



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

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

List of issues in relation to the third periodic report of Bosnia and Herzegovina*

I. General information

1. Please provide information on the achievements and difficulties encountered in implementing the Law on Aliens that was adopted in 2015. Please provide updated information on any new legislation related to the protection of the rights of migrant workers and members of their families, new strategies and action plans adopted to improve the implementation of the provisions of the Convention, and recently ratified international instruments related to migration. Please also provide information on the specific, time-bound and measurable goals and targets set for the implementation of migrant workers' rights and the provisions made for monitoring them.

2. According to information before the Committee, in 2018 the State party experienced an influx of migrants, mostly from the Middle East. Please provide information on the measures taken to implement the Convention and to integrate these migrants and members of their families. What concrete measures have been taken to ensure that these migrants have access to employment opportunities, health care, education and other services, and are provided with individual protection as well as risk assessments?

3. In its report, the State party indicated that, in March 2016, new migration and asylum strategies had been adopted. Please provide further clarification on:

(a) The achievements and difficulties encountered in implementing the new migration and asylum strategies, particularly the action plan on migration and asylum for the period between 2016 and 2020;

(b) Whether the State party undertook impact assessments of previous strategies and action plans and whether the lessons learned were incorporated into the new strategy and action plan on migration and asylum.

4. In its previous concluding observations (CMW/C/BIH/CO/2, para. 12), the Committee recommended that the State party encourage the Entities (Republika Srpska and Brcko District) to harmonize and implement legislation in order to ensure that migrant workers fully enjoyed the rights enshrined in the Convention, especially in the areas of employment, education and social security. In its report, the State party indicated that the possibility to do so could not be ruled out. Please provide an update on the progress made to harmonize the legislation of the different Entities (Republika Srpska and Brcko District) in certain areas of the Convention, such as employment, education and social security.

* Adopted by the Committee at its twenty-ninth session (3–12 September 2018).



5. Please provide information on the measures taken to improve the collection of quantitative and qualitative data, disaggregated by sex, age, nationality/ethnicity and migration status, in particular of unaccompanied children and Bosnian migrant workers abroad, for use in evaluating the implementation of the Convention. Please also provide updated data, disaggregated by sex, age and nationality, or, failing that, estimates, on the number of irregular migrant workers residing in or transiting through Bosnia and Herzegovina. Please also provide data, disaggregated by sex and age, on the number of Bosnian migrant workers and members of their families abroad, including those in an irregular situation.

II. Information relating to the articles of the Convention

A. General principles

6. Please provide updated information on:

(a) The number and type of complaints examined by judicial bodies and/or administrative mechanisms mandated to examine complaints from migrant workers and members of their families since 2012, and the decisions taken;

(b) The legal assistance provided to migrant workers in a regular or an irregular situation and the measures taken to inform them and members of their families about the remedies available to them for violations of their rights;

(c) The reparations awarded to victims of such violations, including in the form of restitution, compensation, rehabilitation, satisfaction and assurances of non-repetition.

B. Part II of the Convention

Article 7

7. In its report, the State party indicated that, following the adoption of the Law on Amendments to the Law on Prohibition of Discrimination, better conditions for the protection of migrant workers and members of their families had been created. Please provide information on the extent to which these amendments guarantee non-discrimination, in practice, to all migrant workers and members of their families with regard to the rights provided under the Convention. Please include information on the education, training and awareness-raising programmes to combat stereotypes and discrimination against migrant workers and Bosnian returnees.

C. Part III of the Convention

Articles 8–15

8. Please provide information on any cases identified in the State party of exploitation of migrant workers and members of their families, both those in regular and those in irregular situations. Please also provide information on any cases identified in the State party of domestic servitude, forced labour and sexual exploitation involving migrant workers, particularly migrant domestic workers, and on the measures to prevent and combat these phenomena.

Articles 16–22

9. In its report, the State party indicated that, under the Law on Aliens, the maximum length of detention in immigration centres could not exceed 18 months. Please provide information, disaggregated by sex, age and nationality, on the number of migrant workers in a regular or an irregular situation placed in administrative or judicial detention in the State party since 2012 and the length of their detention. Please provide information on the

number of judicial or administrative decisions taken against detained migrant workers in the State party and the conditions in which they are held.

10. In its previous concluding observations, the Committee recommended that detention orders against migrant workers should be made as a measure of last resort, on a case-by-case basis and in compliance with applicable international standards (CMW/C/BIH/CO/2, para. 26 (c)). Please provide detailed data on the number of detention orders that have been made against migrant workers since 2012 and indicate whether the State party has used alternative measures in lieu of detention for migrant workers. Please also indicate the concrete measures taken to avoid the detention of migrant workers solely on the basis of migratory status and provide alternatives to the detention of pregnant migrant women, mothers with young children and unaccompanied children. In the light of the Committee's previous concluding observations (CMW/C/BIH/CO/2, paras. 29–30), please also provide information on the measures taken to ensure that children of migrant workers are no longer placed in the Lukavica Immigration Centre, which is not adapted to the needs of children.

11. In its report, the State party indicated that an appeal against a decision to place a migrant worker in an immigration detention centre could be appealed within three days and that legal aid was provided to migrant workers. Please provide information on cases in which migrant workers, including those in an irregular situation, have received free legal aid to appeal against a decision to place them in an immigration detention centre. Please also indicate if detained migrant workers have access to consular services and whether the State party notifies their countries of origin about their detention.

Article 25

12. Please indicate the number of labour inspectorate visits that have been undertaken by the State party since 2012 to ensure that equal working conditions and safeguards are applied to migrant workers and national workers. What measures are being taken to regulate household work in the State party and to guarantee domestic migrant workers the rights under the Convention? Please state the measures that have been taken to monitor the working conditions of migrant domestic workers, and to ensure that migrant domestic workers have access to effective mechanisms to lodge complaints against their employers.

Article 29

13. In its previous concluding observations, the Committee expressed concern that children of migrant workers, including Roma children and children of migrant workers in an irregular situation, were often neither registered at birth nor issued with identity documents, which impeded their access to health care, social benefits and education. In its report, the State party indicated that significant progress had been made and the number of individuals that were not registered had been significantly reduced. Please provide updated data or an estimate on the number of Roma children and children of migrant workers in an irregular situation who are not registered at birth; and the concrete measures that are being taken to address this phenomenon. Please describe the specific activities undertaken by the State party to raise awareness and train law enforcement officers on the birth registration of children of migrant workers (CMW/C/BIH/CO/2, para. 36).

Article 30

14. In its report, the State party indicated that there was no information on reported cases of discrimination against children of migrant workers with regard to access to education. Which specific steps have been taken to ensure that children of migrants in an irregular situation have access to education? Please provide statistical information on access to education by children of migrant workers.

Article 33

15. Please also indicate the measures that have been taken to inform Bosnian migrants, and migrant workers in transit through or living in the State party, as well as members of their families, of their rights under the Convention and their rights and obligations in the State of employment.

D. Part IV of the Convention

Article 41

16. In its report, the State party indicated that it had conducted training and awareness-raising sessions, in particular on voting rights, in countries in which there was a significant number of Bosnian migrants, such as in Austria, Czechia, Denmark, Germany, Norway and Sweden. In the light of the Committee's previous concluding observations, (CMW/C/BIH/CO/2, para. 39), in which it expressed concern that a small number of Bosnian nationals working abroad exercised their voting rights in previous elections, please provide information on the measures taken to assess the impact of the training and awareness-raising measures in improving the participation in elections of Bosnian nationals working abroad. Please also provide information on other services, including consular services, that are provided to Bosnian migrant workers abroad.

E. Part V of the Convention

Articles 58, 59, 61 and 63

17. Please indicate the situation and scope of protection afforded to frontier (art. 58), seasonal (art. 59), project-tied (art. 61) and self-employed (art. 63) workers in the State party and abroad.

Article 59

18. In its report, the State party indicated that the Law on Labour did not refer specifically to seasonal workers. Please provide information on the measures taken to protect seasonal workers from violations of their labour rights. Following the adoption of the Law on Aliens in 2015 to provide for the registration of seasonal workers, please provide information on the institution mandated to register seasonal workers in the State party. Please also provide data on the number of seasonal workers registered since the adoption of the Law on Aliens. Which specific measures have been taken to monitor employment practices in the fields of construction, agriculture and domestic work to protect seasonal workers from unjust and exploitative conditions of work? Please also provide information on the sanctions applied in cases of violation and the remedies provided to victims.

F. Part VI of the Convention

Article 64

19. In its report, the State party indicated that it planned to conduct research on the number of Bosnian nationals living in other countries in the region, including in the European Union, in order to initiate further bilateral agreements in the field of employment. Please provide an update if this research has been conducted and, if so, what were the findings. What other measures have been taken to enter into bilateral agreements with other countries?

Articles 65 and 66

20. Please give information on the services and protection measures delivered to Bosnian migrant workers and members of their families in receiving countries.

Article 67

21. Please provide disaggregated statistical information on the number and proportion of Bosnian returnees who have benefited from the housing project undertaken by the State party to promote the integration of returnees. Please also provide information on the measures taken to facilitate their access to health care, employment, social security, education and vocational opportunities. Please provide an update on the activities undertaken by the Coordination Team established by the Council of Ministers to implement

annex VII of the Dayton Peace Agreement, which, inter alia, requires the State party to create economic and social conditions conducive for the return and reintegration of Bosnians.

Article 68

22. In its report, the State party indicated that the State Coordinator for Combating Trafficking in Human Beings and Illegal Immigration had submitted amendments to legislation in order to harmonize certain elements of the offence of human trafficking with international standards. Please provide an update on the progress made to harmonize legislation on trafficking and address the problem of the jurisdictional overlap of the offence of trafficking in human beings, which presents challenges for State and federal prosecutors.

23. In the light of the Committee's previous concluding observations (CMW/C/BIH/CO/2, para. 48), please provide information on the implementation of Strategic Measure B3, which seeks to improve the identification of victims of trafficking and traffickers. Please also provide updated data on the number of trafficking cases decided by judicial organs, in particular on the number of investigations, prosecutions, convictions, sentences imposed on traffickers and redress provided to trafficking victims since 2012.
