

БОСНА И ХЕРЦЕГОВИНА
ПАРЛАМЕНТАРНА СКУПШТИНА
БОСНЕ И ХЕРЦЕГОВИНЕ



BOSNA I HERCEGOVINA
PARLAMENTARNA SKUPŠTINA
BOSNE I HERCEGOVINE

Канцеларија парламентарног
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OFFICE OF PARLIAMENTARY
MILITARY COMMISSIONER OF BOSNIA AND HERZEGOVINA

Reference:

Sarajevo, 28 February 2012

**REPORT ON THE WORK OF
PARLIAMENTARY MILITARY COMMISSIONER
OF BOSNIA AND HERZEGOVINA FOR 2011**

1. INTRODUCTORY ADDRESS BY THE PARLIAMENTARY MILITARY COMMISSIONER OF BOSNIA AND HERZEGOVINA

In accordance with Article 5 paragraph (1) of the Law on Parliamentary Military Commissioner BiH ("Official gazette BiH", issue number 51/09), Parliamentary Military Commissioner BiH submits to the Parliamentary Assembly of BiH the Report on the work of the BiH Parliamentary Military Commissioner (hereinafter: Military Commissioner) for 2011.

Through authorities and competencies prescribed to the PMC by the Law on Parliamentary Military Commissioner BiH and Rules of Procedure on the work of PMC ("Official gazette BiH", issue number 8/10) the well-established practice of making efforts and assisting in the protection of human rights and freedoms of military personnel and cadets in the AF BIH was continued (hereinafter referred to as: Armed Forces BiH).

Through procedures and investigations conducted on complaints of AF BIH members in 2011, it was shown that the institution of the PMC BiH is an important and indispensable mechanism in the overall structure of civilian parliamentary oversight over the Armed Forces BiH. The frequent presence of the PMC at locations of AF BIH members' deployment was recognized as good practice for building the trust in the work of the PMC institution and its independence in its work on protecting human rights and freedoms of officers and cadets. Positive attitude the PA Joint Committee for Defence and Security BiH has on the work of PMC is an important element of support without which it would be difficult to implement the activities of his competencies.

Cooperation with partners from the MoD BiH and Armed Forces BiH was not missing in implementing the prescribed procedures during investigations of certain cases, and in accordance with the legislation regulating this area. However, there is space left to improve this cooperation, aiming at a better and more successful removal of observed irregularities in implementing the administrative procedures in the aforementioned institutions. Parallel to this, PMC was strengthened by evidently good results in reaching protection of human rights of military personnel, because partners from the MoD and AF BIH recognised the institution of PMC as a very important element of protecting the reputation and dignity of AF BIH members, as well as the reputation of AF BIH. In addition to this, numerous letters sent to PMC by AF BIH members are another confirmation of the justification of PMC BIH existence.

It is hereby confirmed and obliged to continue the commitment in fulfilling all PMC duties and responsibilities in both, protecting human rights of military personnel and strengthening responsibilities of relevant authorities within the MoD BiH and AF BIH in implementing the laws and by-laws referring to respecting the rights and duties of military personnel and cadets.

2. CURRENT SITUATION OF HUMAN RIGHTS AND FREEDOMS OF MILITARY PERSONNEL AND CADETS WITHIN THE ARMED FORCES BIH AND MINISTRY OF DEFENCE BIH

In 2011, 58 complaints were received, of which 22 were resolved complaints and cases were closed, while investigations and procedures are currently ongoing for 36 open cases. In percentage, the ratio between open cases is 62% (open) and 38% (closed). Parallel to this, in 2011, cases received in 2010 were resolved, and which, in their complexity and problems demanded more time and attention.

It is important to emphasize that the PMC, during the reporting period, in addition to investigations on individual complaints, significant activities on investigating certain issues for which he received info on possible violations of human rights of AF BIH members, one of these issues was the issue of meals of AF BIH members.

This report shall include an overview of complaints which, by contents and problems represented in them, are divided into different problem areas. We also presented statistical and graphical charts and data on complaints subject of PMC BIH Office work (hereinafter referred to as: Office) in 2011, but also the overall overview of all complaints processed in the Office to this date, due to the fact that follow-up of recommendations implementation issue by the PMC is a permanent process.

2.1. PROCEEDINGS BY COMPLAINTS

In 2011, problem areas of ongoing complaints procedures, and which were emphasized with their weight and level of importance, were as follows:

- 1) Process of promotion of professional military personnel,
- 2) Evaluation of professional military personnel's work,
- 3) Conducting a disciplinary procedure with the AF BIH,
- 4) By-laws,
- 5) Compensations other than salaries,
- 6) Meals of AF BIH members,
- 7) Accommodation and living conditions in the AF BIH barracks.

2.1.1. Process of promotion of professional military personnel

The largest number of complaints in 2011 refers to the issue of promotions within AF BiH. In some case a level of non-transparency in the promotion process was observed, unharmonized by-laws based on which promotions were made, and which in some parts were not harmonized with the laws, or mutually harmonized, which lead to collision and different interpretation of this legal issue. Certain irregularities were also observed and subjectivity in evaluating AF BIH members, which is one of important requirements for promotion. Although steps were already made towards a more transparent procedure implementation and giving equal opportunities for promotion to all AF BIH members, by personal and professional qualities, and PMC made a recommendation on this, there were still some observed problems remaining.

Taking into consideration the number of complaints in this area and the level of difficulty, PMC, in cooperation with JC Defence and Security, with the support of OSCE Mission to BiH, organised a conference on: „ Process of promotion of military personnel in AF BiH" (Equal opportunities for the re-categorisation and promotion with respecting transparency principles)", held on 23 November 2011 in Sarajevo. Conclusions from this Conference were submitted to the JC Defence and Security BiH for further review.

During the reporting period, PMC, concerning the promotion process, focused special attention to the procedure transparency principle. It was determined that the MoD BiH and AF BiH made significant progress in their previous work in respecting the transparency principle in promotion/re-categorization process of AF BiH members because, at the intervention of PMC, Recommendation number: 03-50-2-5-25/10, from 28 May 2010, they began placing preliminary lists for promotion/re-categorization on notice boards, containing details on points. This act enabled for the AF BiH members to have insight of the work of promotion/re-categorization committees giving opportunity to reacting to possible omissions in their work. However, it is evident that the final promotion rank lists based on which orders are given are still not being published, which to a great extent leaves space for having doubts in the process. It was also observed that the by-laws based on which promotions/re-categorisations are made are being placed on notice boards once the deadlines for internal vacancies expire, which again creates a feeling of legal instability among interested parties in the process.

This is contributed by the fact that internal competitions and relevant by-laws contain the same date, and this by-law has the legal power only for one internal competition. This is derived by the fact that each internal competition/open vacancy shall be followed by a special bylaw. This is supported by the example of „Criteria and procedures for hiring officer and NCO's in AF BiH“, number: 10-34-1-2844-10/11, from 20 July 2011, which in Article 9 – Duration of criteria reads: 'These criteria enter into force on the date of their adoption, and shall be applied until the termination of activities on the internal competition for filling in vacant formation positions for officers and NCO's with the AF BiH'.

Furthermore, PMC observed the unacceptability of the fact that the Instruction for applying special criteria for developing ranking lists for officers and NCO's for promotion into higher ranks with the AF BiH, number: 10-02-2-2546-1/10, from 8 June 2010, (hereinafter referred to as: Instruction), excludes the promotion committee's obligation to reply to individual complaints in writing on preliminary ranking lists which is contrary to the participant's right to an efficient legal remedy in procedures. In accordance with this, PMC stated the Instruction must be harmonized with the provisions of the Law on administrative procedure BiH ("Official Gazette BiH", no. 29/02, 12/04), (hereinafter referred to as: Law on administrative procedure)¹, which was also stated by the PMC in his recommendation number: 05/3-50-2-5-69/10 and: 05/3-50-2-5-89/10, from 22 October 2010.

¹ It is important to emphasize the clarification of the complaint in accordance with the Law on administrative procedure BiH: "The Law does not foresee complaint as a regular legal means. (...) Complaint as a legal means, does not have, by rule, devolutive character, i.e. the rule is that solutions to complaints will not be moved to a higher instance. By rule, the body to which the complaint was submitted resolves it (by legal analogy, the body which resolves complaints must provide a reply to the party by whose complaint it proceeded.). complaint as a legal means is foreen by some special laws submitted to relevant inspection bodies which can confirm, modify or reject the inspector's solution. (Source: "Administrative procedure ", Ljubo Todorović & Mensur Hadžimusić, 2005., pg. 44. Par. 15.2. Complaint).

Namely, in this phase of the competition procedure this does not refer to the final legal documents which, in accordance with Article 179 paragraph (1) of the Law on service with the AF BiH, clarification is not provided, but this is a complaint to preliminary lists, which actually represents the only possibility of correcting possible omissions in the committee's work. Complaint in this phase is clearly interpreted as legal remedy and in accordance with this the committee is obliged to clarify its position on scoring certain candidates. This surely affirms the transparency principle and strengthens the complete promotion/re-categorisation process.

It should finally be stated that Article 187 of the Law on service with AF BiH was not fully implemented ("Official Gazette BiH", no. 88/05, 53/07, 59/09 and 74/10), which had consequences on the promotion/re-categorisation process of certain members of AF BiH

2.1.2. Performance evaluation of professional military personnel

In 2011 certain insufficiencies were expressed in implementing the obligatory process of evaluating military personnel at the MoD and AF BiH. It was confirmed that the evaluation process does not end with the given deadlines, and that there are some delays in formulating marks at the level of evaluator-senior evaluator, and that the procedures are not fully respected, in terms of complaints of the evaluated candidates on their marks.

The evaluation issue was a special important issue because this is an official evaluation and proposal for promotion in the last two phases of evaluation², which is one of the basic requirements for promotion of professional military personnel. Analysing complaints referring to omissions in procedures of promotion and the work of promotions committee, PMC concluded the provisions of the Instruction for applying special criteria for developing ranking lists of officers and NCO's to higher ranks in AF BiH, no: 10-02-2-2546-1/10, from 8 June 2010 (hereinafter referred to as: Instruction), referring to scores of official evaluation, were not in accordance with other by-laws in force at the MoD BiH. Namely, Instruction leaves space for taking official evaluations from entity-level armed forces as grounds for promotion which is contrary to the provisions of the Law on service with AF BiH³. Rules of Procedure for evaluating military personnel at the AF BiH and MoD BiH: 10-02-3-5624/10, from 17 Dec 2010, precisely defines the procedure of evaluation at an annual level, with a special obligation of the Command for personnel as the body responsible for implementing the Rules of Procedure and evaluation procedure. To that regard, the exemption from the given condition of two sequential evaluations defined by the Instruction inaccurately is not necessary.⁴

² Article 116 of the Law on Service with AF BiH ("Official Gazette BiH", no. 88/05, 53/07, 59/09 and 74/10)

³ Ibid

⁴ Article 5 pg. (3), (4) and (5) of the Instruction is contrary to Article 116 item d) and Art. 122. para (4) of the Law on Service with AF BiH, WITH Rules of Procedure for evaluation of professional military personnel at MoD and AF BiH: 10-02-3-5624/10, from 17 Dec 2010, and Art. 3 item b) of the Instruction. For clarification, we will cite provisions of the Law and Instruction, as follows:

"Art. 116.

d) proposal for promotion in the last two evaluations."

"Art. 122.

(4) Evaluation of professional military personnel is conducted every calendar year or based on the service needs."

"Art. 3 of the Instruction (Special promotion criteria)

b) official evaluation/score in the last two evaluations."

In addition to this, Article 5, paragraph 4 of the Instruction is unclear, because Article 52 of the Rules of Procedure of evaluating performance: 04-02-4057/06, from 28 July 2006, terminated the validity of rules of procedure of previous Federation and RS Defence ministries, and on the other hand, members of AF BiH since this rules of procedure entered into force, they had to be evaluated in accordance with its provision to this date.

2.1.3. Disciplinary procedures in the Armed Forces

Special weaknesses in the report period were observed in the process of disciplinary procedures against military personnel, which are present in the lack of respecting defined procedures, and inability to recognize the basic principles regulating this area. Therefore, these two cases, upon completion of investigations, confirmed errors in disciplinary procedures, which was the reason for giving recommendation: Up1/05/3-50-17-1-24/11 and: Up1/06/1-50-3-1-10/11. in further text we will provide details on observed irregularities and a short resume of complaints.

Case number **Up1/05/3-50-17-1-24/11** PMC gave recommendation to the MoD and AF BiH⁵ due to a case of violation of the right to complain of the complaint making party and depriving the party its right to implement second-instance disciplinary procedure by complaint.

PMC, in this case defined that the right of the defendant to a just procedure was partially violated, i.e. that he was deprived the right to procedure by complaint in disciplinary procedure with a second-instance body, guaranteed by Article 13 (the right to an efficient legal remedy) of the European Convention from 1950, which reads: "Any party whose rights and freedoms, recognised by this convention, are violated, has the right to a legal remedy with national authorities, even when the violations of these rights and freedoms were committed by persons conducting their duties ", and Article 49. and 51. para. (1) and para. (2) of the Rules of Procedure on military discipline and disciplinary procedure number: 13-02-3-1627/10, from 1 April 2010, and in regard to Article 292 paragraph (1) and Art. 295. para (2) of the Law on criminal procedure BiH.

Aiming at prevention of such and simliar violations of rights to a just procedure and efficient legal remedy, and for the purpose of strengthening transparency in conducting disciplinary procedures, PMC, in Item (III) of his Recommendation obliged the relevant authorities that it is necessary to organise counselling, at which AF BiH memberms shall, as well as their superiors, be introduced with the rules of conducting disciplinary procedures.

⁵ The recommendation ordered an obligation to conduct the proceedings on appeal, and the cancellation of legal consequences that have occurred on the day designated by the first-instance decision making military disciplinary committee, which includes the establishment of the legal situation that existed on the set when the subject submitted an appeal to the President of the Military Disciplinary Board. In addition, the Military Commissioner ordered the BiH Ministry of Defense and the Joint Staff of the Armed Forces of BiH to ensure effective implementation of the named procedure, and, if an appeal is not made in accordance with the Regulation and Article 295 Paragraph 1 Code of Criminal Procedure Code, to provide a deadline to correct any deficiencies in his complaint, in accordance with Article 295 Paragraph 2 the same law.

In case number: **Up1/06/1-50-3-1-10/11** it was stated that the principles from the administrative procedure are violated explicitly defined by the Law on BiH Administrative procedure. It is because the disciplinary procedure was conducted in accordance with the provisions of the administrative procedure because it was about the allegedly committed disciplinary error. Military Commissioner noticed that during the disciplinary procedure, the competent persons violated the **principle of the material truth** from the Article 9 of the BiH Law on Administrative Procedure, the **principle of hearing the Party** from Article 10 of the same Law, as well as **provisions on the rights of persons against whom the disciplinary procedure is being conducted** from Article 19 of the Book of Rules on military pilots and flying service in the BiH Ministry of Defence and BiH Armed Forces, number:13-02-3-1626/10, as of 1 April 2010, because it was not enabled to the alleged perpetrator of the disciplinary error to present his defence. In addition, also the **regulations on the exemptions of the officials** from Articles 35, 36 and 37 of the BiH Law on Administrative Procedure had been violated, because there was no response at all to the request of the person appointed for exemption of the President of the Reconnaissance Commission. Based on the stated, the Military Commissioner issued the recommendation to the BiH Ministry of Defence and BiH Joint Staff of the Armed Forces to conduct the disciplinary procedure in this case in accordance with the provisions of the Book of Rules on military discipline and the disciplinary procedure and Book of Rules on military pilots and flying service, that is, to annul all legal activities taken in the disciplinary procedure and to start over with the disciplinary procedure.

Military Commissioner in the aforementioned cases, which are only examples of the problem appearing in conducting the disciplinary procedure, did not go into merits of the issues, but he appreciated procedural issues regarding these cases. Therefore, in recommendations by these cases the possible guilt of the persons against whom the disciplinary procedure or error is being conducted was not considered, as well as regularity in execution of the disciplinary measure. The Military Commissioner limited himself only to the violation of the regulations on conducting the disciplinary procedure, taking into account the formal errors that had been noted indicating on violation of basic human rights.

2.1.4. By-laws

While conducting the investigation in separate cases, the Military Commissioner established that the problem of the by-laws which defines the rights and obligations of the military personnel during this reporting period⁶ as well was pointed out to a significant extent. In this context, Military Commissioner stated that the BiH Ministry of Defence in the next period should deliver the Book of Rules on professional development and carrier management and the Book of Rules which will clearly define and evaluate the levels of the civilian and military education, as well as professional development through courses. Namely, the Book of Rules on professional development and carrier management is one of the key documents which should remove all lacks and omissions which can be noted now when it comes to professional development of the members of the BiH Armed Forces. Also, another key issue is evaluation of the level of civilian and military education in a

⁶ Military Commissioner indicated on this fact also in the Report on work for 2010, number: 01,02-50-19-313/11.

comprehensive manner and that would be the way to avoid ambiguities that had been appearing in separate cases.

The amendments to the Instructions in the part that refers to scoring of the official grades are also necessary, as we already explained it, as well as in the part that excludes the obligation of the Commission to respond in writing to the submitted objections during the implementation of the promotion and re-categorization process.

The issues that treat the fundamental human rights cannot be defined by the temporary legal act. This stand of the Military Commissioner was taken in the Recommendation number UP1/05/3-50-17-1-38/11, as of 29 November 2011. Namely, proceeding in accordance with the complaint of the members of the BiH Armed Forces, the Military Commissioner noticed that the Standard Operating Procedures (SOP's) – are temporary, number 16-06-02-3-286-13/08, as of 30 May 2008, as a temporary by-law which regulates wearing of the unified field uniform of the BiH Armed Forces and that the new regulation to define this issue permanently and unchangeably⁷ has never been developed.

The Military Commissioner, with the aforementioned recommendation has obliged the BiH Ministry of Defence to deliver the regulation which will define wearing of the unified field uniform, with precisely defined permanent provisions in terms of validity and application.

Finally, the Military Commissioner would like to draw a special attention to necessity of adopting the new regulations on promotion and re-categorization which will define this area in an overall manner guaranteeing the legal security and certainty when it comes to conditions for promotions in service.

2.1.5. Fees

Correction of the salary calculation, defining the rights on separate life reimbursements, correction of fees and expenses for sending to trainings and education, correction of payments and fees for work with harmful substances, reimbursements for expenses of transport to work and from work, are only a few issues the Military Commissioner dealt with in his investigations and they are related to defining the rights to fees and reimbursements which are not salaries.

Through the procedures that Military Commissioner conducted in the cases from this field, it has been noted that with certain acts of the BiH Ministry of Defence, under the title "position" or "interpretation" new conditions for exercising the rights to reimbursements which are not salaries are being introduced, and that those are also conditionally named by-laws because of the way of their adoption and obligations prescribed are often contradicting during their application⁸.

⁷ Military Commissioner emphasized the fact that the existing SOP is temporary, which is also indicated in its title, and it is being applied for three years now. The mentioned act as such, according to the Military Commissioner opens possibilities for different interpretations and legal ambiguities.

⁸ The best example of this is the document of the BiH Ministry of Defence, under a title: "Position regarding the right acknowledging reimbursement of expenses of separate life", number:10-34-7-2631-1/07, as of 1 June.2007 (hereinafter: Position). In this way, the provision of the Item 2 of the Position, in which it has been defined that the documentation necessary for exercising rights to reimbursements for separate life from family includes the obligation of submission of the Statement of the applicant to live in joint household, is contrary to the Article 47 (Reimbursement for separate life) Stand (1) of the Book of Rules on salaries and other reimbursements of the professional military personnel in service in the BiH Ministry of Defence and BiH Armed Forces, number:04-02-3-1353/07, as of 28 March 2001.

Dealing with the complaints from the field of determining the rights to reimbursements which are not salaries, Military Commissioner issued the recommendation number: 05/3-50-2-5-75/10 and number: 05/3-50-2-5-83/10, as of 8 July 2011, where he noted the violation of Article 8, Item e) of the Decision on special supplements to salaries for professional military personnel in BiH Ministry of Defence and BiH Armed Forces ("BiH Official Gazette", number 2/09) in favour of the complainant. Taking into account all this, the Joint Staff of the BiH Armed Forces, with document number: 16-08-34-7-1107-5/11, as of 23 September 2011, has informed the Military Commissioner that they fully complied with the aforementioned recommendation and that they conducted the financial correction of the complainants salary.

2.1.6. Nutrition of the members of the BiH Armed Forces

According to information from the complaints, based on which the procedures and investigations ahead been led, the Military Commissioner determined that there is a problem in organization of nutrition of the members of the BiH Armed Forces, its storing and delivery to the remote locations. While investigating this case, Military Commissioner determined the following:

- 1) Food delivery was not done in accordance with the quarterly requirements of the units, which were very often outside of frame of the planned resources, due to occasional extraordinary activities which certain units in the BiH Armed Forces had. Certain food products which were necessary were not delivered at all, such as: sugar, rice, beans, oil, soup concentrate and other, which directly influenced the quality of the nutrition in the Armed Forces. Only 50,7% of the required needs in food was delivered;
- 2) Insufficient food assortment, uneven representation in delivery of certain meat products as well as composition and expertise of the kitchen staff caused the situation that the meals are not on appropriate level. There is a problem of the long distance transport of soup at the remote locations, because in this way the food is rapidly losing its quality;
- 3) Problem which is present for a long time when it comes to organizing nutrition in BiH Armed Forces is reflecting in the fact that due to lack of financial resources only 38% of dish washing liquid has been delivered, 21 % of the hand dish washing liquid, 16% of the disinfectant, 22% of rinsing liquid out of the required quantities for the needs of the BiH Armed Forces.

Military Commissioner shall continue to follow the situation in organization of nutrition in BiH Armed Forces, as well as the activities that the BiH Ministry of defence will conduct in order to resolve the mentioned lacks.

Namely, in Article 47, Stand (1) of the Book of Rules on salaries and other reimbursements it is precisely set that the only condition for exercising the right on reimbursement for separate life from family is the one that the place of living of the professional military person is 60km away from the service where he is assigned. With this type and with similar documents there often comes to legal uncertainty in the rights and obligations of the members of the BiH Armed Forces, in the sense that their rights and obligations are a subject to a continued change.

2.1.7. Accommodation conditions in the barracks of the BiH Armed Forces

During 2011, Military Commissioner has, in accordance with its legal competencies been in announced and unannounced visits to the barracks and units of the BiH Armed Forces with the goal to see the accommodating, living and working conditions of the members of the BiH Armed Forces. General conclusion, after these visits is that in certain barracks there still a need for solving problems of the premises in a poor condition. However, certain positive improvements had also been noted in this context.

For example, after the visit of the Military Commissioner to the barracks “Zarko Zgonjanin“ in Prijedor and his recommendation number: 05/3-50-2-5-77/10, as of 1 September 2010, the conditions in this barracks where significantly improved. Namely, Military Commissioner stated that the members of the BiH Armed Forces at this location do not have equal living and working conditions as most of the BiH AF members assigned to other locations, that is, that the conditions in this particular barracks are not acceptable for normal work, especially when it comes to hygienic-health conditions which did not fulfilled the minimum of approved standard. These kinds of conditions represented the risk for health of soldiers and staff from that barracks. However, certain measures had been taken so the premises of this barracks finally were reconstructed and adapted. Hygienic conditions are now at the satisfying level, the kitchen-dining hall is set up, as well as the sanitary-hygienic premises, a roof construction has been done and the entire central facility of the barracks has been renovated.

In the same way, during the unannounced three-day visit of the Military Commissioner to the centre for basic training in Pazaric, a certain difficulties and system problems had been observed. Military Commissioner drawn attention to those issues in the Information, number: 05/3-50-19-538/11, as of 3 June 2011, sent to the BiH Ministry of Defence and Joint Staff of the BiH Armed Forces. He listed all those difficulties and problems in this information, as well as the activities which need to be undertaken as soon as possible in order to improve living and working conditions in this Centre.

From the Information of the Commander of the Centre, number: 16-15-14-18-14-50-191-2/11, as of 17 November 2011, submitted upon the Request of the Military Commissioner, number 05/3-50-19-538-3/11, as of 20 October 2011,

It is obvious that a significant progress has been made in improving living and working conditions in the Centre. Namely, the adaptation of the facilities accommodating members of the BiH AF has been, the existing fence of the barracks has been repaired, certain improvements in lighting at the location had been also conducted and the equipping with the technical and information items had been continued and similar. The gratitude has been expressed to the Military Commissioner in the mentioned Information on his active engagement and professional approach to the observed problem.

2.2. STATISTICAL REVIEW OF THE PROCESSED COMPLAINTS IN THE OFFICE OF PARLAMENTARY MILITARY COMMISSIONER OF BiH

In order to ensure better view of the data on received complaints, status of the complaints and the ways of solving, a chart and graphic views of those data had been made. In 2011, 59 complaints were received, out of which 22 were solved and the cases had been closed, while the investigations and procedures are still in place for 37 open cases. At the same time, during 2011 cases that had been received in 2010 were being solved. Those cases demanded significantly more time to be investigated and solved because of their complexity and problematic. This is exactly why, after the review on complaints received in 2011, we also deliver the review on all complaints processed in the Office, because following of implementation of the recommendations and solving the lacks that had been observed is a permanent process.

2.2.1. Review of the complaints received and processed in 2011

In Chart 1, the received complaints in 2011 were processed in more detail, conclusive with the 31 December 2011. It can be seen which area those received complaints referred to, their status and the way of solving the complaints received and solved in 2011.

You can see in the chart that 23 complaints refer to **the process of promotions**. Out of these 23 complaints, 10 of them had been solved, while 13 complaints are in process. These complaints were mainly referring to a certain irregularities during the process of promotions of the BiH AF member, where it was noticed that there is no transparency in promoting procedures, there has been subjectivity during the evaluation of the BiH AF members, or that certain bylaws had not been announced or harmonized, etc.

We received only one complaint regarding the **status** issues of the BiH AF members, which had been resolved by agreement.

Four complaints were received from the **civilian personnel**, out of which three were processed and forwarded to the Institution of BiH OMBDUSMEN for protection of human rights, and one of the complaints is still being worked on because it has been received at the end of December 2011.

Three complaints regarding **salaries and special compensations** had also been received. One of these complaints has been solved while the other two are still being worked on.

From the field called **other issues**, 29 complaints have been received. Eight were solved while 21 is still being worked on. The grounds of these complaints, for example is temporary assignments to other commands and units, implementation of disciplinary procedures, violation of social interactions, etc.

Out of the total number of solved complaints, two of them had grounds for submission; three were not submitted in a timely manner, while seven had no grounds for submission. For three complaints Military Commissioner was not in charge to process the complaints. One case was suspended upon the request of the complainant; four complaints were solved by agreement, while two were solved by mediation of the Military Commissioner.

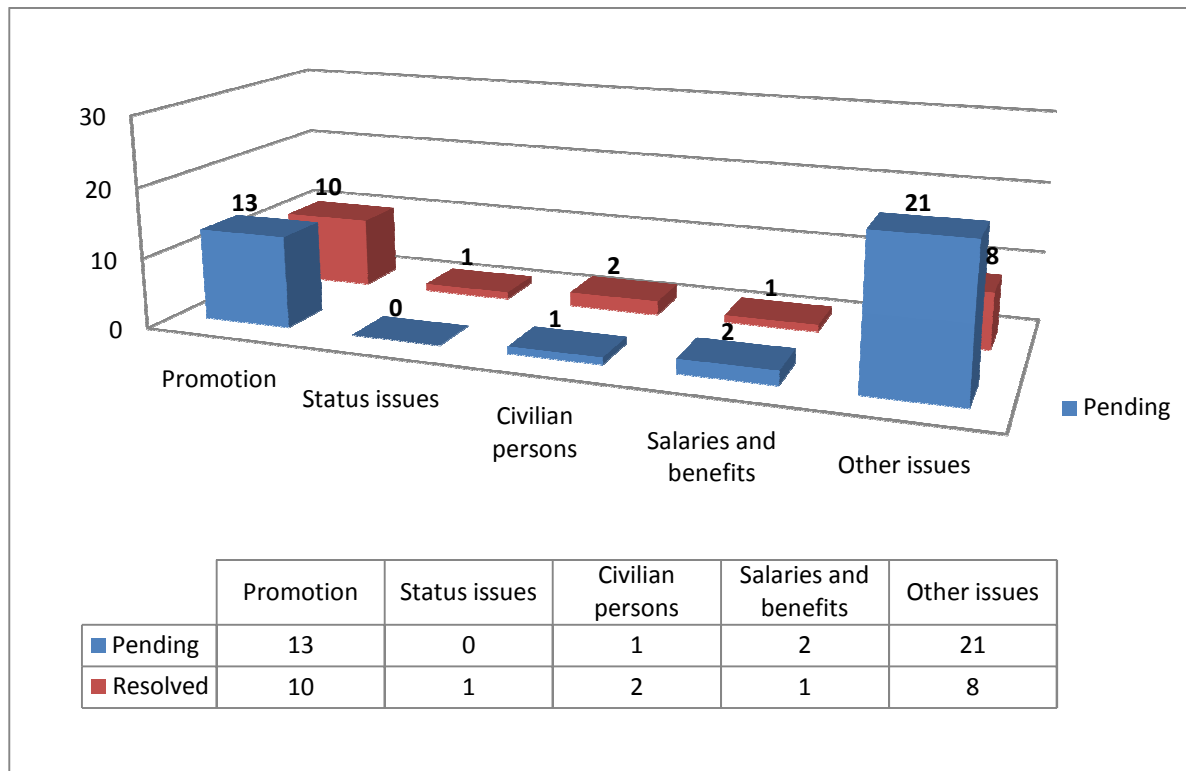
It is important to emphasize that in 2011 we received the complaints that were much more complex then the ones from 2010. In the complaints submitted in 2011, the complainants presented a couple of grounds for submission each, therefore those cases required detailed analysis, collection of documentation from different sources and extensive investigative actions and all this with the goal to find appropriate way to solve these cases in accordance with the existing legal regulations.

Areas	Promotion Process	Status issues	Civilians	Salaries, Compensations	Other Issues
Total Complaints (59)	23	1	3	3	29
Status of complaints	In progress	In progress	In progress	In progress	in progress
	13	-	1	2	21
	Solved	Solved	Solved	Solved	Solved
	10	1	2	1	8
Basis for solving closed cases					
Founded complaints (Recommendation))	-	-	-	-	2
Untimely complaints	1	-	-	1	1
Unfounded complaints	6	-	-	-	1
Lack of competence for acting on the complaints	-	-	2	-	1
Complaints ceased upon request of an applicant	1	-	-	-	-
Complaints solved by agreement	1	1	-	-	2
Complaints solved by mediation of Mil Commissioner	1	-	-	-	1

In Chart No. 1⁹ the status of complaints received in 2011 was shown graphically, according to the area to which they relate and in accordance with data from the Table No. 1.

⁹ The ratio of resolved cases and cases that are in procedure is as on the chart for a priority solving of cases from 2010 during the year that is subject to the reporting period, as previously explained, but also because of the increased influx of cases at the end of 2011.

Chart 1. Status of complaints in 2011 according to the area to which they relate



Below, in Chart 2, are shown basis on which the closed cases from 2011 have been resolved. This ratio is expressed in percentages, and a part (38%) that relates to the complaints resolved in favour of members of the Armed Forces of BiH is extracted.

Chart 2 The basis of solving the closed cases



2.2.2. Review of all complaints that were received and processed in the Office

In the period from September 2009, when the institution of the Parliamentary Military Commissioner started its work, until the end of 2010, in total 132 complaints were received. Out of that number, 75 complaints were resolved, while 57 complaints remained unresolved, and transferred into 2011 to be handled as a priority. These data are shown in Table 2.

Table 2. Total number of received and solved complaints in 2010

Year	Total number of complaints	Resolved	Pending
2010	132	75	57

In the Table No. 3 below is shown that in 2011 there were 116 complaints in total, because as mentioned earlier, 57 unresolved complaints from 2010 have been transferred to 2011, and 59 new complaints have been received. Out of that number, in total 79 complaints have been resolved, i.e., all 57 complaints from 2010, including 22 complaints received in 2011. 37 complaints remain pending.

Table 3 Total number of received and solved complaints in 2011

Year	Total number of complaints	Resolved	Pending
2011	116	79	37

Finally, as shown in the Table No. 4, since the beginning of functioning of the institution of the Parliamentary Military Commissioner of BiH until the end of 2011, 191 complaints have been received. Out of that, the Office has resolved 154 complaints while 37 complaints remain pending.

Table 4 Total number of received complaints (2010 and 2011)

Total number of complaints	Resolved	Pending
191	154	37

In Chart No. 3, the total number of received complaints is displayed graphically, and the data from Table No. 4 are expressed in percentages. It is evident from this chart that in total 81% of complaints was resolved, and that 19% of complaints remains pending.

Chart 3 Proportion of complaints resolved in the total number of complaints received

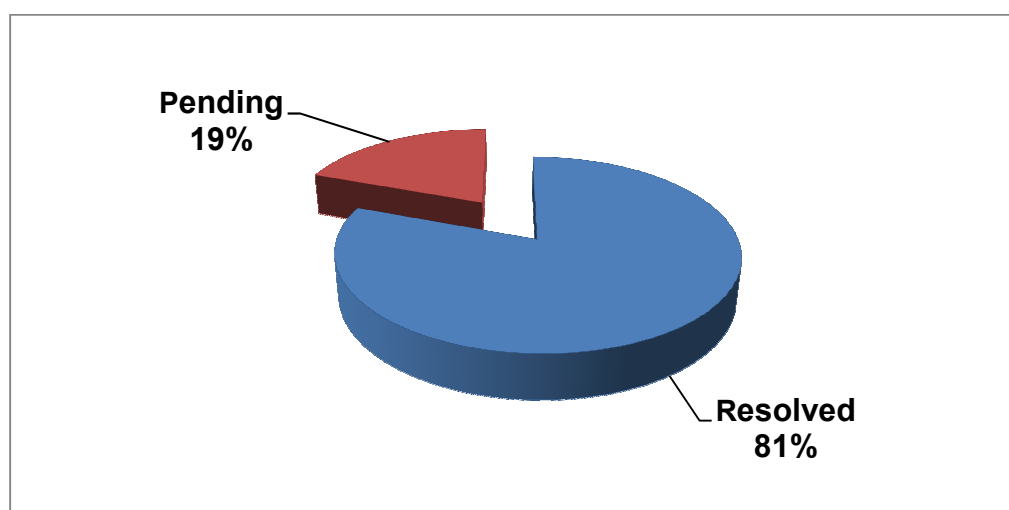


Table No. 5 presents detailed data on complaints received. Complaints are classified in the table on the basis of their submission, and the areas to which they relate to, according to their status and are also summarized information on how to resolve complaints, which is also done according to the areas to which they relate.

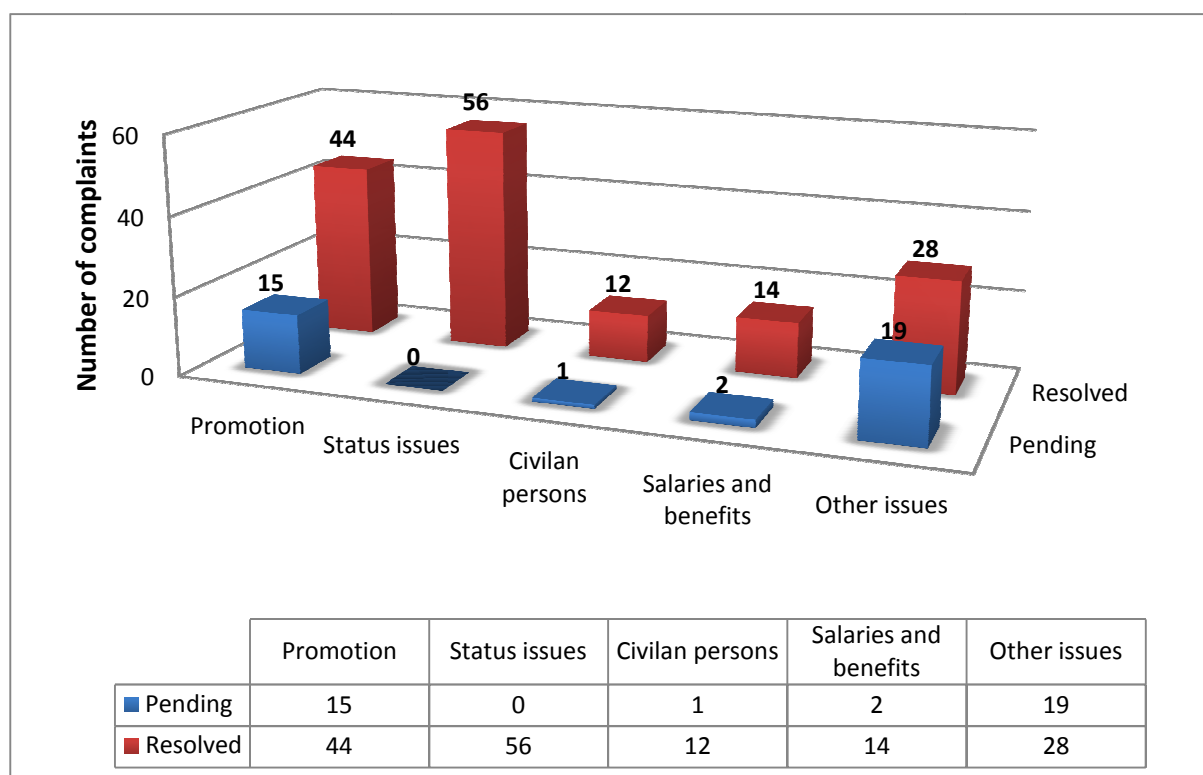
As it can be seen from aforementioned table, 59 complaints relate to the **area of promotion**, out of which 44 were resolved and 15 complaints are pending. The Office received 56 complaints related to the **status issues** of members of the Armed Forces of BiH, and all of them have been resolved. 13 complaints from **civilian persons** were received as well, out of which 12 has been processed and forwarded to the Institution of Ombudsman for the Protection of Human Rights in BiH and one complaint is pending. The total of 16 complaints were received pertaining to the **salaries and special benefits**, i.e. allowances other than salaries. Out of that 14 complaints were resolved and two are pending. The Office received 47 complaints relating to **other issues**, out of which 28 were resolved and 19 are pending.

Table 5 Review of complaints received according to the basis of the submission

Area	Promotion process	Status issues	Civilians	Salaries, special benefits	Other issues
Total number of complaints (191)	59	56	13	16	47
Status of complaints	Pending	Pending	Pending	Pending	Pending
	15	-	1	2	19
Status of complaints	Resolved	Resolved	Resolved	Resolved	Resolved
	44	56	12	14	28

The Chart No. 4 below is created according to data from the previous table (table No. 5).

Chart 4 Status of complaints according to the areas



In accordance with the provisions of the Law on Gender Equality of BiH and respecting UN Resolution 1325, records of complaints of female members of the Armed Forces of BiH are kept separately. Complaints of female members of the Armed Forces of BiH can also be classified according to the previous basis of their submission. Military Commissioner received a total of 19 complaints from female members of the Armed Forces of BiH. Thus, four female members of the Armed Forces of BiH complained in the area of promotion and status issues, in the area of salaries and benefits as well as of civilian persons, one complaint was recorded, while in the area of other issues the Office has nine complaints.

Table 4 Complaints submitted by female members of the Armed Forces of BiH

Total number of complaints of members of the Armed Forces BiH	191				
Complaints by female members of the AF BiH	19				
Areas	Promotion	Status issues	Civilian persons	Salaries, special benefits	Other issues
Number of complaints by areas	4	4	1	1	9

As we can see from the above, the basis for classifying these complaints is the same for all members of the Armed Forces, regardless of gender. Thus, the phenomenon of violation of rights of female members of the Armed Forces of BiH only because they are women was not observed, i.e. some form of harassment or discrimination based on the gender was not recorded. The purpose of keeping such records is only in reference to the provisions of the Law on Gender Equality of BiH, which require that records of all administrative bodies are done separately for women.

3. RECOMMENDATIONS OF THE MILITARY COMMISSIONER FOR REMOVING THE SHORTCOMINGS

Based on the facts presented in this report, which are the result of serious and comprehensive analysis through the work on the cases, we present the following recommendations of the Military Commissioner which should be the basis for the Ministry of Defence of BiH and the Armed Forces of BiH for the elimination of deficiencies and problems that were allocated during 2011. We give recommendations according to the problem-areas that are covered in Section 2.1.

3.1. The process of promotion of Professional Military Personnel

The process of promotion can be implemented only with full respect for the principle of transparency of procedures for promotion of Professional Military Personnel.¹⁰

Internal competition for promotion / re-categorization and the Books of Rules that stipulates procedures for the internal vacancies must be posted on notice boards in all the barracks of the Armed Forces of BiH at least 15 days before the deadline for application to internal competition, so that all members of the Armed Forces of BiH have a full and accurate information on conditions for the promotion / re-categorization.¹¹

In addition to the preliminary lists, on notice boards must be published the final lists as well, on the basis of which will be issued orders on promotion / re-categorization, to make the process of transparency complete in all phases of promotion / re-categorization.

3.2. Assessment of the Professional Military Personnel

The process of assessment of members of the Armed Forces of BiH must be carried out and completed in the precisely defined period of assessment in accordance with Article 31 of the Book of Rules on Assessment of Military Personnel in the Ministry of Defence of BiH and Armed Forces of BiH, number 10-02-3-5624/10 as of 17 December 2010.¹²

¹⁰ Military Commissioner drew attention to the obligation to fully respect the principles of transparency in his Recommendation No: 05/3-50-2-5-69/10 and No: 05/3-50-2-5-89/10 as of 22 October 2010.

¹¹ It was established that the by-laws according to which promotion/re-categorization is to be carried out, are placed on bulletin boards only after the deadline for application to internal competition, which in turn creates a feeling of legal insecurity among the interested parties in the process.

To this contributes the fact that internal competition and the by-law under which it will be carried out have the same date, and that the by-law has a legal power only for a specific internal competition. Consequently, this derives that for each internal competition a special by-law is to be made. Such is an example of the act entitled "Criteria and procedures for admission of officers and NCOs in the Armed Forces of BiH", No. 10-34-1-2844-10/11 as of 20 July 2011, where in Article 9 - Validity of criteria - is specified: "These criteria shall take effect upon its adoption and shall apply until the completion of activities in internal competition for filling vacancies for officers and NCOs' in the Armed Forces of BiH."

¹² Article 30 of the mentioned Book of Rules it is specifies:

"(1) Evaluation of each military person shall be made annually or based on the needs of service.

(2) Assessment periods per ranks shall be established as follows: January - OR-3/4; March - OF-5, OR-2; May - OF-4, OR-5, OR-1; July - OR-9, OR-8; September - OF-3, OR-7; November - OF-2, OF-1, OR-6."

The same Rules determine that the assessment must be completed in accordance with the established assessment period, so in Article 31 is stated: "The annual evaluation report must be completed with the final date of the last day of the month when the assessment period ends."

In assessment process it is necessary to include the principle of excellence and to determine the percentage of the total number of members of the Armed Forces of BiH, which may be assessed the highest rated "excellent".

The Personnel Management Command is obliged to fully apply the provisions of the Book of Rules on Assessment of Military Personnel in the Ministry of Defence of BiH and the Armed Forces of BiH, for all assessment phases to be completed, starting from initial interview until the monitoring of realization of set objectives and tasks.

The assessment process should be based on professional criteria with the highest possible degree of objectivity. All the identified gaps and deficiencies have to be subject to serious evaluation on an annual basis and if needed basis for an amendment to the Book of Rules.

Provision of Article 5, Paragraph (3), of the Instruction for application of specific criteria for ranking list of officers and NCOs for promotion to a higher rank in the Armed Forces of BiH, No. 10-02-2-2546-1/10 as of 08 June 2010, where is specified that *for the military personnel who were not assessed by the official assessment of the Armed Forces of BiH, assessment from the peacekeeping missions and the military-service training are to be scored as well*, harmonized with the Law on Service in the Armed Forces of BiH ("Official Gazette" no. 88/05, 53/07, 59/09 and 74/10) and with the Book of Rules on Assessment of Military Personnel in the Ministry of Defence of BiH and Armed Forces of BiH, number 10-02-3-5624/10 as of 17 December 2010.¹³

3.3. Conduct of disciplinary proceedings in the Armed Forces of BiH

In order to prevent the violation of rights to a fair trial and effective legal remedy, and to strengthen the transparency of conducting disciplinary proceedings, it is necessary to organize a conference, at which members of the Armed Forces of BiH as well as their commanders to be introduced with the rules of conducting disciplinary proceedings.

Disciplinary proceedings shall be conducted taking into account the principles of hearing the parties and determining material facts in the specific case, as well as provisions on the rights of a person who is liable in disciplinary proceedings, i.e. the alleged offender of disciplinary fault or offense must be enabled to make a statement about the offense he is charged with.

The Ministry of Defence of BiH is obliged to amend Articles 25 and 22 of the Book of Rules on Military Discipline and Disciplinary Proceedings, No. 13-02-3-1627/10 as of 01 April 2010, i.e. to edit the method for execution of disciplinary measures. The Ministry of Defence of BiH shall make the correction or deletion of one of the items f)

¹³ In Article 5, paragraph (3) of the Instruction is stated that: „for the military personnel who were not assessed by the official assessment of the Armed Forces of BiH, assessment from the peacekeeping missions and the military-service training are to be scored”, although it is not envisaged by the Law on Service in the Armed Forces of BiH. It should be added the fact that in Article 48 of the Book of Rules on Assessment of Professional Military Personnel in the Ministry of Defense of BiH and the Armed Forces of BiH, is determined the following: "A military person who in a calendar year was on duty less than six months can not be evaluated regardless of the reasons for their absence from duty." From the above mentioned can be concluded that Article 5, Paragraph (3) of the Instruction, which should only be an assisting document for the application of the Book of Rules on the promotion of military personnel in the Armed Forces of BiH, No. 13-02-3-1614/10 from 01 April 2010, set an exception in relation to the assessment obligation and suggestions for promotion which should be included in the official report, as well as eliminating condition for promotion / re-categorization, and as such defined by the Law on Service in the Armed Forces of BiH.

and i) of Article 21, paragraph 1) of the Book of Rules on Military Discipline and Disciplinary Proceedings, since they are in terms of content of the order on disciplinary action identical.

It is necessary to further define i.e. to specify the Articles 63 – 65 of the Book of Rules on Military Pilots and Flight Service in the Ministry of Defence of BiH and Armed Forces of BiH, No: 13-02-3-1626/10 as of 01 April 2010, because they do not set a clear link in the legal ration of disciplinary referrals on disciplinary faults or offenses.

3.4. By-laws

Ministry of Defence of BiH is tasked herewith to pass in the forthcoming period the following:

- 1) the Book of Rules on Professional Development and Career Management;
- 2) the Book of Rules that shall clearly define and value the level of civilian and military education, and professional development through courses;
- 3) the Book of Rules on Promotion and Re- Categorisation that shall define this area in a comprehensive way guaranteeing legal security and certainty in terms of conditions for advancement in service;
- 4) a provision regulating wearing of a single field uniform, with clearly defined provisions and permanent deadline of validity and application.

4. COOPERATION OF THE MILITARY COMMISSIONER WITH OTHER INSTITUTIONS AND ORGANISATIONS

While carrying out the tasks from its competency, the Military Commissioner had a successful cooperation with the following:

- 1) Ministry of Defence of BiH,
- 2) Joint Staff of the Armed Forces of BiH,
- 3) General Inspectorate of the Ministry of Defence of BiH.

One should especially emphasise a good cooperation with the Joint Collegiums of both Houses of the Parliamentary Assembly of BiH, Joint Committee for Defence and Security of BiH, and with the Secretariat of the Parliamentary Assembly of BiH. All of those had provided a significant support and assistance to the Military Commissioner in realisation of his legal authorisation.

Also, the Military Commissioner had an excellent cooperation with the International Organisations in Bosnia and Herzegovina, as follows:

- 1) OSCE Mission to BiH,
- 2) USAID Project of Strengthening the Parliament of BiH,
- 3) UNDP,
- 4) Geneva Centre for Democratic Control of the Armed Forces - DCAF,
- 5) Ministry of Defence, Civil Protection and Sport of Swiss Confederation,
- 6) Association of Military Attachés accredited to BiH.

The Military Commissioner, with support of the OSCE Mission to BiH, organised a Conference on Promotion of the Professional Military Personnel, but also had taken part in all events organised by this international organisation in relation to the sector of defence.

The establishment of a coordination body is of special importance, for which the draft decision was prepared at the 4th OSCE Review Conference that took place in Sarajevo. The task and main objective of this body will be to monitor the obligations that BiH has taken over as a part of its integration in the area of security and cooperation in Europe. According to the Draft Decision, the Office of Parliamentary Military Commissioner of BiH has become a part of its composition as its permanent member.

During this reporting period, the Military Commissioner also has established cooperation with the Agency for Gender Equality of BiH. It has been planned to engage a representative of the Office with the Coordination Board for Implementation of the UN 1325 Resolution “Women, Peace and Security” that, *inter alia*, calls for increase of participation of women in process of decision- making, conflict prevention, post- conflict process, peace negotiations and peace operations.

As a part of cooperation that the Military Commissioner has established with DCAF and UNDP, it is important to emphasise that the Agreement on Cooperation was signed between the United Nations Development Programme and the Office of Parliamentary Military Commissioner of BiH number 05/3-16-7-228/11, of 16 March 2011, as well as a Memorandum of Understanding between the DCAF-a and Parliamentary Assembly of BiH number 03/a-05-1-78-2/11 of 23 June 2011, and in this way the planned activities mentioned in the Report of the Parliamentary Commissioner for 2010 had been carried out.

5. OTHER ACTIVITIES OF THE OFFICE OF PARLIAMENTARY MILITARY COMMISSIONER OF BIH IN 2011

In order to provide full information on the activities of the Office, hereby we provide data on other activities that the Office had been implementing during 2011. This overview contains information on meetings of the Military Commissioner, visits to the barracks and military units of the Armed forces of BiH, and other activities that were undertaken in order to have a complete and uninterrupted functioning of the Office in one hand, and full execution of the legal authorisation in the other.

Therefore, besides the work on complaints, which is the primary task of the Military Commissioner, series of other activities were carried out during 2011, which were the basis of work of the Office.

In continuance, we hereby provide a chronological overview of the activities implemented in 2011:

01 January 2011.

During January, the Military Commissioner implemented the following activities:

- 1) 12 January 2011, the Military Commissioner held a working meeting of the Organisational Board for Preparation and Implementation of the Regional Conference, in composition of: Matija Aračić, Military Attaché of the Republic of Croatia, Zoran Stojiljković, Military Attaché of the Republic of Serbia, Anton Tunja, Military Attaché of the Republic of Slovenia, Ana Trajkovska, Minister- Counsellor in the Embassy of Republic of Macedonia, Radomir Sekulović, Advisor in the Embassy of Montenegro, Amna Berbić of UNDP, and Željko Grubešić and Alma Tajić of the Secretariat of the Parliamentary Assembly of BiH. The Regional Conference took place on 17 and 18 February 2011, titled: "Protection of Human Rights and Freedoms of Members of the Armed Forces";
- 2) 13 January 2011, the Military Commissioner attended the Christmas Ceremony in the "Kozara" Barracks – 6th Brigade of the 3rd Regiment of RS of the Armed Forces of BiH;
- 3) 17 January 2011, the Military Commissioner held a working meeting with Brigadier General Victor von Wilcken, Director of the Department of Security Cooperation in the OSCE Mission to Bosnia and Herzegovina, aiming at strengthening of the capacities of the Office in protection of human rights and freedoms of members of the Armed Forces of BiH;
- 4) 28 January 2011, the Military Commissioner along with the Expert Advisor in the Joint Committee for Defence and Security of BiH, Željkom Grubešićem, visited the Tactical Support Brigade of the Armed Forces of BiH, and held a working meeting with the brigade Commander, Brigadier Esadom Šejtanić and his assistants.

02 February 2011

In February, a Regional Conference on “Protection of Human Rights and Freedoms of Members of the Armed Forces” was organized and successfully carried out, which took place in the BiH Parliamentary Assembly Building on 17 and 18 February 2011. The aim of organising the Conference was the exchange of experience with countries participating in the Conference on modalities of protection of human rights and freedoms of members of the Armed Forces, and challenges they have been facing in terms of identifying the borderline between obligations and rights of a soldier.

In accordance with the recommendation of the Parliamentary Assembly of the Council of Europe, members of the armed forces are considered to be uniformed citizens who ought to enjoy equal fundamental freedoms, including also those defined by the European Convention on Human Rights and the European Social Charter, as well as protection of their rights and dignity as all other citizens, in accordance with limitations imposed by specific requirements of performance of military duties.

It is evident that one cannot expect from members of armed forces to respect the International Humanitarian Law and Human Rights during their action if respect of human rights is not ensured in the military, thus it is necessary to raise the awareness on protection of human rights in all segments of armed structures of one country.

The issues that were the focus of special attention were the position of women in armed forces, in light of the UN Resolution 1325 and its implementation, and the role of religious military services in building the stable armed forces through raising the awareness on respecting a human and his/ her human rights and freedoms.

On the occasion of the Regional Conference, a bulletin was published with title “Protection of Human Rights and Freedoms of Members of the Armed Forces”

In this month, the process of requisition of equipment and funds necessary for the establishment and development of the Office was finalised, and which were donated by the Ministry of Defence, Civil Protection and Sport of Swiss Confederation. On that occasion, the Military Commissioner hosted a ceremony of official hand-over of the equipment for needs of the Office, which took place on 02 February 2011.

Among other activities that were carried out in February 2011, it is worth mentioning the presence of the Military Commissioner at the ceremonial opening and closing of the 51st World Military Ski Championship that took place in Bosnia and Herzegovina from 22 – 25 February 2011.

03 March 2011

During March, Agreement on Cooperation was signed between the United Nations Development Programme and the Office of Parliamentary Military Commissioner of BiH number 05/3-16-7-228/11, of 16 March 2011, with aim to provide support to the work of Military Commissioner, as well as to strengthen his capacities in protection of human rights of military personnel and cadets in the Armed Forces of BiH.

Out of other activities carried out in March 2011, one can point out the following:

- 1) 22 March 2011, a visit of Darko Stančić, Assistant Director of the Geneva Centre for Democratic Control of Armed Forces (hereinafter: DCAF), was organized in order to commence the negotiations in direction of conclusion of an Agreement on Cooperation and Assistance to the Office and Military Commissioner;
- 2) 29 March 2011, the Military Commissioner attended the ceremonial farewell to the second rotation of members of the Armed Forces of BiH to the peace mission in the Islamic Republic of Afghanistan, held in the Command of the 4th Brigade of the Armed Forces of BiH in Čapljina.

04 April 2011

During April, the Military Commissioner had carried out the following activities:

- 1) During the period from 04 – 08 April 2011, the Military Commissioner visited the Office for Complaints of the Ministry of Defence of Belgium and the Institution of Federal Ombudsman of Belgium, familiarised himself with the work of the aforementioned institutions, and had presented the area of action of the Military Commissioner as well as experience and achievements in protection of human rights and freedoms in the Armed Forces of BiH. The Military Commissioner also visited the BiH Embassy to Belgium (Brussels), as well as the BiH Mission to NATO in Belgium (Brussels);
- 2) During the period from 13 – 15 April 2011, the Military Commissioner participated in the 3rd International Conference of Ombudsmen for Armed Forces, which was held in Belgrade, Republic of Serbia. At the aforementioned Conference, the Military Commissioner held a presentation on modalities of protection of human rights in Bosnia and Herzegovina, and at the same time exchanged the experience gained in work on protection of human rights and freedoms of members of the Armed Forces of BiH with Military Ombudsmen of other countries;
- 3) On 26 April 2011, the Military Commissioner held a lecture with purpose of education of Inspectors at the Inspectors Basic Course of the General Inspectorate of the Ministry of Defence of BiH, in the BiH Armed Forces Hall. On this occasion, the Military Commissioner informed inspectors with the legislation governing the work of the Office, as well as with the bylaws defining the cooperation between the Office and the General Inspectorate to the Ministry of Defence of BiH.

5. May 2011

During the month of May, Military Commissioner implemented the following activities:

- 1) During the period 05 May- 07 May 2011, Military Commissioner participated at the 12th Cetinje Parliamentary Forum. On this occasion, Military Commissioner held the presentation on the topic: “Parliamentary oversight and the role of the BiH Parliamentary Military Commissioner”, where he gave a special review on the importance of strengthening the parliamentary over the armed forces in democratic societies, as well as the importance of the role that the Military Commissioner performs in the civilian oversight of the security sector through protection of human rights and freedoms in the BiH Armed Forces.

- 2) On 11 May 2011, Military Commissioner, Bosko Siljegovic spoke with the delegation of the Ministry of Defence and Armed Forces of Germany, lead by LTC Sven Hertl. Mr. Siljegovic informed the guests on the method of work and competencies of the Office, with special emphasis on implementation of the BiH Law on Parliamentary Military Commissioner and the by-laws regulating the co-operation with the other institutions for the purpose of protection of human rights and freedoms of military personnel and cadets in the BiH Ministry of Defence and the Armed Forces;
- 3) u During the period 25 May-27 May 2011, Military Commissioner conducted the unannounced three-day visit to the Basic Training Centre of the AF BiH in Pazaric. During the aforementioned visit, Military Commissioner was informed on the living conditions in the Basic Training Centre such as: medical care of the attendees, training programme and extracurricular activities, freedom of communication with the families, home leave procedures, efficiency and information of the attendees – internal advertisements, availability of press, and made additional checks on the status of human rights of the trainees.

6. June 2011

For the month of June, it is important to underline the signing of the Memorandum of Understanding between the Centre for Democratic Control of the Armed Forces from Geneva (Hereinafter DCAF) and the BiH Parliamentary Assembly number 03/a-05-1-78-2/11, od 23.6.2011, as a form of assistance and support in the work of the Military Commissioner on protection of human rights and freedoms of the AF BiH Members.

Among the activities implemented during June 2011, the following should be noted:

- 1) During the period 08 June-10 June 2011, a visit was organised by the NATO coordination team to the BiH Ministry of Defence and AF BiH Joint Staff. During the period 08 June – 10 June 2011, a visit was organised by the NATO Coordination Team to the BiH Ministry of Defence and AF BiH Joint Staff. Through his participation at the working meetings that occurred during this visit, Military Commissioner gave a contribution to definition of guidelines for bringing Bosnia and Herzegovina closer to the NATO standards.
- 2) During the period 14 June and 15 June, Military Commissioner participated at the regional conference under the title “Parliamentary Oversight of the Security Sector: Deployment of the Armed Forces into Peace Support Missions, Lessons Learned and Practical Experiences in South-East Europe” organised by the BiH Joint Committee for Defence and Security. At this conference, Military Commissioner held a presentation on the topic: “The role of BiH Parliamentary Military Commissioner” in which he presented the experience gained in the work on protection of human rights in the BiH Armed Forces, and underlined that the Military Commissioner, as a military ombudsman, is inseparable instrument in strengthening of the parliamentary oversight of the BiH Armed Forces.
- 3) 323/06/2011. Military Commissioner and his staff stayed in a one-day working visit to the General Inspectorate of the Ministry of Defence of BiH. During this visit, the Military Commissioner, together with his associates held a working meeting with members of the General Inspectorate of the Ministry of Defence, all aimed at strengthening the capacity of the Office and cooperation with partners from the Ministry of Defense of BiH. During this meeting, they exchanged experiences achieved in the work on the cases, and determined the direction on the future exchange of information on investigations carried

out in some of the cases of alleged human rights violations, all in accordance with legislation regulating the area;

- 4) 06/27/2011. Military Commissioner participated in a conference entitled: "We care about our safety, Gender and Security Sector Reform of Bosnia and Herzegovina", which were organised by the governmental organization Women for Women and the Atlantic Initiative. At the aforementioned conference, the Military Commissioner gave a presentation on the field of military action and its commissioner responsibilities, with special reference to the implementation of UN Resolution 1325 entitled "Women, Peace and Security";
- 5) 28/6/2011. Military Commissioner participated in the OSCE seminar that dealt with oversight of the security sector, and held a lecture on the topic: "The role of the BiH Parliamentary Military Commissioner in protecting human rights", which particularly emphasized the important role of the OSCE in supporting the work of the PMC Office;

7. July 2011

During July, the Military Commissioner realized the following activities:

- 1) July 2011. Military Commissioner, during his visit to the Basic Training Centre in Pazaric was informed on the epidemic of mumps, and the fact that 19 military cadets were placed in the medical facility placed, while one person, because of the complications, was placed in the Clinical Centre of Sarajevo University. Meanwhile, the Military Commissioner, after visiting the patients, determined that their condition of accommodation and care is satisfactory, and they wished a speedy recovery and continued training;
- 2) 21 July 2011. Military Commissioner attended a working meeting held in Joint Staff of the Armed Forces of BiH in connection with the issue seriously disturbed interpersonal relationships in the fifth company of the Medical Battalion of the logistic support of the Armed Forces of BiH. After the presentation, guidelines were drawn up to address this problem, which eventually results in a shift in the personnel of the Armed Forces of BiH, with the aim of protecting human rights of those involved and the reputation of the Armed Forces of BiH.

8. September 2011

During September, the Military Commissioner realized the following activities:

- 1) 09.13.2011. Military Commissioner attended a round table discussion in Banja Luka, which was organized for the purpose of establishing the guidelines for bringing Bosnia and Herzegovina closer to the European Union and NATO;
- 2) 15 and 16 September 2011. Military Commissioner participated at the seminar on strengthening the integrity of the procurement for the defence sector, which was held at the Centre for Training and Peace Support Operations BH (PSOTC) in Butmir, Sarajevo;
- 3) 19. and 20 September.2011. Military Commissioner participated at the workshop on the topic: "The legislative framework, responsibilities and plans of the institutions of BiH in the field of defence and security," which was organised by the Joint Committee for Defence and Security of BiH, held in Teslic.

9. October 2011

During October, the Military Commissioner realized the following activities:

- 1) 05 October 2011, Military Commissioner paid an unannounced one-day visit to the barracks "Kosava" in Gorazde (4th Infantry Brigade of the BiH Armed Forces), where he attended the sporting competition in basketball between the Battalions (Livno, Mostar, Bileca, Capljina) of the 4 Infantry Brigade of the BiH Armed Forces. The visit included several hours of conversation with the athletes, representatives of the group of women in the Armed Forces of BiH, and the discussion with the Military Commissioner was also open to all members of the Armed Forces of BiH;
- 2) 10 October 2011, Military Commissioner held a meeting with the delegation from the OSCE lead by General Victor Von Wilcken;
- 3) 12 October 2011 Military Commissioner held a working meeting with the representatives of the Agency for Gender Equality, which are set guidelines on cooperation of the two institutions in the implementation of United Nations Resolution 1325.

10. November 2011

During November, the Military Commissioner, in cooperation with the Joint Committee for Defence and Security of BiH, with the support of the OSCE Mission to Bosnia and Herzegovina, has successfully organized and implemented a conference on the topic: "The process of promotion of professional military personnel in the Armed Forces of BiH" (Equal Opportunities for re-categorization and promotion in accordance with the principles of transparency) ", which was held in Sarajevo on 23 November 2011.

The aim of the Conference was to point out the facts and discussion about the perceived irregularities in the process of improving the capabilities and promotions in the armed forces, and noting-giving activities that have been taken to eliminate them as the ones to be conducted in the future.

The largest number of complaints received in the Office refers precisely to the question of process of promotions in the service in the armed forces. There was a lack of transparency of the promotion procedures, unpublished and unadjusted by-laws, certain irregularities and expressed subjectivity when evaluating members of the Armed Forces of BiH. Although they have already taken steps towards the implementation of the transparent procedures, and providing equal opportunities for advancement in the Armed Forces of BiH towards personal and professional qualities and in that sense-data from the recommendations of the military commissioners, there are still some unresolved problems detected. At the conference, Military Commissioner formulated the conclusions that were submitted to the Joint Committee for Defence and Security of BiH for further consideration.

Among the other activities implemented in November 2011, the following can be underlined:

- 1) 02 and 03 November 2011, the Military Commissioner, together with members of the Joint Committee for Defence and Security of BiH, visited the sixth Infantry Brigade, operational command of the Armed Forces of BiH in Banja Luka and Doboje in the workshop (Doboje);

- 2) 09 November 2011, the PMC Office representatives visited the Austrian Parliament, namely: Paul Kiss, chairman of the Commission for the Armed Forces of Austria, Karl Schneemann, Department of Legal Affairs of the Parliament of Austria and General Bernhard Bair, Commander of EUFOR;
- 3) 11 November 2011, the PMC Office organized a working visit Of the Head of the OSCE Mission in Bosnia and Herzegovina Ambassador Fletcher Burton and General Victor von Wilcken;
- 4) 13 – 17 November 2011, the Military Commissioner, together with members of the Joint Committee for the Defence and Security of BiH, visited the NATO Parliamentary Assembly in Brussels (Belgium), where they participated in professional development for members of the Parliamentary Assembly;
- 5) 22 November 2011, Military Commissioner participated in the 4th Review Conference of OSCE / UN, organized with the aim of strengthening the institutions of Bosnia and Herzegovina in its compliance with the security commitments.

11. December 2011

During December, the Military Commissioner realized the following activities:

- 1) 06 and 07 December 2011, Military Commissioner participated at the 6th General Conference of the BiH Ministry of Defence Inspectorate. Military Commissioner held a presentation at the Conference in which he gave special attention to problems that arise in the areas such as medical care for members of the Armed Forces of BiH, the process of retirement of the Serb officers and NCOs of the Armed Forces, frequent lack of transparency in the conduct of the tenders by the Ministry of Defence, concerning increase in complaints relating to high-ranking leaders in the armed forces, and non harmonisation of the by-laws with the laws;
- 2) 08 December 2011, Military Commissioner attended the advanced course in the field of security policy organized by the BiH Ministry of Security in cooperation with the OSCE, where the Military Commissioner had a presentation on the development of parliamentary oversight and the role of the Parliamentary Military Commissioner of Bosnia and Herzegovina;
- 3) 09 December 2011, Military Commissioner with the Joint Committee for Defence and Security paid a working visit to the units of the Armed Forces of BiH, which are located in Livno and Glamoc, and attended the demonstration of the destruction of surplus weapons and military equipment;
- 4) During the period 12-15 December 2011, Military Commissioner paid a study visit to DCAF in Geneva and Bern (Swiss Confederation), where together with members of the Joint Committee for Defence and Security attended a series of lectures and presentations organized by DCAF;
- 5) 20 and 21 December 2011, Military Commissioner participated at the 3rd Conference of the Joint Committee for Defence and Security on the current security situation in BiH.

PARLIAMENTARY
MILITARY COMMISSIONER
Boško Šiljegović