



General Assembly

Distr.
GENERAL

A/HRC/WG.6/7/BIH/3
12 November 2009

Original: ENGLISH

HUMAN RIGHTS COUNCIL
Working Group on the Universal Periodic Review
Seventh session
Geneva, 8-19 February 2010

SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1

Bosnia and Herzegovina *

The present report is a summary of 12 stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review.

* The present document was not edited before being sent to the United Nations translation services.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

1. The Ombudsman Institution of Bosnia and Herzegovina (Ombudsman) noted that Bosnia and Herzegovina has not harmonized its legislation with international standards and effective measures have not been taken to ensure direct application of international standards. Lack of such direct application comes from an insufficient level of training of officials in state institutions, particularly police, judges, prosecutors and social workers.²

2. The Informal NGO Coalition for UPR of Bosnia and Herzegovina (The Informal UPR Coalition) noted that Bosnia and Herzegovina has ratified the majority of the UN conventions relating to human rights. The Convention on the Rights of Persons with Disabilities has not yet been ratified. However, the Conventions that the State had committed to apply have not been applied directly: only one case of direct implementation of the Convention on the Rights of the Child has been recorded so far.³

B. Constitutional and legislative framework

3. The Council of Europe Commissioner for Human Rights (CoE Commissioner) noted that Annex 6 (on Human Rights) of the Dayton Agreement set forth the direct applicability of 15 international human rights instruments.⁴ He also recommended that Bosnia and Herzegovina embark on a process of constitutional reform with a view to changing the emphasis from the equality of the three constituent peoples to a state based on the equality of citizens.⁵

4. According to The Informal UPR Coalition, the Law on Gender Equality and the Law on Rights of National Minorities, which were harmonized with international norms and contained anti-discriminatory provisions, are not being applied in an adequate manner. The Law on Prohibition of Discrimination has been adopted recently.⁶ The Organization for Security and Co-operation in Europe (OSCE) recommended that the executive and judicial branches appreciate the full potential of the Law against Prohibition of Discrimination for addressing general human rights concerns. Effective strategies for its progressive implementation in civil, cultural, economic, political and social rights should be developed and supervised at the highest level of government.⁷

5. Amnesty International (AI) recommended amending the Bosnia and Herzegovina Criminal Code to include a definition of “sexual violence” in accordance with international standards and jurisprudence related to the prosecution of war crimes of sexual violence and to remove the condition of “force or threat of immediate attack” from the present definition.⁸

6. Ombudsman noted Bosnia and Herzegovina did not adopt the Law on Victims of War, as a result of which official programmes for rehabilitation of victims of torture and restoration of their rights were not developed.⁹

7. Ombudsman noted that in the Federation of Bosnia and Herzegovina (FBiH), the rights of persons with disabilities through the latest legislative interventions have been abolished or reduced: even the recognized rights of disabled persons are not applied, due to lack of financial resources. Ombudsman further noted that there existed an additional problem of jurisdiction

among FBiH, cantons and municipalities, which aggravated citizens' access to exercise of the rights guaranteed by the Constitution and international standards.¹⁰

C. Institutional and human rights infrastructure

8. CoE Commissioner noted that Annex 6 of the Dayton Peace Agreement (DPA) established, at the State level, the Commission on Human Rights consisting of the Office of the Ombudsman and the Human Rights Chamber, and providing it with a mandate to address individual complaints challenging human rights violations. CoE Commissioner further noted that the DPA provided for the transfer of responsibility of the Human Rights Chamber from the international community to Bosnia and Herzegovina institutions at the latest 5 years after the signing of the DPA, but it was extended until the end of 2003. The Human Rights Commission, operating within the framework of the Constitutional Court, was established to enable the proper completion of cases taken on by the Human Rights Chamber. Since January 2007, the Human Rights Commission had been fully incorporated into the Constitutional Court and the remaining pending cases had been transferred directly to the Constitutional Court.¹¹ CoE Commissioner recommended that Bosnia and Herzegovina enhance the participation of minorities through the effective functioning of the Council of National Minorities.¹²

9. OSCE noted that the interests of the different entities continued to hamper the development of a single national human rights institution in line with the Paris Principles. This was a clear violation of the directions set out in the Law on the Human Rights Ombudsman of Bosnia and Herzegovina, and entrenched in the new Law on the Prohibition of Discrimination, whereby the Ombudsman was entrusted with the competencies necessary for monitoring and intervening on behalf of human rights victims across the entire territory of the country. Due to the Entities' failure to adopt and execute laws that would entail the cessation of the current Entity Ombudsmen and the subsequent transfer of their responsibilities, the central institution was not yet fully operational. OSCE recommended that the Entities must adopt and implement laws by which all competencies and pending cases under review by their respective Ombudsmen are transferred to the Human Rights Ombudsman for Bosnia and Herzegovina.¹³ Ombudsman recommended Bosnia and Herzegovina strengthen the capacities of the Ombudsman Institution particularly having in mind the importance and role of the Institution in ensuring application of the Law on Prevention of Discrimination and the need that the Institution is established as the national mechanism for the implementation of OPCAT with active involvement of NGOs. Ombudsman further recommended that the process of merger of three ombudsmen institutions in Bosnia and Herzegovina be completed.¹⁴ Advisory Committee on the Framework Convention for the Protection of National Minorities (CoE ACFC) further noted that consultative bodies for national minorities were set up in Republika Srpska and at the State level, stating that these bodies should be given adequate support.¹⁵

10. Centre for Civil and Political Rights (CCPR) stated that Bosnia and Herzegovina should ensure that the Institute of Missing Persons is operational and best equipped to fulfil its task, regardless of the ethnic background of the victim in question.¹⁶

11. International Center for Transitional Justice (ICTJ) noted that there had been no efforts at the State level to establish a truth commission, after the unsuccessful attempts of 2000 and 2005-2006. The valuable effort in the town of Bijeljina to establish facts about war crimes had been derailed by lack of expertise, funding and genuine political support.¹⁷

D. Policy measures

12. CoE Commissioner recommended establishing more effective co-ordination by enhancing the coordination role of the Ministry of Human Rights and Refugees and by developing a national action plan on human rights.¹⁸ He also recommended Bosnia and Herzegovina to implement the policy measures and reforms, outlined in the Medium Term Development Strategy adopted by the Council of Ministers, to combat social exclusion and poverty.¹⁹ OSCE noted that in 2008, the adoption of new strategies on social protection, return, administration of justice and national human rights institutions were blocked or delayed.²⁰ AI expressed concern that the authorities had failed to develop a strategy to address the needs of the survivors of war crimes of sexual violence and to provide them with reparation, rehabilitation, and guarantees of non-repetition.²¹

13. ICTJ noted that the National Strategy for processing of war crimes cases, adopted in 2008, did not fully remedy the problem of inequality of citizens before the law. Moreover, the Strategy did not sufficiently deal with the issue of dual citizenship and prohibition of extradition of nationals, which would remain highly problematic. While the National Strategy as a whole represented a considerable achievement, steps to ensure its implementation had been slow.²² It recommended supporting the Strategy by encouraging the application of harmonized legislation all over the Bosnia and Herzegovina territory and the establishment of an effective witness support and protection programme.²³

14. Bosnia and Herzegovina Working Group on Child Protection (BIHWGCP) noted that the National Action Plan for Children in Bosnia and Herzegovina 2002-2010, defining the state priorities toward children, had been revised (2008), while the National Policy on Youth 2008-2013 Strategy on protection of children from violence and abuse, Strategy against Juvenile Offending for Bosnia and Herzegovina 2006-2010, Strategy on Combating Violence against Children, State Action Plan for Combating Trafficking 2008-2012, Action Plan on the Educational Needs of Roma and Members of other National Minorities in Bosnia and Herzegovina, Policy on protection of children without parental care and families at risk of being separated 2006-2016, had been endorsed.²⁴

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

Cooperation with treaty bodies

15. CoE Commissioner recommended Bosnia and Herzegovina to establish a mechanism for the review and implementation of the recommendations made by international human rights monitoring mechanisms, including UN treaty bodies.²⁵

B. Implementation of international human rights obligations

1. Equality and non-discrimination

16. The Informal UPR Coalition stated that discrimination was one of the most serious generators of human rights violations. Individuals were discriminated against on the grounds of their national, political and sexual orientation. The victims of discrimination were also members

of “vulnerable” groups: persons with disabilities, national minorities, families of missing persons, victims of war, elderly people, children, and returnees. Discrimination was demonstrated in some vital fields of life, such as employment, education, health and social care, pension rights. Only 0.8 per cent of working age returnees belonging to an ethnic group had employment. Furthermore, only 1.5 per cent of working age Roma had jobs.²⁶

17. European Commission against Racism and Intolerance (CoE ECRI) recommended that Bosnia and Herzegovina take action to fine-tune the existing legal framework against racism and racial discrimination and to ensure its implementation; ensure ethnic diversity in political, administrative and judicial institutions throughout the country; address the position of the Roma population, including through measures specifically targeted at them; ensure that those persons not belonging to locally or nationally dominant ethnic groups are able to access rights and opportunities in all areas of life; gradually move from an approach heavily based on ethnic affiliation towards the acknowledgment of full Bosnian democratic citizenship.²⁷

18. Ombudsman noted the establishment of gender mechanisms and the adoption of “Law on Gender Equality” and the National Plan of Action. However, the lack of harmonization between other legislations and the Gender Law had resulted in an exclusion of women from decision-making bodies.²⁸ CoE Commissioner recommended Bosnia and Herzegovina to ensure effective implementation of the Action Plan on Gender issues by giving more resources and authority to the Gender Equality Agency, and develop further policy measures to address persistent inequality of women in the labour market, in public life and administration.²⁹

19. The Informal UPR Coalition noted that the disabled war veterans, compared with disabled non-war persons, had even six or more times higher disability allowances. Almost 43% of disabled civil non-war persons did not have any material support.³⁰ CoE Commissioner recommended that Bosnia and Herzegovina ensure that pension entitlements, health care and social benefits are provided on a non-discriminatory basis to minority returnees.³¹

2. Right to life, liberty and security of the person

20. Ombudsman noted that despite all measures undertaken, trafficking, domestic violence, sexual harassments as forms of gender violence were still present in Bosnia and Herzegovina. The victims were stigmatized since there were no adequate legal instruments for the protection of their rights.³² CoE Commissioner recommended that Bosnia and Herzegovina make further investments to build the infrastructure necessary for addressing violence, including shelters for women and children, and allocate funds to relevant institutions and NGOs from the State funds.³³ He also recommended that Bosnia and Herzegovina implement the laws and regulations concerning trafficking in human beings, and take measures to improve the understanding of what constitutes trafficking.³⁴

21. Global Initiative to End All Corporal Punishment of Children noted that corporal punishment was lawful in the home. Corporal punishment was considered unlawful in schools under the legislation against physical abuse of children, but there was no explicit prohibition. There was no explicit prohibition of corporal punishment of children in alternative care settings.³⁵

22. Regarding conditions of detention, CCPR expressed concern over overcrowding, lack of staff and lack of education of the present staff, and lack of security within the prison. It was

further reported that no measures were taken to avoid the contact between juvenile and adult offenders and that there was no women section found within the prison.³⁶ OSCE recommended that the State and Entity Ministries of Justice, in conjunction with the penitentiary system, initiate a public discussion process to determine the best suitable model of a national mechanism for the prevention of torture.³⁷

23. Ombudsman noted that the situation in mental health institutions was worse than in the prisons, particularly in the FBiH. Until 2008, competent organs failed to take over the role of these institutions, which operated without standards and norms, especially regarding hygiene or health care.³⁸

24. The Informal UPR Coalition noted that the victims of domestic violence were mainly women and girls. Underage girls were often reported to be victims of sexual violence.³⁹ It further noted that the victims were forced to live under the same roof with a violent person.⁴⁰

25. According to The Informal UPR Coalition, there is an escalation of assaults on human rights defenders. The targets were campaigners for the rights of sexual minorities, activists engaged against human trafficking and NGOs activists investigating on corruption and crime. Assaults against and attempts to silence journalists seriously threaten freedom of expression. Family members of human rights activists are often targeted to create a sense of fear and to prevent any act of criticism.⁴¹ OSCE noted numerous incidents where Bosnia and Herzegovina refused to take appropriate action to prevent further victimisation of hate crimes and intolerance against non-heterosexual groups.⁴²

26. CoE Commissioner recommended continuing de-mining activities and education on the risks of mines for communities at risk such as returnees and children.⁴³

3. Administration of justice, including impunity, and the rule of law

27. CoE Commissioner noted that important reforms introduced a few years ago had resulted in noticeable improvements of the independence of the judiciary, making the work of the judicial and prosecutorial sector more professional.⁴⁴ According to OSCE, a more recent challenge is posed by the unjustified intense campaign of attacks, mainly carried out by political representatives from the Republika Srpska, against judges and prosecutors of the State level judiciary, accusing them of lacking integrity and professionalism.⁴⁵ OSCE recommended mechanisms to safeguard the independence of the judiciary, the status the High Judicial and Prosecutorial Council, the Court and Prosecutor's Office of Bosnia and Herzegovina, as well as the State Intelligence and Protection Agency be improved.⁴⁶

28. The Informal UPR Coalition noted that 20% of the decisions passed by the Constitutional Court are not respected nor implemented.⁴⁷ OSCE recommended that the Constitutional Court and other concerned stakeholders should consider proposing legislation tools ensuring timely and correct execution of judgments.⁴⁸ OSCE also noted that there were four national jurisdictions, which applied different civil and criminal substantial and procedural laws, seriously undermining equal protection of the law, the equality before the law in war crimes trials and in other proceedings before the courts. It also noted there was no supreme judicial body with the authority to issue practice directions or guide all courts towards a uniform application and interpretation of domestic standards.⁴⁹

29. AI expressed concern at continued impunity for crimes of sexual violence arising from the armed conflict in Bosnia and Herzegovina. Only a few prosecutions had been conducted before the War Crimes Chamber of the State Court or, in some cases, the cantonal and district courts in the Federation of Bosnia and Herzegovina. AI also expressed concern that many perpetrators of war crimes of sexual violence continued to evade justice, and they often live in the same communities as their victims. AI further stated that the failure to provide survivors of war crimes of sexual violence with access to justice derived from, inter alia, the inadequate definition of those crimes in the legal framework of the country as well as from inadequate protection of and support for witnesses in those cases.⁵⁰ CoE Commissioner recommended that Bosnia and Herzegovina strengthen efforts to fight impunity; arrest and prosecute war criminals and bring them to justice.⁵¹

30. Human Rights Watch (HRW) noted there had been some progress in prosecuting cases before cantonal and district courts, especially in FBiH cantonal courts. However local courts still faced serious obstacles in prosecuting war crimes cases, including: a lack of witness protection and witness support in most courts; insufficient staffing and a lack of specialization among cantonal and district prosecutors; lack of harmonization of the legal codes used in war crimes trials at the state and entity levels; limited cooperation between prosecutors and police, as well as between police across entity lines; and lack of trust between some victims and prosecutors.⁵²

31. With regard to decertification of police officers through a vetting procedure organized the United Nations International Police Task Force (IPTF) until the end of 2002, CoE Commissioner noted that the possibility for the police officers to challenge the merits of the IPTF decisions had been very limited as there had not been an appropriate legal remedy. The consequences of this shortcoming was regarded as serious, in particular as the decision of not granting a certification was for life and had detrimental social consequences for the individual.⁵³

4. Right to privacy, marriage and family life

32. Given that many survivors of war crimes of sexual violence may never have disclosed they were sexually abused during the war, and would prefer to keep this fact secret, AI considered that the State Investigation and Protection Agency should take measures to ensure respect for the right to privacy of the survivors.⁵⁴

33. HRW expressed hope that the Government will commit to pass the anti-discrimination law, which includes the legalization of gay marriages, without any amendments.⁵⁵ Joint Submission (JS) also noted that Family laws of the FBiH and the RS defined marriage as the union between a man and a woman. This law had not been harmonized with the State Law on Gender Equality in Bosnia and Herzegovina, and it represented discrimination on the grounds of sexual orientation.⁵⁶

34. According to Ombudsman, complaints filed with its Department for Children are mainly related to problems of execution of court decisions, administrative organs' decisions, familial conflicts, and non-issuance of birth registration particularly in those municipalities dislocated during the war and where registry books were destroyed.⁵⁷ The Informal UPR Coalition expressed similar concerns.⁵⁸

5. Freedom of movement

35. CoE Commissioner recommended that Bosnia and Herzegovina improve the identification of trafficking victims and ensure the respect of their human rights, in particular make sure that there are no undue limitations put on their freedom of movement by extended periods of stay in closed shelters.⁵⁹

6. Freedom of expression, association and peaceful assembly and right to participate in public and political life

36. According to The Informal UPR Coalition, in addition to increasing physical violence, journalists and editorial staff have been subjected to constant pressure through verbal threats and attempts to instill fear by high ranking politicians who are unable to reconcile themselves with the role of media in a democratic society. Those pressures cast a serious doubt over freedom of expression and threaten the few media organizations that take a critical approach.⁶⁰

37. According to The Informal UPR Coalition, the formation of civil society organizations for the whole Bosnia and Herzegovina is discouraged by lengthy and complicated procedures of registration, and only stronger NGOs can pass them.⁶¹ It further recommended sensitization of law enforcement agencies, the media and public opinion, in order to create an environment enabling citizens and their organizations to operate freely in the field of human rights. It is necessary to establish a legal framework which would guarantee the rights and personal safety of defenders of human rights.⁶²

38. HRW expressed hope that the Government will commit to ensuring freedom of assembly and association for lesbian, gay, bisexual and transgender communities, and condemning unequivocally any attacks on these groups.⁶³ JS recommended an investigation into the attacks during the Queer Sarajevo Festival in September 2008, in which hooligans and religious groups allegedly left a minimum of 8 persons physically injured.⁶⁴

39. CCPR noted that no minority representative had a right to be elected into the House of Peoples and the Tripartite Presidency. However, CCPR further noted that the candidate lists of the 2008 local elections allowed individuals to be placed thereon without being affiliated to ethnic groups.⁶⁵ HRW expressed hope that the Government will commit to amending the Constitution and election laws to permit members of communities other than Bosniaks, Serbs and Croats, to run for the Presidency or the House of Peoples.⁶⁶

7. Right to work and to just and favourable conditions of work

40. AI expressed concern that the Bosnia and Herzegovina authorities had not provided survivors of war crimes of sexual violence with meaningful measures of employment restitution or enabled them to re-integrate in the labour market.⁶⁷

41. According to Ombudsman, the social and economic situation is reflected in an increased number of unemployed persons, which particularly impacts on young persons, and indirectly on the rights of the child and family life.⁶⁸

42. According to The Informal UPR Coalition trade unions faced obstacles in practice as they could not be registered at the level of the entire country.⁶⁹

8. Right to social security and to an adequate standard of living

43. According to Ombudsman, adequate measures are not undertaken with a view to establishing a system of adequate housing, and the recommendations of the Committee on Economic, Social and Cultural Rights concerning the adoption of housing legislation and strategy by the state, were not applied.⁷⁰ The Informal UPR Coalition noted that a significant number of Roma people have not exercised the right to return to their homes in which they had lived before the war. However, the living conditions of Roma people were extremely poor: they often lived in moist houses, without sanitary facilities, running water and electricity. It was estimated that around 10,000 Roma families did not have appropriate accommodation.⁷¹

44. The Informal UPR Coalition noted that a large proportion of national minorities are not entitled to free health care, since this right belonged to employed persons, members of their families and retired people.⁷²

45. AI noted that survivors of war crimes of sexual violence suffered trauma and other psychological and physical problems. Psychological support was often not available and access to health services was limited especially for women in remote areas. Many survivors were unemployed and lived in poverty and could not afford medicines.⁷³ Ombudsman also noted that it is only possible to exercise the right to health care exclusively from citizen's place of residence, as this right is not transferable. Such an approach endangered the citizens who temporarily lived out of their registered places of residence.⁷⁴

46. Ombudsman noted that discrimination of pensioners still exists as direct consequence of the war, which has manifested through different base pensions in different entities. This disparity, which affects pensioners who gained the right to a pension in some of the republics of the Former Yugoslavia, or realized this right in Bosnia and Herzegovina and now lived elsewhere, automatically raises the question of their health protection.⁷⁵

9. Right to education and to participate in the cultural life of the community

47. The Informal UPR Coalition noted that although the primary schooling was defined as compulsory and free, the situation did not fit into the definition. Almost 4% of children at the school age were not enrolled either due to a big distance from school, inaccessibility of school to children with special needs, extreme poverty, non-possession of documents – birth certificate, which particularly affected Roma children, or curricula and text-books not suitable for children members of minorities.⁷⁶ Ombudsman noted that despite the request by the UN treaty monitoring bodies that Bosnia and Herzegovina take measures to eliminate the concept of “two or three schools under one roof” as it leads to discrimination and segregation of children based on ethnicity, this model still exists.⁷⁷ OSCE expressed similar concerns recommending that the education sector should adopt affirmative measures and monitoring systems for children in rural communities and from poor households to ensure their attendance in primary and secondary school. Ethnically coloured segments must be removed from school curricula.⁷⁸

48. CCPR noted that access to health care and education was limited, so were the possibilities for employment. Schools did not have classes in culture and history of ethnic minorities or

classes in the Roma language.⁷⁹ CoE Commissioner recommended Bosnia and Herzegovina to take comprehensive measures to increase the attendance of Roma children in school and to prevent their drop-out, ensure the inclusion of Roma children in pre-school education and of Roma girls in education at all levels.⁸⁰

49. According to The Informal UPR Coalition, although the Law on Education provides for the inclusion of children with disabilities, inclusion does not exist in practice.⁸¹

10. Minorities

50. CoE ACFC noted that persons belonging to national minorities did not enjoy the same political rights as those belonging to the three constituent peoples and remained on the sidelines of public affairs. They had low visibility within the society since the institutional system was focused on the interests of the three constituent peoples.⁸²

51. The Informal UPR Coalition noted that, although the Law on Protection of National Minorities was adopted more than two years ago, it had not been applied due to a failure to pass the necessary by-laws and a lack of political will. The Law had listed 17 national minorities living in Bosnia and Herzegovina, but there were no reliable data on their number since the last census was conducted in 1991, and in the meantime there had been significant demographic changes due to war and ethnic cleansing.⁸³ Members of national minorities were often victims of ethnic discrimination. The position of the Roma people was particularly difficult regarding employment and housing.⁸⁴ According to OSCE, national minority groups, such as the Roma, find themselves being persistently marginalised. They do not enjoy, *de jure*, political rights in parity with the majority of the population. Roma face significant social challenges, particularly housing assistance, adequate living conditions, access to education and healthcare.⁸⁵

52. CCPR indicated that changes guaranteeing the rights of members of ethnic minorities needed to be incorporated into the Constitution.⁸⁶ CCPR further noted the forcible relocation of Roma families in Butmir as a challenge faced by Bosnia and Herzegovina.⁸⁷

11. Migrants, refugees and asylum-seekers

53. Ombudsman noted that, regarding the return of refugees and displaced persons in their pre-war places of living, the process of renewal and reconstruction of housing units was constantly improving, since every year there were funds for this purpose. However, the returnees in certain parts of Bosnia and Herzegovina were deprived of employment opportunities or were deprived of income, and these shortcomings were impacting on the number of returnees.⁸⁸

54. HRW noted that Roma refugees in Bosnia and Herzegovina, the majority of whom came from Kosovo, remained vulnerable and dependent on periodic extensions of their temporary status.⁸⁹

12. Internally displaced persons

55. HRW noted that the trend of IDPs remaining or moving to areas where their ethnic group constitutes a majority continued. Most permanent returnees were elderly persons returning to rural areas. Lack of economic opportunities and lack of adequate housing, including access to

electricity and water continued to be the main impediments. The increasing political tensions and ethnic divisions made the climate for returns even less favorable. Access to health care, pensions and welfare to returnees continued to be difficult. While the rate of direct attacks on returnees continues to decline, the fact that many persons suspected of war crimes remain at large, continues to deter potential returnees.⁹⁰ According to AI, existing programmes of property restitution for refugees and internally displaced persons have failed to take into account gender needs of the survivors of sexual violence as well as their psychological condition. As a result, survivors have all too often been forced to return to their pre-war places of residence, which in many cases has caused their re-traumatisation.⁹¹

56. CoE Commissioner recommended Bosnia and Herzegovina to continue its efforts to facilitate returns, including by constructing housing and the accompanying infrastructure, ensure that return projects also address the specific situation of those who would otherwise have difficulties in benefiting from the reconstruction assistance, such as female heads of households and Roma.⁹²

13. Right to development

57. According to The Informal UPR Coalition, the issue of corruption is directly related to the right to development. Funds that flow into the pockets of individuals could be used for development investment, employment and better social policy.⁹³

14. Human rights and counter-terrorism

58. HRW expressed hope that Bosnia and Herzegovina will commit to: ensure that persons are not deported the country if doing so would subject them to a real risk of persecution, torture or ill-treatment; suspend the work of the Citizenship Review Committee and conduct a transparent and independent review of its activities to date, including giving those who lost their citizenship a right to a fair appeal before an independent court, with the opportunity to confront the evidence on which the decision to revoke their citizenship was based; and ensure that appeals by foreigners challenging their deportation have automatic suspending effect on their deportation while their cases are decided.⁹⁴

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

59. Ombudsman noted that significant improvements regarding a more active participation of national minorities in politics and decision-making-process had been made through the establishment of the Minority Council and the plan of action for Roma's problems in employment, housing and health care.⁹⁵ According to The Informal UPR Coalition, the establishment of the Roma Council as a consultative body should be taken as positive example.⁹⁶

60. ICTJ noted that the National Strategy for war crimes cases adopted in 2008 aimed at dealing effectively with the enormous backlog of war crimes cases awaiting investigations. The Strategy referred to an estimated 10,000 suspects, of whom about 6,000 are under active enquiry. Seven years would be needed to prosecute the most complex and highest priority cases, and 15 years for the remaining cases. Priority was given to the cases involving the most serious crimes.⁹⁷

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

N/A.

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

N/A.

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.)

Civil society

| | |
|---------------|---|
| ADPOBiH | Association of Decertified Police Officers of Bosnia and Herzegovina |
| AI | Amnesty International*, London, UK |
| BIHWGCP | Bosnia and Herzegovina Working Group on Child Protection, joint submission submitted by Hope and Homes for Children, Save the Children Norway, Save the Children UK, SOS Kinderdorf, World Vision and UNICEF |
| CCPR | Centre for Civil and Political Rights |
| FMDVEP | Fundacion Mundial Déjame Vivir En Paz, Costa Rica |
| HRW | Human Rights Watch*, New York, U.S.A |
| ICTJ | International Center for Transitional Justice, |
| JS | Joint Submission by Organization Q and Sexual Rights Initiative |
| The Informal | Joint submission by 30 NGOs in Bosnia and Herzegovina: Human Rights |
| UPR Coalition | House of Sarajevo, Helsinki Committee for Human Rights in Bosnia and Herzegovina, CURE Foundation, Serb Civic Council of Sarajevo Canton, Woman and Society Center, Association of Citizens „Renaissance“, Regional Coordinator for Youth Groups in Western Balkans, Center for Informative and Legal Help – CIPP, ICVA, Prava za sve (Rights for All), Association Q, Transparency International in B&H, Association of Roma Women „Better Future“, European Law Students' Association - ELSA, Center for Human Rights Sarajevo, Youth Club „Diamond“, Association of Decertified Policemen in B&H, Bona Fides, Zemlja djece (Land of Children), League for Protection of Private Property and Human Rights, Association for Civic Rights – UGP, Zdravo da ste (Hello Neighbour), Foundation „Truth, Justice, Reconciliation“, NGO of Altruists „Svjetlo“ („The Light“), Red Half-Moon of B&H, Association „Friends of Family“ and Center for Youth Development – PRONI. |

National Human Rights Institutions

| | |
|-----------|---|
| Ombudsman | The Ombudsmen Institution of Bosnia and Herzegovina |
|-----------|---|

Regional Organizations

| | |
|------|---|
| CoE | Council of Europe (Advisory Committee on the Framework Convention for the Protection of National Minorities (CoE ACFC), the Council of Europe Commissioner for Human Rights (CoE Commissioner), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CoE CPT), and European Commission against Racism and Intolerance (CoE ECRI)) |
| OSCE | Organization for Security and Co-operation in Europe |
| OSCE | Moving towards a Harmonized Application of the Law, Applicable in War Crimes Cases before Courts in Bosnia and Herzegovina; |
| OSCE | The Law and the Practice of Restrictive Measures: The Justification of Custody in Bosnia and Herzegovina, 2008; |
| OSCE | Trafficking in Human Beings and Responses of the Domestic Criminal Justice System, 2008; |
| OSCE | The Status and Activities of Municipal Gender Equality Commissions in Bosnia and Herzegovina 2009; |
| OSCE | A Status Report: Slipping Through the Cracks: School Enrolment and Completion in Bosnia and Herzegovina, 2007. |

² Ombudsman, p. 2.

³ The Informal UPR Coalition, Para 1.

⁴ CoE Commissioner, Report of his visit to Bosnia and Herzegovina dated 20 February 2008, Para 8.

⁵ CoE Commissioner, Report of his visit to BiH dated 20 February 2008, recommendations.

⁶ The Informal UPR Coalition, Para 8.

⁷ OSCE, p. 1.

⁸ AI, p. 8.

⁹ Ombudsman, p. 2.

-
- ¹⁰ Ombudsman, p. 3.
- ¹¹ CoE Commissioner, Report of his visit to BiH dated 20 February 2008, Paras 12-13.
- ¹² CoE Commissioner, Report of his visit to BiH dated 20 February 2008, recommendations
- ¹³ OSCE, pp. 4-5.
- ¹⁴ Ombudsman, p. 6. See also The Informal UPR Coalition, recommendation 3 in p. 10, CoE Commissioner, Report of his visit to BiH dated 20 February 2008, Paras 27-29.
- ¹⁵ CoE ACFC, Executive summary, Second Opinion on Bosnia and Herzegovina adopted on 9 October 2008.
- ¹⁶ CCPR, p. 2.
- ¹⁷ ICTJ, Para 4.
- ¹⁸ CoE Commissioner, Report of his visit to BiH dated 20 February 2008, recommendations.
- ¹⁹ CoE Commissioner, Report of his visit to BiH dated 20 February 2008, recommendations.
- ²⁰ OSCE, p. 1.
- ²¹ AI, p. 4. See also ICTJ, Para. 5.
- ²² ICTJ, Para 2.
- ²³ ICTJ, Para 24.
- ²⁴ BIHWGCP, Para 4.
- ²⁵ CoE Commissioner, Report of his visit to BiH dated 20 February 2008, recommendations.
- ²⁶ The Informal UPR Coalition, Para 9.
- ²⁷ CoE ECRI, Executive summary of Report on Bosnia and Herzegovina adopted on 25 June 2004.
- ²⁸ Ombudsman, p. 2. See also JS, Para 4.
- ²⁹ CoE Commissioner, Report of his visit to BiH dated 20 February 2008, recommendations.
- ³⁰ The Informal UPR Coalition, Para 41. See also OSCE, pp. 1 -2.
- ³¹ CoE Commissioner, Report of his visit to BiH dated 20 February 2008, recommendations.
- ³² Ombudsman, p. 3.
- ³³ CoE Commissioner, Report of his visit to BiH dated 20 February 2008, recommendations.
- ³⁴ CoE Commissioner, Report of his visit to BiH dated 20 February 2008, recommendations.
- ³⁵ GIEACPC, p. 2.
- ³⁶ CCPR, p. 2. See also Ombudsman, p. 2, The Informal UPR Coalition, Paras 30-32.
- ³⁷ OSCE, p. 4. See also CoE CPT, Preliminary Observations made by the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment published on 16 July 2007.
- ³⁸ Ombudsman, p. 2. See also CoE CPT, Preliminary Observations made by the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment published on 16 July 2007.
- ³⁹ The Informal UPR Coalition, Para 38.
- ⁴⁰ The Informal UPR Coalition, Para 40.
- ⁴¹ The Informal UPR Coalition, Para 24.
- ⁴² OSCE, p. 2.
- ⁴³ CoE Commissioner, Report of his visit to BiH dated 20 February 2008, recommendations.
- ⁴⁴ CoE Commissioner, Report of his visit to BiH dated 20 February 2008, Para 14.
- ⁴⁵ OSCE, p. 3.
- ⁴⁶ OSCE, p. 4.
- ⁴⁷ The Informal UPR Coalition, Para 2. See also CoE Commissioner, Report of his visit to BiH dated 20 February 2008, Para 17.
- ⁴⁸ OSCE, p. 5.
- ⁴⁹ OSCE, p. 3.
- ⁵⁰ AI, pp. 4 and 8.
- ⁵¹ CoE Commissioner, Report of his visit to BiH dated 20 February 2008, recommendations.
- ⁵² HRW, p. 1.
- ⁵³ CoE Commissioner, Report on Issue of Decertified Police Officers in Bosnia and Herzegovina, p. 2. See also ADPOBiH.
- ⁵⁴ AI, p. 6.
- ⁵⁵ HRW, p. 5. See also The Informal UPR Coalition, Paras 33 – 37.
- ⁵⁶ JS, Para 7. See also FMDVEP.
- ⁵⁷ Ombudsman, p. 5.
- ⁵⁸ The Informal UPR Coalition, Paras 50-55.
- ⁵⁹ CoE Commissioner, Report of his visit to BiH dated 20 February 2008, recommendations.
- ⁶⁰ The Informal UPR Coalition, Para 63.
- ⁶¹ The Informal UPR Coalition, Para 66.

-
- ⁶² The Informal UPR Coalition, recommendation 5 in p. 10.
- ⁶³ HRW, p. 5.
- ⁶⁴ JS, recommendations in p. 5.
- ⁶⁵ CCPR, p. 1. See also HRW, p. 6, The Informal UPR Coalition, Paras 5-6.
- ⁶⁶ HRW, p. 6.
- ⁶⁷ AI, p. 7.
- ⁶⁸ Ombudsman, p. 4.
- ⁶⁹ The Informal UPR Coalition, Para 67.
- ⁷⁰ Ombudsman, p. 4.
- ⁷¹ The Informal UPR Coalition, Para 16.
- ⁷² The Informal UPR Coalition, Para 17.
- ⁷³ AI, p. 4.
- ⁷⁴ Ombudsman, p. 4.
- ⁷⁵ Ombudsman, p. 4.
- ⁷⁶ The Informal UPR Coalition, Paras 48-49.
- ⁷⁷ Ombudsman, p. 5. See also The Informal UPR Coalition, Paras 46-47, CoE ACFC, Executive summary, Second Opinion on Bosnia and Herzegovina adopted on 9 October 2008.
- ⁷⁸ OSCE, p. 2.
- ⁷⁹ CCPR, p. 3. See also The Informal UPR Coalition, Paras 18-19.
- ⁸⁰ CoE Commissioner, Report of his visit to BiH dated 20 February 2008, recommendations.
- ⁸¹ The Informal UPR Coalition, Para 43.
- ⁸² CoE ACFC, Executive summary, Second Opinion on Bosnia and Herzegovina adopted on 9 October 2008.
- ⁸³ The Informal UPR Coalition, Para 13.
- ⁸⁴ The Informal UPR Coalition, Para 15.
- ⁸⁵ OSCE, p. 2. See also CoE ACFC, Executive summary, Second Opinion on Bosnia and Herzegovina adopted on 9 October 2008.
- ⁸⁶ CCPR, p. 2.
- ⁸⁷ CCPR, p. 3. See also Ombudsman, p. 3.
- ⁸⁸ Ombudsman, p. 5.
- ⁸⁹ HRW, p. 5.
- ⁹⁰ HRW, p. 4.
- ⁹¹ AI, p. 7.
- ⁹² CoE Commissioner, Report of his visit to BiH dated 20 February 2008, recommendations.
- ⁹³ The Informal UPR Coalition, Para 70.
- ⁹⁴ HRW, p. 4.
- ⁹⁵ Ombudsman, p. 3.
- ⁹⁶ The Informal UPR Coalition, Para 20.
- ⁹⁷ ICTJ, Para 17.
-