



Convention on the Rights of the Child

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Summary record of the 1730th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 19 September 2012, at 10 a.m.

Chairperson: Mr. Zermatten

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The meeting was called to order at 10 a.m.

Consideration of reports of States parties *(continued)*

Second to fourth periodic reports of Bosnia and Herzegovina (CRC/C/BIH/2-4; CRC/C/BIH/Q/2-4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Bosnia and Herzegovina took places at the Committee table.*

2. **Ms. Đuderija** (Bosnia and Herzegovina), introducing her country's second to fourth periodic reports (CRC/C/BIH/2-4), said that public meetings and debates had been organized during the preparation of the periodic report to raise awareness of the rights enshrined in the Convention. The opinions of civil society had been sought in the preparation process, as described in paragraphs 5 to 9 of the report. Efforts had been made to bring key legislation on the rights of the child and the practices of professionals working with children into line with relevant international instruments. One of the key strategic documents for the promotion and protection of children's rights was the Action Plan for Children of Bosnia and Herzegovina (2011–2014), which was described in paragraphs 1 to 5 of the written replies to the Committee's list of issues (CRC/C/BIH/Q/2-4/Add.1). The Plan provided, inter alia, for the development and promotion of alternative forms of care for children who could not live with their parents, such as adoptive or foster families, which generally provided better conditions for children's development than did care institutions. The Plan also covered many other areas, such as children's social inclusion, health care, education, specific forms of protection and non-discrimination.

3. The Action Plan recognized the need to address all forms of violence against children, including corporal punishment in the home and in institutions. There were plans to raise awareness of that issue and ensure that such violence was properly reported and monitored. The National Strategy for Combating Violence against Children 2007–2010 had been adopted by the Council of Ministers in 2007 and work was under way on the new strategy, which would be in effect until 2015. The new strategy identified specific problems and recent trends, proposed ways to harmonize and improve existing legislation in the area of violence against children, and included measures for the prevention and reduction of such violence. It had also led to the formation of coalition of non-governmental organizations (NGOs) which was working to establish a common methodology for monitoring violence against children, in cooperation with the Ministry of Human Rights and Refugees.

4. Robust legislation had already been adopted in the Republika Srpska to address juvenile delinquency, and a similar law was in the process of being adopted in the Federation of Bosnia and Herzegovina. In addition, improvements had been made to the system of alternative forms of punishment for juvenile offenders. Developments in the field of education included the adoption of strategies in such areas as vocational, preschool and Roma education. There was nevertheless a significant lack of funding for child protection services. In 2011, the Ombudsman for Human Rights in Bosnia and Herzegovina had received 110 individual complaints concerning children's rights; most of them concerned violations of children's rights to education, health care, contact with their parents if they did not live with them, and protection from violence, abuse and neglect. The Ministry of Human Rights and Refugees had used the data obtained to establish priorities for its activities to protect children's rights. Steps had also been taken in recent years to monitor the enjoyment of the rights of children belonging to minority groups and children with disabilities, and to establish the degree and form of exclusion of children from minority and other groups.

5. **Mr. Madi** (Country Rapporteur) commended the State party for its ratification of most international human rights instruments, especially those relating to children's rights, and for withdrawing its reservation to article 9 of the Convention. The Committee recognized that the State party had made significant progress in developing legislative and policy frameworks based on the provisions of the Convention. However, he remained concerned at the fragmentation of the legal and policy frameworks at the State, entity and district levels. It would be useful to hear about efforts to harmonize legislation related to children's rights at the different levels of government within the State party with a view to establishing a comprehensive children's rights act at the national level.

6. He welcomed the adoption of the Action Plan for Children of Bosnia and Herzegovina (2011–2014). However, the first step towards implementation of that Plan should surely be the harmonization of laws and practices. Most of the action taken to date under the framework of the Plan had focused on preventing violence against children and on juvenile justice. Given that the first implementation report had been due in July 2012, he asked the delegation to inform the Committee on progress that had been made in those respects.

7. The fragmented political and administrative structure of the State party had resulted in responsibilities for children's rights being split among many different ministries and government agencies at the State, entity, cantonal and municipal levels. That in turn led to discrimination and unequal treatment of children, particularly those living in rural and undeveloped areas of the country. He asked how the State Government was addressing that issue in order to ensure the uniform enjoyment of children's rights throughout the country and whether it was being addressed in the Action Plan for Children. Moreover, according to the World Bank, the State party was among the countries that spent the most on social protection, yet the majority of that money went to war-related beneficiaries, leaving insufficient funds for other vulnerable groups, including children and their families. He asked what measures were being taken by the central Government to harmonize budgetary planning for the protection of children's rights in order to ensure that there was a common minimum level of protection for all children, regardless of where they lived in the State party.

8. It would appear that the Ministry of Human Rights and Refugees had submitted a draft decision to the Council of Ministers in 2012 on the re-establishment of the Council for Children. The Committee would welcome an update on any progress made to date in that regard. The Committee welcomed the establishment of the Department of Protection of the Rights of the Child within the Institution of Human Rights Ombudsman for Bosnia and Herzegovina and the appointment of an independent ombudsman in the Republika Srpska. He wished to know what obstacles had hindered the implementation of the ombudsmen's recommendations. It would also be useful to learn whether an independent body existed to monitor the implementation of the Convention in the country as a whole.

9. While welcoming the efforts of the State party to collect relevant data, he noted that the DevInfo database system (CRC/C/BIH/Q/2-4/Add.1, para. 18) did not incorporate a quality assurance process to verify the reliability of the data collected. Furthermore, the agencies that worked with children did not appear to be cooperating with that system, and plans to hold a census had allegedly been delayed owing in part to political concerns. He requested updated information on the status of the bill on the population and housing census and the obstacles it faced.

10. The Committee had received reports that the provisions of the Convention were not being widely disseminated in the State party, owing to insufficient information exchange and cooperation between the different levels of government. Moreover, professionals working with or for children apparently had a limited working knowledge of the Convention, and any training they received was provided by NGOs. He asked what steps

were being taken to provide adequate training programmes for such professionals. Notwithstanding the information provided in paragraph 65 of the report, it would appear that children's rights were not part of the official school or university curricula. It would be useful to hear what measures were being implemented at the local level to raise awareness of children's rights and the provisions of the Convention.

11. **Ms. Lee** (Country Rapporteur) requested updated information on the Multiple Indicator Cluster Survey and the State party's draft guidelines for improving the situation of Roma. While the cantonal ministers of education had denied the existence of any form of segregation in the case of "two schools under one roof", she would welcome additional details on the nature of those establishments. The Committee would also appreciate additional information on the scope, nature and status of the legislation on birth registration that had been adopted in the entities. Lastly, it would be useful to know whether children could opt out of catechism classes in schools and if not, whether they could take classes in other religions.

12. The Committee was disappointed at the lack of improvement in the situation of the Roma community in the State party. Roma children continued to have poor access to education and health care, few of them had adequate identity documents, only two out of five Roma children were enrolled in schools and many of them were involved in begging, notwithstanding the Committee's 2005 concluding observations to the State party (CRC/C/15/Add.260). She asked whether corporal punishment was prohibited in alternative care settings outside the Republika Srpska and whether the "disciplining" to which 34 per cent of children had been subjected (CRC/C/BIH/2-4, para. 227) constituted corporal punishment. She also enquired whether the ombudsman institutions were truly independent.

13. **Mr. Koompraphant** asked whether the State party had a policy of supporting NGOs, non-profit corporations and social enterprises that worked in the field of child protection and, if so, what resources were allocated to such organizations. It would be useful to know whether all children had access to the child protection services provided by those organizations as well as what measures, if any, had been taken to assist children who could not access those services. He wished to know how those organizations could participate in the development of a national children's rights policy.

14. **Ms. Al-Shehail** requested additional information on the Revised Action Plan on the educational needs of Roma, including the budget that had been allocated to implement the Plan and the authority responsible for its implementation. She wished to know what administrative and judicial action had been taken to uphold the State party's legislation on gender equality, particularly in cases concerning children from minority groups and children with disabilities. It would be interesting to learn whether any steps had been taken to monitor the implementation of that legislation.

15. **Mr. Pollar** asked how the State party planned to ensure that the best interests of children who lacked parental care were taken into account, especially as the current system did not encourage the reunification of children with their biological parents. He wished to know whether there were any measures in place to evaluate the impact of all action taken to ensure that the provisions of the Convention were upheld and the best interests of the child respected. He asked whether children who attended court proceedings were always represented by counsel. The Committee would appreciate information on the steps the State party planned to take to remedy the fact that children who put forward their views, even in school councils, were often bullied or ridiculed. It would be interesting to learn whether any institutional measures or training for children existed to help them realize their right to freedom of association and freedom of peaceful assembly.

16. **Ms. Nores de García** asked whether the State party planned to make birth registration free of charge and how it intended to ensure that registration facilities were available in remote areas.

17. **Mr. Gastaud** wished to know what steps were being taken to give children the right to be heard within the family and in judicial and administrative proceedings. He asked whether any effort was being made to raise awareness of that right among parents and professionals who worked with children.

18. **Ms. Wijemanne** requested additional information on the programmes in the State party to disseminate the provisions of the Convention to professionals such as lawyers, politicians, health-care practitioners, teachers and social workers as well as to parents and other family members.

19. **Ms. Aidoo** asked whether there was legislation in place to protect the privacy of child victims of crime, particularly to prevent the media from publishing details such as the names, addresses and photographs of children who had been the victims of sexual abuse. She also wished to know what steps the State party was taking to ensure that the information to which children had access was appropriate to their age group, did not harm their development and enabled them to express themselves and participate effectively in community and public life.

20. **Mr. Guráň** asked whether children found it easy to bring complaints before the ombudsman institutions in the Federation of Bosnia and Herzegovina, the Republika Srpska and Brčko District. It would be useful to hear how those institutions had handled any complaints received from children. The Committee would welcome additional information on the activities that had been conducted in the State party as part of the Decade of Roma Inclusion.

21. **Mr. Kotrane** requested details of any cases in which the Convention had been directly invoked in domestic courts. He also wished to know whether legal action had ever been brought against a judge who had failed to hear a child in judicial proceedings.

22. **The Chairperson** asked whether the State party planned to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

The meeting was suspended at 10.55 a.m. and resumed at 11.20 a.m.

23. **Ms. Đuderija** (Bosnia and Herzegovina) said that Bosnia and Herzegovina had withdrawn its reservation to article 9, paragraph 1, of the Convention, thereby ensuring that the Convention could be implemented in full. All courts in Bosnia and Herzegovina as well as the judges presiding in them were aware of the Convention on the Rights of the Child and applied its provisions. Although she did not have access to detailed information, she could say that almost a dozen court rulings had been handed down in recent years invoking the Convention, which formed an integral part of the national legal framework. Training for legal and judiciary staff covered the Convention and its Optional Protocols. Such training was aimed at judges, prosecutors and police officers, and training activities for civil servants also included modules on the Convention. Training was provided on a regular basis, at both higher and lower levels of government, as part of the relevant action plan. Given the organizational structure of the Government and various constitutional constraints, most training was organized at lower levels, with monitoring and coordination duties performed at the State level by ministries and agencies and a modular approach adopted with lower level bodies.

24. The Council for Children was designed to provide an additional instrument for action in the field of child protection. The Republika Srpska already had such an institution, and plans were under way to establish another in the Federation. The institution of the Ombudsman existed, although it did not yet operate at full capacity. Children had access to

the respective institutions in both the Republika Srpska and the Federation of Bosnia and Herzegovina and could, under existing anti-discrimination legislation, also lodge complaints with the ombudsmen through NGOs.

25. **The Chairperson** asked what specific coordination measures were being implemented, as there seemed to be a lack of real coordination within the Federation, and the Council for Children was still not operational. He asked when the Council would be fully operational.

26. Given the existence of two political entities in the State party, cooperation was vital. Coordination was the cornerstone of the implementation of the Convention, and efforts were required to reach out to regions, villages and towns. Accordingly, he wished to know how ministries were involved in horizontal cooperation efforts.

27. With regard to the work of the ombudsmen, he wished to know how complaints were lodged and whether the ombudsmen dealt with complaints themselves or whether such complaints were referred to administrative courts or other judicial bodies. Were decisions handed down? What was the status of children within the complaints procedure?

28. **Ms. Đuderija** (Bosnia and Herzegovina) said that as the Council for Children had not received an equal level of support from both political entities, a new coordination system had been put forward by the Ministry of Human Rights and Refugees, based on respect for the respective competences of State-level institutions. Under that system, strong interministerial and interdisciplinary teams worked together with lower-level representatives. UNICEF had provided assistance in defining guidelines for the collection of key data relating to the Convention for monitoring, reporting and assessment purposes. The approach adopted had to comply with existing constitutional arrangements in Bosnia and Herzegovina.

29. **Ms. Lee** asked for clarification regarding horizontal coordination and whether the Constitution needed to be changed to allow ministries to coordinate horizontally. She recalled that the State party was obliged to implement the provisions of the Convention on the Rights of the Child across the board and asked what body was in charge of implementation efforts.

30. **Ms. Đuderija** (Bosnia and Herzegovina) said that the Ministry of Human Rights and Refugees was responsible for both vertical and horizontal coordination. However, the current system imposed certain constraints on the way in which coordination could take place. The plan was thus to have ad hoc teams, set up by the national Government rather than the Ministry, responsible for collecting information and drafting documents. It was nevertheless important to respect the views of the entities regarding their mandate for the collection of data, and it was in fact difficult to implement changes without a constitutional basis for such measures.

31. The process for lodging complaints entailed a number of different options. First, a child could lodge a complaint with the Ombudsman, who would then investigate the case. All levels of government were obliged to provide the Ombudsman with information so that he could issue the relevant recommendations. Secondly, a complaint containing all the relevant facts of the case could be lodged with a competent court against the public institution accused of violating the child's rights. The burden of proof then lay with the institution. A complainant could also be assisted by civil society organizations and NGOs. A further, preventive procedure involved lodging complaints with the Ministry of Human Rights and Refugees; the Ministry would then collect information and suggest preventive measures in order to avoid court proceedings. That procedure was also open to children, and it frequently resulted in problems being resolved before they were brought to court.

32. The above-mentioned mechanisms were effective, although the number of cases handled or pending was small, and some cases remained pending for long periods of time because the authorities sought to resolve the issue without involving the judicial system.

33. **Mr. Madi** asked whether the procedures described were applied nationwide or in one or other of the political entities. He, too, wished to know which authority was responsible for the overall implementation of the Convention.

34. **Ms. Lee** asked whether all children were aware of the three methods available for lodging complaints and whether the court system was child-friendly. She wondered whether the process might not be faster if children could contact the Ombudsman directly, rather than going through the Ministry.

35. **Ms. Đuderija** (Bosnia and Herzegovina) said that State-level legislation, which included the anti-discrimination law, was implemented by all the courts. Children and NGOs were aware that, depending on the claimant's place of residence, they could file a claim with any court, in keeping with the principle of territorial jurisdiction. However, it was possible to file a complaint in another jurisdiction if the request was substantiated. Failure to enforce court rulings constituted a criminal offence under national law, and proceedings could be brought against the delinquent institution or body.

36. Mechanisms also existed to prevent children from having to appear in court. The Ministry of Human Rights and Refugees and the ombudsmen had strict deadlines for dealing with complaints as an alternative to court proceedings. For example, the ombudsmen generally had a maximum of 30 days to investigate a case. The courts, too, had strict time limits within which to initiate proceedings.

37. Training provided to judicial staff and prosecutors included information on data collection relating to cases of discrimination against both children and adults.

38. **Ms. Sandberg** asked whether children could lodge complaints directly with the courts without being represented by their parents.

39. **Ms. Đuderija** (Bosnia and Herzegovina) said that it was normally necessary to obtain the consent of parents for a child to lodge a case with the courts. However, parental rights could be suspended, and a representative of the social welfare department or other third party could represent the interests of the child, provided the necessary legal requirements had been met. Normally, however, children brought cases before the courts with their parents, and she was only aware of one instance in which that had not been the case.

40. **The Chairperson** said that, as he understood it, the Ministry of Human Rights and Refugees was responsible for coordination efforts. Did that mean, then, that the Council for Children would cease to exist and be replaced by the Ministry, or would it be reinstated?

41. **Ms. Đuderija** (Bosnia and Herzegovina) said that the Ministry of Human Rights and Refugees was responsible for coordinating activities relating to the Convention. The Council for Children was part of a proposal to improve coordination and implement targets in an interdisciplinary manner, involving entities at other levels with a view to improving the way in which Bosnia and Herzegovina met its international obligations.

42. With regard to the implementation of the Action Plan for Children, she said that an interdisciplinary team would be responsible for establishing the relevant indicators. A modular approach was being adopted in various sectors relating to child protection. Efforts were under way to improve the reporting methodology, and the experiences of counterparts in other countries and at lower levels of government were being studied. Emphasis was also placed on training and establishing good sources of information.

43. Given the complex data requirements associated with implementation of the Convention, a new data-collection approach had been adopted, focusing on the grouping of data into thematic areas so as to provide insight into the problems of the most vulnerable sections of society. Particular efforts had been made to collect data on the needs of the Roma community in such areas as employment, housing, health care and access to identity documents. Those data would then provide a basis for the second stage of the Action Plan and allow the State to meet its obligations relating to the Decade of Roma Inclusion. The Ministry's effort to develop a new data-collection methodology also entailed work in partnership with agencies and NGOs. A single, central body had been established, made up of 11 representatives from Roma communities and 11 representatives from various institutions, to facilitate data collection from Roma associations and NGOs. A similar, cooperative approach was being advocated for the collection of data on other groups of children, although budgetary restrictions made it difficult to implement new programmes.

44. **Mr. Madi** wondered why no census had been taken since 1991.

45. **Ms. Đuderija** (Bosnia and Herzegovina) said that one reason for the delay was that there had been no agreement on legislation governing such a census. However, the Government was currently making preparations for a census to be conducted in 2013, and the data collected from it would be made available to all relevant institutions.

46. Information on the rights of the child was disseminated to children from primary to higher education. That information was accessible to all citizens, especially children, and could be consulted on the websites of the Ministry of Human Rights and Refugees and several other ministries. Children who wished to read about cases involving their rights were free to do so under legislation governing freedom of access to information. There were no problems with the complaints mechanisms in place in the country.

47. **The Chairperson** said that he wished to know what specific measures had been taken by the State party to raise awareness about the Convention. Were children taught about the Optional Protocols to the Convention and, if so, how were they made aware of those instruments? He would also appreciate more detailed information on the State party's efforts to protect children from exposure to online risks.

48. **Ms. Smajević** (Bosnia and Herzegovina) said that her Government had participated in a Council of Europe project for the protection of children on the Internet and had worked in partnership with NGOs to provide a safe Internet environment for children. It had also conducted campaigns to raise awareness about inappropriate content. While a newsletter on the subject had been published in recent years, it had ceased publication in the country owing to budgetary constraints. Furthermore, a code of ethics had been updated to help to prevent children from online risks. The Communications Regulatory Agency imposed fines for violations of the applicable code of conduct by the media, including violations of children's right to privacy on the Internet. The printed press, however, was harder to regulate, as there was no national regulatory body to impose penalties for violations of children's rights other than the Press Council. Nevertheless, progress had been made in protecting children's right to privacy, and the issue had been a priority for the Government since 2005.

49. **Ms. Aidoo** asked whether any steps had been taken by privately owned media to heighten awareness of the Convention. As the Communications Regulatory Agency was not a preventive mechanism, she wondered what preventive measures had been taken to protect the privacy of children.

50. **Ms. Đuderija** (Bosnia and Herzegovina) said that in recent years several penalties had been imposed on both private and State-owned media, particularly the electronic media, for broadcasting inappropriate images of minors. Moreover, the Agency had the authority to revoke their licences if it saw fit to do so. While the Press Council had imposed

finances on news outlets for violations of children's privacy, such as the unlawful release of the names of minors, she concurred that further preventive efforts were needed. In addition, the Government had endeavoured to raise awareness of the code of conduct and the relevant Council of Europe standards. While the proper legal framework to address violations of the code was in place, it was not possible to eradicate them.

51. **The Chairperson** said that he wished to know what was being done to overcome the disparities in services and benefits that existed in various parts of the country.

52. **Mr. Lepir** (Bosnia and Herzegovina) said that social welfare policies in Bosnia and Herzegovina were indeed fragmented. The allocation of services and benefits fell within the jurisdiction of the entities and the cantons. Benefits had decreased in recent years because of the economic crisis. In the Republic of Srpska, all social welfare, including maternity allowances and family allowances, was funded not by taxes but by the contributions of employers and employees. In short, there was no single, unified system of child protection, as services and benefits and the economic policies of the authorities varied from canton to canton.

53. **Mr. Madi** asked why an age limit of 10 years had been set for the full adoption of children in the Brčko district and why prospective parents were required to be married no less than 5 years before they could adopt in the Republic of Srpska. Such restrictions should be relaxed and adoption procedures simplified, as the adoption process was already complex and involved long waiting periods, forcing many older children to live in institutions and be deprived of a family environment. He urged Bosnia and Herzegovina to become a party to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

54. Despite the revised strategy adopted in 2010 to implement annex 7 of the Dayton Peace Agreement, refugees and internally displaced children continued to live under difficult conditions. Some children were required to travel long distances to go to school or were subjected to ethnic or national discrimination. Many were thus discouraged from continuing beyond primary school. Given that internally displaced children were particularly vulnerable to a lack of care, he wished to know what steps had been taken to implement annex 7, which concerned refugees and displaced persons. He asked whether there were asylum seekers in the country, especially children. He would also like to know what was being done to address the problems of street children and begging, particularly by Roma children. Begging was often used as a means of exploiting children and should be recognized as a form of trafficking in persons. Lastly, what was being done to improve legislation and institutional capacity to keep children off the streets?

55. **Ms. Lee** asked for clarification of paragraph 228 of the report, which suggested that girls as young as 15 were married. She welcomed the adoption of the Framework Law on Preschool Care and Education and asked how the Government intended to put it into practice throughout the country. Voicing concern over the quality of education in the country, she requested detailed information concerning teacher training and the criteria for their selection, as there had been reports that recruitment was not always based on competency. She was also concerned to note that a module on democracy and human rights had been removed in 2010, and asked whether it would be replaced by a new one. More information was needed on child labour, particularly the statement in paragraph 226 of the report that almost 6 per cent of children aged between 5 and 14 years were involved in a child labour activity. She would also appreciate further information on the large number of small arms and light weapons in the country, which was a matter of particular concern when they were to be found in households with children.

56. **Ms. Maurás Pérez** said that reports of high levels of air pollution produced by the ArcelorMittal steel mill in Zenica were a source of concern and asked whether any

measures had been taken at the State level to monitor the environment and regulate the activities of transnational companies. She would also appreciate information concerning reports that private security companies working in Bosnia and Herzegovina had been involved in the trafficking of girls; had any measures been taken to protect women and girls against such crimes? Lastly, she asked whether there had been any obstacles to implementing annex 7 of the Dayton Peace Agreement and what steps had been taken to provide refugee and internally displaced children with health care, education and housing.

57. **Ms. Varmah** said that the use of tobacco, alcohol and narcotic drugs among persons aged 15 to 18 years appeared to be growing; she would therefore be grateful to learn the status of implementation of the 2009–2013 strategy for drug control. Was the State party satisfied with the results to date? She regretted that the uncoordinated efforts of the Government to combat drug abuse had been insufficient to tackle highly organized drug dealers and wondered whether the State party was contemplating a complete ban on tobacco or alcohol advertisements. It would also be helpful to have information on campaigns in schools and in the media to raise awareness of the adverse effects of alcohol, tobacco and narcotic drugs. She would appreciate detailed information regarding any State-run rehabilitation centres for drug addicts or alcoholics, programmes to prevent and test for HIV/AIDS and reproductive health counselling centres to prevent sexually transmitted diseases and unwanted pregnancies.

58. **Ms. Sandberg** said that she would welcome more detailed information on the project to strengthen the country's social work centres that had been described in the written replies to the list of issues. In particular, more specific information was needed on the mandate of such centres. There had been critical reports that the centres placed greater emphasis on administration than on the provision of family services. She wondered whether there had been any improvements in the provision of such services by the centres and what services in fact were provided to support families.

The meeting rose at 1 p.m.