



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### List of issues prior to the submission of the third periodic report of Bosnia and Herzegovina\*

The Human Rights Committee, at its ninety-seventh session (A/65/40, vol. I, para. 40), established an optional procedure which consists in the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its periodic report. The replies of the State party to this list of issues will constitute its report under article 40 of the Covenant.

#### General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please provide information on measures taken to implement the recommendations made by the Committee in its concluding observations on the second periodic report of Bosnia and Herzegovina (CCPR/C/BIH/CO/2), including any relevant statistical data. Please indicate what procedures are in place for the implementation of the Committee's Views under the Optional Protocol and provide information on measures taken to ensure full compliance with each of the Views adopted in respect of the State party.<sup>1</sup>
2. Please report on any other significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the concluding observations on the second periodic report, including

\* Adopted by the Committee at its 115th session (19 October-6 November 2015).

<sup>1</sup> See communications No. 2143/2012, *Dalisa Dovdzija and Sakiba Dovdzija v. Bosnia and Herzegovina*; No. 2028/2011, *Mevlida Ičić v. Bosnia and Herzegovina*, Views adopted on 30 March 2015; No. 2022/2011, *Nura Hamulić and Halima Hodžić v. Bosnia and Herzegovina*, Views adopted on 18 November 2010; No. 1966/2010, *Hero et al. v. Bosnia and Herzegovina*, Views adopted on 28 October 2014; No. 1970/2010, *Emina Kožljak and Sinan Kožljak v. Bosnia and Herzegovina*, Views adopted on 28 October 2014; No. 1956/2010, *Nevzeta Durić and Nedžad Durić v. Bosnia and Herzegovina*, Views adopted on 11 January 2010; No. 1997/2010, *Fatima Rizvanović and Ruvejda Rizvanović v. Bosnia and Herzegovina*, Views adopted on 21 March 2014; No. 2003/2010, *Zilkija Selimović et al. v. Bosnia and Herzegovina*, Views adopted on 17 July 2014; and No. 1955/2010, *Zeyad Khalaf Hamadie Al Gertani v. Bosnia and Herzegovina*, Views adopted on 1 November 2013.



examples of cases in which the provisions of the Covenant have been referred to by national courts.

## **Specific information on the implementation of articles 1 to 27 of the Covenant**

### **Constitutional and legal framework within which the Covenant is implemented (arts. 2, 6 and 7)**

3. Please provide information on (a) the accessibility of remedies for individuals claiming a violation of the rights contained in the Covenant, and (b) human rights training for judges, prosecutors and lawyers in the State party.
4. Please provide information on any measures being taken to amend criminal codes at the entity level with regard to torture, enforced disappearance and sexual violence so as to establish, where necessary, command responsibility for such crimes. Please indicate whether steps are being taken to amend the Criminal Code of Bosnia and Herzegovina to introduce the crimes of rape or other forms of sexual violence even when not committed as a crime against humanity or as a war crime. Please provide information on any measure being taken to amend the Criminal Code at the state level to remove the possibility of granting amnesty for crimes under international law.
5. Please indicate the status of the following draft legislation and policy proposals and provide information on any measure taken to ensure that they are compatible with the Covenant: (a) the draft national strategy on transitional justice; (b) the Programme for Improvement of the Status of Survivors of Conflict-related Sexual Violence; (c) the draft law on the rights of victims of torture; and (d) the draft law on free legal aid.
6. Please provide information on measures taken to ensure the independence and impartiality of the Ombudsman's institution in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). With reference to the Committee's previous recommendation (see CCPR/C/BIH/CO/2, para. 5), please indicate which measures have been implemented to ensure that the Office of the Ombudsman enjoys financial autonomy and is provided with adequate financial and human resources commensurate with the additional activities conferred upon it. Please also indicate if the national preventive mechanism envisaged to be placed within the Ombudsman's institution has already been established.

### **Equality, non-discrimination and hate crimes (arts. 2 and 26)**

7. Please provide information on measures taken to combat: (a) racially motivated verbal and physical attacks against members of ethnic groups, religious and national minorities; (b) intolerance, discrimination and hate speech, including political hate speech; and (c) racist content in the media and on the Internet. Please indicate the measures taken to promote tolerance and increase the investigation and prosecution rate for racially motivated crimes and provide relevant statistical data on the number of complaints, investigations, prosecutions and convictions.
8. Please indicate the measures taken to address the issue of ethnic segregation within the educational system, such as the practice of having "two schools under one roof".
9. Please indicate the measures taken to combat discrimination and violence based on sexual orientation, as well as the steps taken to enforce the state-level law prohibiting discrimination based on sexual orientation and to review entity-level laws. Please provide data on the number of persons that have been attacked because of their sexual orientation,

including by police or other security forces, and specify whether perpetrators have systematically been prosecuted and punished.

10. Please provide information on the level of participation of women in the labour market and in public life. Please describe measures taken to enhance the existing levels of participation of women in political life and to implement the quota system adopted in respect of female candidates on political parties' lists.

**Violence against women (arts. 2, 3, 7 and 26)**

11. Please provide information on the prevalence of violence against women, including domestic violence, and measures to encourage reporting of such cases. Please provide data on: (a) the number of complaints received with regard to violence against women; (b) the investigations carried out; (c) the types of penalties imposed; and (d) the compensation awarded to victims; (e) the type of comprehensive victim assistance, including free legal assistance, that has been provided in all jurisdictions of the State party. Please also provide information on measures taken to ensure the consistent application of the laws at all levels.

**Right to life, enforced disappearances and prohibition of torture and cruel, inhuman or degrading treatment or punishment (arts. 3, 6, 7, 9 and 14)**

12. Bearing in mind the Committee's previous recommendation (see CCPR/C/BIH/CO/2, para. 7), please update the Committee on the prosecution of war crime cases, including wartime rape and sexual violence, and on efforts made to harmonize jurisprudence on war crimes and to increase consistency in sentencing among entities. Please provide updated information about penalties imposed on those found guilty of war crimes, wartime rape and other forms of sexual violence. Please explain whether the State party expects to complete the investigation and prosecution of the first batch of "most complex cases" relating to wartime crimes by the end of 2015, as foreseen in the National Strategy for Processing War Crimes.

13. Please provide information on: (a) measures taken to ensure that all the courts and the prosecutors' offices of all entities take adequate measures to support and protect victims and witnesses of war crimes, including sexual violence, before, during and after the conduct of trials; and (b) cases of intimidation and threats against witnesses reported during the period under review. Please comment on the information pointing to the closure of the Witness Protection Department within the Prosecutor's Office of Bosnia and Herzegovina.

14. In the light of the Committee's previous recommendation (see CCPR/C/BIH/CO/2, para. 8), please provide information on measures taken to ensure that victims of war-related crimes and their families, including survivors of wartime sexual violence, have access to justice and reparations, including for psychological harm. Please inform the Committee about steps taken to harmonize disability benefits received by civilian victims among entities and cantons and to address the discrepancy between allowances received by civilian victims and war veterans.

15. In the light of the Committee's previous recommendation (see CCPR/C/BIH/CO/2, para. 9), please inform the Committee about steps taken to expedite the investigation of all unresolved cases involving missing persons. Please provide information on: (a) measures taken to provide the Missing Persons Institute with adequate funding and ensure that it is fully independent and able to implement its mandate; (b) progress made in the establishment of the Central Record of Missing Persons and the Fund for Support of Relatives of Missing Persons; and (c) measures to keep relatives of missing persons regularly informed and to provide them with psychological support during the process of exhumation and identification of mortal remains.

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

16. Please indicate the number of complaints of torture or ill-treatment by law enforcement officials recorded during the period under review, including in places of detention, and provide information on the investigations and prosecutions carried out, as well as on the convictions, sentences and compensation awarded. Please provide information on allegations of ill-treatment of detainees following the February 2014 demonstrations. Please provide relevant information on the investigations carried out, the prosecutions and the convictions.

17. Please provide updated information on the prison population, specifically on the official capacity of each facility and the percentage of persons who are in pretrial detention or convicted prisoners. Please also provide information on the measures taken to bring the conditions of detention in places of deprivation of liberty into line with international standards. Bearing in mind the Committee's previous recommendation (see CCPR/C/BIH/CO/2, para. 11), please indicate which measures have been taken to address overcrowding in detention centres and prisons, to limit the use of solitary confinement and to prevent violence among prisoners. Please indicate whether the State party has increased the use of alternative forms of punishment, such as electronic monitoring, parole and community service.

18. In the light of the Committee's previous recommendation (see CCPR/C/BIH/CO/2, para. 14), the Views adopted by the Committee in its communication No. 1955/2010 and the decision of the European Court of Human Rights in the case *Al Husin v. Bosnia and Herzegovina* (application No. 3727/08), please indicate which steps have been taken to revise the law that provides for the detention of persons who are subject to removal from the State party on grounds of national security in order to ensure that full legal security is guaranteed and that such persons are not held indefinitely. Please indicate which other methods of surveillance have been introduced in place of indefinite detention.

19. In the light of the Committee's previous recommendation (see CCPR/C/BIH/CO/2, para. 15), please indicate which steps have been taken to remove from the Code of Criminal Procedure the ill-defined concept of public security or security of property as a ground for ordering pretrial detention of individuals who are considered a threat to public security or property. Please describe the steps taken to ensure that children are not held in detention together with adults and that pretrial detention is limited to exceptional cases and is ordered only when it is necessary and consistent with articles 9 and 10 of the Covenant.

20. Please provide information on measures taken to ensure that detention of asylum seekers is always used as a measure of last resort and is limited to the shortest time reasonably necessary. Please explain how the State party ensures that all individuals entering its territory have the opportunity to submit an asylum application and that, in cases involving refoulement, all appeals to courts have suspensive effect and that relevant information on the situation in the country of origin is duly taken into account by competent administrative and judicial organs. Please provide information on basic services, local integration opportunities and rights granted to asylum seekers, refugees and persons granted subsidiary protection.

**Trafficking in persons (arts. 8 and 24)**

21. Please provide information on measures taken to combat trafficking in human beings for the purposes of forced labour and sexual exploitation. Please inform the Committee about steps taken to harmonize the legislative framework at the state and entity levels and provide data on: (a) the number of reported cases; (b) the investigations and prosecutions initiated and actual convictions; and (c) the availability of sufficient victim identification

procedures and assistance services for victims of trafficking, including shelters, legal assistance and reintegration services.

**Protection of minors and the rights of the child (arts. 6 and 24)**

22. Please indicate whether corporal punishment of children is explicitly prohibited in all settings, comment on reports suggesting that corporal punishment is widely used and tolerated in the State party and provide information on measures taken to combat and prevent the practice.

23. Please provide information on the prevalence of child marriage, especially among members of the Roma minority, and measures taken by the State party to curb this phenomenon.

24. Please comment on information suggesting that large numbers of children with disabilities do not receive an education and that, with regard to those who attend public school, their level of integration in the regular school system remains low.

**Refugees and displaced persons (art. 12)**

25. With reference to the Committee's previous recommendation (see CCPR/C/BIH/CO/2, para. 16), please inform the Committee on the efforts put in place to ensure the resettlement and return of refugees, returnees and internally displaced persons in order to complete the phasing out of collective centres. Please indicate steps taken to provide adequate alternative housing to the residents of collective centres and to create the conditions necessary for sustainable returns and resettlement.

**Freedom of opinion and expression and the right to privacy (arts. 17 and 19)**

26. With reference to the Committee's previous recommendation (see CCPR/C/BIH/CO/2, para. 18), please inform the Committee on steps taken to ensure that the independence of the Communications Regulatory Authority is fully respected.

27. Please indicate what steps have been taken to prevent intimidation of journalists and to ensure their safety in the exercise of their profession. In this regard, please report on the outcome of investigations carried out during the period under review into cases involving violence, including excessive use of force by law enforcement officials, and intimidation directed at journalists and other members of the media. Please also provide information on the criteria used for allocating government spending on advertisements and announcements among media outlets and comment on their compatibility with the Covenant.

**Participation in public affairs (art. 25)**

28. In the light of the Committee's previous recommendation (see CCPR/C/BIH/CO/2, para. 6) and the State party's follow-up report (CCPR/C/BIH/CO/2/Add.1), please provide information on measures taken to adopt an electoral system that guarantees equal enjoyment of the rights of all citizens under article 25 of the Covenant, irrespective of ethnicity. Please update the Committee on steps taken to amend the State party's Constitution and Election Law in order to remove provisions that discriminate against citizens who do not belong or who declare themselves as belonging to one of the three "constituent peoples", namely Bosniak, Croat or Serb, by preventing them from participating in elections. Please inform the Committee of steps taken to ensure that national minorities enjoy a real and effective right to representation at all levels of public life, including in elected and judicial bodies, and provide statistics on the number of seats occupied by national minorities in municipal assemblies and councils.

**Rights of persons belonging to ethnic, religious or linguistic minorities (art. 27)**

29. Please, indicate what steps are taken to address persisting discrimination towards ethnic minorities. Specifically, and in the light of the Committee's previous recommendations (see CCPR/C/BIH/CO/2, paras. 17 and 21), please indicate what measures are being taken to: (a) improve birth registration and the provision of birth certificates, particularly among Roma; (b) give effect to the linguistic and education rights of Roma as protected under the Law on the Protection of Rights of Persons Belonging to National Minorities; (c) improve the rights of Roma with regard to access to housing, health care, employment and participation in the conduct of public affairs; and (d) raise the currently low level of participation by members of Roma communities, especially women, in political life.

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