



**Economic and Social
Council**

Distr.
GENERAL

E/C.12/BIH/CO/1
24 January 2006

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Thirty-fifth session
7-25 November 2005

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT**

BOSNIA AND HERZEGOVINA

**Concluding observations of the Committee on
Economic, Social and Cultural Rights**

1. The Committee on Economic, Social and Cultural Rights considered the initial report of Bosnia and Herzegovina on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.65) at its 41st to 43rd meetings, held on 14 and 15 November 2005 (E/C.12/2005/SR.41-43), and adopted, at its 58th meeting held on 25 November 2005, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of Bosnia and Herzegovina, which was prepared in general conformity with the Committee's guidelines, as well as the written replies to its list of issues. In particular, it welcomes the frank manner in which both documents address the problems encountered by the State party in implementing the rights recognized in the Covenant, and the participation of non-governmental organizations in the preparation of the report.

3. The Committee also welcomes the open and constructive dialogue with the delegation of the State party.

B. Positive aspects

4. The Committee notes with appreciation the adoption by the State party, in 2003, of the Law on the Protection of National Minorities, which recognizes all 17 national minorities that

exist in Bosnia and Herzegovina, and of the Law on Gender Equality containing, inter alia, a comprehensive definition of gender-related violence and establishing an Agency for Gender Equality at the State level.

5. The Committee notes with satisfaction that cases concerning the return of property lost during the armed conflict to original owners have largely been resolved by the competent courts of the State party, as well as the former Human Rights Chamber for Bosnia and Herzegovina.

6. The Committee notes with appreciation that priority is given to preventive health strategies at the entity and cantonal levels, e.g. through the training and the promotion of an active role of family doctors providing primary health protection and advising patients on health risks.

C. Factors and difficulties impeding the implementation of the Covenant

7. The Committee recalls that the State party is still suffering from the effects of the armed conflict (1992-1995), which hampers the State party's ability to implement the economic, social and cultural rights recognized in the Covenant.

8. The Committee notes that the constitutional framework for Bosnia and Herzegovina imposed by the Dayton Peace Agreement, which divides the State party into two Entities (the decentralized Federation of Bosnia and Herzegovina consisting of 10 cantons and the centralized Republika Srpska) as well as one district (the District of Brčko), confers limited responsibility and authority to the Government at the State level, in particular in the field of economic, social and cultural rights, and creates a complex administrative structure, which often results in the lack of harmonization and implementation of laws and policies relating to the equal enjoyment of economic, social and cultural rights by the populations of the two Entities, the cantons of the Federation and the municipalities of the same or different entities.

9. The Committee also takes note of the continued existence of landmines and other explosive remnants of war in the territory of the State party, which in many cases prevents the safe return of returnees to their homes and farming lands.

D. Principal subjects of concern

10. The Committee expresses its concern about the lack of independence of the Office of the State Ombudsman, which is headed by political appointees representing the three constituent peoples of the State party and which does not have one common human rights approach for the State party.

11. The Committee regrets the absence of case law on the application of the Covenant by the courts of the State party.

12. The Committee expresses its deep concern that returnees, in particular those belonging to ethnic minorities, are often denied access to social protection, health care, school education for their children and other economic, social and cultural rights, thereby impeding their sustainable return to their communities.

13. The Committee notes with concern that the implementation of the Law on Gender Equality of 2003 is impeded by the fact that most laws have not been harmonized with it and that the Agency for Gender Equality established by that law lacks the necessary financial and human resources to discharge its mandate.
14. The Committee is deeply concerned about the high unemployment rate, in particular among youth, women, especially female heads of households, and disadvantaged and marginalized groups such as persons with disabilities, the Roma people and members of other ethnic minorities. The Committee is also concerned that more than one third of the workforce is employed in the informal sector in the State party.
15. The Committee notes with deep concern that, following privatization, employers frequently failed to respect their contractual obligations towards their employees, namely by arbitrarily dismissing employees or by failing to pay their salaries or social security contributions on time. In this connection, the Committee also expresses its concern that labour inspection units in the State party are not sufficiently staffed and resourced to effectively combat abuses of workers' rights.
16. The Committee expresses its concern that persons working in the informal sector have their registration with the employment bureaux suspended for a period of 12 months.
17. The Committee is deeply concerned about the lack of funding and of qualified personnel at the social welfare centres which are responsible for the social protection of, inter alia, children without parental care, female heads of households, persons with disabilities, and victims of trafficking in persons, especially women and children.
18. The Committee notes with deep concern the extent of the discrepancy between the significant budget allocations for financing the pensions of military victims of war and the comparatively low resources allocated to social protection, as reflected by the fact that, under the Law on Amendments to the Law on Social Protection, Civilian War Victims, and Families with Children of the Federation of Bosnia and Herzegovina, civilian war victims will receive only 20 per cent of the pension benefits received by military victims of war.
19. The Committee is gravely concerned about the absence of a coherent strategy to support victims of sexual violence suffered during the armed conflict of 1992-1995 and that Entity laws pertaining to civilian war victims are gender-insensitive and provide inadequate social protection for victims of sexual violence.
20. The Committee is concerned that the absence of an inter-Entity agreement on pension rights and the failure of the entities to implement the existing inter-Entity agreement on health insurance prevent many returnees moving from one Entity to the other from enjoying access to pension benefits and health care.
21. The Committee notes with concern that, despite the inclusion of specific provisions on the crime of domestic violence in the State Law on Gender Equality and in the Criminal Codes of the Republika Srpska, of the Federation of Bosnia and Herzegovina, and of the Brcko District, the different laws of the Entities have not been harmonized with the State Law on Gender Equality. The Committee is also concerned that cases of domestic violence are rarely reported to

and often not sufficiently investigated by the police, and that health-care services are inadequate to support women who are victims of domestic violence and fail to offer any type of treatment programmes.

22. The Committee is concerned that, despite the progress made by the State party in combating trafficking in persons, e.g. the appointment of a State Coordinator and of an inter-ministerial anti-trafficking group or the recent adoption by the Council of Ministers of a State Action Plan (2005-2007), an Operational Plan and an Action Plan against Trafficking in Children, there continues to be a lack of qualified medical and psychological personnel with sufficient knowledge about the needs of trafficking victims. The Committee is also concerned about the absence of reliable data on the number of trafficked persons.

23. The Committee is deeply concerned about the extent of poverty in the State party, especially in rural areas and among the following individuals and groups, namely internally displaced persons, minority returnees, families headed by single parents, victims of sexual violence suffered during the armed conflict, children without parental care, older persons, pensioners, persons with disabilities, the Roma people and members of other ethnic minorities, whose specific needs are not sufficiently addressed in the Mid-Term Development Strategy for 2004-2007.

24. The Committee is concerned about the absence at the State level of a housing law and of a national housing strategy to address the housing needs of the population. The Committee is also concerned about the lack of social housing units, especially for the low-income and disadvantaged and marginalized groups.

25. The Committee notes with deep concern that many of the informal settlements in which the Roma people lived prior to the armed conflict have been destroyed without adequate alternative accommodation or compensation being provided to them, and that many Romani cannot lay claim to their settlements because of the lack of security of tenure relating to their property. The Committee is also deeply concerned about the high number of pre-armed-conflict tenants who have been evicted from their homes without being provided with adequate alternative accommodation or compensation.

26. The Committee deplores the high number of victims, mostly children, of anti-personnel mines since the end of the armed conflict.

27. The Committee is concerned about the lack of access to adequate drinking water in some parts of the Republika Srpska, the poor quality of water affecting many households, and the insufficient monitoring of water quality.

28. The Committee is deeply concerned about the practice of “two schools under one roof”, whereby common premises are either divided or being used at different times to teach separate curricula to children belonging to different ethnic groups, and about the trend in some locations to build separate schools for the respective ethnic groups.

29. The Committee expresses its grave concern about the fact that 80 per cent of Romani children do not attend school.

E. Suggestions and recommendations

30. The Committee recommends that the State party ensure the independence and impartiality of the Office of the State Ombudsman and adopt one common human rights approach.
31. The Committee urges the State party to ensure the justiciability of the Covenant rights in domestic courts and draws its attention to general comment No. 9 on the domestic application of the Covenant. It invites the State party to include information concerning case law on the application of the Covenant in its second periodic report.
32. The Committee calls on the State party to intensify its efforts to ensure the sustainable return of returnees to their home communities by ensuring their equal enjoyment of the Covenant rights, especially in the fields of social protection, health care and education.
33. The Committee requests the State party to include updated statistical data, disaggregated by age, ethnic group, social and other relevant status, on the representation of women in the public and private employment sectors, as well as on the salaries received by women as compared to those received by men for equal work.
34. The Committee recommends that the State party amend existing legislation in order to adequately reflect and implement the Law on Gender Equality of 2003 and that it increase the resources of the Agency for Gender Equality to enable it effectively to monitor and combat gender discrimination in the field of economic, social and cultural rights.
35. The Committee urges the State party to increase its efforts to combat unemployment through special targeted programmes, including programmes aimed at reducing unemployment among youth, women, especially female heads of households, as well as unemployment among disadvantaged and marginalized groups.
36. The Committee recommends that the State party take effective measures to ensure that employers respect their contractual obligations towards their employees, namely by refraining from arbitrarily dismissing them or by paying their salaries or social security contributions on time. The Committee further recommends to the State party to ensure that labour inspection units are sufficiently staffed and resourced in order to enable them to effectively combat abuses of workers' rights.
37. The Committee recommends that the State party take measures to repeal the sanction imposed on persons working in the informal sector, i.e. the suspension of their registration with the employment bureaux for a period of 12 months.
38. The Committee urges the State party to ensure that adequate funds from the overall resources of the Entities, cantons and municipalities be allocated to the social welfare centres and that the number of social workers, psychologists and other qualified personnel of these centres be increased in order to better respond to the specific needs of children without parental care, female heads of households, persons with disabilities and victims of trafficking in persons, especially women and children.

39. The Committee urges the State party to ensure a more equitable allocation of existing funds to social protection, in particular of civilian war victims, with a view to reducing the discrepancy between, inter alia, the budgets for civilian and for military victims of war.

40. The Committee encourages the State party to promote the adoption of the proposed Law on Amendments to the Law on Social Protection, Civilian War Victims, and Families with Children, which is currently in the parliamentary procedure in the Federation of Bosnia and Herzegovina. It provides for the transfer of the budget for the social protection of civilian war victims and persons with disabilities not related to armed conflict from the cantons to the Federation, in order to eliminate inequalities resulting from the diverging availability of funds in the cantons. It also requests the State party to ensure that the authorities of the Federation of Bosnia and Herzegovina extend this budgetary transfer to other categories of social protection beneficiaries.

41. The Committee recommends that the State party ensure that victims of sexual violence suffered during the armed conflict of 1992-1995 obtain the status of civilian war victims, to devise and implement a coherent strategy at State level to protect the economic, social and cultural rights of victims of sexual violence and their family members, and to ensure the participation of victims of sexual violence in any decision-making processes affecting them.

42. The Committee requests the State party to promote the adoption of an inter-Entity agreement on pension rights and to ensure the implementation of the inter-Entity agreement on health insurance with a view to guaranteeing access to pension benefits and health care by returnees who move from one Entity to the other.

43. The Committee urges the State party to ensure the harmonization of the criminal law provisions of the Entities and of the Brcko District on the crime of domestic violence with the State Law on Gender Equality, as well as their application by judges, prosecutors and the police. The Committee also recommends that the State party take measures to sensitize law enforcement officials and the general public for the causes, criminal nature, and the specific needs of victims, of acts of domestic violence.

44. The Committee recommends to the State party to train the medical and psychological staff of the social welfare centres on the specific needs of victims of trafficking and to intensify its efforts to set up an effective mechanism for the collection of anti-trafficking data, and requests it to include updated information on the number of cases where charges were brought against traffickers and police officers involved in trafficking, and on the sentences imposed, in its next periodic report.

45. The Committee urges the State party, in addressing the problem of poverty, to ensure, on a priority basis, that adequate social assistance be provided to individuals and groups living below the poverty line, that the impact of any laws and policies on the economic, social and cultural rights of such individuals and groups be assessed on the basis of regularly updated data, disaggregated by gender, age, ethnic background, social status and other relevant criteria, and that effective monitoring mechanisms be adopted and implemented to that effect. In this regard, the Committee refers the State party to the statement adopted by the Committee on 4 May 2001 on poverty and the International Covenant on Economic, Social and Cultural Rights.

46. The Committee recommends to the State party to adopt, at the State level, a housing law and a national housing strategy to address the housing needs of the population. The Committee also recommends that the State party allocate sufficient resources for the provision of social housing, especially for the low-income and disadvantaged and marginalized groups.
47. The Committee urges the State party to ensure the right of the Roma people to repossess their pre-armed-conflict property, to guarantee security of tenure to inhabitants of Romani settlements and to ensure that adequate alternative housing or compensation is provided to the Roma people and to pre-armed-conflict tenants who have been evicted from their settlements and homes, in line with the Committee's general comment No. 7.
48. The Committee calls on the State party to continue its efforts and to seek further international assistance for the clearing of anti-personnel mines in all parts of its territory.
49. The Committee recalls the State party's obligation to ensure access to safe drinking water within, or in the immediate vicinity, of each household. It invites the State party to identify disaggregated indicators and appropriate national benchmarks in relation to the right to water, in line with the Committee's general comment No. 15 on the right to water, and to include information on the process of identifying such indicators and benchmarks in its next report.
50. The Committee urges the State party to ensure that the practice of "two schools under one roof", as well as the construction of separate schools for children belonging to different ethnic groups, be discontinued. The Committee recommends that the State party merge and teach one curriculum to all classes, irrespective of ethnic origins, and requests it to report on any steps taken in that regard in its next periodic report.
51. The Committee urges the State party to promote equal access by Romani children to primary, secondary and tertiary education, e.g. through the grant of scholarships and the reimbursement of expenses for schoolbooks and of travel expenses to attend school, and to closely monitor school attendance by Romani children.
52. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society and to inform the Committee on all steps taken to implement the recommendations contained therein in its next periodic report. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.
53. Finally, the Committee requests the State party to submit its second periodic report by 30 June 2010.
