



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
6 May 2015

Original: English

Committee on the Elimination of Racial Discrimination Eighty-sixth session

Summary record of the 2331st meeting

Held at the Palais Wilson, Geneva, on Thursday, 30 April 2015, at 3 p.m.

Chairperson: Mr. Calí Tzay

Contents

Consideration of reports, comments and information submitted by States parties under
article 9 of the Convention (*continued*)

Combined ninth to eleventh periodic reports of Bosnia and Herzegovina

This record is subject to correction.

Corrections should be submitted in one of the working languages of the United Nations. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.15-08752 (E) 040515 060515



* 1 5 0 8 7 5 2 *

Please recycle A recycling symbol consisting of three chasing arrows forming a triangle.



The meeting was called to order at 3.10 p.m.

**Consideration of reports, comments and information submitted by States parties
under article 9 of the Convention** (*continued*)

*Combined ninth to eleventh periodic reports of Bosnia and Herzegovina
(CERD/C/BIH/9-11 and CERD/C/BIH/Q/9-11)*

1. *At the invitation of the Chairperson, the delegation of Bosnia and Herzegovina took places at the Committee table.*
2. **Mr. Jović** (Bosnia and Herzegovina), introducing his country's combined ninth to eleventh periodic report, said that the Committee's previous recommendations had been consistently implemented. Bosnia and Herzegovina was committed to maintaining a multicultural society through the strengthening of dialogue as the primary means of connecting diverse groups and developing tolerance in society. The principle of non-discrimination was enshrined in the country's Constitution and in those of its constituent entities. The principles of the International Convention on the Elimination of All Forms of Racial Discrimination had been incorporated into criminal legislation, which set out penalties for crimes against humanity, genocide, war crimes and related crimes. A range of measures had been taken to apply the basic principles of the Convention. The Ombudsmen for Human Rights, the Gender Equality Agency and the Commission for Human Rights, Rights of Children, Youth, Immigration, Refugees, Asylum and Ethics all played important roles in that regard.
3. Continuous efforts were made to protect the rights of national minorities. The fact that the Constitution defined national minorities as "others" had been qualified by the European Court of Human Rights as discriminatory in the *Sejdić and Finci v. Bosnia and Herzegovina* case. The Court had found that such a definition favoured the "constituent peoples" (Bosniaks, Serbs and Croats), granting them special privileges and advantages that were unavailable to the 17 other ethnic groups recognized in the Law on the Protection of National Minorities.
4. The Law on Prohibition of Discrimination was based on European standards and had been adopted in 2009. Under that law, citizens of Bosnia and Herzegovina were protected against discrimination in all areas of life, including employment, social services and health care, justice and government administration, housing, public information, education, sport, culture and science, and also against any form of harassment, including sexual harassment, mobbing, segregation or incitement to discrimination. All public authorities had an obligation to fight discrimination and remove obstacles that directly or indirectly could give rise to it. Bosnia and Herzegovina condemned any form of propaganda that incited intolerance or racial discrimination. When racial discrimination did occur, it took steps to successfully fight it by combating prejudices that gave rise to it and by fostering understanding, tolerance and friendship among ethnic groups. Work was currently under way to resolve the issue of "two schools under one roof", which was a striking example of segregation of students on the grounds of ethnicity.
5. As a participant in the Decade of Roma Inclusion, Bosnia and Herzegovina was committed to improving the situation of the Roma, who were the largest and the most vulnerable national minority in the country. Action plans had been developed to address the needs of the Roma in the areas of housing, employment, education and health care. To ensure the effectiveness of the activities carried out, the needs of the Roma had been identified and a database of Roma people in Bosnia and Herzegovina was being developed.
6. Although Bosnia and Herzegovina had been addressing the rights of refugees and displaced persons for many years already, it was still difficult to ensure the sustainable

return of such persons. In addition to ensuring that refugees could return to their original homes, it was necessary to provide them with jobs, schools, clinics, roads, electricity and all the conditions necessary to resume normal life.

7. The Law on Freedom of Religion and the Legal Position of Churches and Religious Communities effectively governed freedom of religion and belief, the legal status of churches and religious communities and the relationship between the State, churches and religious communities. Through the Communications Regulatory Agency, the Government made sustained efforts to combat incitement to violence and hatred through the press, audiovisual and electronic media and new communication technologies. In accordance with international standards, Bosnia and Herzegovina strove to ensure freedom of the press, speech and expression while providing legal penalties for any incitement to hatred or violence.

8. **Mr. Yeung Sik Yuen** (Country Rapporteur), having referred to some positive aspects identified in the State party report, asked how the provisions of the Constitution prohibiting racial and other forms of discrimination were effectively implemented when there were other provisions in the Constitution which were themselves actually discriminatory. He wondered how often the Law on Prohibition of Discrimination had been invoked, how many cases of discrimination had been reported, whether the police, the judiciary and the Ombudsmen were sufficiently trained in the protection of human rights in general and the prohibition of racial discrimination in particular, and whether there were regular training courses to familiarize the relevant institutions with updated laws and decisions on discrimination. The Committee would be interested to hear examples of the implementation of the State party's policy to eliminate racial discrimination through its legal, judicial and administrative framework and to find out about measures taken when discrimination was reported. Was disaggregated data available on the number of reported cases of racial discrimination? The Committee would welcome information on the civil and criminal measures taken to obtain redress, the number of cases brought to court, the number of convictions and the types of sentences handed down or damages awarded in civil claims.

9. In the *Sejdić and Finci v. Bosnia and Herzegovina* and *Zorić v. Bosnia and Herzegovina* cases, the European Court of Human Rights had ruled that the State party's Constitution and Electoral Law were in violation of the European Convention on Human Rights and had requested it to amend its laws. Regrettably, the discriminatory provisions had remained in force and the parliamentary commission responsible for implementing the Court's judgements had reportedly consisted of delegates representing only the "constituent peoples". Did the State party have any plans to make the process of implementing the judgements more efficient and equitable? The current Law on the Ombudsman for Human Rights stipulated that the three Ombudsmen were "appointed from the ranks of the three constituent peoples", although that provision apparently did not rule out the possibility of appointing persons "from the ranks of others". Had there ever been an Ombudsman who had been appointed "from the ranks of others"? The delegation should comment on the ethnic element in the appointment process.

10. He welcomed the adoption in 2012 of the Law on Civil Registers. That law was particularly important for the Roma, who were less likely to be registered at birth than the rest of the population. The law should be fully implemented. He also commended the construction and reconstruction of Roma housing units under the action plan for Roma in housing, employment and health care. However, the Roma population still faced many problems. The Committee had received reports that the school attendance of Roma children was particularly low and that many Roma children were enrolled in special schools because they were considered to have "social disabilities" or because such schools were the only ones that offered free meals, transportation or school materials. What measures were being taken to increase the representation of Roma children in mainstream schools? There were

also many reports of discrimination against the Roma with regard to housing, access to basic services, language, culture and employment. What effective measures were being taken to eliminate all discrimination against the Roma? Did the Government plan to apply affirmative action in their favour? He had heard that access to health care and health insurance was compromised for persons who did not register with an employment bureau within 30 days of losing their job, finishing school or moving to a new canton, and that the provision in question had a particularly adverse impact on the Roma. Noting that the country's Council of Ministers had established a Roma Council, he asked how many of that body's members were ministers, how many members there were and how many were from the Roma community.

11. The State party had recognized that hate speech that incited ethnic hatred, killings and ethnic cleansing could not come under the protective umbrella of freedom of opinion and expression. With regard to access to information, it seemed that the State party itself was not sure whether the law was being properly implemented, as the obligation of public bodies to regularly report to the Ombudsman on certain issues had not been met. He would be interested to hear examples of action taken by the Communications Regulatory Agency to protect freedom of expression and to penalize the media for ethics violations. Apart from the imposition of fines, was there the possibility of suspension or withdrawal of licences? What happened if a fine was not paid, and could the decisions of the Agency be appealed?

12. Although commendable efforts had been made to provide support to returnees and facilitate their reintegration, many persons returning to their homes faced difficulties, including lack of proper infrastructure and access to basic services. He would welcome information on measures taken by the State party to address the problems faced by internally displaced persons. Had the Council of Ministers approved a law that would provide for all State institutions to allocate 2 per cent of their budgets to issues related to internally displaced persons and returnees? The delegation should describe the measures taken by the Government to address the special plight of internally displaced Roma, who were largely excluded from the property restitution process, and it should provide information on the case of Muniza Oprasić, a Bosnian returnee who had been ordered to pay compensation to the Serb family who had occupied her house during her absence.

13. The delegation should comment on the situation of asylum seekers, who reportedly frequently experienced discrimination with regard to access to adequate housing, food, health care and education, and on the detention of individuals who entered the country without authorization and did not express any intention to seek asylum within 24 hours of their arrival.

14. Had the results of the 2013 national census been compiled? If so, did they provide disaggregated statistics on the ethnic composition of the population and information on the percentage of people who had not declared any ethnic, national or religious affiliation? He would be interested to know why the census material had been provided only in the Bosnian, Croatian and Serbian languages, although the trial census preceding it had also included the languages of national minorities.

15. **Mr. Avtonomov** welcomed the high-level delegation of Bosnia and Herzegovina and highlighted the adoption of the Law on Civil Registers, which ensured the registration of all births. The delegation should provide updated information on the progress made since 2011 towards constitutional change and the implementation of the judgement of the European Court of Human Rights calling for the country to bring its Constitution into line with the European Convention on Human Rights. He asked how the rights of asylum seekers to education, social assistance and health care were guaranteed and whether the regulations in force were reflected in practice. Information should be provided on the Law on Citizenship of Bosnia and Herzegovina. How did the State party prevent discrimination against non-nationals? Had any cases of discrimination been recorded involving violations

of articles 2 and 5 of the Convention? The delegation should comment on information indicating that some Roma had been unable to register their ethnic group correctly during the census, resulting in artificially low figures for the Roma population. It should also explain how protection against discrimination on the basis of political belief and ethnic background was ensured in practice, inform the Committee whether the Labour Code had been amended to prohibit discrimination on the grounds of ethnic background and describe how the authorities in the Brčko District provided protection against discrimination. Did the State party intend to recognize the competence of the Committee to receive and consider communications in accordance with article 14 of the Convention?

16. **Mr. Bossuyt** asked whether any of the results of the census held in October 2013 had been published and whether any preliminary conclusions had been drawn from the data gathered. He too asked whether constitutional amendments were planned to implement the corresponding judgement of the European Court of Human Rights. In respect of another case, that of *Al Husin v. Bosnia and Herzegovina*, he would like to receive more information on the situation of foreign nationals who had participated in combat in Bosnia and Herzegovina and who did not wish to return to their own countries. The authorities did not want to allow some persons in that situation to remain. What was the scale of the problem and its implications for the State party? What action was being taken to improve adherence to the code of ethics by the media and to address attacks against journalists and the large number of cases brought against journalists under the Law on Defamation? More information should be provided on the sources of political and financial pressures that undermined the independence of the Communications Regulatory Agency.

17. Clarification should be provided of the phenomenon of “two schools under one roof” and whether all three groups of the constituent peoples were present at such schools. Was each constituent group taught the languages and alphabets used by the other two? A commission should be established, with the inclusion of historians from other countries, to develop a commonly acceptable version of history for use in schools. He agreed that, in order to avoid unnecessary antagonism, the State party should continue to avoid electing a President directly.

18. **Mr. Kut** asked the delegation to provide more information on the Commission for Human Rights, Rights of Children, Youth, Immigration, Refugees, Asylum and Ethics, its purpose, functions and impact. He would like to receive an update on the workload and effectiveness of the Office of the Ombudsman and information on its powers, the impact of its decisions and how it resolved the cases brought to its attention.

19. The Committee had received information according to which internally displaced persons who had returned to their places of origin had been physically attacked. He asked whether such attacks had been investigated, whether they fed off the political and media discourse and whether data was available on the numbers of attacks and of returnees who had been forced to flee a second time. The delegation should also comment on whether internally displaced Roma faced double discrimination.

20. **Mr. Murillo Martínez** asked to what extent the State party had been able to resume a situation of normalcy, in particular with regard to cultural life and the education system. Had the Government taken any particular action in the context of the International Decade for People of African Descent?

21. **Mr. Vázquez** asked whether the Convention was directly applicable in the State party and whether figures were available for the number of cases in which it had been directly invoked by the domestic courts. Did the delegation agree with the decision of the Constitutional Court of Bosnia and Herzegovina asserting the primacy of the Constitution over the European Convention on Human Rights and the view that the Dayton Peace Agreement was not discriminatory because it served the legitimate aim of strengthening the

position of the constituent peoples? The provisions of the Dayton Peace Agreement could not be considered special measures due to the extended period of their application. Clarification should be provided on the status of international treaties vis-à-vis national law and the Constitution of the State party.

22. He asked whether the Law on Prohibition of Discrimination was frequently applied by the courts and whether further training on the problem of racial discrimination was needed for the members of the judiciary. According to a survey, none of those questioned had received such training. The delegation should comment on a report by the Ombudsman that the fall in complaints of discrimination reflected increasing distrust in the authorities and fear of reprisals rather than a decrease in the number of incidents of discrimination. The delegation should provide information on the offence of mobbing and explain why reports of mobbing had dramatically increased. He expressed concern that the Office of the Ombudsman was underfunded and unknown and that the Office's structure was potentially discriminatory, as it required three office holders – one from each constituent group.

23. The fact that courts required returnees to reimburse squatters for home improvements during their absence posed an obstacle to returnees reclaiming their property, particularly given the large sums often involved. Had the State considered introducing a government compensation scheme to cover such reimbursements?

24. The delegation should comment on the recommendations on the situation of the Roma minority made by the Special Rapporteur on minority issues in the report on her mission to Bosnia and Herzegovina (A/HRC/22/49/Add.1), particularly with regard to high unemployment among the Roma and problems with education for Roma children. Why had certain costs related to education, such as transport and book purchases, reportedly not been met by the State? Why were there insufficient numbers of Roma teachers, and why were the Roma overrepresented in schools for children with special educational needs? Mainstream schools should foster a more welcoming environment for Roma children. Unemployment in the Roma community was between 80 and 100 per cent. In view of its impact on the school attendance of Roma children, information should be provided by the delegation on measures to tackle unemployment in that community. He asked what progress had been made towards eliminating segregation and parallel structures in education, in accordance with the conclusion of the 11th meeting of the Conference of Ministers of Education of Bosnia and Herzegovina.

25. **Mr. Lindgren Alves** welcomed efforts to amend the system of government, which was currently based on ethnicity, and noted international unanimity in praising the achievements of the State party following the establishment of the Dayton Peace Agreement. He had been present in Bosnia and Herzegovina at the time of the census and had noted that many young people had resented the lack of an option to choose a nationality corresponding to Bosnia and Herzegovina rather than that of an ethnic group. He therefore suggested that such an option should be included in future.

26. **Ms. Dah** took note of the limitations of drawing or imposing ethnic, religious and other distinctions and asked how the recent census had been conducted, which questions it had asked and how the data collected would be used. She asked how the different education systems were linked and whether there were plans to introduce a national school system that transcended the divisions in society or to produce common textbooks for use in both entities.

27. **Mr. Kemal** said that he would like to know whether any progress had been made in terms of national unity. When Bosnia and Herzegovina had first gained its independence, it had attracted a lot of overseas investment. Noting that a prosperous economy might help to ease discrimination, he asked what steps were being taken to address the country's economic problems. Was the Convention being implemented evenly throughout the country,

or were there disparities in its implementation? In the past, the Government had encouraged Serbs and Croats to stay in Sarajevo. He asked whether the population of the city was still diverse or if it had become more homogenous.

28. **Mr. Diaconu** asked what steps were being taken at the local level to overcome discrimination. Did the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina cover the entire population? As to “two schools under one roof”, the presence of more than one school under a single roof was not necessarily an issue. Did the various schools offer the same level of education and schooling? Was the official language studied by all? How were Roma pupils, who usually experienced the most difficulties when entering secondary school, accommodated? Had all the Roma been registered? It was registration that gave them access, inter alia, to education and health care. Lastly, referring to the Committee’s recommendation that the State party ratify the amendments to article 8, paragraph 6, of the Convention, he emphasized that ratification would transfer the State party’s responsibility for the expenses of the members of the Committee to the General Assembly.

29. **Ms. January-Bardill** said that she welcomed the State party’s adoption of various laws, including laws on the protection of human rights. She asked how the Government would ensure that minorities, including women from minority communities, had political representation. Women reportedly accounted for 57 per cent of elderly people. Had that percentage been disaggregated in the census? In what ways could the Law on Gender Equality protect the social and economic rights of elderly women, including those in ethnic minorities? Lastly, what sort of impact had the action plans for the implementation of United Nations Security Council resolution 1325 had?

30. **Mr. Khalaf** said that he would welcome information on the value of the Dayton Peace Agreement and its place in the Constitution. He asked to what extent the political system provided a direct link between the citizen and the State and whether individuals could file complaints. Was there a national plan to rebuild the trust that the conflict in the country had broken? In addition to freedom of belief, did the Constitution recognize freedom of conscience? Lastly, the delegation should provide further details on the return of displaced persons.

The meeting was suspended at 5.25 p.m. and resumed at 5.40 p.m.

31. **Ms. Đuderija** (Bosnia and Herzegovina) said that the Dayton Peace Agreement was a general framework that contained, inter alia, the Constitution, in annex 4, and an agreement on refugees and displaced persons, in annex 7. The European Court of Human Rights had ordered the State party to amend its Constitution, but any amendment would require the agreement of all ethnic groups, including minorities, and such an agreement had not yet been reached. Steps were nevertheless being taken to ensure the implementation of the Court’s decision.

32. The Constitution provided for the direct application of the Convention, which took precedence over national legislation. Citizens could apply to the Constitutional Court in the event of a violation of the Convention. Such applications had already been made, and decisions had been issued accordingly. Moreover, when new laws were drafted, they were brought into line with the Convention and other international standards.

33. Bosnia and Herzegovina was still in a period of transition and was constantly striving to reconcile divergent views. There seemed to be a consensus that the Constitution should be amended, and the State party was trying to harmonize its legislation with European human rights standards, which were almost identical to those of United

Nations instruments. The State party had already made significant progress in areas such as the registration of Roma children, but its initiatives lacked funding and required a great deal of coordination.

The meeting rose at 6 p.m.