



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

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**Committee on the Elimination of Racial Discrimination**  
**Seventy-seventh session**

**Summary record of the 2036th meeting**

Held at the Palais Wilson, Geneva, on Wednesday, 18 August 2010, at 3 p.m.

*Chairperson:* Mr. Kemal

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*Seventh and eighth periodic reports of Bosnia and Herzegovina*

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*The meeting was called to order at 3.05 p.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* (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. **Ms. Djuderija** (Bosnia and Herzegovina) said that the Committee's concluding observations, adopted in 2006, on the previous periodic report had been publicized throughout the country and that human rights NGOs had taken part in the preparation of the current report.
3. Bosnia and Herzegovina had taken several measures during the period under consideration to implement the provisions of the Convention and follow up on earlier recommendations by the Committee. The Ombudsman's institution had been established, and the Agency for Gender Equality (CERD/C/BIH/7-8, para. 34), set up to combat discrimination against women, had already put in place several programmes to ensure the equality of women in the workplace and raise their level of participation in public and political life. It had also made efforts to remove the discriminatory distinction in the Constitution between "constituent peoples" and "others" (para. 31). The Government hoped to solve the problem soon, but it would certainly be necessary to wait until after the general elections of October 2010.
4. In 2009, Bosnia and Herzegovina had passed an Act in full compliance with European standards to prohibit discrimination in the areas of work, health, justice, housing, education, sport, culture, the sciences and the economy. The authorities all had a duty to combat and prevent discrimination in all its forms. Bosnia and Herzegovina was determined to take strong measures to penalize discrimination in sporting, educational and cultural activities in order to combat the prejudices that led to racial hatred and damaged understanding between ethnic groups.
5. The Bosnian Government also fully intended to deal with the problem of segregation in public education and to eliminate the system of mono-ethnic schools and those organized as "two schools under one roof" (para. 309). Closing the latter was a complex matter, as it required total compliance with the principle of non-discrimination against pupils and full exercise by pupils of the right to be educated in their mother tongue. In spite of the difficulties it had encountered in some places, the Government was confident of ultimately achieving that goal.
6. Bosnia and Herzegovina paid particular attention to the needs of the Roma, who constituted the country's largest and, in every respect, most vulnerable minority. The goals set out in the Roma Decade Inclusion Programme for 2005–2015 should be attainable. The Action Plan for the Educational Needs of Roma and Other National Minorities (para. 307), adopted in 2004 to help those minorities take an equal part in the economic and social development of the country, had been revised in 2010 in order to better meet those needs.
7. The Government of Bosnia and Herzegovina was working hard to combat prejudice and intolerance against refugees. Much was being done to bring legislation into line with the international and regional instruments that the country had signed. However, Bosnia and Herzegovina did not have the means to deal with the problems of displaced persons and refugees, especially in terms of handing back property to potential returnees and the creation of decent living conditions for them. For that, the support of donors would be essential.

8. The Government was also working side by side with central organs to combat incitement to racial violence in the press and electronic media, and to ensure freedom of expression, conscience and religion consistent with anti-discrimination legislation. Bosnia and Herzegovina, which remained very attached to the multicultural character of its society, promoted and protected diversity, which it considered a driving force of development and a key factor of social harmony.

9. **Mr. Hukić** (Bosnia and Herzegovina) said that the Prosecutor's Office and police were working together to ensure that the perpetrators of racial crimes and crimes against humanity, defined under article 172 (para. 1), of the Criminal Code as persecution carried out on political, racial, ethnic, cultural, religious and other grounds, were brought to justice. A police ethics code had also been adopted and several programmes had been implemented to strengthen the multicultural nature of the country.

10. **Mr. Jovanović** (Bosnia and Herzegovina) said that several action plans for the Roma had been adopted during the period under consideration in areas where they most suffered from discrimination, such as housing, employment and education. NGOs took an active part in carrying out those plans, which were based on strategic goals set out in the Roma Decade Inclusion Programme for 2005–2015 (CERD/C/BIH/7-8, para. 90). Over the previous two years, the State had spent €5 million on programmes specifically aimed at improving housing and health-care access for the Roma. Their housing difficulties should be alleviated by late 2010, thanks to construction and renovation being carried out by the municipalities in cooperation with the Ministry of Human Rights and Refugees (CERD/C/BIH/7-8, para. 201), which was responsible for national minorities. Other special programmes in the area of employment appeared to have been less successful, owing to the poor education of the Roma. A revised plan had therefore been drafted to meet their special educational needs and considerable funds allocated for its implementation. The Government hoped that would lead to an improvement in the level of education and training of the Roma. A national minorities strategy was also due to be presented to the Council of Ministers in late 2010.

11. An Action Plan for Health Care for the Roma had also been prepared with Roma NGOs and provided with generous funding. In 2009, major vaccination and reproductive health-care campaigns had been carried out among the Roma, along with an awareness campaign on the importance of enrolling for school. The Ministry of Human Rights and Refugees oversaw compliance with the law on freedom of religion and the legal status of the churches and religious communities in Bosnia and Herzegovina (para. 363), which established a legal framework assigning them equal rights and obligations, without discrimination. Progress had also been made towards regulating relations between the Government and Roma communities. An agreement had been signed between the Orthodox Church and Muslim communities, and another on the religious rights of Bosnian soldiers between the Holy See and Bosnia and Herzegovina, in May 2010. The State also worked closely with the Inter-religious Council, whose mission was to bolster peace in the country and work towards reconciliation between the various religious communities.

12. **Ms. Slomović** (Bosnia and Herzegovina) said that new employment legislation contained anti-discrimination provisions and that the Labour Code now penalized discrimination based on race or sex, as well as harassment in the workplace.

13. In response to rising unemployment, the Government of Bosnia and Herzegovina had set up an unemployment benefits fund that was available, in particular, to disabled persons and women who had been victims of violence and were reluctant to accept offers of work lest their aggressors harass them in their workplace. In the area of social policy, several draft bills on the family, disabled persons and social security, which had already passed their first reading and should be enacted in the near future, would make social welfare available to drug addicts and victims of violence. Faced with an unfortunate

upsurge in domestic violence in the previous three or four years in the Federation of Bosnia and Herzegovina and the Republika Srpska, the authorities were trying to raise money to build more shelters for women and children affected by that scourge. Since the international community had interrupted its financial support, Bosnia and Herzegovina was seeking donors, without whom those shelters might be forced to close.

14. **Ms. Djuderija** (Bosnia and Herzegovina) said that, in the face of the great number of people traumatized by the terrible armed conflict that had torn the country apart, the Government was attempting to raise funds to pay for rehabilitation programmes for civil war victims. Moreover, a programme for victims of sexual violence, funded by Norway, had been running in Bosnia and Herzegovina for the past three years in cooperation with the Office of the United Nations High Commissioner for Refugees.

15. **Mr. Lindgren Alves** (Country Rapporteur) was pleased that the seventh and eighth periodic reports of Bosnia and Herzegovina had addressed all the recommendations made by the Committee in its concluding observations after its previous report (CERD/C/BIH/CO/6) and had revealed, as requested by the Committee, progress made in various areas.

16. He had been obliged to consult numerous documents on Bosnia and Herzegovina to get a clearer idea of the State party's especially complex political organization, consisting of two entities — the Federation of Bosnia and Herzegovina, with a majority of Bosnians and Croats, and the Republika Srpska — as well as Brčko District.

17. Noting that the last population census had taken place in 1991, he hoped that the Government would carry out the census planned for 2011 so as to provide the statistics needed for a more accurate assessment of its policies. He wondered how the 5.5 per cent of people who had declared themselves to be Yugoslavs in the last census would identify themselves in future.

18. The information in paragraph 32 of the periodic report on the State party's legal structure was confusing: it was unclear whether the House of Peoples was an organ of the Republika Srpska or the Federation of Bosnia and Herzegovina. He would like the delegation to provide additional information in that regard, as well as indicating whether the Federation of Bosnia and Herzegovina had established a constitutional court and, if so, what its composition was.

19. The Constitution of Bosnia and Herzegovina, which dated to the Dayton Peace Agreement of 1995, was incompatible with the Convention, since the Constitution granted certain key rights on the basis of ethnic affiliation. With regard to the right to vote and to be elected, for example, he would like to know if it was indeed impossible for anyone who was not Bosnian or Serbian to stand for election to the House of Representatives and whether, as claimed by NGOs, only persons of a particular national or ethnic background could aspire to become President of Bosnia and Herzegovina. He hoped that amendments to the Constitution mentioned in paragraph 29 of the report, aimed at allowing members of the national minorities to occupy the posts of president and vice-president of both houses of parliament, would be adopted. He welcomed the fact that NGOs critical of the failure of electoral reform had nevertheless confirmed a drop in ethnic and religious violence and praised the authorities for their efforts to guarantee the security of all citizens in Bosnia and Herzegovina.

20. He wished to know what was the current situation regarding the plan to merge the ombudsman's offices of the respective entities with the Human Rights Ombudsman Institution, as provided for in the legislation setting up that institution, noting that the process had been stalled by the withdrawal of the draft bill on the Cessation of the Ombudsman of the Republika Srpska.

21. He also wanted to know if the decision by the Constitutional Court of Bosnia and Herzegovina to abolish all emblems of the entities, such as flags, coats of arms and anthems, in order to put an end to exclusion based on membership of one minority or another, was still complied with.

22. Some Committee members were disconcerted by the fact that, in spite of legislation under which three members of the Parliament of Bosnia and Herzegovina must come from minority groups, no representative of such groups currently sat in Parliament.

23. He was aware that the State party was confronted by huge socio-economic problems, such as an unemployment rate of over 40 per cent and a housing stock at only half the pre-war level at a time when 38,000 families were still waiting for subsidies to rebuild their pre-war lodgings.

24. Reading in paragraph 58 of the report that receipt of welfare benefits in the Republika Srpska was conditional on the registration of a fixed address, he remarked that such a condition was likely to pose problems for the Roma, who tended neither to have a fixed address nor to register the birth of their children, and asked if the situation was similar in the Federation of Bosnia and Herzegovina. That same condition also appeared to affect the amount paid in pensions to people originally from the Republika Srpska who had been displaced during the armed conflict, as they received less than if they had not been displaced. The first tangible fruits of a legal framework designed by the Ministry of Human Rights and Refugees included the passing of an amendment to legislation on refugees and displaced persons in Bosnia and Herzegovina facilitating the harmonization with national laws of legislation in the entities on aid for returnees and the resettlement of refugees. The fact that victims of the civil war lost some of the rights inherent in their status as victims when they moved to another entity was discriminatory. However, he appreciated the frankness of the State party, which had admitted in paragraph 75 of the report that it did not treat civilian and war disabled equally, notably in terms of welfare payments.

25. Turning to the Roma, he would like to know how members were appointed to the Bosnia and Herzegovina Roma Council, the highest ranking representative body for that community in the country, and, more precisely, whether they were elected by the Roma community or chosen from members of Roma organizations who volunteered themselves.

26. With regard to the 2005 Roma strategy, which was designed to help improve the position of the Roma in society, he asked what results had emerged from the employment, housing and health-care action plans put into place by the Ministry of Human Rights and Refugees with the aid of the government bodies and NGOs.

27. He appreciated the openness of the State party in recognizing that the fact that the Human Rights Commission of the Constitutional Court had received no complaints related to provisions of the Convention reflected a widespread ignorance of which rights were enshrined in that instrument rather than the absence of racial discrimination in the country. It was welcome news that the provisions of the Convention were directly justiciable in the State party.

28. He was equally pleased that the International Criminal Tribunal for the former Yugoslavia had handed the national courts the immense task of prosecuting persons suspected of having taken part in crimes against humanity and genocide during the armed conflict. Referring to paragraph 113 of the report, he asked if it was true that, contrary to the practice of the Court of Bosnia and Herzegovina, cantonal, district and higher entity courts did not accept as legal instruments evidence and facts adjudicated by the International Criminal Tribunal for the former Yugoslavia and, if so, how those courts went about the prosecution of such suspects.

29. He mentioned the issue of Roma involvement in organized begging in Central Bosnia Canton and, above all, the fact that minors and mentally disabled people were recruited to beg. He welcomed the general improvement in the position of people repatriated to the Republika Srpska and noted that crime levels in that entity's urban centres were no higher among the Roma than among other population groups and that the majority of offences involved little more than theft, brawling and minor cases of violent behaviour.

30. In the context of the Committee's recommendation 17 urging immediate action by the State party to ensure that all Roma had the official documents they needed in order to exercise their economic, social and cultural rights, he would like to know the results of the Roma birth registration campaign, which had been due to end in 2008, and above all whether the majority of Roma had been issued with identity documents.

31. He was pleased that school textbooks had been overhauled in all the entities of Bosnia and Herzegovina in 2002–2003 to eliminate any content offensive to ethnic groups and welcomed the measures taken to promote intercultural dialogue and to combat racial and religious hatred, especially in the framework of the Inter-religious Council, which had constituted a meeting point for representatives of the four traditional religious communities (Muslim, Orthodox Christian, Catholic and Jewish) since 1997. Among various initiatives to promote dialogue and tolerance, he underlined the first regional conference of the United Nations Alliance of Civilizations, which had taken place in Sarajevo on 14 December 2009 and whose participants had adopted a broad strategy to strengthen mutual understanding between the region's communities and cultural groups.

32. **Mr. Prosper** said that the tripartite structure of the State party fomented tensions and did little to contribute to peace between the communities, given that the three members of the Presidency pursued only the interests of their own group. He would like to hear the delegation's point of view on the matter. He also wondered about the equity and transparency of the legal system, as each entity had independent legal powers and did not apply the same legislation in the same way. He also asked the delegation to comment on reports that the Republika Srpska had separatist ambitions or wanted independence. He remarked on the apparent reluctance of certain courts to take measures against war criminals, including to arrest and judge criminals such as Radoslav Vradić.

33. **Mr. Avtonomov** requested information on how articles 1 and 7 of the Convention were applied in practice, as opposed to information on measures taken by Bosnia and Herzegovina in the wake of recommendations by the Committee. With regard to the Roma, he said that the State party should ensure that, in the 2011 census, they did not hide their ethnic identity for fear of reprisals. He noted with concern that many Roma had been victims of the civil war, but had received no help from the State. Given that most Roma were unemployed, had not completed their education and were not represented on local and central bodies, he asked what measures had been taken by Bosnia and Herzegovina to ensure that the Roma had access to education, employment and health care. He would also like to know more about the national minorities and the position of refugees in the country. He asked if the State party had changed its position with regard to ratification of the amendment to article 8 of the Convention.

34. **Mr. Murillo Martínez** wanted to know if ethnic groups had been consulted during preparations for the 2011 census and, in particular, on the drafting of the census forms. He asked for more specific information on the situation of displaced persons and wished to know how the State party met the specific needs of repatriated persons, which differed from one region to another.

35. **Ms. Crickley** said that the political structure of Bosnia and Herzegovina made the application of the Convention more complex than in other States parties. Noting that the Roma had been especially hard hit by the civil war, she asked what specific measures had

been taken for them. Turning to the precarious situation of other vulnerable groups, especially women from ethnic minorities, she expressed concern at reports that several refuges for indigent women had been closed for lack of funds. She asked what the State party was doing to make its education system reflect the country's diversity and urged it to ensure that, during the 2011 census, everyone felt able to express themselves freely about their ethnic identity without fear of reprisals.

36. **The Chairperson**, speaking in a personal capacity, said that the central authorities should ensure that all ethnic groups were treated even-handedly during the 2011 census.

37. **Mr. Diaconu** said that representation of the minorities was problematic at the local and federal levels and was surprised that not even the three positions reserved for the minorities in the House of Representatives had been filled. According to some sources, members of one minority sometimes represented the interests of several minority groups although those groups quite clearly did not have the same problems or find themselves in analogous situations. He also voiced concern that the three entities did not necessarily have the same legislation. The fragmentation of the State party's institutions made it extremely difficult for the Committee to fulfil its task of assessing the situation. Creating more common institutions could accustom people to working together. He asked if the Roma strategy was accepted and implemented throughout the country.

38. **Mr. de Gouttes** recognized the complexity of the State party's situation but reiterated the Committee's finding in its previous concluding observations that legal distinctions that favoured and granted special privileges and preferences to certain ethnic groups were not compatible with articles 1 and 5 (c) of the Convention. He asked why the Constitution still granted certain rights on the basis of ethnic affiliation and to indicate whether Bosnia and Herzegovina planned to bring those provisions into line with the Convention through reforms in the near future.

39. **Ms. Djuderija** (Bosnia and Herzegovina) said that, following the ruling in December 2009 by the European Court of Human Rights that Bosnia and Herzegovina was in breach of the European Convention on Human Rights because its Constitution prohibited persons who did not belong to one of the three constituent peoples from standing for certain elected offices, the Council of Ministers had adopted a plan of action. In May 2010, it had agreed to review the relevant constitutional provisions but that work had had to be delayed because elections were due to be held in October 2010. Bosnia and Herzegovina was fully aware that certain provisions in the Constitution were incompatible with the European Convention on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination and it was only a matter of time before they were amended.

40. All minorities could be represented on the National Minorities Council, provided they were registered. They also had the right to one representative in each of the Houses of Parliament in both entities. Since the Roma constituted the biggest minority among the ethnic groups other than the constituent peoples, they were entitled to several representatives in each of the Houses of Parliament.

41. Under a ruling by the Constitutional Court of Bosnia and Herzegovina, the emblems of the entities (flags, coats of arms and anthems) had been abolished because they did not reflect the true make-up of the population. The parliaments were working on modifications of those emblems in line with the requirements set out in the Constitutional Court's ruling.

42. The census was an especially delicate issue on which the minorities had failed to agree. Aware that a census of the Roma would not, by itself, be sufficient to understand their needs, the Ministry of Human Rights and Refugees had launched a project in December 2008, in which 42 Roma associations had been involved, that aimed to catalogue their needs. As a result, 25,000 Roma had been entered on the civil registry and 5,000 families had agreed to measures aimed at facilitating their access to health-care services,

welfare benefits, education and employment. A reconstruction programme launched in 2008 had provided housing for 2,500 Roma families. In the framework of the Education Action Plan for Roma, special measures had been put in place in order to integrate Roma children into the mainstream education system and to stop them from dropping out.

43. Bosnia and Herzegovina was not a rich country and was unable to quickly raise the necessary funds to assist the numerous groups of people living on its territory. In past years, it had admittedly received aid from the international community, but it had to be recognized that its infrastructure, which was far from meeting international standards, did not allow it to distribute such resources adequately or efficiently.

44. The Convention could be applied directly by the Supreme Court, the rulings of which were legally binding throughout the country. The Human Rights Ombudsman could also directly apply the Convention and launch enquiries, lodge complaints against the authorities and request the imposition of penalties. The Ministry of Human Rights and Refugees played an important preventive, advisory and coordinating role in national and local plans. In its first years, it had received few complaints, but in 2008 and 2009 it had been approached much more often and 70 per cent of its recommendations had been acted upon.

45. Anti-discrimination legislation had been supplemented by a provision that shortened the period available to local courts to make their rulings. Since the legislation had entered into force, the number of discrimination complaints had risen and, as a result, the competent authorities had set up a working group to monitor application of the legislation and gather data on racial discrimination disaggregated by membership of ethnic minorities.

46. **Ms. Slomović** (Bosnia and Herzegovina) said that the contents of history textbooks used in Bosnia and Herzegovina were not identical in the Federation and Republika Srpska and that each entity presented the country's history according to its own point of view.

47. Bosnia and Herzegovina had six shelters for victims of domestic violence and human trafficking but, since the onset of the crisis, they had fallen into serious financial trouble because they depended on aid from NGOs and private foreign donors. Some of the centres had been forced to close and others had cut back their services.

48. The passing of the Act on the Cessation of the Ombudsman of the Republika Srpska had enabled the merger of the entities' ombudsman's offices with the national Human Rights Ombudsman Institution. It was the sole such institution and competent, for instance, in matters such as rights of the child and efforts to combat discrimination. Issues related to the appointments procedure and how to ensure that the future holder of the post remained impartial were still to be resolved. A draft bill aimed at extending the Institution's territorial competence was yet to be examined and enacted. The Ombudsman was required to submit regular reports to the National Human Rights Commission.

*The meeting rose at 6 p.m.*