



Facing the past

and access to justice from a public perspective



Special report



FACING THE PAST AND ACCESS TO JUSTICE FROM A PUBLIC PERSPECTIVE
SPECIAL REPORT



United Nations Development Programme in BiH (UNDP BiH)

FACING THE PAST AND ACCESS TO JUSTICE FROM A PUBLIC PERSPECTIVE
SPECIAL REPORT

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FOREWORD

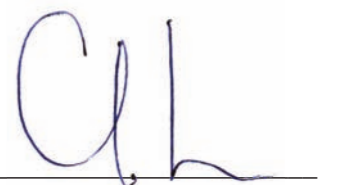
In the past period, in cooperation with its partners, UNDP BiH set out to implement, with a particular attention, the task of assessing the needs of the society in the area of transitional justice and access to justice. More specifically, a platform was created, within which the government institutions and civil society were able to discuss together the events that occurred during the war between 1992 and 1995. The goal of this initiative was to increase accessibility to institutions and services they offer, and also to make a systematic approach to addressing the still pending issues relating to access to justice for victims of the war.

Following successful consultations about transitional justice, which UNDP BiH supported in June 2008, the BiH authorities decided to commit themselves to developing a national Transitional Justice Strategy as one of the sub-strategies of the Justice Sector Reform Strategy. Also, it is important to mention that the efforts directed to strengthening the overall access to justice in BiH include institutional capacity building, raising of legal awareness and the provision of free legal aid. This two-sided approach to transitional justice and access to justice makes it possible for these two processes to function in parallel with the aim to restore confidence in BiH institutions, especially the confidence of individuals and groups seriously affected by the war.

At the outset of the development of the Strategy, UNDP made a report on the survey in order to contribute to this important process. The indicators used in this survey will be monitored and measured also at the end of the process, not only to show the progress made but also to define following activities to be taken in the same area.

The survey shows interesting results, especially those regarding the strategy development. The initiative to develop the overall plan which would include the issues related to facing the past, i.e. the strategy for transitional justice, in which the authorities and civil society would be equally included, was supported by the vast majority of those polled. This result is closely related to the reality in which we live – which was also confirmed by the survey results – which is that most people in BiH continue to believe that the events from the war are extremely important and are willing to deepen the discussion about that issue. Also, the survey confirms the general opinion that victims of the war are neglected by the society and that there is little understanding for them. Finally, the survey shows that there is a general lack of confidence in the BiH judiciary and also that the majority of respondents, regardless of the entity they come from, support the establishment of the BiH Supreme Court.

This survey should provide support to the processes which have already commenced in the society, as it represents the source of information on opinions of broader public in BiH. The process of developing a National Transitional Justice Strategy requires an inclusive approach and concrete answers to many still unanswered questions in BiH. UNDP remains committed to providing support to this important albeit sensitive initiative, relying on the global experience of the United Nations in the matter.



Yuri Afanasiev
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**UNDP
SPECIAL REPORT****Facing the Past and Access to Justice from a Public Perspective****EXECUTIVE SUMMARY**

The *Report Facing the Past and Access to Justice from a Public Perspective* represents a comprehensive analysis of the findings of the public opinion poll conducted throughout Bosnia and Herzegovina in January and February 2010. The Report itself sets the indicators that allow conclusions to be drawn on the views of the public on facing the past, transitional justice mechanisms, the level of confidence in judicial institutions, as well as on the legal culture of BiH citizens.

1. Facing the Past

The strongest message of the public survey is that the recent war continues to represent an inseparable part of the present for most citizens of Bosnia and Herzegovina (BiH). The burden of the past most often arises from an imprecise and incomplete knowledge about the past, since the majority of the respondents consider that it is still necessary to shed light on all the facts of the 1992-1995 war, which remain vague ever since the war ended. Various, often conflicting interpretations of the same events from the war put an additional burden on citizens, which is another reason why the vast majority expressed a strong will to discuss those events. However, no initiatives have yet been taken in this regard, especially when it comes to a dialogue with other ethnic groups. In this regard, extremely important are expectations of citizens towards the BiH authorities "to devise a concrete plan for issues related to facing the past and search for the truth about the events of the war" in cooperation with other segments of society which play an active role in the process of raising

awareness and increasing knowledge about the crimes committed during the war, such as non-governmental organizations (NGOs) or the academic community. The respondents also stressed that determining the truth about the past should be a second most important priority of that plan, immediately after the victims of the crimes receive justice through the judicial process and a dialogue is established among different communities.

It is important to emphasize that the respondents gave an important place in the context of facing the past and access to justice to the role played by NGOs, although generally, they are not sufficiently informed about their activities. Their opinion about NGOs is often very positive, although often abstract. They believe, for example, that the BiH authorities should maintain cooperation with NGOs in developing a concrete plan for facing the past issues. In this regard, citizens would seek legal assistance first from NGOs and only then from bar associations or legal aid centres created under the entity law in Republika Srpska (RS) and the relevant legislation which is in force in some Cantons of the FBiH. Respondents are of the opinion that local NGOs are able to conduct the process of restoring confidence. At the same time, the real knowledge about potential, concrete programs and achievements of NGOs¹ is incomplete, which is probably the reason why citizens do not often utilize that possibility.

¹ For example, respondents do not have the information on the NGO activities on collecting documents, accounts and testimonies about the past war in BiH, although civil society has devoted much of their activities precisely to establishing the facts about the crimes committed during the war.

The position of victims, as well as the way in which the government institutions and the society as a whole treat the victims, represent the foundation for the transitional justice process. The survey shows a prevailing public opinion that the level and scope of attention and support which the government institutions and the society as a whole have been giving to victims are insufficient and uncoordinated. Hence, the solidarity which the public expressed towards the right of the victims to seek compensation for their losses and sufferings resulting from the war is understandable.

A relatively small number of respondents are of the opinion that it would be necessary to seek symbolic victim satisfaction models instead of compensations such as a public apology. Possible such model could be memorials, which also serve the purpose of telling the truth about the war crimes. The respondents who have said that the events of the war are important for them to the extent that they will never forget them consider more often than others that the memorials constructed so far are useful for the process of facing the past, that their construction should be regulated at the state level, and that it is important to erect a single war monument in BiH. The same category of the respondents also believes that victims of the war, as a group, have been abandoned by almost all segments of the society, and that the society shows very little understanding and respect for them.

2. Access to Justice

The lack of confidence in the judiciary in BiH is a common determinant that permeates throughout this report. Although it can be argued that the lack of confidence expressed by the respondents resulted from their indirect perception and not from actual individual experience on the work of the courts and prosecutors' offices, it should be taken seriously as aggravating circumstances in the transitional justice procedures. As concluded in the course of the survey, insufficient or superficial knowledge and the lack of expressed interest in the information on the judiciary in general, indicate the underdeveloped legal culture and the lack of citizens' awareness on legal remedies and guarantees available for the protection of individual rights.

Despite the insufficient level of a general legal culture, citizens have demonstrated a relatively strong sense of the responsible actions by the authorities, primarily by the police and judicial authorities, in the matters related to delicate cases of sexual violence and domestic violence. In this regard, the vast majority of the respondents give importance to gender equality of employees of those authorities, and their adequate competences for professional discharge of their duties.

The possibility of using different forms of free legal aid envisaged by the legislation is particularly interesting for citizens. Both relatively high costs of judicial proceedings and a generally difficult financial situation of citizens explain this interest. The confidence that citizens expressed towards NGOs as their legal representatives in court proceedings is rather conspicuous. This task represents a challenge for NGOs and encouragement for the bar associations to engage in the civil society's free legal aid programs. Regarding legal regulations of this matter, the public expects the legislation to ensure to citizens the right to a certain minimum of legal aid, based on the principle of equality for all.

II INTRODUCTION

The Ministry of Justice and the Ministry of Human Rights and Refugees of the BiH Council of Ministers, in cooperation with the United Nations Development Programme in BiH (UNDP BiH) are in the process of implementing the project "Access to Justice: Facing the Past and Building Confidence for the Future". Its goal is to take stock of the situation in the field of access to justice and to assess the potential of transitional justice in the process of facing the past, in support of the development of a sustainable BiH Transitional Justice Strategy, the implementation of which would make a crucial contribution to restoring confidence among BiH citizens and a stable coexistence in the future.

This initiative builds on the previous project which focused on support to domestic capacities in the process of transitional justice in BiH, which was implemented by the Ministry of Justice and the Ministry of Human Rights and Refugees in the Council of Ministers of BiH jointly with UNDP BiH in the period 2007-2009.

The Report "Facing the Past and Access to Justice from a Public Perspective" represents a comprehensive analysis of the findings of the public survey conducted throughout BiH in the course of January and February 2010, by the PrismResearch agency from Sarajevo. One of the initial findings of the survey and the report was determining the level of knowledge and expectations of BiH citizens about the transitional justice and access to justice. The survey represents one of the indicators for the BiH Council of Ministers' Expert Working Group in charge of developing a Strategy for Transitional Justice in Bosnia and Herzegovina to focus on immediate and direct needs of victims and the public while drafting the Transitional Justice Strategy, which would facilitate the implementation of the access to justice component.

The report also contains a detailed description of the survey, the register of questions and the tabular and graphic presentations of the answers. A conceptual analysis of the respondents' views is provided along with the sum of total responses or comparative results.

Comprehensive and innovative approach to the establishment of the rule of law principle and insurance of individual rights in a community which is going through the process of political and economic transition, relies primarily on the public confidence in institutions, and openness and accessibility of the judiciary and administration to all legal entities. Consistent legislation, transparent judicial proceedings and accessible legal remedies should contribute to translating a popular maxim that "the main role of the law is to make life predictable" to reality. To this we should add non-judicial mechanisms and other techniques of facing the past which should ensure long-term satisfaction to victims of conflicts and confidence building, which in turn would facilitate co-existence of different ethnic groups either in a broader region or within a country. In any case, these forms of transition constitute the modern phenomenon of transitional justice, whether it be a formal "judicial justice" or non-judicial mechanisms, such as fact-finding and truth-seeking mechanisms, programs for material and symbolic reparations or vetting programs for background checks on professional capacity and moral integrity of persons employed in public administration.

The role and responsibility of the authorities are of paramount importance in this process. The government institutions have a constitutional and legal obligation to ensure equal, equitable, fair and efficient legal protection to all citizens, in accordance with their international commitments. However, transitional justice would be inaccessible without an active role of the civil society at all levels. Only this holistic approach (joint or coordinated initiatives of the government institutions and the civil society organizations) makes the transitional justice process open to all

interested groups and individuals and enables interaction and effectiveness of all activities within that holistic approach.

On the other hand, the knowledge about the constitutional framework, relevant pieces of legislation as well as on professional capabilities, professional credibility and transparency of the government institutions at all levels (access to justice) – constitute the basis for the assessment of public confidence primarily in judicial institutions, and also in other institutions, which ensures legal certainty, the rule of law and respect for human rights.

The main components of access to justice and transitional justice are presented in the Introduction, before a detailed presentation of the findings and analysis of the public survey.

1. Access to Justice

In the process of legislative and judicial reforms, BiH has reached a level at which modern democratic principles and legal standards are included in the domestic institutions and the legal system, with a special emphasis on the European Convention for the Protection of Human Rights and Fundamental Freedoms. The adoption of a new, primarily procedural criminal legislation and the fundamental judicial reform create conditions for gradual debunking of the myths which citizens in this region have about the law and judiciary, seeing them as a closed system of political manipulations and influence. In this region, along with improving the court and prosecutor outreach to the interested public, an increased level of legal culture and awareness on justice is also expected. In that environment, civil society could be working continually and consistently on strengthening its place and articulating needs of individuals and groups in their demand for justice. So, BiH has reached a level at which the relationship between the public and judicial authorities may assume a new quality and become mutually conditional. On the one

hand, the institutions of the judicial system have, at least formally, rejected restrictions which posed an obstacle to their independence and impartiality in performing judicial functions. On the other hand, there is a growing awareness in civil society on access to justice and transitional justice as *conditio sine qua non* for the development of BiH potential in peace and security.

The vast majority of BiH victims of the war, as well as broader public, expect to obtain personal satisfaction and recognition of their suffering and hardship through trials before the ICTY in the Hague and the war crimes chamber established within the national courts in the region. It can certainly be stated that the ICTY in the Hague has played a historical role in both its completed and pending trials, and in creating numerous rules that served as a basis for the country's criminal legislation reform and the establishment of the Court of BiH. The War Crimes Chamber within the Court of BiH has created a very rich case law over less than seven years and has established its integrity.

At the same time, the level of satisfaction offered by the "judicial justice" is far below the expectations of victims across BiH. Nearly all NGOs and victims' associations from all over the country have expressed their dissatisfaction with the outcomes of trials, claiming that victims' needs were not sufficiently met through formal court proceedings. In broader social and political terms, war crimes trials have not made a visible contribution to launching a process of normalizing relations among different ethnic groups. This can be illustrated by periodic media reactions to judgments pronounced in trials of individuals charged with war crimes. Namely, media reporting are generally tinged with sensation and sharp criticism of judgments.

Therefore, it is necessary to ensure that adequate information is provided to citizens on all aspects of a court trial, judicial procedures and roles played by the main parties to proceedings. In a broader context, it is necessary to ensure that citizens are

informed about the constitutional framework, relevant legislation and rights and obligations of citizens arising from the legislation. Finally, it is necessary to ensure that citizens are informed about professional credibility and transparency of public institutions at all levels with a view to professionalizing those institutions and creating a strong confidence in equal access to justice, which, in turn, would create conditions for the government institutions to achieve integrity and become the real public services for citizens who will have trust and confidence in them.

2. Transitional Justice

Trials related to charges of past human rights abuses or war crimes (if viewed separately from other forms of justice) cannot remove or alleviate to a considerable degree all emotional consequences as the legacy which wars leave on survivors and next generations. Transitional justice has its historical roots in the idea that the judiciary alone is incapable of coping with numerous and complex problems arising from massive and systematic violations of the fundamental human rights in totalitarian and authoritarian regimes or during armed conflicts. Judicial reactions, i.e. "judicial justice" should be accompanied by appropriate non-judicial responses.

The responses sought by "judicial justice", combined with non-judicial mechanisms create the phenomenon of transitional justice. Transitional justice, in narrower terms, is a set of different although inter-related techniques and procedures. For the purposes of this report, it is sufficient to mention a few specific types.

- Victims and the society insist primarily on punishing individuals accountable for human rights violations. By establishing the accountability for those violations, the state demonstrates its willingness to face its past failures, and its determination to punish all crimes punishable under the domestic

legislation and international law, as the prevention and recurrence of crimes. Also, the state's willingness and determination to prosecute all perpetrators result in helping victims regain their sense of dignity and building the society's belief that the state is functioning and is capable of guaranteeing the protection of human rights to all citizens.

- However, victims and the public are aware that they cannot receive all answers they are seeking through legal proceedings: for example, the question of why something was allowed to happen may be as important as a precise account of what exactly happened. A broader context of an event also seeks responses to the whole range of questions down to the underlying questions of whether a particular crime could have been prevented and who could or should have prevented the crime. An important element in the process of facing the past is the possibility given to victims to give their own account of what happened and to go through the trauma release process in public. It is often important for victims to tell their stories to those who hurt them in the past, to the portion of an ethnic group which they believe tacitly expressed support for the war crimes, i.e. to the political options which they believe to have been instigators of crimes, hoping to trigger the understanding of those elements, options or the society as a whole for the consequences of their past actions.
- One of the mechanisms for confronting victims and perpetrators, as well as the whole society with the past, are the Truth Commissions. In some parts of the world truth commissions already have incredibly rich history. As a rule, they are temporary, non-judicial and institutionalized bodies which establish facts and the truth about past events and deal with establishing crime patterns. Truth commissions carry out their activities over a certain period of time and in the end release comprehensive reports with wide-ranging recommendations for measures to be taken in the field of

compensation, i.e. reparations in broader terms, and institutional reforms. These bodies (e.g., truth commissions), unlike judicial institutions, focus on victims, which specifically means that: 1) truth commissions take statements from a great number of victims; on the basis of the information they obtain through testimonies and documents, truth commissions build knowledge about the crimes under investigation, 2) truth commissions organize public hearings of victims with a view to preventing manipulation and creating public sympathy towards victims and understanding of a broader public for needs of victims, 3) truth commissions establish credible and objective registers of individual victims by name, 4) truth commissions contribute directly to improving socio-economic situation of victims through their recommendations for provision of material and symbolic reparations to victims for the atrocities occurred in the past.

- Reparations obtained from perpetrators of crimes are traditionally understood as compensation for the real losses, although this kind of compensation has proven in some cases to be a form of symbolic recognition of suffering and hardship. Public apology made after a war may also serve to satisfy the need of victims to be told symbolically and genuinely that “the other side” understands and recognizes their pain. The transitional justice experiences in various societies have resulted in numerous reparation methods the aim of which is a symbolic recognition of socio-cultural, historical and political circumstances within efforts to restore at least part of victims’ dignity undermined by a war. In addition to reparations, there are different forms of mental and physical care and assistance, provision of conditions necessary for sustainable returns of all displaced persons, as well as different symbolic activities, such as public apology, memorials and monuments, amendments to school curricula and other activities.

- Appropriate institutional reforms should follow requests and expectations made prior to the reforms. They would include measures of technical and educational assistance to the legal system in order to make it capable of supporting transitional justice. Namely, the key confidence of victims of the war in judicial and other institutions, such as security agencies, is closely related to the high level of professionalism and impartiality of the authorities. Thus, the institutions and all persons employed in the judiciary, security agencies and administration must possess moral, professional and spotless integrity. Post-conflict and post-authoritarian societies have developed different methods and techniques for achieving this goal, among them primarily the vetting system used to check on professional capacity and moral integrity of persons employed in the government institutions. The justifiability of these procedures arises from the position maintained by the majority of respondents of the survey that individuals found to be accountable for war crimes should be banned from public office.

In any case, it is necessary to emphasize that there is no single “recipe” for transitional justice. The experience of every society is specific, which makes the needs for articulating those experiences and for overcoming traumas specific and often multi-layered. One of the ways to understand the entire complexity of the facing the past issue is an inclusive approach to all segments of the society (government institutions and civil society) in order to ensure that all activities taken within the transitional justice concept are effective.

Finally, it may be said that the timing for conducting this survey in BiH was appropriate as it followed the completion of the most important segment of the judicial reform and the most relevant legislation. Another argument in favour of such timing is the gradual application of the knowledge

about transitional justice and its methods in discussions about the past war. Finally, the third argument is related to a growing awareness on the need for the peoples in BiH to face their recent past. This is precisely the biggest challenge of this joint initiative launched by the BiH Ministry of Justice, BiH Ministry of Human Rights and Refugees and UNDP BiH as it places facing the past in the context of a need to overcome mistrust, as trust and confidence are the underlying basis for co-existence of all peoples in BiH in peace and security.

THE SURVEY RESULTS AND ANALYSES

The Report *Facing the Past and Access to Justice From a Public Perspective* represents a comprehensive analysis of the findings of the public opinion poll conducted by Sarajevo-based PrismResearch Agency throughout BiH between 25 January and 5 February, 2010. The survey method of research included 1,600 BiH citizens above 18 years of age. All regions across BiH were proportionately represented, which makes the survey representative. The public opinion poll (survey) was carried out in 58 municipalities in all the ten Cantons in the Federation of BiH (FBiH), and in five regions of Republika Srpska (RS) (Banja Luka, Dobo, Bijeljina, Pale and Trebinje regions), and in the Brčko District (BD). The questionnaire consisted of 38 questions which included 11 socio-demographic indicators (category of respondents). In the course of the survey, the pollsters did not experience any major problems regarding the will of citizens to participate in the survey. A high level of cooperation was thus ensured between the pollsters and respondents.

The results of the survey are described below.

I FACING THE PAST

1. What Impact Has the War Had on Everyday Life in BiH?

For the vast majority of BiH citizens, the events from the period of armed conflicts between 1992 and 1995 continue to be an integral part of their present. There is an obvious correlation between responses given to the question about “the importance of what happened” and whether “the relevant facts have already been established”. The burden of the past most often arises from imprecise and incomplete knowledge about the past, as the majority of respondents think that the facts about the war (1992-1995) have not yet been largely established.

This finding of the survey goes deep into the philosophy of transitional justice. One of its postulates is the objective and credible information on the facts. The experience shows that in all wars, victims have been persistently trying to get answers to questions relating to specific crimes or the conflict in general. In addition to questions and precise explanation of what happened (establishment of facts), an answer to the question as to why something happened (establishment of a cause) is also important in BiH. The full knowledge about the facts from the past is a precondition for an individual or a group to rationalize the past and stop enquiring about unclear facts and circumstances surrounding a particular crime or loss.

Most respondents (72%) have said that what happened between 1992 and 1995 in BiH is personally “very important” or “important” to them. Around 50% of respondents of Bosniak ethnicity claim that the period of the war, as part of their history, is “extremely important”, while the percentage of Croat and Serb respondents to the same question is half of that. The reason could be the fact that – as it is often said of Bosniaks – the burden of the past has the proportions of an “ethnic tragedy” because of the consequences of the crimes committed in Srebrenica and some other places. Another difference noticed among the respondents refers to the level of formal education. The respondents with higher levels of education, especially those with an associate or university degree, show less tendency to look

back to the past. This can be understood as they are probably employed, better-off and focused on their jobs, problems and career ambitions. On the other hand, persons with a lower level of education are often in a disadvantaged position during the post-war economic transition and the ongoing crisis as they have less job opportunities (not only those in BiH). This is why it is possible that their intensity and depth of feeling stem both

from the level of the atrocities they experienced in the past and their dissatisfaction with their current status in comparison to the living standards they had before the war. In this regard, citizens of both urban and rural areas share more or less the same views, which is probably the result of the fact that both villages and towns were equally affected by the war (see Table 1).

Table 01: How important to you personally is what happened during the war in BiH 1992-1995?												
	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
Very important, I'll never forget it	36,4 %	44,0 %	25,7 %	26,0 %	48,5 %	24,4 %	26,2 %	48,9 %	36,0 %	36,7 %	35,2 %	37,3 %
Important, but I have moved on with my life	35,4 %	32,3 %	40,7 %	21,4 %	32,1 %	39,8 %	33,5 %	28,8 %	35,4 %	35,4 %	39,2 %	32,5 %
I am trying to forget it	20,8 %	17,2 %	25,4 %	33,0 %	14,7 %	26,7 %	26,6 %	20,3 %	20,2 %	21,4 %	18,8 %	22,3 %
It is not important to me, and has no longer any impact on me whatsoever	6,6 %	5,6 %	8,1 %	9,0 %	3,9 %	8,8 %	10,8 %	2,0 %	7,4 %	6,0 %	6,1 %	7,1 %

In their response to the question *Do you think that relevant facts about the events during the war in BiH have already been established?* the respondents from the RS of Serb ethnicity have provided answers which are largely different from those from the respondents from the FBIH, the BD and the other two ethnicities. Namely, only around 15% of citizens from the RS of Serb ethnicity believe that the facts about the events

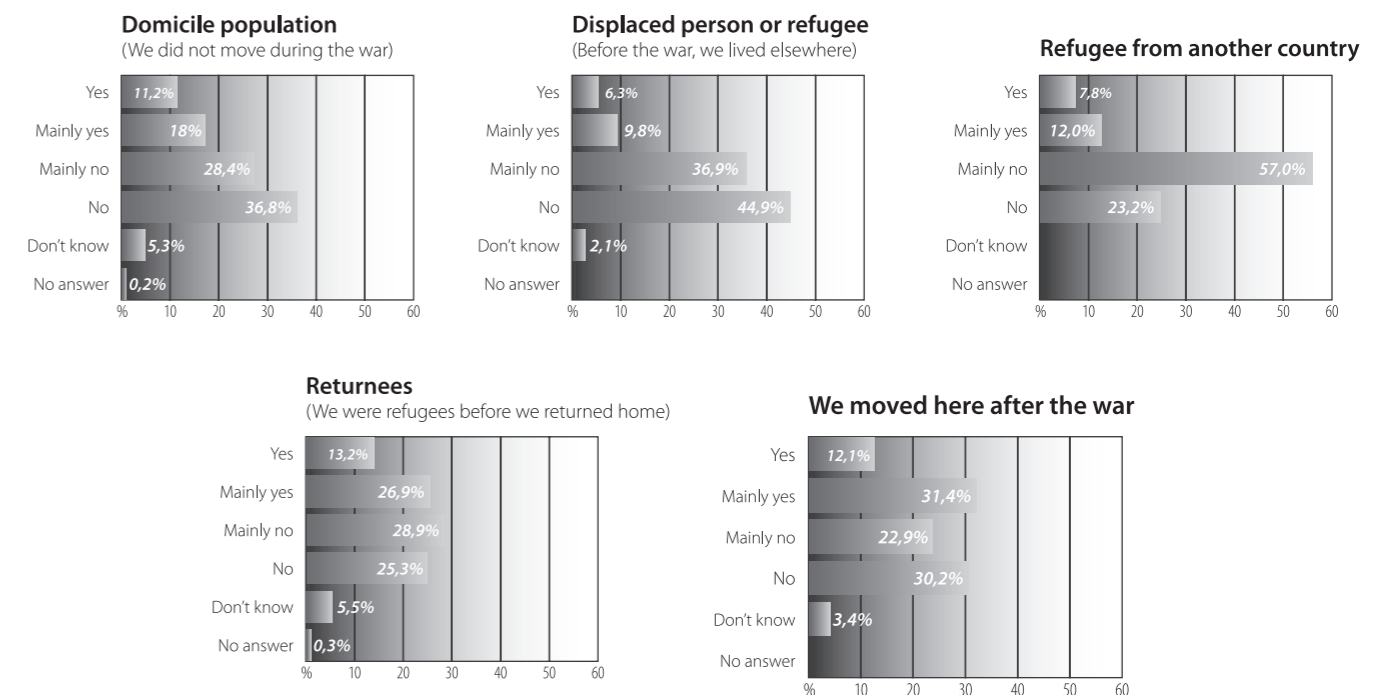
from the war have already been established (see Table 2). The supposed reason for such answers is the dominant position of the members of that community that the information about Serb victims, as opposed to Bosniak victims, is not known enough in BiH, the region and the international community as a whole.

Table 02: Do you think that relevant facts about the events during the war in BiH have already been established?												
	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
Total yes	30,7 %	40,3 %	15,3 %	51,9 %	42,1 %	15,6 %	35,3 %	22,3 %	10,9 %	10,6 %	28,0 %	30,2 %
Total no	69,3 %	59,7 %	84,7 %	48,1 %	57,9 %	84,4 %	64,7 %	72,5 %	18,4 %	18,7 %	66,1 %	66,1 %

It is also interesting that only about 15% of respondents from the displaced community believe that the truth has been established (see Graph 2). In other words, the dominant majority of those who are still displaced believe that the

facts about what happened to them, the reasons for which they were forced to leave their homes, why they have not yet returned – have not been established yet.

Graph 1: Do you think that the relevant facts about the events during the war in BiH have already been established?



2. Dialogue Among the Communities in BiH

Generally, a public dialogue is a very important element in the context of transitional justice as the experience showed that in the process of alleviating and overcoming trauma caused by war crimes, it is crucial to create favourable conditions and give an opportunity to victims and others to tell their own stories about the past events. It is often very important for victims to tell their experiences and their side of the story to those who hurt them, either directly or indirectly, in the hope that their narratives will make them understand the consequences of their actions. Although victims will probably not have the same opportunity to explain to perpetrators the consequences of their past actions, they will do their best to narrate their suffering and pain to the communities from which perpetrators come,

or to the part of that ethnic group which they believe tacitly expressed support to war criminals, i.e. the political options which they believe instigated the crimes. Finally, they will seek from the political elite in power to undertake specific actions directed towards undoing the consequences of the war crimes (prosecution of the crimes, reparations, access to information and archives for the purpose of obtaining the facts and finding the truth, institutional reforms primarily through the vetting process of public administration staff, and some other activities).

In responding the question *Which of the statements below best describes your opinion about the current level of a public dialogue about sensitive issues from the war in BiH?* – a negligible number of respondents have chosen the response that “almost all people want to discuss the war with

the other ethnic groups”, while slightly less than one third of respondents have said that it is desired by “the majority”.¹ However, the highest percentage of respondents from all categories have chosen the response which says that the majority of people, in fact, do not want to discuss the war with the other ethnic groups. The responses in

¹ It would be interesting to note that as many as 37% of the respondents with the highest level of education have said that such discussions are desired by the majority of people. More details will be given below.

the Brčko District are indicative: as many as 57% of respondents believe that the current level of a dialogue about some sensitive issues from the war in BiH shows that “almost nobody” wants such inter-ethnic discussion. These responses suggest a dull perception of most citizens that any discussion and attempt to define a single interpretation of the events from the war and the recent past is counter-productive and opens old wounds (see Table 3).

Table 03: Which of the statements below describes best your opinion about the current level of a public dialogue about sensitive issues from the war in BiH?

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
Almost all people want to discuss the war with other ethnicities	7,6 %	9,7 %	5,0 %	-	9,4 %	5,9 %	6,3 %	-	8,2 %	7,0 %	8,2 %	7,2 %
Most people want to discuss the war with other ethnicities	28,6 %	32,5 %	24,3 %	2,0 %	29,8 %	24,5 %	37,5 %	7,7 %	29,9 %	27,4 %	29,5 %	27,9 %
Most people do not want to discuss the war with other ethnicities	38,8 %	33,5 %	36,5 %	40,7 %	37,3 %	44,5 %	28,5 %	31,6 %	40,0 %	37,7 %	39,4 %	38,3 %
Almost nobody wants to discuss the war with other ethnicities	17,8 %	15,0 %	19,9 %	57,3 %	15,7 %	21,1 %	15,2 %	39,3 %	15,5 %	20,1 %	16,8 %	18,6 %

However, the responses to a similar, individual-level question are encouraging. Namely, asked *How would you describe your own willingness to discuss the past war in BiH with other ethnic groups?*, around two thirds of respondents have expressed their will to engage in such discussions.

There is a more striking gender difference in response to this question, since men have expressed their full willingness in 31.5% of the responses for a dialogue with other ethnic groups, while 25.9% of women would do the same. (See Table 4).

Table 04: How would you describe your own willingness to discuss the past war in BiH with other ethnic groups?

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
I am fully prepared to discuss it with other ethnic groups	28,6 %	25,4 %	34,5 %	8,6 %	28,5 %	33,2 %	14,2 %	30,0 %	31,5 %	25,9 %	32,1 %	26,0 %
I am prepared to some extent to discuss it with other ethnic groups	36,9 %	40,7 %	32,1 %	21,2 %	40,3 %	33,0 %	36,4 %	13,5 %	37,3 %	36,6 %	36,6 %	37,1 %
I am not really prepared to discuss it with other ethnic groups	16,8 %	17,7 %	14,5 %	37,0 %	15,4 %	16,2 %	25,8 %	15,9 %	16,9 %	16,8 %	17,3 %	16,5 %
I do not want to discuss it with other ethnic groups at all	14,8 %	13,1 %	16,2 %	33,2 %	13,1 %	16,2 %	17,2 %	19,3 %	13,0 %	16,5 %	11,7 %	17,1 %

As mentioned above, the affirmative findings encourage and inspire a dialogue among all the ethnic groups in BiH on the aspects of the war in general. However, one should be aware also of the potential risks of “coming face-to-face with others”. Experiences of similar discussions (different conferences organized by civil society or international organizations) show that such forums often turn into mutual emotional persuasions or sharp polemics over facts and the context of the war, which often puts an emphasis on differences in terms of “at least three different interpretations of the events that occurred during the war”. Responses given to the following question can be one of the indicators of this position.

Namely, asked *How often do you personally launch a discussion over the past war in BiH with other ethnic groups?*, almost a negligible percentage of respondents chose the “whenever I get a chance” option, and only around one tenth of respondents from all categories chose “rather often”.

This leads to a conclusion that the respondents are careful about discussing the war in an open dialogue with the other two ethnicities as they assume that they would otherwise create an unpleasant situation and undermine the current level of confidence or challenge their own deeply rooted beliefs.

Table 05: How often do you personally launch a discussion about the past war in BiH with other ethnic groups?

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
Whenever I get a chance	4,1 %	4,2 %	4,0 %	3,4 %	4,4 %	3,7 %	4,2 %	10,7 %	4,5 %	3,7 %	5,1 %	3,4 %
Rather often	9,5 %	12,7 %	5,0 %	7,8 %	13,8 %	3,4 %	13,3 %	-	10,8 %	8,3 %	9,5 %	9,6 %
Sometimes	28,2 %	32,6 %	22,2 %	18,2 %	31,2 %	24,6 %	27,1 %	-	29,9 %	26,5 %	26,4 %	29,5 %
Rarely	30,8 %	27,7 %	34,9 %	42,0 %	27,0 %	34,9 %	35,4 %	24,4 %	31,5 %	30,2 %	33,2 %	29,1 %
Never	26,2 %	21,8 %	32,6 %	28,5 %	23,5 %	32,2 %	17,3 %	43,4 %	22,6 %	29,7 %	24,8 %	27,2 %

Still, the vast majority of respondents do understand the importance of having a dialogue about the past in the interest of building a more stable future. This is visible from the responses given to the following question To what extent do you agree or disagree with the following statement:

“We should discuss all aspects of the war in BiH in order to overcome the present situation in which there are at least three different interpretations of the events that occurred during the war?”, in which over 80 percent of the respondents gave a positive answer to this question (see Table 6).

Table 06: **To what extent do you agree or disagree with the following statement: We should talk about all aspects of the war in BiH if we are to overcome the current situation in which there are at least three different interpretations of the events that occurred during the war"**

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
I fully agree	39,3 %	40,4 %	39,3 %	8,6 %	43,3 %	38,6 %	24,9 %	30,9 %	38,9 %	39,7 %	39,0 %	39,5 %
I mainly agree	39,0 %	40,2 %	37,8 %	28,8 %	39,8 %	36,9 %	43,4 %	41,9 %	40,5 %	37,6 %	39,5 %	38,7 %
I mainly disagree	13,6 %	13,3 %	11,8 %	55,6 %	10,8 %	14,2 %	23,7 %	2,0 %	13,4 %	13,8 %	13,6 %	13,6 %
I completely disagree	4,5 %	3,9 %	5,3 %	7,0 %	4,0 %	4,5 %	6,2 %	10,7 %	4,7 %	4,3 %	5,0 %	4,1 %
Don't know	3,3 %	2,1 %	5,3 %	-	2,0 %	5,6 %	1,9 %	-	2,5 %	4,1 %	2,8 %	3,8 %
No response	0,2 %	0,1 %	0,5 %	-	0,1 %	0,2 %	-	14,4 %	-	0,5 %	0,1 %	0,3 %

Notwithstanding the whole delicacy of this process, it is necessary to underline that the need for a dialogue expressed by the respondents is a very valuable finding of this survey. That need and will, regardless of the motive, is a huge asset for the transitional justice process, and may serve as an irreplaceable catalyst for facing the past issues.

3. What is the Role of the Authorities in BiH in the Processes of Facing the Past?

Most of respondents are in favour of the establishment of one institutionalized mechanism which would offer the appropriate framework and a climate for facing the past (see Table 7).

Table 7: **What should be the role of the authorities in BiH in the processes of facing the past?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
Authorities should play the leading role in these activities	41,8 %	51,3 %	27,5 %	50,2 %	53,4 %	27,3 %	41,7 %	38,9 %	41,6 %	42,1 %	43,3 %	40,7 %
Authorities should be involved to some extent	46,5 %	38,9 %	57,9 %	43,8 %	38,2 %	57,1 %	46,0 %	46,6 %	47,7 %	45,4 %	44,8 %	47,8 %
Authorities should not be involved in these activities	7,9 %	6,6 %	10,0 %	6,0 %	4,9 %	11,3 %	10,1 %	-	8,4 %	7,5 %	8,3 %	7,6 %

In this regard, it is quite interesting and also encouraging to note that the vast majority of respondents treat the authorities as equal to "NGOs and the academic community" in the process of facing the past.

In their responses to the question *To what extent do you agree or disagree with the following statement: The authorities in BiH should devise a concrete plan for facing the past and truth-seeking issues?*, the vast majority of the respondents (nearly 90%) Gave a positive answer to this question.

Table 08: **To what extent do you agree or disagree with the following statement: The authorities in BiH should devise a concrete plan for the facing of the past and truth-seeking issues?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
I agree	87,6 %	84,6 %	92,5 %	80,8 %	90,9 %	88,4 %	71,9 %	83,5 %	87,8 %	87,3 %	83,5 %	83,0 %
I disagree	12,4 %	15,4 %	7,5 %	19,2 %	9,1 %	11,6 %	28,1 %	2,0 %	12,2 %	12,7 %	12,9 %	11,0 %

4. Goals of a Transitional Justice Strategy

Although the vast majority (close to 90%) of the respondents would support "a concrete plan for the facing the past issues and seeking the truth about the events that occurred during the war", there are very diverse opinions and ideas about what should be the goal of such a plan or strategy. The respondents have once again

confirmed their largest interest in seeing that justice is served for victims through court judgments and in establishing a dialogue among the communities; the next priority for the respondents is the interest in establishing the truth, compensations; the smallest number of the respondents chose the development of a vetting system as their option (see Table 9).

Table 09: **BiH committed itself to developing a plan, i.e. a BiH Transitional Justice Strategy, and a concrete Action Plan for its implementation. What should, in your opinion, be the main goal of this Strategy?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
To ensure justice for victims	29,9 %	31,4 %	26,7 %	51,3 %	37,1 %	24,2 %	22,4 %	7,7 %	28,3 %	31,5 %	29,9 %	30,0 %
To devise activities related to seeking the truth about the war in BiH	23,0 %	21,4 %	25,7 %	16,6 %	23,3 %	24,0 %	19,6 %	11,5 %	24,2 %	21,8 %	24,1 %	22,2 %
To build confidence and encourage a dialogue among the parties	27,7 %	33,3 %	20,3 %	14,4 %	27,2 %	24,9 %	37,9 %	28,5 %	27,9 %	27,6 %	28,5 %	27,2 %
To define the issue of reparations for victims of the war	9,2 %	7,9 %	11,5 %	5,2 %	5,4 %	12,4 %	13,8 %	15,9 %	9,3 %	9,2 %	9,2 %	9,3 %
To develop a vetting system for all public officials	6,1 %	3,7 %	9,3 %	12,6 %	3,8 %	9,2 %	4,3 %	21,9 %	6,8 %	5,4 %	6,1 %	6,5 %

A conclusion can be drawn from the above set of questions that there is a degree of confusion in the public over the transitional justice mechanisms. In addition to the information and establishment of facts, which has been mentioned earlier, restitution, compensation and moral satisfaction for the past atrocities are high on the list of the goals of transitional justice. Reparations obtained from the perpetrator (the state, or parties in conflict, in whose name the crime was committed) are extremely important for victims mainly because of their real losses and equally so because reparations represent a symbolic recognition of accountability which that kind of indem-

nity implies. However, although they do not think that the vetting of public officials should be the primary goal of the Strategy, the vast majority of the respondents agree that the persons found to be accountable for war crimes should be banned from public office. (See Table 10). Nearly 90% of the respondents think that such persons should be banned from public service. However, this can lead to a conclusion that there is a public perception that such persons do hold positions in public administration and civil service. There are no major differences among different categories of respondents over this issue.

Table 10: **To what extent do you agree that all persons accountable for war crimes should be banned from public office?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
I agree	88,3 %	85,6 %	92,0 %	93,0 %	90,9 %	88,3 %	79,8 %	85,6 %	86,9 %	84,8 %	86,5 %	85,4 %
I disagree	11,7 %	14,4 %	8,0 %	7,0 %	9,1 %	11,7 %	20,2 %	-	10,4 %	12,3 %	10,5 %	12,0 %

A comprehensive process of vetting the police was carried out in BiH and judges and prosecutors were selected and reappointed at all levels of the judiciary. However, the public continues to believe that the results of the vetting process are not fully satisfactory yet. Critics and objections have been made about other authorities, municipal authorities in particular. Returnees and displaced persons have said that they often see the persons accountable for persecutions and serious abuses of their rights during the war in their returning communities or the communities from which they were displaced, which has a direct impact on the reintegration process.

5. Does the Documentation of the ICTY and the International Court of Justice Represent the Best Basis for Discussions about What Happened During the War in BiH?

The respondents' views on the legacy of international tribunals dealing with the wars in the former Yugoslavia are rather indicative for the process of transitional justice in general, and for a possible dialogue about the recent past in particular. The ICTY, although an ad-hoc international court, represents by its substance and procedure the best model that the international community was able to offer in terms of objective and unbiased establishment of accountability for war crimes. The rule of law principle and the implementation of the highest international standards for human rights protection and fair trial are the basic tenets of the Tribunal. Hence, it is possible to assume

legitimately that the documentation of the Tribunal, resulting from its rich 16-year-long experience, would help narrowing down room for denial of war crimes in the first place, and reducing the possibility for arbitrary interpretations of the events that occurred during the war.

However, reactions to the statement given in the question To what extent do you agree or disagree with the following statement: The documentation of international courts (the ICTY and ICJ) represents the best basis for discussions about what happened during the war in BiH? – are very much divided along ethnic lines (see Table 11), while in total, the respondents express big reservations towards international courts. Specifically, a total of 58.2% of the respondents mainly agree or fully agree that the documentation of international courts represents the best basis for discussions about what happened during the war in BiH. Regarding their responses under an ethnic criterion, 83.4% of citizens of Bosniak

ethnicity agree that the Documentation of international courts (such as the ICTY and ICJ) represents the best basis for discussions over what happened during the war in BiH, while a lower percentage of Croat respondents (59.4%) and even less Serb respondents (26.5%) agree with the same statement. The genesis of denying the legitimacy of the ICTY is well known to have existed since the creation of the Tribunal up until several years ago. It is assumed that a high percentage of support for the basic idea of this issue by for example Bosniaks probably comes from their potential belief that the Tribunal has achieved through its trials a relative feeling that justice is still served² and that Bosniaks are recognized as victims, while the judgment of the International Court of Justice from February 2007 confirmed that a genocide had been committed in Srebrenica (see Table 11).

² However, it is well known that a certain number of BiH citizens, primarily those from victims' associations, are not satisfied with the punishments pronounced to perpetrators following the establishment of their accountability.

Table 11: **To what extent do you agree or disagree with the following statement: The documentation of international courts (the ICTY and International Court of Justice) represents the best basis for discussions about what happened during the war in BiH?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY			
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS
I agree	58,2 %	76,6 %	30,6 %	69,9 %	83,4 %	26,5 %	59,4 %	48,0 %
I disagree	41,8 %	23,4 %	69,4 %	30,1 %	16,6 %	73,5 %	40,6 %	37,6 %

6. Truth Commissions

The degree to which the respondents are unaware about activities of NGOs on collecting documents, accounts and testimonies about the past war in BiH is a matter of concern, all the more so as the civil society in the broadest terms, both in BiH and abroad, has devoted a large portion of its activities and programs to that issue (see Table 12). In the countries of the former Yugoslavia, and in BiH, Croatia and Serbia in particular, volumes of books and documents about the war have already been published, tens of master's and

doctoral theses dealing with the same issue have been completed and defended, the rich fund of knowledge has been created, there are numerous NGO projects in the region dealing with the consequences of the war, many NGOs had a status of amicus curiae in trials before the ICTY in The Hague, etc. The same is true for NGOs and the publishing and academic activities abroad, especially in Western Europe and the U.S.A. This information indicates a need to raise the level of awareness on this issue and to familiarise broader public with civil society activities.

Specifically, around two thirds of the respondents are not aware (“not sufficiently” and “not at all”) of NGOs working either in BIH or abroad on collecting documents about the past war (see Table 12). It is even not possible to define any major difference among different categories of respondents in this regard. The only easily noticeable difference is that those who live in urban communities are better informed than others.

There is a striking difference in the level of information between the Bosniaks and the other ethnicities: Bosniak citizens are far better informed than the others (around 40%). This is probably the result of the weight of the 1992-1995 events for Bosniak citizens and thereby their deeper interest in the information on the organizations, including NGOs, which are collecting documents, accounts and testimonies.

Table 12: Huge number of NGOs in BIH and abroad have been collecting documents, accounts and testimonies about the past war in BIH. To what extent are you aware of such activities?

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
Aware	35,1 %	37,6 %	31,8 %	26,0 %	41,8 %	29,6 %	27,8 %	19,2 %	59,8 %	56,6 %	39,0 %	30,2 %
Not aware	64,9 %	62,4 %	68,2 %	74,0 %	58,2 %	70,4 %	72,2 %	66,3 %	40,2 %	43,4 %	58,5 %	66,0 %

When asked about truth commissions, most respondents (61%) stated they did not know what truth commissions were. (see Table 13). Women are less informed than men in this regard.³ The total percentage is not surprising as there have been no serious efforts either in BIH or in the whole region to create a truth commission in BIH, apart from a few failed announcements or initiatives. It is known for a fact that there has never been a broader debate or sensitisation of the BIH public about truth commissions. One of the few initiatives, launched at the end of the 1990s by a group of NGOs in BIH, within the Citizens’ Association “Truth and Reconciliation”, was met with scepticism and lack of trust and confidence on the part of victims’ associations and the ICTY as well. Victims and the ICTY feared that the creation of a truth commission would reduce the significance of the trials at the tribunal in The Hague. Also, concerns resulted from the lack of knowledge about whether or not such a body would be authorized to guarantee amnesty for perpetrators, in view of the fact that victims in

BIH and elsewhere insist primarily on retributive justice, i.e. on the judicial response to the past crimes.⁴ The public and victims’ associations in BIH maintained a similar position about the Dayton Project NGO initiative. The Dayton Project NGO maintained close cooperation with the United States Institute of Peace (USIP) and eight then parliamentary political parties on the establishment of a truth commission in BIH, in 2005.⁵

The vast majority of those polled (nearly 90%), who said they knew what truth commissions were, also said that a truth commission should be established in BIH, which corresponds to UNDP’s earlier survey and report, *Justice and Truth in BIH: Public Perceptions*.⁶

This could mean that the critical mass for a dialogue about whether or not there should be a truth commission in BIH is developing step-by-step

⁴ In the meantime, the ICTY changed its opinion about the creation of a truth commission in BIH and gave public support for the creation of such a body. See *Transitional Justice Guidebook for BIH*, UNDP BIH, Sarajevo, 2009, p. 69

⁵ *Ibid*, p. 67-69

⁶ See *Justice and Truth in BIH: Public Perceptions*. Special Report, UNDP BIH, 2005, p. 16-17

³ When asked *Do you know what Truth Commissions are?* 65.5% of women and 56% of men gave a negative answer. See Table 13 in the Annex to this Report.

Table 13: Do you know what truth commissions are?

	TOTAL	ENTITY/DISTRICT			ETHNICITY			
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS
Yes	37,2 %	38,5 %	36,0 %	23,6 %	42,4 %	33,5 %	30,1 %	28,7 %
No	60,8 %	59,7 %	61,8 %	73,3 %	56,0 %	65,0 %	66,1 %	56,8 %

and that the level of public awareness about the potential of this transitional justice mechanism is rising gradually (see Graph 2).

Two thirds of the respondents who are familiar with truth commissions and who believe that a truth commission should be established also in BIH said that the commission should be formed at the state level (see Table 13a). However, there are some important differences across ethnic lines. A very high percentage of the citizens of Bosniak ethnicity (over 83%) chose a truth commission at the state level, while the percentage of Serb respondents who would support the creation of a truth commission at the state level

was half of that (slightly more than 40%). Interestingly, 100% of the citizens from the category of “Others” believe that a truth commission should be established at the level of BIH.

7. Are CSOs Capable of Leading the Process of Restoring Confidence?

There is an interesting correlation between the answers about the levels at which a truth commission should be established and the answers to the question as to whether local non-governmental organizations are capable

Graph 2: Do you think that a truth commission should be established in BIH? (Only those respondents who know what truth commissions are)

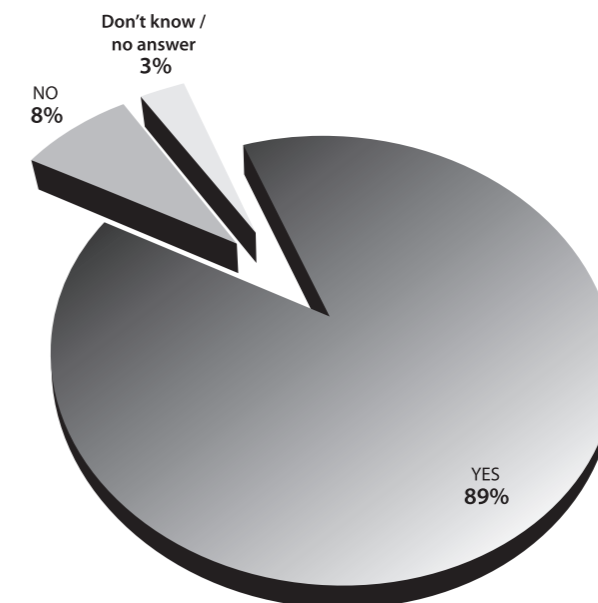


Table 13a: **At which level should a truth commission be established?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY			
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS
At the state level	67,0 %	80,9 %	47,1 %	23,6 %	83,5 %	41,2 %	62,3 %	100,0 %
At the entity level	20,2 %	7,4 %	37,9 %	73,3 %	6,6 %	43,2 %	15,0 %	-
At the cantonal/ regional level	2,2 %	2,4 %	2,0 %	73,3 %	1,3 %	2,2 %	8,1 %	-
At the municipal level	7,1 %	5,6 %	9,5 %	73,3 %	5,1 %	10,0 %	9,1 %	-
At the level of local communities	1,9 %	2,2 %	1,4 %	73,3 %	1,8 %	2,0 %	1,9 %	-

of leading the process of restoring confidence among the communities. Here, most of respondents favored the process of restoring confidence at the local level, i.e. far below the state level which is, as aforementioned, preferred as the level for truth commission. The ethnic picture of the respondents is pretty the same: slightly over 70% of all respondents from both entities chose the local level (see Table 14). Furthermore, Bosniaks chose the same option in 82.3% of their responses, and Croat and Serb citizens showed the same preference in over 60% of their responses, while slightly over 40% of the citizens from the group of "Others" chose the local level. Of course, the confidence building measures require a somewhat different approach and procedures than the truth-finding mechanisms, although, as a rule, both mechanisms fall on fertile

ground in the civil society. In the end, it is assumed that local level is extremely important to respondents because of returns which is one of the key goals of the Dayton Accords (Annex VII) and because NGOs were very active in re-establishing previously broken links among the conflicting communities and were recognized as the organizations capable of implementing the process of restoring confidence at the local level.

8. Monuments and Memorials

In theory and practice of transitional justice there are divided opinions about the role of memorials and monuments. As a rule, monuments and memorials are designed and constructed at visible sites with the aim to provoke specific

Table 14: **To what extent do you agree or disagree with the following statement: "Civil society organizations at local level (cantons/regions, municipalities and local communities) are able to lead the process of restoring confidence?"**

	TOTAL	ENTITY/DISTRICT			ETHNICITY			
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS
I agree	72,8 %	75,4 %	70,2 %	54,8 %	82,3 %	64,0 %	64,3 %	43,5 %
I disagree	27,2 %	24,6 %	29,8 %	45,2 %	17,7 %	36,0 %	35,7 %	28,7 %

reactions, such as public recognition of an event, and its interpretation, anger or sadness, an intimate reference to the historical event remembered through the memorial or monument, curiosity or education etc. On the one hand, there is an agreement among experts that memorials and monuments have a tendency "to deal with memories of the past and periods of social traumas and to draw a lesson from them" in order to be an implicit warning and "a guarantee that such events will never happen again". However, it is believed that public memory can also have a negative impact. It can provoke pain, new forms of trauma, or even conflicts (strong memory and deep feelings, especially if the event is represented through conflicting versions of the past) and damage instead of helping the communities go through the transition process.

The total responses to the questions about monuments and memorials in BiH give a rather equal picture about the respondents' positive attitude towards monuments and memorials erected in memory of the recent past. Most of citizens (72%) have responded that the monuments and memorials erected so far are useful for the processes of facing the past (see Table 15). Most of responses from FBIH (nearly 80%) believe that the memorials constructed so far are useful for the process of facing the past, while in the RS that percentage is around 67%. However, interestingly, 63% of the respondents in the BD said that such monuments were not useful, which can be related to other responses provided by those polled in the BD.

Table 15: **After the war, many monuments and memorials have been constructed in BiH in memory of the period 1992-1995. How much are, in your opinion, those monuments and memorials useful for the process of facing the past?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY				HOUSEHOLD CATEGORY				
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	A	B	C	D	E
I find them useful	72,4 %	77,4 %	66,8 %	37,0 %	80,0 %	65,4 %	63,9 %	70,1 %	74,0 %	73,3 %	62,7 %	69,0 %	70,8 %
I find them useless	27,6 %	22,6 %	33,2 %	63,0 %	20,0 %	34,6 %	36,1 %	29,9 %	26,0 %	27,7 %	37,3 %	31,0 %	29,2 %

A DOMICILE POPULATION
(we did not move during the war)

B DISPLACED PERSONS OR REFUGEES
(before the war we lived elsewhere)

C REFUGEE FROM ANOTHER COUNTRY
(we did not move during the war)

D RETURNEES
(we were refugees but we returned home)

E WE MOVED HERE AFTER THE WAR

The results are similar regarding the question of *To what extent do you agree that a law should be adopted at the level of BiH which would regulate the construction of monuments and memorials?* - 75% of those polled were in favour the monument construction issue is regulated at the state level. It is interesting that a smaller number of respondents of Croat ethnicity (only around 50%) support this initiative.

Encouraging are the responses of those polled in the RS (77%) or the responses from the Serb respondents, of whom 70.8% are in favour of

having such a law at the level of BiH, which is a positive deviation from the trend which this group shows in regard to some other initiatives at the state level (see Table 16).

However, there is a significant difference in responses to the question of *How much do you support the idea of constructing a new, central war memorial/museum in BiH?* The idea of building a new memorial is supported by a total of around 64% of respondents in BiH⁷, i.e. some 75% in the

⁷ Examining responses by ethnicity, approx. 84% of Bosniaks, 58% of Croats and only 39% of Serbs support this idea.

Table 16: **To what extent do you agree that there should be a law at the level of BiH which would regulate erecting monuments and memorials?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY				HOUSEHOLD CATEGORY				
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	A	B	C	D	E
I agree	75,1 %	75,3 %	77,0 %	36,0 %	84,1 %	70,8 %	52,6 %	85,6 %	76,8 %	62,2 %	24,7 %	75,6 %	77,8 %
I disagree	24,9 %	24,7 %	23,0 %	64,0 %	15,9 %	29,2 %	47,4 %	-	19,0 %	35,1 %	67,7 %	23,2 %	17,8 %

A DOMICILE POPULATION
(we did not move during the war)C REFUGEE FROM ANOTHER COUNTRY
(we did not move during the war)

E WE MOVED HERE AFTER THE WAR

B DISPLACED PERSONS OR REFUGEES
(before the war we lived elsewhere)D RETURNEES
(we were refugees but we returned home)Table 17: **To what extent do you support the idea of constructing a new, central war memorial/museum in BiH?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY				HOUSEHOLD CATEGORY				
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	A	B	C	D	E
I support	63,7 %	75,6 %	43,4 %	92,2 %	84,0 %	39,3 %	58,1 %	62,8 %	62,4 %	45,8 %	26,3 %	71,0 %	57,5 %
I do not support	36,3 %	24,4 %	56,6 %	7,8 %	16,0 %	60,7 %	41,9 %	22,8 %	31,5 %	48,3 %	69,8 %	22,1 %	27,8 %

A DOMICILE POPULATION
(we did not move during the war)C REFUGEE FROM ANOTHER COUNTRY
(we did not move during the war)

E WE MOVED HERE AFTER THE WAR

B DISPLACED PERSONS OR REFUGEES
(before the war we lived elsewhere)D RETURNEES
(we were refugees but we returned home)

FBIH and 43% from the RS, while, unexpectedly - unlike the previous two responses - a very high percentage of respondents in the BD support this idea (over 90%).

Finally, one should be very careful about the data which indicates that most citizens believe that the monuments erected so far are useful for the facing the past process. This positive attitude towards the existing monuments can be understood as almost all memorials across the whole BiH were erected to reflect unilateral, or more precisely, "mono-ethnic" view of the events from the war. In this regard, they have hardly anything in common with the process of facing the past by all ethnic communities in Bosnia and Herzegovina.

The segment of the survey responses about monuments and memorials should be complemented by the views of returnees since their reactions to monuments they find in their communities of origin are very indicative for the process of facing the past. Some returnees are returning to the communities in which they are the minority and as such, they will face the majority's interpretation of the past.

9. Attitude Towards Victims

The problem regarding the position of victims and the attitude of the authorities and the society as a whole towards this population represent the foundation of the transitional justice process.

The extent to which the victims feel that they have received satisfaction for their pains and losses is the extent to which a broader social community

is ready to face the past and establish a social balance in this regard (see Table 18).

Table 18: **Which statement comes closest to expressing what you believe?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
A	40,1 %	43,3 %	35,3 %	41,2 %	50,4 %	30,7 %	29,2 %	39,5 %	38,5 %	41,6 %	35,4 %	43,6 %
B	41,0 %	41,1 %	40,4 %	51,6 %	37,0 %	43,9 %	48,5 %	27,0 %	42,0 %	40,0 %	43,6 %	39,1 %
C	14,2 %	12,4 %	17,3 %	3,6 %	10,1 %	18,3 %	17,5 %	6,0 %	16,5 %	12,0 %	16,5 %	12,4 %
D	1,9 %	1,7 %	2,0 %	3,6 %	0,6 %	2,8 %	3,9 %	6,0 %	1,2 %	2,5 %	2,1 %	1,7 %
E	0,7 %	-	1,7 %	-	-	1,7 %	-	-	0,5 %	0,8 %	0,7 %	0,6 %

A Victims of the war are the group abandoned by almost all segments of the society, and they receive too little understanding and respect.

C A great number of institutions and civil society organizations deal with the victims of the war but their work is not systematic or well coordinated.

E Other

B The authorities and other organizations devote some attention to the victims of the war, although insufficiently.

D Problems of the victims of the war are often exaggerated and generally, less attention should be given to them.

The majority of those polled (around 40% in total, across almost all categories of respondents) claim that the victims are the group of people abandoned by almost all segments of the society. Even if they believe that the authorities and other organizations are perhaps giving attention to them, they also believe that the attention given to the victims is still insufficient (see Table 18). Furthermore, around 14% of respondents think that a large number of institutions and organizations are dealing with this category of the society, although their activities are neither systematic nor coordinated. The responses show no major differences among different categories of respondents.

This risk sheds light on some controversies that appear in the war crimes trials, which will become more and more perceptible in the future trials. First of all, it is about an unenviable position of the survivors of the war crimes and the families of the killed and missing people regarding court

proceedings. For the time being, the accused are in a far better position than most families of victims and survivors, when it comes to ensuring some practical forms of support and assistance. Ever since high-profile prosecution and trials began at the ICTY in The Hague, all the governments in the region of former Yugoslavia, including the governments of both entities in BiH, established special mechanisms of cooperation and assistance provided to the accused and their families. This practice often provokes negative reactions from the victims' organizations because of both media reporting and the official publicly expressed support to those individuals.

On the other hand, the victims of war crimes and their families are abandoned and left to their own resources, the survey shows. Generally, an adequate institutional, financial, social or medical support is omitted. Instead, this large group is forced to rely on various forms of self-support and programs run by some non-governmental organizations

which, with few exceptions, rarely manage to maintain continuity of their projects due to irregular funding and lack of donations. Moreover, the population of victims are not necessarily aware of the guarantees which the modern criminal legislation gives to those accused of war crimes, such as the right to fair trial, prohibition of inhumane treatment, possibility to serve a prison sentence under privileged regime, pre-trial release, and many other rights given by different international conventions. Thereby, it is quite understandable that the victims are in disbelief that those prosecuted for the most serious violations of international law enjoy all the above-mentioned “benefits” while they comparing it to their own situation and expectations that they will eventually receive satisfaction for their loss and pain. In addition to emotional reactions which the victims’ organizations show from time to time, these impressions, either legitimate or not, can provoke public scepticism towards judiciary and distrust in justice they are hoping for.

In responding to the question of *Which of the two statements below comes closer to expressing*

what you believe? respondents were offered with two options – (A) material compensation and (B) non-material, i.e. symbolic forms of victims’ satisfaction. Their views of the offered options speak in favour of their right to seek “financial compensation from the authorities which are accountable for their suffering”. This option was preferred by approximately two thirds of those polled, almost equally by different categories of respondents (see Table 19). Somewhat higher percentage of responses in favour of material reparations came from the respondents in rural areas, as well as from the respondents with an elementary school education, displaced persons and in particular returnees (nearly 80%), which had been expected due to their, usually, poor financial situation (see Graph 3). Different responses were given in the BD where a significant percentage of those polled (41%) said that the level of the war-related suffering should not be measured in financial terms. Similar responses were given by urban dwellers or the people with a university degree, who are assumed to have a better social status.

Table 19: Which of the two statements below comes closer to expressing what you believe?

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
A	66,9 %	67,2 %	67,2 %	51,6 %	71,0 %	63,5 %	60,3 %	77,8 %	65,2 %	68,5 %	62,9 %	69,8 %
B	20,9 %	21,2 %	19,5 %	41,4 %	19,6 %	22,8 %	21,1 %	7,8 %	22,7 %	19,2 %	23,2 %	19,2 %
C	9,7 %	8,8 %	11,2 %	7,0 %	7,2 %	11,7 %	14,2 %	-	10,6 %	8,8 %	11,2 %	8,6 %

A Victims of the war may request financial compensation from the authorities responsible for their suffering.

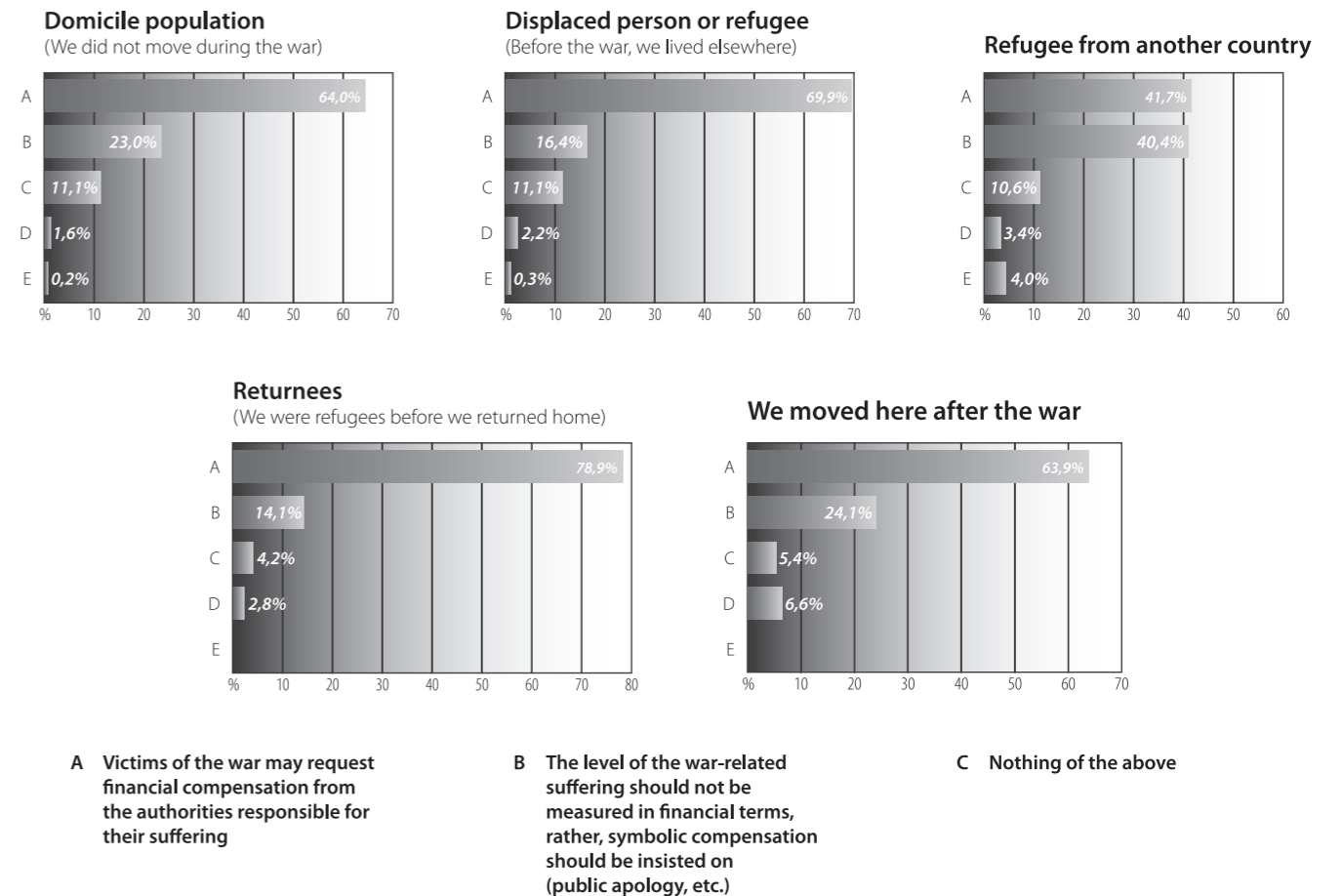
B The level of the war-related suffering should not be measured in financial terms, rather, symbolic compensation should be insisted on (public apology, etc.)

C Nothing of the above.

Although a relatively small percentage (some 20% respectively in both entities) of respondents chose the answer that the level of war sufferings should not be measured in financial terms, but rather in symbolic compensation (public apology, etc.) should be sought, this is still seen as

encouraging information. If we look at transitional justice from the regional aspect, beyond BIH borders, the willingness to accept a symbolic gesture of admitting responsibility by the representatives of another country or another ethnic community for the sufferings of victims

Graph 3: Which of the two statements below comes closer to expressing what you believe?



is an indicator of the possibility to restore their dignity through a public gesture and to satisfy their intimate needs for a public recognition of their sufferings also by the “other side”.

In the end, regarding compensations mentioned in the above question and the attitude of respondents towards the two offered alternatives, the modern practice indicates the need for a broad interpretation of different forms of reparations. A conservative form of reparation for an individual victim implies a financial component with the goal of restitution for material harms and losses and a compensation for physical injuries and inhumane treatment which could also cause mental suffering. However, as of recently, there is a full range of different forms of reparations being

developed with purpose to ensure a higher degree of symbolic socio-cultural and political measures.

9.1. Can Adequate Compensations Be Obtained Through the Judicial Process?

Determination of an adequate compensation is one of the most controversial issues in the judicial practice. This procedure is mainly entrusted to the judiciary which is; in principle, above the politics and separated from the executive branch which always carries the burden of providing financial compensations. However, the respondents have expressed a very ambivalent attitude towards the courts.

Over one half of respondents do not believe that an adequate reparation, i.e. compensation for the victims of the war can be obtained through the courts, while over one third of respondents believe that judicial decisions are the way to obtain an adequate compensation (see Table 20). These figures should be considered in the context of the responses to the question about the

judiciary from the next segment (Access to Justice). Namely, it is not possible to conclude from Table 20 whether the respondents had a direct experience (either positive or negative) in the judicial procedures determining compensations or their responses are based on their general perception. Still, their reservations on how the judiciary is functioning in this regard are obvious.

Table 20: **How much do you believe that an adequate reparation/compensation for the victims of the war can be obtained through court decisions within the judicial system in BiH?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
I believe	40,7 %	44,9 %	35,2 %	30,3 %	45,5 %	34,1 %	46,3 %	19,8 %	39,1 %	42,4 %	40,9 %	40,6 %
I do not believe	59,3 %	55,1 %	64,8 %	69,7 %	54,5 %	65,9 %	53,7 %	80,2 %	60,9 %	57,6 %	59,1 %	59,4 %

9.2. Should All Victims Enjoy the Equal Rights?

The questions put to the respondents *Do you think that all the victims of the war should have equal rights or that some of the victims should be treated differently from others – for example, the military victims vs. civilian victims of the war?* and *To what extent do you agree that all victims should have equal rights regardless of the entity or the region in which they live?* - probe the extremely delicate dilemma about the equality of all victims. The first question offers two categories of victims, military and civilian victims of the war – along with the dilemma of whether they should be treated equally (see Table 21). A large number of

respondents said that those categories of victims should be treated equally as there are problems caused by different legal arrangements for military and civilian victims of the war in BiH.

Since they had different roles in the armed conflict, the entity legislation favors military victims over civilian victims of the war. Also, the position of large groups of civilian victims of the war in BiH, such as victims of torture or persons suffering from war trauma (post-traumatic stress disorder), is neither sufficiently nor precisely regulated by law, or those groups are even excluded from the possibility to enjoy legally guaranteed rights.

Table 21: **Do you think that all war victims should have equal rights or that some of them should be treated differently from others – e.g., military victims of the war vs. civilian victims?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY			
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS
All victims should have equal rights	69,1 %	61,5 %	81,0 %	52,1 %	68,3 %	75,4 %	54,1 %	56,0 %
Some victims of the war should be treated differently from others	27,6 %	34,7 %	16,8 %	36,5 %	28,9 %	21,2 %	40,7 %	42,0 %

The other question is even more important from the victims' perspective, and it concerns the need for equal or different treatment of that population, depending on the entity in which they live. Most respondents (78%) agree with the option that the victims should enjoy same rights regardless of the entity or region in which they live, while 22% of respondents disagree with the same option (see

Table 22). More respondents in the RS than those polled in the FBiH agree that all victims should enjoy equal rights regardless of the entity or the region in which they live, which is true also for the Serb respondents who support the same option, which is more common among them than within other ethnic groups.

Table 22: **To what extent do you agree that all war victims should have equal rights regardless of the entity or the region in which they live?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY			
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS
I agree	77,7 %	67,7 %	91,4 %	100,0 %	73,4 %	86,9 %	66,9 %	85,3 %
I disagree	22,3 %	32,3 %	8,6 %	-	26,6 %	13,1 %	33,1 %	14,7 %

In the end, the information about a considerable majority of the sample which supports the position on the equal treatment and equal rights of all victims is an encouraging indicator for transitional justice. Although very painful and emotional, meeting face to face and accounts by the victims of different ethnic backgrounds represent a common threshold for understanding the pain of loss and may lead to intimate solidarity in shared pain and suffering. Whether this can serve as a basis for accepting the facts on the past remains to be followed in the long-term process of transition.

of whether a country is capable of offering legal certainty and protection to its citizens in accordance with its international obligations, in terms of the implementation of the standards of human rights and fundamental freedoms, is based largely on those criteria. The possibility of citizens and legal entities to seek protection of their rights in court and the level of confidence they possess prior to a trial are the main conditions for assessing the level of access to justice in a society.

1.1. Confidence in the Judicial System in BiH

At first sight, it is quite worrying that nearly a negligible percentage of respondents expressed their "full" confidence in the judiciary in BiH. Nearly 15% of Bosniaks, slightly over 8% of Croats and less than 4% of Serbs said so.⁸ There is no striking difference between the two entities, while no respondent in the BD said he or she had full confidence in the judiciary.⁹ A conclusion can be drawn on the basis of this symbolically expressed confidence that it is seriously damaged and indicates strong skepticism towards judiciary (see Table 23).

⁸ See Table 23 in the Annex to the Report

⁹ Ibid.

Table 23: How much do you trust the judicial system in BiH?

	TOTAL	ENTITY/DISTRICT			ETHNICITY			
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS
I trust	39,7 %	45,5 %	32,6 %	13,6 %	46,9 %	28,4 %	47,4 %	30,9 %
I do not trust	60,3 %	54,5 %	67,4 %	86,4 %	53,1 %	71,6 %	52,6 %	69,1 %

On the other hand, we should not forget that the answers of the sample, at least most of them, probably do not result from their direct experience as a party in civil or criminal proceedings; rather, they are based on the general public perception about the judiciary as an institution, or about judges, prosecutors and defense attorneys as the main actors of the judicial system. We know that a very small number of citizens find themselves in a situation in which they sit in front of a judge or are involved in the legal proceedings during their life, thereby their attitude towards judiciary is based on indirect information and superficial impressions. It is also possible that the respondents based their lack of confidence simply on frustrations they experienced while seeking their rights "from the state".

Regardless of the above assumptions, the fact remains that citizens do not have confidence in the judiciary. This can be explained also by a short history of the judiciary in Bosnia and Herzegovina. Its journey has been very long, over an unusually short period of time; from the total devastation of the judiciary during the war, through politically manipulated judiciary during the years immediately after the war, to the reform which began virtually as late as 2002.¹⁰ Building credibility, confidence and reputation is the process which lasts at least one generation, provided that it developing continuously and on the right track.

¹⁰ For more details see the International Crisis Group's report Rule over Law: Obstacles to the Development of an Independent Judiciary in B/H, ICG Balkans report No. 72. For details about mapping out a strategy for the judicial reform in BiH, see the Judicial System Assessment Report by the UN Mission in BiH, UN Mission in BiH, JSAP Report for the Period November 1988 to January 1999.

We should not forget that the process often depends on a whole range of non-judicial circumstances, such as an economic base, political environment and technical and professional capacities. However, it is obvious that the public shows insufficient understanding of those circumstances. As a consequence, it is often expected that the reorganization of the new process can improve the situation. This is quite visible in the answers given to the questions regarding the formation of a Supreme Court of BiH.

Most respondents (80.5%) agree "fully or to some extent" that BiH should have a Supreme Court as the highest court in the country. This is supported largely by the citizens of the FBiH (85%). In the RS and among Serb respondents that percentage is somewhat smaller however without strictly negative opinion on the Supreme Court. Over 68% of Serb respondents agree that a Supreme Court of BiH should be established (see Table 24). Generally, based on provided answers on existence of Supreme Court in BiH, we can say that the citizens did express a positive attitude towards the hypothesis that the judicial system in BiH should be uniform. On the other hand, the question is whether this positive attitude is the result of their knowledge about the presumed jurisdiction of the Supreme Court of BiH (which does not exist) or its creation is desired as a correction of the generally expressed lack of confidence in the judiciary in BiH (or even as its substitute).

It is assumed that this positive attitude towards establishment of the Supreme Court of BiH is based more on an abstract expectation of

Table 24: To what extent do you agree with the following statement: "BiH should have a Supreme Court as the court of final appeal"?

	TOTAL	ENTITY/DISTRICT			ETHNICITY			
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS
I agree	80,5 %	85,0 %	74,3 %	69,3 %	89,1 %	68,1 %	83,3 %	97,8 %
I disagree	19,5 %	15,0 %	25,7 %	30,7 %	10,9 %	31,9 %	16,7 %	2,2 %

improvements in the judicial branch, and less on the real knowledge about the present judicial system in BiH. On the one hand, it is clear that the Court of Bosnia and Herzegovina, which is the court with special jurisdiction, is not a higher court with power to review any case from the entity courts nor does it have appellate jurisdiction over the two entity Supreme Courts. In broader terms, there are several legal and judicial systems in BiH, which are almost fully independent from each other – the two entities and the BD. At the same time, on top of the judicial pyramid in both entities is the entity Supreme Court, and in the BD it is the Court of Appeals of the District, which is the highest judicial body in the District. On the other hand, the need to create a uniform legal system in the country in order to guarantee the legal equality to all citizens of BiH, and the hierarchical logic which is typical of every judicial system, opened the question of whether a Supreme Court of BiH would be desirable, possible and useful in Bosnia and Herzegovina. The answer to this question depends primarily on the political consensus in the country.

1.2. Level of Awareness about Procedures, Laws and Regulations

The question of To what extent are you informed about the judicial procedures, laws and regulations in BiH? - disregards the specific features of the above categories and implies that the judicial procedure, laws and regulations form a single "package" assuming that respondents are aware of it as a whole, or they are not. However, it is quite natural that an individual has detailed knowledge about legal proceedings and lacks knowledge about primary and secondary legislation. This, however, cannot be analyzed through this question, as outlined in the summary table (see Table 25). What is clear is that the level of knowledge of any group of respondents does not exceed 50%, except for the group of respondents with a university degree (58.5%).¹¹ Differences between the two entities correspond to the differences amongst Bosniak respondents (48.6% said they were informed), and Serb and Croat respondents (38.7%), for whom the result is the same. We can assume that Bosniaks' level of interest in this issue is

¹¹ See Table 25 in the Annex to the Report

Table 25: To what extent are you informed about judicial procedures, laws and regulations in BiH?

	TOTAL	ENTITY/DISTRICT			ETHNICITY			
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS
I am informed	43,6 %	47,5 %	39,4 %	14,6 %	48,6 %	38,7 %	38,8 %	33,3 %
I am uninformed	56,4 %	52,5 %	60,6 %	85,4 %	51,4 %	61,3 %	61,2 %	66,7 %

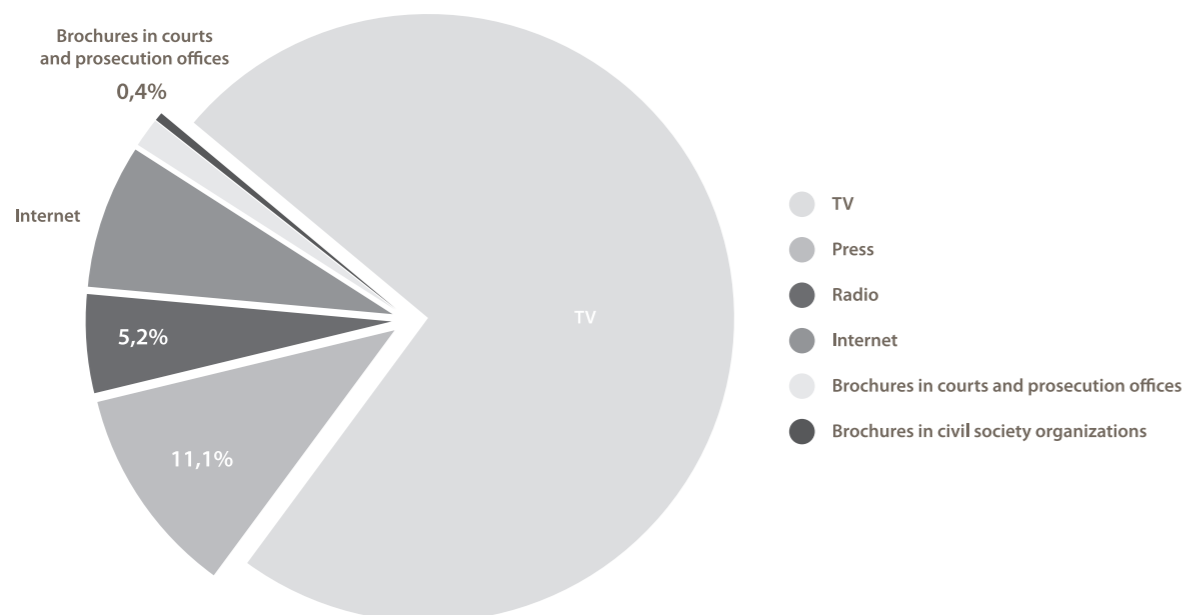
higher than the interest of other groups because they are generally very much interested in the judicial response to the past war crimes, and insist much more than other ethnic communities on war crimes trials. An extremely low level of knowledge is found in the BD (14.6%), which is surprising as there are only two courts and a relatively simple and accessible legislation in the BD.

Overall, slightly less than one third of the sample gets periodically informed (every month or more often); followed by one fourth of respondents saying they are not trying to get informed, and finally one fifth of the sample indicating that they were trying to get the information every week or every day (see Table 26 and Graph 26a).

Table 26: **How often do you try to get informed about the judicial system in BIH, the courts and prosecution offices?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
I try to get information on a daily basis	19,7 %	24,9 %	13,0 %	3,4 %	25,1 %	14,3 %	14,8 %	19,8 %	22,9 %	16,6 %	22,5 %	17,6 %
I try to get information on a weekly basis	21,3 %	24,8 %	16,7 %	12,1 %	23,1 %	17,7 %	25,5 %	13,5 %	22,3 %	20,4 %	24,2 %	19,2 %
I try to get information periodically	29,2 %	25,1 %	34,3 %	43,6 %	25,5 %	34,2 %	28,7 %	22,7 %	27,1 %	31,2 %	27,2 %	30,6 %
I never try to get information on that	24,4 %	21,0 %	29,1 %	29,4 %	21,2 %	27,4 %	27,0 %	44,0 %	23,4 %	25,4 %	21,6 %	26,4 %

Graph 4: **Which media do you usually use to get the information about the judicial system, courts and prosecution offices? (Only those respondents who try to obtain the information about the judicial system in BIH)**



Due to the fact that there is a significant level of distrust in the judicial authorities in BIH, it is often said that the lack of information on the courts and prosecutors' offices is the main reason for strong opinion that "they do nothing" and hence, there is the lack of confidence in those institutions. This is the reason why it was necessary to establish within this particular question the time intervals of inquiries, although we know that the information about the judicial system, courts and prosecutors' offices is not so frequently released, especially if we know that the changes to the judicial system are usually rare. In any case, the public can get the information on a daily and weekly basis on, for example, some concrete cases and ongoing trials, while citizens are not so often interested in the system or the work of the judicial authorities. The answers about the media (see Table 26a) and especially the reliance of the vast majority of the respondents on broadcasters, and television in particular, when they want to get the information on the "judicial system, the work of courts and prosecutors' offices" indicates that they get the information on individual trials, i.e. judicial proceedings, and that they form opinions about the functioning of the judiciary in general through the impressions they get on those cases.

Without any intention to judge the media, we should warn that the "coverage" of trials, especially on television, is often reduced to the brief and insufficiently detailed information, sometimes tinged with the elements of sensation. This is why this group of answers does not provide a reliable picture of the level of legal culture in BIH, although it does indicate the direction of the future research in this area which is extremely important for judicial openness towards citizens, and vice versa (access to justice).

Developed legal culture in democratic societies is a very influential tool in the legislative reform processes and in developing judicial system. It is only the legally conscious society that can be a controlling mechanism for the government institutions which are responsible for the implementation of the Constitution and the proper functioning of the legal system.

We know that the legal amendments in Bosnia and Herzegovina are very dynamic, which is understandable for the country in transition and the process of adopting European legal standards. Studying new legislation, amendments and implementation is not a simple task even for lawyers, let alone the general public. Therefore, the need of the public to be informed about legal changes may vary from huge interest to the information glut. The interest, as it is defined in the question of *How much are you interested in being informed about the changes to the legislation in BIH?* represents an important indicator of the legal culture of the public, which has already been discussed above. Here, the expressed level of interest may be described as high, in view of the above-mentioned circumstances. In the entire sample, the interest in the information on legislation was expressed by over 60% of citizens in both entities, and 50% of citizens in the BD. The difference in responses between men and women is not significant since the level of interest of women is 9% lower than that of men. However, it did turn out that the level of education of respondents is important for the level of their need to be informed since three quarters of positive answers came from the respondents with a university degree (see Table 27 in the Annex).

Table 27: **How much are you interested in being informed about the changes to the legislation in BIH?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
I am interested	62,1 %	63,2 %	61,0 %	51,4 %	67,8 %	58,7 %	50,3 %	44,0 %	66,6 %	57,7 %	67,4 %	58,0 %
I am uninterested	37,9 %	36,8 %	39,0 %	48,6 %	32,2 %	41,3 %	49,7 %	56,0 %	33,4 %	42,3 %	32,6 %	42,0 %

Since the above question did not define the legislative area which is the subject of interest, we can assume that not all categories of respondents are interested in all areas of legislation, but rather in those areas which concern them directly (criminal proceedings, civil proceedings, housing legislation, property legislation, etc.). Therefore, it is important to note the level of interest in information amongst the respondents with a lower level of education, socially vulnerable or socially powerless categories, such as rural population, persons with only primary level of education, or women.¹² Their interest in responses exceeds 50%. This can be a useful indicator because of the above-mentioned information that those groups – according to the answers provided in this survey – are most interested in the process of facing the past, war crimes trials and compensation issues. Having in mind continuous debate on amendments and changes of laws regulating status of military and civil victims of war and fact that these initiatives are mainly coming from these groups, it is

12 See Table 27 in the Annex to the Report

understandable that they are for practical reasons very interested in specific legal framework, unlike intellectual curiosity driving persons with university degrees.

1.3 Level of Awareness on the Publication Containing the Entire Legislation and Legal Documents

The respondents were asked the following question: *To what extent do you agree with the following statement: There should be a single place where citizens would have access to consolidated legislation (including all amendments) applicable throughout BIH, at any time?* The vast majority of them, without any major differences amongst different categories, provided an expected positive answer, which clearly speaks of the need for the information (see Table 28). We know that citizens want to know that a piece of information is available, although they may not need it or will not use it so often.

Table 28: **To what extent do you agree with the following statement: "There should be a single place where citizens would have free access to consolidated legislation (including all amendments) applicable throughout BIH, at any time?"**

	TOTAL	ENTITY/DISTRICT				ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL	
I agree	91,6 %	91,6 %	93,1 %	65,3 %	93,3 %	91,7 %	85,9 %	77,8 %	92,3 %	90,9 %	93,4 %	90,3 %	
I disagree	8,4 %	8,4 %	6,9 %	34,7 %	6,7 %	8,3 %	14,1 %	22,2 %	7,7 %	9,1 %	6,6 %	9,7 %	

Some 60% of all respondents are aware of the Official Gazette in which all laws and legal regulations are published. The majority of them are in the BD (almost 76%), in the RS 65%, and in the FBIH 55% (see Table 29). In the sex structure, 55% of women and 64% men are aware of this publication.

Only one third of the sample gave a positive answer to the question of whether they knew that the Official Gazette is available on the Internet and that it has a website, which is directly

related to the Internet culture in BIH (i.e. to the ability to use information technologies and to computer literacy) which is still at a relatively low level (see Table 30).

By definition, the Official Gazette is the medium (either print or electronic) which should satisfy the need for the complete, reliable and updated information at all laws, and for regulations. This publication is accessible and this is why it is published as a special publication at almost all

Table 29: **Have you heard of the Official Gazette, the journal in which all new laws and amendments to the legislation are published?**

	TOTAL	ENTITY/DISTRICT				ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL	
Yes	59,4 %	55,0 %	65,0 %	75,8 %	60,5 %	63,2 %	43,5 %	54,3 %	63,6 %	55,3 %	63,1 %	56,6 %	
No	38,7 %	43,3 %	32,6 %	24,2 %	38,2 %	34,2 %	54,4 %	45,7 %	55,3 %	42,1 %	34,4 %	41,8 %	

Table 30: **Are you aware of the Official Gazette website?**

	TOTAL	ENTITY/DISTRICT				ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL	
Yes	32,6 %	24,7 %	43,9 %	40,9 %	31,7 %	38,2 %	19,0 %	24,6 %	34,1 %	31,2 %	35,1 %	30,8 %	
No	64,3 %	72,2 %	52,9 %	59,1 %	65,7 %	58,2 %	78,6 %	68,5 %	63,3 %	65,2 %	60,1 %	67,4 %	

levels of government in BIH, i.e. state, entity, cantonal and the BD levels. Still, it is not possible to conclude from those answers to what extent the respondents utilize the Official Gazette (either print or electronic version) as a source of information, or whether they only know that there is such a possibility.

1.4 Awareness of Citizens about Public Trials

Public trials are one of the basic principles of judicial proceedings. The following questions probed the level of awareness of the broader public in Bosnia and Herzegovina: *Do you know*

that as a citizen you can be present at any hearing provided that it was an open, public trial? and *Have you ever be present at a hearing, not because you had to but because you were interested in the trial?* The first question aimed at testing the sample's knowledge about the possibility to be present at a trial, while the other question aimed at finding out whether the respondents had ever been present at a hearing, as a result of their interest in a trial. Out of a total sample, slightly more than one half was aware of the possibility to be present at a trial (see Table 31). In the BD, the level of awareness on this possibility was far above the average level, exceeding 80%.

Table 31: **Do you know that as a citizen you can be present at any hearing provided that it is open to public?**

	TOTAL	ENTITY/DISTRICT				ETHNICITY			
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	
Yes	54,1 %	48,5 %	60,9 %	82,4 %	55,4 %	59,4 %	35,2 %	20,5 %	
No	43,2 %	47,6 %	38,1 %	17,6 %	40,9 %	39,8 %	61,3 %	79,5 %	

In the District, this possibility is used regularly far above average – almost every tenth citizen is regularly present at public hearings. Such a high rate of regular presence in courtrooms, unless necessary by law, is quite rare in the rest of BiH, and over 80% of respondents never practice this possibility (see Table 32).

Although those two questions refer to the democratic quality and transparency of the court proceedings trials, we should keep in mind that open courtrooms are not intended for massive visits by the general public. The intention of the open trial principle is to ensure the insight of interested individuals or groups (family members and friends of the accused or injured party in a trial, non-governmental organizations, law students etc.), hence, the results of this survey remain within expectations.

1.5 Should There Be an Equal Number of Women and Men Employed in the Judicial Institutions?

The question regarding an equal sex structure in the courts and prosecutors' offices is quite relevant for the public trust in the judiciary and so the results of the survey should be considered in this sense. A disrupted or inadequate sex structure may affect the perception of objectivity and impartiality of the judiciary, especially in delicate cases of sexual abuse, gender-based discrimination, domestic violence and war crimes. This principle has been firmly built into the judicial reforms in BiH since the very beginning. The first research into gender equality in the courts and prosecutors' offices was done by the Independent Judicial Commission (IJC) and included the equality principle as one of the equally important criteria for the appointment of judges and prosecutors. The High Judicial and Prosecutorial Council, which monitors the judicial system, i.e. the work of all courts and prosecutors' offices in BiH, and the appointment of judges and prosecutors, applies the same principle.

Table 32: **Have you ever been present at a trial, not because you had to, but because you were interested in the trial?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY			
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS
Yes, I do that regularly	2,3 %	2,2 %	2,1 %	9,0 %	2,0 %	2,5 %	3,1 %	-
Yes, I do that from time to time	3,4 %	3,8 %	3,1 %	-	4,6 %	2,3 %	2,6 %	5,8 %
Yes, I have been at a trial once or two times	9,3 %	11,7 %	5,2 %	18,1 %	9,6 %	7,8 %	13,0 %	5,8 %
No, I have never been present at a trial	83,8 %	81,0 %	88,4 %	73,0 %	82,2 %	86,4 %	81,2 %	88,5 %

Most of respondents (77%) agree "fully" or "to some extent" that it is important that efforts are made in the courts and prosecutors' offices to employ an equal number of women and men (see Table 33). Differences between the entities and the BD are considerable. In the FBIH, this

opinion is supported by 69.5%, in the RS by 89.3% and in the BD by as many as 93% of respondents. It is interesting to note that 15% less women than men agree with the statement from the question.

Table 33: **To what extent do you agree with the following statement: "It is important that courts and prosecutors' offices aspire to have an equal number of women and men on their staff?"**

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
I agree	77,8 %	69,5 %	89,3 %	93,0 %	79,1 %	82,4 %	58,5 %	98,0 %	75,9 %	79,7 %	78,4 %	77,4 %
I disagree	22,2 %	30,5 %	10,7 %	7,0 %	20,9 %	17,6 %	41,5 %	2,0 %	24,1 %	20,3 %	21,6 %	22,6 %

1.6. Are the Employees of the Police, Courts and Prosecutors' offices Trained Enough for Professional Conduct in Delicate Cases?

The question regarding the competences of the judiciary, including the police, for professional conduct in sensitive cases of sexual and domestic violence is also very important for shaping the public opinion on the level of confidence in the law-enforcement authorities and courts. It is also important from the aspect of international legal obligations which BiH committed itself to in the area of gender equality, ensuring protection of sexual integrity and respect for differences, and especially in the area of prosecution in sensitive cases which may generate gender-based discrimination.

The positive opinion of respondents in both entities is rather the same. A total of 59.9% in all BiH, or 58.6% in the FBIH and 63.7% in the RS, agree with the statement from the question *To what extent do you agree with the following statement:*

Table 34: **To what extent do you agree with the following statement: The employees of the police, courts and prosecutors' offices in BiH are trained enough for professional conduct in sensitive cases of sexual and domestic violence?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY			
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS
I agree	59,9 %	58,6 %	63,7 %	29,1 %	62,8 %	58,0 %	53,6 %	76,1 %
I disagree	40,1 %	41,4 %	36,3 %	70,9 %	37,2 %	42,0 %	46,4 %	23,9 %

The employees of the police, courts and prosecutors' offices in BiH are trained enough for professional conduct in sensitive cases of sexual and domestic violence? There is a credible disagreement in the BD with the statement that the employees are trained for professional conduct in sensitive cases. There, over 70% of the respondents disagree "fully" or "mainly" with that statement (see Table 34).

The question put to the sample and the answers illustrate quite well the situation in the society in which the number of sensitive cases, or the number of sexually motivated civil and criminal offences is on the rise and is followed by a strong pressure on the authorities to treat such cases in a responsible and professional way, with a particular attention paid to the victim's dignity.

III LEGAL AID

The questions from this segment examine the level of information the citizens possess about access to free legal aid. The problem regarding costs of criminal proceedings was exacerbated by a new Criminal Procedure Code of BiH (2003) which introduces an accusatory system of justice which pits prosecutors against defense attorneys in front of a judge. This system is more favorable for the defense than the previous system – inquisitorial – although the preparations made by the defense attorneys are now more extensive and more expensive. The problem of costs becomes even bigger with the weak economic power of ordinary citizens. This is why it is extremely important to inform the public about all existing sources of free legal aid and the institutions that can provide such assistance.

1. Do Citizens of BiH Know Who They Should Seek Free Legal Aid From?

The first question from this segment is designed to test the knowledge on the institutions which provide free legal aid: Whom will you address first if you need free legal aid? It gives several options which citizens could utilize if they need such aid. The respondents give their confidence

in nearly equal degree first to non-governmental organizations and bar associations (see Table 35). Although there is no free tradition in the legal practice in BiH, free service is being developed in cooperation with the civil society organizations. An average of over 50% of those polled prefers the civil society and bar associations, although almost all groups give a slight preference to NGOs. Of course, a relatively high percentage of trust in legal aid which respondents expect from the non-governmental community is relative, although their choice is certainly closely related to the fact that this kind of assistance is always provided free of charge, unlike the services provided by hired lawyers. Overall of 29.5% of respondents in BiH chose aid from NGOs; as many as 35.1% in the RS and 26.6% in the FBiH. This is particularly important as the present legislation in BiH which regulates the provision of legal aid at the entity (RS) and cantonal levels envisages setting up special entity and cantonal legal aid institutions; it further says that legal aid may be provided by the lawyers registered in the bar associations. NGOs have been engaged in commenting draft laws at the state¹³, entity and cantonal levels. They insisted that such legislative approach to the provision of legal aid was not adequate as it did not provide enough certainty that such an institution would be impartial as it was a government institution,

¹³ The Legal Aid Bill at the state level has not yet been passed into law.

Table 35: Who would you seek first free legal aid from?

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBiH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
Attorney general	12,8 %	9,8 %	13,1 %	89,6 %	13,5 %	12,1 %	13,1 %	7,2 %	12,7 %	12,9 %	11,5 %	13,7 %
Ombudsman	15,0 %	17,1 %	12,8 %	-	18,0 %	11,0 %	16,0 %	23,3 %	14,2 %	15,7 %	16,1 %	14,1 %
Bar association	24,9 %	25,8 %	24,6 %	6,0 %	22,4 %	26,3 %	27,3 %	32,9 %	25,3 %	24,4 %	24,4 %	25,2 %
Civil society organizations	29,5 %	26,6 %	35,1 %	3,6 %	24,9 %	35,6 %	29,4 %	22,0 %	30,1 %	28,8 %	28,9 %	29,9 %
Better informed friends and acquaintances	3,7 %	4,0 %	3,3 %	-	4,1 %	3,8 %	1,4 %	-	4,1 %	3,2 %	6,5 %	1,5 %

while NGOs were excluded from legal aid provision regardless of their years- long experience.¹⁴

In the case of the BD, where there is an institutionalized legal aid office, nearly 90% of citizens rely on its services, and only 3.6% of respondents relay on the civil society organizations.

Asked whether they knew that there were civil society organizations which provided free legal aid, less than one half of those polled said they knew about such civil society organizations which provide free legal aid. Still, it is important to stress that the categories of respondents which are socially most vulnerable and most of whom are civilian or military victims of the war, have the information about NGOs which provide free legal aid. Also encouraging is a high percentage of women and rural dwellers that are aware that

¹⁴ Transitional Justice Guidebook in BiH, UNDP, 2009, pages 120-121.

such organizations exist (see Table 36). Civil society organizations are to be credited for informing those categories of respondents on their services: they were focused on women victims of the war, women victims of domestic violence, and socially vulnerable women without income, and the local population of rural areas through sustainable returns and inter-ethnic cooperation projects. Overall, the answers of respondents about their knowledge about NGOs and their potential cannot be considered as satisfactory since those civil society organizations play the key advocacy and monitoring role in ensuring that the authorities respect human rights and provide efficient access to justice. This is why it is necessary to continue making efforts towards ensuring the system of work for NGOs (including the adequate legislation), and mechanisms which will encourage the development of that so important segment of justice in broader terms.

Table 36: Have you heard of the civil society organizations which provide free legal aid?

	TOTAL	ENTITY/DISTRICT			ETHNICITY				SEX		COMMUNITY TYPE	
		FBiH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS	MALE	FEMALE	URBAN	RURAL
Yes	47,5 %	39,9 %	57,9 %	63,0 %	45,5 %	52,8 %	41,0 %	31,3 %	50,1 %	45,0 %	50,4 %	45,3 %
No	50,9 %	58,2 %	41,0 %	37,0 %	52,6 %	46,2 %	57,0 %	68,7 %	48,8 %	52,9 %	47,5 %	53,5 %

2. Should All Citizens of BiH Have equal Right to Free Legal Aid?

The large majority of citizens of BiH agree that citizens throughout BiH should have an equally guaranteed right to the minimum free legal aid (90%). The differences between the entities do not affect largely this general view (see Table 37).

Although the vast majority of citizens support all forms of free legal aid (see Table 38), we should warn that the laws which regulate this issue set precise conditions and qualifications for this particular right. For example, the BiH Criminal Procedure Code contains the article on “Court-

Appointed Defense Attorney for Indigenous Offenders” (Article 46) which prescribes that a defense counsel will be appointed by court if “the offender is unable to afford legal services”.

The legal aid legislation in the BD envisages the provision of legal services only to indigenous persons who are unable to afford legal services, which is to be proven by the required documentation. Thus, even if a guaranteed minimum of free legal aid is established, the right will not be absolute in its nature; rather, it will be necessary to prove the clients’ eligibility in every individual case.

Table 37: **To what extent do you agree with the following statement: "Throughout BiH, all citizens should enjoy equal and guaranteed right to the minimum free legal aid"?**

	TOTAL	ENTITY/DISTRICT			ETHNICITY			
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS
I agree	89,9 %	84,1 %	98,0 %	100,0 %	89,8 %	93,9 %	80,2 %	85,6 %
I disagree	10,1 %	15,9 %	2,0 %	-	10,2 %	6,1 %	19,8 %	14,4 %

Table 38: **Do you know that everybody who is charged with a criminal offence is entitled to a court-appointed legal counsel who serves ex-officio"?**

	TOTAL	ENTITITY/DISTRICTET I DISTRIKT			ETHNICITY			
		FBIH	RS	Brčko District	BOSNIAKS	SERBS	CROATS	OTHERS
Yes	79,7 %	73,1 %	88,2 %	100,0 %	78,1 %	84,8 %	70,5 %	92,3 %
No	19,2 %	25,7 %	10,5 %	-	20,7 %	13,9 %	29,5 %	7,7 %

IV CONCLUSIONS

The above elaborated survey results can be considered and interpreted from different angles, depending on individual socio-demographic indicators, or groups of respondents. A common characteristic of all respondents is that they are a highly motivated segment of the population, which has its own views and is willing to share them with others. The overall percentage of respondents who did not know the answer to the survey questions or were reluctant to answer, is negligible, and does not exceed 2-3% of all respondents in over 90% of questions. In rare cases, in which the percentage of such answers is noticeable, it hardly exceeds 5% and reaches 10% in one case only. This clearly shows that citizens of BiH, when it comes to their attitudes towards the past war and its consequences, are not a "silent majority"; rather, they represent a huge potential for the process of facing the past in the appropriate environment of transitional justice.

In terms of content, respecting the above mentioned differences among different groups several very strong messages clearly arise from this survey. The first is the fact of looking back at the past war (1992-1995) at almost daily basis and enquiring different and often contradictory facts from the war. Various and mainly conflicting interpretations of the same events of the war contribute to that. Another message arises from the rejection of "our" truth, which is a clearly expressed will to discuss the past (also with other ethnic groups) and to seek clearer answers to the questions which entail "at least three truths" in the society. A third one is an expressed interest in the concept of a truth commission and prima facie confidence which the respondents have in the civil society organizations, especially those at the local level. As a rule, the respondents see the civil society organizations as an unavoidable mechanism in the process of facing the past, although the level of their awareness of the work of the civil society remains at a relatively low level. The fourth message is probably the result of the previous messages and concerns the society's attitude towards victims.

In accordance with the principles of transitional justice, this survey examines in particular the problem regarding the position of victims of the war and their expectations from the state authorities, the judiciary and the society as a whole. The results of the survey show that there is a prevailing public belief that the level and scope of institutionalized care and support for the victims of the war are insufficient and that the victims of the war are "the category abandoned" by almost all segments of the society. Hence, a highly expressed sensibility of the respondents towards the needs of the victims and their rights is expected.

In the end, the public distrust in the judicial authorities is a constant common to all categories of respondents. Although it can be said that the mistrust is based on their indirect perception, and not on a direct personal experience with legal proceedings either in court or prosecution office, it has to be taken most seriously as an aggravating circumstance in the area of access to justice and transitional justice. Insufficient or superficial information on the work of courts, established in the survey, speaks of insufficiently developed legal culture and awareness of citizens on legal redress and guarantees for the protection of individual rights. These brief final observations of the precisely presented survey results indicate, on the one hand, the necessity to review the perception of the judiciary as whole, and the potential of transitional justice in Bosnia and Herzegovina, on the other hand. The only institution which can bring to account all those who are suspected of having participated in committing of war crimes in any capacity is the state through its judicial authorities. The public expectations from the judiciary are huge and legitimate in view of the comprehensive reforms of that branch of government over the last decade. Complementary to those expectations is also the firm confidence in the civil society in the process of facing the past and especially the interest of respondents in potential truth commissions. These two components of transitional justice are not mutually exclusive nor can one compensate for the weaknesses of the other. On the contrary, a holistic approach

to justice implies their full integrity and mutual interaction, which is anticipated by the public expectations expressed in the survey.

ANNEX

* Tables in the Annex are presented in the following way

- the first set of tables includes the information by the entity/ the Brčko District, and ethnicity
- the other set of tables includes the information by sex, age and level of education

Q35. To what extent do you agree with the following statement: The citizens across the whole BIH should have an equally guaranteed right to the minimum free legal aid?

Table with columns: All respondents, D1. Sex of respondents (Male, Female), Age of respondents (18-35, 36-50, 51-65, 66+), D5. Can you indicate the highest level of your formal education? (Elementary or below, Secondary, Associate/graduate/post-graduate degree, No answer). Rows include 'I fully agree', 'I mainly agree', 'I mainly disagree', 'I fully disagree', 'Don't know', 'No answer', 'Total'.

Q36. Do you know that anybody charged with a criminal offence is entitled to a court-appointed counsel?

Table with columns: All respondents, D1. Sex of respondents (Male, Female), Age of respondents (18-35, 36-50, 51-65, 66+), D5. Can you indicate the highest level of your formal education? (Elementary or below, Secondary, Associate/graduate/post-graduate degree, No answer). Rows include 'Yes', 'No', 'No answer', 'Total'.

Q37. To what extent do you agree with the following statement: It is important that courts and prosecutors' offices are aspiring to have an equal number of women and men on their staff?

Table with columns: All respondents, D1. Sex of respondents (Male, Female), Age of respondents (18-35, 36-50, 51-65, 66+), D5. Can you indicate the highest level of your formal education? (Elementary or below, Secondary, Associate/graduate/post-graduate degree, No answer). Rows include 'I fully agree', 'I mainly agree', 'I mainly disagree', 'I fully disagree', 'Don't know', 'No answer', 'Total'.

Q38. To what extent do you agree with the following statement: The employees of the police, courts and prosecutors' offices are trained enough to behave professionally in sensitive cases of sexual and domestic violence?

Table with columns: All respondents, D1. Sex of respondents (Male, Female), Age of respondents (18-35, 36-50, 51-65, 66+), D5. Can you indicate the highest level of your formal education? (Elementary or below, Secondary, Associate/graduate/post-graduate degree, No answer). Rows include 'I fully agree', 'I mainly agree', 'I mainly disagree', 'I fully disagree', 'Don't know', 'No answer', 'Total'.

