



# FLOODS IN BIH – NATURAL DISASTER AND/OR INSTITUTIONAL INEFFICIENCY

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### **SUMMARY**

It is a well-known fact that Bosnia and Herzegovina is at very high risk of flooding. The floods had on several occasions, including the last large-scale floods in May of 2014, caused great material damage to the economy, infrastructure facilities, environment, citizens' health, including losses of human lives. Instead of advancing along the path of the European integration, recovery and economic empowerment, the country went to opposite direction losing part of its value in a very short period of time. The flood damages could not have been completely avoided, but they could have been smaller if the government had undertaken everything in its power to build a functional and an efficient flood protection system.

The analysis "Floods in BiH – Natural Disaster and/or institutional inefficiency" had shown that it is evident that present protection and rescue system cannot provide high quality response to the needs of the citizens of Bosnia and Herzegovina, and that in case of a natural and other disaster and accident it does not provide security either to the lives of citizens or to their property.

Besides the inter-entity, inter-departmental division, high fragmentation in planning, uneven funding and organization of protection measures, the system is not completely developed due to the lack of continuity in planning and delays of government institutions in adopting key documents relevant to management of waters and protection against waters. For example the adoption of first Water Management Strategy of the BiH Federation was three years late, and in Republika Srpska the strategy has not been adopted yet, while at the national level the strategy does not even exist as a draft.

Analysis of the legislation, but also analysis of the response at the time of natural disaster, indicate that the existing water management system and protection and rescue system in BiH, which are generally too complex, insufficiently equipped, hardly manageable, and which due to poor training of the personnel, ultimately also proved to be insufficiently functional in practice. The fact that at time of catastrophic floods in 2014 the state of emergency was not declared at the state level only had proved that the overall system for protection of people is not good due to slowness in the decision-making process and the possibility to be blocked by unreasonable politically motivated decisions. The politics also got in the way of implementation of the BiH Framework Law on protection and rescue of people and property, so six years following its adoption the "specialized mixed protection and rescue unit in the event of natural and other disasters" defined by this law was not established.

If we take into consideration divided competencies and inadequate engagement on implementation of the measures for prevention and active protection against floods, the responsibility for catastrophic consequences of floods during May of 2014 in BiH rests on entity, cantonal, but also on the local authorities. Nevertheless, having in mind division of the competencies and the fact that the rivers (waters) belonging to the primary water channels of Republika Srpska, and to first category waters of the BiH Federation, had overflowed, the biggest responsibility for the catastrophe rests on the entity

Governments, namely on the entity ministries responsible for agriculture, water management and forestry.

One of the general conclusions of the analysis had arose from the previous explanation stating that in a decentralized country such as BiH the alternative does not lie in developing two independent protection systems, but that solution lies in developing entity systems that are completely harmonized and that are functionally complemented thus making a unity, which is compatible with the systems of the countries in the region.

By analyzing financial projections in the development documents of the Water management company "Vodoprivreda" RS it was concluded that they largely exceed realistic amounts collected under special water fees/charges. In the RS, contrary to the BiH Federation, the realistic incomes are lower, since no incomes are collected under the general water fee. Therefore there is a potential danger of unbalanced development, but also a realistic danger that the RS water management development would get more and more behind in comparison to the water management development of the BiH Federation.

The analysis also showed that the funds for protection and rescue of people and material goods were spent inappropriately. Due to the financial crisis and budget deficits at all levels of authority, the entity and cantonal governments for many years adopted decisions by which they borrowed funds from the fees collected for protection against natural disasters, and had used the funds to improve budget liquidity. So it happened that besides the fact that we have poorly equipped and poorly trained structures of civil protection, the funds that were intended for that purpose were spent inappropriately.

The loans taken in previous years, which had been mostly spent to preserve high public spending, and not to strengthen prevention and protection of citizens' lives and their property, can be also considered as inappropriate spending. If the loans were spent more rationally and more wisely, the estimated damages in the amount of 3.89 billion KM that occurred as the consequence of floods and landslides would have certainly been smaller.

Being guided by the fact that the Directive 2007/60/EC on the assessment and management of flood risks, inter alia, reinforces the right of public to research information about this issue, giving the public the right to be heard in the process of planning measures in this segment, we find important to have this principle fully implemented and respected in our country, especially when it comes to planning and distribution of funds intended to Bosnia and Herzegovina following the Donors' Conference, which was held for Serbia and Bosnia and Herzegovina. Here we primarily refer to consistent realization of conclusions of the donors' conference "Rebuilding together", which demand transparent, responsible and efficient spending in line with the purpose and agreed priorities.<sup>1</sup>

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<sup>1</sup>The conclusions of the Donors Conference for Serbia and Bosnia and Herzegovina "Rebuilding together" in regard to ensuring transparency, efficiency and responsibility, state the following: It is of paramount importance that authorities of Bosnia and Herzegovina and Serbia make efficient, transparent, including through websites, and swift use of the financial assistance received. Donors' coordination should be improved with EU support. Swift implementation of the pledges is expected as it would

Bosnia and Herzegovina is signatory to majority of international agreements and conventions, which obligate it, as a country involved in the European integration process, to use *acquis communautaire* and accepted international agreements in development of its institutions and legal framework. The Directive 2007/60/EC on the assessment and management of floods risks has been only partly applied in Bosnia and Herzegovina, since the country did not meet all the conditions set forth in the directive (all member states are requested to assess flood risks of all waterways and coastal areas, to map (make a map of) flood risk areas, property and inhabitants in these areas and to undertake adequate and coordinated measures to mitigate flood risks).

At the end it is very important to stress that the insufficient progress on the path of European integration has its concrete price again, because Bosnia and Herzegovina besides Kosovo, as the only country in the region that still did not meet all conditions for submitting application for candidacy to the EU, has no possibility to use the funds from the “EU Solidarity Fund”.

Due to numerous problems that have been identified through the findings of the Analysis in the water management system and the system of protection and rescue of people and property in Bosnia and Herzegovina, this document ends with a series of conclusions and recommendations. Amongst the recommendations we would like to underline the following:

- All levels of authority should make an objective analysis in which they would examine in details all circumstances and omissions, also clearly determining institutional and individual responsibility, both in the area of prevention, but also during rescue of people and property/material goods during catastrophe in May of 2014;
- To conduct a thorough performance analysis<sup>2</sup> (to check cost-effectiveness, efficiency and transparency) of prevention and active defense against floods at all levels of authority. To publicize the results of the effectiveness audit of active defense against floods at all levels of authority;
- To use the results of performance analysis of active defense against floods for reform of the civil protection organizational structure at all levels in BiH;
- To establish as soon as possible a monitoring system for inflow, distribution and spending of all funds intended for recovery of consequences caused by the natural disaster taking into account transparency, responsibility and efficiency of spending and its compliance with the purpose and agreed priorities;
- To make additional efforts for considering possibility of adopting a framework law and a framework strategy on waters at the state level, not underestimating importance of the entity laws and documents on waters.

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substantially contribute to the needed reconstruction. A high level meeting will be convened early in 2015 to monitor the implementation of these conclusions.

<sup>2</sup>Performance analysis should be also done for other sectors (health care, employment) – the sectors for which the citizens pay special contributions/fees.



If we were to answer the question given in the title of this analysis, we would say that the floods, which hit BiH in May, represent extreme weather, which cannot be prevented in the better-organized countries. Nevertheless, undoubtedly we can claim that the consequences would not be as difficult as they are, if we did not have such institutionally inefficient flood defense system, a system that is slow, neglected in development, insufficiently functional, especially when it comes to vertical coordination by levels of authority in BiH.

### 1. INTRODUCTION

Climate changes<sup>3</sup> and citizens' safety are directly connected due to frequent occurrence of extreme weather that year in, year out records its maximum causing serious damage, and often even human fatalities. None part of the world is safe from these catastrophes, but the consequences are different having in mind preventive activities, organizational preparedness of the society and timely respond of the nation system that manages the sectors of civil protection, economy, health care, spatial planning, water management ...

The flood, a consequence of extreme<sup>4</sup> weather that is focus of this analysis, is just one of the hazards that threatens Bosnia and Herzegovina and that can lead to loss of human lives and cause material damage of great proportions. The floods are not the most frequent disaster from the domain of hydro-meteorological hazards, but they certainly endanger social communities to the highest extent because after devastation they cause, they leave the biggest consequences on a large area, often triggering secondary problems such as diseases and potential outbreak of communicable diseases. Also, the floods have a negative long-term effect on agricultural activities and thus also on the economy of a country<sup>5</sup>. The floods and other natural disasters occur abruptly, disregarding administrative national borders, so it is logical that every individual effort of a country to strengthen prevention, to mitigate and to eliminate potential consequences should be done with the highest degree of cooperation between the affected communities, but also the ones that have not been affected and that potentially can be affected. The individual efforts are not sufficient, so the need of having countries involved in an organized and synchronized manner in both the use of the water as the most significant resource, but also in the defense against the water, was recognized much earlier.

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<sup>3</sup> The problem of climate change is scientifically connected to frequent natural disasters of catastrophic consequences in countries around the world, and also in BiH. At the same time the last EC "Progress report on BiH" reads that our country is at the very beginning when it comes to approximation with the EU acquis in the area of climate change. There is not comprehensive climate related strategy or policy in BiH related to the climate change.

<sup>4</sup> Source Wikipedia - [http://bs.wikipedia.org/wiki/Poplave\\_u\\_Bosni\\_i\\_Hercegovini\\_2014](http://bs.wikipedia.org/wiki/Poplave_u_Bosni_i_Hercegovini_2014) - only in the period of 48 hours (May 14-14, 2014) around 150 l/m<sup>2</sup> rain fell in some areas of Bosnia and Herzegovina. The rivers Bosna, Drina, Sana, Sava, Vrbas and others had overflowed its bed. Orašje, Domaljevac Šamac, Odžak, Brčko, Maglaj, Doboj, Derventa, Tuzla, Prijedor, Travnik, Janja, Bijeljina, Zenica, Živinice, Vareš, Zavidovići, Ključ, Banja Luka, Čelinac and many other places and settlements were flooded. The area along the Sava River was endangered. The Government of the Federation of Bosnia and Herzegovina on May 15 declared the state of emergency over flooding, while the RS Government on May 17 also declared state of emergency on the entire territory of Republika Srpska.

<sup>5</sup> Preamble of the EU Directive on management of flood risk reads: "Floods have the potential to cause fatalities, displacement of people and damage to the environment, to severely compromise economic development and to undermine the economic activities. Floods are natural phenomena which cannot be prevented. However, some human activities and climate change contribute to an increase in the likelihood and adverse impacts of flood events. It is feasible and desirable to implement appropriate measures to reduce the risk of adverse consequences."

Human progress does not endure obstacles, but its destructive effect on the nature can be seen in the last epoch of strong industrial and economic development, which led to the global climate change and occurrence of floods that are more frequent, more intensive and having greater consequences<sup>6</sup>. Therefore the floods get special attention and place in assessing vulnerability to floods of every country.

It is not possible to encompass all issues of water management in BiH by only one analysis, due to complexity of legislation, institutional organization, inter-departmental, and even regional connection of “water sector” and protection against natural disasters, and in rest of the document the CCI has focused only on the part concerning the floods and flood risk management. The reason for such a decision is simple and rests on the fact that the floods and landslides in BiH from May 2014 also took human lives, and financially speaking the damage was estimated to almost 4 billion KM<sup>7</sup>. Whether the damage could have been lesser, whether it could have been prevented and whether the competent institutions and individuals could have reacted more adequately – are the questions demanding the most urgent answers. The answers are not only important for seeking responsibility of the institutions of the government, which undoubtedly should have been higher, but the answers are primarily important due to the danger of having this situation repeating again really soon in the same or bigger volume and not having to pay a very high price of a non-functional protection system again.<sup>8</sup>

In the days and months after the large-scale floods, which had been seen in Bosnia and Herzegovina during May of 2014, it is not strange to have the focus of government’s actions, and even attention of the entire public, shifted to solidarity and unity all aimed at efficient recovery from the floods. This is a priority, but at the same time the government should have been spending same amount of the energy on revising existing and developing new strategies, programs and action plan to build more modern and state-of-the-art defense system to prevent next floods in BiH. It means that activities on recovery from floods and strong actions towards prevention of new floods for which there is no guarantee that will not happen again, have to be realized parallel to each other. Unfortunately this is not the case in Bosnia and Herzegovina.

On one hand the importance of recovery process is unquestionable, having in mind only one simple aim of prompt revitalization of all companies whose activities were stalled or stopped due to water damage, that is, engagement of all available resources in order to have citizens returning to their homes. On the other hand, it is expected from the BiH authorities, primarily from the entity government, to be as efficient and to promptly present concrete plans and proofs to convince us that such large-scale flooding will never again cause such massive consequences to the lives and property of the BiH citizens.

Inefficient performance of the authorities in the period after the floods could lead to indirect costs from affected economy and jeopardized living standard, significantly increasing already high damage that

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<sup>6</sup> According to the UN information the number of natural disasters decreased from 75 to 400 in a year during the last 40 years.

<sup>7</sup> The information reflects the final damage assessment that have been made by the domestic institutions and experts of the international community.

<sup>8</sup> The disasters cause 2% damage in developed countries and 13% of gross national income in developing countries (from the Water Management Strategy of the FBiH).



has been inflicted to Bosnia and Herzegovina. At the end, what will be the medium-term economic consequences depends on timely and quality performance of the representatives of current authority, here we are talking about possibility of additional reduction of foreign capital flow to BiH, reduction of investments by domestic investors, deterioration of trading, decrease of BDP, distortion of the budget, and further growth of poverty in BiH. But there are some known practices where catastrophes after which in a very short period of time happened rapid recovery can have significant positive effects to economic growth in the country.

Nevertheless, we express concern that Bosnia and Herzegovina could face earlier presented worse scenario and significantly slower economic recovery, having in mind already seen performance efficiency of the BiH authorities during past years, the complex structure of authority in the country, the high degree of manipulative politics, high degree of corruption, and other problems that are characteristic to our country.

Presently, hence at the time this analysis is published, one of the most important questions imposes itself and this question relates to the process of establishing a system of monitoring allocation and use of the funds intended for recovery from the recent floods. Here we are talking about great amount of funds that are being continuously collected for this purpose since the occurrence of the floods, either through organized or sporadic contributions from institutions, organizations or individuals, whose culmination happened after the Donors' Conference in Brussels for the flooded areas of Bosnia and Herzegovina and Serbia. We would like to reiterate that 809.2 million Euros was raised for flood recovery at donors' conference, which was held on July 16, 2014. The aid will be provided in a coordinated fashion with the support of the EU and in cooperation with the international donor community. In the forthcoming period the CCI will, through its monitoring activities, insist on transparent and systematic use and allocation of these funds.

## **2. METHODOLOGY**

In its chapters the analysis "Floods in BiH – Natural Disaster and/or institutional inefficiency" presents the legal framework of the water management sector and the legal framework of the sector for protection and rescue of people and property in BiH, their institutional organization, and strategic and programming orientations, specially focusing on the method of financing and conditions under which the institutions tasked with flood prevention and response operate. The analysis also includes the most important segments of the EU legislation regulating these sectors and the directives obligating all EU member states to harmonize their regulations and to jointly and in coordinated fashion work on developing an efficient and integrated flood protection system.

Methodological approach to the study is founded on two key stages – a research stage under which all necessary information and materials were collected and the second one so-called analytical stage.

Already in the first stage of the study when information on existing legislative frameworks were collected it could be seen that the subject matters of water management and protection and rescue of people and property in the event of natural and other disasters are very complex, inter-departmentally connected and dispersed to all levels of authority from the national level to the municipal level. This is the reason why we directed collection of research materials to documents available at the national level, entity level and the level of Brčko District of BiH, while the documents of the cantons and local self-governments were considered only in the context of gaining better understanding of the logic, transposition of the organizational structure and the method of coordinating the protection against the floods.

Part of the information on planning and undertaking of the preventive measures of protection against floods were received after a written inquiry was sent to the BiH Ministry of foreign trade and economic relations, entity ministries of agriculture, water management and forestry, Public Institution “Vode Srpske”, the FBiH Agency for the Sava River Basin and Agency for the Adriatic Sea Basin, and the cantonal ministries of agriculture, forestry and water management.

Part of the information on planning and undertaking of the preventive protection and rescue measures i.e. measures found to be active defense against the floods, we had received after a written inquiry was sent to the Ministry of security, Civil Protection Administrations at all levels in BiH (state, entities, cantons). The inquiry related to the state of equipment and the database on resources, as well as to staffing and coordination of human resource in these institutions.

Unfortunately we had faced different problems during the data collection process, because some institutions did not respond to our inquiry (more precisely we received information from the Cantonal Civil Protection Administrations of the Herzegovina-Neretva canton and the Central Bosnia canton), and also portion of requested documents was not available on the official web pages.

Generally speaking in this stage of the study different levels of the authority and their institutions responsible for the water management and the rescue of people and property have different degree of transparency, thus having different degree of readiness to publicly present their work and financial operations. If the non-transparency in the work of public institutions was to a certain extent comprehensible and understood by the public as a space to be conquered through democratization due to political influences, we could not have understood why the documents, which relate to the activities in crisis situations and which are of significant importance to the citizens' safety, were not adequately presented and made completely available.

Therefore we had decided to seek some information through interviews and meetings with the institutions' employees from whom we had got valuable explanations regarding some problematic data/information.

A significant source for preparation of the situation analysis in BiH were the scientific studies, adopted strategies, protection and rescue development programs, flood defense plans, working reports, budgets, financial plans and reports on their realization, official gazettes, as well as the information collected through the CCI's activities on monitoring work of the institutions in Bosnia and Herzegovina. We found the document of the Audit Office of institutions in the FBiH "Audit of the flood prevention efficiency in the Federation of Bosnia and Herzegovina" to be especially significant source due to the actuality and the moment when it was prepared.

The information and the data from the official web pages of the Council of Europe and the European Commission were used when analyzing international experience and experience of the countries in the region in the area of flooding prevention and active defense against the floods. Here we are talking about the laws and available information of the government institutions published on the official web pages, Progress reports of the European Commission in the process of European integration, and information concerning conditions and rules of financing flood relief activities in the EU member states.

And at the end, even though there was a risk of possible misinterpretations due to the abundance of available information collected in different ways, the Analysis contains not only the conclusions, but also the recommendations on how to develop an integrated, better and more efficient system of protecting people and property in Bosnia and Herzegovina.

In its very short segment the analysis also comprises chronology of characteristic events and problems that accompanied the last catastrophic flooding. Immense damage and the long standing reconstruction and recovery period, which will start in Bosnia and Herzegovina after international donors and credit funds become available, gives the possibility of using the Analysis as a foundation to introduce monitoring of the use of funds and the overall reconstruction and recovery process.

### **3. ANALYSIS OF LEGISLATIVE FRAMEWORK**

When we are talking about the floods, and especially when we know how much damage the floods in May of 2014 caused to Bosnia and Herzegovina, we must ask ourselves a question of whether much more could have been done regarding prevention of this scourge, that is, whether the protection and rescue activities in the period when the flooding already happen could have been more coordinated.

A group of renowned experts in the USA had already 11 years ago published a study titled "Water resources management in the South-East Europe" that said the following about our country: "For Bosnia and Herzegovina, the key challenges are rehabilitation of water and wastewater systems, flood management, water quality and ecosystem management, and development of sound institutional frameworks." This time distance, from 2003 until today, is yet another proof that there were more than enough warnings about floods that hit BiH in 2014, but it is obvious that here also prevailed the

irresponsibility of the ones who could have done more concerning prevention, and safety of people and property against floods and other<sup>9</sup> natural disasters.

The standing practice in most developed democratic countries is that the state assumes responsibility for taking care of the victims and providing timely aid and assistance in extraordinary situations occurring on its territory. Therefore, planning in case of civil emergency situations is primarily responsibility of the national institutions, and it is also a standing practice to have the funds intended for such a purpose under the control of these institutions. But having in mind somewhat more complex constitutional structure of Bosnia and Herzegovina, the area of civil emergency situation planning and financing is characterized by rather different form of organizational structure and management of this sector. When talking about complexity of constitutional structure of our country, which consequently leads to existence of several similar laws regulating same area, but relating to different levels of authority, at the very beginning of the analysis of legislative framework we must underline the following: Bosnia and Herzegovina is a state<sup>10</sup> consisting of two entities – Federation of Bosnia and Herzegovina (BiH Federation)<sup>11</sup> and Republika Srpska (RS), and the Brčko District of BiH (BDBiH).

In the end, under so defined territorial organization of Bosnia and Herzegovina the units of local/city, cantonal, entity and also the state administration, within their rights and obligations defined by the law, regulate, plan, educate, organize, finance and implement the protection and rescue system.

In this part of the analysis, where we will attempt to present as briefly as possible all important aspects of the legislative framework concerning flooding prevention and its coordination, we have to answer two questions – What are the administrative structures when we talk about water management<sup>12</sup>, and what are the administrative structures when we talk about civil protection, i.e. the protection and rescue system.

### 3.1. Legal framework in the area of water management in BiH

At the beginning we must explain who manages waters in BiH, that is, who collects water utilization fee, and who coordinates this process. In order to explain this here we have to quote the document “Water management in the BiH Federation, situation and goals until 2022<sup>13</sup>”, which reads: “The entity laws on water (1998), which established two mutually completely independent water management systems in BiH, had for the first time in the history of this sector introduced complete division and independent management of same water resources of the BiH state – and, which are mutually divided

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<sup>9</sup> Let's us remember the big fires, which occurred in Herzegovina during summer of 2012 or the snow-drifts that closed down the most frequent roads in BiH for days during the winter of 2011, etc...

<sup>10</sup> Bosnia and Herzegovina has area of 51.129,2 km<sup>2</sup>, and according to characteristic features and specificities of the climate it can be divided to three separate parts, which have more or less sharp border or softer transitional areas (the area of moderate-continental climate (Northern Bosnia), the area of mountainous (Alpine) climate (higher areas of Central Bosnia) and the area of maritime climate (Southern part of the country - Herzegovina).

<sup>11</sup> At the same time the entity of the BiH Federation administratively consists of ten cantons: Una-Sana canton (Canton 1), Posavina canton (Canton 2), Tuzla canton (Canton 3), Zenica-Doboj canton (Canton 4), Goražde canton (Canton 5), Central Bosnia canton (Canton 6), Herzegovina-Neretva canton (Canton 7), West Herzegovina canton (Canton 8), Sarajevo canton (Canton 9) and Canton 10, having its seat in Livno.

<sup>12</sup> Water management encompasses: water protection, water use, protection against harmful effects of water and regulation of watercourses and other waters.

<sup>13</sup> [http://jadrn.ba/strategija/promotivni\\_materijali/UPRAVLJANJE\\_VODAMA\\_U\\_FBiH\\_hrv.pdf](http://jadrn.ba/strategija/promotivni_materijali/UPRAVLJANJE_VODAMA_U_FBiH_hrv.pdf)

between the entities and the Brčko District. In other words, contrasting its historic heritage and practice of all counties in the region (and beyond), Bosnia and Herzegovina has three independent systems of legal norms instead of one integrated system of legal norms regulating water management system. Contrary to modern, globally accepted beliefs of science and the profession that waters, as well as the environment, do not know boundaries, and that the waters are managed at the river basin level and that administrative (and not even state) borders should not pose an obstacle to developing such managing system, a water management system founded on completely opposite principles is being developed in BiH”.

It is true that such water management structure is allowed by the Dayton Agreement, that is, by the BiH Constitution.

Before presenting a scheme that will give us a picturesque explanation of the water management organizational structures in BiH, let's just say that the water management is a sector to which the European Commission has been constantly warning BiH in its annual Country Progress reports. In the BiH 2013 Progress report<sup>14</sup> the European Commission underlined the following: “Regarding *water management*, no efforts were made to ensure a consistent and harmonized approach to water management at State-level, including implementation of the water laws, monitoring and river-basin management plans<sup>15</sup>. The Federation adopted implementing legislation on determining ecologically acceptable flow for surface water bodies. Steps were taken towards developing relevant strategies in the Entities and of river basin management plans for the rivers Neretva, Trebisnjica and Sava. Access to drinking water, untreated discharges of wastewater and flood management remain challenges.”

It is obvious that the European Commission is not satisfied with the present approach to water management in BiH, and it only means that the water management is not in line with the European standards. The water management in BiH, as many other subject matters, is primarily a political issue. The existing administrative-institutional structure of the water sector in BiH to its fullest extent reflects the existing administrative-political structure of Bosnia and Herzegovina. The coordination activities and international cooperation activities are under national competence, and the activities, which are crucial to the safety and the living standard of the BiH citizens, as well as operational activities regarding water management in BiH, are under competence of the entities and the Brčko District of BiH.

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<sup>14</sup> [http://komorabih.ba/wp-content/uploads/2013/11/izvjestaj\\_napredak.pdf](http://komorabih.ba/wp-content/uploads/2013/11/izvjestaj_napredak.pdf)

<sup>15</sup> As a response to the CCI's inquiry, the Ministry of foreign trade and economic relations of BiH concluded in its letter that the Laws on waters of both entities in BiH are adopted and that both of the laws are predominantly in line with the key European directives.





so-called Coordination team<sup>16</sup> with the Ministry of security submitting the request to declare the state of emergency at the national level. One cannot shake off the impression that certain centers of powers had seen this as threat of potential possibility for empowering the state and state institution, and for weakening the entity institutions.

As presented in Scheme 1, the Ministry of foreign trade and economic relations<sup>17</sup>, that its, its Department<sup>18</sup> for water resources, has certain competencies over water management at the state level. Some of the most important competencies of this Department are: preparation of laws and regulations on waters, preparation of professional analysis, information and proposals on state of the affairs in the in the area of waters; determining strategies and development policies in the area of waters; proposing measures to improve state; collecting, monitoring and analyzing the data on water resources; monitoring and implementation of international and domestic initiatives, conventions, projects and programs in these areas; reporting to domestic and international institutions on state of the affairs in the area of water and cooperation with the similar institutions abroad and in the country in the area of waters on subjects that are of interest to Bosnia and Herzegovina; cooperation with relevant institutions at the state and entity level aimed at improving sectors of waters in the country and abroad; and all other activities under international and domestic.

As seen above, the institutions at the national level are responsible for the foreign policy on waters, and here we are talking about the part concerning preparation and signing of international agreements, while at the same time the entities are responsible to implement these agreements. We would also like to mention another institutions, which is most directly responsible for water management in part relating to the river and maritime traffic – the BiH Ministry of traffic and communications, led by Minister Damir Hadžić. At the time this analysis was prepared the public debate on the national Law of navigation on inland waterways, and the Law on maritime coastal property and maritime traffic was held.

At the same time, the entities are directly responsible for operational water management in BiH, and also for the finances that relate to the water resources. In contrast to the state level, special laws on waters were adopted at the level of the BiH Federation and Republika Srpska, and these documents define competencies of the institutions responsible for water management in BiH. The internationally recognized document “Second Environmental Performance Review in BiH<sup>19</sup>” reads that both of these entity laws are generally very detailed and comprehensive, that they define most of the water management issues and that they are in line with the EU regulations. But, as stated in the document – “responsibilities for adherence to and implementation of these laws are not clearly define in some areas”. When discussing the area of water management here we will add yet another very important

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<sup>16</sup> The BiH Council of Ministers had in line with the Framework Law on protection and rescue of people and property in the event of natural and other disasters in BiH established a Coordination Body of Bosnia and Herzegovina, consisted of representatives of: a) BiH Council of Ministers – (nine members), b) Government of Republika Srpska – (five members), c) Government of the BiH Federation – (five members), and d) Government of Brčko District of BiH – (two members).

<sup>17</sup> This institution is led by Boris Tučić

<sup>18</sup> Head of department is Mr. Boško Kenjić

<sup>19</sup> Second Environmental Performance Review in BiH, UN New York and Geneva, 2011, page 100

conclusion from this report, which states that “present situation is complex and heterogeneous due to the lack of framework at the state level and due to the constitutional set-up of BiH and its entities, especially having in mind that the entities have most competencies in the area of water management”.

The competencies over water management in Republika Srpska are divided between the RS Government, through the Ministry of agriculture, forestry and water management<sup>20</sup>, and the local community. The management structure in the BiH Federation is even more complex. The water management is divided between the BiH Federation Ministry of agriculture, water management and forestry<sup>21</sup>, and the cantonal ministries that are responsible for the sector of waters, where authorities at the local level also have some responsibilities.

In the next few paragraphs we will shortly present competencies of the institutions mentioned in the Scheme 1 on administrative structure for implementation of the water management policy at the entity level and the level of Brčko District of BiH.

### ➤ **Republika Srpska**

Article 89 of the Law on Waters of RS reads as follows: “Republika Srpska and units of local self-government shall, within their competencies, manage water resource, as a resource of general public interest and shall protect it against damage, destruction or irrational and illicit use, in accordance with this law and special laws.”

Furthermore, Article 94 reads that: “Republika Srpska and units of local self-government shall be obligated to provide for planning of protection measures, construction and management of water infrastructure, especially embankments, dams, partitions, facilities for shoreline and river bottom stabilization, and facilities for inland water drainage, in accordance with competencies under this law.”

Here already we could conclude that both RS Government and the local authorities are equally responsible for catastrophic consequences of the floods in May of 2014. The most important question out of many opened ones is – “who could have done more on prevention?”

Let's us start with the role of the RS Ministry of agriculture, forestry and water management, which is in the area of water management primarily responsible for the following: preparation and delivery of the laws, policies, as well as the strategy in the area of waters to the Government for adoption; delivery of the River Basin Management Plan to the Government for adoption; instigating an initiative with the Government and participating in preparation of documents (rulebooks, instructions, etc.) under its competence to be adopted by the Government.

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<sup>20</sup> The RS Ministry of agriculture, forestry and water management is led by Minister Stevo Mirjanjić.

<sup>21</sup> The BiH Federation Ministry of agriculture, water management and forestry is led by Minister Jerko Ivanković - Lijanović.

One of the results of passing new laws on waters and the law on administration at the level of Republika Srpska, is the transformation of former Republic Directorates for Waters, which were operation from 1996 to 2009, into two agencies<sup>22</sup> for waters that are responsible for water management, including also preparation of water management plans and issuance of the water use permits. Nevertheless on January 11, 2013 the Government of RS additionally transformed the water management institution, establishing then the Public Institution “Vode Srpske” (Waters of Srpska), merging the Agency for waters of Sava River Basin District and the Agency for waters of Trebišnjica River Basin District into the new above-mentioned institution, based in Bijeljina. In accordance with the last changes to the Law on Waters in RS from 2012, Public Institution “Vode Srpske” is an institution<sup>23</sup> managing waters, public water property, as well as water and hydro-technical facilities and systems, rivers, streams, lakes on the territory of Republika Srpska as defined by the law, and in accordance with the provisions of the Law on Waters and other appropriate regulations. Shortly, according to the information published on the web site<sup>24</sup> of this institution, the latter is responsible to: organize the work and functioning of water management at the district and river basin, as well as the Office of the water management of the basin (VUS); propose long-term and medium-term water management development plans and programs; take care of providing the necessary funds and to determine how the funds are spent; monitor the implementation of water management plans and programs; control the use of the funds; suggest the fee amount; propose annual work program and financial plan; propose criteria and standards for allocation and distribution of funds; and perform other duties in accordance with law and other regulations of the Republika Srpska and Bosnia and Herzegovina.

The RS Law on Waters describes in more detail all basic and special competences of the Public administration “Vode RS” (Waters of RS). When it comes to the competencies to issue water deeds, here the competence is divided between the administration and the local community. So the Public Administration “Vode Srpske” is competent to issue water deeds for the area of river basic district for the following facilities, installations and activities: drawing water in the quantity of five or more liters per second; release of waste waters from residential areas; release of technologic waste waters into surface waters; artificial nourishment of ground waters; hydroelectric power stations for electric power production; all accumulations on the territory of Republic of Srpska, dislocation and excavation of materials from water courses; construction of facilities for protection against flood or other plants for protection against floods, and other activities that might affect the waters and which are set forth by Article 127 of the RS Law on Waters. At the same time local self-government units issue water deeds for facilities, installations and activities, which are not previously stated.

Talking about responsibility of local authorities in water management it is very important to underline that the local authorities are responsible for water supply, protection of local drinking water sources, financing water utility companies, managing melioration systems and facilities, providing and

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<sup>22</sup> First two agencies were established “Agency for waters of Sava River Basin District” and “Agency for waters of Trebišnjica River Basin District”

<sup>23</sup> Presently, as well as in the period of May floods, this institution is led by Director Dragan Anđelić

<sup>24</sup> <http://www.voders.org>

organizing waste waters treatment directly or with the assistance from specially formed services or subjects, proclaiming bathing areas in accordance with the spatial planning documents, etc.

We should also add that according to the Article 16 and 17 of the Law on Waters of RS that local administration can own and be responsible to manage certain water facilities, such as:

- Facilities for protection against erosion and torrents;
- Water facilities for drainage, including: basic and detailed drain canal network, drain pump stations, and other accompanying facilities;
- Water facilities for water use and exploitation; 1) Basic facilities for water supply of residents and industry; 2) For irrigation-accumulation, supply canals and tunnels, water drawing facilities, pumping stations, weirs, supply and distribution network and other pertaining facilities, 3) For using water power – accumulations, supply and drain tunnels and plants and other pertaining facilities and equipment, 4) For navigation – navigation paths, locks and weirs, and other accompanying facilities and equipment, 5) Artificial fish ponds, recreational pools and lakes, as well as facilities for cage fish farming;
- Water facilities for protection against water pollution, including: collectors for receiving and transportation of wastewaters, wastewater purification devices, depot for waste materials, receiver drainpipe and other accompanying facilities and equipment.

More precisely, these facilities can be property of natural or legal persons, who own land on which the water facility has been constructed, to be regulated by special regulations of the local self- government units, the owner and the Ministry. Jurisdiction and duties of the local self- government units over hydro- technical facilities owned by them are conducted by public companies on whose territory these facilities are located.

To conclude, all primary waterways, i.e. rivers such as Sava, Vrbas, Bosna, Janja and others that had overflowed their banks in May of 2014, as well as embankments, water management facilities and facilities located on the embankments, main rainwater harvesting channels that go through the cities, are managed by the Government of Republika Srpska, through the Ministry of agriculture, water management and forestry and the Public Institution “Vode Srpske”. The local authority manages secondary and tertiary channels, which in practice means maintenance of water management facilities that are functioning as defense against flooding of so-called “inland waters” on the territory of a municipality/city (secondary and tertiary channels), including the entire hydro-melioration system with channel network and facilities, and the accompanying travel network. The maintenance means regular mowing of road shoulders and channels several times in a year, investment maintenance (cutting trees, bushes and other vegetation, garbage collection), gravelling and grading roads along the channels, channel cleaning, maintaining bridges and passes on the entire hydro-melioration system, etc.

In line with previously asked question “which level of authority could have done more to prevent flooding in BiH”, the highest responsibility rests on the entity government, i.e. RS Government, Ministry of agriculture, forestry and water management , and the Public Institution “Vode Srpske” than it rests on the local authorities.

### **➤ BiH Federation**

The BiH Federation ministry of agriculture, water management and forestry has one of the key roles in water management and implementation of preventive measures on flooding in the Federation of Bosnia and Herzegovina. Differing from the RS, the situation in the BiH Federation is quite specific because every of 10 cantons has its own cantonal ministry responsible for protection of waters and water supply, protection against floods and erosion, and for planning water sector development. Article 31 of the Law on Waters of the BiH Federation reads that water management in this entity is competence of Bosnia and Herzegovina, Federation of BiH, cantons, and the city/municipality.

We have already previously said what is the true role of the state in water management, and turning to the BiH Federation level we will begin with the Ministry of agriculture, water management and forestry. The sector<sup>25</sup> for water management is part of this institution, and it is responsible for: preparation of strategies and development policies for water management, water management facilities and public water properties (in the field of water use, water protection and protection against harmful effects of water and water monitoring); proposing development documents for the integrated water management (river basin management plans, programs of measures, flood protection plans, water pollution prevention plan, plans for water emergencies, droughts and erosion and other documents according to applicable laws) and monitoring the implementation of aforesaid documents; Preparation of legislation and regulations and institutional arrangement in the field of water management within the competence of the Federation BiH; participation in the process of drafting of budget proposal of the Ministry in the fields as covered by the Sector; coordination of monitoring activities in water resources and preparation of information material in the field of water management; guiding the development of water regime and water status through the identification and implementation of development projects and cooperation with units and services for the implementation of projects in the Ministry and with Federal Ministry of Finance, water management institutions and other institutions; carrying out concession granting procedures within the competence of the Ministry in this field; carrying out activities related to international contracts, agreements, conventions and protocols in water management (Danube Convention, Barcelona Convention, Helsinki Convention, the Sava River Agreement, Water Management Cooperation Agreement with the Republic of Croatia) and activities related to inter-entity cooperation according to Inter-entity Water Management Cooperation Memorandum, etc. ( taking part in the preparation, coordination and implementation of commitments taken in line with these documents together with country-level institutions and the institutions from the Republic of Srpska); Supervision of the activities undertaken by water management institutions at the Federation level

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<sup>25</sup> The sector is led by Assistant minister for water management Hazima Hadžović

(Water Agencies) and control of legality of documents issued by cantons and these agencies in administrative procedure; coordination with cantons in the field of water management; other activities within the competence of the Sector.

As we can see the diapason of responsibilities of the BiH Federation ministry on water management in the BiH Federation, especially in the part concerning the legislative and strategic regulation of this area, is wide-ranging.

In order to completely explain the administrative structure of water management in the BiH Federation we first need to present Article 7 of the Law on Waters in the BiH Federation. Namely this article defines the term “water property” stating that the water property is a set of land lots that include: land on which surface water is permanently or occasionally present resulting in special hydrological, geomorphological and biological relations being formed which determine water and water-related eco-systems; flowing water main channel, including islands and banks up to a significant geomorphological alteration; riparian zone of 15 m width from the bank boundary (significant morphological alterations) for Category I surface waters, and riparian zone of 5 m width from the bank boundary (significant morphological alterations) for Category II surface waters; land submerged by standing water, including the bank up to the highest recorded water level; abandoned, occasionally inundated, river channels, wetlands and lands flooded by water due to spatial planning interventions; a regulated inundation area; land below and beside water structures as defined in Article 14, paragraph 1, point 1 of the Law on waters.

Public “water property” is a property of public interest and is owned by the BiH Federation for all Category I surface waters, that is, by the city and municipality for all Category II surface waters – unless otherwise regulated by a special cantonal regulation. According to Article 10 of the Law on Waters of the BiH Federation the Federal Minister determines by way of official decision whether a water property is in the domain of the public water property for Category I surface waters, while the Cantonal Minister competent for water determines by way of official decision whether a water property is in the domain of the public water property for Category II surface waters.

To conclude, the entity is responsible for Category I surface waters, and the canton and cities/municipalities are responsible for the Category II surface waters. Now we just need to present what are Category I waters, and what are Category II waters, which is defined in Article 2 of the Law on Waters of the BiH Federation. The Category I waters are:

- within the Sava River Basin the following watercourse - Sava 1. Hazna, Una 2. Vidara, Unac 3. Jajce I, Sana 4. Jajce II, Vrbas 5. Župica, Pliva, Bosna, Krivaja, Usora, Spreča (downstream from the mouth of River Jala), Željeznica, Tinja, Drina, Sanica, Klokot;
- within Adriatic Sea Basin watercourse and the artificial reservoirs - Neretva 1. Rama, Trebišnjica (regulated part of the watercourse) 2. Jablanica, Matica (Vrljika) 3. Grabovica, Tihaljina, Mlada,



Trebižat 4. Salakovac, Bregava 5. Mostar, Krupa 6. Buško blato, Lištica (downstream from Široki Brijeg) 7. Mandek Rama 8. Lipa; and,

- natural lakes and wetlands - Boračko jezero (lake), Blidinje (lake), Hutovo blato (wetland).

All other waters belong to Category III!

The Government of the Federation of Bosnia and Herzegovina manages Category I waters and water structures owned by the BiH Federation through two entity agencies. Namely, the Law on Waters of the BiH Federation in its Article 152 defines establishment of two Water Agencies – “Agency<sup>26</sup> for water area of Sava River Basin” and “Agency<sup>27</sup> for water area of the Adriatic Sea basin”. The agencies were established to conduct the tasks of managing water and water structures entrusted to the BiH Federation by the Law on waters of the BiH Federation and other regulations.

For example the tasks of the Water Agency are to permanently and freely conduct tasks of water management as defined in plans referred to in Article 160, paragraphs 1 and 2, point 2 of the Law on Waters<sup>28</sup> and in accordance with the funds that are provided for water management based on this Law. The agency has authorization to conduct the tasks of public interest according to which it is authorized to pass administrative and other documents, and to decide on issues important for water management. The Water Agency also perform authorization and obligations of the Federation for water control structures<sup>29</sup> referred to in Article 14 of this Law, and which are owned by the BiH Federation.

Also several branch offices were established aimed at ensuring efficient conduct of tasks under jurisdiction of the Water Agency and promoting the user-friendly principle. The Federation minister responsible for water management adopts the decision on establishment of branch offices on proposal of the Steering Committee of the Water Agency.

Of course, the Law on Waters provides much detailed explanation of authorizations and competences of the Water Agency, such as for example that the River Basin Agencies will be responsible to establish a system to monitor and forecast emergency hydrological situations on its territory and to ensure timely dissemination of information to the inhabitants of the vulnerable areas, to undertake emergency measures to prevent or to reduce harmful effects of pollution incidents and to prepare plans for such measures, to provide expert water-related opinions on documents falling within the competence of other Federation and cantonal ministries upon request by such government bodies; to participate in the preparation of water sector policy and water-related legislation; to promote water-related research and sustainable water management; to organize public awareness raising events on sustainable water use, water protection and the protection of aquatic eco-systems.

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<sup>26</sup> This agency is led by Director Sejad Delić since April 1, 2008

<sup>27</sup> Director of the agency is Mr. Damir Mrđan

<sup>28</sup> The Steering Committee, with the agreement of the BiH Federation Government, adopts the annual plan and the financial plan of the Water Agency for the period of at least three years. Also the Steering Committee with the agreement of the BiH Federation Ministry of agriculture, water management and forestry adopts annual operational, as well as the financial plan the Water Agency, and adopts the business report of the agency for the preceding year.

<sup>29</sup> Water control structures: embankments, bank revetments, regulated water course channels, sluices, catch-water drains for the protection against external waters, discharge tunnels, dams with reservoirs, floodgates, surface retention, flood protection pumping stations and other associated facilities, as well as erosion and flood control facilities.

As previously said the cantonal governments are responsible for managing Category II surface waters on the territory of the canton, whereat the management of Category II waters must be in line with management plans of the appropriate river basins, i.e. in line with the management plans for respective sub-basins, and it has to provide for implementation of the measures defined by these plans.

The cantons regulate the method and contents of the utility services performance. In the context of water management, the significant role of the cantons is reflected in the task of ensuring water to the citizen, business operators and economic subjects, and other users. Also, the cantons manage collection, treatment and discharge of wastewaters. The cantons regulate these areas and set forth the competencies and obligations of the municipalities as the units of local self-government.

Regarding the cantonal right related to waters, it is necessary to point out strategic importance of the commitment that the competencies of supplying drinking water to the public are divided between the BiH Federation and the canton in such a manner that the BiH Federation passes regulations on quality of the water for human consumption and regulations on effluents<sup>30</sup>, while the cantons (namely the municipalities) are exclusively responsible for development and legal regulation of issues relating to use and maintenance of the drinking water supply infrastructure and for channeling, treatment and discharge of wastewaters.

Also, the cantonal ministry in charge of waters has the competence to issue water deeds for: water abstraction of quantity not exceeding 10 liters per second; wastewater discharge from settlements with up to 2000 inhabitants; abstraction of material from Category II surface waters; construction of hydroelectric power plants, when the plant is located on Category II surface waters with capacity of up to 5 MW; construction of water reservoir located on Category II surface waters and within the territory of the canton concerned; construction of flood protection structures on Category II surface waters, provided that the activities concerned do not affect Category I surface waters.

A cantonal regulation determines the transfer of part of the cantonal competences for the issuance of water deeds to the town and municipality.

Taking the topic of analysis into consideration we will once more differentiate the following:

- The cantonal ministries in charge of waters are responsible for construction of flood protection structures on Category II surface waters, provided that the activities concerned do not affect Category I surface waters.
- The Federation authorities, through river basin agencies, are responsible for construction of flood protection structures on Category I surface waters, as well as for construction of flood

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<sup>30</sup> Term for a liquid discharge from a facility or plant; mostly referring to liquid waste and it is subject to control and strict standards on composition and quantities that are set forth in a law or a by-law. Depending on the type of a matter, discharge of some effluents into the environment is not allowed and these have to be kept and processed into less harmful chemical form.

protection structures on Category II surface waters that might affect: Category I surface waters, and the water property found alongside the Category I surface waters.

In the table below we have listed which institutions i.e. levels of authority have ownership over water control structures in the BiH Federation having in mind the purpose for which they are intended.

<b>Water control structures in respect to their intended use in the FBiH</b>	<b>Ownership over structures (responsibility to maintain these structures)</b>
Water control structures – embankments, bank revetments, regulated water course channels, sluices, catch-water drains for the protection against external waters, discharge tunnels, dams with reservoirs, floodgates, surface retention, flood protection pumping stations and other associated facilities, as well as erosion and flood control facilities	<ul style="list-style-type: none"><li>➤ Water control structures within watercourses belonging to the Category I surface waters, shall be in the ownership of the BiH Federation, except regulated watercourse channels in urban areas.</li><li>➤ Water control structures within watercourses belonging to the Category II surface waters, and regulated watercourse channels in urban areas belonging to the Category I surface waters shall be in the ownership of a town or municipality, unless otherwise specified in cantonal legislation.</li></ul>
Drainage structures, basic and detailed drainage channel networks, drainage pumping stations and associated structures	<ul style="list-style-type: none"><li>➤ Water structures whose construction has been state-funded, are owned by the respective canton on the territory of which they are located.</li><li>➤ Water structures constructed by legal or physical persons for their own needs are owned by those legal or physical persons, who are responsible for their management.</li></ul>
Structures for water use intended for water supply (other than general water use) – dams and reservoirs, water abstraction structures, wells, captures with relevant equipment, drinking water treatment plants, water tanks and pipeline, and other associated structures	<ul style="list-style-type: none"><li>➤ The water structures are owned by a town or a municipality, unless otherwise specified in cantonal legislation.</li><li>➤ The water structures, built by legal or physical persons for their own needs, are owned by those legal or physical persons who are responsible for their management.</li></ul>
Structures for water use intended for water supply to industry – dams and reservoirs, water abstraction structures, wells, captures with relevant equipment, pipelines and other associated structures	<ul style="list-style-type: none"><li>➤ Water structures whose construction has been state-funded, are owned by the respective canton on the territory of which they are located.</li><li>➤ Water structures constructed by legal or physical persons for their own needs are owned by those legal or physical persons, who are responsible for their management.</li></ul>

Structures for water use intended for irrigation – dams and reservoirs, supply channels and tunnels, water abstraction structures, pumping stations, water gates, supply and distribution network and other associated structures	<ul style="list-style-type: none"><li>➤ Water structures whose construction has been state-funded, are owned by the respective canton on the territory of which they are located.</li><li>➤ Water structures constructed by legal or physical persons for their own needs are owned by those legal or physical persons, who are responsible for their management.</li></ul>
Structures for water use intended for utilization of water power – dams and reservoirs, water abstraction structures, supply and discharge structures and other associated structures and equipment	<ul style="list-style-type: none"><li>➤ Water structures constructed by legal or physical persons for their own needs are owned by those legal or physical persons, who are responsible for their management.</li></ul>
Structures for water use intended for navigation – waterways, navigation locks, water gates and other associated structures and equipment	<ul style="list-style-type: none"><li>➤ Water structures are owned by the BiH Federation</li></ul>
Structures for other intended uses – fish farming structures, recreational pools, lakes etc.	<ul style="list-style-type: none"><li>➤ Water structures whose construction has been state-funded, are owned by the respective canton on the territory of which they are located.</li><li>➤ Water structures constructed by legal or physical persons for their own needs are owned by those legal or physical persons, who are responsible for their management.</li></ul>
Water pollution protection structures (hereinafter: water protection structures) – conduits for waste water reception and conveyance, waste water treatment plants, waste water outlets to a recipient, and other associated structures and equipment.	<ul style="list-style-type: none"><li>➤ The water structures are owned by a town or a municipality, unless otherwise specified in cantonal legislation.</li><li>➤ The water structures, built by legal or physical persons for their own needs, are owned by those legal or physical persons who are responsible for their management.</li></ul>

If we know that the river had overflowed due to poor protection and insufficiently good embankments in the BiH Federation, then in this case the highest responsibility for events that occurred in May of 2014 rest on the Federation authorities, and primarily on the Ministry for agriculture, water management and forestry and the Agency for Sava River Basin.

The table above clearly shows competences of the city and/or municipal authorities depending on the type of the water structure. The city and municipality are obligated to provide material and organizational conditions for maintaining functionality of the water facilities, use of the facilities in line with the nature and purpose, and their safeguarding from destruction, damage or irrational use.

➤ **Brčko District**

The department for agriculture, forestry and water management of the Brčko District was established under the Government of the District aimed at management of water resources. Having in mind that the District did not adopt the Law on Waters, and based on the Decision of Supervisor for Brčko District from 2005 the Law on Waters of Republika Srpska 10/98, adapted to the needs of the District, is implemented in the Brčko District.

The preparation of the draft Law on Waters of Brčko District of BiH is an activity that has been ongoing for a longer period of time. The new law should be founded on the determinants of the Framework EC Directive on Waters, and it should also take into consideration harmonization with the existing entity laws. The representatives of the Department for European integration of the Brčko District are also part of the team that has been working on the law, and the main task of the team is to take into consideration complete compliance of the law with the EU regulations.

Generally, the right to manage water resources in the District is not in line with the process of harmonization with the EU standards, since it is based on obsolete regulations.

### **3.2. Legal framework in the area of organizing the system of protection and rescue of people and property**

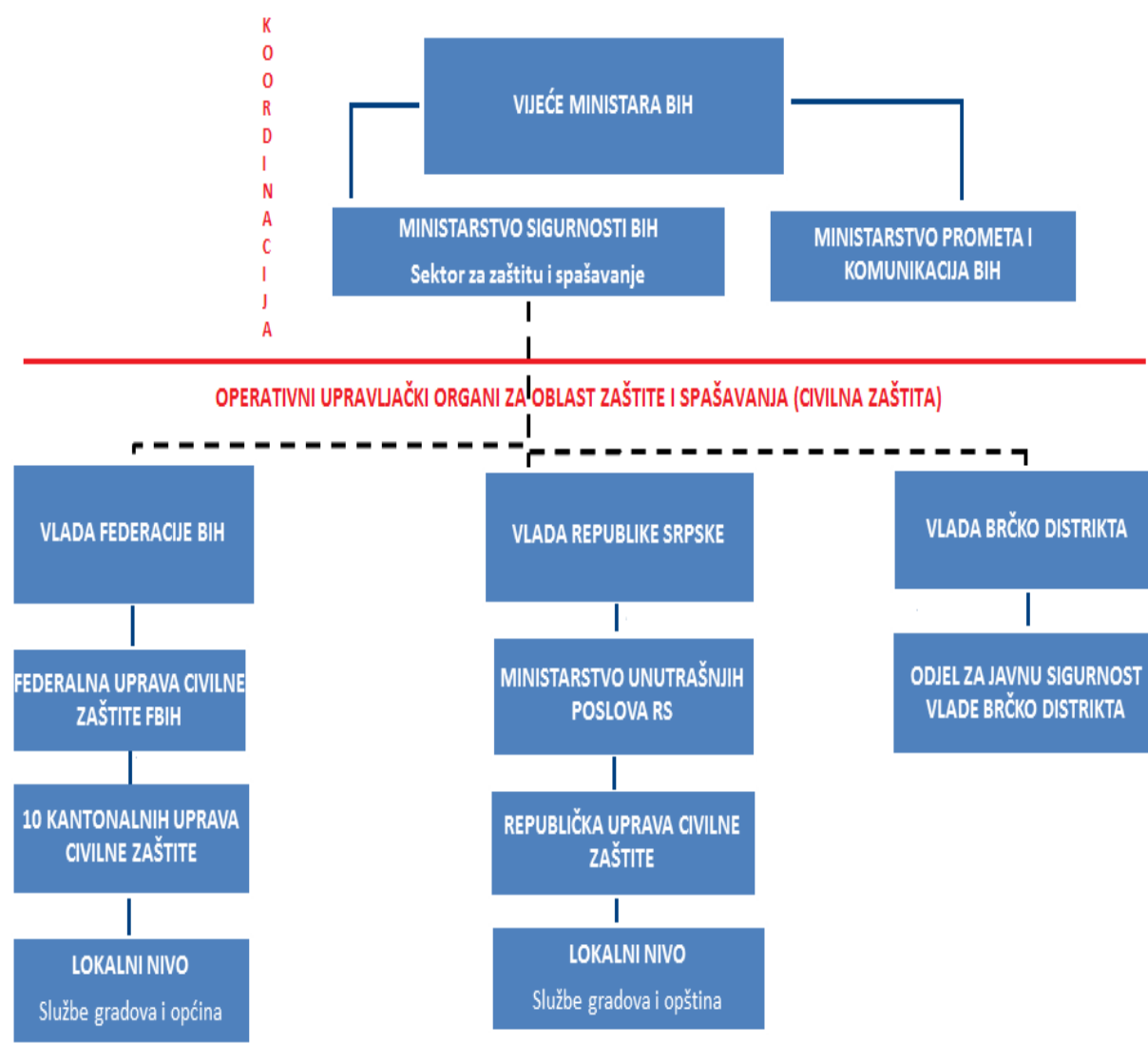
In this part of the analysis of the legislative framework we will focus on reviewing yet again very complex administrative structure in BiH, but this time we will review the civil protection sector i.e. the system of protection and rescue of people and property. Nevertheless, our focus will be on the parts of legislative framework more related to the response to flooding.

The protection and rescue system is a term that in the recent past has become naturalized in the international communication, and as such it has also gradually found its use in Bosnia and Herzegovina. Also the term protection and rescue system is finding its use in the national institutions, which were established aimed at coordinating work of the existing entity civil protection agencies, and developing a complex and comprehensive protection and rescue system. In practice the term civil protection is used far more than the protection and rescue system, and at the same time the term civil protection also relates to official names of the institutions operating in this sector in BiH.

The protection and rescue system in BiH, under which is the civil protection, encompasses the following levels:

- The state level (BiH Council of Ministers and the BiH Ministry of security);
- Entity level and Brčko District (entity government, and specifically in RS the Republic Civil Protection Administration that reports to the RS Ministry of interior, while in the BiH Federation the Federation Civil Protection Administration directly reports to the Government. In the BDBiH the protection and rescue activities are done by the Department for public security of the BD Government);
- Cantonal levels in the FBiH (cantonal civil protection administrations);
- Municipal level (civil protection services in municipalities).

**SCHEME 2: Administrative structure of the protection and rescue system in BiH (the civil protection)**





In the description and analysis of the legislative framework in BiH regarding the protection and rescue system, we will look for answers to following questions:

1. Which administrative bodies (ministries, agencies, etc.) are generally responsible for civil protection policy development?
2. What is general approach and organizational structure of the civil protection?
3. Are there special measures whose objective is protection of environment in event of a catastrophe?
4. Does the civil protection organizational structure also has international cooperation component, and if yes, what is character of such a component?

To get answers to these question we have analyzed the following documents: “The Law on ministries and other bodies of administration in BiH”, “the Framework Law on protection and rescue of people and property in the event of natural or other disasters in BiH”, “the Law on Defense of BiH”, “the Rulebook on organizational structure, conditions and method of functioning of the Operational Communication Center of BiH – 112”, “the Law on changes and addenda to the Law on Federation ministries and other bodies of Federation administration”, “the Law on protection and rescue of people and property of the BiH Federation”, “the Law on civil protection of Republika Srpska” and “Law on changes and addenda to the Law on civil protection”, and many other by-laws.

We would like to mention a letter that the CCI had sent to the entity and cantonal civil protection administrations, but also to the BiH Ministry of security, before we begin to review the state level attempting to explain a very complex division of competencies over protection and rescue of people and property in BiH. Namely, the focus of our interests was coordination in the exchange of data and logistics of all civil protection administrations in BiH, and we were also interested in existence of common databases on prevention and elimination of flooding damages in BiH. We have looked for answers to four questions, and all questions were adapted to the level of authority from which the information were requested, as follows:

First question – “Are there any precise records with information (databases) on how many specialized boats and penta for rescue of people and property in flooded areas exist?”

Additionally referring to first question, second question was whether there is an integrated Database on other machinery and equipment that can be promptly mobilized in case of emergency weather disasters such as floods – tractors, pontoon bridges, rescue belts, drying machinery, etc.

The third question was whether there is a Database on personnel, i.e. names and surnames of persons who passed specialized trainings to help people in emergency situations such as flooding? The question referred to persons outside the system, who act as a certain “reserve” (volunteers) and who

passed the training, and who are obliged to respond to the notification in case of natural and other disasters, and not to firemen/women, police, health care officers, etc.

At the end through the fourth question we had asked a general opinion of the Administration on whether the mentioned machinery, equipment and human resources, and by what standard, can adequately respond to natural disasters such as occurred in May of 2014 in BiH?

**NOTE:** We have also asked for accurate data with the figures depending on existence of the latter. We actually had hope that an integrate Database with accurate figures for the entire BiH by regions will exist.

Unfortunately, several Cantonal civil protection administrations did find necessary to send any response, even though in the letter we had mentioned the existing Freedom of Information Act. We got response only from the Herzegovina-Neretva canton, and the Central Bosnia canton, together with the responses from the entity Administrations and the BiH Ministry of Security.

To tell the truth the letter we had received from the Civil Protection Administration of Republika Srpska did not give answer to any of the questions, but we were informed that the process of data consolidation on civil protection capacities in RS is underway. The letter was signed by acting director Veseljko Elez, and he pointed out that it would be the best if he would provide answers to CCI's questions once all relevant data are analyzed and consolidated. Until today, a month after the first reply, we did not get any detailed information on this subject.

Quotes from other replies are given in the paragraphs to come through the analysis of competencies by institutions.

### **➤ State level (Council of Ministers, BiH Ministry of Security, BiH Ministry of Defense)**

By its definition “the protection and rescue system” involves programming, planning, organizing, training and education, implementing, monitoring and financing protection and rescue from natural and other disasters aimed at preventing danger, reducing number of accidents and fatalities, and eliminating and mitigating harmful effects and consequences of natural and other disasters.

At the pyramid of institutions responsible for the civil protection sector in BiH we will begin at the very top – the state level and the legislative framework on civil protection at this level. Due to the specificity of a decentralized<sup>31</sup> structure of Bosnia and Herzegovina, the state level of authority in case of the civil protection also has just a coordinating role, and it is also responsible for international cooperation.

Namely, the Constitution of Bosnia and Herzegovina (Annex IV) confirms country's commitment in ensuring fundamental human rights and freedoms (the right to life, the right to liberty and security),

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<sup>31</sup> Unfortunately a generally accepted study that would provide answer to the question of whether the centralization in case of civil protection would be key to the solution or to the problem has still not have been developed.

and confirms possibility of transferring competencies of the entities to the BiH level with the consent of both entities. This consent was the foundation for adoption of “Law on ministries and other bodies of administration of BiH”<sup>32</sup> and “Framework law on protection and rescue of people and property in event of natural or other disasters in BiH”<sup>33</sup>. According to Article 14, indent 7 of the Law on ministries, the BiH Ministry of Security, among other things, is responsible of meeting the international obligations and co-operation in carrying out of civil defense, co-ordination of activities of the Entity civil defense services in BiH and harmonization of their plans in the event of natural or other disasters afflicting BiH, and adoption of protection and rescue plans and programmes. In accordance with Article 14 of the same Law, as well as in accordance with the Framework law on protection and rescue of people and property in event of natural or other disasters in Bosnia and Herzegovina the institution responsible for protection and rescue is the BiH Ministry of Security<sup>34</sup>.

In this respect the deputy minister Mr. Mladen Ćavar in the response to the CCI’s letter clearly said: “Unfortunately the Ministry of security of Bosnia and Herzegovina does not have genuine competencies in many segments of protection and rescue, especially regarding operational response and establishment of a structure for adequate response during natural or other disasters”.

There is protection and rescue sector<sup>35</sup> within the BiH Ministry of security and it consists of three departments – Department for strategic planning and protection and rescue measures, Department for international cooperation and coordination, and the

Develop the protection and rescue system development program proposal <sup>37</sup> at the level of the institutions and bodies of Bosnia and Herzegovina, and deliver it to the Parliamentary Assembly of Bosnia and Herzegovina for adoption.	Ensures the implementation of this law and other regulations in the field of protection and rescue that derive from this Law
Issue a regulation on border crossing during receiving and/or rendering international assistance in protection and rescue	In coordination with the competent institutions and bodies of Bosnia and Herzegovina, the entity civil protection administrations, and the competent civil protection body of the Brčko District of BiH, develops and proposes to the BiH Council of Ministers the Methodology for the Development of Threat Assessment and the Plan of protection and rescue of people and Property in case of natural and other disasters in Bosnia and Herzegovina
Issue the Threat Assessment of natural or other disasters in Bosnia and Herzegovina	In coordination with the entity civil protection administrations and the competent civil protection body of the Brčko District of BiH, receives and distributes donations designated to the protection and rescue system structures of Bosnia and Herzegovina
Issue the Protection and Rescue Plan of the institutions and bodies of Bosnia and Herzegovina in case of natural or other disasters	Develops and proposes the Protection and Rescue System Development Program of the institutions and bodies of Bosnia and Herzegovina,
Declare <sup>38</sup> the beginning and the end of the state of natural or other disaster on the territory of Bosnia and Herzegovina	Develops and proposes to the BiH Council of Ministers a regulation governing the crossing of national borders in the event of the receipt/rendering of international assistance in the field of protection and rescue
Decide on requesting international assistance for protection and rescue, and coordinate implementation of standard operating procedures for receiving such assistance following the declaration of the state of natural or other disaster	Issues framework education plans and programs in the field of protection and rescue in Bosnia and Herzegovina in accordance with international standards
Decide on rendering international assistance in case of natural or other disaster	In cooperation and coordination with the competent institutions and bodies of Bosnia and Herzegovina, and the administration bodies of the Entities and the Brčko District of BiH, monitors and analyses the situation in the area of protection and rescue in Bosnia and Herzegovina and recommend measures to the BiH

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<sup>37</sup> The program also contains guidelines to draft protection and rescue system development program in the entities and the BDBiH

<sup>38</sup> On proposal of the BiH Coordination body for protection and rescue or upon request of competent entity bodies or bodies of BD BiH, which already have declare the state of natural or other disaster on their territory.

## FLOODS IN BIH – Natural disaster and/or institutional inefficiency

	Council of Ministers in accordance with the Law
Establish a specialized mixed protection and rescue unit, from specialized civil protection units and services of the Entities, the Brčko District of BiH, and other institutions, bodies and legal persons on the level of Bosnia and Herzegovina, to act in case of natural or other disaster, and to participate in international exercises, relief operations and other activities, upon the approval of competent bodies of the Entities and the Brčko District of BiH, and other institutions, bodies and legal persons on the level of Bosnia and Herzegovina,	In coordination with the competent institutions and bodies of Bosnia and Herzegovina, and the entity civil protection administrations and the competent civil protection body of the Brčko District of BiH, sets down communication procedures among the institutions and bodies of Bosnia and Herzegovina and between the institutions and bodies of Bosnia and Herzegovina and the Entities and the Brčko District of BiH in the event of a natural or other disaster, as well as the public information procedures
Recommend allocation of funds from the Budget of the Institutions and International Obligations of Bosnia and Herzegovina in order to fund protection and rescue activities falling under the competences entrusted to the institutions and bodies of Bosnia and Herzegovina	Cooperates on the international level in the field of protection and rescue,
	Recommends requests for international assistance in the field of protection and rescue and coordinate the implementation of the Standard Operating Procedures for receipt of assistance
	Coordinates the implementation of measures, duties and tasks in protection and rescue in Bosnia and Herzegovina
	Directs competent bodies to manage databases on risks from natural and other disasters, hazardous materials, forces, resources and other data relevant for protection and rescue in Bosnia and Herzegovina, in accordance with international conventions,
	Requests from the Ministry of Defense of Bosnia and Herzegovina the employment of the Armed Forces of BiH in the event of a natural or other disaster, once available civilian resources for response to natural or other disaster are exhausted

When discussing implementation of the Framework law and responsibility of the BiH Ministry of Security on adoption of regulations and other documents, we can conclude that all points were implemented except establishment of a specialized mixed protection and rescue unit (Article 13, point

k) for what no political agreement was reached yet. Nevertheless, there are some principle assessments that this issue could be solved during 2015. It is however very interesting that the Framework law was adopted on May 15, 2008 in the House of Peoples of the BiH Parliamentary Assembly and that on the same day, six years later, our country was hit by floods of such magnitude that had never been recorded on this territory in the last 100 years.

There is yet another institution at the state level that has significant role in natural or other disaster response activities, and that is the BiH Ministry of Defense. Namely in July of 2010 in accordance with the "Agreement on cooperation between the BiH Ministry of security and the BiH Ministry of defense", which had been signed a year before on response to natural or other disasters, the minister of security and the minister of defense had passed "Standard Operation Procedures for engagement of BiH Armed Forces in providing assistance to civilian bodies in natural or other disaster response activities". In line with these procedures the BiH Ministry of security is competent to receive requests from entity governments and government of Brčko District of BiH, if assistance of the BiH Armed Force is necessary in the event of natural or other disasters. Following receipt of the request the Ministry of security arranges all necessary logistics concerning further engagement of the BiH Ministry of defense. The Armed Forces of BiH provide assistance to the civilian bodies in the event of a natural or other disaster, once available civilian resources for response to natural or other disaster are exhausted in accordance with the Law on Defense of BiH.<sup>39</sup>

Reviewing the legislative framework concerning general approach and organizational structure of the civil protection we can say the according to the Framework law in BiH the protection and rescue is of special public interest for BiH. It means that all physical and legal persons in Bosnia and Herzegovina are obligated to provide personal and mutual protection, to provide assistance and to save human lives, material and other property, based on personal awareness, consciousness, and relevant regulations, and in accordance with their abilities and capabilities.

The institutions and bodies of Bosnia and Herzegovina, and the bodies and institutions of the Entities and the Brčko District of BiH, within their competencies in the field of protection and rescue, conduct protection and rescue based on the subsidiarity principle.<sup>40</sup> The Institutions and bodies of Bosnia and Herzegovina ensure harmonization, transparency and openness of the protection and rescue system and participate in the implementation of the protection and rescue measures stipulated in the Framework Law in order to ensure the safety of the population.

All protection and rescue measures in natural or other disasters are planned, organized and implemented in line with the principles of international humanitarian law, the international law on the protection of persons and property in natural or other disasters, and the international obligations that have been taken on.

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<sup>39</sup> "Official Gazette of BiH", number 88/05

<sup>40</sup> The objective of subsidiarity principle is to ensure efficient decision-making process at a level closest to the citizens.



But, organization of a system in which everybody is responsible can lead to complete disorder, lack of coordination, anarchy, abuse, etc. Divided responsibility in the segment of protection and rescue, starting from individuals, through municipal, cantonal, entity and all the way up to the institutions at the national level, makes sense and yields terrific results, but in organized national systems. In the event of natural disasters, in organized systems, activities conducted in the field are clearly coordinated, with in advance prepared instruction on the conduct and activities of each and every individual and with a detailed scheme of tasks for every link of the chain of responsibility – here we are talking about the logistics that were missing in BiH during the time the floods were destroying our country, in May of 2014. Complete lack of organization, confusion amongst the competent institutions, ministries, civil protection services, overall lack of coordination were especially visible in the days of the highest rainfall and immediately after the rivers flooded cities throughout BiH.

During analysis of the legislation at the level of BiH we could not find special, concrete measures for protection of environment in event of disasters/incidents. In the paragraphs to come we will see that the entity legislation regulates this area, but we cannot be satisfied with clarity of responsibility division, coordination and concretization of the tasks for every individual involved in the rescue activities that are provided in these laws.

The BiH Framework law sets forth that the BiH Coordination body for protection and rescue will meet in the event of natural and other disaster, and that this body, as an expert operational body of the BiH Council of Ministers, is responsible to propose to the BiH Council of Ministers, upon the request of the Entities or the Brčko District of BiH, to declare the state of a natural or other disaster on the territory of Bosnia and Herzegovina and to declare the end of such state<sup>41</sup>. The Coordination body makes decisions by majority vote of the members, provided that no decision is made without the consent of at least one half of the members of the Coordination Body from each of the entities and the Brčko District of BiH.

If the natural disasters, which have hit BiH in May of 2014, did not incite the key persons in the BiH Coordination body for protection and rescue to agree on declaring state of the emergency in BiH, then any influence and role of this institution is truly questionable. But if the BiH Council of Ministers would have declared the state of a natural or other disaster on the part or entire territory of Bosnia and Herzegovina, then the coordination of protection and rescue activities with the institutions and bodies of entities and Brčko District and with the institutions and bodies at the level of Bosnia and Herzegovina would have been under competence of the Coordination body at the level of BiH. Obviously, entity centers of power did not find such distribution of competencies suitable. According to the information that the CCI had learned, representatives of Republika Srpska were not so much interested to participate in work of this body during the first days of catastrophe in BiH, but one of the competencies that the Coordination body has, had made them change their attitude. Namely, the Coordination body of BiH for protection and rescue is responsible coordinate the receipt and rendering

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<sup>41</sup> Competencies of this body are defined in Articles 16 and 17 of the BiH Framework Law

of international assistance and donations in the field of protection and rescue, following the declaration of a natural or other disaster has been made. The representatives of this entity had joined coordination activities at the national level having in mind that the international aid such as helicopters, boats and other equipment from other countries was more than necessary for RS.

Except from being responsible to declare the state of a natural or other disaster on the territory of Bosnia and Herzegovina and to declare the end of such state, the Coordination body is also responsible to: propose to the BiH Council of Ministers to make appropriate decisions falling under its competencies; give recommendations to the competent institutions and bodies of Bosnia and Herzegovina, and of the Entities and the Brčko District of BiH; coordinate the receipt and rendering of international assistance and donations in the field of protection and rescue, following the declaration of a natural or other disaster; coordinate the protection and rescue activities of the institutions and bodies on the level of Bosnia and Herzegovina in the implementation of measures of prevention and preparedness for response to a natural or other disaster within its prescribed competencies, and coordinate these activities with the Entities and the Brčko District of BiH, and to monitor the implementation of directed measures, and report on its activities to the BiH Council of Ministers.

However, functioning of this body in practice is not at an enviable level. We have already mentioned the missed chance to coordinate declaration of a natural or other disaster on the territory of BiH during the catastrophic floods in May of this year. On the other hand, the Framework Law on protection and rescue of people and property in the event of natural or other disasters in BiH was adopted in May of 2008 and it defined that the Coordination body is responsible to issue the Rules of Procedure to regulate other issues of importance for its work. Firstly the BiH Council of Ministers had passed the "Decision on establishment of this body" a year after the Law was adopted. And since then, namely from April of 2009, four years had passed before this body had held its second session at which it passed the Rules of procedure. This is just one of many proofs how efficiently the laws in BiH are implemented and how important actual authorities at the entity and state level find organization of a high quality coordination in the field of protection and rescue at the national level.

As said earlier, the international cooperation in the field of protection and rescue is responsibility of the BiH Ministry of Security, and as defined in Article 5 of the Framework Law it encompasses:

- Preparation and implementation of international treaties, agreements and other international documents and instruments in the field of protection and rescue;
- Exchange of information with the appropriate authorities of other countries and international organizations concerning protection and rescue;
- Direct communication with competent authorities in other countries and international organizations for the purpose of requesting, receiving and/or rendering urgent assistance;
- Coordination of border crossing in and out of Bosnia and Herzegovina and transit through third countries for the purpose of accepting and/or rendering international assistance;

- Harmonization of the activities of international forces participating in protection and rescue operations on the territory of Bosnia and Herzegovina, and coordination of the employment of protection and rescue forces abroad;
- Preparation and implementation of international conferences, seminars, courses, workshops, and exercises in the field of protection and rescue.

In meeting international obligations and cooperation in the field of protection and rescue the BiH Ministry of Security / Sector for protection and rescue hence cooperates with other countries, the United Nations (UNISDR, UNOCHA, INSARAG, UNDP, UNICEF, UNHCR), the North Atlantic Alliance (NATO/NATO PfP), the European Commission, EU MIC, the Emergency Management Agency of Kingdom of Denmark (DEMA), the Disaster Preparedness and Prevention Initiative for South Eastern Europe (DPPI SEE) which is based in Sarajevo, the Civil Military Emergency Preparedness for South Eastern Europe (CMEP SEE), Organization for security and cooperation in Europe (OSCE), Save the Children, embassies of the United States of America in BiH, Republic of France, Czech Republic, Federal Republic of Germany, Kingdom of Denmark, Republic of Italy, Republic of Austria, Republic of Turkey, Kingdom of Sweden – the Swedish International Development Cooperation Agency (SIDA), the Delegation of the European Commission to Bosnia and Herzegovina, International Civil Defense Organization, the World Bank, World Vision, the United States Agency for International Development (USAID), the International Federation of Red Cross and Red crescent societies and the Japan International Cooperation Agency (JICA).

In the field of international cooperation, the BiH Council of Ministers concluded cooperation agreements in the field of protection and rescue with competent institutions of the countries in the region: Republic of Croatia, Montenegro, Republic of Macedonia, Republic of Serbia, Republic of Slovenia, and it concluded memorandums of cooperation with: Russian Federation, Republic of Turkey, and presently realization of the memorandum of cooperation with Republic of Italy and Republic of Albania is underway.

When talking about natural disasters, the active Operational Communication Center of BiH – 112 is really important for Bosnia and Herzegovina. The Center is responsible for collection and exchange of data with competent bodies of neighboring and other countries and international organizations through their emergency centers, on all threats that may lead to a natural or other disaster of international concern, namely on threats occurring on the territory of neighboring or other countries that may affect BiH. The Center BiH – 112 in case of a threat or occurrence of a natural and other disaster acts based on obligations of Bosnia and Herzegovina, which have been taken on, in accordance with the defined procedures while applying standard incident reports defined by the international conventions, contracts and agreements. The collected information on natural or other disaster threatening BiH from the territory of other countries are priority information that the Center- 112 immediately forwards to the competent institutions and bodies of BiH, entities and the BD of BiH, primarily to the BiH Council of Ministers and to the minister of security, and subsequently also to other competent institutions, bodies and offices aimed at timely implementation of all necessary measures to prevent occurrence and/or spreading of a natural or other disaster on the territory of Bosnia and Herzegovina.

The Center BiH – 112 delivers to competent bodies of neighboring and other countries, and to international organizations, information about natural or other disasters that threaten these countries from the territory of Bosnia and Herzegovina or from territory of a third country, using their communication centers. However, in practice this Center does not have human resources to appropriately conduct all activities and tasks entrusted to it. There is not even one person in the Operational Communications Center of BiH– 112, who is permanently employed and who has appropriate qualifications to conduct activities related to establishment of the operational communication centers, administration of the network and database servers, as well as to introduction of the single European Emergency number 112. Presently some of these activities are done by a person working in the Center under a contract, even though two positions were planned and closely defined in the Rulebook on internal organization of the BiH Ministry of security.

Regarding international cooperation we must underline that both entities and the Brčko District of BiH can perform international cooperation activities in line with Article 4, paragraph (2) of the Framework Law, which reads as follows: “In order to exchange experiences and knowledge, and scientific and technological achievements, and to equip protection and rescue structures, the competent institutions and bodies of the Entities and the Brčko District of BiH may cooperate with institutions relevant for protection and rescue in the event of natural or other disasters in the neighboring and other countries of the same or similar level of organization.”

At the end let's return to the questions that the CCI had asked all civil protection administrations, and the Ministry of Security of BiH. The Ministry had sent the following answers:

- The answer to the first question states that the Ministry of security of Bosnia and Herzegovina – Sector for protection and rescue has created all preconditions for maintaining all databases that are relevant to protection and rescue (informatics and other preconditions), but that accurate and reliable records are still not established at the national level, because these records are also not established at the entity level. The ministry underlined that they have problems in receiving the information from the lower levels, where the lower levels explain that the Ministry of security should not be keeping these records since it does not have operational competence for such an activity.

The Ministry only managed to provide to the CCI the information on number of boats that have been acquired through donations and that were released to the entity civil protection administrations and to the Department for public security of the Brčko District of Bosnia and Herzegovina: 39 boats<sup>42</sup> (20 FBiH, 16 RS and 3 Brčko District of BiH).

- The Ministry of security of Bosnia and Herzegovina – Sector for protection and rescue does not have an established database containing information on machinery and other equipment<sup>43</sup>, which is mentioned in the questions, due to the reasons that were given in the previous answer.

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<sup>42</sup> Also beside this number of boats additional three boats were provided (BiH Armed Forces – 2 and Directorate for coordination of police bodies of BiH – 1).

<sup>43</sup> The Ministry of security said that they have information that the BiH Armed Forces, though a donation, provided 2 bulldozers – excavators and 2 heavy trucks, and these were rendered to the Zenica and Zavidovići municipalities.

- The Ministry of security of Bosnia and Herzegovina – Sector for protection and rescue maintains a database of persons receiving training through activities led by the Ministry. A total of 10 members of the mountain rescue service passed different specialized trainings and three exercises of the mountain rescue services were supported.

At the end, we would like to point out the opinion of the assistant minister of security Mladen Ćavar, who while describing the situation, state of equipment and abilities of the protection and rescue institutions, said that it was obvious that the protection and rescue structures in Bosnia and Herzegovina were not prepared and equipped for a response during the flooding. This statement is supported by the fact that Ministry of security of Bosnia and Herzegovina had received many requests for international assistance in equipment, protection and rescue resources, and the specialized teams, from the emergency situation headquarters and/or civil protection. More than 30 countries provided assistance to Bosnia and Herzegovina during the May floods, and 850 members of international specialized protection and rescue teams were deployed in Bosnia and Herzegovina.

### ➤ **Entity level and Brčko District of BiH**

As we have seen in the previous paragraphs the competent national institutions have mostly a coordinating role in the field of civil protection i.e. in the field of protection and rescue of people and property. On the other hand the operational segment concerning implementation of concrete civil protection activities is responsibility of the entities.

Today, the most responsible entity institutions for protection and rescue of people and property in the event of a natural or other disaster are entity civil protection administrations. In case of the BiH Federation the civil protection of this entity is additionally decentralized to 10 cantonal civil protection administrations. In Republika Srpska the Republic civil protection administration is under auspice of the RS Ministry of interior, while the Federation civil protection administration is organized as an independent body that directly reports to the BiH Federation Government.

At the end of 2000 and in the middle of 2001 the Governments of the BiH Federation and Republika Srpska respectively approved a very important document for protection and rescue of people, property and cultural property "Agreement<sup>44</sup> on cooperation in achieving tasks of civil protection on the territory of BiH". High degree of cooperation between the entity administrations and the civil protection services, but also with the Brčko District of BiH, was achieved in line with the Agreement. The cooperation particularly refers to planning and implementing preventive protection and rescue measures, mutual dissemination of information about threats, occurrence and consequences of natural and other disasters, mutual assistance in protection and rescue and elimination of effects caused by natural and other disasters, education and training of members of civil protection structures

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<sup>44</sup> "Official Gazette of the BiH Federation", number 36/01

and other protection and rescue stakeholders and it is achieved through all available means. The cooperation is particularly highlighted in the field of protection against floods, earthquakes, firefighting, radiological threats, communicable diseases, technological and other incidents/accidents, etc.

### **BiH Federation**

The BiH Federation civil protection administration was established in 1999 by changes and addenda to the Law on Federation ministries and other bodies of the Federation Administration<sup>45</sup>. The law defines competences of this institution as follows: the BiH Federation civil protection administration performs administrative, expert and other tasks set forth by the law concerning: organization, preparation and functioning of the civil protection, preparation of the operational plan for the civil protection; monitoring civil protection preparation activities and undertaking measures to improve organizational structure and capacity building of the civil protection; issuing orders for deployment of units, services, headquarters and civil protection commissioners to implement protection and rescue measures; organizing and monitoring implementation of education of citizens in the field of self-protection; organizing and coordinating implementation of protection and rescue measures; issuing plans on framework, personal and material formation of protection and rescue headquarters, units and services together with proposing and implementing measures for their appropriate staffing and availability of material means, issuing curriculums and training programs for civil protection structures; proposing program of joint independent exercises and developing a study for conducting civil protection exercises; preparing and issuing its own protection and rescue plan; all tasks concerning collecting data on mines and other unexploded ordnance (UXO) on the BiH Federation territory and maintenance of the UXO databases; providing professional training to persons working with UXO, contracting works, monitoring performance and quality control of works on removing and destroying UXO; and direct removal and destruction of detected UXO (to be realized on call from the emergency response teams); preparation of regulations in the field of civil protection, international cooperation in the field of civil protection; proposing plans for scientific-research projects in the field of civil protection and monitoring implementation of the projects: inspection in the field of civil protection; keeping appropriate records and performing other tasks and duties in this area as set forth by appropriate BiH Federation Law.

The first “Law on protection and rescue of people and property of the BiH Federation”<sup>46</sup> was adopted four years after the BiH Federation civil protection administration was established. And five years following adoption of the BiH Federation Law on protection and rescue this sector was regulated by a framework law at the national level. The 2003 BiH Federation Law defined basic principles<sup>47</sup> of the

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<sup>45</sup> “Official Gazette of the BiH Federation”, number 48/99

<sup>46</sup> “Official Gazette of the BiH Federation”, number 39/03, 22/06 and 43/10

<sup>47</sup> These principles are contained in fourth Geneva Conventions and two additional Protocols (I and II): The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; the Geneva Convention relative to the Treatment of Prisoners of War, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, Additional protocols to Geneva Conventions from August 12, 1949 relating to the Protection of Victims of International

protection and rescue system. The entire structure and functioning of the protection and rescue at the BiH Federation level is based on these principles. The principles determine framework and direction for organizing and implementing protection and rescue by every stakeholder (subject), at all organizational levels of this activity (level of Federation, canton and municipality/city). Here we will list the most important principles:

- **The principle of universality.** This principle relates to two issues: first that all subjects of a society (citizens, legal entities, bodies of authority and other institutions) must be involved in protection and rescue activities and second, that appropriate material-technical resources and equipment must be provided for protection activities.
- **The principle of priority in protecting and rescuing human lives and health.** This principle is also exercised in two ways: in planning protection measures and in their implementation.
- **The principle of solidarity and reciprocity.** This principle is reflected in the fact that persons and resources of citizens and other entities that are not affected by the incident/accident are engaged in rescuing persons and property affected by a natural or other disaster.
- **The principle of establishing special civil protection forces.** Aimed at achieving more efficient protection and rescue, existence of Special Forces is necessary. Their primary task is engagement in protection and rescue of people and property affected by an accident/incident.
- **The principle of providing certain funds and equipment for protection and rescue activities.** This principle obligates all entities/subjects (bodies of authority and legal entities), and even the citizens, to plan and provide certain material-technical means and equipment necessary for implementation of appropriate protection activities aimed at more efficient protection and rescue of all people and property.
- **The principle of engagement of BiH Armed Forces in protection and rescue actions.** This principle arises from a very important mission of the BiH Armed Forces to provide assistance to civilian authorities in rescuing people and property in the event of natural or other disasters.
- **The principle of international assistance.** This principle relates to assistance provided by other countries in time of a natural or other disaster.
- **The principle of mandatory training and capacity building.** This principle means an obligation to all protection and rescue stakeholders to be trained and educated to execute protection and rescue measures and activities, because successful and efficient protection and rescue can be achieved only if the stakeholders are trained and educated.
- **The principles of humanitarian law.** This principle means that all aspects of protection against natural or other disasters, which are set forth by the Law on protection and rescue, are based on the principles of international humanitarian law, as explicitly set forth in Article 4, paragraph 2 of the Law on protection and rescue.



Article 26 of the Law on protection of rescue of people and property of the BiH Federation reads that the BiH Federation civil protection administration is an independent body of the BiH Federation Government responsible to: implement defined policy and to ensure execution of BiH Federation laws and other Federation regulations in the field of protection and rescue; prepare BiH Federation protection and rescue development program; propose Plan of protection and rescue in the event of natural and other disasters of the BiH Federation; issue regulations on contents, procedure and deadlines for reporting on natural and other disasters; organize and harmonize implementation of protection and rescue measures, and to organize and implement fire protection and firefighting measures; issue instructions to the cantonal bodies of administration, cantonal institutions and municipal services; implement the BiH Federation policy, the Law on protection and rescue and other BiH Federation regulations in the field of protection and rescue of people and property; inspection in the field of protection and rescue; etc.

The Law on protection and rescue of people and property of the BiH Federation stresses the role and importance of the cantons and local community, which is in line with the principles of subsidiarity, according to which the decision are passed and realized at the lowest level, while the coordination is done through the cantons to the highest levels of authority. The Law also defines role of the ministries, public state companies, business operators, citizens' associations, non-governmental organizations and other entities that are of importance for protection and rescue, listing the obligations of the given entities in preventive, operative and post-operative sense. The law also sets forth rights and duties of the citizens, governmental and other bodies, business operators and other legal entities, organization of protection and rescue at the level of BiH Federation, staffing, provision of equipment and records, monitoring of the situation through the civil protection operational centers, training and education, planning and programming, mobilization of organized protection and rescue structures, inspection, employment contracts, acknowledgments and awards in civil protection and other issues important for protection and rescue of people and property.

Organization of the protection and rescue in the BiH Federation includes personal and mutual protection, protection and rescue measures, headquarters, units and commissioners of civil protection, protection and rescue services, management and use of protection and rescue man-power and equipment. The BiH Federation civil protection administration, cantonal civil protection administrations, as well as municipal civil protection administrations are part of the protection and rescue organizational structure.

We could repeat the comment we previously had given. So, at the BiH Federation level the Law has defined a broad spectrum of persons and institutions responsible for protection and rescue in the event of an accident/disaster, starting with roles of the "ordinary citizens" all the way to the role of police, firefighters, ministries, etc., but yet again we have the impression that clear instructions on coordination of activities during the crucial days of the natural disasters are missing. The panic and disorder, unprofessional and amateurish actions of individuals and groups is the picture we had seen in all regions in BiH affected by May floods.

The law stipulates that the personal and mutual protection is the most present form of preparation and organized participation of citizens in the civil protection, but it also stipulates that personal and mutual protection also means regular provision of training to citizens for self-protection, measures and procedures of preventive protection, first aid and self-aid, taking care of children and elderly persons and other emergency protection and rescue interventions. According to the definition, protection and rescue measures are organized, learned and prescribed actions, as well as the preventive protection procedures, and they denote measures and actions of protection and rescue in case of imminent threat of a natural or other disaster, during the disaster and to mitigate and eliminate consequences of a natural or other disaster. When talking about education we primarily think of theoretical and practical training, seminars, training camps, and other types of training provided to as many citizens in BiH as possible. Obviously the institutions had failed in the segment of providing protection and rescue training to the citizens and such training should be regularly organized by implementing prevention measures against floods and other disasters that might hit BiH.

As the answer to a CCI's question on persons-volunteers who had passed specialized training at the BiH Federation level, the BiH Federation civil protection administration said that this institution, in cooperation with the ministries and other bodies of administration within their scope of the work, provides training on personal and mutual protection to their civil servants and employees, and that it also educates and provides training to the Federation protection and rescue services, which are established by the BiH Federation Government. Also the letter states that the BiH Federation civil protection administration is responsible to organized specialized training for commanders, chiefs-of-staff and members of headquarters, commanders of civil protection services, heads of the protection and rescue services and managers of the social material-technical means. The acting director of the BiH Federation civil protection administration, Fahrudin Šolak, also said that the employees of the cantonal civil protection administrations and/or municipal/city civil protection services are responsible to provide training to civil protection headquarters and units, protection and rescue service and civil protection commissioner in the canton and municipality/city, but also to provide training on personal and mutual assistance to the citizens.

Namely, according to the BiH Federation Constitution a canton has significant competencies in all segments of social life, and therefore, the canton is in the same position when it comes to the protection and rescue of people and property in the event of all natural and other disasters on the entire territory of the canton, and it is responsible for such a situation. Starting from this constitutional position of the canton "the Law on protection and rescue of people and property" regulates the most important affairs under cantonal competence<sup>48</sup>. These are the issue enabling development of an integrated system of protection and rescue in the event of all natural and other disasters on the territory of BiH Federation. But, this Law does not completely and comprehensively regulates all affairs in the field of protection and rescue under cantonal competence, because certain aspects of this segment, which are specific to every canton, should be regulated by a cantonal regulation on

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<sup>48</sup> According to the Law on protection and rescue of people and property of the BiH Federation the cantonal civil protection administrations were established in all 10 cantons.

protection and rescue of people and property in the event of natural and other disasters. Therefore, the civil protection headquarters, as professional-operational bodies, are established in regard to the responsibility of managing protection and rescue actions at the level of Federation, canton and/or municipality/city, and for the purpose of executing other tasks in the area of protection and rescue. The civil protection headquarters are established by Federation, canton, but also by city/municipality. In regard to activities of coordinating and directing protection and rescue actions, the civil protection headquarters of a canton report to the BiH Federation civil protection headquarters, and headquarters of the city/municipality report to the cantonal civil protection headquarters. At the same time every level of authority has constitutional authorization to pass appropriate regulations, that is, to define certain affairs in all social area, and also in the area of protection and rescue. Therefore the structure of protection and rescue system in the BiH Federation is really complex. Such civil protection structure in the BiH Federation does not establish efficient interaction of activities of all civil protection units, which leads to the situation that some units can be passive, having a less developed working system, so in case of an emergency they fail to operationally contribute to achieving the general objective in the right way. When it is known how large the portion of responsibility rests of the entity, and even on cities and municipalities, some sources<sup>49</sup> logically question functionality and economic justifiability of the cantonal level of civil protection.

Rights and obligations of municipality/city in the area of protection and rescue – in exercising rights and duties in the area of protection and rescue, municipality and/or city:

- passes decision on organization and functioning of the municipal/city protection and rescue and ensure its implementation in line with this law and cantonal regulations;
- passes municipal/city protection and rescue development program;
- plans and determines sources of financing for execution of the protection and rescue activities under competence of the municipality/city;
- sets up operational civil protection center in the municipality/city in accordance with this law and ensures its operationality;
- passes documents on establishing municipal/city civil protection headquarters, appointment of the commander and the chief-of-staff and determines roles in the municipal/city administration services and in the civil protection service of the municipality/city whose stakeholders are members of municipal/city civil protection headquarters;
- passes municipal/city plan on protection and rescue in the event of natural and other disasters;
- declares the state of natural and other disaster and orders use of all labor force and equipment of the civil protection, administration services, business operators and other legal entities on the territory of municipality/city on prevention, mitigation and elimination of all harmful consequences of natural and other disasters to people and property on the territory of the municipality/city;
- conducts other protection and rescue tasks in accordance with the law, other regulations and general documents/acts.

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<sup>49</sup> Center for security studies, Protection and rescue system in BiH, July 2010.

As we can see city and municipal mayors are the most responsible persons to declare state of natural disaster at the local level.

We have previously underlined that the national legislation does not provide for measures to protect environment in the event of a catastrophe. When it comes to the BiH Federation provisions of Article 42 of the Law on protection and rescue set forth that protection and rescue measures mean organization of actions and procedures that are preventive and operative in nature, and which are prepared and implemented by administration bodies and other bodies of authority, as well as legal entities – protection and rescue stakeholders. They prepare and implement:

- protection and rescue measures in case of imminent danger of occurrence of natural and other disasters;
- protection and rescue measures and procedures for the duration of natural and other disasters;
- measures and procedures to mitigate and eliminate consequences of natural and other disasters.

All measures that are used for the protection and rescue purpose have to be determined in advanced, carefully planned so that they can be efficiently undertaken at time of need. The most important protection and rescue measures are set forth in the law, i.e. they are listed in Article<sup>50</sup> 48 of the Law, and the subsequent articles explain these measures and procedures in much more detail. Having in mind that the protection and rescue measures present certain actions and procedures there has to be an entity/subject to implement these actions and procedures. This issue is solved in the provision of Article 42, paragraph 1 of the Law. According to this provision the subjects – stakeholders i.e. executors of the protection and rescue measures are: all bodies of administration and all other bodies of authorities, and legal entities. It means that executors of all those measures are all Federation and cantonal bodies of administration and other bodies of authority, all municipal administration services and other municipal and city bodies of authority and all legal entities (business operators, cooperatives, public institutions and other institutions).

We are aware of the fact that the high number of subjects for implementation of protection and rescue measures is the result of the fact that natural and other disasters represent general hazard, which can endanger people and property in all environments and places where people live and work and where their property is located. We also support the fact that all organized entities of the society (all above listed bodies of authority and all legal entities) must participate in the overall protection, because it is only possible to achieve appropriate and efficient protection and rescue by engaging all these subjects/entities. But, the Law did define many obligations of both public and private companies, which on the other hand does not mean that automatically all institutions, companies and individual adhere to the law. If this would be the case, the consequences of May floods would by far less for the citizens.

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<sup>50</sup> Displacement of people and property, evacuation, taking care of people in need and injured, black-out, protection and rescue from radiation, chemical and biological agents, protection and rescue from debris, protection and rescue on and under water, protection and rescue from fires, protection against unexploded ordnance (UXO), first aid, protection and rescue of animals and products of animal origin, recovery of the terrain, environment protection, protection and rescue in the mine, protection of plants and products of plant origin.

In the period to come different inspection services and working bodies have to investigate all omissions, and the ones who are the most responsible for poor coordination of protection of people and property must carry the responsibility for everything that citizens affected by floods and landslides in the BiH Federation and Republika Srpska had survived.

The letter from the BiH Federation civil protection administration describe the events that had occurred in our country during May as a natural disaster caused by a natural force, which human factor cannot influence, but can attempt to mitigate consequences of the effect to people, property and cultural property. As already underlined the specialized protection and rescue unit of the BiH Federation civil protection administration had promptly acted in the BiH Federation, and it became immediately operational and deployed to the most endangered areas. But, the BiH Federation administration admits that many weakness of the system were observe of the Specialized protection and rescue unit were used to the outer limits of endurance. Primarily the observed weaknesses related to insufficient number of appropriate machinery, material-technical means and equipment for the civil protection service, together with evident obsolescence of the existing equipment.

We have previously mentioned that we had received answers to the questions sent by the CCI to all cantonal civil protection administration only from two administrations, from the Hercegovina-Neretva canton and Central Bosnia canton. All other cantonal civil protection administrations had violated the Federation Freedom of Information Act. The cantonal administration of the two cantons are unanimous in their stance that the events during and after the big floods in 2014 had pointed out many shortcomings (lack of preventive actions, insufficient number of trained people, lack of equipment and material-technical resources in the services....) for adequate actions during these and similar situations. They also agree that legislation regulating protection and rescue of people and property in the event of natural and other disaster, protection against fire and the legislation on firefighting has to be amended as soon as possible aimed at elimination of all shortcomings (education, training, capacity building, provision of equipment to existing rescue service and formation of specialized teams for response in similar crisis) and creation of a modern protection and rescue system that can adequately respond to the needs during eventual natural or other disasters.

### **Republika Srpska**

In Republika Srpska the Republic civil protection administration, as a separate administrative body of the RS Government, was established under the "Law on changes and addenda to the Law on Ministries" from 1998. However the "Law on RS ministries" from 2002 placed the Republic civil protection administration within the Ministry of administration and local self-government, and finally since January 1, 2009, and after adoption of the "Law on Republic administration" the Republic civil protection administration had become part of the Ministry of interior. This institutional positioning made the civil protection of RS more operational and its organizational structure is much simpler than it is the case with the Federation civil protection administration.

The Law on Republic administration of RS regulates competencies of the Republic civil protection administration as follows: performs administrative and other expert tasks relating to monitoring, harmonization and implementation of defined policy and guidelines, and provides for implementation of the laws and other regulations in the field of civil protection, develops civil protection programs of Republika Srpska, prepares Threat Assessment on the entire territory of Republika Srpska, propose civil protection plan for Republika Srpska, collects data on all events and dangers that might lead to natural and other disaster to people and property located in the affected area, conducting activities of surveillance, reporting and alerting, organization, preparation and training of civil protection service in line with training plans and programs, organizing and equipping civil protection units at the level of Republika Srpska, selecting and conducting scientific-research projects in the field of civil protection, provision of expert assistance, passing operating instructions for civil protection units of local self-government, inspection in the field of civil protection, removal of UXO, de-mining, international cooperation in the field of civil protection, rescue from natural and other disasters, undertaking preventive, operative and post-operative measures in the event of natural or other accidents, keeping records in the field of civil protection and other tasks in accordance with the Law.

Contrary to the BiH Federation, the Law on civil protection of Republika Srpska<sup>51</sup> was adopted in 2002 and its Article 2, point 1 defines the following: "The civil protection is methodically organized part of the system of protection against natural and other disaster, which encompasses organization, preparation and participation of citizens, companies and other legal entities and professional services, organizations and association in protection and rescue of people, property and environment in the event of natural disasters, other major incidents and belligerent actions." As in the BiH Federation this definition is based on international documents relating to protection and rescue of civilians, Geneva Conventions and Additional Protocols.

The RS civil protection is actually an integrating and operative part of the national protection system. The law underlines role and importance of the local community, which is again in line with principle of subsidiarity according to which, as previously said, the decisions are passed and realized at the lowest level, while the coordination is done at the highest necessary level. Also, the laws in RS did not omit definitions concerning division of roles between the resource ministry, public state companies, business operators, citizens' associations, non-governmental organizations and other entities of importance for protection and rescue, and the obligation of the mentioned entities in the preventive, operative and post-operative sense.

The civil protection system encompasses programming, planning, organization, training and education, implementation, surveillance and financing of the measures for protection and rescue from natural and other resources aimed at preventing danger, reducing the number of accidents and fatalities, and eliminating and mitigating hazardous effects of natural and other disasters.

Organization of the civil protection encompasses personal and mutual protection, civil protection measures, civil protection headquarters and commissioners, civil protection services, teams and units,

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<sup>51</sup> "Official Gazette of Republika Srpska", number 26/02

management and use of civil protection man-power and means. The Republic civil protection administration, municipal/city civil protection services, whose function, competencies and responsibilities are defined by this and other laws, and other regulations and general acts, are all part of the civil protection organization.

Under this Law the personal and mutual protection is the most present form of preparation and organized participation of citizens in the civil protection meaning regular provision of training to citizens for self-protection, measures and procedures of preventive protection, first aid and self-aid, taking care of children and elderly persons and other emergency protection and rescue interventions.

Civil protection management means taking decisions on issues relating to execution of concrete civil protection measures, procedures, tasks and activities, and organization and coordination of civil protection actions and protection and rescue actions. The civil protection headquarters, as operative and expert bodies, are established to manage civil protection actions on the level of Republika Srpska, i.e. on the level of city and/or municipality. The civil protection headquarters are established by the Republika Srpska and/or city-municipality. In regard to coordinating and directing civil protection actions the civil protection headquarters of a city or a municipality report to the Republic civil protection headquarters.

The Republic civil protection administration is a body of the RS Government responsible for all aspects of protection and rescue of people and property in the event of a natural or other accident. Regional<sup>52</sup> organizational units in the RS civil protection administrations are civil protection departments that perform tasks of protection and rescue from natural and other disasters on the territory they cover and they also conduct activities of monitoring, reporting and alerting. Operative centers are established for the purpose of conducting activities of monitoring, reporting and alerting. The operative centers are: Republic operative center, Regional operative centers, and Municipal operative centers.

Republic and regional operative centers are established within the RS civil protection administration, while the municipal operative centers are established within the civil protection service of the local community. The municipal operative center is immediately activated in the event of a natural or other disaster, but two or more neighboring local communities may establish a joint operative center to be mutually agreed by majors of these local communities. The major of a local community is obligated to ensure constant dissemination of information to the citizens and a liaison with the Republic civil protection administration when the competent body orders state of preparedness and when it declares state of a natural or other disaster. Republic, regional and municipal operative centers are networked with each other and with the other operative centers in RS, and Republic operative center is networked with operative centers of other institutions and bodies of the FBiH, BD BiH and BiH.

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<sup>52</sup> The following departments are established: Regional civil protection department Banja Luka, Regional civil protection department Bijeljina, Regional civil protection department Doboj, Regional civil protection department Sokolac and Regional civil protection department Trebinje.



The “Law on protection and rescue in emergency situations of RS<sup>53</sup>” has been in force in Republika Srpska since the end of 2012. As defined in Article 1 of this Law, the Law regulates protection and rescue system in emergency situation, protection and rescue manpower and subjects, rights and obligations of RS bodies of administration and other bodies, bodies of local self-government units, business operators and other legal entities, rights and obligations of citizens, emergency situations and procedures during emergency situations, organization and activities of civil protection in the protection and rescue system and elimination of effects of natural and other disasters, planning and financing the protection and rescue system, surveillance, acknowledgments and rewards and other issues of importance for organization and functioning of the protection and rescue system.

But, the BiH Ministry of security warns that the Law on protection and rescue in emergency situations of RS is not fully in line with the Framework Law on protection and rescue of people and property in the event of a natural or other disaster of BiH, which was an obligation under Article 25, paragraph (4) of this Law. According to the statements of representatives of the BiH Ministry of security the Law on protection and rescue in emergency situations of RS took over the obligations of competent state institutions.

In the detailed analysis of the law on the RS level we could conclude that the law quite thoroughly explains how everyone responsible is to act in case of emergency situation on the territory of Republika Srpska, from citizens, through representatives of business operations and all the way up to the members of civil protection, local authorities, and the entity. Nevertheless, coordination of activities of all stakeholders, who, according to the law, had to be involved in protection and rescue, and after occurrence of the catastrophe of magnitude that had been seen in Doboј, Bijeljina, Banja Luka, Šamac, Šekovići, Prijedor and other RS municipalities, was not clearly defined and it is evident from the effects of May floods. Division of responsibilities on the paper is one thing, but realization of concrete activities in practice when the catastrophe happens is complete different thing. At that time the professionalism surfaces and one can hardly expect that citizens, citizens' councils in local offices or local companies will take the correct steps at the time of panic. According to the law these citizens should have been trained and educated through catastrophe simulation exercises making professionals from amateurs, and at the same time the population should have been told the truth about all natural disasters that might hit RS and BiH (also floods being one of them). This should have been done as a preventive action that could have significantly reduced the damages, which we had seen in May.

For example, during last floods the households in Bijeljina lost more than 100 heads of cattle, and the Law (Article 95) clearly defines that the city civil protection units, in cooperation with the municipal/city emergency situation headquarters, are responsible for organizations of protection, rescue and care of exposed, dead, sick and poisoned livestock, as well as for rescue of products of animal origin from hazardous effects of natural and other disasters.

But, several sources had proved to us that according to the alarm notice issued by the RS Hydro-meteorological Institute the local authorities had called upon the citizens to take care of their animals

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<sup>53</sup> “Official Gazette of Republika Srpska”, number 121/12

in threatened areas by moving them to higher grounds, far away from rivers. Nevertheless, many householders did not believe in magnitude of approaching water catastrophe and the epilogues of thousands heads of dead livestock were inevitable. Here one could ask the question of whether the local authorities had done enough to convince the population, but also whether the local authority should have used more strict measures, as set forth by the law, in order to save the livestock, thus significantly reducing consequences both for the citizens and for the entity. The afore-mentioned problem of everyone being responsible for everything, without any clear coordination, arises again and when someone fails in performing his/her duties the blame is simply shifted on others.

Concerning the international cooperation of the civil protection institutions of Republika Srpska, the RS Law on civil protection in its Article 6 defines: “Republika Srpska shall directly and through competent bodies of BiH establish international cooperation aimed at protection against natural and other disasters, especially by concluding international contract and informing other countries about the threats and consequences of a natural and other disasters, and if necessary, by rendering or seeking assistance in protection and rescue of people and property.

As said previously, the international cooperation of RS and the RS Civil protection administration is regulated by provisions of the Framework law on protection and rescue of people and property in the event of natural or other disasters in BiH. In short, the international cooperation of Republika Srpska and the RS civil protection administration in protection and rescue concerns use of experience and lessons learned, exchange of best practices and experience with neighboring and other countries, and bilateral and multilateral assistance in the event of large-scale disasters, when all possibilities for efficient protection of people, goods and other property in Republika Srpska and Bosnia and Herzegovina have been exhausted.

### **Brčko District of BiH**

The Brčko District of BiH does not have special regulation on protection and rescue or on civil protection. In the past the executive authorities had passed ad hoc regulations and had executed all obligations in these areas. The civil protection is organizationally structured as a Department, which is part of the Protection and Rescue Sub-Division, and the sub-division is part of the Public Safety Division of the Government of Brčko District of BiH.

The approach to this segment of protection and rescue system is still not completely comprehended and it is sometimes reflected on provision of assistance at the time of need – floods, snowdrifts, storms, etc. (the lack of funds to procure certain equipment for the civil protection).

The Public Safety Division of Brčko District performs administrative, expert and other tasks in the field of protection and rescue. Also this Division, as the highest body, implements defined policies and ensures execution of the law of Brčko District and other regulations on protection and rescue. Sub-

divisions for protection and rescue and Civil protection department are part of the civil protection structure of Brčko District. The Public Safety Division reports to the Government of Brčko District, which provides for unity and integrity of the Brčko District protection and rescue system.

#### **4. STRATEGIC AND OPERATIONAL DOCUMENTS WITH REGARD TO ANALYZED AREAS**

##### **4.1. Introductory considerations**

The previous chapter provided an overview of legal and institutional framework in which the water management and system of protection and rescue of people and property in the event of natural and other disaster function in Bosnia and Herzegovina.

The indicators had shown that it is not only necessary to harmonize entity Laws on waters<sup>54</sup> and Laws relating to protection and rescue of people and property in the event of a natural disaster with the EU directives, but that it has to be also done with the associated regulations and by-laws.

At the very beginning of analyzing situation in this very complex area it is very important to give a general notice that Laws on waters and associated strategic plans related to flood protection, dominantly refer to flood prevention, while the Laws on protection and rescue and associated strategic documents and plans mainly refer to prevention, rescue and elimination of effects caused by a disaster, thus also including the floods.

When discussing strategic and planning documents the second general notice is that competent entity ministries and Water Agencies are responsible for implementation of prevention measures, while planning of implementation of measures given in the protection and rescue plans is responsibility of: protection and rescue sectors within the Ministry of security, entity, cantonal, and municipal civil protection administrations.

##### **4.2. Review of strategic and planning documents in the target areas at the level of BiH, entities and the Brčko District of BiH**

The table below lists strategic, programming and planning documents that had been adopted at the level of BiH, entities and the Brčko District of BiH in the field of water management and protection and rescue of people and property.

<b>Important strategic, programming and planning documents that had been adopted in the area of water management</b>	
<b>Level of authority</b>	<b>Title of the documents</b>

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<sup>54</sup> The laws were passed before the Directive on the assessment and management of flood risks (2007/60/EC) was adopted.

BIH	
BiH FEDERATION	<ul style="list-style-type: none"> <li>• Water management Strategy in FBiH for the period 2010 – 2022 (passed on 29.12.2011)</li> <li>• Main flood defense prevention plan in FBiH (passed in 2008)</li> <li>• BiH Federation flood defense operational plan (07.02.2011)</li> </ul>
REPUBLIKA SRPSKA	<ul style="list-style-type: none"> <li>• Framework water management development plan of Republika Srpska</li> <li>• Action plan for realization of the framework water management development plan of RS for the period 2007-2016.</li> <li>• Plan for sustainable management of flood risk in the Danube river basin to be applied to the Sava river sub-basin – area of Republika Srpska for the period 2010-2021</li> </ul>
BRČKO DISTRICT	
<b>Important strategic, programming and planning documents that had been adopted in the area of protection and rescue of people and property</b>	
<b>Level of authority</b>	<b>Title of the document</b>
BIH	<ul style="list-style-type: none"> <li>• Treat assessment of natural and other disasters in BiH (passed in 2012)</li> <li>• Plan for protection and rescue from natural or other disasters of institutions and bodies in Bosnia and Herzegovina (passed in 2014)</li> </ul>
BiH FEDERATION	<ul style="list-style-type: none"> <li>• Treat assessment of natural and other disasters in BiH Federation (passed in 2005)</li> <li>• Development program for the system of protection and rescue of people and property in the event of natural and other disasters for the period 2007-2011 (expired)</li> </ul>
REPUBLIKA SRPSKA	<ul style="list-style-type: none"> <li>• Annual flood defense plan for 2013</li> </ul>
BRČKO DISTRICT	<ul style="list-style-type: none"> <li>• Main floods defense operational plan.</li> <li>• Plan on protection of citizens and property in the event of natural and other disasters</li> </ul>

The list of the adopted documents has to be accompanied by the list of strategic and planning documents by analyzed areas, which still have not been adopted or which are in the process of being

developed at certain levels of authorities. These documents are of outer importance for building entire and efficient flood defense systems.

<b>Strategic, programming, planning documents in the area of water management</b>	
<b>Level of authority</b>	<b>Title of the documents</b>
BIH	<ul style="list-style-type: none"><li>• Water policy in BiH</li></ul>
BIH FEDERATION	<ul style="list-style-type: none"><li>• Water management plan (Water Management Plan for Sava River Basin and Water management plan for Adriatic Sea basin)</li><li>• Flood risks management plan</li><li>• Preliminary assessment of flood risks</li></ul>
REPUBLIKA SRPSKA	<ul style="list-style-type: none"><li>• Strategy of integrated water management of RS (adopted as a proposal by the RS Government)</li><li>• River Basin Management Plan (Sava River Basin Management Plan and Trebišnjica River Basin Management Plan)</li></ul>
BRČKO DISTRIKT	
<b>Strategic, programming, planning documents in the area of protection and rescue of people and property</b>	
<b>Level of authority</b>	<b>Title of the documents</b>
BIH	<ul style="list-style-type: none"><li>• Protection and rescue system development program of BiH institutions and bodies</li></ul>
BIH FEDERATION	<ul style="list-style-type: none"><li>• Protection and rescue plan in the event of natural and other disasters on the territory of FBiH</li></ul>
REPUBLIKA SRPSKA	<ul style="list-style-type: none"><li>• Protection and rescue program in Republika Srpska</li><li>• Program to reduce risk of natural disasters</li><li>• Threat assessment of natural and other disasters in RS</li><li>• Plan on protection and rescue from natural disasters and other accidents in RS<sup>55</sup></li><li>• Annual flood defense plan for 2014</li></ul>

<sup>55</sup> Legal obligations of the RS Government concerning adoption of programming and planning documents set forth in Article 18 of the Law on protection and rescue in emergency situations of RS.

BRČKO DISTRICT	
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As said earlier there is no single water policy in Bosnia and Herzegovina due to the existing social set-up and decentralization of competencies, so that preparation, development and implementation of water policies is done in entities with different and partly harmonized institutional and legal frameworks.

As we have seen in the previous table, there is no national water management strategy, and the entity regulations set forth the possibility of cooperation in development of the latter.<sup>56</sup> If the lack of a common vision, strategic orientation and insufficient cooperation in management of water resources was more present after the war, which can be partly understood, the situation where no additional efforts are made to adopt missing documents, thus finally turning over this area to the experts, is completely unacceptable. Only such an approach guarantees development of the most efficient system for water resource use, but also it guarantees as efficient system of protection against waters. The floods with catastrophic consequences, especially the May 2014 floods, indicated that the flood defense system is still underdeveloped and non-functional, and that in the future all strategic and planning documents in BiH have to be adopted on time, in a coordinated and harmonized fashion, and most importantly aimed at achieving integrated national and regional system of protection against floods, securing higher safety to the BiH citizens' lives and property.

Unfortunately parliaments and governments at all levels of authority in BiH do not sufficiently enough talk about new strategies on analysis of functionality of water management in BiH, on analysis of existing civil protection concept in BiH, on analysis of all problems that had surfaced in May concerning coordination of activities on protection and rescue of people and property in the event of natural disasters in BiH, on development of new risk maps (maps with defined zone of risks from natural disasters), on analysis of permitted civil construction in places located in red zones of previous floods, on sanctions for unconscientious public institutions and individuals. The information and reports on these topics are never followed by great attention and significance they deserve. As an illustrative example we will say that none of the governments or parliaments from the cantonal to the state level did adopt new changed<sup>57</sup> annual working plans and plans of priority actions in BiH after the natural disaster, as if the latter never had happened. It is quite certain that such an approach will lead institutions of authorities at all levels to a very familiar situation and that after urgent and justified changes in the budgets they will remain at unchanged objectives from the beginning of the year.

### **Bosnia and Herzegovina level**

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<sup>56</sup> Article 24, paragraph 6 of the Law on Waters of the FBiH (Official Gazette of FBiH, number 70/06) "The FBiH Federation Ministry shall ensure that the coordination of all activities with the ministry of the Republic Srpska in charge of water is established and maintained so as to ensure a uniform water management strategy for the whole of Bosnia and Herzegovina".

<sup>57</sup> The FBiH Federation Government, amongst others, did not officially amend its Working program for the current years, and the program prepared in November of 2013 can be still found on the web page of the FBiH Government. Following the floods the Government had, at its session held on May 28, 2014, tasked all Federation ministries to revise their incentive programs until the next session in order to get an insight on how much of the funds was directed to the flooded areas;

Even though the water policy is planned and implemented at the entity level, there had been some efforts made at the state level to develop, in accordance with the competences, some framework documents that would harmonized the entity documents. The European Union had through the 2007 IPA Funds financed the project: “Support to BiH Water Policy” under which the draft document “Water policy in BiH” was made. This document is a framework document, which defines the basic vision of the water sector development according to which fair, efficient and financially viable manner of water resources use and water resources development planning would be achieved in BiH by 2035, all in line with social, economic and environmental needs of its present and future citizens.

The objectives to accomplish this vision are:

- Protection of surface and ground water resources in terms of water quality in order to achieve good ecological and good chemical condition of surface waters, as well as good quantitative and chemical condition of ground waters;
- Protection of surface and ground water resources in terms of available water quantities in order to ensure sustainable supply of water to present and future generations, as well as to satisfy the needs of the ecosystem;
- To ensure adequate protection of people and property in the event of extreme hydrological situations such as floods, droughts, torrents, river bed degradation/erosion;
- To put in place legislation that will provide for fair, efficient and sustainable water management;
- To strengthen institutional systems in BiH related to the water sector so that roles, tasks and responsibilities of competent bodies/institutions are clearly defined and efficiently implemented;
- To establish a system in which non-profit and self-sustainable financing of water sector would be achieved by use of economically realistic water fee rates and prices of water supply services.

The document defines priorities until 2035, stakeholders, time framework and costs of implementation. It is very important to underline that the document “Water policy in BiH” had entirely observed existing legal and institutional framework of water management sector in BiH.

Unfortunately the document “Water Policy in BiH” was not finally adopted, because it was conditioned with common understanding and support for its adoption by all institutions in BiH, which consequently caused development of water policies at lower levels of authority without a common vision. Since the objectives of this document also present the ones that had planned for achievement of adequate protection of people and property from floods, it is truly a pity that the document had not been treated with more political will and understanding.

Nevertheless the failure to adopt the “Water policy in BiH” document did not put a stop to implementation of objectives and priorities, so that according to the information from the Ministry of foreign trade and economic relations and/or BiH Council of Ministers, realization of a project called “Capacity building in the water sector in BiH” has been launched in cooperation with the EU



Delegation. The project implementation started at the end of January 2014, and all competent institutions in water sector, including Brčko District of BiH, are involved in project implementation. The following documents will be drafted during the project:

- Draft Sava River Basin Management Plans for both entities in BiH in accordance with the provisions of existing legislation in BiH and relevant EU regulations, including preparation of a Risk Report and Programme of Measures;
- Drafts of primary and secondary legislation in the water sector in terms of achieving higher compliance with the key EU regulations in the water sector.

Parallel to these activities the Neretva and Trebišnjica river basin management project is being brought to the end and during its implementation two draft documents were made: Trebišnjica River Basin District management plan in Republika Srpska, and Neretva and Trebišnjica River management plan in the BiH Federation. The competent institutions will forward all draft plans to appropriate adoption procedure, taking into consideration adequate participation of the public.

All afore-mentioned plans are to be adopted by the end of 2015 or beginning of 2016 in order to harmonize the plan period (2016-2021) in BiH with plan period of the EU member states.

Previous examples show that the domestic institutions achieved serious results in developing an integrated water management and flood protection system only with the help of international community. Such engagement of the international community was completely justified primarily for the safety of the citizens of Bosnia and Herzegovina, but also for the safety of citizens of other countries in the region.

Contrary to the water sector where there is no formal competence in water management at the state level, in the field of protection and rescue of people and property in the event of a natural or other disaster, the state does have competence and thus it is responsible for planning and implementation of the measures.

It can be generally said that most of strategic planning documents on protection and rescue of people and property at the level of Bosnia and Herzegovina were not adopted on time. The Framework Law on protection and rescue of people and property in the event of natural or other disasters ("Official Gazette of BiH" number 50/08) in its Article 13 defines that the Council of Ministers of Bosnia and Herzegovina issues the Threat Assessment and Risk Management Plan ("Official Gazette of BiH" number 50/08). The BiH Council of Ministers had on proposal of the Ministry of Security<sup>58</sup> finally adopted the threat assessment of natural or other disasters in Bosnia and Herzegovina on April 18, 2012 and the

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<sup>58</sup> According to Article 25 of the Framework Law the documents should have been adopted six months following the entry into force of this Law.

adoption procedure had started in 2009. It means that the document was adopted with a delay of four years.

Having in mind that the threat assessment of BiH is a basic document used in preparation of the Plan of protection and rescue in the event of natural or other disasters of institutions and bodies in Bosnia and Herzegovina and the Protection and Rescue System Development program of bodies and institutions of Bosnia and Herzegovina, preparation of these two documents was also delayed. The delay in adoption of the Treat Assessment of natural or other disasters in Bosnia and Herzegovina consequently had caused the situation that entities and Brčko District of BiH could not have used the adopted document as the foundation for their planning activities.

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The Th!e"t A##e##\$e%t &' %"t(!") &! &the! \*i#"#te!# i% B&#%i" "%\* He!+e, &-i%" 4"# the '&(%""ti&% '&! 0!e0"!ti&% &' the Plan of protection and rescue in the event of natural or other disasters of institutions and bodies in Bosnia and Herzegovina, which the BiH Council of Ministers adopted on March 19, 2014. Realistic assumptions for development of operative action plans in several areas: prevention, response and recovery, in line with the Framework law on protection and rescue of people and property in the event of natural or other disasters, were created following adoption of this regulation<sup>59</sup>. The Plan of protection and rescue in the event of natural or other disasters of institutions and bodies in Bosnia and Herzegovina represents a framework for working on preparation, organization and implementation of protection and rescue of people and property of the Institution and bodies of Bosnia and Herzegovina in the event of natural or other disasters.

The Plan of protection and rescue in the event of natural or other disasters of institutions and bodies in Bosnia and Herzegovina and the Protection and Rescue System Development Program of bodies and

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<sup>59</sup> At the time when the preparatory workshops on developing Protection and rescue plans were held the assistant minister of BiH Ministry of security Mladen Čavar gave the following statement to the media: "Presently the institutions and bodies of Bosnia and Herzegovina did not prepare action plans in the event of natural or other disasters. The consequence of such a situation is ad hoc and unorganized response, which can have far-reaching effects to the safety of citizens of Bosnia and Herzegovina."

institutions of Bosnia and Herzegovina are documents that are really important for the lower levels of authority, because they contain guidelines on how to draft the Protection and Rescue system development program of the entities and the Brčko District.

The BiH Council of Ministers still did not adopt the Protection and Rescue System Development Program of bodies and institutions of Bosnia and Herzegovina, and according to the Strategic plan of the BiH Ministry of security for 2014-2016 (Protection and Rescue sector) its preparation is planned at the end of 2014. The deadline for adoption of this document is uncertain, since it is adopted the BiH Parliament in which unfortunately political agreement on these urgent issues is difficulty reached.

The additional proof of lack of political will to implement the Framework law in its full capacity is the yearslong stall on establishment of a specialized mix protection and rescue unit, and failure to realize all preconditions for work of the Protection and Rescue Coordination Body<sup>60</sup>.

Even though the state does not have any competence in the flood damage assessment procedures<sup>61</sup>, since the procedure is done at the entity level, the experiences after the last catastrophic floods in BiH indicates that distribution of international assistance can be slowed down due to the disputes on damage assessment between the entities. The entity procedures that are not in line with the EU damage assessment methodology are the reason of such situation. If the entities and Brčko District of BiH had on time harmonized their procedures with the EU methodology (delivered by the BiH Ministry of security on May 6, 2013) there would not be any reason for disputes, and the citizens affected by the recent floods would much faster get the international assistance.

Everything previously present indicates that Bosnia and Herzegovina did not timely and adequately respond due to low-quality and non-conformity regulations, and that it is necessary to amend legislation at the state and entity level, to conduct urgent harmonization with the EU Directive, all aimed at developing a legal framework which guarantees functionality and efficiency to all institutions of Bosnia and Herzegovina in rescuing people and property.

The hope that political will can build a better framework for citizens' safety lies in the information that establishment of a National Platform for Disaster Risk Reduction is in its preparatory phase. The objective of the platform is to act as an instrument for implementation of a systematic catastrophe risk reduction with clearly defined and divided responsibilities and tasks of all stakeholders. The plan is that the platform becomes part of the community development strategy and to ensure multi-sector approach in line with the international guidelines and standards for disaster risk reduction. Using the State Platform the attempt is being made to assess available sources and capacities for risk reduction,

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<sup>60</sup> During the last catastrophic flood it was clear that the Coordination body could not meet and propose the Council of Ministers to declare the state of natural disaster in BiH, and if it did meet, the question arises of whether it could have urgently responded to actual challenges due to very complicated decision making process (Article 16, paragraph (2) of the Framework law on protection and rescue of people and property in the event of natural or other disasters in BiH)

<sup>61</sup> The Framework law does not set forth obligation of developing a common damage assessment methodology in BiH, but the BiH Council of Ministers had on May 21, 2014 initiated developed of damage assessment methodology and proposal of criteria for distribution of assistance collected through the donors' conferences. The International Donors' Conference can be organized upon initiative and request of BiH, only after all damages caused by natural disasters are assessed.

to ensure political support from all political parties and subjects at all levels, and to involve all civil society organizations.

### **Federation of Bosnia and Herzegovina**

All complexity of the system of protection and rescue of people and property, and therewith the protection against floods, founded on the existing social and legal framework, becomes visible when its functionality at the entity level, especially the level of the Federation of Bosnia and Herzegovina, is evaluated.

Planning and implementation of flood prevention in this entity is in divided inter-departmental jurisdiction of institutions at several levels of authority (water sector and sector for protection of environment). The analysis had shown that there is some progress made in the process of adopting strategic, legislative and other planning documents despite the enormous institutional complexity, but that parallel to this progress we are lacking continuity in planning (the documents were never amended and harmonized with the new situation in the field after they were passed for a certain period of time).

In the next few paragraphs we will shortly present several documents related to water management, whereof most of them are dedicated to protection against floods, in order to elaborate what has been previously said.

Water management policy in the BiH Federation is regulated by the main planning document – Water management strategy in FBiH for the period 2010 – 2022. The House of Representatives of the Federation of Bosnia and Herzegovina Parliament, at its session, held on 20 October, 2010 adopted the Proposed Water Management Strategy of the Federation of Bosnia and Herzegovina as drafted and proposed by the Government of the Federation of Bosnia and Herzegovina. A year later, on December 29, 2011 the House of Peoples of the Parliament of the Federation of Bosnia and Herzegovina adopted the strategy in the same text.

The adoption of the first Water Management Strategy was three years late having in mind that according to the provisions of the Law it should have been adopted until 2009 at latest.

The adoption of the Strategy defined the water management policy of the BiH Federation including water protection, water utilization, protection against harmful effects of waters and management of watercourses and other waters. The objective of the FBiH Water Management Strategy is to reduce water pollution, to achieve good conditions and to prevent water degradation, to achieve sustainable use, to ensure fair access to waters, to stimulate social and economic development, to protect ecosystem, to reduce the risk of floods and other harmful effects of water, as well as to involve the public in the decision making process concerning the waters.

The first Water Management Plans for Sava River Basin and the Adriatic Sea basin should have been adopted by 2012 for implementation of strategy referred to in Article 24, paragraph (7) of the Law on waters. But, adoption of the plans is delayed since the adoption of the strategy was delayed, and their adoption is planned for the end of 2015.

In line with the Law on waters, and in accordance with the Regulation on types and contents of the plans for protection against harmful effects of waters<sup>62</sup>, the BiH Federation Government defined the necessity of adopting two types of plans for protection against harmful effects of waters:

1. Flood risks management plan
2. Active flood defense plan

The first flood risk management plan is still not adopted, and it has to be adopted within six years following adoption of the Regulation and it also has to be regularly harmonized with the First water management plan. Having in mind that adoption of the First Water Management Plan is planned for 2015, it would be perfect to conduct harmonization through coordination of activities during the preparation of these two documents. There are good chances that this might happen, because we already had mentioned that the international community is involved in providing assistance for preparation of the entity plans.

Active flood defense plan (operational flood defense plans) that relate to measures of protection against floods at time of imminent danger, during the floods and to eliminate hazardous effects of floods, had been adopted by the BiH Federation Ministry of agriculture, water management and forestry on August 7, 2011.<sup>63</sup> Preparation of the cantonal operational floods defense plans for Category II waters (which are competence of the cantons) are to be made by the cantonal level of authority, and this obligation was met only by some cantonal competent ministries.<sup>64</sup> The reason for such situation is the fact that the deadline for adoption of these documents should have been set forth by the cantonal law on waters, and only 5 cantons had passed cantonal regulations until 2013 (Zenica-Doboj canton, Tuzla canton, Sarajevo canton and Central Bosnia canton).

In order to develop a foundation for preparation of all protection and rescue plans, the BiH Federation Government had in 2005 passed the document Threat Assessment of natural and other disasters in the BiH Federation, and subsequently it was possible to start the process of preparation of the most important planning documents, whereof many of them are mutually connected or conditioned.

The development program of protection and rescue of people and property from natural and other disasters in the BiH Federation for the period 2007-2011, which was adopted by the FBiH Parliament, is found to be one of the most important planning documents in terms of flood protection. This

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<sup>62</sup> The Regulation on type and contents of plans for protection against harmful effects of waters was adopted in 2009 in line with Article 90 of the Law on Waters

<sup>63</sup> The document was prepared by the Agencies for the Sava River Basin and the Adriatic Sea Basin

<sup>64</sup> Zenica-Doboj canton, Sarajevo canton and Gorazde canton passed the cantonal plans

document that had been valid for four years had expired, but it is still not known whether a document for the next period is being prepared and whether it will be harmonized with the National Development program, which is presently also being prepared. The institution that is responsible to prepare the document is the BiH Federation civil protection administration, which the BiH Federation Auditor negatively evaluated since “it does not accurately and objectively reports balance as on December 31, 2012.”<sup>65</sup> The main objections to the work of the BiH Federation civil protection administrations related to the procedure of distribution of funds collected from the special fees for protection against natural and other disasters, but also to the fact that it did not pass the Development Program of protection and rescue of people and property in the event of natural and other disasters in BiH for the period after 2011. A program for the period of five years with defined objectives and tasks is a document that should have enabled preparation of the BiH Federation Protection and Rescue Plan containing defined tasks for the same period, and the failure to adopt the program changes the deadlines for adoption of this document.

Even though the validity of the Development Program of protection and rescue in the event of natural and other disasters in the BiH 2007-2011 had expired, it served as a good foundation for preparation of the cantonal and municipal programs, this establishing process of vertical periodical protection and rescue development programming in the BiH Federation. The cantons and municipalities prepared their Development programs by introducing their own specificities into them, while the Plans for protection in the event of natural and other disasters are being prepared and are not final, as it is the case at the other levels of authority.<sup>66</sup>

### **Republika Srpska**

Before presenting information on strategic documents on flood protection that should have been or are already adopted in Republika Srpska, it is really important to underline that these documents are founded on a legislative framework, which is to a certain degree different than the BiH and the BiH Federation legal and legislative network, as it was shown by the previous analysis.

The water management in the Republika Srpska is, as it is the case in the BiH Federation, regulated by the entity Law on Waters (Official Gazette of the RS, number 50/06), which in its Article 25 sets forth the obligation of adoption of the Integrated water management development Strategy<sup>67</sup>. The RS National Assembly still has not adopted the Integrated Water Management development Strategy, but after it was established as a draft and put forward for public discussion RS Government established it

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<sup>65</sup> The main objections to the work of the BiH Federation civil protection administrations related to the procedure of distribution of funds collected from the special fees for protection against natural and other disasters, but also to the fact that it did not pass the Development Program for protection and rescue of people and property in the event of natural and other disasters in BiH for the period after 2011.

<sup>66</sup> The Regulation on contents and procedure of developing plans for protection and rescue in case of natural and other disasters and plans for protection against fires from February 2011 sets forth that BiH Federation and cantonal bodies of administration and municipalities, and city administration services, must in line with provisions of this Regulation develop and adopt protection and rescue plans within six months following entry into force of this Regulation.

<sup>67</sup> Article 25 of the RS Law on Waters sets forth that the strategy shall include: “framework objectives and directions for water use and protection, protection against harmful effects of water and sustainable water use”.

as a proposal in April of 2014. The RS National Assembly has to adopt the Integrated Water Management Development Strategy and in line with the Action plan for realization of the framework water management plan of RS for the period 2007-2016 adoption of the Strategy is planned for 2015. In Republika Srpska, as it is case in the BiH Federation after the strategy is adopted, coordinated river basin management plans with associated programs<sup>68</sup> have to be passed in line with Articles 26 and 27.

It is very important to mention that a Framework Water Management Development Plan of Republika Srpska was developed in Republika Srpska in 2006 as one of the inter-stages in the preparation of the Strategy as a basic strategic planning document of the highest level of significance. The Framework water management development plan was passed in order to complete planning-management interregnum until key strategic planning documents in the water sector are adopted, but it was also passed to serve as a foundation for preparation of Development Strategy of Republika Srpska.

In line with the Framework plan the Ministry of agriculture, forestry and water management passed the Action plan for realization of the framework water management development plan of RS for the period 2007-2016.

Two years later the RS Government adopted Plan for sustainable flood risk management in the Danube river basin, which is to be applied to the Sava sub-basin – territory of Republika Srpska for the period 2010-2021.

The River Basin Management Plans for every district of Sava and Trebišnjica river basin, which should have been drafted in line with the Law on waters and the Framework Water Directive, are still not prepared. As previously said they are presently being prepared at the entity level and it is being done with coordination of state institutions and the international community, all aimed at meeting the standards according to which river basin management has to be integrated and coordinated.<sup>69</sup>

Regarding the protection and rescue, it has already been concluded that the Law on protection and rescue in emergency situations of RS is not harmonized<sup>70</sup> with the Framework Law on protection and rescue of people and property in the event of natural or other disasters in Bosnia and Herzegovina. This lack of conformity between the laws can generate many problems in adoption of other by-laws or other planning and operative documents, which at the time of urgent response can cause confusion and chaos. Therefore harmonization of entity laws with the framework law at the state level imposes itself as the next logical step in order to avoid negative reflection in preparation of planning documents.

The RS Government was obligated to pass protection and rescue plans and programs after the Law on protection and rescue in emergency situations<sup>71</sup> was adopted. The precondition for adoption of all

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<sup>68</sup> According to Article 31 of the RS Law on Waters "During preparatory activities on planning in the area of river basic management for which it is competent, the Water Agency shall regularly consult counterpart Agency in the Federation of Bosnia and Herzegovina aimed at coordination of the river basin management plans

<sup>69</sup> According to Article 39 of the RS Law on Waters

<sup>70</sup> Duties of the competent state institutions were taken over by the RS Law on protection and rescue in emergency situations

<sup>71</sup> The law was passed on December 25, 2012



these documents was met after the Regulation on types and contents of the Plan for protection against natural and other disaster<sup>72</sup> was adopted. The associated plans were not adopted having in mind that the basic document "Threat Assessment of a natural and other disaster" had also not been adopted. According to the law the municipalities and business operators are obligated to pass such documents following adoption of entity documents, but due to lack of basic documents and the RS plan with which they would be harmonized, the lower levels of authority also did not pass these documents.

As said earlier, the RS Law on civil protection<sup>73</sup> sets forth the obligation of organizing and implementing protection against natural and other disasters based on civil protection programs and plans. The RS civil protection program defines objectives, policy and strategy of civil protection in Republika Srpska for the period of at least 5 years, while the civil protection plan contains: a) threat assessment of natural and other disaster; b) prevention plan; c) preparedness plan; d) mobilization plan; e) emergency response plan. Citizens and municipalities pass their own civil protection programs and plans, which have to be harmonized with the RS civil protection plan and program. The civil protection plans ensure organized and coordinated activities on prevention of accidents/incidents, elimination of their effects and providing, as soon as possible, basic living conditions in the event of a natural or other disaster.

Upon proposal of the RS Civil protection administration the RS Government had on November 11, 2011 adopted the Methodology for development of civil protection plan<sup>74</sup>. The new methodological approach sets out new planning standards, which have already been proved in theory and practice of the EU countries and the countries in the region. Use of these standards was introduced primarily to directly affect attaining higher level of protection of people, goods and property, as well as the environment, in Republika Srpska. As the documents civil protection program and civil protection plan are not published or available to the public, it is not known whether they were adopted and to what degree use of new standards was successful. Having in mind significance of these documents and the reform that the civil protection in BiH sustained, it is simply incredible that the institutions of authority did not used preparation and publication of plans to additionally educate citizen about their obligations, and about the obligations of the institutions in the event of a natural disaster. The latest events and behavior of citizens and institutions at the time of natural disaster indicated that many information regarding protection and rescue of people and property should be more transparently presented to the public so that every individual and institution would know how to act at time of a natural disaster.

In terms of floods, the Law on protection and rescue in emergency situations sets forth the obligation of government institutions to annually pass General and Operative Flood Defense Plans. The annual flood defense plan is a very important operative document, because it defines tasks, stakeholders, unique and harmonized procedure for preparation and implementation of protection and rescue activities in case of emergency flood defense. The government did meet its obligation and had passed

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<sup>72</sup> The Regulation was passed in August of 2013

<sup>73</sup> "Official Gazette of RS", number 26/02, Article 119.

<sup>74</sup> "Official Gazette of RS", number 119/11

the Flood defense plan for 2013, but it did not pass the Annual flood defense plan for 2014 so it is not clear in accordance to which document the flood defense activities were implemented in May of 2014.

### **Brčko District of BiH**

Even though the area of Brčko District is known to flood, there are no special strategies or measures in the Public Safety Division of the Brčko District Government. Nevertheless the Main Operative Flood Defense Plan is adopted every year in cooperation with the Department for agriculture, forestry and water management.

The Department for agriculture, forestry and water management also prepared a riverbed development project and significant financial funds are needed for its implementation.

In terms of civil protection of Brčko District the plans of protection of citizens and property in the event of natural and other disasters were made under the protection and rescue system (Plan of protection against floods with evacuation, Plan of protection against other natural disasters, and other plans).

The short review of adopted strategic documents by levels of authority indicates that there was a time gap in adoption of fundamental documents in the FBiH and RS, which can cause development of documents containing different development visions. However the strategic documents were adopted at the levels of authority, all of them are usually accompanied by the same problems whereof the larger is the financing. Failure of the governments to provide funds for implementation of objectives and measures defined by the strategy only creates an image that very professional and meaningful documents are passed only for the sake of form, never implemented and that following their adoption they are being kept in “the drawers to collect the dust”. The additional problem is that competent institutions only do have some modest funds to spend and they implement activities and plans partially without reporting to the citizens and the public what they done in terms of their protection<sup>75</sup>. It could be a sufficient enough reason to introduce obligation of regular evaluation and periodic reporting of the governments to the parliaments on the degree/the stage of implementation of strategies, plans and programs. This could lead to abandoning of present practice where protection and rescue from floods, functionality of institutions and the manner of spending the public funds are mentioned only when the floods already happen. Lack of analysis and reports is the “main culprit” why this important topic cannot be discussed in a calm tone and analytically, assessing the success and degree of implementation of expensive documents and what benefits they brought to the citizens.

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<sup>75</sup> By adopting the Action Risk Management Plan for Danube river basic to be used for the Sava sub-basin – territory of RS for the period 2010-2021 the Government tasked the Ministry of agriculture, forestry and water management and the Agency for waters of Sava River Basin District (PE “Vode Srpske”) to harmonize activities of all subjects responsible for implementation of the plan and to regularly report the results thereof to the Government.

**5. FINANCING OF THE WATER MANAGEMENT AND PROTECTION AND RESCUE****5.1. Introductory considerations**

In the paragraphs to come we will use comparative indicators, as set forth by the law, to give answer to the question of financing in the area of water management, but also to the question of financing in the event of natural disasters at the state and entity level.

The developed legal and institutional water management framework is just the starting point and precondition for establishment of a quality flood protection system in BiH. Staffing and capacity building, as well as stable financing system are as important as other links in the flood protection system. The relevant planning documents of BiH, FBiH and RS<sup>76</sup>, which had been adopted so far, indicate that the human resources in the water management system and financial funds (existing model of financing) are insufficient to meet all necessary tasks and duties.

Having in mind that the state institutions do not manage waters in BiH in the operational sense, so the legislation at the level of BiH does not define direct obligations of the state in terms of financing the water management system. On the other hand, when we talk about protection and rescue “the Framework Law” in Article 23 precisely defines that funds in the Budget of the Institutions of Bosnia and Herzegovina are to be allocated for a) equipment, training, operation and functioning of the Centre – 112; b) equipment, training, operation and functioning of the Coordination Body; c) professional development and training of civil servants and employees for protection and rescue duties in the institutions and bodies of Bosnia and Herzegovina; d) Remuneration of expenses incurred in the performance of international protection and rescue operations directed by a competent protection and rescue authority; e) rendering assistance to other countries, Entities and the Brčko District of BiH in case of natural or other disasters; f) additional equipping and training of units set forth in Article 13, paragraph 1, subparagraph k), of this Law; and g) other needs in accordance with this Law.

Paragraph 2 of this Law defines that funding a part of requirements and activities, funds may be provided through financial and material/technical contributions by the legal persons of Bosnia and Herzegovina, donations by other countries and international organizations, and other forms of assistance.

**5.2. Financing of water management at the entity level**

Even during the analysis of legal-institutional framework it was concluded that the flood protection system, thus also the financing system in this area, is especially complex and fragmented in the BiH Federation. The funds to implement prevention flood protection activities are allocated from the sinking

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<sup>76</sup> The threat assessment of natural and other disasters in BiH, the FBiH Water Management Strategy until 2022 and Framework water management development plan of RS

funds of water fees and other sources<sup>77</sup>, and according to the allocation criteria that are defined by the Government. According to the estimates made by the experts, prevention activities are most cost-efficient type of flood protection activities. There is a claim that one convertible mark invested to prevention is reimbursed as eight convertible marks in saved property.

As it is the case in the BiH Federation, the financing of the prevention against floods in Republika Srpska is regulated by funds collected from the water fees. Nevertheless, the incomes incurred from water fees were reduced for approximately 40% after general water fee in RS was cancelled at the end of 2000 and according to the experts<sup>78</sup> it resulted in stagnation and slow development of the water management in RS in comparison to the BiH Federation (the incomes from general water fee were kept in the BiH Federation). The existing financing model in RS has been evaluated as unsatisfactory and it was concluded<sup>79</sup> that the “existing flood defense system is defined in such a way that it does not ensures conditions for implementation of modern standards to assess its adequacy.”

In the table below we have presented how water management funding and incomes from water fees are defined by the entity Laws on waters.

Also we have made the same tabular review on protection and rescue funding as it is regulated by the entity laws on protection in the event of natural disasters.

**Table 1: Excerpt from entity legislation in terms of funding of water management in Bosnia and Herzegovina**

<b>WATER MANAGEMENT</b> <b>(Entity laws on waters...)</b>	
<b>BiH Federation</b>	<b>Republika Srpska</b>
<b>Article 168 (Sources of funding)</b>  Funds to carry out the activities and tasks defined by this Law shall be provided by means of the following: 1. general water charges; 2. special water charges; 3. revenue generated by lease of the public water property; 4. the Federation, cantonal, town and municipal budgets; 5. credit funds; 6. funds provided for in special legislation; 7. donations and other funds in accordance with the law.	<b>Article 188 (Sources of funding)</b>  Funds to carry out tasks and activities defined by this Law, functioning and maintaining the water properties and water facilities of general importance, safekeeping value of constructed water control facilities and system, undertaking measures for public investments and capital construction of water facilities under this law shall be provided by means of the following: a) special water charges, b) incomes generated by lease of the public water property; c) general part of the Republika Srpska budget and the budget of local self-government units, d) donations.
<b>Article 169 (General water charge)</b>  (1) Physical or legal persons registered for a particular activity	<b>Article 189 (General water charge)</b>

<sup>77</sup> The funds are distributed to: Agencies for water areas (40%), cantonal budgets (45%) and the BiH Federation Environment Protection Fund (15%). The incomes collected from the rent of public water property on surface waters of Category II go to the budgets of the cantons, which use the available funds according to the plan

<sup>78</sup> Views given in the Framework water management development plan of RS and the Action plan for implementation of the Framework water management development plan of RS for the period 2007-2016.

<sup>79</sup> The Framework water management development plan of RS

<p>shall pay general water charge.</p> <p>(2)The water charge payers referred to in paragraph 1 of this Article shall pay the general water charge at a level of 0.5% of the basis consisting of a net salary of an employee in permanent or temporary employment and fees paid on the basis of service contracts.</p> <p>(3)The water charge referred to in paragraph 2 of this Article shall be calculated and paid simultaneously with the payment of salaries and service contract fees.</p> <p style="text-align: center;"><b>Article 170 (Special water charges)</b></p> <p style="text-align: center;"><b>Special water charges</b></p> <p>(1)Special water charges shall be: 1. the charge for the use of surface waters and groundwater including the abstraction of: water for public water supply, water and mineral water used for water bottling, irrigation water, water for fish production at fish farms, water for industrial processes, including thermal power plants, water for other purposes. The charge referred to in point 1 of paragraph 1 of this Article shall be calculated on the basis of the volume of water abstracted in m<sup>3</sup>. The level of this charge may vary, depending on the purpose and quality of the water;</p> <p>2. The charge for water used for electricity generated by hydropower. This charge shall be calculated on the basis of the energy generated in kWh;</p> <p>3. Water protection charge: paid by owners of vehicles using oil and oil derivatives as fuel. This charge shall be calculated on the basis of the level of water pollution expressed in terms of the population equivalent (hereinafter referred to as: PE), charge for wastewater discharge. This charge shall be calculated on the basis of the level of water pollution. The basis for calculation of the fee shall be pollution expressed in terms of the PE, charge for fish farming. This charge shall be calculated per 1kg of fish produced, charge for the use of artificial fertilizers and plant protection products. This charge shall be calculated per 1kg of manufactured or imported artificial fertilizer or plant protection product;</p> <p>4. Fees for the extraction of material from watercourses. This charge shall be calculated per 1m<sup>3</sup> of extracted material;</p> <p>5. Flood protection charges: for agricultural, forest or building land protected by flood protection structures. The definitions of agricultural, forest or building land adopted in the tax regulations shall apply. This charge shall be calculated per 1ha of protected land. The level of this charge may vary, depending on the type of land protected. – for residential, business and other buildings or structures that are protected by flood protection structures. This charge shall be calculated</p>	<p>(1) Special water charges referred to in point a), paragraph 1 of Article 188 of this Law and the basis for their calculation are: a) the charge for abstraction of surface waters and underground waters. The basis for calculation is one m<sup>3</sup> of abstracted water. The rates applied for calculation of this charge can differ on defined scientific or professional vase, depending on the purpose and water quality. This category of special water charges includes the following types of abstraction: 1) drinking water for public water supply, 2) water and mineral water used for water bottling, 3) irrigation water, 4) water for fish production at fish farms, 5) water for industrial processes, including thermal power plants, 6) water for other purposes and other human consumption purposes.</p> <p>b) The charge for water used for electricity generated by hydropower. This charge shall be calculated on the basis of 1 kWh (one kilowatt hour) of generated energy,</p> <p>v) Water protection charge: paid by owners of vehicles using oil and oil derivatives as fuel. This charge shall be calculated on the basis of the level drive line power; 2) charge for wastewater discharge. The basis for calculation of the fee shall be pollution expressed in terms of the PE (population equivalent); 3) charge for fish farming in cages sunk in surface waters. This charge shall be calculated per 1kg of fish produced and put on the market; 4) charge for the use of artificial fertilizers and plant protection products. This charge shall be calculated per 1kg of manufactured or imported artificial fertilizer or plant protection product;</p> <p>g) Fees for the extraction of material from watercourses. This charge shall be calculated per 1m<sup>3</sup> of extracted material;</p> <p>d) Flood protection charges: 1) for agricultural, forest or building land protected by flood protection structures. The definitions of agricultural, forest or building land adopted in the spatial planning regulations shall apply. This charge shall be calculated per 1ha of protected land, and for smaller areas one square meter. The level of this charge may vary, depending on the type of land protected: 2) flood protection charge for residential, business and other buildings or structures that are protected by flood protection structures. The definition adopted in spatial planning regulations shall be used. This charge shall be calculated per 1m<sup>2</sup> of the building.</p> <p>(2) Special water charge payers referred to in point a), indent 2) and 6), point v), indent 2) and 3) and point g) of paragraph 1 of this Article shall be subject that has water deed issued for respective activities.</p> <p>(3) Special water charge payers referred to in point v), indent 1) of paragraph 1 of this Article shall be subject to whose</p>
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<p>per 1m<sup>2</sup> of usable area of the building or structure.</p> <p>(2)The special water charge payer referred to in points 1, 2, and 3 indentations 2 and 3, and point 4 of paragraph 1 of this Article shall be physical or legal person required to obtain a water permit or a water authorization for the respective activity under the provisions of this Law. The physical person or legal entity referred to in paragraph 3 of Article 110 of this Law shall not be subject to this obligation, as the person subject to payment of the charge shall be the operator of the public water supply or sanitation system.</p> <p>(3)The special water charge payer referred to in indentation 1 of point 3 in paragraph 1 of this Article shall be a physical or legal person in whose name the vehicle has been registered, or the owner of a construction machine requiring no registration.</p> <p>(4)The special water charge payer referred to in indentations 4 of point 3 in paragraph 1 of this Article shall be a physical or legal person producing or importing artificial fertilizers or plant protection products.</p> <p>(5)The special water charge payer referred to in indentations 1 and 2 of point 5 in paragraph 1 of this Article shall be the owner of the respective land or structure.</p>	<p>name the means of transport is registered.</p> <p>(4) Special water charge payers referred to in point v), indent 4) of paragraph 1 of this Article shall be subject that produces or imports artificial fertilizers or plant protection products.</p> <p>(5) Special water charge payers referred to in point d), indents 1) and 2) of paragraph 1 of this Article shall be the owner or user of respective land, surface and/or building.</p>
<p><b>Article 171 (Rates of special water charges)</b></p> <p>The rates for the special water charges referred to in Article 170 of this Law shall be determined by the Federation Government, on the joint proposal of the Federal Ministry and the federal minister with competence for the environment, with the prior agreement by the federal finance minister.</p>	<p><b>Article 190 (Rates of special water charges)</b></p> <p>The rates for the special water charges referred to in Article 189 of this Law shall be determined by the Government on the proposal of the Ministry except for cases set forth in point d), indents 1) and 2), paragraph 1 of Article 189, which represent revenues of the local self-government units on whose territory the land is located, and as such are defined by this administration.</p>
<p><b>Article 177 (Distribution of water revenues )</b></p> <p>(1)The water charges referred to in Articles 169 and 170 of this Law and revenues generated by the lease of public water property shall be distributed as follows: 40% to the competent River Basin District Agency, 45% to the budget of the canton and 15% to the Federation Environment Protection Fund</p> <p>(2)The revenues from the lease of public water property on Category II surface waters shall be fully allocated to the cantonal budget.</p> <p>(3)The cantons shall establish institutions for the utilization of the funds referred to in point 1 of paragraph 1 and paragraph 2 of this Article, by means of the regulation referred to in paragraph 1 of Article 167 of this Law.</p> <p>(4)The distribution of funds referred to in paragraph 1 of this Article may be redefined. The need to redefine the distribution</p>	<p><b>Article 194 (Distribution of water revenues)</b></p> <p>(1) The water charges referred to in Article 189 and revenues generated by the lease of public water property shall be monitored by the Ministry for every river basin district separately, and competent body shall distributed charges referred to in the given Article, except the one under point v), indents 1), 2) and 3), paragraph 1 of Article 189, as follows: a) 70% to the special purpose account for waters, b) 30% to the special purpose account of the local self-government units' budgets.</p> <p>(2) Charges under point v), indents 1), 2) and 3), paragraph 1 of Article 189, the competent body shall distribute as follows: a) 55% to the special purpose fund for waters, b) 15% to the special purpose account for protection of environment in Republika Srpska, and v) 30% to the special purpose account</p>



<p>of funds shall be decided bi-annually by the Federation Government on the joint proposal of the Federal Ministry, the federal ministry with competence for the environment and the cantonal ministries with competence for water.</p>	<p>of the local self-government units' budgets.</p> <p>(3) The distribution of funds referred to in paragraph 1 of this Article may be redefined in regard to funds distributed to the local self-government units. The ministry shall assess the need to redefine the distribution every two years.</p> <p>(4) The Government shall pass a special decision on adopted distribution of water charges in accordance with paragraphs 2 and 3 of this Article on the proposal of the Ministry.</p> <p>(5) The funds for protection of environment in Republika Srpska referred to in paragraph 2, point b) of this Article shall be solely intended for protection of waters in the area of environmental protection.</p>
<p style="text-align: center;"><b>Article 178 (Use of revenues )</b></p> <p>(1)The revenues referred to in point 1 of paragraph 1 of Article 177 of this Law shall be used for: the activities and tasks referred to in Articles 29 and 156 of this Law, the maintenance of the water control structures in the ownership of the Federation, other tasks and activities delegated to the River Basin District Agency under this Law, and the operation of the River Basin District Agency.</p> <p>(2)The revenues referred to in point 2 of paragraph 1 of Article 177 of this Law shall be used for co-financing of the construction and maintenance of the water structures referred to in paragraph 1 of Article 14 of this Law, with the exception of the structures referred to in indentations 2, 4, 5 and 6 of point 3 of that Article, and also of other activities related to water management (preparing technical documentation, as a basis for the issuance of concessions and similar activities) in accordance with the annual plan and program of the cantonal ministry with competence for water.</p> <p>(3)The revenues referred to in point 3 of paragraph 1 of Article 177 of this Law shall be used exclusively for the implementation of tasks delegated under this Law to the federal ministry with competence for the environment and for the co-financing of the water protection infrastructure of significance to the Federation.</p>	<p style="text-align: center;"><b>Article 195 (Use of revenues)</b></p> <p>(1) The revenues referred to in point a), paragraph 1 of Article 188 of this law shall be used for: a) expert-technical tasks in terms of application of provisions of this law and its implementation and especially for: 1) preparation of temporary water management plans, 2) preparation of water management plans, 4) establishment and work of the Information system, 5) maintenance of facilities owned by Republika Srpska, local self-government units or third parties, if the facilities are of general interest, 6) implementation of emergency activities in water sector on the territory of Republika Srpska, 7) operating costs and operation of the agencies for waters, 8) operating costs and operation of public water companies, 9) costs of developing, establishing and maintaining Information system, scientific and expert work, 10) support to establishment and development of qualified institutions or subjects, which are important for water sector, 11) development of the sector by financing construction of water facilities and systems, improvement of technical, material, personnel and other capacities.</p> <p>(2) On the proposal of the Ministry the Government shall in a special decision define use of the funds referred to in paragraph 1 of this Article, and other funds, aimed at achieving sustainable management and maintenance of the integrated water managements system on the territory of Republika Srpska in accordance with this Law.</p> <p>(3) The local self-government units shall pass special decisions, in line with paragraph 1 and 2 of this Article, for facilities and activities under their competence in accordance with this Law.</p> <p>(4) The ministry shall coordinate and monitor application-specific spending of the funds referred to in Article 188 and in</p>



	regard to Article 194 of this Law, and shall submit to the Government information with proposals by the end of fourth quarter of current year.
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The RS Framework development plan and the Action plan for implementation of the RS Framework water management development plan for the period 2007-2016 concluded that financial projection for revitalization and system development by manifold exceeds the needs in terms of volume of the funds and becomes a huge entity, and even though a state problem. Obtaining necessary funds to finance water sector by reintroducing general water fee and realistic water prices still has not been initiated even though this solution was proposed by the European Commission. The expectations that the missing funds will be obtained through the RS budget were not met due to chronic budget insolvency at all levels of authority in BiH, as well as in RS.

Similar evaluation on the flood protection in Bosnia and Herzegovina is given in the documents "Threat assessment of natural or other disasters in BiH", which reads that areas along the Sava river and partly along the Neretva river are appropriately protected against flooding (where the most frequent problem is inadequate management of hydro-accumulations), while the protection systems on Sava tributaries are not completed or do not exist, not including urban areas. The most recent floods during which cities Maglaj, Doboj and Šamac on Bosna river were flooded as well as area along Sava river, downstream from Brod, indicate that the areas along the Sava river are not appropriately protected, and that the areas where flood protection system were not in place at all are especially vulnerable.

There are three agencies for water management and river basin management in Bosnia and Herzegovina, and work of these agencies is under competence of the entities. There are two agencies in the Federation of Bosnia and Herzegovina: Public Enterprise for "Water area of Sava River Basin" in Sarajevo and Public Enterprise for "Water are of Adriatic Sea basin" in Mostar. In Republika Srpska there is only one institution Public institution "Waters of Srpska" (loc. Vode Srpske) located in Bijeljina and which manages waters, public water property, and hydro-technical facilities and systems, rivers, streams, lakes on the territory of Republika Srpska.

When we are speaking about funding of Agencies for Water Areas in the BiH Federation (Adriatic Sea and Sava River) at the beginning we had underlined that the BiH Federation Government, on proposal of Ministry of agriculture, water management and forestry, had at the beginning of 2012 adopted framework and financial plans of these institutions for period 2012-2014. The table below shows projection of the total funds planned in line with above-mentioned plan for the last three years, and we have also given the review of certain individual budgetary items.

COSTS AND EXPENDITURES	WATER AREA OF ADRIATIC SEA			WATER AREA OF SAVA RIVER			AGGREGATE ESTIMATE
	Estimate for 2012	Estimate for 2013	Estimate for 2014	Estimate for 2012	Estimate for 2013	Estimate for 2014	
				13.800.000	14.000.000	14.250.000	<b>60.290.000</b>

**FLOODS IN BIH – Natural disaster and/or institutional inefficiency**

TOTAL	5.845.000	5.940.000	6.455.000				
Expenditures for activities of protection against harmful effects of waters and for maintaining and regulating watercourses	1.675.000	1.345.000	1.445.000	6.700.000	6.900.000	7.150.000	<b>25.215.000</b>
OPERATING COSTS for functioning of the Agency for Adriatic sea (including gross wages and other contributions of employees)	2.070.000	2.230.000	2.415.000	4.400.000	4.400.000	4.400.000	<b>19.915.000</b>

In terms of incomes of the “Agency for water area of Adriatic sea basin” in the period 2012 – 2014 the plan is to to acquire the largest funds under the “General water charge”, and “Special water charges” for water use, water protection and extraction of sand and gravel. The projection lists another item “Special water charge for protection against floods”, but no funds were planned under this charge.

The incomes of the “Agency for water area of Sava river basin” are planned through “General water charge”, as well as based on following “Special water charges”: for the use of surface waters and groundwater, for water used for electricity generated by hydropower; water protection charge - paid by owners of vehicles using oil and oil derivatives as fuel; for wastewater discharge; for fish farming; for the use of artificial fertilizers and plant protection products; for the extraction of material from watercourses.

So the plan was to collect 60.290.000 KM in the BiH Federation through the activities of the two agencies for water area in the period 2012 – 2014. A total of 25.215.000 KM would be spent for protection against harmful effects of water and maintenance and regulation of watercourses (41,8% of the total sum), and 19.915.000 KM would be spent for functioning of these agencies (33% of the total sum – wages and contributions, lease of premises and other running costs, equipment maintenance, travel and services of experts).

In terms of budget realization we will firstly focus on activities of the Agency for water area of Adriatic Sea basin <http://www.jadran.ba/>. After considering reports on realization of the budget of the “Agency for water area of Adriatic sea basin” for the perio

present Government is 17.034.403,54 KM, whereof 4.700.795,91 KM (approximately 27,6% of the total amount) was spent for protection of harmful effects of waters and maintain ace and regulation of watercourse during 2011, 2012 and 2013, with the plan for 2014. At the same time 23,7% of the total realized budget, i.e. 4.035.650 KM was spent on gross wages and other contributions of 22 employees in four years. Approximately 6.714.000 KM will be spent in the period 2011 – 2014 on functioning of the “Agency for water area of Adriatic sea basin”.

	<b>2011</b> (Realization of the budget)	<b>2012</b> (Realization of the budget)	<b>2013</b> (Realization of the budget)	<b>2014</b> (Financial plans)	<b>AGGREGATE</b> <b>REVIEW</b> 2011-2014
<b>Realized budget in total (expenditures)</b>	<b>4.129.507,52</b>	<b>3.419.855,82</b>	<b>3.700.040,20</b>	<b>5.785.000,00 (plan)</b>	<b>17.034.403,54</b>
Funds earmarked for protection against harmful effects of waters and maintenance and regulation of watercourses	1.267.714,33 (30,70%)	742.437,69 (21,7%)	1.225.643,89 (33,1%)	1.465.000,00 (25,1%)	<b>4.700.795,91</b>
PERATING COSTS for functioning of the Agency for Adriatic sea (including gross wages and other contributions of employees)	1.679.214,79 (40,6%)	1.590.450,05 (46,5%)	1.544.312,73 (41,7%)	1.900.000,00 (32,8%)	<b>6.713.977,57</b>
Gross wages and other contributions of employees (part of expenditures for functioning of the Agency)	979.131,03 (23,7%)	946.729,55 (27,7%)	989.833,66 (26,7%)	1.120.000,00 (19,4%)	<b>4.035.694,24</b>

The following items are important for us in analyzing realization of the budget of the Agency for water area of Sava river basin <http://www.voda.ba/>:

According to the 2011 Business Report<sup>80</sup>, the total expenditures of the Agency in 2011 were 13.746.317,98 KM. A total of 353.478,92 KM were spent on procurement of fixed assets. The total expenditures with funds spent for procurement of fixed assets represent total realization of the Plan and Financial Plan of the Agency for 2011 in the amount of 14.099.796,90 KM.

<sup>80</sup> 2011 Business Report - [http://www.voda.ba/udoc/lzvjestaj\\_o\\_poslovanju\\_za\\_2011\\_godinu.pdf](http://www.voda.ba/udoc/lzvjestaj_o_poslovanju_za_2011_godinu.pdf)

According to the 2012 Business Report <sup>81</sup> the total expenditures of the Agency in 2012 were 13.587.792,06 KM. A total of 477.773,68 KM were spent on procurement of fixed assets. The total expenditures with funds spent for procurement of fixed assets represent total realization of the Plan and Financial Plan of the Agency for 2012 in the amount of 14.065.565,74 KM.

The business reports of this institution for 2013 and 2014 were not published and it can be understood for current year, but not for 2013. The information that we have at our disposals are financial plans. According to the changes and addenda of the Plan and financial plan for 2013<sup>82</sup> the total planned expenditures are 16.480.000 KM, whereof 7.503.401,17 KM were planned for ongoing and development investments to water facilities (for the purpose of maintenance of water control facilities owned by the BiH Federation 3.462.963,41 KM), and 4.040.437,76 KM for prevention activities and flood defense activities on surface waters and category I waters.

According to the plan for 2014<sup>83</sup> the Agency should acquire incomes in the amount of 14 million KM, whereof it plans to spend 7.185.000 KM on ongoing and development investments to water facilities.

Item	Realized in 2011	Realized in 2012	Changes and addenda to 2013 Plan	Planned in 2014	AGGREGATE REVIEW 2011-2014
<b>Realized budget (expenditures)</b>	<b>14.099.796,90</b>	<b>14.065.565,74</b>	<b>16.480.000,00 (plan)</b>	<b>14.000.000,00 (plan)</b>	<b>58.645.362,64</b>
Ongoing and development investments to water facilities	7.062.872,06	5.847.342,39	7.503.401,17	7.185.000,00	<b>27.598.615,62</b>
Operating costs of the agency	3.601.111,17	4.218.567,08	4.400.000,00	4.630.000,00	<b>16.849.678,25</b>

After considering reports on realization of the budget of the “Agency for water area of Sava river basin” for 2011 and 2012 and the plan for 2013 and 2014 budget, and as shown in the table above, the approximate sum of expenditures of this institution during last for years is 58.645.362,64 KM, whereof 27.598.615,62 KM (approximately 47% of the total amount) was spent on ongoing and development investments to water facilities<sup>84</sup> during 2011 and 2012, with the 2013 and 2014 plan. At the same time

<sup>81</sup> 2012 Business Report - [http://www.voda.ba/udoc/lzvjestaj\\_o\\_poslovanju\\_za\\_2012\\_g\\_usvojena\\_verzija.pdf](http://www.voda.ba/udoc/lzvjestaj_o_poslovanju_za_2012_g_usvojena_verzija.pdf)

<sup>82</sup> Changes and addenda to the 2013 Plan and Financial plan  
[http://www.voda.ba/udoc/lzmiene\\_i\\_dopune\\_Plana\\_i\\_finansijskog\\_plana\\_za\\_2013\\_godinu-usvojeno.xlsx](http://www.voda.ba/udoc/lzmiene_i_dopune_Plana_i_finansijskog_plana_za_2013_godinu-usvojeno.xlsx)

<sup>83</sup> Plan and financial plan for 2014 - [http://www.voda.ba/udoc/Plan\\_i\\_finansijski\\_plan\\_2014.pdf](http://www.voda.ba/udoc/Plan_i_finansijski_plan_2014.pdf)

<sup>84</sup> Costs of preparation and regular maintenance of facilities owned by the BiH Federation, prevention activities and flood protection activities on the surface waters of Category I, costs of flood defense on territory under jurisdiction of the Agency, recovery of dams, landslides, bank revetments, etc....

## FLOODS IN BIH – Natural disaster and/or institutional inefficiency

28,7% of the total realized budget, i.e. 16.850.000 KM will be spent on functioning of the Agency for water area of Sava river basin in the period 2011-2014.

Nevertheless if we go back to three-year plans of these two Agencies, which were realized at the beginning of 2012, and if we compare them with current plans and available reports on budget realization, we will see that deviations are not big.

BiH FEDERATION AGENCIES FOR WATER AREAS OF SAVA RIVER BASIN AND ADRIATIC SEA BASIN		
	Funds planned based on general financial plans for the period 2012-2014	Information on realization of the budgets of these institutions based on adopted reports, and annual plans of these institutions
<b>TOTAL</b>	<b>60.290.000 KM</b>	<b>57.450.461,76 KM</b>
Ongoing and development investments to water facilities	<b>25.215.000 KM</b>	<b>23.968.825,14 KM</b>
Operating costs of the agencies	<b>19.915.000 KM</b>	<b>18.283.329,86 KM</b>

It can be concluded that the funds during last few years were spent in line with the plan, but the last floods had shown that the plans like this couldn't provide adequate response in the event of emergency situations. The general plans of the BiH Federation Agencies for water areas were not adequately harmonized with the potential of possible extreme rainfall in BiH, and thus the funds were not sufficiently allocated for the ongoing and development investment to water facilities aimed at maintaining water control structures owned by the BiH Federation, and to prevention activities and flood protection activities on surface waters of Category I.

At the end we will turn to the true problem, and that is non-existence of the newer flood risk maps, which should be foundation for development of the future general plans and financial plans of the BiH Federation agencies for water areas. The adoption of these plans is already delayed. These plans for the period 2014 – 2016 should have been adopted already in the first half of 2014, and there is no need to stress the fact that funds allocated to "Ongoing and development investments to water facilities" must be much higher and much efficiently invested.

When it comes to Republika Srpska, through the analysis of available information we did not manage to find multiyear general programs and financial plans of the Public Institution "Vode Srpske" (Waters

of Srpska) - <http://www.voders.org/>. Truth to be told, this institution was established in 2013, but the web page does not contain working programs or working reports for the last and current year not it contains working plan, financial plans and working reports of the Agencies for Sava River Basin District and Trebišnjica River Basin District, which were merged into the Public Institution "Vode Srpske".

Contrary to the budgets of the BiH Federation Agencies, the budgets of the Agencies for water areas in RS (Trebišnjica and Sava river) for 2011 and 2012 do not indicate how much funds will be allocated to prevention actions and flood protection activities on surface waters – watercourse that are responsibility of the entities. It is stated that the expenditures of these agencies were directed to construction and acquisition of buildings and water facilities, for development maintenance and reconstruction, for procurement of plants and equipment, for non-material property, and for stocks of materials, goods and small inventory. In the next paragraphs we have presented excerpts from available documents regarding realization of the budgets of closed agencies for waters of Trebišnjica and Sava River Basin District, and of the Public Institution "Vode Srpske".

According to the consolidated report<sup>85</sup> on execution of the budget of Republika Srpska for 2011 the costs of the Agency for waters of Trebišnjica River Basin District for 2011 were serviced from the grants and the RS budget in the total amount of 3,910,390 KM<sup>86</sup>. The funds were directed to cover operational costs of the agency, but also to cover the costs of construction and acquisition, and for development maintenance, reconstruction and rehabilitation of water facilities. A total of 566.907 KM was spent for the operational costs of the Agency (wages, overhead costs, travels.....) or 14.5% of the total budget. Almost two thirds of the budget were spent for construction and acquisition of buildings and water facilities 2.503.851 KM, and these were grant funds.

The funds allocated Agency for waters of Sava River Basin District were 9.013.728 KM. In case of this agency we see that the expenditures related to operation of the agency (maintenance, wages, overhead costs, expert services) are much more represented as a percentage in the total budget and amount 6.595.040 KM, or 73% of the total budget. Remaining funds were used for investments, procurement of plants and equipment i.e. for the activities that are directed toward maintenance of watercourses and water facilities.

According to the Consolidated Report<sup>87</sup> on execution of the budget the Agency for waters of Sava River Basin District in 2012 had 7.531.693 KM at its disposal. The funds, as in 2011, were mostly spent on operational costs in the amount of 5.240.076 KM, or 69,6% of the total budget.

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<sup>85</sup> <http://www.vladars.net/sr-SP-Cyrl/Vlada/Ministarstva/mf/Servisi/Poslovanje/Documents/Konsolidovani%20izvjestaj%20o%20izvršenju%20budzeta-%202011.pdf>

<sup>86</sup> The funds that were managed by the Agency for waters of Trebišnjica River Basin District were mostly spent on costs for construction and acquisition of buildings and facilities in the amount of 2.503.851 KM. The next item that was financed from these funds are the costs for maintenance and reconstruction in the amount of 691.727 KM.

<sup>87</sup> <http://www.vladars.net/sr-SP-Cyrl/Vlada/Ministarstva/mf/PPP/Budzet/Konsolidovani%20izvjestaj%20o%20izvršenju%20budzeta%20Republike%20Srpske%20za%202012.%20god.pdf>

## FLOODS IN BIH – Natural disaster and/or institutional inefficiency

According to the same report, the Agency for waters of Trebišnjica River Basin District had 818.511 KM at its disposal in 2012. This agency had spent 560.535 K or 68,5% of the total budget on operational costs (wages, overheads, lease, travel, expert services...). Remaining funds were spent on construction and acquisition, procurement of plants and equipment, stock of materials and other activities on maintenance of watercourses and flood protection.

At the time this analysis was prepared the authorities of Republika Srpska did not adopt the Consolidated report on execution of the budget for 2013 thus violating the Law<sup>88</sup> on the budgetary system of RS and its Article. On two occasions we have tried to get the Working report of the Public Institution "Vode RS" (Waters of Srpska) for 2013, which the RS Government had adopted on April 09, 2014, but unfortunately this report was not delivered. Here we can talk about violation of yet another law – the RS Freedom of Information Act. Namely, since 2013 the Public Institution "Vode Srpske" has been receiving financial transfer for its work from the Ministry of agriculture, forestry and water management. In 2013<sup>89</sup> this transfer amounted 8.149.000 KM, while the same amount is planned to be transferred<sup>90</sup> in 2014.

TOTAL EXPENDITURES OF THE COMPETENT REPUBLIC WATER MANAGEMENT AGENCIES / INSTITUTIONS				
PERIOD 2011 – 2014				
	Real !e" # 2011	Real !e" # 2012	B\$""e&'() 201*	B\$""e&'() 2014
A, e%./ '&! 4"te!# &' "- " li-e! 3"#i% *i#t!i. t	9.013.728 K6	7.531.693 K6		
A, e%./ '&! 4"te!# &' T!e3i7%li. " !i-e! 3"#i% *i#t!i. t	3.910.390 K6	818.511 K6		
P(3)i. l%#tit(ti&% 89&*e !0#:e;			8.149.000 K6	8.149.000 K6
TOTAL+	12,-24,11. /M	.,*00,204 /M	.,14-,000 /M	.,14-,000 /M

TOTAL EXPENDITURES OF COMPETENT REPUBLIC WATER MANAGEMENT AGENCIES / INSTITUTIONS FOR PURPOSE OF CONSTRUCTION AND INVESTMENTS TO MAINTAINANCE ACTIVITIES RECONSTRUCTION AND REHABILITATION OF WATER FACILITIES OF THE PERIOD 2011 2 2014				
	Real !e" # 2011	Real !e" # 2012	B\$""e&'() 201*	B\$""e&'() 2014
A, e%./ '&! 4"te!# &' "- " li-e! 3"#i% *i#t!i. t	2.418.688 K6	2.291.617 K6		

<sup>88</sup> The Ministry is obligated to deliver a report on execution of the RS budget for the previous fiscal year to the Government no later than April 30 of the current fiscal year. The Government is obligated to file the report on execution of the RS budget for previous fiscal year to the RS National Assembly no later than May 31 of the current fiscal year.

<sup>89</sup> See: Official Gazette of RS, number 25/13

<sup>90</sup> See: Official Gazette of RS, number 21/14



## FLOODS IN BIH – Natural disaster and/or institutional inefficiency

A, e%. / '&! 4''te!# &' T!e3i7%li. " !i-e! 3''#i% *i#t!i. t	3.343.483 K6	257.976 K6		
P(3)i. l%#tit(ti&% 89&*e !0#:e;			405.000 K6	1.010.000 K6
TOTAL+	0,342,131 /M	2,04-,0-* /M	400,000 /M	1,010,000 /M
TOTAL EXPENDITURES OF THE COMPETENT WATER MANAGEMENT REPUBLIC AGENCIES / INSTITUTIONS FOR FUNCTIONING OF THE AGENCIES FOR THE PERIOD 20112014				
	Real !e" # 2011	Real !e" # 2012	B\$""e&'() 201*	B\$""e&'() 2014
A, e%. / '&! 4''te!# &' "- !i-e! 3''#i% *i#t!i. t	6.595.040 K6	5.240.076 K6		
A, e%. / '&! 4''te!# &' T!e3i7%li. " !i-e! 3''#i% *i#t!i. t	566.907 K6	560.535 K6		
P(3)i. l%#tit(ti&% 89&*e !0#:e; <sup>91</sup>			7.744.000 K6	7.744.000 K6
TOTAL+	3,141,-43 /M	0.,00,411 /M	7.744.000 K6	3,1*-,-000 /M

The provided information indicate that the budgets of Republika Srpska for the last four years completely failed to portray the intention of the entity level to invest more serious funds aimed at maintaining primary river channels, water facilities, and infrastructure that could have influenced the increase of flood prevention and flood protection in Republika Srpska.

At the same time it is evident that the budgets of water agencies, i.e. Public Institution "Vode Srpske", have been reducing since 2013, and these are the most responsible institutions for management of waters, public water property, as well as hydro-technical facilities and systems, rivers, streams, and lakes in Republika Srpska. When compared with the draft Budget for 2014 we can see that since 2011 the investment to this area in Republika Srpska had been reduced for 4.775.118 KM, or 37%. Thereby the expenditures for functioning of these institutions, including wages of the employees of the Public Institution "Vode Srpske", remained at the level identical to the level during last four years, while the expenditures that are, inter alia, used for maintenance of water facilities had been reduced in last four years for 17,5% or nominally for more than 4,5 million KM.

As we had underlined several times in this analysis all surveys conducted by foreign and domestic experts had actually warned that more funds must be for these purposes. The need to invest more funds to flood prevention and flood protection rests on the fact that the water-level of rivers (seas, oceans) had globally increased due to climate changes, but also on the fact that system for protection

<sup>91</sup> Since 2013 there is one company Public Institution „Vode Srpske“ and the funds are transferred from the Ministry of agriculture, forestry and water management of Republika Srpska to the account of this company.

against waters in BiH are obsolete, inadequate to meet potential needs, and significantly destroyed during the last conflict.

It is very important to provide some space in this analysis to mention that the only institution, which in the certain way conducted an integrated evaluation of the functionality of the flood prevention system, was the Audit office for the FBiH Institutions. The report of the Audit Office for BiH Federation institutions on water management could be an example for all levels of authority. The office had prepared a high quality and comprehensive “Audit report on effects of flood prevention activities in the BiH Federation”<sup>92</sup> in 2013 evaluating efficiency of the activities based on the principles of cost-efficiency, effectiveness and competence. This was the first time that the practice of financial audit and preparation of reports for individual institutions involved in the system of preventive flood protection shifted to the new auditing system. The audit reports give many information and bold conclusions and recommendations that present the situation in this area and propose solutions to the identified problems. In the certain way the conclusions given in the reports can be found to be a representational overview of the actual situation in the entire country.

Identical to the state level where many problems in coordination and financing were observed, the BiH Federation auditors also concluded that “it is not possible to achieve efficient preventive flood protection in a fragmented system with divided competencies and using a fragment financing system”, and that:

- All necessary activities were not undertaken during the audited period in order to make the protection system functional. Only 25% of all funds collected from water charges in the BiH Federation was spent for flood protection.
- Constructed water control facilities were destroyed during the war period and as such they cannot ensure efficient protection against floods in the threatened area. During the audited period the agencies had spent only 8,3% of the funds for development investments and regular maintenance of constructed water control facilities.
- During the audited period the cantons were earmarked approximately 20 million of funds more than they received under earlier Law on waters. Nevertheless, the cantons spent only 3% (or around 3 million KM) of these funds for protection against floods on surface waters under their competence

The BiH Federation auditor also concluded that independent planning and implementation of preventive activities at all levels of authority, without coordination and harmonization at the water area are poor foundation for achieving efficiency in the area of protection against flood.

The above-given conclusions stem from the several important auditor's conclusions where the most serious one is that establishment of the flood protection system planned under the “Draft Master

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<sup>92</sup> [http://www.saifbih.ba/javni-izvj/ucinak/pdf/Izvj\\_RU\\_Prevencija\\_poplava\\_u\\_FBIH\\_%20bos.pdf](http://www.saifbih.ba/javni-izvj/ucinak/pdf/Izvj_RU_Prevencija_poplava_u_FBIH_%20bos.pdf)

preventive flood defense plan of the FBiH<sup>93</sup> according to the existing investment tempo will be established only after 40 years instead of 23 years<sup>94</sup>.

The BiH Federation auditors determined that most of the funds were spent on water supply in the municipalities and for protection of drinking water, whereby priorities were defined independently. At the same time, institutions (Agency for waters and Environment Protection Fund) spend the funds from the water charges independently and without any coordination.

The auditors had made significant objection to the fact that the Agencies for water area of Sava river basin and the Adriatic Sea basin, contrary to the EU Directives, had implemented flood prevention measures only on waters of Category I instead on waters of the entire water area. They also concluded that the Agencies had undertaken partial preventive measures on the watercourses of Category I, not implementing integrated projects thus making assessment of the final effects impossible.

At the same time, the analysis on use of the funds from water charges at the cantonal level had shown that most of the cantons do not sufficiently invest<sup>95</sup> to the protection against harmful effects of waters. The practice from the previous period had continued and the cantons spent most of the funds for reconstruction and construction of water supply and sewage network, and minimum of funds had been spent on flood protection on surface waters of Category II for which they are responsible.

Having in mind that every complex system requires a high level of coordination in implementation of the measures, the auditors had also considered this aspect and concluded that coordination between the municipalities, cantons and the BiH Federation institutions responsible for waters at the level of the BiH Federation is not defined by the legislative framework of the BiH Federation. Purpose and manner of flow of information, which are the foundation for planning regular activities for implementation of preventive measures between the institutions in the area of waters in the BiH Federation, are defined only in case of immediate danger and during the floods. The BiH Federation Ministry of agriculture, water management and forestry did not pass policies and procedures for coordination between the institutions at the BiH Federation level and the lower levels of authority at the same water area in the BiH Federation. Lack of procedures and vagueness of the regulations on coordination led to the situation that the lower levels expect information and instruction from higher levels and vice versa. Consequently, each level of authority independently and differently plans and implements measures of protection against harmful effects of waters on watercourses belonging to one water area and these

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<sup>93</sup> The draft Master preventive flood defense plan of the BiH Federation sets forth that 380 million KM is necessary to build the system, and true investments are 56% from the planned investments at the annual level.

<sup>94</sup> The auditor also concluded that the FBiH budget for 2011, 2012 and 2013 does not plan funds for protection against harmful effects of waters even though the financial construction of the draft Master preventive flood defense plan of the BiH Federation sets forth that these funds make for 1/3 of total funds, and 2/3 of funds from water charges. This is also one of the serious reasons that questions reality of implementation of measures planned in strategic and planning documents.

<sup>95</sup> Out of available 36,4 million only 3.1 million was spent on preventive protection for the period 2009 and 2010. Only the Posavina canton had spent all funds from water charges for implementation of preventive measures, while other cantons spent from 0% to 10%. Monitoring spending of the funds in 2010, when massive floods in BiH also occurred and when it was estimated that the damages exceed 500 million KM, the audit then also observed lack of investments to the preventive measures. The funds were primarily invested as emergency interventions during active flood defense and immediately after the floods as rehabilitation measures.

are not harmonized between the different levels responsible for protection against floods in the same water area.

At the same time in terms of water management financing in BiH there are several international projects and credits that area realized or completed in this area. For example on the territory of Republika Srpska according to the Action plan for flood risk management in the Danube river basin to be applied to sub-basin of Sava river (territory of RS) investment of the funds in the amount of 6,037 billion KM is planned for the period 2010-2012. The same plan suggests that it is possible to find the funds to finance entity Action plan and Regional Action program for sustainable flood management in the Danube river basin in the state budgets, EU funds, European Regional Development Fund, LIFE, PHARE, European Solidarity Fund, etc. However, these suggestions at the level of RS are only partly utilized during the last period of time when implementation of huge flood protection project started.

Having in mind that the RS Government did not approve introduction of general water charge and introduction of realistic water prices<sup>96</sup>, immediately after adoption of the “Action plan for flood risk management” the RS Government got a loan, as the only possible mode of financing, in order to adequately implement the Action plan. The project of “Urgent recovery and reconstruction of water control structures in Republika Srpska” was financed from the credit of the European Investment Bank. The entire project, which is financed by the European Investment Bank in the amount of 55 million Euro, encompasses 164 projects and it should have reconstructed the most critical areas threatened by flooding. According to the last year’s statements of the competent institutions, the objective of the project is to avoid the scenario seen in 2010 by implementing planned activities, that is, to prevent floods that had happened in 2010. The floods did happen again on a much bigger scaled and leaving much bigger consequences in 2014 and the impression is that tardiness and indecisiveness of the governments to urgently realize the borrowing procedure<sup>97</sup> had contributed to such a situation.

The practice of borrowing to invest into the flood prevention projects is not only a characteristic of Republika Srpska, but it is widely accepted behavior in the BiH Federation, especially in the cases when the flood protection system has to be improved at the level of one river basin or a water area.

The most recent example of such practice is recent approval of the Agreement on financing “Protection against floods at Drina River” by the BiH Council of Ministers. The project will be financed by the International Development Association (IDA) in the total amount of 24 million US dollars. Part of the funds in proportion of 57,7% is intended for Republika Srpska and 42,5% for BiH Federation, and these funds will be directed to increase level of protection against floods at Drina river on the territory of Bijeljina, as well as in the Goražde canton around city of Goražde.

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<sup>96</sup> The decision of the RS Government can be justified to a certain extend since it would increase the tax burden for the citizens and economy.

<sup>97</sup> The decision on accepting obligations of RS towards the European Investment Bank under project of urgent protection against floods the National Assembly of Republika Srpska adopted at the tenth session held on September 23, 2011, and the project implementation started two years later, in September of 2013.

Huge amounts of funds that are at disposal of institutions of authority for implementation of prevention activities and protection and rescue of people and property, as well as for recovery activities, were a “signal” to the audit offices to pay special attention to the way available funds are spent.

The Main office for audit of RS public sector had given a negative opinion to the RS Ministry of agriculture, forestry and water management, and the Agency for Sava River Basin District<sup>98</sup> got an opinion with reserve after audit of financial reports from 2012. Truth to be told, the reason for negative opinion to the Ministry of agriculture, forestry and water management of RS did not so much lie in the water management sector, but the opinion with reserve given to the Agency for Sava River Basin District read that “information on obligations and expenditures are not relevant and reliable” and that the procedure of selecting contractors and services for regular maintenance was not conducted in line with the BiH Law on public procurements.

All previously presented facts and the problems that have surfaced after the last floods do not confirm the thesis<sup>99</sup> that “protection against floods represents one of the best organized water management sub-sectors”, but that much more has to be done in order to be able to feel concrete effects not only from the water management sector, but also from other institutions involved in the protection against floods. Therefore the Main Office for audit of RS Public sector could give significant contribution, if it would audit effects of flood prevention in RS as it was done by the Office for audit of the FBiH institution.

Unlike the BiH Federation civil protection administration, which had received a negative opinion, the RS Civil protection administration got a positive opinion for 2012.

### **5.3. Funding of the protection and rescue of people and property at the entity level**

**Table 2: Excerpts from the entity legislation regarding funding of protection and rescue of people and property**

<b>PROTECTION AND RESCUE OF PEOPLE AND PROPERTY</b> <b>(Entity laws on protection and rescue...)</b>	
<b>BiH Federation</b>	<b>Republika Srpska</b>
<b>Article 179 (Funding of civil protection)</b>  Protection against natural and other disasters in the FBiH shall be financed from: 1) the budget of the BiH Federation, cantons and municipalities; 2) funds from legal entities; 3) insurance; 4) voluntary contributions; 5) international aid; 6) other sources defined in this or other law.	<b>Article 153</b>  (1) Protection against natural and other disasters shall be financed from: a) the budget of the Republika Srpska, municipality and/or city, b) contributions, donations, gifts and international assistance and v) other sources in accordance with the Law.  (2) Municipality and/or city shall plan and earmark 2% of

<sup>98</sup> The auditors' opinion was given for business operations of the Agency for Sava River Basin District in 2011. The Agency for Sava and Trebišnjica River Basin District was reorganized in the Public Institution “Vode Srpske” by decision of the RS Government in 2013, and the audit report for the newly-established institution is still not published.

<sup>99</sup> As stated in the “Action plan for sustainable flood risk management in the Danube river basin to be applied to the Sava river sub-basin on the territory of Republika Srpska” (period 2010 – 2014)

	special funds in the budget, whereof 50% shall be used for implementation of preventive activities, and 50% for equipping and training protection and rescue structures and shall inform the Ministry on earmarked and spent funds.
<p style="text-align: center;"><b>Article 180</b></p> <p>All legal entities and citizens, who are self-employed and public administration bodies of all levels of authority in the BiH Federation shall pay special fee<sup>100</sup> for protection against natural and other disasters in the amount of 0,5% of the basis consisting of paid net wage of all employees employed on an indeterminate period and all persons engaged under contract to conduct temporary and occasional services and all persons working under temporary service contract.</p> <p>Special fee referred to in paragraph 1 of this Article shall be calculated and paid at the same time the wages are paid. Payer, who failed to pay the special fee within defined deadline, shall pay a daily interest rate of 0,06% for every day of late payment.</p> <p>The funds collected under provisions of paragraph 1 to 3 of this Article shall be kept on a special transaction account of the budget of the BiH Federation, canton and municipality. The funds referred to in paragraph 4 of this Article shall be distributed as follows: 20% to the BiH Federation to be exclusively used for the purposes set forth in Article 182, points 2 to 5, 30% to the canton to be exclusively used for the purposes set forth in Article 183, points 2 to 6, and 50% to the municipality in which these funds were collected, to be exclusively used for the purposes set forth in Article 184, points 2 to 7 of this Law.</p> <p>The funds on the transaction account referred to in paragraph 4 of this Article shall not be liquidated at the end of a calendar year, but the funds shall be accumulated together with the funds that are collected during the next year.</p> <p>The BiH Federation Government, on the proposal of the BiH Federation administration, shall determine conditions and procedures for use of funds acquired under special fee referred to in paragraph 1 of this Article. The BiH Federation Minister of finance shall pass regulations on procedure for calculation and payment of the special fee referred to in paragraph 1 of this Article.</p>	

<sup>100</sup> The BiH Federation Government had in the Decision from January 05, 2012 defined conditions and procedures for use of the funds acquired based on special fees for protection against natural and other disasters. The decision regulates that the funds for special fees are exclusively used for the purposes set forth in the Law on protection and rescue of people and property, and that the funds will be used based on the Annual plan to be adopted for every budget year and which contains all tasks from the Protection and rescue development program planned to be financed during a year.

<p style="text-align: center;"><b>Article 181</b></p> <p>Necessary funds to finance obligations of the BiH Federation set forth in Article 182 of this Law shall be ensured in the budget of the BiH Federation. Necessary funds to finance obligations set forth in Article 183 shall be ensured in the budget of a canton, and in the budget of municipality for financing obligations set forth in Article 184 of this Law. The BiH Federation administration, cantonal civil protection administrations and the municipal civil protection service may obtain additional incomes by conducting their basic activities, which shall be exclusively used to finance the activities referred to in Articles 182 to 184 of this Law.</p> <p>The funds intended for financing protection and rescue set forth in a special law, such as “solidarity stamp” or part of collected fire insurance premiums and other funds intended for such purposes, shall be collected and used by the civil protection for purposes set forth in this Law.</p>	
<p style="text-align: center;"><b>Article 182</b></p> <p><b>The BiH Federation shall finance:</b> 1) establishment, equipping and work of the BiH Federation administration; 2) preparation, equipping and training of the BiH Federation headquarters, protection and rescue services and specialized civil protection units founded by the BiH Federation, as well as costs of their participation in implementation of protection and rescue measures order by the BiH Federation Headquarters; 3) provision of material assistance to protection and rescue services, especially for procurement of specific equipment and for provision of training to members of the services on how to use the equipment; 4) provision of material assistance to cantons and municipalities to eliminate harmful effects of natural and other disasters, to prevent further damage and to ensure basic conditions for living to the people in the affected area; 5) research and development project important for organization and implementation of protection and rescue from natural and other disasters; 6) if necessary, provision of financial assistance/support to the cantons and municipalities for equipping and training of protection and rescue services and civil protection groups; 7) training of cantonal civil protection headquarters in accordance with Article 164, paragraph 5 of this Law; 8) other protection and rescue needs in accordance with the Law and other regulations.</p> <p>The BiH Federation may exceptionally use part of the funds referred to in Article 180, paragraph 4 to finance preventive protection and rescue measures under conditions that part of the funds for such purposes is ensured in the BiH Federation budget and if the preventive measures are set forth in the BiH Federation program and annual plan for program implementation, but the funds cannot exceed 20% of the funds collected during a budget year.</p> <p>The BiH Federation Government shall on proposal of the BiH</p>	<p style="text-align: center;"><b>Article 154</b></p> <p><b>Republika Srpska shall finance:</b> a) establishment, equipping and work of the civil protection administration, b) preparation, equipping and training of the RS Emergency Situation Headquarter, specialized protection and rescue units in Republika Srpska and costs of participation in implementation of protection and rescue measures, v) provision of material assistance to services set forth in Article 8 of this Law to implement protection and rescue measures, procurement of social equipment through the Ministry in accordance with the possibilities and by the decision of the competent body of RS, as well as provision of training to members of the services on how to use the equipment, g) provision of material assistance to eliminate harmful effects of natural and other disasters, to prevent further damage and to ensure basic conditions for living in the affected areas in accordance with the possibilities and by the decision of the competent body of RS and d) other protection and rescue needs in accordance with this Law and other regulations.</p>



<p>Federation administration decide on use of the funds for purposes referred to in paragraph 2 of this Article.</p>	
<p style="text-align: center;"><b>Article 183</b></p> <p><b>The cantons shall finance:</b> 1) establishment, equipping and work of the cantonal civil protection administration; 2) preparation, equipping and training of the cantonal headquarters, protection and rescue services and civil protection units that are established by the canton, as well as costs of their participation in implementation of protection and rescue measures order by the cantonal civil protection Headquarters; 3) equipping and training of business operators and other legal entities when tasks assigned to these entities exceed their material possibilities; 4) construction and maintenance of public shelters; 5) recovery of part of damages caused by natural or other disaster, in line with their possibilities; 6) research and development projects of importance for organization and implementation of protection and rescue from natural and other disasters; 7) training of population; 8) if necessary provision of financial support to municipalities in achieving their protection and rescue duties; 9) other protection and rescue needs in accordance with the Law and other regulations.</p> <p>A canton may exceptionally use part of the funds referred to in Article 180, paragraph 4 of this Law and belonging to the canton, as an emergency measure to finance preventive protection and rescue measures under condition that part of the funds for such purposes is ensured in the cantonal budget and if the preventive measures are set forth in the development program and annual plan for program implementation, but the funds cannot exceed 20% of the funds collected during a budget year.</p> <p>The Cantonal Government shall on proposal of the cantonal civil protection administration decide on use of the funds for purposes referred to in paragraph 2 of this Article.</p>	
<p style="text-align: center;"><b>Article 184</b></p> <p><b>A municipality shall finance:</b> 1) equipping, training and work of the municipal civil protection service; 2) preparation, equipping and training of the municipal civil protection headquarters, protection and rescue services and civil protection units that are established by the municipality and municipal civil protection commissioners, as well as costs of their participation in implementation of protection and rescue measures order by the municipal civil protection Headquarters; 3) equipping legal entities when tasks assigned to these entities exceed their material possibilities; 4) adaptation and maintenance of other water control facilities for the purpose of providing shelter to people and goods; 5) procurement and maintenance of the emergency alert system; 6) recovery of part of damages caused by natural or other disaster, in line with its possibilities; 7) other protection and rescue needs in accordance</p>	<p style="text-align: center;"><b>Article 155</b></p> <p><b>A municipality and/or a city shall finance:</b> a) preparation, equipping, training and work of the emergency situation headquarters, civil protection units and teams and municipal/city protection and rescue commissioners, as well as costs of their participation in implementation of protection and rescue measures, b) adaptation and maintenance of shelters and other protection facilities, v) protection and rescue training for the citizens, g) recovery of part of damages caused by natural or other disaster, in line with its possibilities and by decision of the competent municipal/city body and d) other protection and rescue needs in accordance with this Law and other regulations.</p>

<p>with the Law and other regulations.</p> <p>A municipality may exceptionally use part of the funds referred to in Article 180, paragraph 4 of this Law and belonging to the municipality, as an emergency measure to finance preventive protection and rescue measures under condition that part of the funds for such purposes is ensured in the budget of the municipality and if the preventive measures are set forth in the development program and annual plan for program implementation of the municipality, but the funds cannot exceed 20% of the funds collected during a budget year.</p> <p>The Municipal Mayor shall on proposal of the municipal civil protection services decide on use of the funds referred to in paragraph 2 of this Article.</p> <p>.</p>	
<p style="text-align: center;"><b>Article 185</b></p> <p><b>Legal entities</b>, using their own funds, shall finance costs related to preparation and equipping of headquarters, commissioners and civil protection services that they established for protection and rescue of their personnel, property and other material goods from danger and effects of natural and other disasters.</p>	<p style="text-align: center;"><b>Article 156</b></p> <p><b>Citizens, business operators and other legal entities</b> whose tangible assets were taken for protection and care of citizens affected and threatened by natural or other disaster shall have the right to compensation in the amount that is determined based on the local market retail prices on the day the means were turned over.</p>

Unfortunately, we often witness the situation that funds collected through fees for protection against natural and other disasters sit unused on the sub-accounts, due to lack of quality intended spending plans and accumulated funds from previous years are then being transferred to the next year. Subsequently, due to financial crises and budget deficits at all levels of authority, the entity and cantonal governments would pass decisions by which they would borrow the funds collected through the fees for protection against natural and other disasters using the latter to improve budget solvency. So despite the fact that the civil protection structures in BiH are generally poorly equipped and undertrained, the funds that were intended for these purposes were taken as a loan to fix the budget insolvency (payment of overdue wages and other social contributions). For example in 2009 the BiH Federation Government had due to the financial crises and budget deficit borrowed 11.5 million KM from the specific-purpose account for protection and rescue from natural and other resources, setting a deadline of 60 days for repayment of the funds. At the end only 7.5 million KM was repaid after expiry of the deadline, and we do not have the information of whether the remaining amount was repaid. Similar loan the BiH Federation Government also had realized in 2013. Similar scenarios are also seen at the cantonal level, so for example the Government of Tuzla canton had in June of 2014 passed the decision approving one-time loan from the sub-accounts "The funds of special tax for protection against natural and other disasters" and "Funds for protection of environment" in the amount

of 5 million KM. The loan was approved aimed at ensuring missing funds for payment of salaries for May of 2014 to employees of the beneficiaries of the budget.

Also, when we mention the practice of conversion from one purpose to another that is present at the BiH Federation level, we have to underline that the CCI had through its monitoring reports already warned that due to some priorities, other priorities are being neglected, whereby consequences of sudden weather conditions can be even greater. As a reaction of the problem of floods in May of 2014 the Government has transferred the amount of 10 million KM, intended for procurement of firefighting airplanes, from the sub-account of the BiH Federation civil protection administration to the account for elimination of flood effects. We can only hope that no major fires will occur in BiH in the period to come, as many believed that the floods of May 2014 would circumvent Bosnia and Herzegovina.

At the end of this chapter we would like to add yet another symptomatic situation regarding crisis management as directed by the present authorities in BiH that happen in days following the flooding. Representatives of the present authority in BiH (led by ruling parties) had again found common<sup>101</sup> ground in one activity, namely that pleads for assistance to “flood affected and for decades tortured Bosnia and Herzegovina” must be louder, that humanitarian telephone numbers need to be promoted as much as possible, that everything has to be done so that donors’ conference (July of 2004) would bring more money, and all of this was done three months before the General Elections. Therewith, as the legislators had contemplated, it is always good to impoverish people so they were very efficient in preparing and adopting new so-called “laws on establishment of entity Solidarity Funds”<sup>102</sup>. Of course, other laws were changed<sup>103</sup> as well, all aimed at filling the budgets of the funds at the entity level.

In Republika Srpska the backbone of fund’s incomes should be a solidary tax in the total amount of 3%, which will be calculated on net salaries of all employed persons in Republika Srpska. The tax will be paid so that the employer pays 1.5%, while the employed persons pay the remainder.

The “Law on establishment of the BiH Federation Fund for assistance to areas affected by natural disaster on the territory of the Federation of Bosnia and Herzegovina” was adopted in the BiH Federation and the law set forth that one percent of the net salaries of all employees is earmarked in the period of six months. However, contrary to the “Solidarity Fund” in Republika Srpska, there is a possibility not to allocate the money if the employee informs the employer in writing that he/she does not want to allocate the money.

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<sup>101</sup> We could draw a parallel to the practices in the past when entity and party differences were not an important factor in voting for higher salaries in the state and entity parliaments.

<sup>102</sup> Economic analyst, Mrs. Sijetlana Cenić, finds that the authorities had formed these funds aimed at having complete control over the funds, which are to be operational for flood recovery in BiH, as well as aimed at ensuring themselves the space for non-transparent procedures.

<sup>103</sup> Monitoring conducted by the CCI in BiH had shown that preparation and adoption of the entity laws is a “long and exhausting process”, and that adoption of the laws planned at the annual level is also a big problem. Nevertheless in case of these laws the authorities were extraordinary efficient.

Having in mind the economic situation in which most of the citizens in Bosnia and Herzegovina are living and the degree of indebtedness of many people, we are in the situation that ones, who also need help, have to help others. No one knows with certainty how high this pressures is on economy and the budget of every citizen. The expiry date of these laws also becomes a very important question. The question is also whether the decrease of citizens' purchasing power is better or worse solution than raising a new loan under very favorable interest rates such as the Government of Japan is offering. It is also a question of how much the re-direction of IPA<sup>104</sup> funds affects other sectors and planned project, and we know it does, etc...

The authorities should have thoroughly sort through institutions and mark the ones that are the most responsible for everything that was not good in the area of river and river basin management, flood protection and civil protection before taking the road that would additionally impoverish the citizens, and in order to show their true integrity and good intentions. The fact that no one was dismissed or that no one resigned because of the chaos that happened after the catastrophic flooding in BiH shows that the authorities do not plan to insist on responsibility. It is only after this that the other citizens should have taken on the responsibility in order to help the one most affected by the floods as soon as possible.

As we previously said in the introductory part of the analysis there is yet another problem of constant contemplation on funds, and poor work on development of new strategies and risk maps for the next natural disasters. How the post-flooding problems are solved in developed countries can be presented by the newest example from the Great Britain. Enormous floods at the end of December 2013 and beginning of January 2014 hit this country, and the Government had already in February prepared and adopted a package of concrete measures as response to the floods in terms of recovery and proactive activities in order to prevent next similar catastrophes. In the short period of less than two months the new six-year working program for flood defense system until 2012 was prepared, including new long-term strategy for investments to the flood defense, and assessment of future needs for flood control and coastal defense taking into consideration the newest risk maps and economic analysis. We will present only some of agreed points of the above-mentioned program:

- Allocation of 130.000.000 £ for emergency repairs and maintenance of existing infrastructure, 30 million in the current year and 100.000.000 £ in 2015;
- A total of 42 new flood control schemes for 2014 – 2015 were agreed, i.e. new plans in line with the present situation, and which will together with other projects from primary plans be built in 2014 – 2015 aimed at protection of more than 42.000 households (100.000 who are at risk of flooding);

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<sup>104</sup> At a meeting in Brussels in mid-June of 2014 the representatives of the European Commission informed the representatives of the BiH institutions about the program packages of the Instrument for Pre- Accession Assistance's Funds (IPA) for flood recovery in BiH. They discussed preparation of first program package by which re-allocation of approximately 40 million Euros from IPA funds for 2011, 2012 and 2013 is done in order to assistant BiH in the flood recovery process, followed by the second package under IPA 2014. The Commission had again underlined importance of adopting strategies at the BiH level in all sectors that are important for further harmonization with rules and standards of the EU and for de-blocking access to IPA funds to be invested in these sectors, which will require improved coordination and cooperation between all levels of authority.

- Allocation of 370.000.000 £ of capital investments to new infrastructure to improve flood defense in 2015 – 2016. It was also agreed that annual allocation of funds for this purpose will be more than 400.000.000 £ until the end of the decade.

It would be much easier for Bosnia and Herzegovina as well as for flood recovery, but also for all other issues that our authorities had done more in the previous period to meet conditions of the European Union on the Euro-Atlantic integration path of our country. The European Union exercises its main role in the system of protection against natural disasters through “Civil protection mechanism of the European Union”<sup>105</sup>. The basic objective of this mechanism is establishment of cooperation in the area of civil protection in case of huge disaster requiring rapid response. The accession to the EU Civil protection mechanism connects a country with the emergency service Europe network and provides access to resources to deal with wide range of disasters. Candidate countries may enjoy benefits of the Mechanism before becoming an EU member state. Following accession to this mechanism a country is entitled to apply for EU financial aid for aid transport, and it also has the right to participate in the EU trainings and exercises. Submission of a credible application for the membership in the EU and getting the candidate status from this aspect proves also to be very useful for BiH, because it would then have the possibility to enjoy all benefits to the EU Civil protection mechanism.

While Croatia as a member state, and even Serbia, as a country that had ratified the pre-accession agreement, can count on considerable aid from the so-called EU Solidarity Fund for flood recover, such types of direct, no loan assistance for our country are still very far away. The EU Solidarity Fund (EUSF) has been established after devastating floods that hit Central Europe in summer of 2012. The fund covers part of damages that have been caused exclusively by natural disasters. The funds are limited to coverage of not insured losses and it does not cover private losses. The means from the Fund can be used for emergency infrastructure recovery and recovery of plants in the area of energy, drinking water production plants, and wastewater treatment plants, as well as recovery in the field of traffic, telecommunications, health care and education. The assistance is also indented for ensuring temporary shelter and provision of services to the affected population, as well as for development of infrastructure for protection against disasters, such as dams. The means can also be used to finance measures for protection of cultural heritage, as well as for cleaning affected areas including the environmental units.

For example, certain EU members states were approved the assistance in the amount of 400,5 million Euros from the EU budget for 2014 through the Solidarity Fund. The assistance was approved for countries that are much richer than Bosnia and Herzegovina, so 360.5 million Euros was approved for flood recovery in Germany, Austria 21.7 million Euros and Czech Republic 15.9 million Euros, while 2.5 million Euros were approved for drought recovery in Romania.

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<sup>105</sup> State participating in this mechanism: all 28 EU member states, as well as Macedonia, Serbia, Iceland, Norway and Lichtenstein.

Had the authorities in Bosnia and Herzegovina earlier thought about potential problems and damages that can be caused by floods, then far higher amounts of funds would have been ensured in the last 15 years for prevention and projects for recovery of devastated water control infrastructure, after last armed conflict in our country. However most of the government representatives found it more important to spend public funds to satisfy party and personal interested, and even to raise new loans with the international institutions for some other more attractive infrastructural projects (construction of roads, administrative centers, etc.) than for the project aimed at flood control (new dams, embankments, expansion of river channels, construction of new coastal facilities for the purpose of flood control.

Also the policy of promotion and support to payment of preventive insurance for public and private property, which is very actual in the developed countries, has been absent in BiH during last years. Instead of present entity solidarity funds, the authorities in BiH should have considered this issue many years ago and should have established a “joint state fund” to which the funds would be collected through taxes contributions, and which would be operational only in the event of natural disasters. These would be safeguarded funds that would be used to directly affect speedy recovery from the natural disaster. The means in fund would indicate seriousness of the country and would probably enable easier raise of loans from the World Bank and other international financial institutions in case of bigger catastrophe such had happened in May of 2014.

## **6. LEGISLATION OF THE EUROPEAN UNION**

Bosnia and Herzegovina is signatory to most international agreements and conventions, and as a country involved in the processes of European integration, it is obligated to use *acquis communautaire* of the Europe and recognized international treaties in development of its institutions and legal framework.

The European Union had adopted many agreements, conventions and regulations obligatory to its member states, which, by implementing the regulations in their countries, had harmonized their legal, organizational and management framework related to the water sector and water legislation. Further down in the text we list all these documents, but before that we find important to stress that Bosnia and Herzegovina is presently the only country in the region (if we do not consider Kosovo), which still did not meet all conditions to apply for membership in the EU. This deprived us of many rights and possibilities, amongst which is the use of funds from the EU “Solidarity Fund”.

In the context of the European Union’s documents that regulated the water management we should primarily mention the following documents:

- The Convention on the Protection and use of transboundary Watercourses and international lakes that was adopted on March 17, 1992 and which known as Helsinki Convention;

- The Convention for the Protection of the Mediterranean Sea against Pollution, which was adopted in Barcelona in 1976. The Convention was amended in 1995 when it was renamed to “Convention for protection of the maritime environment and the coastal region of the Mediterranean”;
- The Convention on co-operation for the protection and sustainable use of the river Danube was signed in Sofia on June 29, 1994 and came into force on October 22, 1998, providing a starting point for sustainable management of all rivers within the Danube river basin. The main objective of the Convention is to ensure sustainable management of waters within the Danube river basin. This involves: the conservation, improvement and rational use of surface waters and groundwater; preventive measures to control hazards originating from accidents involving floods, ice or hazardous substances; measures to reduce the pollution loads entering the Black Sea from sources in the Danube River Basin and cooperation in all water management domains.

The International Commission for the Protection of the Danube River - ICPDR was established within the Convention aimed at ensuring organizational framework for constant regional cooperation of the countries of Danube region. The Commission had initiated ample action that all signatory countries develop “Water management plans in District River Basins within the Danube basin”. The water management plans have to be harmonized with the EU Framework Directive on waters, and it is a known fact that Bosnia and Herzegovina did not adopt a framework water management plan at the national level;

- The Framework Agreement on the Sava River Basin and the Navigation Protocol that were signed in Kranjska Gora (December 3, 2002), and amended in Ljubljana on April 2, 2014. The Agreement and the Protocol regulate: establishment of the international navigation regime on Sava river; establishment of sustainable management of river basin waters; implementation of measures for prevention or limiting dangers and for mitigation and elimination of harmful effects, including consequences of floods, ice, droughts and cases of discharge of hazardous substances into the water; development of mechanisms for establishment of efficient multilateral cooperation. The International Commission for Sava River Basin was established and it is tasked to coordinate all the above listed activities;
- The Water Framework Directive (2000/60/EC) that the Parliament and the EU Council adopted in 2000, and the directive is in force for all EU member states. They were given the deadline until 2003 to incorporate principles of the Directive into their water legislations, and to implement the Directive until 2015 by achieving so-called “good status of waters” by then;
- The Floods Directive (2007/60/EC) – which will be discussed in more detail, was adopted in the European Parliament in 2007 aimed at reducing probability for floods and its effects. It was developed as a response to extreme floods across the Europe in the last period of time.

### **6.1. Directive 2007/60/EC**



At the beginning it is really important to mention that complete implementation of the Directive 2007/60/EC in BiH exclusively depends on when our country will become full member state of the European Union.

Namely the Directive 2000/60/EC of the European Parliament from October 23, 2003 had established a framework of the community to act in the area of water policy. Additional Floods Directive 2007/60/EC on the assessment and management of flood risks was built on this documents and it came into force on November 26, 2007. The new Directive requires from all EU member states to conduct flood risk assessment of all watercourses and coastal regions, to prepared flood risk maps (develop a map) in terms of number of inhabitants and property potentially affected in these areas and to undertake adequate and coordinated measures as to reduce the flood risk. This directive also strengthens the right of the public to seek information about this issue and to have the right to participate in the planning process.

Even though Bosnia and Herzegovina is under all parameters significantly late on its EU path, and that the Directive 2007/60/EC is one of the obligation that the country will face in the years to come, the implementation of measures similar to the ones set forth by the Directive, especially after devastating floods that had hit our country, provides opportunity to all structures of authority to show their genuine commitment to the problem and to make a step forward on the path of Bosnia and Herzegovina towards the European family. Such an approach would additionally justify confidence of all countries, institutions and individuals, who in the post-flood recovery, are looking for the funds aimed at conducting flood recovery activities. This would create the environment in which primacy in solving this problem would be above everyday political events, as it was seen in the first days after the flooding in May of 2014.

The objective of Directive 2007/60/EC is to reduce and manage consequences that flood can cause for human health, environment, cultural heritage and economic activity. The one part of the Directive that partly indirectly relates also to Bosnia and Herzegovina<sup>106</sup> in this stage is a definition stating that the members states shall coordinate practice of flood risk management on trans-boundary watercourses, also with third countries, and that as a sign of solidarity they will not undertake any measures that could increase risk of floods in neighboring countries.

The Directive 2007/60/EC was developed after the Europe was hit by 213 devastating floods in the period between 1998 and 2009, including catastrophic floods between Danube and Elbe in summer of 2002. Several floods during 2005 additional strengthened the need for coordinated action. In the

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<sup>106</sup> "Support to the BiH water policy – technical background for development of sub-strategies for implementation of the EU Directive on the assessment and management of flood risks (2007/60/EC): the document was prepared under project "Support to BiH Water Policy" aimed at presenting "technical" background for development of an implementation sub-strategy at the level of BiH in terms of protection against harmful effects of waters aimed at achieving compliance of these areas with the subject EU Directives, i.e. with the Directive on the assessment and management of floods risks (2007/60/EC). The document provides: review of present situation in the areas of protection against harmful effects of waters; defines the strategy for collection of data and information, conducting, researching and introducing the concepts and delivery of the results presented by the EU Directive on the assessment and management of flood risks (Directive 2007/60/EC).

period between 1998 and 2009 the floods in Europe had caused 1126 human fatalities, displacement of half a million people and at least 53 billion £ of economic losses<sup>107</sup>.

The Directive establishes four well-defined stages of flood risk management cycle:

1. Preliminary assessment report;
2. Identification of areas at risk of flooding;
3. Flood risk and flood hazard maps;
4. Flood risk management plans.

This cycle is repeated every six years and strong integration with River Basin Management Plans is expected. The objective of this step in the process is to ensure that priority areas are covered first, and then that this process is expanded every six years. It is very important to stress that the flood risk in the Directive is defined as: "Flood risk = probability \* consequence – where consequence can be described as a combination of danger and vulnerability. Therefore the risk maps are not only maps of flooding volume, and according to the Directive the flood risk cannot be described only with economic losses. This is a fundamental change of thinking towards an approach based on a very reactive flood protection in regard to traditional considerations present across the Europe. Former experience shows that the time is needed to have this proactive and sustainable approach to flood risk management accepted (to become widely present). The preliminary risk assessment is first step in this approach. The Directive also induces certain institutional changes in terms of spatial planning, flood risk, and generally in terms of preparedness and issuance of flood emergency alerts/flash flood warnings. According to the Directive the member states have a certain degree of flexibility in interpreting the Directive, especially in the first Preliminary Flood Risk Assessment (PFRA). It was recognized that all needed data sets would not be available or on contrary that the flood risk assessment was improved and that the areas under significant risk are defined and that the flood risk management plans are being prepared.

This means that the bases are the same and that results of such plans can be found. Some member states opted for Transitional measures where the stage of preliminary flood risk assessment can be avoided if the maps and plans already exist. It is considered that it would not be good to have such transitional measures adopted for BiH due to lack of comprehensive flood risk mapping and good fundamental data.

The document "Support to the BiH water policy – technical background for development of sub-strategies for implementation of the EU Directive on the assessment and management of flood risks (2007/60/EC), hereinafter the Document, was prepared under project "Support to BiH Water Policy" aimed at presenting "technical" background for development of an implementation sub-strategy at the level of BiH in terms of protection against harmful effects of waters aimed at achieving compliance of these areas with the subject EU Directives, i.e. with the Directive on the assessment and management of floods risks (2007/60/EC). The document provides: review of present situation in the areas of protection against harmful effects of waters; defines the strategy for collection of data and information, conducting, researching and introducing the concepts and delivery of the results presented by the EU

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<sup>107</sup> The information were published by the EEA – European Environment Agency [EEA](#))

Directive on the assessment and management of flood risks (Directive 2007/60/EC). In the paragraphs to come we provide a general overview of some parts of this document.

The land use control and the effect it has on velocity and volume of flood waves and well as transport of sediments are very important factors for flood risk management in Bosnia and Herzegovina. The flood risk management has many limitations and interactions with other aspects of water policy. Spread of flood waves and volume of floods do not recognize administrative borders. The water areas and river basins are the primarily level at which the flood risk management has to be active. In BiH there are inter-state and inter-entity issues that have to be carefully considered in order to implement the Directive in the field.

The strategy for implementation of the Directive in this project is therefore based on the following principles:

1. The existing institutional mechanisms for river basin management have to be usefully used where ever is that possible;
2. The protocol, Sava river basin Action plan and the International commission for Sava river basin must decide which methods and approaches to implementation of the Directive should be agreed;
3. An agreement on modes for conduct of Preliminary risk flood assessment and about which areas are under significant risk must be reached at the level of entities. It is really important to determine financial and resource implications of selecting warning values for preliminary high flood risk areas and it had been recommended to send the review to the state level. The first Preliminary flood risk assessment and the next initial Flood risk management plan will provide details on the volume of necessary work and this should be manageable and universal. It is very important not to set low warning values of indicators when defining the significance, and so to get high number of areas at significant risk, that is, not to have expectations for risk reduction unduly raised. Warning values of indicators must be optimally set having in mind available sources of financing and possible effects in the flood protection. Additional preliminary areas at significant risk can be subsequently added to the plan for the next six years. It is also clear that significant reconstruction and maintenance of existing defense facilities had been identified in existing studies. This will probably be part of the measures included in the first Flood risk management plan;
4. A pragmatic approach would be desirable in order to ensure that presently necessary working plans are kept and that the assessment does not “bury” existing resources of the Agencies and consulting companies. Nevertheless, the non-construction approaches that are especially stressed in the Directive have to be adopted as soon as possible during the first six year of the planned period.

Flood risk management is one of priorities that was recognized late and to which the European Community is ready to invest aimed at enabling development of integrated and efficient flood risk management plan within one river basin by harmonizing and upgrading flood defense measures found in the countries.

The International Commission for protection of Danube River and the International Commission on the Sava River Basin, which will presented in more dialed, have made progress in implementing many aspect of this Directive, and it can be seen in the development of the international Flood Action Plan 2009 and adopted Protocol on protection against floods from 2010. The main objective of this Action Plan is implementation of the Directive on the flood risk management and establishment of “good practice” in this area. The plan established hierarchy in planning and implementation of the Directive, which has to be carefully followed by the entity agencies. According to some most optimistic scenarios in the mentioned plan the implementation of measures from this area in BiH is planned in 2020 and it would cost 1 billion KM. In line with the selected scenario, financing of the sub-sector for flood management should increase approximately four times until 2020 so that the directive would be implemented by the potential day of BiH becoming member state of the EU. According to the selected scenario approximately 70% of the necessary investment program will be financed from the state sources, while 30% will be covered by the EU funds. Management of grants of the European Community and loans requires strict and professional fund management project units. Therefore, preparation of responsible institutions in Bosnia and Herzegovina has to start as soon as possible. According to the experience of other new member states or countries that are presently in the process of accession to the EU, the biggest obstacle in implementation of EU acquis’ requirements is not availability of these financial sources, but institutional capacities and preparedness to manage these funds.

Development of a review of different flood risk management approaches by entities and within key river basins has been undertaken. These were compared to the present approach of the Directive applied to highly urbanized lowland with multiple flooding sources.

Transposition of the Directive in the BiH Federation has commenced in April of 2009. The general approach between the EU Directive and domestic regulations is harmonized, but complete compliance cannot be assessed until a detailed methodology for development of preliminary flood risk assessment (especially in the case of lack of data), methodology for determining risk significance, etc. is defined. The Sava river basin Action plan will ensure use of the best practice and that it will, we hope, cascadingly transfer to all river basins. However the Sava Action Plan does not consider PFRA elements. Here we should mention that definition of “floods” in the “Regulation on types and contents of plans for protection against harmful effects of waters of the FBiH” is not harmonized with the Directive – namely the definition given in the Regulation is really narrow. The flood risks due to dam collapse are not mentioned.

Several laws and by-laws that are in some parts harmonized with the Directive were adopted in Republika Srpska. As the process is still ongoing, comparison of the RS approach to the Directive 2007/60/EC has not been completely realized this time.

Main, possible risk for successful implementation of Directive in institutional terms are:

1. work within transboundary river basins has its advantages over joint resources, but it is also complicated in terms of decision-making process;
2. non-existence of introduction of special instructions to spatial planning and control over development of new properties and facilities on the flood risk areas through by-laws and regulation, in order to ensure that each entity can deliver part of the Directive on Prevention;
3. lack of manpower and resources to be engaged at:
  - a. collection of data and their management,
  - b. risk modeling and assessment,
  - c. presenting new consideration on flood risk management at all levels of authority and in all functions of the government,
  - d. activating the ones for whom it is considered to be in danger,
  - e. delivering measures and maintaining existing activities on flood protection;
4. lack of capacity of local structures of authority to provide data and information, but also to be correctly engaged in the process of Preliminary flood risk assessment.
5. additional investments to some agency structures are needed such as Water Information System to improve coverage with flood related data.

The preliminary flood risk assessment (PFRA) requires consistent and transparent flood risk assessment entirely for both entities using four main indicators:

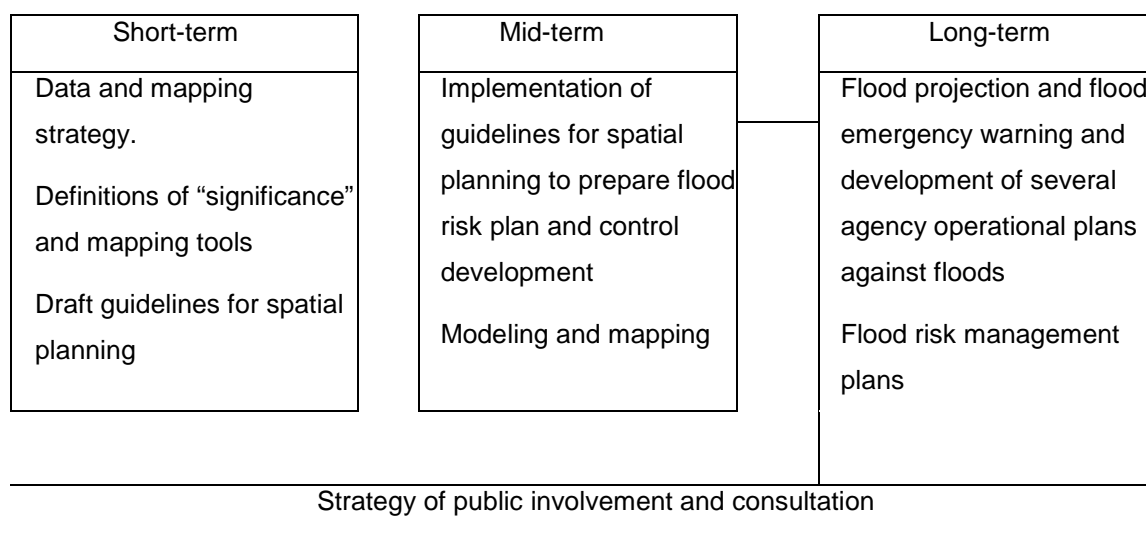
- Economic activity,
- Cultural heritage,
- Environment, and
- Human health.

There are four main parts for plan implementation:

- Institutional strengthening to prepare for implementation of Directive;
- Preliminary flood risk assessment;
- Danger and risk data maps;
- Flood risk management plans.

Planning should be founded on examples of other EU states that conducted sequential approach based on risk for allocation of land for development. External assistance is necessary in order to ensure efficient capacity building.

Picture 1:



In terms of financing the measures of flood risk management the Document reads that costs incurred by ensuring protection against floods in BiH can be in theory financed from the following sources:

- State/Entity budgets
- Cantonal budgets (in the BiH Federation)
- Municipal budgets
- Environment Protection Funds in both entities
- Local banks
- Bilateral donors
- IFIs (International flood information system)
- EU support schemes

Flood represent a natural phenomenon, but correct measurement can reduce and limit effects of the floods. Along with the economic and social devastation, the floods can have many effects on environment. Increased flood risks in Europe and bigger economic destruction are expected in the forthcoming decades. As useful literature for additional information<sup>108</sup> that related to the Directive 2007/60/EC we suggest the following: Directive 2007/60/EC on the assessment of flood risk management; Flood prevention action plan (EU), Common Implementation Strategy (EU).<sup>109</sup>

<sup>108</sup> Directive 2007/60/EC on the assessment and management of flood risks in all available languages (OJ L288, 6.11.2007, p.27); Key documents from the negotiations of the Directive are available here; Read more about the implementation of the Directive ! Read more about the EU Floods Action Programme! Towards better environmental options in flood management - natural flood management and green infrastructure !

<sup>109</sup> Thematic information sheet on Flood Risk Management in the Common Implementation Strategy

## **6.2. Bosnia and Herzegovina Progress Reports (Sector – Environment and climate changes)**

Signing of the Stabilization and Accession Agreement (June 16, 2008) and its ratification (October 22, 2008) had brought along some very concrete and precise requirements in regard to how waters are to be managed in Bosnia and Herzegovina. As part of the comprehensive EU policy, a policy that sets certain requirements for change before all segments of countries that wish to become candidate countries and at certain moment EU member state, the BiH water management system is also facing many and complex requirements in that area. In short, the requirement is to completely accept and apply the EU legislation on waters and environment protection (as a wider framework of water management), i.e. the part of the *Community Acquis* that regulates these issues in the EU. The Stabilization and Accession Agreement defines a deadline of six years for complete transposition of appropriate EU regulations on waters and their implementation in BiH. However, we must stress that due to well-known reasons the SAA still has not come into force in BiH.

The European Commission in BiH regularly considers issues of environment protection and climate changes in its annual Bosnia and Herzegovina progress reports. Having in mind that these are relevant stances of the European Commission that directly or indirectly relate to the areas and issues considered in this Analysis, we think it is inevitable to present the findings of these reports in the last few years. The next paragraphs contain excerpts from BiH Progress reports for 2011, 2012 and 2013, but at the very beginning we would like to give the general assessment<sup>110</sup> that is repeated in case of Bosnia and Herzegovina: *“Regarding protection of environment the Commission expresses its concern in regard to limited progress that the BiH had achieved in approximation to the Community acquis in the area of ecology and it stresses the need of a coordinated approach between the different institutions that are responsible for the protection of environment at the entity level and level of BiH”*.

The Commission concluded that BiH does not have a strategy at the BiH level in area of climate changes, and it welcomed adoption of the “Strategy on reduction of carbon dioxide emission”, as well as participation of the country in the ECRAN program that relates to climate changes. Furthermore the Commission concluded that inter-institutional cooperation in BiH has to be strengthened in regard to regional development. The commission had welcomed the fact that the BiH Ministry of foreign trade and economic relations was declared the ministry that coordinates regional development in this area.

### **➤ 2011 Bosnia and Herzegovina Progress Report (excerpt)**

There was little progress in transposing the acquis on water quality. However, most of the legislation is not in place. Implementation of water laws, monitoring and river-basin planning is not harmonized between the Entities. Inadequate administrative capacity and lack of ready-made projects caused

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<sup>110</sup> Assessment made by the European Commission in the period following the floods in BiH in 2014.



considerable delays in sectoral investment. Access to drinking water, untreated discharges of wastewater and flood management remain key challenges.

Regarding climate change, there was no progress on general policy developments despite nominating a focal point for the Working Group on Climate Change. However, significant awareness-raising is required at all levels. Climate change is not integrated into sectoral policies and strategies and there is no comprehensive strategy for climate change.

Administrative capacity in the environment sector remained weak. A State-level Environmental Protection Agency remains to be established. Administrative capacity within the Ministry of Foreign Trade and Economic Relations on environmental and climate change issues is limited. Environmental institutions do not have the capacity to implement and enforce legislation at Entity, Canton and local levels. Integration of environmental concerns in other sectors remains weak. There was no progress on the administrative capacity to address climate change, with no staff and resources allocated to climate work. The national authority designated to implement the Kyoto Protocol's Clean Development Mechanism is not yet in operation.

Overall, preparations in the field of environment remain at an early stage. Establishment of a harmonized legal framework for environmental protection, the State Environmental Protection Agency and a functioning environmental monitoring system remain the priorities. Improvements remain to be made to horizontal and vertical communication and exchanges of information on environmental and climate change issues between all authorities. Regarding climate change, considerable efforts are required on awareness-raising, aligning with and implementing the acquis, as well as strengthening administrative capacity.

### **➤ 2012 Bosnia and Herzegovina Progress Report (excerpt)**

Regarding climate change, no progress was made on general policy development. The country has no national climate strategy. Climate considerations are increasingly integrated into the energy policy. Substantial efforts are required to fully integrate climate change into sectoral policies and strategies. The country associated itself with the EU positions in the international context. While having previously associated itself with the Copenhagen Accord, the country did not yet put forward a mitigation commitment by 2020. The country should consider taking mitigation commitments consistent with those of the EU and its Member States for the purpose of the post-2020 climate agreement to be reached by 2015.

Little progress was made on aligning with EU climate policies and legislation. The country is at a very early stage in adopting the climate acquis. The country took initial steps to identify stationary installations for the future implementation of an emissions trading system. Significant efforts are required to strengthen the country's monitoring, reporting and verification capacities. Cooperation and coordination remain weak. The lack of administrative and financial capacity is delaying preparation, legislative alignment and implementation of a climate policy in line with the acquis. The country participated regularly in the climate work under the Regional Environmental Network for Accession

(RENA). There is still a significant need for awareness-raising at all levels and for the promotion of cooperation of all stakeholders.

Administrative capacity in the environment sector remains weak. There was some progress regarding the administrative capacity to address climate change. The Executive Board of the Designated National Authority (DNA) to implement the Kyoto Protocol's Clean Development Mechanism had its first constitutional assembly and adopted its rules of procedure. The necessary structures for the DNA's work were established at Entity and District Brčko level. The administrative structure on climate change should be considerably strengthened. Capacity building is required to address the significant capacity, cooperation and coordination needs. There was little progress in the environment and climate areas. The establishment of a harmonized legal framework for environmental protection, adequate institutional capacity and a functioning environmental monitoring system remain the priorities. Improvements remain to be made to horizontal and vertical communication and information exchange on environmental and climate change issues between all authorities and the general public. Regarding climate change, substantial efforts are required for awareness- raising, setting a more strategic approach for the country, aligning with and implementing the *acquis* and continuing to build up administrative capacity including inter-institutional cooperation and coordination. Preparations in the field of the environment and climate change remain at an early stage.

### ➤ 2013 Bosnia and Herzegovina Progress Report (excerpt)

Regarding water management, no efforts were made to ensure a consistent and harmonized approach to water management at the State-level, including implementation of the water laws, monitoring and river-basin management plans. The Federation adopted implementing legislation on determining ecologically acceptable flow for surface water bodies. Steps were taken towards developing relevant strategies in the Entities and of river basin management plans for the rivers Neretva, Trebisnjica and Sava. Access to drinking water, untreated discharges of wastewater and flood management remain challenges.

Regarding climate change, the country does not yet have a comprehensive countrywide climate policy or strategy. Substantial efforts are required to fully integrate climate change into sectoral policies and strategies. The country regularly associated itself with EU positions in the international context. While having previously associated itself with the Copenhagen Accord, the country has not yet put forward a mitigation commitment by 2020. The country should consider making mitigation commitments consistent with those of the EU and its Member States for the purpose of the post-2020 climate agreement to be reached by 2015. It is also invited to start reflecting on its climate and energy framework for 2030 in line with the EU Green Paper A 2030 framework for climate and energy policies. The country is at a very early stage in aligning with EU climate *acquis*. Alignment with the *acquis* in the field of ozone layer protection and fluorinated gases has progressed, but not at countrywide level. The country identified 28 stationary installations for the future implementation of an emissions trading system. Significant efforts are required to strengthen the country's monitoring, reporting and verification capacities. The country participated regularly in work on the climate under

the Regional Environmental Network for Accession (RENA). A successful EU-Bosnia and Herzegovina climate event was organized in February.

Significant efforts are needed to raise awareness at all levels and to promote cooperation between all relevant stakeholders. Administrative capacity in the environment and climate sectors remains weak. A mechanism for comprehensive alignment with EU legislation across the country is lacking, as is countrywide strategic planning. Monitoring and reporting on the state of the environment at country level is not done in a coherent and consistent way. Integration of environmental and climate concerns in other sectors remains weak. The administrative structure on climate change needs to be considerably strengthened.

Capacity building is required to address significant capacity, cooperation and coordination needs. Overall, there was limited progress on the environment and climate fields. The establishment of a harmonized legal framework for environmental protection, adequate administrative capacity and a functioning environmental monitoring system remain the priorities. Improvements have still to be made to horizontal and vertical communication and information exchange on environment and climate change issues among all authorities. Public consultations with civil society and other stakeholders need to be further strengthened. Regarding climate change, substantial efforts are required for awareness raising, setting a more strategic approach for the country, aligning with and implementing the acquis and continuing to build up administrative capacity, including inter-institutional cooperation and coordination. Preparations on the environment and climate change fields remain at an early stage.

### **6.3. Examples of water management and environment protection in the countries of the region**

The next paragraphs of the Analysis by using practices in Serbia and Croatia provide a review of these countries' experience aimed at reviewing all the solutions that could be applied in Bosnia and Herzegovina with the focus on international cooperation. The international cooperation, through establishment of international agencies whose members are Bosnia and Herzegovina and the two above-mentioned countries, primarily sets obligations for the countries as a framework of activities in the area of water management.

#### **➤ REPUBLIC OF SERBIA<sup>111</sup>**

In accordance with the "Law on waters of Republic of Serbia" water management, which consists of a set of measures and activities directed towards maintaining and improving water regime, is responsibility of Republic of Serbia, and is achieved through: Ministry of agriculture, forestry and water management within which is the competent Republic Directorate for waters that is responsible for water, Provincial Secretariat for agriculture, water management and forestry of Autonomous Province

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<sup>111</sup> Information taken from <http://www.rdvode.gov.rs/lat/medjunarodna-saradnja-sava.php> . The information mostly relate to the legislation of Republic of Serbia on subject matter discussed in the Analysis.

(AP) Vojvodina, bodies of local self-government units, especially the city of Belgrade in accordance with the Law on capital city and public water management companies: on the territory of AP Vojvodina – Public water management company “Waters of Vojvodina” (Vode Vojvodine), on the territory of city of Belgrade – Public water management company “Belgrade waters” (Beogradvode) and on the remaining territory of Republic of Serbia – public water management company “Serbia waters” (Srbijavode).

The public water management company, established to conduct water related activities on a certain territory, manages the water facilities for regulation of watercourses and protection against flood on waters of 1<sup>st</sup> group (including dams with accumulations and retentions) and the public water drainage facilities and takes care of their intended use, maintenance and safeguarding. The local self-government units on whose territory the facilities are located manage the water facilities for regulation of watercourse and protection against floods on waters of 2<sup>nd</sup> group and the public facilities for protection against erosion and torrents and take care of their intended use, maintenance and safeguarding.

The waters of 1<sup>st</sup> group are set forth in the Decision on determining the list of waters of 1<sup>st</sup> group. All other surface waters are considered waters of 2<sup>nd</sup> group.

Regulation of watercourses and protection against harmful effects of water is one of the three water related activities and it is an activity of general interest. This activity encompasses construction and maintenance of facilities for regulation of watercourses (regulatory facilities) and execution of works on maintaining stability of shores and riverbeds and i

Information on high flow waters (high waters) and floods from past were collected from all competent entities that participate in protection against floods – Republic hydro-meteorological institute, Republic Directorate for waters, public water management companies, water management companies and competent municipal bodies. In the period 1965 – 2011 more than 70 significant floods that occurred due to overflow of low flow watercourse, flooding were identified mainly along the section of water or damage to the protection facilities.

The harmful effects of possible future floods are expected at endangered unprotected areas, but even more significant damages from future floods are possible along all protected areas in case the existing protection system collapse. The risk of collapse largely depends on the degree of maintaining functional security of protection facilities.

The objective and the results of developing preliminary flood risk assessment, which represents the first step in preparation of flood risk management plan, is to define significant flooded areas as the areas, which are at high risk of flooding or in which significant risk of flooding could occur, having harmful effects to human health, environment, economic activities and cultural heritage.

Significant flooded areas for Republic of Serbia were determined in line with the conducted preliminary flood risk assessment using above-listed backgrounds. The ministry is to conduct a review and if necessary it will revise the preliminary flood risk assessment six year after it was developed.

The competent institutions in Serbia, in line with the European standards, regularly prepare so-called general and operational flood defense plans. Presently valid “General flood defense plan for the period from 2012 to 2018” for waters of 1<sup>st</sup> and 2<sup>nd</sup> group and for inland waters, which was passed by the Government, contains: institutional organization and management of flood defense; measures to be taken as prevention and in the period of high water occurrence; duties, responsibilities and authorizations of the flood defense managers, institutions and other entities responsible for flood defense, stages of flood defense and how are they declared and/or cancelled.

“The Operational flood defense plan for territory of Republic of Serbia”, which is prepared by the public water management companies in line with the general plan, and which is passed by the Ministry until the end of the current year for the next year, for waters of 1<sup>st</sup> group by water areas encompasses: sectors and sections of watercourses, protection facilities, appropriate water meters, criteria to declare regular/extraordinary flood defense against external waters, protected flooded areas; for internal waters by amelioration areas: drainage systems, names of legal and other persons executing flood defense, criteria to declare regular/extraordinary flood defense against inland waters.

For example, construction of more than 3.500 km of embankments and other protection facilities, 58 dams with accumulations, 413 public hydro-amelioration systems with more than 28 thousands of kilometers of channel network and many pumping stations is planned by the “Operational flood defense plan for 2013”. As previously said, the operational flood defense plan for BiH at the state level does not exist, and so unfortunately such information, as very important input parameters regarding prevention and protection against flood do not exist in our country.

The operational plans for waters of 2<sup>nd</sup> group are passed by the body of local self-government unit in accordance with the general plan and operation plan for 1<sup>st</sup> group waters subject to opinion from the public water management company, also for the period of one year. A legal person whose property is at flood risk also has to prepare an operational plan. General plan and operational flood defense plans are delivered to the Ministry responsible for internal affairs.

In practice, the flood defense encompasses defense against high waters (internal and external) and against ice congestion, and it can be regular or extraordinary. The flood defense in Serbia is organized and implemented by the public water management company on waters of 1<sup>st</sup> group and on public drainage systems, and the local self-government unit on waters of 2<sup>nd</sup> group in line with the general flood defense plan and operational flood defense plans.

Preventive measures (use of agricultural or other land in line with requirements of anti-erosion land development, prohibition of activities enhancing erosion and occurrence of torrents,...) are implemented aimed at preventing and eliminating harmful effects of erosion and torrents, also water facilities for protection against erosion and torrents are built and protective work is done (biological and technical). Units of local self-government determine erosion areas and in these areas they implement all activities on protection against erosion and torrents in accordance with the water management plan. In case an area and/or facility of regional/national importance is endangered by erosion or torrents the republic and/or provincial bodies together with the local self- government finance the activities of protection against erosion and torrents.

### ➤ REPUBLIC OF CROATIA

Every year citizens of certain parts of Croatia combat the floods. The water is already “above their head” and many say that situation is getting worse every year, and they blame the Croatian waters for such situation accusing them of collecting the water fee regularly, but failing to maintain embankments and drainage channels. The Government of Republic of Croatia provided an answer to the question of how much funds were allocated from the state budget for compensation of damages caused by floods, stating that the payments are done jointly for several natural disasters at the same area, so it is not possible to single out only the floods. The information on the total reported and paid compensations for damages caused by a natural disaster in the period from 1995 to 2012 show that the compensations cover only small portion of the damages – during the last 20 years approximately 30 billion Kuna of damage caused by natural disasters was reported, and only 1.2 billion Kuna were paid as compensations.

Transposition of provisions of Directive 2000/60/EC of the European Parliament and the Council from October 23, 2000 (Water Framework Directive), establishing a framework for Community action in the field of water policy, to the national legislation, Republic of Croatia had planned to perform by adopting new Law on waters and the new Law on financing water management and other by-laws by the end of 2008. The plan was also to have the Croatian waters, within their competencies, prepare the following

documents by the end of 2009: "Register of protected areas, monitoring programs for surface waters, ground waters and protected areas, programs of measures under provisions of the Framework Water Directive, and plans for management of water areas".

Regardless of the plan for transposition of the provision the Republic of Croatia had requested a transitional period for full implementation of Article 4 of the Directive 2000/60/EC of the European Parliament and the Council from October 23, 2000 (Water Framework Directive), until December 31, 2020 explaining that : "Having in mind that Croatia is requesting a transitional period for the certain number of the EU acquis documents in the field of environment, it is deemed that therefore certain obstacles exist for achieving some of the objectives of the Water Framework Directive by 2020, and primarily achieving good water status ". Explanation of the request for transitional period, and the deadline for full implementation of the Water Framework Directive, is founded on requested transitional period for other relevant the EU acquis documents.

In this paragraph we will give some sublimated information on the amount of financial aid to the areas at risk of natural disasters, and which are available on the web site of the Government of Republic of Croatia. Unfortunately such information in Bosnia and Herzegovina are not transparently provided through the official web sites of competent institutions. Namely in Republic of Croatia it is clearly explained how the assistance/aid from the State budget is allocated to the people affected by floods, but in line with possibilities and amount of funds available. In the period from 2008 to 2013 the assistance was provided for total damages from the regular funds for (flood, drought, hail, storms, etc.) from 5% to 23% of the reported and confirmed damages. "The administration for water management of the Ministry of agriculture", namely the Croatian waters, are responsible to collect information on costs of flood defense on territory of the Republic of Croatia. In 2013 these costs were 37.494.259,59 kn (VAT included), while according to the preliminary damage assessment on regulatory and protection water facilities in 2013 was 31.700.000,00 kn (VAT included). The information on compensations for damages paid earlier shows that the total assistance allocated to the people affected by natural disasters is provided annually from the State budget. The assistance is rarely provided only for one type of damage, since the damages are combined.

Beside the regular assistance the funds were also provided from the budget reserve. For example in 2010 the area of 15 countries was affected by floods, but other natural disasters also happened in these countries such as storms, hail, high snow, landslides, etc. The assistance was provided in the amount of 320 million Kuna, namely 23% of the reported and confirmed damage.

The floods that during last few years hit Croatia were conditioned by exceptionally high inflow of Sava, Kupa, Drava and Danube, and were not of high magnitude as it was the case in some other European countries, but they were and are of local scale. The local scale floods that endanger residence buildings occur in settlements that are located in depressions so they are difficult to defend. In principle, Croatian waters preventively act before arrival of a flood wave by protecting the facilities that can be realistically protected, which was also done in case of flood wave in 2014.



The European Commission allocated 1.17 million Euro of assistance from the European Solidarity Fund to Croatia in 2013 to cover part of the flood recovery costs. Regarding the year 2014 and damages that occurred, the Republic of Croatia will first collect information on all damages, it will consider all possibility for flood recovery from the state budget and in-country donations, and contrary to Bosnia and Herzegovina, and it rightfully expects the assistance from “the European Solidarity Fund”.

Concerning the legislation in Croatia in regard to subject of this analysis it is very important to mention the “Law on natural disasters of Republic of Croatia” (Official Journal, number 73/97), which sets forth the method and the procedure for declaring the state of natural disaster, as well as damage assessment and data collection. In line with the provisions of this Law the heads of local and regional self-government units are obligated to declare the state of natural disaster for the area of their competence, while a State commission is appointed to assess the damages in line with the Methodology for assessment of damages caused by natural disasters (“Official Journal”, number 96/98).

The funds from the State budget are used to co-finance projects of constructing regulatory and protection water facilities (including embankments in flooded areas). Construction of regulatory and protection water facilities, as well as construction of facilities for basic amelioration drainage owned by the Republic of Croatia is conducted according to the Water management plan in line with Article 26 of the Law on waters (“Official Journal”, numbers 153/09, 63/11, 130/11, 56/13, and 14/14), and financed from the purpose-specific incomes of Croatian waters (water regulation fees and water management contribution).

The flood defense system is developed and functional on the scale of approximately 70%<sup>113</sup>. Along with the maintenance of the existing system that eliminates large-scale damages, the system is upgraded according to the priorities, following dynamics relating to the available funds for such purposes, which annually amounts approximately 40 million Kuna. A total of 15% of the national inland territory is at risk of flooding and was defended by embankments, whose total length is approximately 4.000 km.

#### **6.4. International cooperation in the field of waters**

The European Commission assesses that more than three million citizens in the region were directly or indirectly affected by floods in May, and that houses, schools and hospitals are severely damaged. The European Commission also warns that the consequences of these floods will affect long-term social-economic development of Bosnia and Herzegovina and Serbia, but also the possibility of further consolidation of reform process in both countries, which find themselves on the Euro-Atlantic road.

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<sup>113</sup> Reviewing the documents for this analysis the CCI could not find such information for Bosnia and Herzegovina.

The catastrophic floods that the countries in the Sava river basin had faced only confirm the fact that such disasters do not know boundaries, namely that it is necessary to review and plan protection against flood at the level of entire river basin where each and every country will put on their individual efforts.

The international water management framework is defined by the geo-political location of Bosnia and Herzegovina, namely by its being amongst the countries of the Mediterranean – Adriatic Sea basin, as well as amongst the countries on the Danube river basin. The location of Bosnia and Herzegovina, and its affiliation to the group of countries committed to the membership in the European Union (EU) most clearly defines the final framework in the field of water management.

As written in the Water Management Strategy of BiH Federation (2010-2022), the dissolution of SFRY and the emergence of new states in the region created the need to define all relations in the society regarding water in a new way and under these new circumstances; to adequately determine the role of the state in water management sector and the role of all public administration authorities that are tasked to protect the public interest in this field, ensure the safety of the population in all aspects associated with water and to ensure an equal treatment of all businesses that require water in any respect for performing their manufacturing and service activities. This role of a contemporary State, which always depends on the constitutional structure of the country, is very different from the role that the socialist State had earlier in the circumstances of a all-embracing regime of social or state property. These reasons <sup>114</sup> are not exclusively specific for the Federation of BiH and Bosnia and Herzegovina, but one could say the same for all the countries in transition from a socialist to a market economy and democratically arranged society. This is a process which is, in various stages, underway in all Southeast European countries, except Greece. Transforming the earlier social i.e. state system of water management into a modern system of water management is not a simple process, nor can it be completed in a short period of time by taking one-time “transitional” measures. This has been proven by the contemporary experience, not only in the neighboring countries, but also in other countries of the Central and Eastern Europe. From a broader point of view, actually, on the entire European continent, a huge effort is being made to transform the traditional water management systems in different countries in order to ensure a better response to the challenges arising from the higher water demand, larger risk of further water pollution and endangering aquatic and dependent terrestrial ecosystems caused by the social development and, at the same time, the necessity of efficient response to the consequences of climate changes, which often occur in the form of floods or prolonged droughts that rarely have been reported in the past.

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<sup>114</sup> From the Water Management Strategy of the BiH Federation (2010 – 2022)

It is true that certain guidelines and recommendations passed at the international level<sup>115</sup> are not binding, but do represent instructions and internationally accepted modus operandi, and as such they affect the way of how waters in Bosnia and Herzegovina are managed.

The fact that Bosnia and Herzegovina belongs to the Danube river basin and to the Adriatic Sea basin determines or will determine specific water management frameworks and foundations of the trans-national cooperation, which have been defined in conventions, agreements and contracts:

### ➤ **The Danube River Protection Convention (the Danube Convention)**

Bosnia and Herzegovina has taken over the obligations defined in the Danube River Protection Convention by passing the Decision on ratification<sup>116</sup> of this Convention. Objectives and principles of cooperation between countries, parties to the Convention, are<sup>117</sup>:

- The Contracting Parties shall strive at achieving the goals of a sustainable and equitable water management, including the conservation, improvement and the rational use of surface waters and ground water in the catchment area as far as possible.
- The Contracting Parties shall cooperate on fundamental water management issues and take all appropriate legal, administrative and technical measures, to at least maintain and improve the current environmental and water quality conditions of the Danube River catchment area.
- To this end the Contracting Parties, taking into account the urgency of water pollution abatement measures and of rational, sustainable water use. This objective in particular is directed to ensure the sustainable use of water resources for municipal, industrial and agricultural purposes.
- The Polluter pays principle and the Precautionary principle constitute a basis for all measures aiming at the protection of the Danube River and of the waters within its catchment area.
- Water management cooperation shall be oriented on sustainable water management, that means on the criteria of a stable, environmentally sound development, which are at the same time directed to: (1) maintain the overall quality of life; (2) maintain continuing access to natural resources; (3) avoid lasting environmental damage and protect ecosystems; that is, to exercise preventive approach.

The International Commission for the Protection of the Danube River (ICPDR) was established for the purpose of implementing this Convention. The headquarters of the Commission is in Vienna.

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<sup>115</sup> One of the conference that has impact on the water management plans of almost all countries is the International Conference on Water and the Environment, held in Dublin, Ireland in January of 1992. The main result of this Conference is a set of recommendation for actions at local, national and the international level.

<sup>116</sup> "Official Gazette of Bosnia and Herzegovina", number 1/05 from January 25, 2005

<sup>117</sup> Quote from Article 2 of the Convention

➤ **The Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Helsinki Convention)**

The Convention on the Protection and Use of Transboundary Watercourses and International Lakes was adopted in Helsinki in 1992, and was developed as a reflection of needs to define measures to prevent, control and reduce discharge of hazardous substances into water environment. The Convention defines general international cooperation and framework of action on protection of international surface waters and ground waters. The general objective of the Convention is to protection surface and ground waters through prevention, control and reduction of transboundary impact. The Convention requires Parties to develop and follow realistic, reasonable water management plans defined on the ecological foundations. The Convention defines water management principles: the precautionary principle, to avoid the potential transboundary impact of the release of hazardous substances; the polluter-pays principle, by virtue of which costs of pollution prevention, control and reduction measures are to be borne by the polluter; and the principle of managing water resources so that the needs of the present generation are met without compromising the ability of future generations to meet their own needs, i.e. the principle of sustainable water management. Certain rules of actions are defined for the parties and can be summarized in the following: (1) to prevent, control and reduce emissions of polluters at place of origin; (2) monitoring transboundary waters status; (3) exchange of information; (4) responsibility for resulting damage; (5) informing the public. Bosnia and Herzegovina still did not sign and ratify this Convention.

➤ **Framework Agreement on the Sava River Basin**

The regional cooperation of countries gravitating to Sava river is defined by the Framework agreement on the Sava river basin<sup>118</sup>, which sets forth: (i) establishment of the international regime of navigation; (ii) establishment of sustainable water management; (iii) undertaking of measures aimed at preventing or limiting harmful effects of waters and (iv) establishment of mechanisms for development of efficient multilateral cooperation of the Sava river sub-basin countries.

➤ **The agreement on arrangement of relations in the field of water management with Republic of Croatia**

Bilateral relations with the neighboring Republic of Croatia in the field of water management are defined in a special document of relations in the field of waters of common interest between the two countries (Agreement between the Government of Republic of Croatia and the Government of Bosnia and Herzegovina on arrangement of relations in the field of water management<sup>119</sup>), based on The Convention on the Protection and Use of Transboundary Watercourses and International Lakes – Helsinki Convention.

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<sup>118</sup> "Official Gazette of BiH", number 8/03 – International Contracts

<sup>119</sup> "Official Gazette of BiH", special edition – international contracts, number 6 from December 25, 2006

➤ **The Convention for the Protection Of The Mediterranean Sea Against Pollution (Barcelona Convention)**

The Convention for the Protection of the Mediterranean Sea against Pollution, together with the Protocol on prevention of pollution by disposal of waste from ships and aircrafts was signed on February 16, 1976, and it came in force on February 12. The purpose of this document is to limit pollution in the Mediterranean region. The Convention was signed by representatives of 21 countries that surround the Mediterranean Sea<sup>120</sup>, and the Decision on ratification<sup>121</sup> was published in 1977.

International cooperation in the field of waters is conducted through bilateral cooperation mostly with the neighboring countries, and through multilateral cooperation, dominantly by implementing United Nations Convention on the protection and use of transboundary watercourses and International lakes, the Danube River Protection Convention and the Framework agreement on Sava river basin.

The following is said concerning bilateral cooperation in case of Bosnia and Herzegovina: Having in mind that the state border with Bosnia and Herzegovina is made up of rivers Drina and Sava (at length of approximately 30KM), which are of vital significance to both countries, there is urgent need to regulate permanent relations with Bosnia and Herzegovina by concluding trans-national bilateral agreement in the field of waters. This is to create possibilities for protection of the interests of population and economy, as well as possibilities of participation in the cross-border projects of mutual interests.

Negotiations about the Agreement between Republic of Serbia and the Council of Ministers of Bosnia and Herzegovina on cooperation in the field of sustainable management of transboundary waters were not held in the previous period, but both countries had shown interest in preparation of the Agreement.

Presently, cooperation with Bosnia and Herzegovina at multilateral levels is achieved within the activities of the International Commission for protection of Danube River and the International commission for the Sava river basin.

The Sava catchment area, under circumstances after dissolution of SFRY, was divided between four newly-established countries. Aimed at achieving better integrated management of river basin and other significant resources, as well as to regulate the issues of safe navigation and protection of water quality of Sava river, the need arose to regulate common interest in that field.

Upon initiative of the Stability Pact for South Eastern Europe the contact and negotiations between the four countries in the Sava catchment area (Slovenia, Croatia, Bosnia and Herzegovina and at that time state union of Serbia and Montenegro) on concluding trans-national agreement on integral water management in the catchment area and on establishment of the international regime of navigation on this river commenced in 2001.

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<sup>120</sup> Amongst them also Yugoslavia

<sup>121</sup> "Official Gazette of Yugoslavia" (International contracts/agreements) number 12/77

The Framework agreement on the Sava river basin was signed on December 3, 2012 in Kranjska Gora, a year after the authorized representatives of SRJ/Serbia and Montenegro, Croatia, Bosnia and Herzegovina and Slovenia had signed the letters of intent in Sarajevo. The result of the negotiation process, which was supported by the Stability pact for South Eastern Europe, is a document ensuring cooperation between the parties aimed at achieving the following objectives:

- Establishment of the international regime of navigation on Sava river and its tributaries,
- Establishment of sustainable water management,
- Undertaking of measures to prevent or limit hazards, and reduce and eliminate adverse consequences, including those from floods, ice hazards, droughts and incidents involving substances hazardous to water.

The agreement also defines that the cooperation will be developed on the basis of principles of equal rights, State sovereignty and territorial integrity, good faith and good neighborliness by mutually respecting the national laws, institutions and organizations and acting in accordance with the EU Water Framework Directive.

The agreement also sets forth cooperation and exchange of information between the parties on the water regime of the Sava River Basin, the regime of navigation, legislation, organizational structures, and administrative and technical practices. The agreement also regulates, and finds necessary, the cooperation with international organizations (the International Commission for Protection of Danube River - ICPDR; the Danube Commission; the United Nations Economic Commission for Europe - UN/ECE, and institutions of the European Union. The principle of reasonable and equitable utilization and share of water resources of Sava River is to be applied by the parties. The Parties agreed on how to regulate all issues concerning measures aimed at securing integrity of the water regime in the Sava River Basin and the elimination or reduction of transboundary impacts on the waters.

The Agreement on changes to the Framework agreement on (E)3.94103(a)1.4422on chagimpRivi

commission for the period of three years, and Mr. Branko Bačić from Croatia was appointed the deputy chairman of the Sava Commission. Republic of Serbia chairs the Sava Commission in the period 2011-2014. The Protocol of the Framework Agreement on Sava river basin on protection against floods was also signed along with the Protocol of the Framework Agreement on Sava river basin on prevention of water pollution caused by navigation.

Aimed at enhancing the cooperation and ensuring synergy in obtaining its objectives, the Sava commission establishes permanent and ad-hoc expert groups, consisting of experts appointed by the countries signatories to the Framework agreement on Sava river basin. The permanent expert groups work on the main issues of the Sava river basin, while the ad-hoc expert groups work on more specific issues and tasks. The employees of the Secretariat of the Sava Commission chair the expert groups. In principle, the Secretariat prepares the material that is to be discussed by the expert groups. The meetings of the expert groups are held several time in a year, in line with the Working plan of Sava Commission and as a rule the meeting are held in the seat of Sava River, in Zagreb (Croatia).

Permanent expert groups are:

- Permanent expert group for navigation (PEG NAV),
- Permanent expert group for river basin management (PEG RBM),
- Permanent expert group for accident prevention and control (PEG APC),
- Permanent expert group for flood protection (PEG FP).

The Government of Republic of Serbia at its session held on June 4, 2008 assigned designated the Republic Directorate for waters of the Ministry of agriculture, forestry and water management to coordinate activities within work in the International commission for Sava river basin (Conclusion 05, number: 037-2992/2009).

The long-term benefits of the ISRBC's work and implementation of the Framework Agreement on Sava river basin, having in mind that Sava is a sub-basin of Danube, will be:

- establishment of a system of international laws through implementation of international law instruments,
- application of the international navigation laws,
- application of international regulations in the area of protection of environment,
- implementation of appropriate EU regulation that had been already applied to the water resources of Danube, but not to the Sava river basin.

The international commission for Sava river basin (the Sava Commission) is a joint body having international legal capacity that is necessary for conduct of its activities, i.e. for implementation of the Framework agreement on the Sava river basin. The Sava commission consists of two representatives of the parties signatories to the Framework Agreement respectively, i.e. member and a deputy member of each party, whereby each Party in the Sava Commission has one vote.



The member of Sava Commission from Bosnia and Herzegovina is a representative of the Ministry of communication and transport, while his/her deputy is a member of the water management sector. Several months ago the member of Sava Commission retired, while Mr. Savo Gluvić is the present deputy of the member of the Sava Commission from Bosnia and Herzegovina. The procedure for appointment of new member and deputy member of the Sava commission is presently underway, so the BiH Council of Ministers passed a Decision on appointment of member and deputy member of Sava Commission, but the BiH Presidency did not confirm this appointment yet.

Together with the examples from the neighboring countries concerning legislation regulating the issues of floods, flood risk and flood protection, we find that it is really important to provide a review on held Ministerial meeting on regional cooperation in the field of flood protection in the Sava river basin. On invitation from the International commission for Sava river basin a meeting of competent ministries responsible for waters of countries in the Sava river basin – Bosnia and Herzegovina, Croatia, Slovenia, Serbia and Montenegro was held on June 16, 2014 in Belgrade. The topic of the meeting was regional cooperation in the field of flood protection and during the meeting the ministers and other high state representatives discussed how to use joint efforts to achieve high quality regional solution for flood protection in the Sava river basin.

It was concluded that significant results in this field have already been achieved, but that is necessary to continue the process with the additional support from the countries, in order to reach a level at which they could efficiently impact risk reduction and reduction of harmful effects of floods in the.

- The ministers supported additional intensification of activities concerning direct engagement of the countries; they determined short-term and long-term activities necessary for implementation of priority actions in the field of flood protection, whose realization can be successfully coordinated through the Sava Commission. The ministers reached an agreement on engaging necessary human and other resources for implementation of joint projects that are of transboundary significance and interest. The interlocutors supported additional capacity building of the Sava commission, as a mechanism of regional cooperation coordination, as well as faster entry into the force of the Protocol on protection against floods of the Framework Agreement on Sava river basin. It also concluded that for the purpose of coordinating regional projects of common interests national coordinators<sup>122</sup> are to be appointed in every country aimed at better preparation and implementation of regional projects and provision of external sources of financing. The countries are to inform the Sava Commission about implementation of agreed activities until September 30, 2014 aimed at timely preparation of the 5<sup>th</sup> meeting (of

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<sup>122</sup> This was discussed at a coordination meeting of representatives of institutions responsible for water management sector in BiH, which was held on July 16, 2014 in the Ministry of foreign trade and economic relations, and it was concluded that Bosnia and Herzegovina will appoint coordinators for every project that is to be implemented within activities of the Sava Commission. The coordinators will be appointed from the competent institutions in accordance with the project contents. In order to ensure adequate engagement of all competent institutions in BiH in some cases two representatives from BiH will be appointed. (The information received from the BiH Ministry of foreign trade and economic relations).

countries, parties to the Framework Agreement on Sava river basin), which is to be held on December 02, 2014 in Zagreb.

Four countries in the Sava river basin, Bosnia and Herzegovina, Croatia, Slovenia and Serbia, have been putting joint efforts into implementation of the “Framework Agreement on the Sava river basin” for many years now by cooperating through the International Commission for Sava river basin. One of the main objectives of the “Framework Agreement on the Sava river basin” is cooperation on implementing preventive measures, limiting danger and reducing harmful effects of disasters, including the ones caused by flooding.

In accordance with the latter the Sava commission is coordinating several key activities of common interest in the field of protection against floods, which are significant for the entire river basin. These activities include: preparation of a joint “Flood risk management plan”, which will define the objectives of flood risk management that are of common interest at the level of Sava river basin, measures to achieve these objectives, coordination mechanisms at the level of river basin, as well as mode of cooperation between the Parties in case of extraordinary flood defense and development of a coordinated system of weather forecast, warning and emergency alert in case of flooding in Sava river basin.

The Convention on Co-operation for the Protection of Sustainable Use of the Danube River<sup>123</sup> was signed on June 29, 1994 in Sofia by the countries of Danube river basin and the European Union member states. The contracting parties of the Convention are: Germany, Austria, Bosnia and Herzegovina, Montenegro, Bulgaria, Czech Republic, Croatia, Hungary, Moldova, Romania, Serbia, Slovenia, Slovakia, Ukraine and the EU.

Bosnia and Herzegovina had ratified the Convention at the 64<sup>th</sup> session of the BiH Presidency, held on December 08, 2004.

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<sup>123</sup> <http://www.icpdr.org/icpdr-pages/legal.htm>

Picture 1: Map of Danube river basin

The main objectives of the convention are cooperation of the Danube basin countries on:

- sustainable management of water system in the Danube river basin, including conservation (preservation of existing status) and improvement of rational utilization of water resources (surface and ground waters) of this area;
- improving quality of water resources management and quality of water in the Danube catchment area;
- rational and sustainable utilization of water resources and protection of environment and the

integrated approach of water management at the river basin level. BiH is involved in the operational work of the ICPDR through direct participation of experts in the expert groups. All contracting parties have contributed to preparation of the Danube River Basin Management Plan / Joint Program of Measures. ([http://www.icpdr.org/icpdr-pages/danube\\_rbm\\_plan\\_ready.htm](http://www.icpdr.org/icpdr-pages/danube_rbm_plan_ready.htm)).

The Danube River Basin Management Plan is based on compilation of data from the national reports, i.e. from the programs of measures of individual countries. It had been completed in December of 2009m and adopted at the Ministerial conference held on February 16, 2010.

The first Danube River Basin Management Plan is adopted for the period until 2015. All working groups of the ICPDR have been already started preparations for development of a Second Cycle Plan, which is to be completed in 2014, and adopted in 2015.

Bosnia and Herzegovina has taken over the chair of the International Commission for protection of Danube River (ICPDR) on January 15, 2013. Previous president of the ICPDR Mr. Wolfgang Stalzer from Austria transferred his mandate to Mrs. Ermina Salkičević-Dizdarević, deputy minister of foreign trade and economic relations of Bosnia and Herzegovina.

### **7. CHRONOLOGICAL PRESENTATION OF THE MOST IMPORTANT EVENTS WITH REGARD TO THE TOPIC OF THE ANALYSIS (MAY – JULY 2014)**

The following paragraphs are to provide chronological presentation of the most important events that had happened as a response to the consequences caused by floods, which hit Bosnia and Herzegovina during May of 2014 after precipitation that had been ranked the highest in 120-year period of record. We actually use the chronological view to show (non) functionality of the protection system that is enabled by the present legislative and institutional framework.

In the previous chapters we concluded that the country does not strategy or plans to act in the event of natural disasters, that the entity documents are adopted late in regard to the deadlines, and that many important documents were adopted immediately before the last catastrophic flood, because of what their implementation did not even start. The most important programs and plans of protection and rescue, which are set forth by the Law on protection and rescue, were not adopted, and it is completely clear that at the time of natural disaster in 2014 the response of the national institutions was expectedly unsatisfactory.

In the following text we will chronologically present important events that provide a broader insight to the situation and responses of citizens, institutions of authority and the international organizations.

- Sudden rise of water level of rivers Bosna, Sava and Drina, and their tributaries, happened in May of 2014 after days of precipitation that had been ranked the highest in 120-year period of record.

- The Operational Communication Center of the Ministry of security of Bosnia and Herzegovina sent on May 13, 2014 a notice on early flood warning to the entity civil protection administrations. The entity civil protection administrations did not forward the notice to the lower levels with the importance it deserves<sup>124</sup>.
- The rivers Bosna, Drina, Sana, Sava, Vrbas and their tributaries had overflowed their river banks on May 14, 2014. First cities that flooded were Zavidovići, Maglaj, Doboj, and then Šamac, Odžak, Orašje, Domaljevac, Brčko, Tuzla, Prijedor, Travnik, Janja, Bijeljina, Zenica, Živinice, Vareš, Ključ, Banja Luka, Čelinac, Šekovići and many others.
- The Government of the Federation of Bosnia and Herzegovina declared the state of natural disaster on May 15, and the Government of Republika Srpska declared state of emergency on the territory of Republika Srpska on May 17, 2014.
- The BiH Presidency passed the decision to employ all the available human resources and material and technical devices of the Armed Forces of Bosnia and Herzegovina in order to help citizens of Bosnia and Herzegovina, following which 1500 members of the Armed Forces were employed.
- Civil protection headquarters were involved in directing and coordinating of the rescue actions, but it became evident that they do not have appropriate equipment and funds; that there is no high quality coordination system and that there is also no established or well-trained specialized unit.
- Citizens in many municipalities and cities had organized themselves and had volunteered for relief actions that were intended for the citizens of affected areas.
- The FBiH and RS Red Cross organized collection and distribution of aid to the citizens. Humanitarian charitable organizations Merhamet and Karitas also participated in activities of collecting humanitarian aid.
- The citizens were also collecting the aid, showing great solidarity with the affected countrymen. Individuals and groups had organized rescue and aid delivery actions by themselves.
- Artists, famous singers, diaspora, sports organizations had organized humanitarian concerts aimed at collecting money/aid for the affected citizens (examples are many).
- Units of ministries of internal affairs at all levels had engaged their special units in rescue actions.
- The rescue teams from Austria, Belgium, Macedonia, Slovenia, Croatia, Luxembourg, Montenegro, Turkey, Great Britain, and United States of America (USA) had also participated in protection of citizens and property and delivery of recovery assistance.
- The United States of America also deployed a demining team to our country, which together with the Mine Action Center in BiH (BHMACH) had worked on identifying and destroying the mines.
- Many countries in Europe and in the world had organized delivery of humanitarian aid, and following days' long problems at the border crossings, the Indirect Taxation Authority of BiH

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<sup>124</sup> The notice on heavy rainfall was sent, but it did not mention arrival of a flood wave and torrents.

on May 20, 2014 had defined the conditions for import of humanitarian aid and had introduced round – the – clock working hours. The BiH Council of Ministers had published Instructions on collection of humanitarian (financial and non-financial) aid on May 16, 2014.

- Many landslides became active and buildings were destroyed. The most landslides and the biggest damages were recorded in municipalities Tuzla and Zenica. Many communications were not functioning, including railroads, and bridges had collapsed.
- The BiH Council of Ministers did not declare a state of natural disaster, explaining that institutions did not make such a request.
- EUFOR and Republic of Croatia provided assistance by deploying helicopters on May 16. Rafting clubs of Konjic and Bihać and mountain rescue services of Foča and Mostar were voluntarily providing assistance.
- The local structure of civil protection headquarters in Doboј and Šamac was dismissed by the Decision of the Government of Republika Srpska on May 20 and retired generals were appointed as head of emergency situation headquarters and they had took over governing of the cities.
- In the BiH Federation all levels of authority had participate in collection and distribution of assistance/aid, while in RS the assistance was collected in a centralized fashion and to a single bank account. The affected municipalities expressed dissatisfaction with this method of collection and distribution of assistance.
- At least 23 persons had lost their lives, and thousands of them were temporary or permanently evacuated from their homes.
- Following collection of dead animals, part of them was incinerated in neighboring countries since domestic capacities of two animal incineration units were not sufficient.
- Politically, parties had been arguing that the natural catastrophe was used for political purposes and doubts were expressed that there will be abuse in collection and distribution of assistance, and in RS many suspected that political reasons were the main basis for lack of higher level of coordination and an integrated approach to crisis situation management<sup>125</sup>.
- The European Commission approved a package of emergency financial aid for Serbia and Bosnia and Herzegovina in the amount of 65 million Euro. The unused funds in the amount of 42 million EU that the BiH had got through the IPA 1 were redirected for assistance to citizens whose property was destroyed in floods.
- The World Bank had in a very short period of time approved a credit of 100 million US dollars for emergency recovery project.
- The International Monetary Fund approved a credit in the amount of 187 million KM. The funds of the IMF and the World Bank are blocked due to dispute between the entities how the funds will be distributed.
- The BiH Federation Ministry of internal affairs announced that it will initiate an investigation in order to determine whether there was illicit spending of the funds intended for flood

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<sup>125</sup> The level of catastrophe could have certainly been avoided by monitoring and timely radical decision. But, political personnel was generally never ready for that. Space, and its river basins, must be managed based on knowledge and scientific logic – statement of Dr. Stjepan Sterc, professor at Faculty of science in Zagreb, given to magazine Slobodna Bosna.

protection. It was announced that Ministry of agriculture, water management and forestry, BiH Federation civil protection administration and the Agency for water area of Sava river basin will be under investigation.

- A very complex procedure of damage assessment had been initiated and participants in this process were domestic institutions from different levels of authority and experts of the EU, UN and the World Bank. The final estimate of 3.98 billion KM was only done after assistance of international experts, since the entity teams had contested the entity damage assessments due to different methodology that was used.
- On the initiative of the Ministry of foreign affairs organization of a donors' conference to finance reconstruction project was announced following the end of damage assessment procedure.
- The entities had adopted regulations to mitigate effects of floods and landslides, and had created preconditions for providing minimal assistance, in line with budget capacity, to the citizens until the donors' funds become operational.
- The international donors' conference for Bosnia and Herzegovina and Serbia under title "Rebuilding Together" was held in Brussels on July 16, 2014. The Conference had gathered delegations of more than 16 states and 23 international organizations, as well as representatives of civil society and the private sector. A total of 809.2 million Euro were collected for Bosnia and Herzegovina.

In general, the CCI condemns government's inconsistency in taking the responsibility, but at the same time we welcome all good intentions, especially citizens' solidarity that became quite evident in BiH. But in our general observation we do not want to neglect some good measures that were undertaken at the level of BIH, BiH Federation and RS, such as:

- Decision of the Council of Ministers of Bosnia and Herzegovina, redirecting 42 million Euro from the Instruments for Pre-Accession Assistance (IPA) of the European Union to be used in assisting the citizens, whose property was destroyed by floods in May. These are earlier approved, but not used funds that the BiH had got through the IPA 1 program.
- At the BiH Federation level, it was legally regulated that land for construction is to be given free of any charge to the people, who had lost their homes or business facilities in this catastrophic natural disaster.
- Also at the BiH Federation level certain regulations were passed that are very favorable for municipalities and cantons, primarily through redirecting the funds that are collected from various fees and charges, such as the fees for construction of shelters, utilization and improvement of forests, environment protection, and other taxes and fees.
- In Republika Srpska all state owned apartments, which are not occupied, will be given on a temporary basis to the families that have lost their homes during floods in May. At the same time, 58 free accommodation units at the retirement homes in Trebinje and Banja Luka, and in the Center for rehabilitation and employment of disabled persons in Banja Luka, were put at disposal to the citizens affected by floods.



- Also flood affected people belonging to the category of families of dead soldiers and war invalids, without permanent housing, will have priority during allocation of housing grants in Republika Srpska. Every person who was affected by floods will have the right to a subsidy for paying bills for electricity.
- It is also planned that all pupils and students from households that are affected by floods get free accommodation in students' and high school dorms throughout Republika Srpska. The government supported the social measure that all pupils and students from affected areas be partly or completely exempt from paying the tuition and fees for taking the exams.
- Etc.

## **8. CONCLUSIONS AND RECOMMENDATIONS**

Having in mind complexity of the subject, this analysis is not prepared to provide answers to all problems concerning the subject, but primarily it attempts to open a space for dialogue that would try to find the best protection system and mechanism of actions in the event of a natural disaster.

All scientific discoveries and international experience state that absolute flood protection, especially when the climate is changing, is not possible. However, to be able to significantly reduce magnitude of damage and losses of human lives Bosnia and Herzegovina has to put any complexes and politicking aside and to constantly work on additionally improving and developing the entire system of protection and rescue of people and property in the event of a natural disaster, and especially the flood protection system.

It is known fact that by all parameters Bosnia and Herzegovina is significantly trailing behind on its path towards the European integration, and it was bestowed the same fate in meeting the obligations from the Flood Directive 2007/60/EC. It is urgent planning and implementation of measures with regard to the Flood Directive, following the disastrous flood that had hit our country, which provides an opportunity to all structures of authority to show genuine commitment to the problem and to make a strong step forward on the path of Bosnia and Herzegovina to the European family. Such an approach would additionally justify confidence of all countries, institutions and individuals, who in the post-flood recovery, are looking for the funds aimed at conducting flood recovery activities. This would create the environment in which primacy in solving this problem would be above everyday political events, as it was seen in the first days after the flooding in May of 2014.

### **8.1. Conclusions and recommendations**

- Bosnia and Herzegovina is at very high risk of flooding. The floods had on several occasions caused great material damage to the economy, infrastructure facilities, environment, citizens'

health, including losses of human lives. The flood damages could not have been completely avoided, but they could have been smaller if the government had undertaken everything in its power to build a functional and an efficient flood protection system. Entity, cantonal and local authorities share the responsibility for devastating effects of floods in BiH during the May of 2014. Nevertheless, having in mind division of the competencies and the fact that the rivers (waters) belonging to the primary water channels of Republika Srpska, and to first category waters of the BiH Federation, had overflowed, the biggest responsibility for the catastrophe rests on the entity Governments, namely on the entity ministries responsible for agriculture, water management and forestry.

**All levels of authority should conduct objective analysis to exam in detail all circumstances and omission, clearly determining institutional and individual responsibilities in the field of prevention, but also during the rescue of people and property during the disastrous floods in May of 2014.**

- Even beside human fatalities, enormous material damage, and thereby with evidently unorganized flood defense system, none of the present government representatives in Bosnia and Herzegovina nor the persons managing different administrations and agencies, did bear any responsibility<sup>126</sup>;

**It is necessary to introduce simple parameters of assessing successfulness of the response to natural disasters, in order not allow any politicking by representatives of the government.**

- Waters in Bosnia and Herzegovina are inefficiently managed, and existing institutional framework concerning the water issues is decentralized, very fragmented and heterogeneous, both at the entity and local level;

**To make additional efforts in considering possibility of adoption of a framework law on waters at the state level, not diminishing the importance of the entity laws on waters, and all aimed at clear division of competencies in regard to the common water resources and water management issues of relevance for the whole country.**

- Authorities in Bosnia and Herzegovina are not making additional efforts to compensate shortcomings concerning coordinated and harmonized approach to water management at the national level, which is one of the objections of the European Commission given in the Annual Bosnia and Herzegovina Progress Reports. The European Commission has been for years now criticizing BiH for inconsistent implementation of the existing legislation on waters, as well as for inconsistent implementation of river basin monitoring and management plans;

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<sup>126</sup>The paradox lies in the fact that as there are no single parameters to assess successfulness and quality of government's response to natural disasters, certain individuals had used the regime media at the time the citizens were suffering to promote themselves and to get cheap pre-election political points;

- The institutions for water management are not staffed in line with the European standards. It can pose a serious problem for Bosnia and Herzegovina, since the experience of new EU members states undoubtedly indicates that the biggest obstacle in the process of implement EU directives is not lack of financial means, but lack of strong institutional and professional human capacities that are needed for realization of many infrastructural project in a very short period of time;

**In accordance with the recommendations of the European Commission given through the Progress Reports it is necessary to urgently ensure consistent and harmonize approach to water management at the national level. Therefore it is necessary to complete by-laws in regard to water sector in both entities, conducting necessary corrections in order to achieve maximum compliance between all laws and by-laws that were prepared in the different periods of time; It is also necessary to make additional efforts in considering possibility of adoption of a framework law on waters at the state level, not diminishing the importance of the entity laws on waters, and all aimed at clear division of competencies in regard to the common water resources and water management issues of relevance for the whole country.**

- Due to administrative division of water management to entities and cantons, integrated management of water resources is almost impossible without complete synchronization of the national and entity laws and strategies. The existing legislation in Bosnia and Herzegovina entrusted the water management to the entities, but it did not ensure efficient water management, because higher importance was given to the administrative divisions then to the river basins;

**It is necessary to ensure integrated and better coordinated preparation of plans, to harmonize entity plans and programs for protection against floods, and to subsequently harmonize them with the plans at the national level, while establishing mechanisms for quality monitoring of implementation of plans in managing all river basins in BiH.**

- Through a prism of consequences of recent floods in BiH, analysis of legislation has shown that existing civil protection system in BiH in terms of organization, structure and efficiency is generally too complex and hardly manageable, and at the end it proved to be insufficiently functional in practice; Obviously the present protection and rescue system cannot appropriately respond to the needs of BiH citizens, and it does not provide security, which is necessary aimed at protection of population in the event of natural and other disasters;

**To amend as soon as possible legislation regulating protection and rescue of people and property in the event of natural and other disaster, protection against fire and the legislation on firefighting aimed at elimination of all shortcomings (education, training, capacity building,**

**provision of equipment to existing rescue service and formation of specialized teams for response in similar crisis) and creation of a modern protection and rescue system that can adequately respond to the needs during eventual natural or other disasters.**

- The consequences, such as desolation that occurred across BiH after the floods in May, show that the water structures/facilities, which generally had been massively damaged during the last war, are obsolete and poorly maintained during the last 15 years;

**Existing water control facilities have to be regularly and appropriately maintained and upgraded, and they have to be appropriately managed at the time of imminent danger and during the floods.**

- Disastrous floods, which all countries in the Sava river basin had faced, confirmed a known fact that such disasters do not recognize any borders, and that beside the individual efforts of the countries, it is necessary to consider planning of the flood protection at the level of entire river basin. The work within transboundary river basins has its advantages in possibility of using joint resources, but it has been made difficult due to the complicated decision-making process (especially in case of Bosnia and Herzegovina due to its complex set-up);

**To organize the flood protection system in BiH so as to enable planning and implementation of all preventive measures harmonized at the level of entire river basin with clearly defined responsibilities of every decision-making level. The BiH authorities should to a larger degree utilize potentials and possibilities for implementation of regional projects from the EU Strategy for Danube region and in the Sava River Basin Management Plan.**

- Besides the inter-entity, inter-departmental division, high fragmentation in planning, uneven funding and organization of protection measures, the system is not completely developed due to the lack of continuity in planning and delays of government institutions in adopting key documents relevant to management of waters and protection against waters. For example the adoption of first Water Management Strategy of the BiH Federation was three years late, having in mind that according to the presently valid law it should have been adopted by 2009 at latest;
- The events during and after the big floods in 2014 had pointed out many shortcomings of the protection and rescue system (lack of preventive actions, insufficient number of trained people, lack of equipment and material-technical resources in the services....), because no adequate actions were undertaken in regard to the new situation; The fact that state of natural disaster at the national level was not declared during the disastrous floods in 2014 only confirmed that the entire system of protection of people is not good due to tardiness in the decision-making process and the possibility of the process being blocked by unreasonable politically motivated decisions;

**It is necessary to improve inter-departmental and inter-entity coordination and cooperation of all stakeholders in implementation of measures of protection against floods, where the special role should be assigned to the resource state ministries (Ministry of foreign trade and economic relations, BiH Ministry of security). It is also necessary to further improve system of monitoring, early warning and weather forecast aimed at high quality preparation of implementation of operational measures of protection against floods (preparation of the space to withstand the flooding).**

- The funds intended for protection and rescue of people and material goods were spent inappropriately. Due to the financial crisis and budget deficits at all levels of authority, the entity and cantonal governments for many years adopted decisions by which they borrowed funds from the fees collected for protection against natural disasters, and had used the funds to improve budget liquidity. So it happened that beside the fact that we have poorly equipped and poorly trained structures of civil protection, the funds that were intended for that purpose were spent inappropriately.

**To conduct a thorough efficiency analysis/audit<sup>127</sup> of prevention and active defense against floods at all levels of authority. To use the results of the audit of effectiveness of active flood defense to reform civil protection organization at all levels in BiH.**

- Bosnia and Herzegovina lacks joint funds (a certain national fund) that could be used solely in the event of natural and other disasters i.e. they would be intended for financing acceptance of international protection and rescue assistance, as well as for provision of assistance to the affected population and protection and rescue structures after natural and other disasters;

**To establish within the BiH budget an item for “Fund” that would be used in line with previously defined criteria, exclusively and only in the event of natural and other disasters. This has to be specially regulated by adoption of a national law on establishment and management of the “Fund”.**

- Financing needs of the Water management company “Vodoprivreda” RS largely exceed realistic amounts collected under special water fees. In the RS, contrary to the BiH Federation, no incomes are not made from the general water fees. Therefore there is a potential danger of unbalanced development, but also a realistic danger that the RS water management development would get more and more behind in comparison to water management development of the BiH Federation;

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<sup>127</sup> The efficiency analysis should be done for other sectors (health care, employment) – areas for which citizens pay special fees.

**To consider reintroduction of the general water management fee in RS thus preventing RS water management trailing behind the BiH Federation.**

- Even though it was adopted six years ago, the Framework law on protection and rescue of people and property in the event of natural and other disasters in BiH is still not fully implemented, i.e. specialized mixed protection and rescue unit in the event of natural or other disasters was not established at the state level;

**Additional efforts should be made to establish the specialized mixed protection and rescue unit in the event of natural or other disasters (to participate in international exercises, assistance operations and other activities) – in accordance with the obligations of the BiH Council of Ministers as set forth in Article 13 of the Framework law on protection and rescue of people and property in the event of natural and other disasters.**

- Following the disastrous floods in BiH the authorities in BiH (national, two entity, cantonal) or parliament/assembly did not begin to change their annual 2014 Working plans in more detail;

**All governments and parliaments in BiH should have harmonized their working programs for the second part of the year (planned laws, strategies, plans) in accordance with the new, extraordinary situation following the extreme weather conditions; When planning development of the Framework Budget Document and the budget to plan the funds for implementation of measures from existing strategic, program and planning documents both in the water management sector, but also in the protection and rescue sector.**

- Unlike to experience and practices of some developed countries (activities in Great Britain after floods at the beginning of 2014) development of new multiannual working program for flood defense system, including new long-term investment strategy for flood defense, and assessment of future needs of flood and coastal defense, taking into consideration the newest risk maps and analysis, did not commence in Bosnia and Herzegovina even after almost three months;

**To urgently initiate the process of developing new multiannual working program for flood defense system, including new long-term investment strategy for flood defense, and assessment of future needs of flood and coastal defense, taking into consideration the newest risk maps and analysis.**

- The Ministry of security of Bosnia and Herzegovina – Sector for protection and rescue has developed all preconditions for maintaining all databases that are relevant to protection and rescue (informatics and other preconditions), but accurate and reliable records at the State

level are still not established, since the latter are not established at the entity level<sup>128</sup>. The Ministry of security has problems in receiving the information from the lower levels, where the lower levels explain that the Ministry of security should not be keeping these records since it does not have operational competence for such an activity;

**Bosnia and Herzegovina has to have a function, single database with WEB view from all parts of our country concerning equipment in the possession of the civil protection administrations and headquarters (boats, motors, machinery, rescue equipment, water tanks, etc.), i.e. it is necessary to ensure transparency of all information relevant to protection and rescue of people and property in BiH at one place; Having in mind available equipment and present coordination competence, good chance to administer and maintain this database has the Protection and Rescue Sector within the BiH Ministry of Security; Also it is necessary to ensure more transparent and more functional work of Bosnia and Herzegovina Coordination Body for protection and rescue.**

- As regulated by the legislative framework divided responsibility in the segment of protection and rescue, starting from individuals, through municipal, cantonal, entity and all the way up to the institutions at the state level, makes sense and yields terrific results, but in organized national systems. In the event of natural disasters, in organized systems, activities conducted in the field are clearly coordinated, with in advanced prepared instruction on the conduct and activities of each and every individual and with a detailed scheme of tasks for every link of the chain of responsibility. In a decentralized country such as BiH the alternative does not lie in developing two independent protection systems, but that solution lies in developing entity systems that are completely harmonized and that are functionally complemented thus making a unity, which is compatible with the systems of the countries in the region;

**In Bosnia and Herzegovina it is necessary to continuously develop system of protection and rescue from a natural disaster such as the flooding, to invest to maintenance and construction of water control facilities and systems (embankments, bank revetments, regulated water course channels, sluices, catch-water drains, pumping stations, drainage stations, multi-purpose accumulations, etc.), ensuring continued training and certification of individuals and organizations for planned and coordinated action during a natural disaster; In the forthcoming period these activities must made priority of authorities at all levels, in the plans, budgets, and subsequent credit lines;**

- The authorities in Bosnia and Herzegovina, especially the local level, have during last few years failed in regard to providing training on protection and rescue training – the training that should had been organized regularly through realization of measures of prevention against floods and other incidents/accidents that might hit BiH (theory and practical training, providing

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<sup>128</sup> The Civil protection administration of Republika Srpska informed us that they have only now, after the disaster had happened and passed, and many citizens lost their homes, started to consolidate these information.



possibility of seminars, training camps, and other types of specialized training for the highest possible number of citizens in BiH);

**To consider possibility to normatively regulate the field of “training of people and teams” to be able to act in the event of an emergency, in order to ensure higher turnout to the trainings and other types of education; With reference to this we could earlier hear a recommendation for BiH to start developing a strategy for informing the public and raising awareness of the public about the role and place of the civil society in the society. To identify all stakeholders in the protection and rescue system, including all legal entities and citizens, and to shape the methodology of the information strategy according to latter;**

- The donors and credit funds from the conference in Brussels will certainly be well used for recovery of devastated economy, but we still cannot be satisfied with the fact that unique mechanisms to prevent non-transparent spending of provided funds were not developed at the level of entire BiH. Establishment of additional control mechanisms will prevent illicit use of donors' fund and will stop further impairment of the international community's efforts to provide assistance to the people affected by floods. The entity authorities had in a relatively short period of time adopted regulations “to mitigate effects” of floods and landslides, thus creating preconditions for providing minimal assistance, in line with budget capacity, to the citizens until the donors' funds become operational . The urgent measures are directed towards reduction of public spending, and in short, the present representatives of authority see economic and infrastructural recovery of the country through the prism of receiving international assistance, new credit line and making the citizens even poorer (solidarity funds);

**Being guided by the fact that the Flood Directive 2007/60/EC on the assessment and management of floods risks also strengthens the right of the public to seek information about this issue and to have the right to participate in the planning process, we find that it is very important to have this principle observed and implemented in our country, especially when it comes to planning and distribution of funds designated to Bosnia and Herzegovina after the Donors' Conference for Serbia and Bosnia and Herzegovina. It is necessary to completely respect the conclusions<sup>129</sup> of the Donors' Conference “Rebuilding together”, which was held for Bosnia and Herzegovina and Serbia after the flooding.**

- Non-transparency of the processes and information in BiH, even in the water management and civil protection sector, is no news for our county (this can be seen through failure of most institutions to publish on their official web sites annual financial reports and reports on

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<sup>129</sup> The conclusions of the Donors' Conference for Serbia and Bosnia and Herzegovina “Rebuilding together” in regard to ensuring transparency, efficiency and responsibility, state the following: It is of paramount importance that authorities of Bosnia and Herzegovina and Serbia make efficient, transparent, including through websites, and swift use of the financial assistance received. Donors' coordination should be improved with EU support. Swift implementation of the pledges is expected as it would substantially contribute to the needed reconstruction. A high level meeting will be convened early in 2015 to monitor the implementation of these conclusions.

business operations of entity water management agencies, and entity and cantonal civil protection administrations).

- Due to chronic non-transparency, we warn of reason

plan”, all in line with methodology and contents prescribed by the Directive, including the transboundary cooperation.

- The policy of promoting and supporting payment of preventive insurance for public and private property, which is quite developed in other EU countries, was not developed in Bosnia and Herzegovina during the past few years;

**In cooperation with the countries in the region it is necessary to develop a system of property insurance with specialized insurance companies, because in the present situation, when there are no big insurance companies, and when the insurance premiums are high, they cannot be financed by the citizens without planned assistance from the national bodies;**

- Failure to conduct a Census in Bosnia and Herzegovina for several years had hindered establishment of a reliable database that would be used when engaging available material and human resources for organization of protection of people and property, but that would be also used as a foundation for further activities in the field in the process of estimating and recovering damages caused by floods;

**To dynamize processing of the data collected through the Census of population, households and dwellings in BiH, which was done in October of 2013m and to public final results so they would be used as a very important element in the damage assessment structure, thus preventing any possible manipulations in implementing next recovery actions after floods that had hit Bosnia and Herzegovina in May of 2014.**

- The Brčko District of BiH does not have separate regulation on protection and rescue or on civil protection, which in the last period reflected on quality of assistance provided in concrete situations – floods, snow, storms, etc. (lack of coordination, lack of financial resources for procurement of certain civil protection equipment, etc ...);

**It is necessary to ensure completion of the legislative process in the Brčko District of BiH by adoption of the Law on civil protection of BDBiH.**

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