



**International Convention on the  
Protection of the Rights of  
All Migrant Workers and  
Members of Their Families**

Distr.: General  
14 September 2012

Original: English

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**Committee on the Protection of the Rights of All  
Migrant Workers and Members of Their Families  
Seventeenth session**

**Summary record of the 207th meeting**

Held at the Palais Wilson, Geneva, on Tuesday, 11 September 2012, at 3 p.m.

*Chairperson:* Ms. Poussi (Vice-Chairperson)

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*In the absence of Mr. El Jamri, Ms. Poussi (Vice-Chairperson) took the Chair.*

*The meeting was called to order at 3 p.m.*

**Consideration of reports submitted by States parties under article 73 of the Convention** *(continued)*

*Second periodic report of Bosnia and Herzegovina (CMW/C/BIH/2; CMW/C/BIH/Q/2 and Add.1; and HRI/CORE/BIH/2011)*

1. *At the invitation of the Chairperson, the delegation took places at the Committee table.*
2. **Ms. Đuderija** (Bosnia and Herzegovina), introducing her country's second periodic report (CMW/C/BIH/2), said that Bosnia and Herzegovina was committed to fulfilling its obligations to implement the international instruments to which it was a party, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The recommendations and concluding observations provided by the Committee following the presentation of the initial periodic report of Bosnia and Herzegovina had been useful for the preparation of the second periodic report, which had been produced in accordance with article 73 of the Convention.
3. In order to involve as many experts as possible in the preparation of the report, a working group had been established to prepare it. The working group comprised 35 representatives from the relevant ministries and bodies of the State, its two entities and Brčko District. Input was also provided by trade unions, associations of private employers, and the World Diaspora Association of Bosnia and Herzegovina. The NGO sector had contributed to the report by providing information on the provision of legal aid for persons living in the country illegally, victims of war, disappeared persons, victims of trafficking and persons placed in immigration centres.
4. Bosnia and Herzegovina was one of the few European States to have ratified the Migrant Workers Convention. The Convention was an important instrument because many countries with high numbers of migrant workers did not pay due attention to migrant workers' rights, resulting in a widening of the gap between the rights accorded to citizens and those accorded to migrant workers and their families, particularly with regard to employment, housing and freedom of movement.
5. After providing a brief outline of the structure of the periodic report, she said that her delegation was ready to answer the Committee's questions and looked forward to contributing, through discussion, to the fuller protection of the migrant population.
6. **Mr. Taghizade** said that the estimates provided in the core document (HRI/CORE/BIH/2011) for the current population of Bosnia and Herzegovina varied by up to 1 million people, and asked for detailed information on why that was the case and how the numbers of migrants entering and leaving the State party influenced that figure. The figures provided by the State party for migration flows and for refugees from Bosnia and Herzegovina — both those living in other countries and those who had returned to the State party — needed clarification.
7. Since many countries receiving large numbers of migrant workers had not ratified the Convention, he would appreciate information on how the rights of migrant workers from Bosnia and Herzegovina were protected by the consulates and other offices of the State party in other countries, particularly with regard to their employment rights, rights to social security and rights to political participation.
8. Given the complex structure of the State in Bosnia and Herzegovina, he asked how, and to what extent, the large number of government ministries in the State party

coordinated their activities to guarantee the fulfilment of the State party's international obligations under the Convention. In such a large administration it must be difficult to ensure uniform application and understanding of migrants' rights; it would be useful to know how the departments in the subdivisions of each entity organized their activities, and to what extent the relevant laws were harmonized and observed at cantonal and municipal level.

9. **Ms. Ladjel** said that a number of Bosniacs living abroad suffered double discrimination as foreign citizens in the country in which they lived and as vulnerable people, particularly if they were suffering from mental health problems. She asked for more information on the situation of refugees from the State party who suffered from mental health problems, whether there were specific obstacles to their repatriation to Bosnia and Herzegovina, what those obstacles were and how they could be overcome.

10. **Mr. Kariyawasam** said that, since approximately one third of the citizens of the State party lived in other countries, it was significant that citizens living abroad had been given voting rights, although the numbers of such citizens who had voted in the previous election were small. With a view to the elections planned for 2014, he asked how the State authorities would encourage higher voter participation in order to make the democratic process more meaningful. He would be interested to hear the delegation's comments on the low voter turnout.

11. Noting that children had a fundamental right to have their birth registered, regardless of their immigration status, he asked what measures were taken to issue birth certificates for children in an irregular situation, Roma children and the children of migrant workers.

12. Domestic migrant workers, who were mostly women, were not protected against physical and mental abuse because labour laws did not directly apply to their situation. He would be interested to know whether special measures had been introduced to protect such workers, especially women and those in an irregular situation, and whether there were any special centres or measures to help them to return to their countries of origin. He asked whether there were any special programmes or incentives to facilitate the return of migrant workers from Bosnia and Herzegovina to their home country as more economic opportunities arose.

13. **Mr. El-Borai** said that the system allowing citizens of Bosnia and Herzegovina living abroad to participate in elections should be explained. He would like to have detailed information on the process of obtaining a residence permit and wished to know whether persons who were refused a permit had any legal recourse.

14. **Mr. Tall** said that the State party's report referred to "immigration centres" in the plural, yet gave details of only one immigration centre funded by the European Union. Was there more than one such centre in the country? If the State party possessed only one immigration centre, to what extent was migrants' freedom restricted when they were placed in that centre?

15. He welcomed the details provided in paragraph 77 of the report on measures taken to combat the provision of misinformation to migrant workers, but said that more information on the outcome of applying those measures would be appreciated. Furthermore, statistics on the number of cases dealt with by the Strike Task Force set up to combat trafficking, and information on any cases brought before the courts should be provided.

16. The national action plan to combat human trafficking for the period from 2008 to 2012, mentioned in paragraph 91 of the report, would soon come to an end. It would therefore be helpful if the delegation could provide an overview of the situation regarding trafficking in persons in 2012.

17. Mr. Sevim expressed concern regarding the continued use of the forcible removal procedure, as such procedures did not comply with the Convention. With regard to the readmission agreement between the State party and the European Union, he requested additional information on how the agreement functioned and asked whether it included guarantees for third-party nationals and to what extent it was compatible with the Convention.

*The meeting was suspended at 3.50 p.m. and resumed at 4.05 p.m.*

18. **Ms. Đuderija** (Bosnia and Herzegovina) explained that the population estimate had a wide range because the most recent census had been carried out in 1991 and since that time there had been a large population outflow from the country. However, there were plans to carry out a new census in 2013. Of the 500,000 to 700,000 citizens of Bosnia and Herzegovina living in other countries, approximately 250,000 had the status of refugee or had applied for asylum.

19. Bosnia and Herzegovina was a fully decentralized country: most areas of the public sector, including education, social protection, health care and employment, were the responsibility of the two main entities that made up the State, namely, the Federation of Bosnia and Herzegovina and the Republika Srpska. However, for some areas there were coordinating ministries at the State level, such as the Ministry of Civil Affairs, which covered health care and employment, and the Ministry of Security, which was responsible for issues such as the movement and stay of aliens in the country.

20. Nationals of Bosnia and Herzegovina living in other countries could exercise the right to vote in national elections by means of a postal vote. The Central Election Commission was attempting to set up an electronic voting system for such nationals, and there had been a trial of an electronic voter registration process. However, the trial and attempts to encourage more citizens living abroad to participate in the voting process were hindered by a limited budget. There was, nevertheless, a special department within the Ministry for Human Rights and Refugees that was responsible for collaborating with country-of-origin clubs to provide citizens living abroad with information on elections.

21. It was true that there was a large number of ministries in the country as a result of the Dayton Peace Agreement, but any democratic or constitutional reform of the country would need to be initiated by the legislators. The current set-up meant that information-gathering and -sharing was particularly complicated and often slow. However, as far as the country's international obligations were concerned, there was a national coordinating body that collaborated with the lower-level authorities to facilitate information-sharing and delegate certain responsibilities to the different authorities. The application of higher standards, for example regarding the protection of migrants, was sometimes difficult to enforce across the country as a result of budgetary restraints in some cantons and regions. There was a system of harmonization in place for all legislation adopted in Bosnia and Herzegovina to ensure that it complied with international standards adopted by the country. There were mechanisms in place at the national level, such as the Ombudsman's Office and a complaints department in the Ministry for Human Rights and Refugees, to ensure that decisions were implemented correctly at the lower levels. All citizens, including migrant workers and refugees, were able to submit complaints to that department to ensure that their rights under the Convention and the relevant national legislation were upheld.

22. With regard to persons with mental illness, she explained that the main issue was related to the process of implementation and the capacity of institutions within the country to accept such persons. The admission process for persons with mental illness was extremely lengthy as the existing mechanism prevented the readmission of such persons if it was not clear that they would receive appropriate care within their community. In a number of municipalities, mental health facilities experienced funding difficulties. As far as

voting rights were concerned, a special mechanism had been established to enable persons with disabilities to vote.

23. The process of birth registration had been shortened in order to facilitate such registration among the Roma population and migrants in an irregular situation. The Government had worked with NGOs, the United Nations Children's Fund and the Office of the United Nations High Commissioner for Refugees to provide legal assistance to such persons. A national strategy to provide assistance to the Roma population had been developed in conjunction with Roma organizations.

24. **Ms. Hadžibegić** (Bosnia and Herzegovina) said that according to the latest World Bank figures, Bosnia and Herzegovina was one of the European countries with the highest number of citizens living in other countries. That situation was the result of the more highly-educated and skilled persons leaving to seek better jobs. In addition, more than 1 million persons had left the country during the war, and not all had returned.

25. In 1996, 450,000 nationals of Bosnia and Herzegovina living in other countries had been registered to vote, although only 389,000 had actually cast their vote. By the 2010 general election, there were 36,000 registered voters in other countries, though only 22,000 had voted. One of the reasons for the low turnout was that many countries that had accepted refugees from Bosnia and Herzegovina during the war had since annulled dual citizenship, meaning that those refugees had had to choose which nationality to keep. Many steps had been taken to address the low levels of registered voters in other countries, such as allowing voting at the diplomatic and consular missions throughout the world. However, that measure had proved unpopular and so had been discontinued.

26. Responding to the question on birth registration of children of migrant workers, she explained that since the adoption of the Law on the Movement and Stay of Aliens and Asylum, the Ministry for Human Rights and Refugees had developed guidelines on the protection of the human rights of migrant workers and members of their families with irregular status; identification documents for persons with international protection; the registration of marriages, births and deaths for persons under international protection; health insurance and health protection; the right to work for persons under international protection; the education of such persons; and their right to social protection. Implementation of those guidelines was the responsibility of the Ministry for Human Rights and Refugees, which received funding each year to enable the creation of databases and the collection of data.

27. **Mr. Kuravica** (Bosnia and Herzegovina) said that the Law on the Movement and Stay of Aliens and Asylum, which had been adopted in 1999, had been amended in 2003 and 2008 to harmonize it with the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and other United Nations conventions and European Union directives. One key issue that still needed to be addressed was the registration of seasonal workers. There was currently a proposal under discussion to exempt seasonal workers from having to apply for a work permit. Instead, they would have to contact the Ministry of Foreign Affairs and obtain a certificate of registration. Such a procedure would enable the ministry to know exactly how many seasonal workers there were in the country and from which countries they came.

28. Turning to the return of persons with mental disabilities, he said that the readmission agreement between Bosnia and Herzegovina and the European Union included clear provisions and a methodology for the repatriation and return of such persons. The sending country had to provide information on the particular disability of the person in question. The relevant ministry would then establish what kind of facility that person should be sent to and would then reply to the sending country. The process was fairly lengthy, but it had been agreed with the European Union and was in the interests of the persons concerned.

29. The State party's immigration laws and deportation regulations had been brought into line with the Convention and European Union directives. Aliens against whom a deportation order was issued had the right to appeal; the deadline for a ruling on that appeal was 15 days. Deportation orders could not be executed until appeals had been turned down. Aliens whose appeals failed could launch an administrative procedure before the Court of Bosnia and Herzegovina to ensure that their rights were safeguarded. The Court had on occasion overturned deportation orders. In a handful of cases, aliens had appealed to the European Court of Human Rights, which had upheld only two such appeals. All the rights of aliens subjected to forced removal were safeguarded.

30. Since 2008, an annual migration profile had been published on the website of the Ministry of Security, which contained information on the entry, stay and movement of all aliens in the State party. It also contained information on aliens who had been deported or whose residence permits had been cancelled. Their rights were guaranteed under the law and were in accordance with the provisions of the Convention.

31. The Lukavica Immigration Reception Centre, which had a capacity for 80 inmates, was the only such operational centre in the State party and catered mainly to men, although it had facilities to house women and children separately. It had been inspected by teams from the European Union and the International Organization for Migration and it met international standards. Two smaller facilities, each with a capacity for 40 inmates, were available if needed and the State party was prepared to build further centres should the need arise. He took issue with a report by the Ombudsman for Human Rights of Bosnia and Herzegovina, according to which inmates of the Lukavica centre had no access to computers or even typewriters, and that inmates had problems being heard in their own languages. Furthermore, inmates had access to legal aid.

32. The State party's Border Police were actively engaged in combating illegal immigration and human trafficking and were represented at the Southeast European Law Enforcement Centre (SELEC, formerly SECI) in Bucharest and MARRI, based in Skopje. The State party was also part of the Stabilization and Association Process. Immigrants in an irregular situation who were caught were sent to the Service for Foreigners' Affairs and subsequently deported. A 2008–2012 report on the Strike Task Force submitted to the Council of Ministers provided a full account of its activities.

33. Procedures for the readmission of citizens of the State party under its readmission agreement with the European Union were straightforward. Checks were made within a 10-day period, which could be extended by a further 6 days. Persons with special needs were subject to a lengthier procedure. In the case of nationals of third countries, the State party analysed information provided by the country from which they were being sent to verify that they had indeed come from Bosnia and Herzegovina. If such persons were found to be dangerous, they were deported, but not until all remedies had been exhausted. The principle of non-refoulement applied in cases where persons had grounds to fear they would be subjected to torture or other ill-treatment if sent to their countries of origin. In short, anyone who received a deportation order enjoyed the right to judicial protection and the right of appeal.

34. **Mr. Zuko** (Bosnia and Herzegovina) said that employers in the State party wishing to employ aliens must apply to the Labour and Employment Agency or employment agencies of the entities and Brčko District, which worked together to standardize the process for issuing work permits. The State party had signed social security agreements with eight countries. It had also signed employment agreements with Serbia and Slovenia. An employment agreement with Qatar had been drafted and similar agreements with Germany and the Russian Federation were being prepared.

35. Employers in other countries seeking labour in the State party had to address a request to the Labour and Employment Agency, which screened offers and decided within 10 days whether to publicize them. Lists of candidates were then sent to the employers concerned, and a process of interviews and selection ensued. The agency did all in its power to assist nationals of the State party working in other countries, by providing them with written materials on HIV, where to obtain help in the destination country and other matters.

36. **Ms. Đuderija** (Bosnia and Herzegovina) conceded that in the past the employment of nationals of Bosnia and Herzegovina abroad had been disorganized and said that investigations into cases of unlawful employment practices were continuing. The authorities had, however, learned from the mistakes of the past. A media campaign organized in concert with European Union member States, endeavouring to discourage irregular emigration, was currently under way and directed in part at Roma in the State party. An information campaign for the Roma on legal migration had also been launched with the help of a German NGO. Bosnia and Herzegovina was experiencing acute economic difficulties, however, and was therefore unable to fund such campaigns alone.

37. Investigations into human trafficking had proved successful in the recent past but funding for efforts to combat internal trafficking had been cut in 2011. The same was not true of efforts to deal with trafficking in foreign persons, however, and victims received accommodation and assistance to return to their home countries. Foreign victims of trafficking in persons had generally been used as domestic servants or illegal labour.

38. **Mr. Taghizade** said that he wished to know whether the Ombudsman for Human Rights of Bosnia and Herzegovina monitored detention procedures in the Lukavica Immigration Reception Centre and to what extent the rights of inmates were guaranteed. Reports of children being held in the centre were a source of concern and more detailed information on the conditions leading to their detention would be welcome. To what extent were their rights safeguarded?

39. He asked whether anti-discrimination laws passed by the central Government were fully implemented in all entities, cantons and municipalities, and whether illegal entry into the country constituted a criminal or administrative offence. He would like to know whether the new draft Law on Movement and Stay of Aliens and Asylum, which included provision under article 84 for a certificate of employment registration for seasonal workers, had been implemented and, if not, why.

40. **Mr. Carrión Mena** said that he would like more details on the availability to migrant workers held in detention of access to legal aid and information about their legal rights. He would also like to know more about the duration of administrative detention. Overall, information in the periodic report on the matter of detention of migrant workers was insufficient.

41. He expressed concern about the possible impact of mono-ethnic schools on the children of migrant workers. He wished to know whether relations between the State party and its neighbours Serbia, Croatia and Montenegro were sufficiently fluid to enable the Convention to be fully implemented. He was also concerned at the lack of a recent census, since accurate demographic information was a prerequisite for proper implementation of the Convention. He wished to have more information on the interaction between Muslims, Catholics and Orthodox Christians, given that smooth, cordial relations between the three religions would facilitate the implementation of policies in line with the Convention. He would also appreciate more information on the relationship between the Government and civil society.

42. **Mr. Ibarra González** asked whether free consular services were provided in host countries for migrant workers from Bosnia and Herzegovina. Did those services provide

follow-up to ensure that provisions of employment contracts were duly respected by employers in the host country? In some places, workers were expected to work more hours than those stipulated in their contract, or to continue to work beyond the agreed length of the contract. In that regard, he wished to know how the rights of migrant workers and their families were guaranteed in practice, particularly in the absence of relevant bilateral agreements.

43. **Mr. Brillantes** asked what procedures were in place for the systematic registration of children of migrant workers, including those in an irregular situation, and what steps had been taken to ensure that all migrant children were issued with the personal documents necessary for them to access health care and education. He wished to know what mechanisms were in place to facilitate voting by nationals of Bosnia and Herzegovina abroad. What was required of them in order to be eligible to vote, and was pre-registration mandatory? He wished to know how many nationals from Bosnia and Herzegovina living abroad were registered as being eligible to vote.

44. **Mr. Sevim** asked how the readmission agreement between Bosnia and Herzegovina and the European Union worked in practice, and to what extent the right of migrant workers to appeal a deportation decision, or to settle claims relating to wage or social security issues prior to deportation, was guaranteed.

45. **Ms. Dicko** asked whether any preparatory training, including language training, was given to nationals of Bosnia and Herzegovina planning to leave the country to work abroad, or to migrant workers abroad preparing to come to Bosnia and Herzegovina.

46. **Mr. Nuñez-Melgar Maguiña** asked for clarification of the discrepancy between the number of aliens who had been forcibly expelled and the number of aliens found to have illegally crossed borders. It had been stated that most expulsions took place within the framework of readmission agreements; what were the procedures for the expulsion of nationals from countries with which there was no such agreement? He wished to know what human rights training was provided to immigration officials.

47. **Ms. Duderija** (Bosnia and Herzegovina) said, with regard to complaints made by nationals of Bosnia and Herzegovina living in the European Union, that it was common practice for migrants living illegally in European Union States to be expelled before being given the chance to appeal. Bosnia and Herzegovina had no legal mechanism for protecting the rights of migrants who were living illegally in a European Union country. The best way for a country to protect the rights of its migrant workers was to have a bilateral agreement with the country concerned. While the Convention provided optimal mechanisms for the protection of migrant workers, it was necessary for the relevant countries to apply its provisions. It was not for her to say whether European Union mechanisms were compatible with the Convention.

48. As part of the process of accession to the European Union, Bosnia and Herzegovina was implementing a large number of measures necessary for the introduction of a visa-free regime. The Government honoured its obligations under the readmission agreement it had signed with the European Union, whereby nationals of Bosnia and Herzegovina who had unlawfully entered a European Union State were readmitted to Bosnia and Herzegovina when reported by the State in question. A centre had been established in Mostar to facilitate the reintegration of nationals of Bosnia and Herzegovina who had been readmitted, particularly those with social or economic problems. A programme was under way to provide economic and social assistance to such persons in their municipalities of origin. That work was made difficult, however, because of the sheer number of internally displaced persons in Bosnia and Herzegovina.

49. All citizens of Bosnia and Herzegovina over the age of 18 were eligible to vote, and were registered in a database of personal identity numbers, thereby guaranteeing their



inclusion on the electoral roll. Nationals of Bosnia and Herzegovina living abroad could vote by post, after filling out forms downloaded from the Internet, or could lodge the forms with the relevant consular services abroad. The reason for the low turnout of voters abroad was simply lack of interest, combined perhaps with the poor political and economic situation in Bosnia and Herzegovina. There were no legal or practical obstacles to voters exercising their rights.

50. All children were registered at birth, and birth certificates were provided. However, in the case of parents without valid identity documents, administrative proceedings were subsequently initiated in order to confirm the identity of the parents and child. Owing to the lengthy and complex nature of the identification process, parents often received free legal aid, as well as assistance from the local authorities of their place of residence.

*The meeting rose at 6 p.m.*