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ПАРЛАМЕНТАРНА СКУПШТИНА
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OFFICE OF PARLIAMENTARY
MILITARY COMMISSIONER OF BOSNIA AND HERZEGOVINA

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REPORT ON WORK
OF THE PARLIAMENTARY MILITARY COMMISSIONER OF
BOSNIA AND HERZEGOVINA FOR 2012

CONTENT

1. OPENING REMARKS BY THE PARLIAMENTARY MILITARY COMMISSIONER OF BiH	
2. SITUATION OF HUMAN RIGHTS AND FREEDOMS OF THE MILITARY PERSONNEL AND CADETS IN BiH ARMED FORCES AND BiH MINISTRY OF DEFENCE	
2.1. Taking action by complaints	
2.2. Statistic review of the finalized complaints in the Office of the Parliamentary Military Commissioner of BiH.....	
3. LIVING AND WORKING CONDITIONS IN THE BARRACKS OF THE BiH ARMED FORCES	
3.1 Unannounced visit to the Tactical Support Brigade of the BiH Armed Forces	
3.2 Unannounced visit to the Main Logistics Base of the BiH Armed Forces.....	
3.3 Unannounced visit to the 6th Infantry Brigade of the BiH Armed Forces	
3.4 Visit of the Military Commissioner to the units of the BiH Armed Forces in ISAF mission in Afghanistan	
4. CO-OPERATION OF THE PARLIAMENTARY MILITARY COMMISSIONER OF BiH WITH OTHER INSTITUTIONS AND ORGANIZATIONS	
4.1 Co-operation of the Military Commissioner with the BiH Joint Committee for Defence and Security.....	
5. OTHER ACTIVITIES OF THE OFFICE OF THE PARLIAMENTARY MILITARY COMMISSIONER OF BiH IN 2012	
6. RECOMMENDATIONS OF THE PARLIAMENTARY MILITARY COMMISSIONER OF BiH FOR REMOVING THE NOTED LACKS	
6.1 Recommendation which refers to the obligation of medical staff taking guard.....	
6.2 Recommendation which reffers to rejection of transport expenses to work and from work.....	
6.3 Violation of Law on Service in the BiH Armed Forces regarding the temporary demployment and assignement to the formation position of a lower rank.....	
6.4 Non-compliance with the regulations of appointing military professionals as acting staff member	
6.5 Remarks to the newly adopted Book of Rules on promotions	
6.6 Intensifying the criteria for preterm promotion by BiH Ministry of Defence	

1. OPENING REMARKS BY THE BiH PARLIAMENTARY MILITARY COMMISSIONER

Pursuant to the Article 5, Section (1) of the Law on BiH Parliamentary Military Commissioner ("BiH Official Gazette", number 51/09), the BiH Parliamentary Military Commissioner (hereinafter referred to as: Military Commissioner) shall submit the Report on the work of the BiH Parliamentary Military Commissioner for 2012 to the BiH Parliamentary Assembly.

Through the legal framework of action consisted of the Law on BiH Parliamentary Military Commissioner and Rules of Procedure on the work of the BiH Parliamentary Military Commissioner ("BiH Official Gazette", number 8/10) well established practice of making efforts and assisting the protection of human rights and freedoms of the military personnel and cadets in the Armed Forces of Bosnia and Herzegovina (hereinafter: BiH Armed Forces) is continued.

Through the procedures and investigations conducted upon the complaints of the BiH Armed Forces members in 2012, by the instruction of the BiH Joint Committee for Defence and Security, based on the findings of the Military Commissioner, the Office of the BiH Parliamentary Military Commissioner has been singled out as significant and inseparable mechanism in the field of civil parliamentary oversight over the BiH Armed Forces.

Visits of the Parliamentary Military Commissioner to the locations of the BiH Armed Forces and familiarizing the relevant bodies on the situation when it comes to human rights in the field, inspire great confidence of the military professionals in a transparent and efficient work of the institution of the BiH Parliamentary Military Commissioner, as well as in the independence in his action in protection of human rights and freedoms of the military personnel and cadets.

An important support element without which the implementation of the activities from the competence of the military commissioner would be very difficult, is also the position of the BiH Joint Committee for Defence and Security towards the work of the Military Commissioner.

The Report on the work from 2012 is following a good practice of the previous reports on work – the one for 2010 and 2011 so the order of listing the actions upon the complaints, visits and other activities in the work of Military Commissioner is kept in this Report as well.

In this way, the situation of human rights of AF BiH members will be shown by listing the key problems and statistic review of the complaints. After this, there will be a description of living and working conditions in the barracks and units of the AF BiH which were established by the Military Commissioner based on the conducted announced and unannounced visits. In the Report, also a good cooperation of the Military Commissioner with the separately listed organizations and institutions is mentioned, with special emphasis on professional and successful co-operation with the BiH Joint Committee for Defence and Security which also resulted with some joint activities. After this, the review of other activities of the Office of the Military Commissioner was emphasized. In the last part of the Report there is a review of basic recommendations for improvement of the situation of human rights and which was issued by the Military Commissioner to the BiH Ministry of Defence and BiH Joint Staff of the Armed Forces.

2. SITUATION OF HUMAN RIGHTS AND FREEDOMS OF THE MILITARY PERSONNEL AND CADETS IN THE BiH ARMED FORCES AND BiH MINISTRY OF DEFENCE

2.1. Actions taken upon the complaints

During 2012 the problematic issues contained in the complaints on which there were procedures and which with their weight and seriousness were separated during the investigations, can be divided as follows:

1. Complaint regarding the obligation of medical staff on guard duty;
2. Complaints regarding the rejection of coverage of travel expenses to work and from work;
3. Violation of the Law on Service in the Armed Forces regarding the temporary deployment and assignment to the formational position of the lower rank;
4. Problems with heating in the BiH Armed Forces;
5. Nutrition in the BiH Armed Forces;
6. Non-compliance with the regulations while appointing the military professional as acting staff;
7. Remarks to the newly adopted Book of Rules on promotions;
8. Intensifying the criteria in the BiH Ministry of Defence for early promotion;
9. Intervention of the Military Commissioner on the latest internal vacancy announcement for promotion of the NCO's and officers in the BiH Armed Forces.

2.1.1. Complaints regarding the obligation of the medical staff on a guard duty

Military Commissioner received more separate complaints by the BiH AF members and nurses who submitted the complaints to the Military Commissioner regarding the obligation of guard duty. Namely, the nurses were sent to a guard duty for seven days/24hrs at the location in the woods, where the conditions are inhumane, including the nutrition and weather conditions.

In this case, Military Commissioner issued the recommendation to the BiH Ministry of Defence and BiH Joint Staff of the Armed Forces with which he obliged them on ensuring the appropriate application of the Book of Rules on carrying and using weapons, as of 28 July 2006, number: 04-02-4049/06, as well as compliance with SOP provisions on securing the facilities, technical and material resources and personnel in BiH Armed Forces, number 16-05-03-15-16-139/08, as of 26 May 2008, and SOP of medical-veterinary security of the command and units of the main logistics base of the BiH Armed Forces, number 16-15-13-22-02-3-527-2/09, as of 7 September 2009.

In addition to the aforementioned, Military Commissioner obliged the Main Logistics Base of the Logistics Command of the BiH Armed Forces to annul all orders for guard duty for the nurses, members of the medical team, because they do not have the adequate training and written approval for signing in for weapons, nor they fulfilled the capability check in the last 12 months.

2.1.2. Complaints referring to the rejection of expenses of transport to work and from work

Military Commissioner finalized the procedure by case of the AF BiH members referring to the rights on compensation of transport expenses to work and from work. However, **BiH Ministry of Defence, after the intervention of the Military Commissioner has brought the decision which annuls the previous decision, and which was the source of violation of human rights of the military professional.** Military Commissioner emphasized that this decision, proceeding and application of the by-law regulations and especially enacting the new regulations was unfounded. Apart from this, he also emphasized that the Decision of BiH Council of Ministers is binding and that there is legal right of all damaged parties in this process to ask for court indemnity for their material rights deriving from their work.

2.1.3. Violation of the Law on Service in the BiH Armed Forces regarding the temporary assignment to a lower rank position

In these cases, upon the finalization of the investigation and after it has been determined that there is a violation of human rights and freedoms, the recommendation to the BiH Ministry of Defence has been issued and the BiH Joint Staff of the Armed Forces. However, **Military Commissioner in his recommendations indicated the violation of the Law on Service in BiH Armed Forces.** In the first case, it was mentioned that there was violation of the provision and it refers to the temporary assignment of military professional to another unit for over four years, although it is defined by the Law on Service in the BiH AF that this type of assignment cannot last longer than one year. Another recommendation is in reference to the assignment of a military professional to a lower rank for over two years, which is legally defined deadline for this type of assignment.

In both cases the Joint Staff of the BiH Armed Forces in response to the recommendations of the Military Commissioner stated that it is not possible to perform the ordered obligations. Therefore, on 30 March 2012 Military Commissioner made the official notes in cases which numbers are enlisted, in which it was stated that the Joint Staff of the Armed Forces did not fulfil the obligations defined by the Recommendation.

2.1.4. Problems with heating in the BiH Armed Forces

When it comes to the neglect of the persons in charge whose human rights are directly compromised, it is necessary to mention the concern that Military Commissioner expressed regarding the heating in the working space at the locations of the BiH Armed Forces. However, based on the findings of the Military Commissioner, there are indications that the heating resources are not ensured for the season 2011/2012. Military Commissioner emphasized that this situation directly impacts the health of personnel, damage to the existing facilities and infrastructure and it is also possible to provoke the extraordinary events such as fires due to increased use of heating appliances due to maximum use of the electric power. **Military Commissioner emphasized that there is suspicion that the chain of command has made a serious violation of failure to act, which reflects in non-taking adequate measures in order to resolve this situation.**

Based on the collected evidence, Military Commissioner established that the situation in the barracks „Kozara“ has been solved. **He also received confirmation that there will be no such or similar problems in BiH Armed Forces,** considering that some actions are initiated

in reviewing the stocks of heating material at all locations of the BiH Armed Forces in order to submit the request as soon as possible for procurement of all types of heating material necessary for the heating season 2012/2013.

2.1.5. Food in the BiH Armed Forces

Military Commissioner also dealt with food problems in organizing food supplies for the members of the BiH Armed Forces. Special dissatisfaction with food was emphasized in conducting the guard service at the location of ammunition and mines storage site "Daljani" (Donji Vakuf), of the 6th Infantry Brigade and 4th Infantry Brigade of the BiH Armed Forces BiH. It is also stated that hygiene conditions in the kitchen premises are not satisfactory. Also, there are indications that the kitchen staff is not requested to undergo the medical/sanitary check-up and also the differences in food supply of certain units when it comes to quality and quantity of the delivered food are evident.

Expressing the concern for this situation, Military Commissioner sent letters to the BiH Ministry of Defence and BiH Joint Staff listing all of the noted problems and remarks of the members of the BiH Armed Forces and requested from the persons in charge to submit the required information, in order to determine possible violation of basic human rights and freedoms of the military professionals and jeopardizing the reputation of the BiH Armed Forces.

After the thorough investigation and collected data, the existence of most of the listed problems has been confirmed to the Military Commissioner, but he was also promised that in the future period certain measures will be taken in order to organize the food supplies to a higher level.

Special problem, when it comes to food of the members of the Armed Forces still represents the fact that the Rules of procedures and other by-law acts which have no legal grounds, that is that are not valid any longer, are still being applied. Military Commissioner has made focus to the persons in charge of this issue and there is a basis in the Law on Service of the BiH Armed Forces and obligation deriving from this Law, and that is to enact new acts and to start with their implementation.

From the reply of the Joint Staff of the Armed Forces it is concluded that the suspicions of the Military Commissioner were justified, that by-laws are not adopted but that this issue is being continuously dealt with.

2.1.6. Violation of regulations in assigning the military professional as an acting staff member

In the case of assigning the military professional as acting staff member to a post whose holder is currently absent, **the persons in charge showed that they are not familiar with the regulations, methods and procedure of the appointment of persons as an acting staff member, which resulted in violation of human rights.** However, with this type of activities by the persons in charge, the military professional suffered double damage:

a) he/she is deprived of material rights in accordance with the tasks of the formation position that he/she performs, and

b) not counting the time spent in the rank of the acting position in case when he/she was appointed to a higher rank than he/she owns, and which is important for the promotion process in the professional military service.

In this case, the Military Commissioner has given the general recommendation based upon three specific issues, as well as legal and by-law acts which are defining this field in detail.

The following irregularities had been established by the general recommendation:

1. In the procedure of the persons in charge while appointing the acting staff members as a replacement to an absent member, the BiH AF Logistics Command (hereinafter referred to as: Logistics Command) is giving personal opinions and interpretations of the legal norms, which resulted in damaging the subjects whom these norms were applied to.
2. The date for submission of the request is the date of its submission and not the date when it was received by the competent command, because it can take some time for the request to be delivered to the attention of the person it concern, respecting and taking into consideration the military hierarchy.
3. Military professional, regardless of their ranks in the BiH Armed Forces, must not suffer the consequences which are the result of inefficiency and tardiness of administration.

The response of the Joint Staff of the BiH Armed Forces to the issued recommendation (general and separate) reads the following:

The Support Command has informed the subordinate units on the guidelines for leading the administrative procedure (receiving submissions), appointment and nomination of military professionals as acting staff members, procedure for filling out the ROS-1 form, and compliance with the legal and by-law acts in force.

Case M.H.¹: *the responsibility of the Support Command has been established, therefore it was ordered that the individual responsibility of the persons who made these omissions is determined;*

Case J.V.: *it has been established that appropriately filled form has been sent through the Joint Staff of the BiH AF to the BiH Ministry of Defence, and that, even besides the administrative tardiness that exists in these structures, it came on time for the Order for appointment to be filled in with relevant dates;*

Case D.S.: *there were certain omissions by the person appointed and the person that he replaced, but also there were errors in filling out the ROS-1 by the persons in charge, which*

¹ The report mentions only number(s) of the case or the initials of the military professional-complainant without mentioning the other data on the case. Therefore, all decisions that the Military Commissioner was authorised to make have been made anonymous in their presentation to the public. This was done in accordance with the obligation to comply with the provisions of the BiH Law on Parliamentary Military Commissioner, Law on protection of personal data and the Law on protection of Secret Data.

brought to delay in its submission in the BiH MoD and errors in dates in the Order on appointment of the person as the acting staff member.

2.1.7. Remarks to the newly-adopted Book of Rules on promotions

By adoption of this new Book of Rules on promotions of the military professionals in the Ministry of Defence and BiH Armed Forces, number: 10-34-3-152-11/12, as of 8 June 2012 (hereinafter referred to as: Book of Rules on promotions), the Book of Rules on promotions in the Armed Forces of Bosnia and Herzegovina, number: 13-02-3-1614/10, as of 1 April 2012, were placed out of force, as well as the Instruction for development of the officer and NGO's list for promotions into higher ranks in the MoD and AF BiH, number: 10-02-2-2564-2/10, as of 20 October 2010.

In this regard, Military Commissioner has sent the letter to the BiH Ministry of Defence with which he praises the adoption of the new Book of Rules, which offers better and more concrete solutions in comparison to the previous which has lost its legal strength. Military Commissioner has in this way made his comment to the Book of Rules, indicating all positive progresses made but also certain lacks which still exist. Based on the accusations made on the newly adopted Book of Rules on promotions, Military Commissioner has also sent the Amendments to the Opinion on the by-law act to the persons in charge, number: 05/3-50-19-1244/11, as of 4 September 2012.

What is especially significant to emphasize is that with this Book of Rules, the obligation by the Committee for Promotions and BiH Ministry of Defence is to respond to the complaint in written form. That was not the case before and therefore the Military Commissioner **considers this provision as very significant.**

The right to efficient and effective legal remedy is one of the basic rights contained in Constitutions of BiH as well as in the European Convention on Human Rights. Military Commissioner indicated on several cases **that appeared due to lack of possibility to provide the legal remedy.**

General remark of the Military Commissioner refers to the practice of adoption of the **Book of Rules on promotions very often and it is noticed that this is the case with almost every new internal vacancy announcement for promotion. It is necessary to establish the more permanent validity of this significant regulation.** Also, the remark refers to the appearance of publishing, that is non-publishing of the adopted Book of Rules in the "BiH Official Gazette", so it happened that just before the vacancy announcement or before the sessions of the Committees, the new regulations enters into force. Here, the emphasis should definitely be made on legal security and legitimacy of legal documents, and which reflects in the previous familiarization with the regulations of the norms to the subjects it refers to. Therefore, if the by-law is not published in the "BiH Official Gazette", and in this way it is not available to public, then the Military Commissioner suggests that it should be announced on the notice boards of the BiH AF Units and BiH MoD. **This would be the way to increase the transparency for adoption of these documents, and to emphasize the need for their appropriate and mandatory application.**

2.1.8. Intensifying the criteria of the BiH Ministry of Defence for early promotions

During the last promotions process, certain members of the AF BiH that considered to be in any way damaged while making the lists of the persons who fulfil or do not fulfil the conditions for promotions were approaching the Military Commissioner. Certain number of AF members submitted a complaint to the Military Commissioner on the procedure of the early promotion.

After he reviewed all documents related to this issue in detail, the Military Commissioner expressed his opinion in the document "**Position of the Military Commissioner regarding the promotions of several persons by the last regular promotion process in the Armed Forces of BiH**", which he sent to the BiH MoD and BiH AF on 28 September 2012.

In one particular case, Military Commissioner thinks that military professionals who fulfil the conditions for early promotions in accordance with the provisions of the Law and Book of Rules and have three "excellent" grades in a row, but **not all three in the current rank**, were damaged and their right for early promotion was deprived.

Military Commissioner considers unacceptable to, instead of initializing the procedure for the amendments, the laws and by-laws should be amended self-initiatively with the documents of lower legal strength, such as decision for example.

2.1.9. Intervention of the Military Commissioner to the latest internal vacancy announcement for promotion of the officers and NCO's in the BiH Armed Forces

During the last internal vacancy announcement for accession of NCO's and Officers in the BiH Armed Forces, Military Commissioner received a number of complaints based on the incorrect counting of points and ranking of these two categories of military professionals. Military Commissioner, dealing with these issues, observed many errors and omissions in this process and expressed his opinion on this issue in the documents for which he has the competency to adopt by Law and By-laws.

Military Commissioner emphasized the following regarding the the internal vacancy announcement as of 18 October 2012 for accession and assignment of the NCO's and Officers in the BiH Armed Forces, with the document as of 13 November 2012:

1. Internal vacancy was announced on 18 October 2012, while the By-Law according to which this vacancy shall be conducted (Criteria and procedures for accession and assignment of the NCO's and Officers in BiH Armed Forces, number: 10-34-13793-10/12) was adopted on 31 October 2012. Therefore, the **By-Law that has as its goal to establish all rights and obligations, as well as requirements for the vacancy notice, will be not be adopted before the internal vacancy is announced.** Even some time ago, the Military Commissioner noticed that from this type of process of the persons in charged from the BiH MoD it derives that for each internal vacancy announcement a separate By-Law should be adopted.²

² Therefore, Article 8 of the aforementioned Criteria and Procedures-validity of the Criteria – states "These Criteria shall enter into force on the day of adoption, and shall be applied until the finalisation of the activities in reference to the Internal Vacancy/Advertisement for filling the vacant formational positions of Officers and NCO's in the BiH Armed Forces".

2. We remind that the Conclusion of the BiH Joint Committee for Defence and Security, number: 03/1-50-14-7-17/12, as of 12 January 2012, regarding the announcement of the preliminary and final lists, which reads:

In accordance with the recommendations of the Parliamentary Military Commissioner from the Report on his work, the BiH Joint Committee for Defence and Security orders BiH Ministry of Defence to do the following as soon as possible:

2.5 to make the announcements on the notice board on the preliminary, as well as the final complete lists (at all locations of the BiH Armed Forces), based on which the orders on promotions/prequalification shall be enacted, in order to comply with the transparency principle at all stages of promotions/prequalification (according to the up to date practice preliminary and final lists had been announced, but partially, and only for certain locations).

3. We recommend that the Committees for promotions pay special attention to determining of the criteria for giving points, such as: category „same or similar tasks“, significance of branch, calculating the duration in certain rank and the category „working experience“, taking into account that the most complaints came to the Military Commissioner particularly regarding this issue.

4. It is necessary to establish better co-operation of the Committees for promotions with the Command for Personnel Management with goal of more efficient and complete implementation of the internal vacancy announcement, and having in mind that the Command for Personnel management has all the data necessary for the implementation of this process, and the committees for promotions that are established in accordance with the Law and Book of Rules, must be familiarized with the aforementioned, all in purpose of protection of fundamental human rights.

5. Military Commissioner shall monitor this process in order to establish whether the rights and fundamental freedoms are complied with, which in accordance with the legal competencies he protects and his activity shall in this sense be directed also to monitoring of compliance with the Law, transparency in the procedures and criteria for establishment of the points for the rang-lists of the members of the BiH Armed Forces, and on ensuring principles of justice and equality of all who participate in this process.

2.2. Statistic review of the processed complaints in the Office of the BiH Parliamentary Military Commissioner

After the detailed review of the situation of human rights in the BiH Armed Forces during the last year, as well as actions by the Military Commissioner and measures taken in the previously mentioned problematic issues, in the continuation of this document we will give the statistical data on the complaints processed in the Office of the Military Commissioner. The data, with the use of methodology used in the report of the Military Commissioner for 2011, shall be presented through the charts and graphics.

In 2012, 57 new complaints had been received in total (it is very important to note that 37 complaints out of these 57 were transferred from 2011), out which 22 complaints had been resolved, while 35 are being processed. The number of solved complaints is like this because the priority in resolving was given to the previously received complaints from the second half

of 2011, and which required more complex investigation activities with goal to determine the facts and basis of the allegations of complainants. In order to gain better insight in the total number of complaints end efficiency in its solving, after the processing of the complaints received in 2012, the data on the number of complaints received in the Office of the Parliamentary Military Commissioner shall be delivered, taking into account the they had been recorded adequately in the past period, as well as the monitoring of the activities undertaken in certain cases.

2.2.1. Review of the complaints received and processed in 2012

For the purpose of ensuring the transparency of the data given in the continuation of this document, and at the same time for the sake of summarizing the detailed daily activities of the Military Commissioner by separate cases (daily communication with the complainants and persons in charged in the BiH MoD and the BiH Armed Forces, mediation of the Military Commissioner and efforts in seeking the agreeable solution of certain number of cases, providing legal aid and advising the members of the BiH AF, maintaining the co-operation with the Inspector General of the BiH Ministry of Defence in dealing with the certain number of cases, etc.), in continuation of the text, a number of complaints received in 2012 divided by certain categories.

The received complaints are divided by the following fields: promotion process, status issues, salaries and special reimbursements, legal aid, and other issues (including complaints which is not possible to include under any of the previously mentioned category because very often they contain more basis for complaint or for example violation of one right of the complainant also causes another additional consequences for his/hers financial situation for instance, possibility for promotion and similar). Most of the complaints are included under the *other issues* category.

Promotion process, that is the difficulties on which the military professionals are complaining about when it comes to implementation of this process had also been very much represented in 2012 and out of the total 57 of complaints, 17 are in connection to this process. 9 complaints from this field had been solved and 8 are in process. The complaints are referring to the work of the Committees established for the implementation of the promotion process, way of staffing the formation posts, depriving the rights for promotion in service, discrimination by certain basis, assigning to a higher rank positions, etc.

Complaints in category **status issues** referred to pension and solving the status of the complainants in the professional service, therefore the complaints on certain documents of the BiH MoD which regulate the status of the complainants are included in this category. We received 6 complaints of this type and all of them had been resolved.

In the category **salaries and special reimbursements**, we received two complaints that referred specifically to these issues, so the actions of the Military Commissioner and the final decision was adopted for one complaint, while the other is still in process.

27 complaints in total refer to the category **other issues**, consisted of, as previously mentioned, complaints submitted by different basis and out of this category, six complaints had been solved, while 21 complaint is in process.

In the category *legal aid* there are complaints for which the Military Commissioner had undertaken certain activities, complainants were given certain legal advises and the investigation process has been initiated. Four complaints from this category are in process.

Also, it is very important to emphasize that when it comes to the number of complaints, the fact that cases from 2011 were being resolved in 2012, and that the basis of the complaints is determined in several such previously received cases, and upon their finalization, five additional recommendations and one Conclusion had been issued by the Military Commissioner.

2.2.2. Review of all claims received and processed in the Office

The total number of claims upon which actions were taken in 2012, as already stated, include the complaints received in 2011 where the procedure could not be finalised during that year and therefore have been transferred in 2012 and considered according to the date of receipt. For those reasons, Chart 1 first shows the total number of received and solved complaints in 2011, where it is visible that out of the total number of 116, 79 complaints have been solved, while 37 remained unresolved.

Chart 1. Total number of received and solved complaints in 2011

Year	Total Number of Complaints	Solved	Pending
2011.	116	79	37

Taking into account that 57 new complaints were received in 2012 on various basis, 94 complaints were processed during the last year, out of which 60 were solved and 34 are pending. The aforementioned data are provided in Chart 2.

Chart 2. Total number of received and solved complaints in 2012.

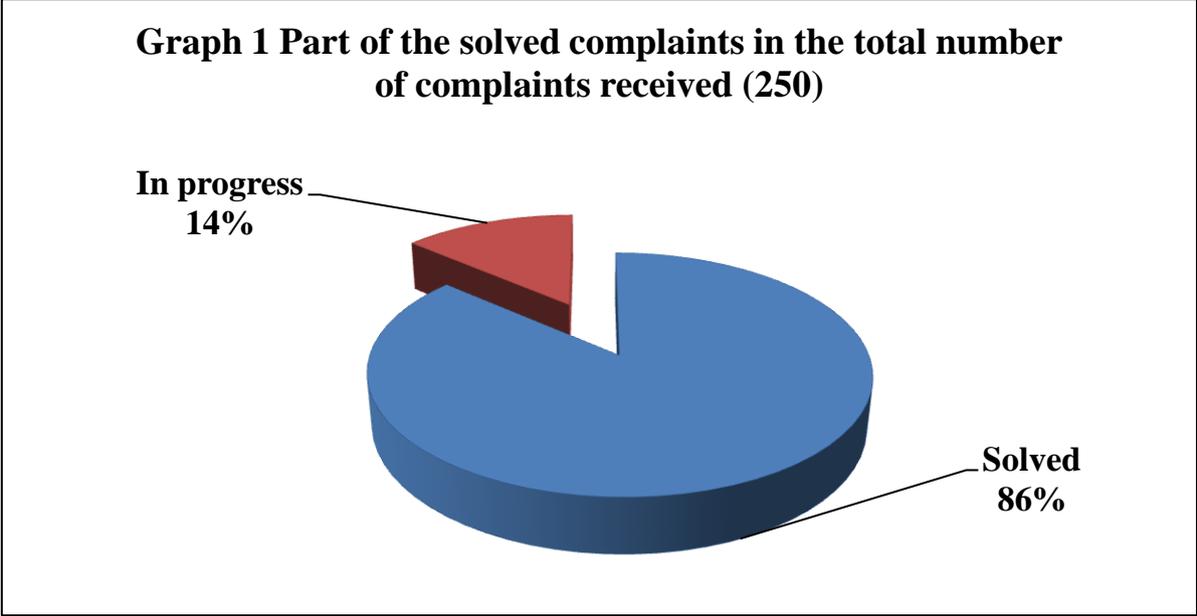
Year	Total number of complaints	Solved	Pending
2012.	94	60	34

The Chart 3 shows the total number of complaints in the PMC Office, and it includes 2010, 2011 and 2012. As it can be seen, the total number of complaints received is 250, out of which 216 complaints have been solved and 35 remain in process as of 31 December 2012.

Chart 3. Total number of complaints received (201., 2011and 2012)

Total number of complaints	Solved	Pending
250	216	34

The data from the previous chart are also shown graphically (Graph 1) and the total number of received and solved complaints is expressed in the percentage. The percentage of solved complaints therefore amounts to 86%, while 14% of complaints are pending.



The data on the total number of the complaints received in the Office are provided in Chart 4 below, and have been provided so they indicate the areas of the complaints, and the complaint status per areas. It is obvious that 76 complaints have been received in the issue of the **promotions** process out of which 68 have been solved and 8 complaints from this field are in progress. The complaints in the category of **status issues** were 62 in total and all have been solved. Out of the total number of complaints submitted exclusively on the issues of **salaries and special compensations**, 17 have been solved and 1 is in progress. In the category of other issues, 74 complaints were received, out of which 53 have been solved and 21 remain unresolved. In the field of **legal assistance**, which was clarified earlier, 4 complaints were registered and all of them are in progress.

Chart 4. Review of received complaints on the basis for submission ³(2010,2011,2012.)

Field	Promotion process	Status issues	Salaries, special compens.	Other issues	Legal assistance
Total number of complaints (250)	76	62	18	74	4
Complaint status	In progress	In progress	In progress	In progress	In progress
	8	-	1	21	4
	Solved	Solved	Solved	Solved	Solved
	68	62	17	53	-

³ The total number shown in Chart contains the complaints (16) received by the civilian members of the BiH Armed Forces, which have been forwarded to the relevant institution.

The office continued the practice of keeping separate records on the complaints by the female members of the BiH Armed Forces, taking into account that in accordance with the Law on gender equality in BiH, and the UNSCR 1325, such records must be maintained in all administrative bodies. During 2012, only one complaint has been received by the female member of the Armed Forces. According to its basis for submission, this complaint was categorised under “other issues”. It is also important to note that during the past period, no violation of rights of the female AF BiH members have been observed purely on the grounds of them being women, or some other form of disturbance or discrimination on the basis of gender.

3. LIVING AND WORKING CONDITIONS IN THE BARRACKS OF THE BIH ARMED FORCES

During 2012, Military Commissioner has, in accordance with its legal competencies been in announced and unannounced visits to the barracks and units of the BiH Armed Forces with the goal to see the accommodating, living and working conditions of the members of the BiH Armed Forces. The following is the review and detailed findings by the Military Commissioner from the locations that he visited.

Most of the aforementioned difficulties have already been observed during the announced and unannounced visits of the Military Commissioner to the AF BiH units and brigades. Military Commissioner already underlined the difficulties of this kind in the correspondence with the relevant individuals in the BiH Ministry of Defence and AF BiH Joint Staff, as well as the reports and information submitted to the BiH Joint Committee for Defence and Security. After many visits to the barracks, units and locations of the BiH Armed Forces Military commissioner would like to emphasise and describe some of them in more detail:

3.1 Unannounced visit to the Tactical Support Brigade of the BiH Armed Forces

By exercising the authority vested in him by Article 4 item f) of the Law on BiH Parliamentary Military Commissioner (BiH Official Gazette number 51/09), Military Commissioner, on 18 September 2012, conducted an unannounced visit to the Tactical Support Brigade, Barracks Rajlovac in Sarajevo. On this occasion, Military Commissioner met the leadership of the brigade and visited the Military Police Battalion as well as Military Intelligence Battalion at this location, belonging to the Tactical Support Brigade.

During this visit, Military Commissioner determined the difficulties that this brigade is facing in performance of its daily duties as follows:

- Problem of lack of personnel at various levels of the organisational structure, which directly impacts the operational efficiency of the brigade;
- Problem of procurement of missing and maintenance of the existing equipment;
- Due to several difficulties, the demining battalion is performing its duties with 30% capacity
- Problem of procurement of uniforms and lack of motor vehicles in the MP Battalion
- General problem of organisation and delivery of food;

- Overly slow administration
- Due to several difficulties mentioned above, organisation and implementation of trainings is conducted in parts;
- Increased number of extraordinary situations additionally burdens regular and timely performance of tasks.

After the visit, Military Commissioner concluded that in this brigade, due to the difficulties, there is a danger and possibility for rejection of tasks because of the lack of living and working conditions. It is worrying that there are no consultations with the brigade commander in terms of transfers, deployment or appointments to duty of the military professionals to other formational positions within the structure of the BiH Armed Forces. The result of the aforementioned is that the brigades are becoming only the executors.

However, despite all the difficulties, the processes, although with difficulties, are running continuously, except in demining battalion, which works with 30% of capacity. The cause of this situation can be found in the poor equipment, lack of maintenance of machines and difficulties in maintaining living material resources.

The observations and assessment of the human rights of members of Tactical Support Brigade by the Military Commissioner were stated in his information, no 05/3-50-19-1139/12 from 24 September 2012, which was submitted to the Joint Committee for Defence and Security of BiH, Ministry of Defence and the Joint Staff of the Armed forces.

3.2 Unannounced visit to the Main Logistics Base of the AF BiH

Military Commissioner conducted an unannounced visit to the Main Logistics Base of the AF BiH, Barracks Butile, Sarajevo on 20 November 2012.

On this occasion, Military Commissioner also visited four companies within the composition of the MLB as follows: Procurement and Services Company, Infrastructure, Company, Transport Company and Sanitation/Medical Company.

During this visit, Military Commissioner determined the following difficulties that this Brigade is facing in performance of its daily tasks:

- Difficult work of the Department Section for Logistics Operations due to the problems occurring in receiving materiel-technical equipment from the external suppliers, and lack of accompanying documentation from those responsible;
- Slowness of administration
- Small number of available drivers
- Movement of people from the Main Logistics Base is done without the consultation with the command (sending of people for education or reassignment), vacancies are not timely filled, and therefore the implementation of the mission of this base is more difficult. General manning of this base is 70% personnel;
- Barracks and facilities at this location are infrastructurally obsolete;
- Working conditions are not adjusted for women;
- Large number of prospective and non-prospective locations are placed under the authority of the Main Logistics Base, which exceeds a realistic capabilities of this base

for implementation of its mission, and presents a burdening factor for command and control;

- Lack of update SOP's
- Difficult materiel-financial affairs;
- Lack of adequate fire protection.

It has especially been emphasized in this brigade that they were never visited by those responsible from the BiH Ministry of Defence.

The observations and assessment of the human rights of members of the Main Logistics Base by the Military Commissioner were stated in his information, no 05/3-50-19-1308/12 from 30 November 2012, which was submitted to the Ministry of Defence and the Joint Staff of the Armed forces of BiH

3.3 Unannounced visit to the 6th Infantry Brigade of the BiH Armed Forces

Military Commissioner, with his colleagues and the representatives of the OSCE Mission to BiH lead by Brigadier General (retired) Harald Quiel, conducted the visit to the 6th Infantry Brigade of the AF BiH, Barracks Kozara, Banja Luka, on 07 December 2012.

During this visit, members of the brigade presented the difficulties that they are facing in performance of their daily tasks:

- In reference to hiring into the BiH Armed Forces, it is not sufficient to only take into account general work capability and the security checks should be completed earlier. There was an occurrence of national and unbalance by the categories that will occur during the next round of dismissals.
- The problems presented in regard to re-categorisation are as follows: failure to award points for some duties, non-transparency during the transfer of soldiers into the NCO's, NCO's to Officers, and irregularities in filling of the vacancies (not the same possibilities for all);
- The infrastructure at this location is quite devastated and the modernisation did not occur;
- Problem with the budget and budgeting;
- Problem with procurement and organisation of food;
- Unequal treatment in the use of the languages in the official use in Bosnia and Herzegovina;
- Problem with providing material and funds required for ensuring the heating;
- Certain discrimination of the members of the 3rd infantry regiment (Republika Srpska);
- Conditions during the guard duty for the members of this brigade are poor, and frequently inhuman;
- Lack of adequate equipment;
- The guard duty and overtime work is not regulated in accordance with the existing legislation and by-laws;
- Delay in the payment of compensations not characterised as salary, lack of compensation for the field assignments, soldiers compensations are not graded according to the duties performed, the underlined omissions in the existing regulations in exercise of right for compensation for life away from the family, and small

difference in the range of salary quotient between different categories of military professionals.

- Problem of retiring of military professionals who are coming from the territory of Republika Srpska.

The observations and assessment of the human rights of members of the 6th Infantry Brigade by the Military Commissioner were stated in his information, no 05/3-50-19-1315/12 from 13 December 2012, which was submitted to the Ministry of Defence and the Joint Staff of the Armed forces of BiH

3.4 Visit of the Military Commissioner to the units of the BiH Armed Forces in ISAF Mission in Afghanistan

During the period 15 May to 24 May 2012, Military Commissioner participated in the visit of the delegation of the BiH Ministry of Defence and Joint Staff of the BiH Armed Forces to the 4th rotation of the BiH Armed Forces in the peace support operation in the Islamic Republic of Afghanistan.

In addition to the difficulties that the Military Commissioner observed during the visit, pointed out by the members of the 4th rotation of AF BiH, the following could be noted:

- The issue of communication of members of the BiH Armed Forces with the families in Bosnia and Herzegovina is not adequately solved.
- There are obvious difficulties with the equipment and uniforms that greatly differ by quality from the equipment and uniforms of the members of the Danish contingent.
- As soon as possible, it is necessary to define the procedures for dismantling or write-off of the surplus equipment located in "Price" base, for the purpose of better functioning and solving the inventory between the units that perform a hand-over, replacement and mission in the military base.
- The degree of risk for the members of 4th rotation significantly increased since 16.6.2012. due to non-extension of the contract with the company that secures the external perimeter of the base "Price", in particular because there are members of the 4th rotation assigned to guard duty at the exposed guard posts to the enemy forces, and is thus in the position of "first contact" in case of an attack on the base;
- Two female members of the 4th rotation of the Armed Forces are accommodated with their platoons, under the tents together with their male colleagues, whereby their bed and equipment space is separated by a curtain. During the conversation with them, it has been determined that they were the ones who requested to be together with their units and refused the possibility to be accommodated in separate tents with the women from the other armed forces and contingents.

The observations and assessment of the human rights of members of BiH Armed Forces in ISAF Mission in Afghanistan by the Military Commissioner were stated in his information, no 03/1,05/3-05-1-193/12 from 14 June 2012, which was submitted to the Joint Committee for Defence and Security of BiH, Ministry of Defence and the Joint Staff of the Armed forces.

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

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

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

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

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

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

4.1 Cooperation of the Military Commissioner with the BiH Joint Committee for Defence and Security

During the adoption of the PMC Report for 2011, the Joint Committee for Defence and Security of BiH (hereinafter: Joint Committee) adopted two conclusions which strengthen the work of the Military Commissioner as follows:

1. *The BiH Parliamentary Assembly supports the work of the Parliamentary Military Commissioner of BiH and obliges the Ministry of Defence and the Joint Staff of the Armed Forces to implement the recommendations of the Military Commissioner.*
2. *Ministry of Defence and the Joint Staff of the Armed Forces are obligated to establish a strong cooperation with the Military Commissioner in the in the process of removal of observed inefficiencies listed in the Military Commissioner's Work Report for 2011.*

Within the joint work of the Joint Committee and the Military Commissioner, the Annual analysis on the situation of personnel in 2011 has been considered. The result of the joint work is 11 conclusions that the Joint Committee adopted at the 17th session as follows:

1. *The BiH Joint Committee for Defence and Security acknowledges the Annual analysis of the BiH Ministry of Defence in the field of personnel management of the BiH Ministry of Defence and BiH Armed Forces for 2011.*

2. *In accordance with the recommendations of the Parliamentary Military Commissioner from his Work Report, the Joint Committee for Defence and Security of BiH tasks the BiH Ministry of Defence to, as soon as possible, act as follows:*

2.1. Adopt the Book of Rules on professional development and career management;

2.2. Adopt the Book of Rules which will regulate (evaluate) the level of civilian and military education as well as professional development through Courses;

2.3. Adopt a regulation which regulates wearing of a unique field uniform with precisely defined provisions, of permanent duration and implementation. This regulation must be published in public so all individuals who possibly wish to join the Armed Forces of BiH could be familiar with the rules and well as obligations of wearing of the uniform;

2.4. Take measures, in accordance with the provisions of the administrative procedure, that all documents dealing with establishment, change or termination of any legal relations in reference to military professionals, must be submitted to the Personnel Management Command by military professionals whose rights and obligations are in subject, or units of origin, within the deadline defined by the administrative procedure;

2.5. To publish on the billboards the whole preliminary and final lists (at all locations of the AF BiH), based on which the orders will be made on promotion/re-categorisation in order to comply with the transparency principle in all phases of promotions/re-categorisation (according to the practice so far, the published preliminary and final lists were published partially, or only for certain locations);

2.6. Develop a clear career management concept for the military professionals, and in that direction, to create the policy of selective assignment of best candidates for additional civilian, and primarily military training and professional development;

2.7. Together with the Joint Staff of the Armed Forces persist in respect of the provisions of Article 147 Paragraph (2) of the Law on Service in the Armed Forces of BiH, which limits the duration of the temporary assignment of military professional to another command, unit, institutions of the Armed Forces and the Ministry of Defence in the same or another service, for a period not longer than one year for the duration of a single contract;

2.8. Draw the attention of the superiors to procedural failures in terms of the administrative procedure in determining individuals for performance of duty, impose an obligation of acting duty of formational deputy, as well as to ensure that there is no misuse of this institution (individuals nominated to duty), so one position cannot be filled by several individuals;

2.9. Assessment procedure for members of the Armed Forces are conducted and finalised in precisely determined periods for assessment in accordance with Article 31 Regulations on Assessment of Professional Military Personnel (No. 10-02-3-5624/10 of 17 December 2010), and Personnel Management Command

needs to make additional efforts to ensure that all stages of the evaluation were completed (from initial discussions to monitor the realization of the goals and objectives);

- 2.10. Tighten the criteria for assessment or determine the exact number of professional military personnel that may be assessed as excellent, with the aim of ensuring that the staffing needs of the Armed Forces, in a fair manner;*
- 2.11. Analyse the costs of renting temporary accommodation for soldiers, NCOs and officers, in terms of cost reduction and a possibility to resolve issues of temporary accommodation in the barracks, where possible.*

Simultaneously, the Joint Committee tasked and authorized the Military Commissioner to monitor the implementation of these conclusions by the Ministry of Defence, and inform on the progress.

Having supported the work of the Military Commissioner, the Joint Committee wished to visit the Tactical Support Brigade of the Armed Forces, in cooperation with the Military Commissioner. After the visit, and received responses from the Joint Staff of the Armed Forces for information, Military Commissioner the Joint Committee on the aforementioned.

Successful and meaningful cooperation between the Joint Committee and the Military Commissioner achieved through joint work, is contributing to the realization of efforts for greater respect for human rights of members of the Armed Forces.

5. OTHER ACTIVITIES OF THE OFFICE OF PARLIAMENTARY MILITARY COMMISSIONER OF BIH IN 2012

In order to provide full information on the activities of the Office, hereby we provide data on the other activities that the Office had been implementing during 2012. This overview contains information on the meetings of the Military Commissioner, visits to the barracks and military units of the Armed forces of BiH, and other activities that were undertaken in order to have a complete and uninterrupted functioning of the Office and full execution of the legal authorisation.

Therefore, besides the work on the complaints, which is the primary task of the Military Commissioner, series of other activities were carried out during 2012, which were the basis of work of the Office.

In continuance, we hereby provide a chronological overview of the activities implemented in 2012:

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

- 1) During the period from 14-30 January 2012. the work of the Parliamentary Military Commissioner of BiH (hereinafter: Office of Military Commissioner), special attention was paid to making the report of the Parliamentary Military Commissioner of Bosnia and

Herzegovina for 2011;

2) Military Commissioner on 16 January 2012, together with his colleagues, defined the guidelines for the preparation of tentative plan of the Office of Military Commissioner for 2012;

3) In the Office of the Military Commissioner, 19 January 2012, a meeting was organised with the representatives of the Department of Security Cooperation of the OSCE Mission to Bosnia and Herzegovina, with the aim of strengthening the capacity of the military commissioner in protection of human rights and freedoms of members of the Armed Forces;

4) Military Commissioner organized, on 26 January 2012, a reception and a meeting during the visit of the representatives of USAID to the Office of the Military Commissioner, with the aim of further cooperation and support provided by USAID to the Military Commissioner in his work on the full protection of the human rights of members of the Armed Forces.

5) Military Commissioner participated on 30 and 31 January 2012 at the Regional Conference on "Perspectives of regulating the use of weapons under international humanitarian law," organized by the International Committee of the Red Cross in Geneva, and the BiH Ministry of Defence.

6) Military Commissioner participated from 31 January to 02 February 2012 at the 23rd international conference of religious leaders on the topic: "Religious officials-builders of peace", organized by the Ministry of Defence and the American command in Europe (U.S. EUCOM), with the aim of strengthening cooperation in the realization of religious freedom to members of the armed forces, inter-religious dialogue, the promotion of religious tolerance and generally accepted social values. (Parliamentary Assembly of Bosnia and Herzegovina - Sarajevo)

During **February**, the Military Commissioner had carried out the following activities:

- 1) On 22 February 2012, the Military Commissioner organized a visit by Victor von Wilcken, Director of the Department of Security Co-operation in the OSCE Mission to BiH, a working meeting was organized and the guidelines for future cooperation were determined;
- 2) During the period from 24 to 28 February 2012, activities in the Office of the Military Commissioner were directed to the development and distribution of a bulletin from the Conference: "Process of Advancement of the Military Professionals in the AF BiH (Equal Opportunities for Re- Categorization and Promotion with Compliance with the Transparency Principle)" held on 23 November 2011 in Sarajevo, along with the 2010 Summary Report on the Work of the Parliamentary Military Commissioner of BiH.

During **March**, the Military Commissioner had carried out the following activities:

- 1) On 27 March 2012, the Military Commissioner participated in the Marshall Centre Alumni Association of Bosnia and Herzegovina Conference, which was held in Vitez (Bosnia and Herzegovina) on "Gender Issues in the Security Sector Reform. The following topics had been discussed at the Conference: "Institutional Approach to

Gender in Defence and Security Sector”, “Gender in BiH” and “Gender and Language”.

- 2) On 28 March 2012, the Military Commissioner participated in the 5th Strategic Politico- Military Seminar (Sarajevo, 28 – 30 March 2012) on “Building Integrity and Fight Against Corruption in Defence and security Sector”, organized by the Ministry of Defence of BiH, Joint Staff of the Armed Forces of BiH, NATO HQ in Sarajevo and the OSCE Mission to BiH.

In **April**, the Military Commissioner had implemented the following activities:

- 1) On 03 April 2012, the Military Commissioner visited the 4th Infantry Brigade in the “Bozan Simovic” Barracks (Capljina).
- 2) On 03 April 2012, a representative of the Office of the Parliamentary Military Commissioner held a presentation in the Peace Support Operations Training Centre– Butmir Camp for the participants to the Course on Building Integrity for NCOs on “Importance and Role of the BiH Parliamentary Military Commissioner in Protection of Human Rights and Freedoms of Military Personnel and Cadets”.
- 3) On 11 April 2012, a representative of the Office of the Parliamentary Military Commissioner attended the 2nd Forum on Information Exchange on Gender Equality and Security (Hotel Sarajevo in Sarajevo). The Forum’s objective was enabling the information exchange between the local and international structures for more efficient implementation of the UN Resolution 1325, as well as objectives of the Action Plan for Implementation of the Resolution 1325.
- 4) On 14 April 2012, the Military Commissioner attended the marking of the 7th anniversary of the 2nd Infantry (Ranger) regiment of the Armed Forces of BiH at the location of deployment of the 3rd Infantry Battalion of the 4th Infantry Brigade of the Armed Forces of BiH in the “Kosova” Barracks, Foča-Ustikolina.

In **May**, the Military Commissioner participated, as a member of the delegation of the Ministry of Defence of BiH and the Joint Staff of the Armed Forces of BiH, in the visit to the 4th rotation of the Infantry Unit of the Armed Forces of BiH in the peace support operation ISAF in the Helmand Province, Islamic Republic of Afghanistan from 15 May to 24 May 2012. Within this activity, the Military Commissioner visited, during his short stay in Kabul, officers of the Armed Forces performing the duty of staff officers within the German contingent in Mazara Serif, and had talks with the Commander of the Croatian Contingent of ISAF Mission and with the Commander of the Military Police Training School of Forces ANSAF. During this activity, the Military Commissioner also attended the presentation of on experience gained after the deployment of units at “Price” base. As a member of the delegation, the Military Commissioner used the opportunity to talk with all members of the 4th rotation unit, and to answer them all questions from his competency.

Other activities that the Military Commissioner had carried out during May 2012:

- 1) On 10 May 2012, the Military Commissioner along with his associates visited the Personnel Management Command of the Support Command of the Armed Forces of BiH (Banja Luka). The objective of the visit was to hold the working meeting with

representatives of the Personnel Management Command of the Armed Forces of BiH in order to resolve the ambiguities pertinent to personnel management in relation to the cases received by the Office of the BiH Military Commissioner, and all with aim to fully protect human rights in the Armed Forces of BiH. The same day, Military Commissioner met the Deputy Commander of the Support Command of the Armed Forces of BiH, Brigadier General Dragan Vukovic. The Military Commissioner also used this opportunity also to visit the 6th Infantry Brigade of the Armed Forces of BiH, and met the Commander of the 6th Infantry Brigade of the Armed Forces of BiH, Brigadier General Stamenko Novakovic. A meeting of the Military Commissioner with Head of the Recruitment Centres in Tuzla and Čapljina took place as a part of this activity.

- 2) On 11 May 2012, the Military Commissioner attended the marking of the 7th anniversary of the 3rd Infantry Regiment of the Armed Forces of BiH (Republika Srpska), Kozara Barracks, Banja Luka.
- 3) On 25 May 2012, the Military Commissioner organized a working – farewell visit to the outgoing Head of the Department of Security Co-operation of the OSCE Mission to BiH (hereinafter: the Department) Brigadier General Victor von Wilcken. On that occasion, the Military Commissioner welcomed the newly appointed head of the Department, Brigadier General Harald Quiel, and had expressed his hope for having a further successful co-operation between the institution of the Office of the Military Commissioner of BiH and the department, all with aim of full protection of human rights of members of the Armed Forces of BiH.

On 06 June 2012, the Military Commissioner attended the civilian- military exercise titled “Shared Resilience 2012” at the location of the "Božan Šimović" Barracks in Čapljina, and organized by the Ministry of Defence of BiH and the Ministry of Security of BiH. On this occasion, the attended were presented with exercises carried out in simulated conditions of major disasters and general threat, where members of the Armed Forces of BiH, police forces, medical services, civil protection and fire fighting services demonstrated readiness to act in coordinated manner in high risk situations.

The following is worth mentioning when it comes to other activities that the Military Commissioner had carried out during June 2012:

- 1) From 11 June to 13 June, the Military Commissioner and his associates participated in the Conference titled “Democratic Control of the Armed Forces as the Basic Principle of the Security Sector Reform: Regional Perspective” held in the Parliamentary Assembly of BiH, Sarajevo. During the aforementioned Conference, the Military Commissioner held a presentation on “Importance and Role of the Parliamentary Military Commissioner of Bosnia and Herzegovina in Protection of Human Rights and Freedoms of Military Personnel and Cadets”, where he emphasized the great importance of support the Military Commissioner has been receiving from the Joint Committee for Defence and Security of BiH in performance of his legally prescribed tasks.
- 2) During the period from 20 June to 22 June 2012, a representative of the Office of the Military Commissioner participated at the workshop on “Building Integrity- Analysis of Expenditures and Profit” at Butmir Camp, and organized by the Joint Committee for defence and Security of BiH in co-operation with the Peace Support Operations

Training Centre. During the aforementioned workshop, professors of the US Navy Post- Graduate Study Training Centre tried to familiarize the attendees with the process of procurement in the defence sector through the efficient application of expenditures and profit analysis.

- 3) During the period from 26 June to 28 June 2012, a representative of the Office of the Military Commissioner participated in an educational seminar for the parliamentary staff of SEE countries, organized by DCAF and the Assembly of Montenegro in Miločer, Montenegro.
- 4) On 28 June 2012, the Military Commissioner attended the Central Ceremony in Bileća, on the occasion of marking the St. Vitus Day- Patron Saint's Day of the Army of Republika Srpska and the 3rd Infantry regiment (Republika Srpska) of the Armed Forces of BiH.

During **July**, the Military Commissioner participated at the two- day workshop held on 09 July and 10 July 2012 on "Discussion on Draft Law on Parliamentary Oversight in the Field of Defence and Security" in Konjic. The aforementioned workshop was organized by the Joint Committee for Defence and Security of BiH in co-operation with the NATO HQ in Sarajevo and the Department of Security Co-operation of the OSCE Mission to BiH. The aim of the workshop was to familiarize the members of the Joint Committee for Defence and Security of BiH, together with other representatives of the Ministries and Agencies subject to the Committees parliamentary oversight, and to have a comprehensive discussion on Draft Law on Parliamentary Oversight in the field of Defence and Security of BiH, for the purpose of developing the final text of the Proposed Law, which would be sent into the further parliamentary procedure.

During the period from 03 July to 06 July 2012, a representative of the Office of the Parliamentary Military Commissioner, based on the application essay approved by the organizer, participated in the seminar – workshop entitled "2012 Young faces DCA- Understanding the mechanism of oversight over the secret services". Namely, a representative of the Office of the Military Commissioner especially emphasized in his presentation at the aforementioned seminar- workshop the need to harmonize protection of secrete information obtained in investigations with necessity of transparency in work of the intelligence services.

During **September** 2012, the Military Commissioner had carried out the following activities:

- 1) On 17 September 2012, the Military Commissioner held a presentation at the *Basic Advance Course for Inspectors*, organized by the General Inspectorate of the Ministry of Defence of BiH. On that occasion, the Military Commissioner familiarized the Course participants with the basic guidelines in work of the Office of the Military Commissioner of BiH, presenting the problematic areas that are intensively worked on, in order to strengthen the protection of human rights and reputation of the Armed Forces of BiH.
- 2) On 17 and 18 September 2012, the Military Commissioner participated together with his representatives at the Conference on "Cooperation with Civil Society in Legislative Process", organized by the Parliamentary Assembly of BiH, USAID Parliamentary Strengthening Project in BiH and Association for Democratic Initiatives/ (ADI). The Conference's aim was that the participants review possibilities

for establishment of the data base of non- governmental organizations, which would enable the Parliaments to more easily recognize the non- governmental organizations relevant for their legislative work.

- 3) On 18 September 2012, the Military Commissioner carried out a one- day unannounced visit to the “Rajlovac” Barracks, Tactical Support Brigade of the Armed Forces of BiH. On that occasion, he met the Brigade Command, and learnt about the difficulties this brigade has been facing in their daily work.
- 4) On 26 September 2012, the Military Commissioner attended the Farewell Ceremony of the 5th Rotation of the Infantry Unit of the Armed Forces of BiH to the ISAF peace support operation in Afghanistan, which was held in the “Bozan Simovic” Barracks, Capljina.

On 30 October 2012, the Military Commissioner talked to the Deputy of the Committee for Human rights and Humanitarian Aid of the German Bundestag Michael Brand, who is also a member of the Defence Committee of Bundestag. The Military Commissioner informed Michael Brand about the work and responsibilities of the Office of the Parliamentary Military Commissioner of BiH, with a special accent on implementation of the Law on Parliamentary Military Commissioner of BiH and the by- laws regulating the cooperation with other bodies aiming at protection of human rights and freedoms of military personnel and cadets in the Ministry of Defence of BiH and Armed Forces of BiH. The Parliamentary Military Commissioner also informed member of the Defence Committee of German Bundestag about the visit to the 4th rotation of the Armed Forces of BiH in the ISAF peace support operation in the Islamic Republic of Afghanistan, i.e. about the conditions in which officers of the AF BiH have been performing their duty in Afghanistan within the contingent of the FR of Germany Armed Forces. Michael Brand had expressed satisfaction with the work of the Office of the Parliamentary Military Commissioner so far, and expressed his hope that his work would continue to be as successful and of a good quality in the future. He was also interested in the nature of cases being submitted to the Parliamentary Military Commissioner, considering the responsibilities of the Office in protection of human rights and freedoms of military personnel and cadets.

When it comes to the other activities carried out during October 2012, one may emphasize the following:

- 1) On 17 October 2012, a representative of the Office of the Military Commissioner participated in the work of the working group for preparation of the 5th Review Conference on Implementation of the Politico- Military Commitments, UN/ OSCE Plenum, in Bosnia and Herzegovina.
- 2) On 18 October 2012, the Military Commissioner attended the welcoming ceremony for the 4th rotation of the Infantry Unit of the Armed Forces of BiH from the ISAF peace support mission in Afghanistan, at the military base – airport Dubrave in Tuzla.

Two activities of the Military Commissioner can be noted for the month of **November**:

1. On 08 November 2012, the Military Commissioner had discussion with the Delegation of the Parliament of the Republic of Austria comprised of the: Chairman of the Committee for the Federal Armed Forces, Paul Kiss, Deputy Chairman Anton Gaal,

Senior Legal Secretary Karl Schneemann, and the Commander of EUFOR Austrian Contingent Peter Pertl. During the meeting, the Military Commissioner presented the fact that the Office of the Parliamentary Military Commissioner of BiH has been working on the professional basis not representing the interests of any political party or organization. On that occasion, members of the Austrian Delegation had expressed their strong support to the work of the Military Commissioner, and had invited him to visit the Parliament and the Armed Forces of the Republic of Austria, in order to familiarize himself with the activities of the Committee dealing with the protection of human rights of military personnel.

2. On 20 November 2012, the Military Commissioner together with his associates had a one- day unannounced visit to the Main Logistic Base of the Armed Forces of BiH, Butile Barracks, Sarajevo. On that occasion, the Military Commissioner held working meetings with the Main Logistic Base Management, and had visited 4 companies within its composition and all in order to follow the situation with human rights of members of the Armed Forces in this Barrack. The Military Commissioner has presented his observations as well as the assessment of human rights and living and work conditions of members of the Armed Forces at this location in special information sent to the Ministry of Defence of BiH and Joint Staff of the Armed Forces of BiH.

When it comes to the other activities of the Military Commissioner implemented in November 2012, the following can be pointed out:

- 1) On 05 and 06 November 2012, the Military Commissioner participated in the Workshop on “Defence- Security Sector in BiH- one year later”, held in Teslić. During the aforementioned Conference, the Military Commissioner presented the activities he had undertaken in implementation of the conclusions from the Conference held in May 2011.
- 2) On 14 and 15 November 2012, the Military Commissioner participated at the 5th Review Conference on Compliance with the OSCE/ UN Security Commitments of Bosnia and Herzegovina, in Sarajevo.
- 3) On 16 November 2012, a representative of the Office of the Military Commissioner participated in the Working Group for development of the Document on Prevention of and Protection from Gender Based Sexual Harassment in Institutions of Bosnia and Herzegovina.

In **December**, a one- day unannounced visit of the Military Commissioner was carried out to the 6th Infantry Brigade of the Armed Forces of BiH, “Kozara” Barracks, Banja Luka. Namely, the Military Commissioner together with his associates and representatives of the OSCE Mission to BiH had a one- day working visit to the 6th Infantry Brigade of the Armed Forces of BiH on 07 December 2012. On that occasion, the Military Commissioner met the Commander of the 6th Infantry Brigade, Brigadier General Stamenko Novaković and the Deputy Commander of the Operational Command of the Armed Forces of BiH, Brigadier General Mirko Tepšić. He also had working meetings with the key representatives (officers) of personnel of the 6th Infantry Brigade, NCOs and soldiers, and had visited members of the brigade at preparations for deployment to the 5th rotation of the Armed Forces of BiH to the peace support operations in Afghanistan (ISAF).

Other activities of the Military Commissioner implemented in December 2012:

- 1) On 03 December 2012, the Military Commissioner talked to the former Senior Associate of the US Congress Investigative Sector Clay Wellborn, who as a part of the USAID Parliament Strengthening Project, has been implementing the training in the Investigative and Legislative- Legal Sector of the PA BiH in order to improve the services these sectors have been providing to the members and delegates, as well as to other users in the Parliamentary Assembly of BiH.
- 2) On 11 December 2012, the Military Commissioner participated at the 7th Conference of the General Inspectorate of the Ministry of Defence of BiH, in Fojnica.
- 3) On 12 – 14 December 2012, the Parliamentary Military Commissioner participated at the Regional Parliamentary Conference in Zagreb, with participation of: Croatia, Macedonia, Montenegro, BiH, Albania, Turkey, Geneva DCAF, NATO and OSCE, where he held a presentation and had presented the current results of work of the Office of the Parliamentary Military Commissioner of BiH.
- 4) On 20 December 2012, the Military Commissioner attended the Oath Ceremony of the 11th Generation of soldiers in admission to the professional military service in the Armed Forces of BiH.

6. BIH PARLIAMENTARY MILITARY COMMISSIONER'S RECOMMENDATIONS FOR SOLVING THE IDENTIFIED INEFFICIENCIES.

Based on the facts presented in this report, and which are the results of serious and comprehensive analysis through work on the cases, hereby we make recommendations of the Military Commissioner that should be the basis for the Ministry of Defence of BiH and Armed Forces of BiH for solving the shortfalls and problems identified during 2012. The recommendations are presented per problematic areas as elaborated in tChapter 2.1.

6.1. Recommendation concerning the obligation of guard by medical staff

The Ministry of Defence of BiH and Joint Staff of the Armed Forces of BiH are obliged to ensure a proper implementation of the provisions of Article 5 and 7 of Book of Rules on Carrying and Use of Weapons of 28 July 2006, no.: 04-02-4049/06, as well as compliance with provisions of the SOP on Securing the Facilities, Technical – Material resources and Personnel in the Armed Forces of BiH, no.: 16-05-03-15-16-139/08, of 26 May 2008, and the SOP of Medical – Veterinary Security of Commands and Units of the Main Logistic Base of the Armed Forces of BiH, no.: 16-15-13-22-02-3-527-2/09, of 07 September 2009.

6.2. Recommendation concerning the non- reimbursement of the transportation costs to and from work

- I. All institutions of Bosnia and Herzegovina, as well as authorized personnel in them, have been obliged to implement the Decision on the amount, method and procedure for exercising the right to reimbursement for transportation to and from work in the institutions of Bosnia and Herzegovina ("Official Gazette of BiH", number 04/09),

hereinafter: Decision of the Council of Ministers of BiH, rather than make their separate regulation that would derogate the rights of those who are entitled to it;

- II. The Decision of the Council of Ministers of BiH is a binding one, hence there is a legal right of all victims in this procedure to seek for a judicial redress for their material rights deriving from the employment relationship.
- III. In this case, a provision of Article 3 Paragraph (2) and (3) of the Decision of the Council of Ministers of BiH is clear and explicit, which must be implemented, and which orders the following:
 - (2) *An employee whose place of work is up to 80 kilometres away from the place of residence shall be entitled to purchase a monthly ticket or refund of the actual cost of a monthly ticket, provided he/ she commutes on daily basis on relation place of work- place of residence.*
 - (3) *If a registered transporter at a particular location does not issue a monthly ticket, or the timetable is organized in a way that the employee cannot use public transport in reasonable time to arrive at work and leave his/ her work, and therefore the employee does not use the right to purchase tickets or monthly reimbursement of actual costs of monthly tickets, he/ she is entitled to reimbursement of travel costs calculated based on 70% of value of an individual tickets on the same route.*

6.3. Violation of the Law on Service in the Armed Forces of BiH concerning the temporary deployment and appointment to a formational post of a lower rank

- I. In case of Sergeant First Class R.T, the Ministry of Defence of BiH and Joint Staff of the Armed Forces of BiH are obliged to ensure the treatment in accordance with Article 134 Paragraph (3) of the Law on Service in the Armed Forces of BiH ("Official Gazette of BiH", no. 88/05, 53/07, 59/09, 73/10 and 42/12) that envisages appointment of a professional military person, based on needs of service, to a formational post of a lower rank, but in duration of up to two years.
- II. In case of the aforementioned individual, the Ministry of Defence of BiH and Joint Staff of the Armed Forces of BiH are also obliged to ensure the treatment according to Article 147 Paragraph (2) of the Law on Service in the Armed Forces of BiH ("Official Gazette of BiH", no. 88/05, 53/07, 59/09, 73/10 and 42/12) that limits the duration of temporary deployment of a professional military person to another Command, Unit, institution of the Armed Forces of BiH and Ministry of Defence of BiH in the same or another place of service, for the period which must not be for more than a year during the duration of one contract.

6.4. Non- Compliance with Regulations during the Appointment of a Professional Military Person for Acting Capacity

- I. It is necessary to have the competent personnel in the Logistics Command of the Armed Forces of BiH to familiarize themselves with the basic guidelines of running the administrative procedure, in terms of receipt of the request, and the procedure of appointment of professional military person for acting-duty. In this regard, I hereby propose the appointment of a legal advisor as a competent one for the period of 3 months, starting from the day of issue of this recommendation, which would advise them and instruct them concerning the presented ambiguities.

- II. It is necessary that the competent personnel who carried out the procedure for the nomination and appointment of Acting-duty respect the basic rule of administrative procedure, when it comes to the day of receipt of notion, and which reads as follows:
- III. *The day of filing the notion by registered mail or by telegraph, or facsimile shall be considered as the date of submission to the competent authority, and for military persons and persons deprived of liberty the filing date of notion to the military institution, or the management of Correctional- Penitentiary institution in which the person deprived of liberty is, shall be considered as the date of delivery to authority to whom the notion is addressed.*
- IV. ROS-1 form must be filled in with dates of orders on the absence of a military person who needs to be replaced, not the general formulations (eg. "until the return of a person from the training") or writings (eg. "until March"), because they are incomprehensible, which then represents the reason for return and disapproval of a supervisor.
- V. One should not insist on the fact that Acting should be a professional military person of the same nationality as the one being replaced. This practice was observed in written correspondence and verbal communication, which is more common, but has no grounds in any law or by-law.
- VI. The responsible Commands of the Armed Forces of BiH should not issue separate legal acts in this field and independently interpret the existing ones, but to implement those that are currently in force, and that if there is any ambiguity, they should address the responsible ones in the Ministry of Defence of BiH for the interpretation.

6.5. Comments on the newly adopted Book of Rules on promotion

- I. It is necessary to establish the level and plan of education contained in Chapter V of the Book of Rules as soon as possible, and to have a minimum of exceptions to this Book of Rules.
- II. The Military Commissioner has objections also to Article 44, which actually refers to the fact that the Book of Rules shall not be fully implemented until 2014.

6.6. Strengthening of the criteria of the BiH Ministry of Defence for early promotion

Provisions of the Law as well as of the Book of Rules should be respected, enabling the exercise of rights to those who are entitled to it. In the specific case, professional military persons who meet the requirements for early promotion pursuant to the provisions of the Law and Book of Rules, and **have** three consecutive grades "excellent", but **not all the three in the current rank**, are damaged and deprived of the right for early promotion.

REMARKS:

- One individual recommendation refers to the higher number of complaints from one field, and serves as an indicator for development of that area;

- Legal action of the Military Commissioner is expressed through the: decisions which refer to the previously issued recommendations, conclusions, legal aid, positions, and statements. Also, the documents that the Military Commissioner has been issuing under the titles Notifications on Detected Deficiency and Notifications on Action Undertaken on a Case rely on the already made recommendations;

- In certain matters of the Law violations, the Military Commissioner also provides opinions in which the offender of a law or by- law is given the possibility to correct the violation and the consequences of it within a specific deadline;

- Besides the aforementioned recommendations, there are two more documents issued in December 2012, which have not been mentioned here in more details, for the reason that we are still waiting for a reply on its application and implementation by the Ministry of defence of BiH and Joint Staff of the Armed Forces of BiH.

PARLIAMENTARY
MILITARY COMMISSIONER
Boško Šiljegović