



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination

**Information received from Bosnia and Herzegovina on
follow-up to the concluding observations on its combined
twelfth and thirteenth periodic reports***

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* The present document is being issued without formal editing.



**Follow-up to para. 8 of the concluding observations
(CERD/C/BIH/CO/12-13)**

1. Annex IV of the Dayton Peace Agreement determines that refugees, immigration and asylum seekers are exclusive competence of Bosnia and Herzegovina. Article 12 of the Law on Ministries and Other Administration Bodies of Bosnia and Herzegovina (BiH Official Gazette 5/03, 42/03, 26/04, 42/04, 45/06, 88/07, 35/09, 59/09, 103/09, 87/12, 6/13, 19/16, 83/17) defines that the Ministry of Human Rights and Refugees is responsible for taking care of rights and issues of refugees and foreigners under subsidiary protection in BiH after determining their status. The BiH Parliamentary Assembly has adopted the 2016-2020 Migration and Asylum Strategy and Action Plan. The Strategy outlines key roles and actors in the implementation.
2. In accordance with Article 78, para. (4), the Law on Asylum of BiH (BiH Official Gazette 11/16, 16/16), the Ministry of Human Rights and Refugees is responsible for ensuring access by refugees and foreigners under subsidiary protection to the following rights: information about rights, accommodation, work, education, health care, social assistance and assistance for integration in the BiH society. The Law provides that the Ministry, after consulting the Ministry of Security of BiH and the Ministry of Civil Affairs of BiH, passes by-laws on the way of exercising the rights of refugees and foreigners under subsidiary protection in BiH. Currently, in Bosnia and Herzegovina, there are 75 persons with recognized refugee status and 34 persons under subsidiary protection.
3. The countries of origin of refugees and foreigners under subsidiary protection in BiH are: countries of the former Yugoslavia, Moldova, Algeria, Pakistan, Palestine, Saudi Arabia, Cameroon, Syria, Egypt, Turkey and Iraq.
4. The BiH MHRR provides refugees and foreigners under subsidiary protection the right to accommodation at the Salakovac Refugee and Reception Center in Mostar, which currently has 22 persons with recognized refugee status. The rest are staying in private accommodation, mostly in Sarajevo Canton.
5. The rights to health care, social assistance, education, work and accommodation at the Salakovac Refugee and Reception Centre are provided to refugees and persons under subsidiary protection in accordance with by-laws adopted by the Ministry of Human Rights and Refugees and under the same conditions as they are provided to Bosnian nationals. These rights are funded from BiH MHRR's budget. Amendments to the Law on Citizenship enable these persons to easily be naturalized in BiH. So far, 26 citizens who have been under subsidiary protection in BiH have been granted BiH citizenship.
6. The BiH MHRR will continue to ensure, in line with its competencies, access to refugee rights and subsidiary protection, raise awareness and inform about equal treatment and access to these rights in Bosnia and Herzegovina.
7. Concerning displaced persons in BiH and returnees, in accordance with Article 12 of the Law on Ministries and Other Bodies of Administration of Bosnia and Herzegovina, the competence of the BiH MHRR to implement Annex VII of the General Framework Agreement for Peace is also defined.
8. In addition to other competencies under Annex VII to GFAP and permanent resolution of the issue of access to rights by BiH refugees and displaced persons, reconstruction projects and securing other conditions for securing permanent solutions for BiH refugees and displaced persons in BiH, the BiH MHRR coordinates and channels the policy of ensuring uniform and consistent achievement of the goals of Annex VII to GFAP throughout BiH, monitors the implementation of projects through BiH MHRR regional centers and performs its tasks in a way that guarantees the equality of refugees from BiH and displaced persons. The 2010 Revised Strategy for the Implementation of Annex VII to GFAP set forth recommendations and proposals for measures to improve the situation in the field of reconstruction of housing units, completion of the process of repossession of property and occupancy rights, restoration of social and communal infrastructure, health and social care, education, work, safety and the right to compensation.

The table shows the number of displaced persons in BiH as of 31 December 2018

Number of persons having the displaced person status

<i>Structure/ Entity</i>	<i>B</i>		<i>H</i>		<i>S</i>		<i>O</i>		<i>Total</i>	
	<i>families</i>	<i>persons</i>	<i>families</i>	<i>persons</i>	<i>families</i>	<i>persons</i>	<i>families</i>	<i>persons</i>	<i>families</i>	<i>persons</i>
FBiH	10 016	28 659	2 127	6 702	359	753	140	450	12 642	36 564
RS	57		50		19 112		38		19 257	59 570
Brčko District BiH									139	346
BiH							178		32 038	96 480

9. So far, 1,062,000 returns to BiH have been recorded. Of the total number of returning people, about 612,000 or 58% are displaced persons and about 450,000 or 42% are refugees. The number of “minority” returnees, who are the most vulnerable group, is estimated at 47,000.

10. The number of displaced persons decreased significantly compared to one million displaced persons in 1995. According to the 2000 census, the number of displaced persons was 557,275, and after the 2005 status review, the number of displaced persons was 186,138. Currently, 32,038 families are displaced in BiH, with a total of 96,480 displaced persons.

11. According to the latest UNHCR annual statistical report, in 2018, there were 17,669 refugees from BiH still living abroad and the numbers per countries is as follows: Serbia – 8,764, France – 4,085, Switzerland – 2,026, Germany – 1,478 and etc. The status of refugees from BiH during their stay in the host countries is determined according to the rules and regulations of the host countries.

12. According to the Ministry, about 344,000 housing units have been built or renovated to date.

13. It is evident that reconstruction of the housing units that need to be built or repaired for the essential implementation of Annex VII to GFAP, ensuring the conditions for sustainable return, the right to education, national group of school subjects, non-prosecution of incidents targeting returnees (classified as minor offences not as criminal offenses), unavailable jobs, inaccessibility of social and communal infrastructure, as well as a long stay in collective and alternative centres in BiH etc., have brought about discrimination against returnees and displaced persons, which often results in displaced persons’ fear that they will lose their rights acquired in places of displacement (health care and social protection) and often, because of this, displaced persons do not register in places of return.

	<i>Total Roma</i>	<i>Men</i>	<i>Women</i>
Bosnia and Herzegovina	12 583	6 511	6 072
Federation of BiH	10 036	5 210	4 826
Republika Srpska	2 057	1 059	998
Brčko District of BiH	490	242	248

14. The data available to the MHRR according to the RNR (Roma Needs Recording – MHRR) shows that there are around 17,500 Roma living in BiH.

15. The 2014 information available to the OSCE Mission to BiH shows that 35,644 Roma are living in BiH.

16. According to data from the Statistics Agency of BiH, according to the latest census from 2013, 12,583 Roma are living in BiH.

17. And according to unofficial data available to Roma NWOs, this number is many times higher and ranges from 80,000 to 90,000 Roma.

18. Development of the methodology and TOR for the mapping of Roma needs in BiH funded from IPA II funds, which should be carried out in the coming period, is under way. (Ref. Annex Data from the Statistics Agency of BiH).

Follow-up to para. 14 of the concluding observations

19. A single institution of the Ombudsman for Human Rights of Bosnia and Herzegovina was set up and is now running in its full capacity. Amendments were made to the Law on Human Rights Ombudsman in order to improve functioning of the institution in accordance with the Paris Principles, recommendations of the Venice Commission and recommendations of the Council of Europe.

20. The obligation to bring the Law on the Ombudsman for Human Rights of Bosnia in line with the Paris Principles also follows from recommendations of the Universal Periodic Review of the Human Rights Situation in BiH, recommendation of a larger number of UN Committees, as well as from the European Commission Progress Report and the 2015-2018 Council of Europe Action Plan for BiH.

21. In all these documents, in chapter “Strengthening Institutions for the Protection of Human Rights and Rule of Law”, BiH is required to act more strongly in restructuring and strengthening the Institution of Ombudsmen for Human Rights of BiH.

22. Currently, the Ombudsperson Institution for Human Rights has the status “A” assigned to it by the International Coordinating Council of National Human Rights Institutions (ICC), with the re-accreditation of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina expected in the second half of 2017.

23. The new proposal of the Law on Ombudsman for Human Rights of BiH brings about improvements that enable further development and improvement of the performance and autonomy of the Ombudsman Institution for Human Rights of BiH as one of the most important institutions for combating discrimination and promoting human rights and freedoms.

24. The new Law improves the organizational structure of the Ombudsman Institution for Human Rights in BiH, improves and specifies the way of reporting to the Parliament of BiH and the public on the observed phenomena of systemic failure to respect human rights. It also provides for the Ombudsman’s Work Strategy to be developed, introduces an obligation to cooperate with civil society organizations in BiH, provides for the establishment of the Permanent Advisory Body for Cooperation with Civil Society, strengthens the role of the Institution in investigating individual cases of discrimination in practice and introduces an obligation to analyse and report on the observed cases of discrimination and to propose recommendations, as well as to launch initiatives for amending laws in BiH.

25. The Law on the Ombudsman Institution for Human Rights of BiH also establishes a National Preventive Mechanism, an obligation arising for Bosnia and Herzegovina by ratification of the Optional Protocol to the UN Convention against Torture and Inhuman or Degrading Treatment or Punishment.

26. A proposal for the Law on the Institution of Human Rights Ombudsman of BiH was agreed on by the BiH Council of Ministers on 23 December 2015 and was sent to the Parliament on 30 October 2017.

27. The proposal was adopted by the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, at its 55th session, held on 21 December 2017 and 17 and 30 January 2018 and the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina at its 36th session, held on 20 February 2018 in the first reading.

28. On 20 March 2018, the Joint Commission for Human Rights of both Houses of the Parliamentary Assembly of Bosnia and Herzegovina submitted a negative report on the Proposal, i.e. it did not adopt the Proposal for the Law.

29. At the 59th session held on 21 March 2018, the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina did not adopt the negative report of the Joint Commission for Human Rights and, in accordance with Article 121 of the Rules of Procedure of the House of Representatives of the Parliamentary Assembly of Bosnia and

Herzegovina (BiH Official Gazette No. 79/ 14,81/ 15, 97/15), it was tasked with drafting a new report and submitting it to the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina.

30. Further, at its 40th session, held on 5 June 2018, the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina failed to adopt the negative report of the Joint Commission on Human Rights on the Proposal for the Law on Amendments and Amendments to the Law on Ombudsman for Human Rights of Bosnia and Herzegovina. In accordance with Article 104, paragraph (3) of the Rules of Procedure of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina, the Commission is tasked with drafting a new report. The competent Human Rights Commission has not submitted the requested report to any of the Houses of the Parliamentary Assembly of Bosnia and Herzegovina yet.

31. Therefore, the Law on Amendments to the Law on Ombudsman for Human Rights of BiH is currently before Parliament.

Follow-up to para. 20 of the concluding observations

32. The BiH Communications Law (the Law) establishes basic regulatory principles applicable to broadcasting that include, inter alia, the protection of freedom of expression and diversity of opinion in accordance with generally accepted standards of decency, non-discrimination, fairness, accuracy and impartiality. The Communications Regulatory Agency (CRA) is responsible for its implementation.

33. In accordance with Articles 37 and 39 of the Law, the Code on Audio-visual Media and Radio Services (the Code) defines rules and standards of program content relating to audio-visual media and radio media service providers. The Code, inter alia, prohibits broadcasting of content that degrades, intimidates or incites hatred, violence, discrimination or prejudice on the grounds of sex, race, ethnicity, nationality, religion or belief, disability, special needs, age, sexual orientation, social origin, as well as any other content that has the purpose or effect of denying or threatening any person's recognition, enjoyment or use of his rights and freedoms on an equal footing. Warnings, fines, suspension of the license, revocation of the license, as well as other measures prescribed by the Law may be imposed for any violation of the Law, regulations of the Agency and conditions of the issued permits.

34. Based on the above, we emphasize that when it comes to combating racist hate speech in the programs of audio-visual media and radio, a quality and functional regulatory framework implemented by the Agency is in place. However, with regard to the recommendations made, we emphasize that the powers of the regulator do not include the possibility of sanctioning individuals and public figures who use racist hate speech, but the Agency can evaluate editorial accountability implemented and respond to cases where audio-visual media and radio, that is, holders of the Agency's license, broadcast content that is contrary to the Law, the Code or regulations and conditions of permits issued by the Agency. In the reporting period, the Agency processed one case where a violation of the legislation concerning hate speech by an audio-visual media service provider was found. In the case, it was found that the broadcast was characterized as hate speech directed at the migrant population. In the first instance proceedings, the Agency imposed an appropriate fine on the license holder in the amount of BAM 6000. In the reporting period, the Agency also processed a case in which a television program was identified as broadcasting of gender discrimination statements made a public figure, where, in the first instance proceedings, the Agency imposed a fine of BAM 2000, having found a violation of non-discrimination provisions. A case has also been processed where, in the context of a television program, a public figure, a senior entity official, openly expressed disrespect for religious diversity, which, given the source of the content, could ultimately lead to incitement to discrimination, that is, endangering and preventing enjoyment on an equal footing of rights and freedoms by members of one of the peoples in BiH, which resulted in finding the media service provider responsible for a breach of the Agency's regulatory rules and the imposition of an appropriate fine of BAM 27,000.

Annex

Data on the countries of origin of asylum seekers and on foreigners granted subsidiary protection in BiH in the period 1 August 2018–1 August 2019

<i>No.</i>	<i>Country of origin</i>	<i>Number of persons</i>
1.	Afghanistan	221
2.	Algeria	10
3.	Azerbaijan	6
4.	Bangladesh	2
5.	Stateless	3
6.	Egypt	2
7.	Eritrea	1
8.	India	15
9.	Iraq	153
10.	Iran	375
11.	Yemen	9
12.	Kuwait	2
13.	Libya	5
14.	Macedonia	3
15.	Morocco	11
16.	Nepal	8
17.	Ivory Coast	1
18.	Pakistan	215
19.	Palestine	9
20.	Sierra Leone	1
21.	Syria	77
22.	Somalia	6
23.	Sudan	2
24.	Tunisia	3
25.	Turkey	51
Total		1 191

Subsidiary protection granted

<i>No.</i>	<i>Country of origin</i>	<i>Number of persons</i>
1.	Syria	10
2.	Turkey	11
Total		21