



**International covenant
on civil and
political rights**

Distr.
GENERAL

CCPR/C/BIH/CO/1
22 November 2006

Original: ENGLISH

**Human Rights Committee
Eighty-eighth session
Geneva, 16 October-3 November 2006**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee

Bosnia and Herzegovina

1. The Committee considered the initial report submitted by Bosnia and Herzegovina (CCPR/C/BIH/1) at its 2402nd, 2403rd and 2404th meetings (CCPR/C/SR.2402, 2403 and 2404), held on 18 and 19 October 2006, and adopted the following concluding observations at its 2419th meeting (CCPR/C/SR.2419), held on 1 November 2006.

A. Introduction

2. The Committee welcomes the submission, albeit late, of the State party's initial report, as well as its written replies provided in advance by the delegation. It appreciates the detailed answers given by the delegation to the Committee's written and oral questions and the information it provided on the preparation of the report.

3. The Committee regrets the absence of representatives of the Entities in the State party's delegation.

B. Positive aspects

4. The Committee notes that the provisions of the Covenant have the rank of constitutional law and can be directly applied in the courts of the State party.

5. The Committee welcomes the adoption, in March 2006, of a Law on Amendments to the Law on Ombudsman for Human Rights in Bosnia and Herzegovina which establishes a single independent Ombudsman Institution at the State level.

6. The Committee notes with appreciation the establishment of a State Gender Agency and of Gender Centres in the Entities vested with competence to make inquiries into individual cases of alleged violations of the Gender Equality Law.

7. The Committee welcomes the State party's reform of its criminal law and judicial system, in particular:

(a) The adoption of a Law on the Protection from Family Violence providing for a range of protective measures and the fact that domestic violence and trafficking in persons have been established as discrete crimes in the State and Entity Criminal Codes;

(b) The adoption of State and Entity Laws on Protection of Witnesses; and

(c) The establishment of a War Crimes Chamber at the Court of Bosnia and Herzegovina vested with competence to deal with war crimes cases transferred to it from the International Criminal Tribunal for the Former Yugoslavia, and of a State Investigation and Protection Agency within the Ministry of Security to enhance cooperation of the police with war crimes prosecutors.

C. Principal subjects of concern and recommendations

8. The Committee is concerned that after the rejection of the relevant constitutional amendment on 26 April 2006, the State Constitution and Election Law continue to exclude "Others," i.e. persons not belonging to one of the State party's "constituent peoples" (Bosniaks, Croats and Serbs), from being elected to the House of Peoples and to the tripartite Presidency of Bosnia and Herzegovina. (arts. 2, 25 and 26)

The State party should reopen talks on the constitutional reform in a transparent process and on a wide participatory basis, including all stakeholders, with a view to adopting an electoral system that guarantees equal enjoyment of the rights under article 25 of the Covenant to all citizens irrespective of ethnicity.

9. The Committee is concerned that the Covenant has not been translated into the official languages of Bosnia and Herzegovina and that judges, prosecutors and lawyers are not fully aware of the direct applicability of the provisions of the Covenant. (art. 2)

The State party should give wide publicity to the provisions of the Covenant, inter alia, by translating it into the official languages of Bosnia and Herzegovina and by improving training provided to judges, prosecutors and lawyers on the application of the Covenant.

10. The Committee regrets the failure to adopt an appropriate law on the establishment of a Committee for Truth and Reconciliation, as well as of other initiatives to promote reconciliation. (art. 2)

The State party should intensify its efforts to adopt a systematic approach to re-establishing mutual trust between different ethnic groups and accounting for past human rights abuses.

11. The Committee notes with concern that, despite the introduction of quotas in the Election Law of Bosnia and Herzegovina requiring political parties to nominate at least 30 per cent women candidates, women are still under-represented in legislative and executive bodies at all levels. (art. 3 and 25 (c))

The State party should harmonize the quota system of the Election Law with the requirements of the Gender Equality Law and take special measures in addition to statutory quotas to enhance the representation of women in all legislative and executive bodies.

12. The Committee is concerned about the reported lack of implementation of the State and Entity laws on protection against domestic violence, underreporting, lenient sentences for perpetrators and inadequate assistance for victims of acts of domestic violence in both Entities. (arts. 3 and 7)

The State party should ensure the effective implementation of the legislation to combat domestic violence, intensify the training provided to judges, prosecutors and law enforcement officers on the application of such legislation, as well as to hospital and other staff working with victims of domestic violence and child abuse, introduce standard procedures for the collection of medical evidence of domestic violence, and enhance victim assistance programmes and access to effective remedies.

13. The Committee expresses concern about the underfunding of district and cantonal courts dealing with war crimes cases and the unsatisfactory implementation of witness protection legislation at the Entity level. (arts. 6, 7 and 14)

The State party should allocate sufficient funds and human resources to the district and cantonal courts trying war crimes and ensure the effective application of the State and Entity Laws on Protection of Witnesses.

14. The Committee notes with concern that the fate and whereabouts of some 15,000 persons who went missing during the armed conflict (1992 to 1995) remain unresolved. It reminds the State party that the family members of missing persons have the right to be informed about the fate of their relatives, and that failure to investigate the cause and circumstances of death, as well as to provide information relating to the burial sites, of missing persons increases uncertainty and, therefore, suffering inflicted to family members and may amount to a violation of article 7 of the Covenant. (arts. 2(3), 6 and 7)

The State party should take immediate and effective steps to investigate all unresolved cases of missing persons and ensure without delay that the Institute for Missing Persons becomes fully operational, in accordance with the Constitutional Court's decision of 13 August 2005. It should ensure that the central database of missing persons is finalized and accurate, that the Fund for Support to Families of Missing Persons is secured and that payments to families commence as soon as possible.

15. The Committee notes with concern that, under the Federation Law on Basics of Social Care, Protection of Civil Victims of War and Protection of Families with Children, torture victims, with the exception of victims of rape and sexual violence, must prove at least 60 per cent of bodily harm in order to be recognized as civilian victims of war, and that this requirement may exclude victims of mental torture from personal disability benefits. The Committee is also concerned that personal disability benefits received by civilian victims of war are significantly lower than those received by war veterans in both Entities. (arts. 2, 7 and 26)

The State party should ensure that victims of mental torture are granted victim of war status in both Entities and that the personal disability benefits received by civilian victims of war are harmonized among the Entities and cantons and adjusted to the personal disability benefits received by war veterans. The State party should include in its next periodic report updated statistical information on the number of victims of mental torture and/or sexual violence receiving disability benefits, disaggregated by sex, age, ethnic group and place of residence, as well as on the amount of such benefits.

16. The Committee is concerned about the incidence of trafficking in persons, especially women and ethnic minority children, for purposes of prostitution or forced labour such as organized begging in the streets, and about the leniency of the sentences imposed on perpetrators of such acts of trafficking. It is also concerned about the failure to make adequate budgetary provisions for the State party's anti-trafficking programmes and the high dependency of such programmes on international donors. (art. 8)

The State party should ensure that the perpetrators of acts of trafficking in persons are effectively prosecuted; that judges, prosecutors and law enforcement officers receive intensified training on the application of anti-trafficking and anti-corruption standards; that sufficient funds are allocated from the State budget to victim assistance and witness protection programmes; and that effective measures are taken to combat the exploitation of children, especially Roma and other ethnic minority children, for the purpose of street begging or other forced labour.

17. While acknowledging the existence of significant legal guarantees against arbitrary detention and possible ill-treatment, the Committee is concerned by the possibility of 72-hour detention in police custody and the information suggesting that detainees are not always informed of their rights, including the right of legal representation, at the stages of both prosecutorial and judicial authorization for pre-trial detention, and by the limited access to prosecutorial motions for detention. (arts. 7 and 9)

The State party should ensure that all personnel involved in the administration of justice afford full implementation of the rights of those deprived of freedom and that such persons are guaranteed full equality of arms.

18. The Committee notes with concern that, under article 132 (d) of the Code of Criminal Procedure of Bosnia and Herzegovina, criminal suspects can be placed in pre-trial detention if the alleged offence is punishable by a prison sentence exceeding 10 years solely on the ground that the judge finds that reasons of public security or security of property warrant such detention. (art. 9)

The State party should consider removing from the Code of Criminal Procedure of Bosnia and Herzegovina the ill-defined concept of public security or security of property as a ground for ordering pre-trial detention.

19. The Committee is concerned about the poor conditions of detention in Entity police establishments and prisons which are frequently overcrowded, understaffed, insufficiently equipped, and offer inadequate out-of-cell activities and exercise. It is also concerned about poor material and hygienic conditions, lack of qualified staff and inadequate, pharmacotherapy-based treatment of mental health patients and inmates, in particular at

Zenica Prison Forensic Psychiatric Annex and also at Sokolac Psychiatric Hospital. (arts. 7 and 10)

The State party should improve the material and hygienic conditions in detention facilities, prisons and mental health institutions in both Entities and ensure sufficient staffing levels, as well as regular exercise and out-of-cell activities for inmates, and adequate treatment of mental health patients. It should transfer all patients from Zenica Prison Forensic Psychiatric Annex and, to that end, ensure that Sokolac Psychiatric Hospital meets international standards.

20. The Committee notes with concern that, despite the return of housing units to their pre-armed conflict owners and the allocation of significant funds to the reconstruction of demolished housing units, many refugees and internally displaced persons (IDPs) have still not returned to their pre-armed conflict places of residence or have left again after having returned there. (art. 12)

The State party should increase its efforts to create the necessary conditions for sustainable returns, i.e. by combating discrimination against minority returnees, ensuring the social re-integration of returnees and their equal access to employment, education, and social and public services, such as water and electricity, and by further de-mining areas with significant returnee populations.

21. The Committee is concerned about the poor conditions in collective centres housing some 7,000 IDPs, many of whom belong to ethnic minority or other vulnerable groups. (arts. 17 and 26)

The State party should proceed with the phasing-out of collective centres for IDPs and provide adequate alternative housing to the residents of such centres.

22. The Committee is concerned about the frequent failure of health institutions to issue birth certificates for Roma children whose parents have no health insurance or other means to pay hospital fees, although this documentation is necessary for registering a child with the public authorities and for the child's access to basic rights such as health insurance and education. (arts. 16 and 24(2))

The State party should remove administrative obstacles and fees in order to ensure that all Roma are provided with personal documents, including birth certificates, which are necessary for them to have access to health insurance, social security, education and other basic rights.

23. The Committee notes with concern that the State party intends to forcibly relocate the inhabitants of the Roma settlement at Butmir, purportedly because it lacks the necessary infrastructure to prevent pollution of the water supply, while no such relocation plan exists for the non-Roma families living across the street. It also notes with concern that the relocation plan reportedly lacks any detail as to the legal remedies and compensation available to the Roma families concerned. (arts. 2, 17, 26)

The State party should reconsider the relocation plan for the Roma settlement at Butmir, taking into account the residence entitlements of the inhabitants of the settlement which has existed for 40 years, as well as alternative solutions to prevent pollution of the water supply. The State party is reminded that any relocation must be carried out in a non-discriminatory manner and must comply with international human

rights standards, including the rights of individuals concerned to an effective remedy, compensation, and provision of adequate alternative housing.

24. The Committee is concerned by reports of discrimination and violence perpetrated against the Roma and notes the lack of information in the State party's report on the opportunities for the Roma to receive instruction in and of their language and on their culture. (arts. 26 and 27)

The State party should vigorously undertake programmes of public information to combat anti-Roma prejudice in society. It should also include in its next periodic report detailed information on the measures implemented to give effect to the linguistic and educational rights of the Roma that are protected under the Law on the Protection of Rights of Persons Belonging to National Minorities, the effectiveness of these measures, the number of Roma children receiving instruction in or of their language and on their culture, as well as data disaggregated by sex, age and place of residence, and information regarding the hours of instruction per week.

25. The Committee is concerned about reports on the provocative use of religious and national symbols which has a discriminatory effect on members of certain ethnic groups and about the lack of implementation of the Constitutional Court decision of 31 March 2006 concerning the use of flags, coats of arms and anthems at the Entity level.

The State party should take effective measures to eliminate such discriminatory practices and implement the decision of the Constitutional Court of 31 March 2006 concerning the use of flags, coats of arms and anthems.

26. The Committee sets 1 November 2010 as the date for the submission of the second periodic report of Bosnia and Herzegovina. It requests that the State party's initial report and the present concluding observations be published and widely disseminated in the official languages of the State party, to the general public as well as to the judicial, legislative and administrative authorities. It also requests that the second periodic report be made available to civil society and to non-governmental organizations operating in the country.

27. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 8, 14, 19 and 23 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.
