



**Resolution CM/ResCMN(2009)6
on the implementation of the Framework Convention for the Protection of National Minorities
by Bosnia and Herzegovina**

*(Adopted by the Committee of Ministers on 9 December 2009
at the 1073rd meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Articles 24 to 26 of the Framework Convention for the Protection of National Minorities (hereinafter referred to as “the Framework Convention”);

Having regard to Resolution (97) 10 of 17 September 1997 setting out rules adopted by the Committee of Ministers on the monitoring arrangements under Articles 24 to 26 of the Framework Convention;

Having regard to the voting rule adopted in the context of adopting Resolution (97) 10;¹

Having regard to the instrument of ratification submitted by Bosnia and Herzegovina on 24 February 2000;

Recalling that the Government of Bosnia and Herzegovina transmitted its state report in respect of the second monitoring cycle under the Framework Convention on 2 August 2007;

Having examined the Advisory Committee’s second opinion on Bosnia and Herzegovina, adopted on 9 October 2008, and the written comments of the Government of Bosnia and Herzegovina, received on 27 April 2009;

Having also taken note of comments by other governments,

1. Adopts the following conclusions in respect of Bosnia and Herzegovina:

a) Positive developments

Since the adoption of the Advisory Committee's first opinion, in May 2004, Bosnia and Herzegovina has continued to pay attention to the situation of persons belonging to national minorities. The State Law on the Protection of Rights of Persons Belonging to National Minorities of 2003 was amended in 2005 so as to include new legislative guarantees. Both the Federation and the Republika Srpska passed a Law on Protection of the Rights of Persons Belonging to National Minorities making it possible to apply the legislation on national minorities within the Entities. An anti-discrimination law was adopted on 28 July 2009.

The process of the return of refugees and displaced persons has been pursued, and the restitution of property is virtually completed. Hostile reactions and acts of violence against returnees have diminished.

The Council of National Minorities at the Parliamentary Assembly of Bosnia and Herzegovina was set up in 2008. It should allow increased participation of the national minorities in law and policy making regarding matters concerning them. Similar councils were set up in 2007 at the level of the Republika Srpska and in 2009 at the level of the Federation. The city of Tuzla also established a Council of National Minorities at municipal level.

Following the adoption, in 2005, of a national strategy for the Roma, the authorities have drawn up action plans to improve their situation in the fields of employment, housing and health care, with the active participation of the Advisory Committee for Roma. In this connection, the authorities plan to gather data on the socioeconomic

¹ In the context of adopting Resolution (97) 10 on 17 September 1997, the Committee of Ministers also adopted the following rule: “Decisions pursuant to Articles 24.1 and 25.2 of the Framework Convention shall be considered to be adopted if two-thirds of the representatives of the Contracting Parties casting a vote, including a majority of the representatives of the Contracting Parties entitled to sit on the Committee of Ministers, vote in favour”.

situation of the Roma, so as to remedy the deficiencies of the existing data. They must now seek means of ensuring the prompt and effective implementation of these action plans, in close co-operation with all the stakeholders concerned.

Implementation of the 2004 Action Plan on the Educational Needs of Roma and Members of other National Minorities has continued: for example, some municipalities have established posts of Roma educational mediators.

In 2008, the authorities of the Republika Srpska doubled the budget allocated to national minority organisations for their activities aimed at preserving the minorities' cultural heritage. Some municipalities have also made similar efforts.

The authorities of the Brčko District now reserve two seats for representatives of persons belonging to national minorities within the District Assembly. In addition, amendments to Election Law adopted in 2008 have reduced the threshold for national minority candidates to be able to stand for election.

b) Issues of concern

Persons belonging to national minorities continue to be included in the category “Others” under the Constitution of Bosnia and Herzegovina, which makes them ineligible for a number of high-level posts, to which only persons belonging to the three constituent peoples can be appointed. Politics and the media also function along ethnic or national dividing lines. The sense of belonging to a single country, beyond ethnic or national divisions, is still largely lacking.

Persons belonging to national minorities deplore the fact that, at all levels, there is a lack of political will to implement the existing legislation and take account of national minorities' needs and aspirations, since the interests of the constituent peoples remain the key focus of political decision-makers. Deficiencies in the implementation of laws and policies concerning national minorities are exacerbated by the lack of co-ordination between the different levels of governance within Bosnia and Herzegovina.

The support granted by the authorities to national minority organisations with a view to preserving and developing the minorities' cultural heritage and languages remains limited and sporadic. School textbooks and syllabuses make virtually no mention of the national minorities' history and culture.

Discrimination against persons who do not belong to the ethnic group locally in the majority, including members of national minorities, is frequent. Such discrimination can be observed in the fields of employment, particularly public-sector employment, housing, and access to social protection and retirement benefits. The Roma are particularly affected by this phenomenon, aggravated in their case by their frequent lack of identity documents. Few “informal” Roma settlements have been legalised, and the living conditions of many Roma often remain unhealthy.

There is a shortage of reliable, up-to-date information on the number and circumstances of persons belonging to national minorities, with the main source of data being the census carried out in 1991. This deficiency constitutes a significant obstacle to the application of the legislation on national minorities and to the development and implementation of targeted measures to improve the situation of national minorities.

Hate speech targeting persons on account of their ethnic, national or religious affiliation remains frequent, particularly in politics. Roma in particular suffer from negative stereotypes, and the media often disclose the ethnicity of offenders or suspected offenders where they are of Roma origin. The segregation of pupils according to their ethnic or national origin also persists within the country through the system of “two schools under one roof” or the existence of separate schools.

Amendments made to the Election Law in 2008 raised the threshold allowing persons belonging to national minorities to benefit from a reserved seat within local assemblies to 3% of the population of a given municipality. Previously, they had a reserved seat even where they constituted less than 3% of the population.

The languages of the national minorities are scarcely present in Bosnian public affairs and cultural life. They are not used in relations with the administrative authorities, and topographical signs in minority languages do not exist, despite the legislation on the subject. There are very few radio or television programmes in minority languages, including in the public-service media. Lastly, the possibilities of learning minority languages in school are limited.

2. Adopts the following recommendations in respect of Bosnia and Herzegovina:

In addition to the measures to be taken to implement the detailed recommendations contained in Sections I and II of the Advisory Committee's opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention:

- Consider the possibility of introducing, in the legal order, new terminology to be used to refer to persons belonging to national minorities;
- Take determined measures and mobilise the necessary resources to ensure the effective implementation of the action plans for the Roma in the fields of employment, housing and health care, in close co-operation with the latter's representatives; continue the active implementation of the Action Plan on the Educational Needs of Roma and Members of other National Minorities, focusing on participatory monitoring and evaluation of the measures taken so far;
- Envisage collecting comprehensive up-to-date data on the situation of national minorities while complying with international standards regarding the protection of personal data;
- Take a more determined approach to combating all forms of discrimination on ethnic, national or religious grounds, prosecute incitement to racial or religious hatred and discourage expressions of prejudice and stereotype, including in the media and politics;
- Take resolute steps to counteract the worrying trend towards increased school segregation of pupils along ethnic lines;
- Take all possible steps to ensure that the Councils of National Minorities can effectively perform their role and are thus able to improve the participation of persons belonging to national minorities in public affairs; adopt, where necessary, legislative and practical measures to allow improved representation of national minorities, and in particular of the Roma, in elected bodies, especially at the local level;
- Strive to give national minorities more substantial support on a regular basis with a view to preserving and developing their cultural heritage and languages;
- In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, carry out an assessment of the needs and demand of persons belonging to national minorities regarding the use of minority languages in relations with administrative authorities and on topographical signs and regarding teaching in and of these languages.

3. Invites the Government of Bosnia and Herzegovina, in accordance with Resolution (97) 10:

- a. to continue the dialogue in progress with the Advisory Committee;
- b. to keep the Advisory Committee regularly informed of the measures it has taken in response to the conclusions and recommendations set out in Sections 1 and 2 above.