toilets and bathrooms are clean, rather spacious and adapted to disabled people. No room in the institution has bars. There is a lot of greenery and accompanying facilities around the Prijedor Home that give the impression of spaciousness and the possibility for each beneficiary to choose the activities that best fit in with his or her abilities and interests.

When it comes to speech pathology treatment, work at the Prijedor Home is organized in two shifts, from 7:00 a.m. to 7:00 p.m., which is particularly important for rehabilitation of the beneficiaries.

Organizational structure

The largest number of staff members at the Prijedor Home provide direct care services to residents. Individual contracts have been signed

Management	10 workers
Education	2 workers
Direct care for residents	40 workers
Work instructors	2 workers
Infirmary	5 workers
Kitchen and bakery	6 workers
Maintenance of facilities	4 workers
Maintenance of hygiene	5 workers

Number of employees by part of work process as on 31 December 2022

Continuous training is a special type of professional development of healthcare workers and caregivers and it is organized for the purpose of acquiring knowledge and skills in order to monitor and apply modern scientific achievements. It is carried out in the institution, in cooperation with specialists of various profiles and experts.

Accommodation capacities

The Prijedor Home has 225 beds, and at the time of the visit, 177 persons were accommodated and classified into seven groups according to the degree of disability and age. The largest group includes the people with moderate mental retardation. The youngest beneficiary is 11 years old, and the oldest is 69. The beneficiaries of the institution are male persons from the entire territory of Bosnia and Herzegovina, and there are also four beneficiaries from the Republic of Croatia and one from Montenegro. There are 103 persons at the Prijedor Home who are completely deprived of the capacity.

Admission to the Institution

Following the approval of accommodation at the Prijedor Home, beneficiaries are first admitted for observation, which lasts up to three months,

with a psychiatrist, a physiatrist, a dentist and a family medicine specialist, who come to the institution at least twice a week. They prescribe medications to be purchased.

after which a final decision is made in response to the request.

In 2023, the Prijedor Home received 18 requests for accommodation, of which 12 were approved. During the same year, five beneficiaries placed in the institution died of natural causes, one beneficiary was returned to his family and one beneficiary was transferred to another institution.

Speech pathology treatment

Around 94 beneficiaries receive speech pathology treatment. The field of work is based on:

- maintaining health and ensuring conditions for relatively successful physical growth and development (nutrition, physical activity, health care, diagnostics, prevention of diseases and treatment);
- self-service and socialization (development of habits and abilities necessary for as successful independent functioning as possible and independence);
- communication (development of communication skills to increase the beneficiaries' ability to express themselves and understand others as best as they can);
- occupation (it plays an important role in improving the quality of life of the beneficiaries

because it helps them to feel useful and productive, to gain independence and improve their skills and increase self-confidence).

As part of free activities, the professional team workers organize trips to the city for the beneficiaries, visits to local promenades, picnic areas, coffee bars, sporting events, theaters and cinemas. Practice shows that engagement in work and occupational therapy give the best results. 15 beneficiaries are engaged on the farm, with the support of two work instructors, and they are engaged in planting seeds, tilling the soil and picking fruits, classifying and preserving fruits and vegetables. Two beneficiaries, supported by one work instructor, grow mushrooms. Four beneficiaries work in the kitchen. 10 beneficiaries maintain hygiene of the dining room and communal areas. One beneficiary is engaged in hair cutting and shaving in the barber's shop. Eight beneficiaries are included in the educational process in cooperation with the Public Center "Sun". Occupational therapy is carried out with the beneficiaries who have various types of mental disorders, such as depression, behavioral disorders, socio-emotional and psychosomatic problems. Around 50 beneficiaries participate in the creative workshops.

Health care

Health care at the Prijedor Home takes place through:

- Primary health care (beneficiaries registered in the family medicine teams of the local primary health care center), including also dental care;
- Secondary health care (specialist consultative examinations conducted by specialists as external collaborators);
- Physiotherapy treatment (based on the psychiatrist's findings, physical treatment is provided on a day-to-day basis, which includes sporting activities and occupational therapy).

Necessary medications are purchased through public procurement, and if some of the necessary

medications are purchased otherwise, the Prijedor Home allocates money for the purchase of such medication. More than 130 beneficiaries use therapy, mainly psychiatric and internal medicine therapies. Health booklets of the beneficiaries from the Federation of Bosnia and Herzegovina are submitted to competent Social Welfare Centers for validation every 2-3 months. The beneficiaries from Montenegro do not have health insurance and the costs of health care are borne by the institution.

In 2022, 16 beneficiaries used orthopedic aids, 45 beneficiaries were under the constant psychiatric supervision and 30 beneficiaries were involved in sporting activities.

Project activities

The Prijedor Home is included in the "**Socialization of Children of the Republika Srpska**" project and maintains very close cooperation with the special institution for education of persons with disabilities, "The Sun" (seven people are involved in the education process). Various clubs exist at the Prijedor Home, involving around 94 beneficiaries. An indoor children's playground was built within the Children's Ward and the provision of further equipment is still in progress. The cinema and library are partially equipped. A pedestrian walkway with a tree line for recreation and an outdoor gym are being constructed, while the existing sports fields are being reconstructed and the rooms for the culinary club are being rebuilt. Intensive work is being done to strengthen the beneficiaries' independence in everyday life.

A preliminary design of the **Assisted Home Living** project has been developed (it is estimated that around 30 beneficiaries could, with support, live independently), and one of the plans is for the Institution to carry out professional rehabilitation, where up-skilling and re-skilling would be carried out, and procedures have been initiated for the competent ministry to define the conditions and the possibilities of professional rehabilitation that the institution would perform.

6.2.2.2. Public Institution Home for Persons with Disabilities Višegrad

The public institution Višegrad Home for Persons with Disabilities (hereinafter: Višegrad Home) was founded by the decision of the Government of the Republika Srpska and is a legal successor to the Institute for the Protection of Female Children and Youth.

Activity

This institution cares for people with moderate, severe and profound disorders, combined disorders and autism. Care includes social protection (accommodation, food, safety, clothing, opportunities for cultural and entertainment activities, etc.), upbringing, education, occupational engagement and primary health care services. The budget of the Višegrad Home for 2022 was BAM 3,239,400.00.

The area where the Višegrad Home is located is divided into pavilions. According to the professional staff, they complied with the request from the competent ministry that the beneficiaries be distributed according to the degree of disability, while taking into account the wishes of the beneficiaries and their established routines. The interior walls of the pavilions are decorated with drawings, and the walls are painted.

The room temperature is the same everywhere because the Višegrad Home burns pellets for heat. Underage female beneficiaries who are able to attend classes have their own rooms, fully equipped with the necessary furniture. The communal rooms in the Children's Pavilion are equipped with corner sofas. There are no unpleasant odours in the pavilions visited by the Ombudsmen team. When accommodating a person, care is taken to ensure the room space of 5 m² per female beneficiary, and so most rooms have three beds.

The staff members said that, in compliance with the Ministry's request, a certain number of fe-

male beneficiaries have their meals in the dining room together with the staff. The female beneficiaries who are able to function quite independently have their own rooms equipped with toys and a TV set, and clean bed linen. There are no bars in any of the rooms. The constant presence and commitment of the staff employed in the wards is particularly noteworthy.

According to the assistant director, as of late, there is a greater need for accommodation of minor girls and for a certain number of female beneficiaries, also for their assisted living in community. In this regard, he believes that the entire concept of the institution should undergo a certain type of transformation in terms of adaptation to the needs of the female beneficiaries.

Organizational structure

There are a total of 90 employees in the Višegrad Home, of whom 52 are professional employees most of whom provide direct care to residents.

Administration	13 workers
Education, social service, psychologists	10 workers
Direct care for residents	36 workers
Work instructors	6 r workers
Commercialist	1 worker
Kitchen and bakery	7 workers
Maintenance of facility	7 workers
Maintenance of hygiene	5 workers
Stock keeper	1 worker
Drivers	2 workers
Doormen	2 workers

Number of employed women and men by part of work process as on 28 December 2023.

Accommodation capacities

The Višegrad Home consists of five accommodation units-facilities, in which 190 female beneficiaries were accommodated on the day of the team's visit. The largest number of female beneficiaries are aged between 40 and 60 (85 in total). On the day of the team's visit, there were four female beneficiaries aged below 18. According to the degree of mental disorders, the majority of female beneficiaries have a moderate disorder of intellectual functions (a total of 81).

In the period from January to December 2023, 19 requests for accommodation were received, 11 were accepted, two requests were being processed, and six requests were rejected. One female beneficiary was discharged from the institution and returned to her family, while three died.

143 female beneficiaries are completely deprived of the capacity. A permanent guardian has been appointed for 127 female beneficiaries, and a temporary guardian for 63 female beneficiaries (family members and also expert associates at the Center, if possible, are appointed as temporary guardians to perform the tasks that fall outside of the institution's responsibility). In 2023, there were around 200 visits by relatives of female beneficiaries.

The Višegrad Home has the following offices and services: the Office of the Director, Office for Legal, Human Resources and General Services with various units, Social and Health Service with various units and Accounting and Financial Service. The Governing Board meets regularly.

	Capacity of the institution	Filled positions	Number of minor female beneficiaries	Female beneficiaries deprived of the capacity
Number of female beneficiaries	220	190	4	134

Statistical data on accommodated female beneficiaries as on 26 December 2023

Speech pathology treatment

Speech pathology treatment in the past period included female beneficiaries with mild, moderate and profound intellectual disorders, whose somatic status showed the presence of epileptic seizures and other combined disorders.

A speech pathologist, a pedagogue and an andragogue are involved in the work. This approach is important for the development of the remaining abilities of the female beneficiaries, as well as for the correction and mitigation of their disorders, limitations and irregularities in order to develop psychomotor abilities, acquire work habits and improve and positively influence social contacts among the female beneficiaries.

Occupational therapy

In the course of 2022, 98 female beneficiaries were included in the occupational therapy; of that number, 48 beneficiaries were engaged in

work, and 50 worked in pavilions only in occupational playrooms. Work and occupational therapy is carried out in four adequately equipped, bright and warm rooms, where there are nine workshops with six work instructors.

Health care

Primary health care is provided by a team that comprises medical doctors and 15 medical technicians. Caregivers play a significant role in all activities (daily care of the female beneficiaries, hygiene, dressing, care and nutrition).

Primary health care is provided at the Health Center in Višegrad. Secondary health care is most often provided at the University Hospital in Foča (in 2022, 32 female beneficiaries were treated). The psychologist's support is available every day during the specialist's office hours.

VII. SURVEY ABOUT THE ROLE OF OTHER INSTITUTIONS IN PROVISION OF CARE TO PERSONS WITH INTELLECTUAL AND MENTAL DISORDERS

In addition to the team's visit to care institutions for persons with intellectual and mental disabilities, the BiH Ombudsmen conducted a questionnaire-based survey on the role and importance of other institutions in the provision of care to this category of citizens, where the role of Social Welfare Centers (SWC), Mental Health Centers (MHC) and Centers for the Protection of Mental Health (CPMH).

7.1. Role of Social Welfare Centers

In order to assess the overall status of persons with intellectual and mental disabilities, and the role of SWCs, the BiH Ombudsmen sent a questionnaire to SWCs asking the questions²² related to the issue of placement in institutions, the performance of guardianship for persons in and outside institutions, and the capacities of the SWCs, cooperation with other bodies, etc. Information was requested from 20 SWCs in the BiH Federation²³, 11 SWCs in the Republika Srpska²⁴ and the Sub-Department for Social Protection of the BDBiH Government.

7.1.1. Social Welfare Centers in the BiH Federation

The procedure seeking to declare loss of a person's capacity is prescribed by the Family Law of the BiH Federation²⁵ (Articles 325-339), which is a *lex specialis*, while the Law on Non-Contentious Proceedings of the BiH Federation (*Official Gazette of the FBiH*, No. 2/1998, 39/2004, 73/2005, 80/2014 – as amended and

11/2021) regulates the rules of procedure. According to Article 326 of the Family Law of the BiH Federation, the procedure for deprivation of a person's capacity can be initiated by: the court *ex officio*; a guardianship body; a spouse; a lineal blood relative and a collateral relative up to the second degree of kinship. The process of restoring the capacity can also be initiated by a person who has been deprived of the capacity. A final court decision declaring a person legally incapacitated is submitted to the competent guardianship authority, which *ex officio* conducts the procedure for the appointment of a guardian within the meaning of Articles 160-212 of the Family Law of the BiH Federation.

The appointment of a guardian from among professional employees of the SWC is a procedure that is identical in all other parts to the appointment of a guardian from among relatives, while the SWC staff are not subject to additional checks, such as psychological ones, as they have proven their psychophysical ability to perform their duties of a guardian with a medical certificate which is stored in the file. In the SWCs, there are special positions whose job description includes accepting and performing the duties of a guardian in cases where the person has no relatives or a third party who would accept guardianship.

The role of relatives in the process of caring for persons deprived of the capacity is extremely important; during the process of placing a person in a social protection institution, very important information can be obtained from relatives about the lifestyle and health of the person who needs assistance. The appointment of a guardian from among relatives is made following a professional assessment.

According to the SWCs, in a significant number of cases where people are placed in institutions, the guardians are employed by the SWC. A

²² Annex 1

²³ Responses were provided by: SWC Travnik, SWC Bihac, SWC Bugojno, SWC Cazin, SWC Stolac, SWC Tuzla, SWC Doboj East, SWC Široki Brijeg, SWC Zenica, SWC Velika Kladuša and SWC Odžak.

²⁴ Responses were provided by: SWC Prijedor, SWC Trebinje, SWC East Sarajevo and SWC Sokolac.

²⁵ *Official Gazette of the BiH Federation*, Nos. 35/2005, 41/2005 – corrigendum; 31/2014 and 32/2019 – the CC decision.

guardian from among the professional staff of the SWC visits the person at least once a year. The reason for this is the overload of profession-

al staff and, in most cases, the distance between a social protection institutions and a SWC.

Social Welfare Center	Number of persons who lost capacity, whose guardian is a SWC specialist/employee
SWC Zenica	44
SWC Bihać	15
SWC Bugojno	13
SWC Tuzla	18
SWC Velika Kladuša	7
SWC Cazin	7
SWC Stolac	1
SWC Široki Brijeg	-
SWC Doboj East	-
SWC Travnik	17
SWC Odžak	2

Number of persons deprived of the capacity, whose guardian is a SWC specialist/employee

The SWCs covered by this report submitted indicators on the number of persons who were deprived of the capacity, as well as data on the number of cases in which the SWCs proposed, in the period 2018-2022, the deprivation of a person's capacity. It arises from those indicators that the SWCs Zenica, Bugojno and Doboj-East proposed deprivation of a person's capacity in two cases, the SWC Travnik proposed it in four cases, and the SWC Odžak in five cases of deprivation of a person's capacity. According to the submitted information, the SWC Bihać proposed deprivation of a person's capacity in 18 cases, and the SWC Tuzla in 12 cases. The SWCs Velika Kladuša, Cazin, Stolac and Široki Brijeg did not propose deprivation of a person's capacity during the period 2018-2022.

Procedure for placing a person in a social protection institution

The placement procedure is generally initiated when relatives do not want or can no longer take care of a person deprived of the capacity. The

procedure can be initiated at the request of the person who is being placed, a relative or ex officio. A crucial role in this procedure is played by the expert team who pays a field visit and collects social background data, interviews the person who is in the process of being accommodated and his or her relatives, and explores the possibility for the person to remain in the local community. An important part of the process is the consent to placement that a person in the placement procedure gives or refuses to give for the record in the minutes of the hearing of the party. This is followed by seeking the consent from the social protection institution, the legal arrangements and arrangement of accommodation costs and determining the maintenance obligation. The ability of the institution that is obliged to maintain a person to participate in the accommodation costs is always explored. If the stated funds are not sufficient, the consent is sought from the relevant Ministry of Labour and Social Welfare to cover the difference, i.e. accommodation costs. After the approval of the Ministry is obtained, the next step is to look for

an institution that offers the best accommodation for the resident.

The SWC Tuzla mentioned a lack of professional workers who would work on the placement of adults in social protection institutions. Through this SWC, 167 people were placed in six social protection institutions²⁶.

²⁶ Association HO International Forum of Solidarity - EMMAUS, Reception Center Duje Klokočnica, Public Institution Home of Pensioners Tuzla, Public Institution Institute for Care of Mentally Disabled Children Pazarić, Association for Social Inclusion of Persons with Intellectual Disabilities of the Tuzla Canton, Institute for Care of Mentally Disabled Persons Bakovići, Institute for Care of Mentally Disabled Persons Drin Fojnica.

Placement of persons deprived of the capacity in social protection institutions

SWC Zenica	96
SWC Bihać	33
SWC Bugojno	13
SWC Tuzla	34
SWC Velika Kladuša	8
SWC Cazin	14
SWC Stolac	3
SWC Široki Brijeg	5
SWC Dobož East	4
SWC Travnik	14
SWC Odžak	5

Placement in the social protection institutions

The SWC Bugojno initiated non-contentious proceedings before the competent court six times, of which two were proposals for the extension of involuntary placement, and six decisions were made on forced placement in social protection institutions. Also, the SWC Velika Kladuša initiated two non-contentious proceedings, both of which ended with a court decision on forced placement. The SWC Travnik proposed deprivation of a person's capacity in four cases, and all procedures ended with the placement of persons in an institution.

During the period 2018-2022, 17 persons from social protection institutions were transferred to the Union of Organizations for Support to Persons with Intellectual Disabilities of the Federation of Bosnia and Herzegovina, Sumero, through the help of a guardian/professional worker of the SWC Zenica.²⁷ The SWC Bugojno transferred one person whose guardian is an expert associ-

ate /employee of the SWC by returning the person home. Transfer begins with the Commission's assessment of the need to transfer the resident to another form of care or return to the family, followed by preparation of the resident by providing detailed information, and finally with administrative actions (transfer documentation, decision and contract).

One person was transferred and returned to his family with the help of a SWC Tuzla's professional worker, but was subsequently placed in a social protection institution. The SWC Cazin transferred one person after the person's capacity was restored at the proposal of this SWC. The problems with moving people from social protection institutions and returning them to the local community are most often reflected in the lack of interest or the inability of relatives and families to take over care of the person because they cannot provide them with all the necessary care.

The SWC Travnik, in cooperation with the Sumero organization, is continuously exploring the possibility of transferring as many residents as possible from social protection institutions to the housing units that are organized according to the *community living* system. At the same time, two housing units (male and female) were

²⁷ Sumero is a non-governmental and non-profit civil society organization that works to improve human rights and protect the interests of people with intellectual disabilities and their families. The members of the Sumero Alliance are local organizations for the support for people with intellectual disabilities in FBiH and BDBiH. Partner organizations are also local organizations in the RS with which projects are also implemented. Today, Sumero has up to 30 members. <https://sumero.ba/about-our-work/>

formed in Travnik, providing accommodation to six people.

The SWCs have stated that cooperation with other institutions could be described as relatively good and less good. Specifically, the SWC Travnik has assessed cooperation with the court and the police as relatively good, and cooperation with the Prosecutor's Office, relevant ministries, healthcare institutions and some non-governmental organizations as less good.

The SWC Bihać does not rate cooperation with other institutions as satisfactory. They especially emphasize the problem of mentally ill persons who exhibit aggressive behavior. Healthcare institutions do not order forced hospitalization and placement. The police administration only reports such persons to the SWC, which cannot place the person without his/her consent, while

it is unable to assess the best interest in relation to the placement. Sometimes it is enough for residents to take therapy regularly, for which the SWC is neither educated nor able to secure it.

Systematization

All surveyed CSWs have adopted Rulebooks on internal organization and systematization of positions, which provide job descriptions and the way these bodies function. To make it reader-friendly, the information on employees in the Social Welfare Centers covered by this report and the submitted indicators are shown in the Table below as follows: number of jobs under systematization and filled positions, including professional workers.

Social Welfare Centers	Filled positions
SWC Zenica	Systematization foresees 57 jobs, and there is a total of 51 employees (7 social workers, 10 lawyers, 3 economists, 2 psychologists, 7 social pedagogues, 1 pedagogue/psychologist, 1 speech pathologist, 1 professor of philosophy and sociology, 14 administrative employees and 5 other employees) .
SWC Bihać	Systematization envisages 14 professional positions, and 12 professionals and 7 other persons are employed.
SWC Bugojno	Systematization foresees 13 professional and 5 other positions, and 8 professionals and 3 other persons are employed.
SWC Tuzla	Systematization envisages 60 professionals and 17 other positions, and 24 professionals and 12 other persons are employed.
SWC Velika Kladuša	Systematization foresees 8 professional and 7 other positions, and 5 professionals and 5 other persons are employed.
SWC Cazin	Currently, 19 people are employed, of whom 12 are professionals and 7 others.
SWC Stolac	Currently, 7 professionals and 2 other people are employed.
SWC Široki Brijeg	Currently, 7 professionals and 1 cashier are employed.
SWC Dobož East	Currently, 2 social workers, 2 lawyers, a director and an

	accountant are employed.
SWC Travnik	Systematization foresees 26 professional and 5 other jobs , and 11 professionals and 2 other persons are employed.
SWC Odžak	Systematization foresees 4 professionals and 2 other positions , and three professional and 1 other person are employed.

Systematization and filled positions

Financing

The financing of Social Welfare Centers (salaries and other worker cash benefits, material costs, etc.) is covered from the budget of the founder (municipality/city), and the financing of beneficiary cash benefits in the field of social benefits, child and family protection is allocated from the budgets of relevant ministries, cantons and the Budget of the BiH Federation.

7.1.2. Social Welfare Centers in the Republika Srpska

Procedure for deprivation of a person's capacity

The procedure for deprivation of a person's capacity is governed by the provisions of the Family Law of the Republika Srpska (*Official Gazette of the RS*, No. 17/2023), and is conducted in accordance with the procedure prescribed by the Law on Non-Contentious Proceedings of the Republika Srpska (*Official Gazette of the RS*, No. 36/2009, 91/2016 and 16/2023).

The procedure for deprivation of a person's capacity is initiated before the competent basic court. After the initiation of the procedure, the basic court informs the SWC of the need to appoint a temporary guardian (professional at the SWC) who will protect the rights and interests of the person deprived of the capacity while the non-contentious proceeding is still pending. The SWC professional worker calls the next of kin for an interview and informs them of the initiated procedure and the necessary actions that the SWC should perform in accordance with legal regulations. After individual opinions, the case

leader (social worker) presents the findings and opinion of the team based on the factual situation in the case file, which contains all the elements as well as individual opinions. The basic court summons the guardianship authority to the scheduled hearing and, together with the summons, the SWC submits the findings and opinion of the expert psychiatrist. At the end of the hearing, the court makes a decision that is submitted to the SWC, and the SWC takes further actions with the aim of appointing a permanent guardian. The decision on guardianship is also submitted to the competent registry office for birth registration.

It is evident from the SWC responses that in the process leading to the deprivation of capacity, relatives are mostly those who have an interest in having the person's capacity revoked in order for the person to exercise his or her social protection rights and for them to acquire the right to inheritance or the right to a family pension. In any case, before appointing a permanent guardian, it is necessary to determine the eligibility for the guardianship role. Special care is taken of the resident's property. If there is any, the property is inventoried, and if it is immovable property, a guardianship notation is placed with the competent RS Administration for Geodetic and Property Affairs.

Social Welfare Centers emphasize that professionals who act as guardians very often have to postpone their regular duties or scheduled meetings in order to perform guardianship duties. They move their private and family obligations in order to do what is needed for the wards. They are often appointed as guardians of chil-

dren without parental care, as well as in special cases. They emphasize the fact that performing guardianship duties in institutions brings no benefits to them (in banks, Pension and Disability Insurance Fund, Interior Ministry).

111 persons are registered at the SWC Prijedor to have the capacity revoked, and in the period 2018-2022, the SWC proposed in one case only the deprivation of a person's capacity. During the same period, the SWC Trebinje submitted a proposal for deprivation of a person's capacity 14 times, while at present, 37 persons are registered as having the capacity revoked.

In the period 2018-2022, SWC Sokolac and SWC East Novo Sarajevo did not submit any proposals for deprivation of a person's capacity. 15 persons are registered at the SWC Sokolac to have the capacity revoked, while 25 persons are registered at the SWC East Novo Sarajevo.

According to the records of the SWC East Sarajevo and the SWC Trebinje, two professional workers are currently guardians of persons deprived of the capacity, while according to the records of the SWC Prijedor, 16 professional workers have been appointed as guardians. The SWC Sokolac does not have in its records any persons whose capacity has been revoked and who have been appointed a guardian from among professionals at the SWC.

According to the SWCs, during the period 2018-2022, there were no registered cases of persons whose capacity was restored at the request of the SWC. The SWCs do not have care and assistance at home, with the exception of the SWC Trebinje, which has a team that provides in-home care and assistance for the beneficiaries (a nurse and a provider of home care services for the elderly), who, in accordance with the adopted arrangements, provide services in the field, i.e. in the beneficiary's home. Persons with mental functioning problems are very often among these beneficiaries.

Placement in social protection institutions

The procedure of placement of persons in institutions is carried out in accordance with the provisions of the Law on Social Protection and instructions on placement in institutions for persons with disabilities. Social Welfare Centers are approached mainly by the closest relatives of the persons who need accommodation because there are obstacles to their stay in a family environment.

The procedure is aimed at determining the relative's participation in the coverage of accommodation costs, when acting in accordance with the Family Law of the Republika Srpska, the Law on Social Protection of the Republika Srpska and the Rulebook on participation in the costs of support of persons, placement in an institution and care in a foster family.

When it comes to placement in a health care institution, all actions related to social protection are performed by the SWC and the guardian. The person is sent to a health care facility with a referral from a doctor/ psychiatrist, or is referred based on a basic court decision on forced treatment in a health care facility. Everything that is required from the area of social protection (submission of social background information, statements by relatives, guardian, the information requested by the court, etc.) is submitted by the SWC.

The SWC emphasize that so far, they have not encountered any difficulties in accommodating persons who have been deprived of the capacity, and that the relatives are generally ready for any kind of cooperation. In cooperation with the professional staff, they try to resolve all important issues and thus provide support and strengthen the residents. Professional staff are at the disposal of family members, and they emphasize that family members are just as important as residents in all procedures.

Placement in closed institutions (social protection institutions-health care institutions)

SWC Prijedor	2
SWC Sokolac	6
SWC East Sarajevo	4
SWC Trebinje	14

Placement in closed institutions

None of the SWCs that were the subject of analysis in this Report initiated non-contentious proceedings before the competent courts for forced placement of residents in social protection institutions. Also, in the period 2018-2022, there was no transfer of persons from institutions where the SWC's professional worker is a guardian. Professional staff visit the residents when the need and opportunity arise, as well as when organizing family meetings, and contact by telephone is regularly maintained with the professional staff of the institutions.

The SWCs emphasize the high level of cooperation with institutions and the local community, and that in order for the persons deprived of the capacity to make progress, it is necessary to work in consultation with family members and to strengthen cooperation with the health sector. The greatest burden is placed on the SWCs, as if

the persons deprived of the capacity were solely social protection beneficiaries. According to the experiences of the SWC Trebinje, the health sector "gets away" from these persons and pays them insufficient attention in the entire system.

Systematization

Internal organization of work, description of work, organization and way of working and other issues important for the SWC work are established and defined by the Rulebook on internal organization and systematization of positions. Social Welfare Centers Prijedor, Sokolac, East Sarajevo and Trebinje have adopted the Rulebook on internal organization and systematization of positions.

Social Welfare Centers	Filled positions
SWC Prijedor	A total of 55 people are employed (29 professionals, 15 associates, 10 technical support officers and the director of the Institution)
SWC Sokolac	A total of 12 people are employed (director, five professionals and six others)
SWC East Sarajevo	5 professionals and 2 other people are employed
SWC Trebinje	36 people are employed (18 professionals and 15 others)

Systematization of positions and filled positions

Financing

Social Welfare Centers in the Republika Srpska are financed from the budgets of local self-governance units, while the financing of the exercise of certain rights is carried out through the Ministry of Health and Social Protection of the Republika Srpska (the right to personal disability allowance 100%, the right to cash benefit, the right to receive an allowance for support and care provided by a carer).

7.1.3. Sub-Department for Social Protection of the BDBiH Government

During the period 2018-2022, in the BDBiH, 22 persons had their capacity revoked. Of these, 19 capacity deprivation procedures were proposed by the guardianship body - Sub-Department for Social Protection, Department of Health and Other Services of the Government of BDBiH (hereinafter: guardianship authority). A total of 172 persons are recorded in this authority (records for the period 2001-2023).

The proposal to start the procedure for deprivation of a person's capacity is sent to the Basic Court of the BDBiH, which starts an urgent non-contentious proceeding. The proposal can be sent by the guardianship authority ex officio, based on the notification/request by a relative, mental health center, hospital (Neuropsychiatry Ward - NPD) or social protection facility where the person is placed (the facility does not have to be on the territory of the BDBiH, but the person must have residence in the BDBiH).

The aforementioned notification/request sent to the guardianship authority must contain the opinion of a psychiatrist/neuropsychiatrist, i.e. medical documentation based on which the possibility of continuing the procedure is determined. Upon receipt of the aforementioned notification/request, the guardianship authority enters into the procedure of making a decision on appointing a temporary guardian for the ward whom it will represent during the procedure in accordance with Article 176 of the Fami-

ly Law of the BDBiH (*Official Gazette of the Brčko District of BiH*, number 23/07), where the duties of a temporary guardian are stated under point 2 of the operative part of the decision. This article defines that *the duty of a temporary guardian ends when a permanent guardian is appointed or when a court decision establishing that there are no grounds for deprivation or limitation of a person's capacity becomes final*. The decision is delivered to the Court, the guardian and the parties to the proceedings. A temporary guardian is selected after all options from among the beneficiary's relatives in lineal and collateral lines are exhausted.

Decisions are submitted together with the guardianship authority's proposal to initiate the procedure for deprivation of a person's capacity, after which the Basic Court of the BDBiH schedules a hearing. The procedure is urgent and usually ends with one hearing. After the court decision becomes final, the guardianship authority initiates ex officio the procedure of issuing a decision on the appointment of a permanent guardian of a person who has been deprived of the capacity.

According to the records of this guardianship body, capacity was revoked for a total of seven persons, and their guardian is an expert employee of the SWC. Out of the total number of persons deprived of capacity, 29 were placed in closed institutions.

The Law on Social Protection of the BDBiH (*Official Gazette of the Brčko District of BiH*, No. 01/03, 04/04, 19/07, 02/08 and 21/18 and 32/19) regulates placement in a social protection institution (Articles 52 and 53). The first action of the guardianship authority is to determine the person's right to be placed in the institution. Upon the finality of the administrative act, the guardianship authority conducts the public procurement procedure, addressing all relevant institutions/registered institutions that responded to the public call to submit a general offer for the year when the accommodation service is requested. After the tender opening procedure has been carried out, and with the con-

sent of the person or his/her guardian to the procedure and the selection of the bidder, a mayoral decision on the selection of the best bidder is formed, all participants in the procedure are informed and an accommodation contract is written with a validity as from the first day of the following month in relation to the entire completed procedure.

No non-contentious proceedings were initiated before the competent court at the request of the guardianship authority, and no decision was made on the forced placement of residents in social protection institutions. In the period 2018-2022, no person whose guardian is a professional employed by the SWC was transferred from the social protection establishments.

Professionals at the SWC who are appointed guardians visit the beneficiaries placed in the establishment on the territory of the District every month, while visits to the beneficiaries placed outside the territory of the District are carried out once to three times a year and more often, if necessary.

Over the last five years, the capacity was restored to one person at the proposal of the guardianship authority and for one person, relatives are collecting medical documentation required for an assessment and a proposal to restore the capacity.

In the process of caring for persons deprived of capacity, the role of relatives, supported by the guardianship authorities, is invaluable because then the care for wards is comprehensive. In this regard, the guardianship authority believes that in order to improve care for persons who have been deprived of capacity and, in general, for persons who have mental health problems, detailed and objective medical treatment, support for the families of these persons, the establishment of day care centers and specialized institutions for dementia patients are needed. The guardianship authority points out that it does not have a center which would be able to provide in-home care and assistance.

The guardianship authority is part of the administrative body and all professional staff have the authority to conduct administrative proceedings. This authority is financed from the budget of the BDBiH Government. There is no Rulebook on internal organization and systematization of positions because it is an administrative body and not a social welfare center. At present, there are 20 professional and 10 other employees.

The guardianship authority of the BDBiH states that "being overburdened with paperwork" and dealing with it in the first instance leaves little room for dedication to professional work, which requires responsibility and duties of the guardianship authority. On several occasions, the guardianship authority was a proponent of amendments to the Law on Public Administration of the BDBiH in terms of increasing awareness of the need to establish a social protection institution in the District - a social work center. However, the ultimate decision-makers ignored this need.

The guardianship authority believes that it is necessary to make changes to the organizational plan - to systematize positions and to assign clear tasks to employees, as is the practice in all other centers in Bosnia and Herzegovina, for example, the accommodation unit; the unit for guardianship of minors/adults; divorces, checks and maintenance of personal relationships; domestic violence; family protection (comprehensive work with families that need support, counseling, supervision, monitoring). There is a need for training of official staff who work on guardianship cases and generally those who work with people with mental disorders and their families.

Cooperation with other institutions (competent courts, competent ministries, police and prosecutor's office, non-governmental organizations) is evaluated as very positive and useful by the Sub-Department for Social Protection of the BDBiH.

7.2. Mental Health Centers /Centers for the Protection of Mental Health

For the purpose of conducting comprehensive research related to the provision of support and assistance in the treatment and functioning of the care system for persons with mental health issues, the BiH Ombudsmen sent a questionnaire to Mental Health Centers (MHC) and Centers for the Protection of Mental Health (CPMH)²⁸. The information²⁹ was requested from 17 MHCs in the BiH Federation³⁰, seven CPMHs in the Republika Srpska³¹ and the MHCs of the Brčko District of BiH.

7.2.1. Centers for the Protection of Mental Health in the Republika Srpska

The Law on the Protection of Mental Health prescribes the role of CPMH in mental health protection using a biopsychosocial and multidisciplinary approaches. The law defines the following treatments carried out by CPMHs: teamwork in the field of mental health, individual treatment, group treatment, coordinated care and psychosocial rehabilitation program. With this approach, CPMHs play a significant role in preventing institutionalization. CPMHs operate as organizational units within primary health care centers. Financing is done under the contract signed with the Health Insurance Fund based on the number of registered patients.

The Centers state that they meet daily with the persons who were placed in social or health care institutions. As discharge from a health/social

care institution is an important fact for the engagement of the CPMH, the Minister of Health and Social Protection issued the Rulebook on joint planning for the discharge of persons with mental health disorders (2020), which serves as a guide for continuous post-hospital care in the community, as well as a Manual for the application of joint discharge planning.

The CPMH Sokolac stated in its response that in order to ensure continuity and coordination of care and to preserve the health and well-being of the patient, after hospital treatment, it cooperates with the hospital sector, the social welfare center and family members. In order to jointly plan the discharge of beneficiaries of mental health services, two care coordinators have been appointed in this CPMH.

The CPMH Prijedor stated in its response that Prijedor has not had a single person with mental health disorders discharged from inpatient social protection institutions in the RS. On the other hand, the number of beneficiaries discharged from “Dr Mladen Stojanović” Hospital in Prijedor (Psychiatry Ward) and the University Clinical Center of the Republika Srpska in Banja Luka (Psychiatry Clinic) and referred to the CPMH following discharge is minimal. It is also stated that the “competent persons” in the hospitals (discharge coordinators) do not maintain proper cooperation with the care coordinators at the CPMH in planning the discharge of persons with mental health problems during their stay in the Ward (Clinic), except for notifications by phone and sending some discharge sheets/letters. Also, in the case of complex discharges, there is a lack of cooperation with the competent persons (continuity of care coordinators) in the Social Welfare Center Prijedor.

Most of the responses submitted to the CPMH indicate that mobile support and assistance teams have not been formed to help administer daily medications (this is valid for the beneficiaries who were previously hospitalized or placed in institutions of a social nature). The reason for this, they say, is the lack of medical staff.

²⁸ In the Republika Srpska, service for the protection of mental health within primary health care centers are called centers for the protection of mental health (legislation, strategies) – CPMH, and in the Federation of Bosnia and Herzegovina, Mental Health Centers – MHC (except in Primary Health Care Center Zenica, where it is called Center for Mental Rehabilitation – CMR).

²⁹ Annex 2.

³⁰ Responses were provided by: MHC Bugojno, MHC Sarajevo Center, MHC Livno, MHC Jajce, MHC Stolac, MHC Široki Brijeg, MHC Travnik and MHC Zenica.

³¹ Responses were provided by: CPMH Banjaluka, CPMH Bijeljina, CPMH East Sarajevo, CPMH Prijedor and CPMH Sokolac

The procedure of forced hospitalization is regulated by the Law on Mental Health Protection. A medical specialist in psychiatry carries out a medical intervention of detention, that is, placement. Medical intervention in the form of detention or placement in the hospital, clinical center or special hospital without the consent of a person with mental health problems is subject to the regulations governing non-contentious proceedings. In accordance with the Law on Mental Health Protection, a police officer is obliged to respond to the call of a health worker if additional assistance is needed when subduing such a person, and only as long as he/she offers physical resistance and until he or she is placed in the hospital and immediate danger for the health worker or for other persons ceases to exist. The CPMH has assessed that cooperation with the Ministry of Internal Affairs officers is satisfactory. Also, family members play a major role in the placement procedure. The patient has the right to decide about his or her life and health, he or she has the right to be informed, except in cases where he or she directly threatens his or her own life and health, as well as the life and health of other people.

The CPMH preventive role is achieved in different ways. The CPMH Prijedor states that, in accordance with their possibilities, they carry out promotional and preventive activities towards target groups. Selected and objectively achievable segments of the National Program and the Action Plan for the Protection of Mental Health, set forth in the Law on the Protection of Mental Health, serve as a framework. The resources of the CPMH and the Primary Health Care Center (family medicine, gynecological and pediatric services) are used, and promotional activities are carried out directly, with monitoring programmes for early detection of depression and anxiety in adult population and the current compulsory programme for early detection of depression in pregnant women and new mothers. In addition, educational public appearances in all the media are aimed at providing adequate information about mental health protection, but also at emphasizing the protection of the rights of people with mental health problems. On the

other hand, continuous internal training of employees of the Primary Health Care Center in the field of mental health, as well as psychoeducational, group therapy and occupational therapy also prevent the return of symptoms (relapse) in registered beneficiaries of the CPMH services.

Supervision is performed once a year by clinical psychiatrists, and a report is produced. The CPMH Prijedor stated that external supervision of the entire or part of the CPMH Prijedor team was performed in the period 2014-2019 directly at the CPMH or outside it (educational-supervision workshops), related to team work or to specific work segments (occupational therapy, coordinated care). Supervision is included in the annual supervision plan of the CPMH, and there is a designed uniform form for the supervisor's report.

The proposals that the CPMH highlighted for the purpose of improving the work:

- Continuous work on quality establishment and/or improvement of cooperation with other institutions and organizations related to the protection of mental health in the territory of the municipality/city.
- Increasing the number of teams in the CPMH (regular work in the CPMH, mobile team), primarily through the motivation of medical doctors to specialize in psychiatry and child and adolescent psychiatry in accordance with the assessment of the establishment and the CPMH (team leaders). The specialty training should be financially supported by the relevant ministry and/or the founder of the establishment (City) as an additional motivation to choose a specialty.
- Establishing a uniform way of working in hospital discharge planning, especially in the case of estimated complex discharges, during the hospital stay, with the active participation of the person with mental health disorders and his or her family members/legal representative/person of trust in designing an individual recovery plan.
- Continuity of destigmatization activities (media appearances by professionals in the field of mental health care, but also by the people with the

experience of having a mental illness - beneficiaries who speak).

- Promotional and preventive activities in the community, with financial support also from outside of the parent institution for part of the realization (psycho-educational materials, additional technical conditions), e.g. by the Public Health Institute of the Republika Srpska or donor funds or grants.
- Realization of the leading role of institutions (the Public Health Institute, the Ministry) in the development of guidelines and prevention programmes.
- The standards governing the Center's internal organization (number and structure of employees) should be harmonized with the real needs, which have changed compared to the period when the standards were set. In this way, it would be possible to respond to the real needs of the community. And it is very important that the staff employed at the Center is protected from the burnout syndrome.
- Greater availability of information about the projects.
- As one of the authorized centers dealing with addiction problems (OSC Center - Center for Opioid Substitution Treatment) - mainly due to financial difficulties, it lacks tests to test beneficiaries for the presence of psychoactive substances.
- Training of employees (they have said that they have contractual obligations with the Health Insurance Fund that they cannot utilize).
- Redefinition of standards and norms for the CPMH.
- Facilitation of social entrepreneurship funds or policies.

7.2.2. Mental Health Centers in the Federation of Bosnia and Herzegovina

Summarizing the responses provided by the Mental Health Centers (MHC) in the BiH Federation, we have concluded that the MHC staff meet daily with the persons placed in social or health care institutions, after the completion of treatment. The services provided by the mobile teams that visit the patients who need support or help

in medication adherence do not exist at every MHC, but procedures for home and other visits have been created.

In practice, mobile teams are formed as needed or in emergency cases. Such visits are carried out in cooperation with the Social Welfare Center or the family medicine service in order to ensure adequate care for patients by keeping records regular and monitoring regular therapy.

There is a difference among MHCs in adopting and implementing special procedures for work with patients who were hospitalized or placed in social care institutions. Namely, while some MHCs follow the existing procedure, such as the procedure for forced hospitalization and dealing with patients in emergency cases who require urgent placement in the psychiatry ward, other MHCs do not have a special procedure in place, except that in some MHCs a psychiatrist and a psychologist apply individual treatments with patients.

Based on the answers received by the MHCs, it can be said that family/household members are involved the most in the hospitalization process. In most cases, patients' families are the first to contact MHC staff, they are educated about the need for forced hospitalization and the patient's mental health. The hospitalization process takes place in a much easier way if a family member considered the patient's person of trust is present, in which case is no need for police assistance. If, however, the patient does not agree to forced hospitalization, the MHC staff try to strengthen the supervision of that person in the form of more frequent visits or phone calls and home visits. Also, a greater degree of communication with family members is achieved in order to gain a better insight into the patient's condition. However, if the patient's condition worsens so much that he or she becomes life-endangering, the procedure of forced hospitalization is applied.

The MHCs regularly conduct promotional and preventive activities in the community, in cooperation with other institutions and governmental

and non-governmental organizations. There are no age limits, but rather, the activities target all age groups through empowerment and preservation of mental health, activities on social networks about breaking the stigma towards the people with mental health problems, as well as various self-help groups.

As for the activities in the field of prevention of institutionalization of patients and undertaking activities to that end, the MHCs support deinstitutionalization. In their work, they pay special attention to preventing the institutionalization and hospitalization of patients, as well as accepting the persons who left hospital and returned to the local community, and emphasize the necessity of professional training and regular exchange of information with psychiatry wards.

The MHC activities aimed at supporting deinstitutionalization include psychoeducational programmes, family therapy, social skills training, occupational therapy, counseling and work with beneficiaries to strengthen their capacities. This aims at alleviating symptoms, improving subjective feelings and self-esteem, reducing stress and improving adaptive skills. An important factor in all of the above is the family members of the beneficiaries. In order for the MHCs to effectively carry out these activities, financial and human resources are required, which are allocated from the budget through the health insurance institute.

The MHC professional staff consists of psychiatrists, psychologists, social workers, occupational therapists and doctors of nursing practice. Most of the MHC staff have no insight into finan-

cial resources, while human resources are used to the maximum. Certain MHC teams are not complete, which is a problem in the implementation of all activities that require a large number of people, that is, not only a complete team but also an expanded team if it happens that one MHC covers more than one municipality.

Appreciating the importance of the work of MHCs and the importance of their regular supervision, it is concluded that the situation in practice is diverse: while some MHCs are not supervised at all, the Federation Ministry of Health organizes supervision over other MHCs and prepares reports on the supervision performed. Suggestions for the improvement of the work of the MHCs can be summarized as follows:

- Fully staffed MHC teams;
- Provide adequate equipment, space and resources for work, such as vehicles for mobile teams;
- Perform regular supervision;
- Financially support the beneficiaries in order to cover travel costs of their travel the MHC;
- Strengthen the focus on protecting the mental health of the staff;
- Increase the salaries of the MHC staff;
- Expand the system of early prevention (kindergartens, schools) and the promotion of mental health to include all social aspects;
- Organize training in special areas of abuse, such as alcohol and psychoactive substances;

VIII. CONCLUDING OBSERVATIONS

Although people with disabilities are generally faced with the consequences of inadequate care y government and untimely dealing with current problems and challenges, certain categories of people with disabilities - which particularly refers to people with intellectual and mental disabilities - are often neglected due to their particularly vulnerable status and inability to influence the authorities that manage and change the policies focusing on them. In practice, numerous questions related to the status of persons with intellectual and mental disabilities have arisen, especially in cases where they have been deprived of capacity and when they are placed in establishments, because in this way their freedom of movement is restricted.

The protection of the rights of persons with disabilities is governed by a series of international standards, which as an integral part of the Constitution of Bosnia and Herzegovina have constitutional force and importance. The Convention on the Rights of Persons with Disabilities (CRPD), as a fundamental international instrument, establishes the basic human rights of persons with disabilities with the aim of promoting, protecting and ensuring the full and equal enjoyment of all human rights and basic freedoms of persons with disabilities, as well as improving respect for their inherent dignity (Article 2).

The social care system in Bosnia and Herzegovina is organized at the entity level (the Federation of Bosnia and Herzegovina and the Republika Srpska) and at the level of the Brčko District of Bosnia and Herzegovina (BDBiH). The area of social welfare in the FBiH is divided between the FBiH and the cantons, while in the RS social welfare is the responsibility of the municipalities.

For the purpose of establishing a framework for the exercise of equal rights and opportunities for all persons in BiH, the Parliamentary Assembly of Bosnia and Herzegovina adopted the Law on Prohibition of Discrimination (*Official Gazette of BiH*, Nos. 59/09 and 66/06), which establishes

the responsibilities and obligations of legislative, judicial and executive authorities in Bosnia and Herzegovina, as well as of the legal entities and individuals exercising public authority, to enable protection, promotion and creation of conditions for equal treatment through their actions. In accordance with this, the BiH Ombudsmen are the central institution for the protection against discrimination.

The European Commission 2023 Bosnia and Herzegovina Report recognizes the category of persons with disabilities as one of the most vulnerable groups, emphasizing that no steps were taken to address concerns regarding deprivation of legal capacity, status-based discrimination and that the country should move from a status-based approach to one based on needs and secure accessibility to facilities. The problem is also the lack of dedicated budgetary funds that hampers implementing measures that would improve their position.

The BiH Ombudsmen have found that domestic laws in Bosnia and Herzegovina have not yet been sufficiently harmonized with the Convention, while the implementation of the CRPD within the country is uneven, although the States Parties are obliged to harmonize domestic legislation with the Convention. Bosnia and Herzegovina has not yet implemented the obligation from Article 33 of the CRPD and has not yet determined a mechanism for monitoring the CRPD implementation. The BiH Ombudsmen note that the competent authorities have taken certain measures to improve the legislative framework for improving the rights of persons with disabilities, which refer to the recommendations of the UN Committee on the Rights of Persons with Disabilities. In addition to interventions in laws related to social protection, mental health, the position of children, etc., strategic documents and a certain number of pieces of secondary legislation were also adopted.

Regardless of the above, there is still no uniform definition of disability in Bosnia and Herze-

govina. Currently, various entity and cantonal laws define the concept of a person with a disability depending on the area they regulate (laws in the field of social protection, health care).

Also, at the level of FBiH, RS and BDBiH, there is no database of persons with disabilities, with parameters to be used to determine the exact number of persons with disabilities and their structure, and one of the obligations highlighted in the European Commission Report is improved data collection, including gender segregated data. The Agency for Statistics of Bosnia and Herzegovina, the Federation Institute of Statistics and the Republika Srpska Institute of Statistics collect statistical data, among other things, for the areas of “social protection” and “population”, but data on the number of persons with disabilities, type and cause of disability is not segregated within these parameters.

The Republika Srpska

In the Republika Srpska, the situation in social protection establishments has undeniably improved in material and organizational terms, and the improvement is noticeable also in relation to the employment of professional staff and professional training. The BiH Ombudsmen believe that it is necessary to conduct continuous training and supervision of employees, but also to take care of their mental health.

The BiH Ombudsmen note that no progress has been made in the process of deinstitutionalization. As stated in the previous report, according to the managers of social care institutions, some beneficiaries who are placed in institutions are capable of assisted independent living - but no social protection institution has developed community-based housing.

Current legal arrangements could place the family and its role in the process of caring for people with disabilities in an unenviable situation. Bearing in mind the above, the Ombudsmen are of the opinion that it is necessary to undertake activities towards changing the legal arrangements

related to the rights of parent caregivers, which should not end when the child reaches 30 years of age. These are children with severe disabilities whose condition has not changed, whose disability is permanent and only because of the age of the child, the parent loses the right to the status of a parent caregiver. These parents cannot work precisely because of providing daily care to their children.

The BiH Ombudsmen notice greater communication of the Višegrad and Prijedor Homes with the Ministry of Health and Social Protection of the Republika Srpska, which shows that the Ministry is dedicated and agile in its work. On the other hand, there is a noticeable lack of agility on the part of the Ministry in relation to the accommodation of persons staying in the Modriča Special Hospital, which is in poor condition. In this hospital, it is necessary to create conditions that are acceptable for the health condition of the patients and to provide the medical treatment they deserve. However, currently the conditions in which the patients live call into question the effectiveness of any medical treatment.

Mental health protection in the Republika Srpska was significantly improved by the adoption of the Law on Mental Health Protection. However, the responses by the mental health protection centers (CPMH), which have a significant preventive role, point to the lack of professional staff, inadequate public information about the importance of continuous monitoring of the condition of patients in the community, and the weak implementation of promotional and preventive activities in the community.

Practice shows that the standards governing the internal organization of the centers (number and structure of employees) should be harmonized with the real needs, which have changed compared to the period when the standards were initially set. The work of the CPMHs would be improved with the fully staffed CPMH teams, adequate equipment, space and resources for work. It is necessary to take measures towards continuous training and prevention of employee burnout syndrome.

The Ombudsmen point out that it is still noticeable that the CPMH employees are guardians of the persons placed in the institution. On the other hand, relatives usually initiate the process of deprivation of legal capacity, which leads to possible abuses, especially when it comes to the property rights of the persons deprived of legal capacity.

In the Republika Srpska, there is a problem of discharge of patients from hospitals who are in remission, but their families do not want to take them back or those patients have nowhere to return, so that some patients have stayed in hospitals for more than 20 years. In this way, healthcare institutions represent an extension of the social sector.

The Federation of Bosnia and Herzegovina

The position of persons with intellectual and mental disabilities in the territory of the FBiH has been significantly improved after the Law on Social Protection Institutions of the Federation of Bosnia and Herzegovina was adopted. A higher-quality legal framework has been established for taking care of socially sensitive categories in social protection institutions. The BiH Ombudsmen can state that the process of reorganization, re-registration or transformation of social protection institutions in the FBiH is underway.

It is noticeable that systematization in social protection institutions has been significantly improved, and thereby the number of employees has also increased. Managers of social protection institutions are making additional efforts to change the educational and qualification structures, but the problem of inappropriate professions is still noticeable. It is a transformation process that requires a longer period of time. In this regard, it is necessary to establish a quality system of training and supervision of employees. Also, it is necessary to set clear employment criteria, especially for those persons who are involved in direct work with beneficiaries. The BiH Ombudsmen appreciate the efforts of all

employees in social protection institutions and hospitals, whose difficult and demanding performance surpasses professional care for beneficiaries and whose approach is emotional.

A generally positive shift refers to the reduction of debt of institutions, but it is still necessary to make significant investments and ensure an adequate financing system. With the adoption of the FBiH Law on Social Protection Institutions, the method of financing institutions was changed. Institutions were previously financed almost exclusively from revenue from payments of services, as well as with the help of donors, while the new law stipulates that institutions are partly financed from the budget of the BiH Federation in accordance with the Federation regulations on the allocation of public revenues. In order to achieve this, it is necessary to organize a system of stable financing of the activities of these institutions through the treasury system, because currently the institutions generate more than 90% of their revenue from the services provided, which is extremely risky business in frequent cases of late or non-payment of social care services. The above can also be related to the cantonal social protection institutions, which are financed from the cantonal budgets and also from accommodation fees, donations and other sources.

Placement in social protection institutions is mainly done through SWCs. In this regard, it can be stated that in the majority of cases, SWC professionals are appointed as guardians of the beneficiaries. There is also a noticeable lack of professionals who would be responsible for placing adult beneficiaries in social protection institutions.

The problem of readmission was also pointed out, because through a person's stay in an establishment it was recognized that the person could live independently in the family and community. Only one of the surveyed SWCs in the territory of the BiH Federation discharged one person after his capacity was restored at the SWC's proposal. The problem with discharging people from social protection institutions and returning them to the

local community is most often reflected in the lack of interest and inability of relatives and family members to take care of the person because they cannot provide him or her with all the necessary care.

The problems in dealing with mentally ill persons who show aggressive behavior are particularly highlighted. Health institutions do not impose forced hospitalization and placement, the police department only reports such persons, the SWC cannot place a person in the establishment without their consent, and at the same time that person is unable to assess his or her best interest in placement. Sometimes it is enough for residents to take their therapy regularly, but the SWC staff are not trained for this and cannot ensure their beneficiaries take their medications regularly.

In their work, the MHCs pay special attention to preventing the institutionalization and hospitalization of patients, as well as accepting persons who were returned from social protection establishments to the local community.

The Bakovići establishment

Regarding earlier reports of the Ombudsmen, it can be stated that the accommodation capacities of the Bakovići establishment have been significantly expanded. In addition, the establishment has a house in Fojnica (with two residential units), in Kiseljak (with three residential units), in Gojevići (with two residential units), in Bakovići (with two residential units) and Social Settlement (with seven residential units). These indicators support the fact that there has been a change in the way of providing support to beneficiaries and that the number of beneficiaries accommodated outside the central facility has increased. In this way, beneficiaries are encouraged to become independent. Although the accommodation capacity has been further expanded, the number of beneficiaries has not increased much compared to 2018, which must be seen in the light of the implementation of the obligations under the Rules on standards for work and pro-

vision of services in social protection institutions in the FBiH (*Official Gazette of the Federation of BiH*, No. 15/13), which was repealed on 07 December 2023 by the Rules on minimum standards for the provision of social care services and social support in social care institutions of FBiH. These Rules set standards that treat support and types of support for beneficiaries in institutions, general minimum standards for space and equipment, and standards for professional and other jobs.

The Rules on internal organization and systematization of jobs and tasks in the Institution defines 244 positions of which 168 are currently filled, which represents a significant increase compared to 2018, when the Rules systematized 122 positions of which 116 were filled.

Compared to 2018, when the price of health care service in this establishment was 8.86 BAM per day, in 2023 the price increased: now the price for health care services provided to beneficiaries is 10.23 BAM per day.

An increase in the numbers of visits to beneficiaries in the collective housing and by beneficiaries to their relatives has also been noticed.

The operating result for 2022 was 185.00 BAM, while in 2021 the operating result was negative by 254,849.00 BAM.

A pocket money in the amount of 60.00 BAM is awarded to persons who were placed in a social protection establishment by the decision of the Social Welfare Center and for whom the SWC fully or partially covers the costs of accommodation. In this regard, the representatives of the Bakovići establishment have emphasized that the issue of granting a cash amount for personal purposes of the beneficiaries is still regulated differently at the cantonal level in the BiH Federation. According to the management of this establishment, pocket money is taxable, which is the reason why an amendment to the Income Tax Law has been requested.

Pazarić establishment

During 2023, this establishment was re-registered in court, which means that the name of the establishment and partly its activities changed. Health care, the type of social care, the age structure of the residents, as well as the way of placement of the beneficiaries with behavioral disorders are precisely defined. In July 2023, secondary legislation was adopted regulating the new records of the structure of beneficiaries-the Rules on Records.

The method of financing the establishment was changed by the *Law on Social Protection Institutions of the Federation of Bosnia and Herzegovina*. Previously, the institution was financed exclusively with funds paid for the services provided and donations, while the new law stipulates that the institution is partially financed from the Federation budget, in accordance with the Federation regulations on the allocation of public revenues. That is why it is necessary to arrange a system of stable financing of the activities of this Institution through the treasury system of operations, because over 90% of its income come from the services provided, which is an extremely risky operation in frequent cases of late or non-payment of social care services.

Although systematization prescribes 192 jobs, this is not respected. However, compared to the previous reporting period, the employment of more professional staff is evident: from 2021 to mid-2023, 26 people were employed, of whom two psychologists, two lawyers, a speech pathologist, a speech therapist, a social worker and a social pedagogue, and seventeen carers/woman with secondary education (health service) – medical school, general ward and charge nurses programme.

The accommodation capacities of the Pazarić establishment have decreased compared to 2018. However, the existing ones are much better organized, and the rooms have been renovated.

In the majority of cases, the guardians of beneficiaries are still professional SWC professional staff. The price of accommodation or social care for beneficiaries is 42.00 BAM per day, but it can be reviewed once a year.

Compared to the earlier reporting period, additional engagement of the Pazarić establishment in including beneficiaries in the education system is noticeable. During the visit to the Institute for Special Education and Upbringing of Children Mjedenica Sarajevo, the team of the Ombudsmen Institution realized firsthand that the residents of the Pazarić establishment regularly attend classes, and school transport is provided by the establishment. In this regard, it is particularly important to point out the need for ensuring and prescribing a permanent arrangement for financing the education of the beneficiaries placed in social protection institutions, who are included in the education system in the Sarajevo Canton, which is the responsibility of the education department.

The management of the Pazarić establishment points out another problem which concerns a large number of workers who do not meet the requirements for employment in the institution, and because of their age, it is not possible to provide them with re-skilling and further education. Another problem is an inappropriately large number of employees are close relatives, which significantly complicates the establishment's organization and management system. The management of the Pazarić establishment believes that it is necessary to set stricter employment criteria, especially those for employment of the persons who will have direct contact with residents of the establishment. There is a lack of vehicles for transport of the residents of the establishment.

Drin establishment

The accommodation capacities of the Drin establishment remain unchanged compared to 2018, the only difference being the ongoing construction of the Urlenike facility, which is designed as

a modern facility that will house the beneficiaries with the most severe mental illnesses.

By the Rulebook on internal organization and systematization of jobs and tasks in the Drin establishment, 272 positions were systematized, while 249 positions are filled, which represents a significant increase compared to 2018, when the Rulebook systematized 221 positions, all of which were filled.

Health care in the establishment is now provided through three outpatient clinics, and in 2023 the price of health care services is 9.13 BAM per day. There is a noticeable shift in the Children's Pavilion, which is now more adapted to the needs of children.

Nahorevo Home

The fact that the building is not owned by the Nahorevo Home, that it is outdated and rented for a considerable amount of money allocated from the budget - remains unchanged. Investments, adaptation and renovation of the facility are noticeable, but all this did not create satisfactory conditions at the Nahorevo Home which are prescribed by the *Rulebook on standards for work and provision of services in social protection institutions in the Federation of Bosnia and Herzegovina*.

During the tour of the Nahorevo Home, the representatives of the Ombudsmen institution observed that the residents are adequately taken care of and satisfied with the services provided to them by the Home staff. The residents stated that they receive the necessary medical therapy on time, and that they are constantly visited by professional staff who monitor their condition.

There is a smaller number of employees. Although 56 positions with 110 employees are systematized by the Rulebook, currently 40 positions are filled with 89 employees, of which 12 are hired on the basis of a temporary contract. The Home representatives pointed out the lack of health care staff due to the current trend of

going to work abroad or going to other health care institutions. One of the main reasons is low salaries in social protection in general.

Compared to 2018, when the capacity of the Nahorevo Home was 240 beds, there is a decrease so that the current capacity is 200 beds, and as on December 31, 2022, there were 183 residents.

Mjedenica establishment

The segment and method of operation of the Mjedenica establishment remains unchanged compared to 2018. There is a noticeable increase in the number of employees, and at the time of the visit, there were 109 employees, but this number changes almost daily due to hiring new employees when permanent staff members are on sick leave.

In the 2022/2023 school year, a total of 113 students (68 boys and 45 girls) attended primary school, 12 students were accommodated in the boarding school, which is a significant decline compared to 2018, when 54 students lived in the boarding school.

Approximately the same number of beneficiaries still attend occupational therapy workshops - 32 beneficiaries (15 women and 17 men).

During the visit to the establishment, the team noted that the education system also includes children who are residents of the Pazarić establishment. The way the teaching staff works with children is highly commendable, and the representatives of the Ombudsmen Institution realized firsthand by attending the music and art workshops and visiting the sensory room, which is equipped at a satisfactory level.

Stolac Home

During the preparation of the Report, the Stolac Home submitted limited data to the Ombudsmen team. The indicators presented are based on

what the team observed during the visit and the information provided by the Home.

The Stolac Home replaced old floor with PVC flooring, and the BiH Ombudsmen appreciates compliance with the recommendation from the previous report. The Ombudsmen point out that the Stolac Home employs three social workers, an occupational therapist and a psychologist for 154 beneficiaries, and believe that the Stolac Home, in accordance with its financial capabilities, should employ an additional number of professional staff. During the visit, the team noticed that the employees are extremely friendly and kind. The park, which is located in the central part of the facilities, has a large area and allows the residents to move around, walk and enjoy nature. The entrance to the facilities is adapted for people with disabilities. The team also visited the part of the facility intended for older population, which is new, equipped with modern equipment and tidy, which is an improvement compared to the situation found during the previous visit.

Duje Center

Statistically, in 2023, the accommodation capacity of the Duje Center increased from 460 to 470 beds, and there is a slight increase in the number of beneficiaries as well.

During the Ombudsmen's visit in 2017, the employees of the Duje Center pointed out the fact that some beneficiaries were unable to independently decide on their rights and believed that they should be deprived of their legal capacity. During the visit in 2023, the team found that the number of beneficiaries who were deprived of legal capacity increased from 120 to 153. The age structure of the beneficiaries has changed, given that the Duje Center no longer accommodates children but only adults. The gender structure of the beneficiaries remained the same, and there are significantly more men than women.

As in 2018, 150 employees work directly with the beneficiaries at the Duje Center.

Sokolac Hospital

At the time of the visit, there were 131 patients in the Sokolac Hospital, which is a significantly lower number compared to the number from the previous report (200). The reason for this is that in 2016, patients who were prescribed psychiatric treatments, i.e. on whom security measures were imposed in criminal proceedings, were transferred to the Public Healthcare Institute of Forensic Psychiatry in Sokolac.

At the time of the previous visit of the BiH Ombudsmen team, it was pointed out that the Rulebook on internal organization and systematization of positions, which was adopted in 2018 and amended in 2022, was being drafted. Compared to the previous visit, the number of employees was reduced from 123 to 122, while 163 jobs were systematized.

Accommodation costs, covered by the Republika Srpska Health Insurance Fund, amount to 79.00 BAM per day, and 130.00 BAM per day at the acute psychiatry ward.

During the visit, representatives of the Ombudsmen were informed that the biggest problem for smooth functioning of the establishment were large debts, which amounted to around 3 million BAM; there was the problem of heating because the existing system is expensive. These problems remained the same compared to the previous visit – the hospital is still using its own oil-fired boiler for heating.

There are 4 to 10 beds in the rooms, which was the same system during the previous visit. Most common rooms are used for smoking because the majority of beneficiaries are smokers, and so there is a stifling smell of cigarette smoke the corridors and other rooms, which was also noted in the previous report. There are no tufted corner sofas or armchairs in the communal rooms, which were replaced with wooden chairs because cigarette butts could cause a fire and a large disaster, while wooden chairs are easier to maintain (they also do not retain the smell of urine). The bathrooms remained unchanged,

dilapidated, and without renovation it is impossible to create minimal health and sanitary conditions. It is still difficult for people with disabilities to move because there is no necessary disabled access.

During the visit, the team attended the occupational therapy organized in a separate ground-floor building, which is neat, warm and decorated with the works of the residents. The residents are able to play table tennis, play the piano and make objects from various materials and using various techniques. In general, the necessary financial resources that would create a satisfactory living condition at the facility were not invested in the hospital.

Modriča Hospital

Statistically, the Modriča Hospital did not expand its accommodation capacity.

The number of requests for accommodation and admission has increased on an annual basis (in 2016, around 30 admissions, and in 2023, 50 admissions and 75 admission requests). The number of employees has increased by 30 in the last five years. The total number of professional staff members is 132.

Apart from changing the carpentry in two pavilions, there was no major investment compared to the previous period. The accommodation of persons staying in the Special Hospital is almost of poor quality. In this hospital, it is necessary to create conditions acceptable for the health con-

dition of the patients and the medical treatment they deserve and for which they are admitted to the hospital. The current conditions in which they live call into question the effectiveness of any medical treatment.

Prijedor Home

Statistically, although the number of received requests for accommodation is approximately the same, the Prijedor Home has a smaller number of accommodated people compared to 2018 (19 fewer beneficiaries). Most beneficiaries are deprived of legal capacity.

There is a noticeable increase in the number of visits by parents, guardians or relatives to the beneficiaries, as well as of visits by the beneficiaries to their families, with the written consent of the relevant Social Welfare Center. The number of beneficiaries attending various workshops within the establishment has also increased (previously there were 50, and today 94), which was precisely one of the observations of the BiH Ombudsmen in the last report. It is indisputable that intensified work with the beneficiaries (i.e. organized work of professional staff in two shifts) gave concrete results.

The budget of the Prijedor Home has increased by around half a million compared to the period five years ago. The debt of the Social Welfare Centers related to the costs of accommodation in an establishment has been reduced.

Debt of the SWC as on:	Republika Srpska	Federation of Bosnia and Herzegovina	Brčko District of BIH	Republic of Croatia and Montenegro
31 Dec 2016	963.065,60 KM	53.618,53 KM	35.448,50 KM	16.630,95 KM
7 Dec 2023	403.758,73 KM	10.447,43 KM	13.396,26 KM	20.264,99 KM

Debt of SWCs related to accommodation

Certain financial investments were made in provision of equipment for the children's ward, i.e. in the construction of a children's playground. In the coming period, the entire complex of the Prijedor Home should look differently: planted rows of trees and outdoor gyms intended for the recreation of beneficiaries.

Compared to the previous reporting period, the majority of the beneficiaries stay outside and the investment plans are focused on certain beneficiary activities and their maximum training in accordance with their remaining mental capacity (equipment for the library, cinema hall, establishment of a culinary group, training of beneficiaries to use public transport, shopping in the markets, independent food preparation...). By developing its own capacities (strengthening support services and redistributing working hours), the Prijedor Home has achieved some progress in helping the beneficiaries live independently.

Višegrad Home

Statistically, the number of accommodated persons increased compared to 2018 (by 27 beneficiaries). The Višegrad Home refurbished another pavilion/ward for children and youth, and so, children are now separated from adult residents. With the refurbishment of the Fifth Pavilion, the Višegrad Home put all its accommodation capacities within the compound into use.

More than half of the accommodated beneficiaries are fully deprived of capacity. The budget of the Višegrad Home has been significantly increased compared to the previous period. Debts of the Social Welfare Centers related to accommodation costs were reduced. The number of employees has increased.

	Budget	SWCs debt related to accommodation	Number of employees
2016	1,497,326.00 BAM	800,000.00 BAM	73
2023	3,239,400.00 BAM	As on 31 December 2022 272,070.00 BAM	90

Infrastructure investments are evident. The Višegrad Home's energy efficiency project was approved, but its implementation was slowed down due to the coronavirus epidemic. Also, the entire Višegrad Home is heated with pellets. The bathrooms are dilapidated and there have been no investments since the previous report, while, according to the deputy director, funds have been approved for the refurbishment of all bathrooms and a public call is still open, and the project implementation is expected by the end of the first half of 2024.

Better communication between the competent ministry and the Višegrad Home was noticed. The employees often call upon the views of the Ministry regarding the greatest possible en-

gagement and socialization of female beneficiaries. There are also guidelines on the special grouping of female beneficiaries according to the degree of developmental disability, adults and minors, and the reduction of the number of beds in the rooms.

More than half of the female beneficiaries are involved in occupational therapy (98 of them). The greater involvement of relatives and guardians in the entire process of care is also evident through organization of the barbecue parties (twice a year) and a meeting with relatives once a year, which was attended by around 160 guests.

The annual 2022 report mentions also the staff training programmes, which are one of the recommendations of the BiH Ombudsmen. The report also mentions regular cooperation with the SWC, which resulted in more successful communication with the members of the beneficiaries' families, and the number of visits increased during the reporting period (201 visits), telephone contacts became more frequent, and the number

of letters (17) and packages (105) increased. Activities were carried out to facilitate accommodation of 11 female beneficiaries in their families. During the visit of the institution, a large number of female beneficiaries asked the staff about some family members - whether they had called, whether they would come... - which speaks of the importance of their presence in the lives and care of the female beneficiaries.

IX. RECOMMENDATIONS

Competent institutions of Bosnia and Herzegovina, primarily the Ministry of Civil Affairs, should undertake stronger activities related to coordination in the field of social protection, and the Ministry of Human Rights and Refugees should ensure the implementation of international obligations. All institutions should intensify their efforts to ensure the implementation of the recommendations from the Opinion on Progress and the recommendations of the UN Committee and the UPR. This coordination should also be aimed at final implementation of the Ruling of the European Court of Human Rights in the case of Hadžimejlić et al.

We recommend to the Government of the Federation of Bosnia and Herzegovina, the Government of the Republika Srpska and the Government of the Brčko District of Bosnia and Herzegovina that they:

- Intensify activities and make further efforts in the deinstitutionalization process, including securing additional financial resources for those purposes;
- Create a central register/database of persons with disabilities, with certain parameters based on which the exact number of persons with disabilities and their structure would be determined;
- Review procedures for deprivation of capacity in which employees of the Social Welfare Centers are appointed as guardians;
- Redefine the standards and norms for the functioning of the Centers for the Protection of Mental Health;
- Carry out continuous training of employees in social protection establishments, Social Welfare Centers, Centers for Mental Health, as well as effective job burnout prevention programmes;
- Strengthen cooperation and involvement of relevant ministries and institutions, which should be permanent and professional;

- Strengthen human resources with regard to the structure of persons placed in establishments, as well as with regard to the minimum standards that must be ensured for care for this category of population.

To the Government of the Federation of Bosnia and Herzegovina:

- That the relevant ministries should fulfill the obligations prescribed by the Law on Social Protection Institutions and, as soon as possible, pass secondary legislation for the areas of health, respect for human rights and education;
- That it should adopt a Rulebook on the Manner of Supervision of Mental Health Centers in the Federation of Bosnia and Herzegovina;
- That it should finally pass the Law on Uniform Principles and Framework of Material Support for Persons with Disabilities.

To the Government of the Republika Srpska:

- That it should initiate changes to the legal arrangements with the aim of abolishing the age limit of beneficiaries in relation to the recognition of the status of parent caregivers;
- That it should secure financial resources for the adaptation of the Modriča Special Hospital in order to ensure optimal conditions for efficient treatment and accommodation of patients.

To the Government of the Sarajevo Canton:

- That it should increase the engagement of assistants in the children's wards and purchase didactic materials and specialized sets at the Institute for Special Education and Upbringing of Children Mjedenača.

To the Government of the Herzegovina-Neretva Canton:

- That it should find financial resources for the employment of additional professional staff in the Stolac Home, and take other measures to improve the situation in this institution.

To the Reception Center Duje:

- Appreciating the fact that the Duje Center was established as part of the non-governmental organization, but provides public services based on signed cooperation agreements, the BiH Ombudsmen find it purposeful to recommend that part of the funds should be invested in the replacement of iron beds with wooden ones;
- That the renovation of the toilets and bathrooms should be completed and hot water provided in the toilets, while it must be kept in mind that the financing of this Center depends on donor funds, but also on the funds paid for the care of the beneficiaries.

ANNEX 1

The Questionnaire for the Social Welfare Centers (SWCs) in Bosnia and Herzegovina designed for the purposes of preparing a *Follow-Up Report of the Ombudsmen of Bosnia and Herzegovina on the Situation in Care Institutions for Persons with Intellectual and Mental Disabilities in Bosnia and Herzegovina*.

We ask you to be honest and concrete in your answers to the questions below so that the Ombudsmen of Bosnia and Herzegovina can identify the problems and issue quality recommendations to the authorities:

1. What is the number of persons who were deprived of capacity in the period 2018-2022:
 - a) at the proposal by the SWC to revoke capacity, and
 - b) how many persons deprived of capacity are recorded by the SWCs?
2. Please, describe in detail the process of deprivation of capacity and appointment of a guardian, with special reference to the appointment of a guardian from among professional workers/employees of the SWC.
3. How realistic can the dedication of the SWC employee/guardian of the ward and his/her best interests be expected?
4. What is the number of persons who have been deprived of capacity whose guardian is a professional worker/employee of the SWC?
5. Of the persons deprived of capacity, how many of them are placed in closed institutions (social protection institutions, institutes, clinics, hospitals...)?
6. Please describe in detail the process of placing people in institutions (actions taken on the ground, with a special reference to the role of family members...)
7. How many non-contentious proceedings have been initiated before the competent court at the request of the SWC, and how many decisions have been made regarding the forced placement of the wards in social protection institutions?
8. How many persons whose guardians are expert associates/employees of the SWC were relocated from these institutions in the period 2018-2022 (out of institutions, return home, etc.)? Please, describe exactly the method of relocation.
9. How often do guardians who are professional workers/ employees of the SWC visit these people on an annual basis?
10. What is the number of persons who had their capacity restored at the proposal of the SWC in the last five years?
11. What is your assessment of the role of family/relatives in the process of taking care of persons who have been deprived of legal capacity?
12. What do you consider necessary to be done in order to improve care for persons who have been deprived of legal capacity, and in general for persons with mental health problems?
13. Does the SWC have a trained center for providing in-home care and assistance?
14. What is your assessment of cooperation with other institutions (competent courts, competent ministries, police and prosecutor's office, non-governmental organizations)?
15. Does the SWC have a Rulebook on internal organization and systematization of positions?
16. How many should there be:
 - a) professional persons according to the systematization of jobs, and how many are currently employed,
 - b) other persons according to the systematization of jobs, and how many are currently employed?

17. What is the method of financing of your SWC?
18. What improvement measures do you propose in order to improve the work of your SWC?

ANNEX 2

The Questionnaire for the Mental Health Centers (MHCs) in Bosnia and Herzegovina designed for the purposes of preparing a *Follow-Up Report of the Ombudsmen of Bosnia and Herzegovina on the Situation in Care Institutions for Persons with Intellectual and Mental Disabilities in Bosnia and Herzegovina*.

1. In your work, how often do you meet people who have been placed in social or health care institutions, and who seek support from for Mental Health Center (MHC) following treatment?
2. Are there established services of mobile teams that visit patients who need support or assistance in taking daily therapy? (patients who were previously hospitalized or placed in social care institutions)
3. Have special procedures been established for working with patients who were hospitalized or placed in social care institutions?
4. How is involuntary hospitalization - the procedure of involuntary hospitalization - performed?
5. When and how often is the support of members of the Ministry of Internal Affairs necessary in hospitalization procedures?
6. What kind of cooperation do you have with the Ministry of Internal Affairs?
7. How much and to what extent are members of the patient's family/household involved in forced hospitalization procedures?
8. What activities must the MHC undertake in case the person refuses or does not agree to hospitalization?
9. How is the preventive role of MHC realized?
10. How do you evaluate your work and activities related to prevention of institutionalization of patients, and on the other hand, what activities are undertaken to support deinstitutionalization of persons with mental disabilities?
11. What are the MHC capacities in terms of financial and human resources?
12. Is there supervision of the work of the MHC? Which body performs supervision? Are supervision reports made and, if so, who are they submitted to?
13. What are your suggestions for improving the work of the MHCs in order to protect people with mental disabilities?

ANNEX 3

Schedule of visits by the team of the Human Rights Ombudsmen Institution of Bosnia and Herzegovina to care institutions for persons with intellectual and mental disabilities

	INSTITUTION	DATE OF VISIT	TEAM MEMBERS
1	Public Care Institution for Mentally Disabled Persons Bakovići	03 October 2023	Jasminka Džumhur, PhD Antea Jozić Naida Sahadžić Fatima Račić Naida Spužević Zorica Tatić
2	Public Home for Persons with Disabilities Prijedor	07 December 2023	Antea Jozić Zorica Tatić
3	Public Special Hospital for Chronic Psychiatry Modriča	06 December 2023	Ombudsman Nevenko Vranješ Antea Jozić Zorica Tatić
4	Reception Center Duje Doboj East	05 December 2023	Antea Jozić Zorica Tatić
5	Public Psychiatric Hospital Sokolac	29 November 2023	Ombudsman Nives Jukić Antea Jozić Naida Sahadžić Fatima Račić Naida Spužević
6	Home for Social and Health Care for Persons with Disabilities and Other Persons Stolac	19 December 2023	Ombudsman Nives Jukić Antea Jozić Naida Sahadžić Naida Spužević Zorica Tatić
7	Public Care Institute for Disabled Children and Youth Pazarić	28 November 2023	Antea Jozić Naida Sahadžić Fatima Račić Naida Spužević
8	Public Institute for Special Education and Upbringing of Children Mjedenica	23 November 2023	Ombudsman Nives Jukić Antea Jozić Naida Sahadžić Antea Jozić Fatima Račić Naida Spužević
9	Home for Social and Health Care for Persons with Disabilities and Other Persons Nahorevo	30 November 2023	Ombudsman Nives Jukić Naida Sahadžić Fatima Račić
10	Public Home for Persons with Disabilities Višegrad	26 December 2023	Naida Sahadžić Zorica Tatić
11	Public Care Institute for Persons with Mental Disabilities Drin	16 November 2023	Nives Jukić Antea Jozić Naida Sahadžić Fatima Račić Naida Spužević Zorica Tatić

ACRONYMS

- BiH – Bosnia and Herzegovina
- FBiH – Federation of Bosnia and Herzegovina
- RS – Republika Srpska
- BDBiH – Brčko District of Bosnia and Herzegovina
- SWC – Social Welfare Center
- MHC – Mental Health Center
- CPMH – Center for Protection of Mental Health
- Institute – Social protection institutions where persons with intellectual and mental disabilities are accommodated
- ECHR – European Convention for the Protection of Human Rights and Fundamental Freedoms
- UNICEF – United Nations Children’s Fund
- CRCD – Convention on the Rights of Persons with Disabilities
- CRC – Convention on the Rights of the Child
- CEDAW – Convention on the Elimination of All Forms of Discrimination Against Women
- CERD – Convention on the Elimination of All Forms of Racial Discrimination
- CAT – Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- ICESCR – International Covenant on Economic, Social and Cultural Rights
- ICCPR – International Covenant on Civil and Political Rights
- UNDHR – Universal Declaration of Human Rights
- NVO – Non-governmental organizations
- NPW – Neuropsychiatry Ward
- UNDP – United Nations Development Programme
- UPR – Universal Periodic Review
- SPI-SWC – social protection institute – social welfare center
- Standard rules – Standard Rules on the Equalization of Opportunities for Persons with Disabilities
- Ad interim – holding office for a temporary time
- HIS – Hospital Information System
- HCI – health institution
- PHI – public health institution
- CPI – cantonal public institute
- HIF – health insurance fund

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- Law on the Ministries and Other Bodies of Administration of Bosnia and Herzegovina (*Official Gazette of Bosnia and Herzegovina*, Nos 5/03, 42/13, 26/04, 42/04, 45/06, 88/07, 35/09, 59/09, 103/09, 87/12, 6/13 and 19/16)
- Law on Primary Education of the Sarajevo Canton
- Law on the Human Rights Ombudsmen of BiH (*Official Gazette of Bosnia and Herzegovina*, Nos. 32/00, 19/02, 35/04, 32/06, 61/23)
- Law on the Principles of Social Protection, Protection of Civilian Victims of War and Protection of Families with Children of the BiH Federation (*Official Gazette of the BiH Federation*, Nos. 36/99, 54/04, 39/06, 14/09, 7/14 – the BiH Constitutional Court decision, 45/16, 19/17 – as amended, 40/18)
- Law on salaries and benefits in social protection institutions in the Sarajevo Canton
- Law on Preschool Upbringing and Education
- Law on taking over the rights and obligations of founders of social protection institutions in the Federation of Bosnia and Herzegovina (*Official Gazette of the BiH Federation*, Nos. 31/08 and 27/12)
- Law on the Public Service System (*Official Gazette of the RS*, Nos. 68/07, 109/12)
- Law on Social Protection, Rules of the Public Institute Mjedenica
- Law on Social Protection (*Official Gazette of the Republika Srpska*, Nos. 37/12, 90/16)
- Law on Social Protection Institutions of the BiH Federation (*Official Gazette of the BiH Federation*, No. 64/22)
- Law on Non-Contentious Proceedings of the Republika Srpska (*Official Gazette of the Republika Srpska*, Nos. 36/2009, 91/2016 and 16/2023)
- Law on Prohibition of Discrimination (*Official Gazette of Bosnia and Herzegovina*, Nos. 59/09 and 66/16);
- Law on the Protection of Mental Health (*Official Gazette of the Republika Srpska*, No. 67/20)
- Law on the Protection of Persons with Mental Disabilities of the BiH Federation (*Official Gazette of the BiH Federation*, Nos. 37/01, 40/02, 52/11 and 14/13)
- Law on Healthcare (*Official Gazette of the BiH Federation*, Nos. 46/10, 75/13)

- Law on Health Insurance of the BiH Federation (*Official Gazette of the BiH Federation*, Nos. 30/97, 7/02, 70/08, 48/11, 100/14 – Constitutional Court decisions, 36/18 and 61/22)
- Law on Healthcare of the Republika Srpska (*Official Gazette of the Republika Srpska*, No. 57/22)
- Law on the Protection of Persons with Mental Disabilities of the BiH Federation (*Official Gazette of the BiH Federation*, Nos. 37/01, 40/02, 52/11 and 14/13)

BOSNIA AND HERZEGOVINA
INSTITUTION OF THE OMBUDSMAN FOR HUMAN RIGHTS OF BOSNIA AND HERZEGOVINA

Banja Luka, April 2024

