



International Convention on the Elimination of All Forms of Racial Discrimination

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Seventy-seventh session

Summary record of the 2037th meeting

Held at the Palais Wilson, Geneva, on Thursday, 19 August 2010, at 10 a.m.

Chairperson: Mr. Kemal

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The meeting was called to order at 10.10 a.m.

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

Seventh and eighth periodic reports of Bosnia and Herzegovina (continued)
(CERD/C/BIH/7-8; CERD/C/BIH/Q/7-8; HRI/CORE/1/Add.89/Rev.1)

1. *At the invitation of the Chairperson, the delegation of Bosnia and Herzegovina took places at the Committee table.*
2. **The Chairperson** invited the delegation to reply to the questions raised at the previous meeting.
3. **Ms. Djuderija** (Bosnia and Herzegovina), replying to questions concerning birth registration and access to identity documents, said that Bosnia and Herzegovina, as an applicant for membership of the European Union, was required to comply with Schengen Agreement procedures for the issue of personal identity documents. It had therefore engaged in a process of modernization aimed at facilitating administrative access to such documents, which were primarily identification cards, travel documents and papers confirming a person's birth and citizenship.
4. As a former Yugoslav Republic, Bosnia and Herzegovina had a comprehensive birth registry system in place. Persons born within the territory were assigned a number at birth which was valid throughout their life. They were required by law to record the address of their permanent place of residence at the local administration unit. Persons born outside the territory could file an application for registration of their or their parents' place of residence in Bosnia and Herzegovina through the country's diplomatic missions.
5. Steps had been taken to ascertain why certain members of the Roma minority, especially children, had not been registered at their permanent residence, at their place of temporary residence as displaced persons or as members of a group of migrating Roma. As a result of recent research undertaken in cooperation with the United Nations Children's Fund and the Office of the United Nations High Commissioner for Refugees, at least 6,500 unregistered persons, mainly children, had been identified. By dint of close collaboration with registry offices and social workers in local communities, almost 4,200 cases had been resolved. About 1,200 cases were pending on account of complicated legal problems, such as the need to identify the place of birth and registration of both parents and children. Some families, for instance from other republics of the former Yugoslavia, had not been issued with any documents. It was hoped that all cases would be resolved by late 2010 or early 2011.
6. Although the war had ended 15 years previously, Bosnia and Herzegovina was still passing through what was known as a transitional justice period, addressing problems relating, for example, to rape, genocide and arbitrary detention. Members of particular ethnic groups who had been expelled or displaced were recognized as victims under international and domestic law and were entitled to reinstatement of lost benefits and other forms of assistance so that they could reintegrate into society. The problem of missing persons had been addressed by the Institute of Missing Persons with the assistance of the International Committee of the Red Cross and the International Commission on Missing Persons. A comprehensive transitional justice programme, launched in cooperation with the United Nations Development Programme (UNDP), dealt with reparations, institutional capacity-building, the construction of war memorials, and the promotion of reconciliation and democratization. The Government had decided to establish a Committee to collaborate with UNDP on the project over the next two years.

7. Another project had been launched in conjunction with the United Nations Population Fund (UNFPA). It dealt, inter alia, with the issue of women war victims, especially rape victims, who had been denied the protection guaranteed under both international treaties and domestic legislation. The project sought to remedy the social, economic and other injuries that they had suffered by providing them with a safe residence and with legal assistance if they were required to testify in proceedings either within the country or before bodies engaged in the prosecution of war crimes.

8. One of the manifestations of trafficking in persons in Bosnia and Herzegovina was the use of children, especially Roma children, to beg in the streets. According to research into the phenomenon of begging conducted with Save the Children Norway, families living in extreme poverty resorted to begging for subsistence reasons and organized criminal groups rounded up or purchased children to raise funds on busy streets and at traffic junctions. The national strategy to combat trafficking in persons and illegal migration and the strategy to combat violence against children sought to address the problem, but the available resources were inadequate. A comprehensive programme was being implemented in cooperation with the police, who no longer treated parents and children as though they were criminals engaged in illegal activities. The children were taken instead to reception centres where professionals identified the reasons for their conduct and devised a rehabilitation strategy, such as enrolment in school.

9. Although it was often difficult to approach child beggars, especially those who were working on behalf of criminal groups, members of the local and national police force had conducted investigations that had led to convictions for the crime of compelling children to beg in towns such as Brčko, Sarajevo, Banja Luka and Mostar. Local social centres were using their limited funds to establish social protection teams that offered support to socially excluded groups on the basis of an interdisciplinary approach. Thus, every effort was being made to combat a vicious form of abuse of children, especially members of a minority group.

10. The Commission for Preservation of National Monuments had the task of preserving the cultural heritage of both the constituent peoples and of other groups such as the Jewish community. An overview of the origin, culture, customs and traditions of minorities living in Bosnia and Herzegovina had recently been published with the assistance of the Organization for Security and Cooperation in Europe. It was already included in educational curricula, and the Ministry of Human Rights and Refugees and the Ministry of Civil Affairs had recommended that it should be used to promote multiculturalism.

11. The new strategy to implement Annex 7 of the Dayton Peace Accords concerning the return of refugees and displaced persons addressed the issue of finding new places of residence for returnees who were reluctant to return to their pre-war homes. Following a heated debate on the issue in 2009, a compromise had been reached whereby the new law and strategy should address two main issues: completion of the process of return of displaced persons and provision of compensation for property that could not be repossessed by refugees and displaced persons who had decided to settle elsewhere. The Ministry of Human Rights and Refugees hoped that the session of Parliament to be held after the forthcoming general elections would adopt its plan for dealing with the two issues.

12. With regard to the use of hate speech during the campaign for the forthcoming elections, the Communications Regulatory Agency had prepared a monitoring plan and would impose heavy fines on political parties or individuals that engaged in hate speech and abused the electoral process. Several fines had already been imposed on certain parties.

13. She confirmed that the judiciary was separate from the executive branch. The High Judicial and Prosecutorial Council was authorized to appoint judges and prosecutors. One of its members, the Disciplinary Prosecutor, was responsible for conducting disciplinary

proceedings against members of the judiciary. The judiciary's budget was adequate but the very large caseload meant that there was a backlog in many local courts. When parties to legal proceedings felt that they were unable to exercise their rights, they could file a complaint with the Human Rights Ombudsman or the disciplinary departments of the various courts.

14. **Mr. Hukić** (Bosnia and Herzegovina) confirmed that cantonal and county courts accepted evidence emanating from the International Criminal Tribunal for the Former Yugoslavia in The Hague. For instance, many cases concerning war crimes had been considered in Brčko district and two police officers suspected of war crimes had been suspended.

15. There had been a downward trend in crimes committed against returnees. The figure recorded for 2009 was 22 per cent lower than that for 2008. There had also been a decline in cases involving damage to religious facilities. High-level security was provided for religious events and commemorations, and regular police patrols were organized to prevent any undesirable incidents.

16. A number of police capacity-building projects and action plans had been implemented. Police officers served their communities on a 24-hour basis and maintained contact, if necessary, with returnees and their associations. They also cooperated with religious communities in the municipalities. Hundreds of criminal individuals and groups had been arrested and prosecuted. As a result, returnees enjoyed security, and Bosnia and Herzegovina remained a multicultural and multireligious society.

17. **Mr. Jovanović** (Bosnia and Herzegovina), replying to questions about the status of the Roma community in Bosnia and Herzegovina, said that the implementation of the Roma Action Plan in conjunction with non-governmental organizations (NGOs) representing Roma and members of the Parliamentary Assembly had greatly improved their situation. Nine of the 18 members of the National Advisory Board on Roma Issues were Roma. The other members represented various public authorities and institutions dealing with matters such as housing, employment, and preservation of the cultural heritage and cultural identity. The President of the National Minorities Council in the Parliamentary Assembly was a member of the Roma community. The Roma therefore participated in decision-making on all important issues. The State provided financial support for capacity-building to the Roma NGO network. However, the funds were inadequate because of the large number of NGOs involved. For example, there were 40 Roma NGOs at the federal level and 11 or 12 NGOs in Republika Srpska.

18. The Roma Board allocated funds to Roma NGOs; the Government decided on the criteria for the allocation of funds, not the amounts. Roma representatives were appointed to all the working groups that decided how the funds should be spent. Roma NGOs had been actively involved in the preparation of the Methodology and Implementation Plan. The major item of expenditure was housing, the funds being distributed among the 17 municipalities with the highest Roma population. The local community bodies in those municipalities had established commissions on which the Roma were represented. Funds for Roma housing came from the international community, especially the Swedish Government, and from the State budget. There were currently plans to build 104 houses, with sewerage systems and infrastructure in a settlement for 115 families. In total, over 3 million euros had been allocated to the Roma by the Government, international donors and local communities.

19. **Ms. Slomović** (Bosnia and Herzegovina) said that, after the adoption of the Framework Law on Primary and Secondary Education in 2003, at the inter-entity level all school textbooks used in the teaching of mother-tongue language and literature, history,

geography, nature, society and religious education had been revised and any offensive content removed.

20. **Mr. Lahiri** said that the situation in the State party was highly complex. Having been possibly the biggest laboratory for political experimentation by the international community, it had experienced constant pressures from external sources since 1995. The international community bore some responsibility for the tragedy into which the region had been plunged and should ensure that any interventions it made did not risk making matters worse.

21. The State party faced the dilemma of how to deal with war crimes. It had based itself on the principle that there could be no peace without justice and retribution. That had not always been the practice worldwide: Spain and South Africa had chosen to prioritize peace rather than retribution, while Bangladesh and Cambodia had taken a different course, setting up their own national tribunals prior to the establishment of the International Criminal Court. He encouraged the State party to choose its own way to deal with its tragic history, bearing in mind that it had the support of the international community in resolving the problems it encountered along the way.

22. The issue of the need for constitutional overhaul was also highly sensitive. Peace had been established in the State party on the basis of the Dayton Accords, which had laid the foundations for the admittedly discriminatory system that was currently in place. It would seem that both the United States and the European Union were losing patience with the State party, and were applying pressure for it to move more rapidly towards a unitary form of government. While accession to the European Union might seem tempting to the State party, it should guard against implementing a rapid constitutional overhaul which might disturb the balance on which the current fragile peace was based. Indeed, there had been reports that Republika Srpska might make moves towards independence if the State party acceded to the Union. Constitutional overhaul would have to be a gradual process based on enlarging areas of consensus between the ethnic communities. In the meantime, the State party should take smaller steps, such as adopting special measures for the Roma community. He recommended that the State party should move towards implementing the Convention in full, but not set itself unrealistic time limits that could disturb the delicate peace.

23. Hate speech continued to be prevalent in the State party, even among leaders, and was likely to become increasingly evident as the October 2010 elections approached. The Committee deplored hate speech, but it was obvious that its increase in the State party was a result of the wounds of the 1990s that had not properly healed. While urging the Government and authorities to exercise the greatest restraint in that matter, the Committee should bear in mind that proposals for harsh repression in that situation could have dangerous results.

24. **Mr. Lindgren Alves** (Country Rapporteur) said that the authorities and people of the State party had made significant efforts to normalize an extremely difficult situation, and deserved to be commended for their achievements.

25. Having heard the delegation's comments on the issue of the so-called "two schools under one roof", he asked whether it was reasonable to request the State party to have only one kind of curriculum in each school at the current time.

26. He enquired whether women who had been raped during the conflict still had access to safe houses.

27. He drew the State party's attention to the fact that, at a session of its Subcommittee on Accreditation held in November 2009, the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights had discussed the

possible need to downgrade the Office of the Ombudsman of Bosnia and Herzegovina from A to B status. The Subcommittee was concerned about the lack of civil society involvement in the appointment process to the Office, its inadequate funding, its limited cooperation with civil society, its lack of effective and independent interaction with international human rights mechanisms, and the need to strengthen its mandate to cover human rights promotion.

28. **Ms. Djuderija** (Bosnia and Herzegovina) said that the “two schools under one roof” situation and segregation in education had been consequences of the war which were not easy to resolve. A solution had been found in one canton, leaving only two cantons where the problem continued to exist. The majority of the population in those cantons was Croat. The plan was to deal with the problem as an issue of access to education for members of the other minorities. The authorities were striving to find an adequate approach that would not result in any deterioration in the situation in the country.

29. While safe houses that provided shelter for victims of domestic violence were currently funded by associations, NGOs and gender centres had filed a request with the Government for the State to make a budget allocation for that service. The request was currently before Parliament and it was expected that safe houses would become partially Government-funded in the near future. Women who had been victims of rape during the war were no longer living in safe houses; they were now living in their own private homes or in private accommodation that had been assigned to them. Some of them were currently involved in reintegration programmes, but the Government did not have sufficient resources to implement long-term rehabilitation programmes to ensure their full reintegration into society. Until 2008, there had been no legislation in the Federation of Bosnia and Herzegovina recognizing women victims of war. They had therefore been denied access to social, health-care and rehabilitation rights until that date. Even now, the systems in the Federation and in Republika Srpska did not include sufficient flexibility to grant victims of war the right to enjoy their social rights if they moved from one entity to another. The Government had now placed the issue of war victims at the top of its agenda and would cooperate with UNFPA on rehabilitation projects.

30. The appointment of the Ombudsman of Bosnia and Herzegovina had unfortunately become a political rather than professional process. The Office’s budget was indeed insufficient, but so were most of the budget allocations in the country, given the economic crisis. There had been a lack of clarity in the interaction between the Office of the Ombudsman and State institutions; the legislation on the Office of the Ombudsman required improvement. However, the promotion and protection of human rights was not the exclusive mandate of the Ombudsman. Under the Law on Prohibition of Discrimination, human rights promotion and protection was the responsibility of everyone, including the police, the local and national authorities and all levels of Government. Regardless of the current context and the tendency towards politicization, there was sufficient professional capacity in the country to move forward in that area.

31. **Mr. Amir** said that, in addition to the areas covered by its formal mandate, the Committee must also consider the human tragedy of those who had suffered during the civil war. The Bosniaks had, arguably, paid the highest price of all the Balkan peoples. Bosnia had achieved a political and institutional settlement, but what was being done to relieve the psychological trauma suffered by so many people? The International Criminal Court still sought to establish the guilt of war criminals, while their victims cried out for justice. What help was provided for widows, orphans and people left severely disabled as a result of the conflict?

32. He asked whether the delegation saw the situation of the Roma as a purely domestic problem or as a regional issue which required a solution at the European level. After all, the problem had persisted since the Second World War.

33. He asked about the situation of children born to parents from different ethnic groups. Were the children assigned to the ethnic group of one or the other parent, or could they choose? What was the status of the children if a mixed marriage ended in divorce, and did those children have recourse to the civil courts in the event of a dispute over their status? What was the status of children born to parents from different republics of former Yugoslavia who had not been legally married? Could the children of mixed marriages who had moved abroad return freely to Bosnia and Herzegovina if their adopted country deported them for some reason?

34. **Ms. Djuderija** (Bosnia and Herzegovina) said that both national and international experts had warned of the devastating long-term trauma which would inevitably result from the civil war. Mental health services were now being established, but there were not enough resources to meet the need. Some women victims of the war had received compensation and welfare benefits of up to 70 per cent of the average wage, but much more remained to be done. There was a support service for war veterans, but with the decentralized administrative system of Bosnia and Herzegovina it was difficult to ensure that resources were distributed to those most in need all over the country. It was also difficult to recruit staff for such emotionally draining work, with its constant reminders of the country's recent painful history. Although Bosnia and Herzegovina was a small country, many people had been displaced from their homes, and most of the population now lived in urban areas, which meant that many villages had been abandoned and people had been obliged to change their whole way of life.

35. Marriages between people from different ethnic groups were no different from any other marriages in that people freely chose the ethnic group to which they considered themselves to belong. In future, they would have the option of classifying themselves as "Bosnians" instead.

36. The situation of the Roma was, indeed, a Europe-wide issue. Bosnia and Herzegovina was a participant in the Decade of Roma Inclusion, which had begun in 2005. At present, the Government was seeking to establish the needs of the Roma community, particularly the 5,000 families in greatest need, but resources were scarce. The main priorities were housing, education and employment. Local communities and institutions were involved in the activities.

37. **Mr. Avtonomov** said that the international community must take some responsibility for the terrible events which had occurred in Bosnia and Herzegovina. He was impressed by the progress which had been made in the country, although the process was bound to take time. He welcomed the proposal to describe citizens as "Bosnians" rather than as members of one of the ethnic groups – a move which should be encouraged as a way of helping people to move on from the divisions of the past. In Slovenia, whose report had been considered by the Committee earlier in the session, people had been at liberty to describe themselves as "Bosnians" or even "Yugoslavs" in the 2002 census. He was also glad to see that the Government planned to adopt legislation banning fascist and neo-fascist organizations.

38. He asked whether the Government had concluded bilateral agreements with any of the countries which had taken in Roma who had fled Bosnia and Herzegovina because of the civil war or the poor economic situation. Some of those States might be willing to contribute to the funding of refugee return programmes. Was the Government willing to allow deportees to return?

39. **Ms. Djuderija** (Bosnia and Herzegovina) said that, under a framework agreement drawn up by the European Union, Bosnia and Herzegovina could conclude bilateral agreements for the return of deportees with any European Union member State. Her Government was willing to take back all deportees, including Roma, provided that they

were genuinely citizens of the country: however, some of them had been away for so long that it was difficult to establish their citizenship. Returnees would receive a modest level of assistance from local communities.

40. At present, people were free to identify themselves with the ethnic group of their choice. Plans to amend the classification system were at an early stage, and she could not comment on them.

41. The legislation to ban fascist and neo-fascist organizations had been rejected on its first reading in Parliament, but she hoped it would be adopted by the end of 2010.

42. **Mr. Peter** commended the Government for sending a delegation to contribute to the Committee's consideration of its periodic report. Other States parties which had not suffered anything like the same degree of national tragedy as Bosnia and Herzegovina were not willing to do as much.

43. An effective transitional justice system was essential for a country in the situation of Bosnia and Herzegovina. However, the kind of system typically recommended by the international community might not be suitable for the unique conditions prevailing in that country. Had Bosnia and Herzegovina developed any local mechanisms to promote national reconciliation, as South Africa had done with its Truth and Reconciliation Commission? What contribution had the academic community made to the reconciliation process? Often, academics were able to remain more dispassionate and impartial than politicians.

44. He welcomed the creation of the Commission for Preservation of National Monuments of Bosnia and Herzegovina, which could play an invaluable role in preserving the country's cultural heritage. Was the Commission also involved in prosecuting looters and ensuring the return of national treasures which had been sold abroad?

45. **Ms. Djuderija** (Bosnia and Herzegovina) said that an initiative to establish a truth and reconciliation commission had been rejected by victims. After some delay, a national expert team had subsequently been formed to propose a new fact-finding mechanism, so that the process of recovery could take place. The mechanism would operate at all levels and communities would be involved in its work, particularly in areas where the worst atrocities had been committed. In view of the different versions of events that abounded, victims' call for the mechanism to be based on verifiable truth was justified. The issue presented a real, long-term challenge.

46. Steps were being taken to engage the academic community in transitional justice. In part, it was hoped that involving the country's own intellectuals would obviate the problem of inappropriate solutions being imposed from outside.

47. The Commission for Preservation of National Monuments was responsible for identifying and cataloguing national treasures and submitting research proposals. The Criminal Code contained provisions relating to theft or plunder of national treasures, but only one case had been investigated to date.

48. **Mr. de Gouttes**, drawing attention to various recommendations concerning Bosnia and Herzegovina made by the Working Group on the Universal Periodic Review, asked what the State party had drawn from the universal periodic review process, whether its recommendations had been accepted, and if any action had yet been taken.

49. **Ms. Djuderija** (Bosnia and Herzegovina) replied that steps had already been taken in some respects, with the involvement of various levels of government. The State party understood its obligations and would continue work to fulfil them. The deadline for implementation of some of the recommendations had been considered somewhat short, in view of the general elections to be held in October 2010. Various recommendations would become part of an action plan to be submitted to the Government by the Human Rights

Ombudsman; the Government would prepare a timetable for implementation and ensure appropriate follow-up.

50. Bosnia and Herzegovina was one of the few States to have a ministry with a specific mandate for refugee and human rights issues. In practice, the Ministry was responsible for reporting on compliance with obligations under various international agreements. A complex and multilayered system was in place for the purpose of consultation; despite some disadvantages, it had in fact facilitated preparation for the universal periodic review. Work had been intensified in recent years to educate professionals in various fields about human rights protection. The process was long and demanding but was yielding results. Bosnia and Herzegovina would continue its efforts to fulfil its international human rights obligations in a timely manner, despite the challenges involved, particularly since such issues affected not only the country itself, but also the region and the international community.

51. **The Chairperson**, speaking in his personal capacity, wondered why the solutions successfully applied in South Africa and Rwanda had not commended themselves to the State party. The different ways in which the various conflicts had ended could have a bearing on the issue.

52. **Mr. Ewomsan** said that, rather than focusing on punitive justice, Africa had a long tradition of reconciliation, with the aim of healing the wounds of individuals and society as a whole.

53. **Mr. Lindgren Alves** (Country Rapporteur) commended Ms. Djuderija on her thorough knowledge of the subjects discussed and welcomed the comprehensive answers provided by the delegation. In the relatively short period since independence, the State party had fulfilled its reporting commitments under international treaties well. Although additional information on the Law on Prohibition of Discrimination had not yet been provided, its adoption was a positive step that had elicited praise from non-governmental and other organizations, including within the context of the universal periodic review.

54. From personal experience, he knew that the scars of war remained in Bosnia and Herzegovina, but the emphasis in the country seemed to be mainly on hope and progress. The Government was moving forward, determined to overcome the past.

55. **Ms. Djuderija** (Bosnia and Herzegovina) said that, although her country had learned in the most terrible way how difficult it was to choose the best course of action, both individually and collectively, the bitter lessons learned could bring about change for the better in her own and other countries. The field of human rights included complex political and human issues, but the Government was committed to finding solutions. She expressed appreciation for the Committee's understanding attitude and constructive comments and suggestions, which would benefit Bosnia and Herzegovina and the wider region.

The meeting rose at 12.50 p.m.