



## International Covenant on Civil and Political Rights

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### Human Rights Committee

104th session

New York, 12–30 March 2012

### List of issues to be taken up in connection with the consideration of the second periodic report of Bosnia and Herzegovina\* (CCPR/C/BIH/2)

#### Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. With reference to the information provided in paragraph 15 of the State party's report (CCPR/C/BIH/2), please provide examples of cases, if any, in which provisions of the Covenant were directly applied or used as an aid to interpret domestic law by the courts. Please provide further information on the human rights training given, inter alios, to judges and law enforcement officials with respect to the provisions of the Covenant (paras. 16–17 of the State party's report).
2. Please indicate what procedures are in place for the preparation of State party's replies concerning communications registered by the Committee under the Optional Protocol to the Covenant.
3. Please provide updated information on the reform of the Constitution of Bosnia and Herzegovina and the Election Law to give effect to the Committee's recommendations contained in its previous concluding observations (CCPR/C/BIH/CO/1, para. 8) and to implement the European Court of Human Rights' judgment of 22 December 2009 in the case of *Sejdić and Finci*, concerning ethnic discrimination for representation in the institutions of the State party for persons not belonging to one of the three "constituent peoples" (Bosnian Muslims, Croats and Serbs) (paras. 10–14 of the State party's report). Please indicate what steps have been taken to ensure the participation of the national minorities' councils in this process.
4. Please indicate the measures taken to ensure the full independence of the unified Human Rights Ombudsperson's Office at the State level (para. 5 of the State party's report). Please provide information on the human and financial resources allocated for the effective functioning of this national human rights institution. Please also describe its activities in the field of civil and political rights and the steps taken to implement them.

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\* Whatever reference is made to the State party, it should be understood as covering the State, Entities, cantons and municipalities, as well as the Brcko District.

Please include statistics regarding the number and type of complaints received by the Ombudsman Institution and the follow-up given, as the case may be, to complaints of civil and political rights violations of which it has been seized.

**Non-discrimination and equality (arts. 2, paragraph 1, 3, 7, 20, 26 and 27)**

5. Please provide information on the application of the 2009 Anti-Discrimination Law (Official Gazette No. 50/09) (para. 5 of the State party's report). Please provide examples of case law under the Anti-discrimination Law.

6. According to the State party's report (para. 28), the legislative and other measures taken to ensure gender equality "have proved insufficient for a substantial change in the status of women in political life". Please indicate any further measures taken to promote effective implementation of legislation and policies on gender equality and to ensure women's participation in different areas of public affairs. Please also indicate whether the State party has taken any special measures in addition to statutory quotas to enhance the representation of women in all legislative and executive bodies.

7. Please indicate whether the State party has put in place awareness-raising programmes to inform persons with disabilities about their rights and how to claim them and, if so, any evaluation of the impact of these programmes.

8. According to the information available, hate speech, threats and violence against members of ethnic groups, religious and national minorities and lesbian, gay, bisexual and transgender (LGBT) persons still occur throughout the country. Please provide information on the number of hate-motivated incidents reported during the period under review, as well as statistical information on the number of complaints, investigations, prosecutions and convictions. Please clarify the legal and institutional frameworks governing hate crimes.

**Right to life and prohibition of torture and cruel, inhuman or degrading treatment, remedies and administration of justice (arts. 6, 7, 2, para. 3, and 14)**

9. Please provide up-to-date statistical information on the investigation and prosecution of war-related crimes committed during the 1992–1995 conflict, including war-time rape and other crimes of sexual violence. Please provide updated information on the progress made in implementing the National War Crimes Processing Strategy adopted in December 2008 with the aim of addressing the serious backlog of unresolved war-related cases (paras. 79–83 of the State party's report). Please comment on reports that the justice system lacks the capacity and resources to effectively investigate and prosecute those crimes and any plans to address the problem.

10. Please provide further information on the measures taken to address deficiencies in the witness protection and support services in light of the recommendations made by the rapporteur of the Council of Europe Parliamentary Assembly in the report on his visit to Bosnia and Herzegovina in March 2010<sup>1</sup> and by the Council of Europe's Commissioner for Human Rights, following his visit to Bosnia and Herzegovina in November 2010.<sup>2</sup>

11. With reference to the information provided in paragraphs 84–97 of the State party's report, please provide further information on the measures taken to fully implement the

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<sup>1</sup> Council of Europe, The protection of witnesses as a cornerstone for justice and reconciliation in the Balkans, document 12440 rev, 12 January 2011.

<sup>2</sup> Council of Europe, document CommDH(2011)11, paras. 138–145.

Law on Missing Persons (Official Gazette No. 50/04), and in particular the material, human and budgetary resources provided by the State party to ensure the effective functioning of the Missing Persons Institute. Please describe steps taken to ensure the full independence of this institution and the timely appointment of the members of its managing bodies. Please provide further information on any progress made in establishing the Central Record on Missing Persons (para. 93 of the State party's report) and the Fund for Support to the Families of Missing Persons (paras. 96–97). According to the information received, as of 1 January 2011, the State Prosecutor's Office is responsible for the exhumation and identification of human remains. Please provide information on the steps taken to ensure that the relatives of missing persons are regularly kept informed of the process of exhumation and that they receive adequate psychological support. Please indicate how many decisions delivered by the State Constitutional Court concerning missing persons have not yet been implemented and the reasons therefor.

12. Please indicate the status of the following draft legislation and policy proposals: (a) the draft National Strategy on Transitional Justice (paras. 20–21); (b) the State-level Programme for Women Victims of Sexual Violence in Conflict and Beyond, which is intended to complement the Transitional Justice Strategy; and (c) the draft Law on the Rights of Victims of Torture and Civilian Victims of War. In this respect, please provide updated information on the measures taken by the State party to ensure that the personal disability benefits received by civilian victims of war are harmonized among Entities and cantons.

### **Violence against women (arts. 3 and 7)**

13. With regard to the different forms of violence against women (paras. 44–76), please provide information on the number of complaints filed, the number of convictions handed down, the sentences imposed and the compensation awarded to the victims. Please describe the measures taken to provide assistance specifically to women victims of sexual violence and other measures to protect them from further trauma. Please also provide further information on existing support services for victims of domestic violence, including the number of State-run facilities available to women needing temporary accommodation and/or the amount of funding provided by the State organizations operating such facilities. What steps are being taken to overcome patriarchal attitudes and gender stereotypes which continue to inhibit women from reporting criminal offences such as domestic violence and marital rape?

### **Liberty and security of the person and treatment of prisoners (arts. 7, 9 and 10)**

14. With regard to the information provided in paragraphs 161–167 of the State party's report, please state the number of complaints of torture or ill-treatment recorded during the period under review and provide information on the investigations and prosecutions carried out, as well as on the convictions, sentences, and compensation awarded. Please also outline the steps taken to establish an independent external monitoring mechanism to investigate allegations of unlawful acts committed by law enforcement officials. In particular, explain what action, if any, has been taken to investigate the alleged ill-treatment of a group of recaptured escapees in March 2009 by prison officers at the Sarajevo Remand Prison. Please include information on the outcome of the investigations and any disciplinary and/or criminal proceedings related to this case.

15. According to information available, individuals whose citizenship has been revoked by the State Commission for Revision of Decisions on Naturalization of Foreign Nationals have been removed and others may be at risk of removal to countries where they face a real risk of torture or other ill-treatment. Please indicate the measures taken, if any, to ensure

that national security considerations do not undermine the principle of non-refoulement. Please comment on reports that those subject to removal on national security grounds are subject to indefinite detention without charge on the basis of secret evidence. Please explain whether detention is validated by a judge and whether judicial mechanisms are in place to allow these detainees to challenge their detention.

16. Information before the Committee indicates the existence of violence among prisoners. Please provide detailed information on the matter, including on any cases involving possible negligence on the part of the law enforcement personnel, and the number of complaints made in this regard. What preventive measures have been taken?

17. Please indicate the measures that the State party has taken to guarantee that persons awaiting trial are separated from those serving sentence and that juvenile offenders are held separately from adults. Please provide updated information on the occupancy rate of all places of detention. Please comment on the reports of ill-treatment in the juvenile section of the Tuzla prison. Please describe the measures taken by the State party to establish appropriate places for deprivation of liberty for juvenile offenders and improve conditions of detention. In this respect, please indicate what reforms have been adopted to strengthen the system of alternative measures to deprivation of liberty for juvenile offenders.

18. Please indicate the steps taken to implement the recommendations made by the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina with regard to the situation in the institutions for persons with psychosocial disabilities.

### **Prohibition of slavery and forced labour (art. 8)**

19. With reference to the information provided in paragraphs 133–160 of the State party's report, please provide updated information, disaggregated by age, sex and ethnicity of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of human trafficking since the consideration of the State party's initial report. Please also provide additional information on the measures adopted to ensure that victims of human trafficking have access to effective remedies and reparation. Please describe the results of the third National Action Plan for Combating Trafficking in Human beings for the period 2008–2012 (para. 138). Has the State party evaluated the effectiveness of measures taken to raise awareness of trafficking in persons (para. 145)?

### **Freedom of movement (art. 12)**

20. What concrete measures have been taken to implement the 2010 Revised Strategy for the Implementation of Annex VII of the Dayton Peace Agreement, with a view to addressing the specific needs of displaced persons and returnees? Please provide further information on the steps taken to find sustainable solutions for the remaining internally displaced persons and returnees in the State party, including those who continue to live in temporary collective centres. Please include information on their access to personal documentation and residence permits, as well as access to education, health care, employment and social welfare.

### **Freedom of expression and association and right of peaceful assembly (arts. 19, 21 and 22)**

21. Please report on the measures taken for the effective guarantee of freedom of expression and association and right to peaceful assembly. In particular, please indicate the measures taken to address the concerns aroused by the hostility to which journalists, activists and human rights defenders are subject. Please comment on reports that journalists, activists and human rights defenders continue to be targets of serious acts of

violence, intimidation and harassment. In this regard, please inform the Committee of the outcome of the investigations into: (a) the alleged acts of harassment and physical aggression experienced by Osman Drina, a reporter for *Independent Television IC*, in Zenica on 6 February 2010; (b) the alleged attacks and threats made against Rade Tesic, a journalist for the *Euroblic* daily newspaper, and Bakir Hadziomerovic, editor-in-chief of the TV programme *60 Minutes*; and (c) the alleged death threats received by Svetlana Djurkovic, organizer of the *First Sarajevo Queer Festival*, and the physical attacks on participants.

22. Please also provide information on any measures to address the dissemination of hate and extremist messages against minorities in Bosnia and Herzegovina. Please, provide information on the measures taken to secure that the Communications Regulatory Agency is not threatened in its independence by undue political influence.

23. Please indicate the measures that the State party has taken to guarantee the right to freedom of association. In particular, please indicate the measures taken to ensure a non-discriminatory, expeditious, easily accessible and inexpensive registration process of associations.

### **Rights of persons belonging to minorities (art. 27)**

24. According to the information before the Committee, while the framework for the protection of minorities is largely in place, the implementation of the laws on national minorities at the local level has been unsatisfactory in part due to the lack of political and financial support from the State and the Entities. Please provide information on the measures taken to enable the national minority councils to effectively participate in policymaking processes.

25. With regard to the Committee's previous concluding observations (CCPR/C/BIH/CO/1, para. 24), please provide detailed information on the measures implemented to give effect to the linguistic and educational rights of the Roma that are protected under the Law on the Protection of Rights of Persons Belonging to National Minorities, and the effectiveness of these measures. Please provide information, disaggregated data by sex, age and place of residence on the number of Roma children receiving instruction in or on their language and on their culture, as well as the number of hours of such instruction per week.

26. What progress has been made with regard to ensuring adequate opportunities for minority children to receive instruction in their languages and on their culture and history? Please provide information on the steps taken to end the segregated system of mono-ethnic schools, the so-called "two schools under one roof" system.

### **Rights of the child (arts. 7 and 24)**

27. Please describe the results of the different measures taken by the State party to combat child abuse and all other forms of violence against children, in particular in the light of the results of the 2007–2010 National Strategy for the Fight against Violence against Children (para. 76 of the State party's report). Please indicate the measures taken to ensure that corporal punishment of children is prohibited by law.

### **Dissemination of information relating to the Covenant and the Optional Protocol (art. 2)**

28. Please provide information on the steps taken to disseminate information on the Covenant and the First Optional Protocol, the submission of the present report in all official

languages and its forthcoming examination by the Committee. Please also provide more information on the involvement of representatives of all ethnic and minority groups, the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina and civil society in the preparatory process.

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