



**International covenant
on civil and
political rights**

Distr.
GENERAL

CCPR/C/SR.2404
31 October 2006

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Eighty-eighth session

SUMMARY RECORD OF THE 2404th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 19 October 2006, at 3 p.m.

Chairperson: Ms. CHANET

CONTENTS

CONSIDERATION OF REPORTS UNDER ARTICLE 40 OF THE COVENANT (continued)

Initial report of Bosnia and Herzegovina (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.06-44872 (E) 251006 311006

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS UNDER ARTICLE 40 OF THE COVENANT
(agenda item 6) (continued)

Initial report of Bosnia and Herzegovina (continued) (CCPR/C/BIH/1;
CCPR/C/BIH/Q/1; HRI/CORE/1/Add.89/Rev.1)

1. At the invitation of the Chairperson, the members of the delegation of Bosnia and Herzegovina resumed their places at the Committee table.
2. Mr. STANIŠIĆ (Bosnia and Herzegovina) said that after the war approximately half the population of his country had been displaced owing to the major devastation of infrastructure. Returns had begun following the signature of the Dayton Peace Agreements. Over 100,000 people had returned in 2002 pursuant to the new property legislation which enabled refugees to return to their pre-war homes. According to statistics, the return process was nearly complete, although a significant number of refugees and internally displaced persons were still awaiting funds for the reconstruction of their homes. Return was now an economic issue, rather than an issue of politics or security.
3. Turning to demining, he said that a large area of Bosnian territory still contained mines. A total of 4,580 people had been killed by mines during the war, and 1,532 had been killed since. A Mine Action Centre had been established and legislation on mine action had been adopted. Although there had been positive results with demining, lack of financial resources meant that progress had been slow. Refugee returns were monitored by the Ministry for Human Rights and Refugees, and the Return Fund had been established for housing reconstruction. The Commission for Displaced Persons and Refugees addressed all refugee-related issues, delegating tasks to other institutions as necessary; support was received from the Office of the United Nations High Commissioner for Refugees, the Council of Europe, the European Commission and the Organization for Security and Cooperation in Europe, particularly for the drafting of legislation on refugees' rights.
4. Mr. MIŠKOVIĆ (Bosnia and Herzegovina) said that the legislative authority had made arrangements to shorten trials and deadlines for judicial procedures, in order to reduce the number of unduly lengthy cases and court backlogs. Quotas were being set for the cases to be dealt with by each judge, and similar norms would be introduced for prosecutors. A procedure had been established for the appointment of a pool of reserve judges to serve for a period of two years in order to reduce backlogs. Measures had been taken to ensure that those reserve judges would be adequately trained. Judicial training centres for all judges and prosecutors had been established at the entity level and in Brčko district. Each prosecutor was obliged to attend a minimum of four days' further training a year on issues such as the prevention of corruption. A maximum of two hearings were permitted in litigation cases, and a law on mediation had been introduced as a means of settling disputes out of court.
5. Judges and prosecutors were not allowed to be members of political parties, and were appointed by the High Judicial and Prosecutorial Council in order to eliminate all political influence. A code of ethics had been issued to judges and prosecutors, stipulating what they

were and were not permitted to do outside the line of duty. New legislation had been adopted on salaries and allowances for judges and prosecutors. Citizens were invited to submit any complaints they might have and they were duly investigated; when necessary, disciplinary procedures and rigorous sanctions were applied.

6. Ms. ĐUDERIJA (Bosnia and Herzegovina) said that the Office of the Ombudsman had been established to ensure fair and timely trials. On the registration of births she said that there was a large population of Roma children who had not been registered. Legislation on the registration of births had been adopted; it stated that all children must be registered at birth and be issued with a birth certificate. Although registration was primarily the responsibility of parents, health institutions could provide information ex officio to registration offices. In the event that such information had been received and the birth had not been registered after two months, a reminder would be sent to the child's parents. Since the Roma were an itinerant population, they often neglected to register their children, and were difficult to trace and contact. A central database established in the Ministry of Civil Affairs contained information on the civil status of all Bosnia and Herzegovina nationals. The Roma Board and Roma associations were making efforts to increase awareness of the need to register births among the Roma community.

7. Mr. STANIŠIĆ (Bosnia and Herzegovina) said that the Act relating to Freedom of Religion and Legal Status of Churches and Religious Communities had been adopted, and allowed all churches and religious communities freedom of expression and opportunity without discrimination. The law sanctioned any violations of religious freedom and tolerance. In the immediate aftermath of the war, a considerable number of crimes had been committed in the name of religion. Such actions had been stopped, and all major religions made great efforts to promote tolerance. The Inter-Religious Council of Bosnia and Herzegovina, which comprised representatives of the four major religions practised - Islam, Catholicism, Orthodoxy and Judaism, was working to promote tolerance and religious equality.

8. Mr. ČEGAR (Bosnia and Herzegovina) said that the Communications Act had been adopted with a view to regulating the media. The Communications Regulatory Agency had been established and contributed significantly to the development of the media. Access to public information was guaranteed by law in order to ensure transparency in the work of the authorities. Anti-libel legislation had been passed to protect journalists and persons who were the subject of media reports. There was still a lack of sensitivity to marginalized groups owing to a lack of public awareness; the situation of such groups was not given sufficient media coverage. The media were sometimes used to incite hatred, and the Government was making efforts to ensure that such practices were eliminated.

9. Ms. ĐUDERIJA (Bosnia and Herzegovina) said that the Communications Regulatory Agency was an independent body which played an important role in monitoring and controlling the print and communications media, and had authority to ban publications or broadcasts that incited hatred. Fines for those found guilty of inciting hatred were high.

10. Mr. MIŠKOVIĆ (Bosnia and Herzegovina) said that in an effort to promote freedom of expression, libel had been decriminalized. Even so, libel victims were still entitled to sue for compensation.

11. Mr. STANIŠIĆ (Bosnia and Herzegovina) said that 17 ethnic groups had been granted minority status in his country. Positive discrimination measures were in place to promote minority participation in elections at the local level. Ethnic minorities that comprised up to 3 per cent of the local population were entitled to one seat in the local municipal council. The protection of local minorities was ensured at the national level. Consultative bodies advised the Government, bringing minority issues to the attention of both the Government and Parliament.

12. Ms. ĐUDERIJA (Bosnia and Herzegovina) said that, pursuant to the labour legislation in force, returnees were entitled to re-employment or severance payments. The re-employment of returnees was nevertheless hampered by the fact that 90 per cent of businesses had been destroyed during the war and over 60 per cent of residents of Bosnia and Herzegovina were unemployed. Measures had been taken to foster a positive attitude towards returnees in return communities with a view to promoting their re-employment.

13. Allegations of discrimination against foreign nationals were baseless; foreigners were legally entitled to the same level of protection as citizens of Bosnia and Herzegovina. Measures were being taken to remove illegal immigrants from the territory, but deportation orders could be appealed and should not be misinterpreted as constituting deprivation of foreigners' rights.

14. Mr. STANIŠIĆ (Bosnia and Herzegovina) said that tensions between the three constituent peoples of Bosnia and Herzegovina did not affect minorities or their rights. Legislation protected minority rights at the national and entity levels. In addition, specific issues pertaining to ethnic minorities, such as linguistic and educational rights, could be regulated at the municipal level. All minorities were represented through associations, which actively promoted cultural and educational events and language learning.

15. The Government had formulated a strategy to address the specific needs of the Roma community. The strategy focused on 14 priority issues; action plans had been developed in the areas of education, employment and housing.

16. Ms. ĐUDERIJA (Bosnia and Herzegovina) said that, in order to enhance the dissemination of the Covenant, the Optional Protocol and the Committee's concluding observations, the Ministry for Human Rights and Refugees was currently setting up a website for their publication in the national languages.

17. Mr. KÄLIN said he was not convinced that the remaining obstacles to the return of displaced persons were of an economic nature. They were in fact likely to be related to persistent discriminatory attitudes in communities of return. He enquired about the consequences in practice of the shift of responsibilities for displaced persons and returnees from entity institutions to the Ministry for Human Rights and Refugees.

18. The steps taken by the State party to address the dire situation of persons living in communal shelters were commendable. However, he would welcome information on progress made in the implementation of relocation and upgrading programmes.

19. The ongoing enforced relocation of Roma families from the Butmir settlement in Sarajevo gave cause for concern. Given that those families had lived in that settlement for over 40 years and had never been provided with water and sanitation infrastructure, the

environmental problems came as no surprise. However, the families living in neighbouring premises, where the situation was the same, were not being relocated. He wished to know whether a specific plan existed to find a permanent housing solution for the relocated Roma families.

20. He welcomed the adoption, albeit somewhat belated, of legislation to combat religious violence. However, it appeared that enforcement was not always practised. Local governments and the police reportedly often allowed or encouraged an atmosphere in which abuses of religious freedom could take place, and the authorities seemed reluctant to investigate and prosecute such acts. In that connection, the delegation should indicate whether investigations had been opened into the grenade attack against the mosque in Mostar on 10 October 2006 and provide relevant information.

21. While he agreed that the re-employment of returnees was hampered by the destruction of productive infrastructure during the war, the lack of employment opportunities for returnees in the local administration and municipal enterprises was reportedly related to discrimination. The underrepresentation, and sometimes absence, of returnees in local government entities gave cause for concern, and he invited the delegation to comment.

22. Contrary to what had been suggested in the State party's written replies, in certain returnee areas the local authorities continued to use religious symbols in a provocative manner. In the town of Stolać, for example, a large cross was being displayed on the premises of the municipal authorities, which created a hostile environment for Muslims returning to a previously predominantly Muslim community. In order to promote sustainable return, those issues needed to be addressed urgently.

23. Mr. BHAGWATI requested additional information on the circumstances in which a person was entitled to alimony. The delegation should identify the reasons for removing children from the family environment and indicate whether specialized institutions existed to guarantee their care, protection and education. He requested statistical data on the incidence of paedophilia and sexual abuse of children and asked what steps had been taken to address the problem of child abuse.

24. Mr. SHEARER asked whether abusive statements that did not constitute deliberate incitement to violence were considered a breach of the Law on Freedom of Access to Information and the Law on Protection against Slander.

25. He wished to know whether any non-legal measures had been taken, including the recruitment of television presenters belonging to minority groups or the portrayal of harmonious inter-ethnic relations in advertisements and television programmes, to promote inter-community harmony.

26. He asked what steps had been taken to encourage the Roma population to vote and to participate in public life. It would be useful to know whether voting in national, entity and municipal elections was compulsory. Mandatory voting could be an effective, albeit controversial, measure to enhance the political participation of minorities.

27. The debate on constitutional reform had reportedly been conducted without popular participation, and he asked what measures the State party intended to take in order to involve the whole population in the process. He further enquired whether there were any NGOs with ethnically mixed membership.

28. Mr. O'FLAHERTY, commending the State party for its efforts to address the problem of birth registration in the Roma community, requested additional information on measures taken to address the general lack of documentation among the Roma, which, inter alia, hampered their access to public services. The delegation should indicate whether any programmes were being conducted to address the reportedly high level of prejudice against the Roma among the general public and the police.

29. He asked how many State party residents belonged to minorities other than the so-called "national minorities", and whether any programmes existed to address their specific needs. The reported exclusion of persons belonging to minorities from political decision-making was incompatible with the Covenant.

30. Mr. AMOR asked whether judges enjoyed trade union rights. Information brought to the attention of the Committee suggested that decisions taken by judges in the State party had sometimes had political or ethnic motivations. He asked the delegation to confirm the veracity of such allegations and indicate whether disciplinary sanctions were imposed in those cases.

31. He asked what measures had been taken to combat religious intolerance. It would be useful to know whether the State had the right to monitor religious education in private institutions with the aim of preventing religious extremism.

32. Ms. WEDGWOOD said that the designation "Ostali/Others" in the Framework Agreement establishing the Federation of Bosnia and Herzegovina had been intended to enable returning Bosniaks, Croats and Serbs to reclassify themselves simply as citizens. She wondered whether, in the light of the country's international obligations, it might consider reinterpreting the labels "Bosniak", "Croat" and "Serb" in its Constitution and national laws as territorial, rather than ethnic, designations. A major defect of the Dayton Peace Agreement was that it had reified those three ethnic communities and had made them the building blocks of the Constitution, thereby virtually institutionalizing intolerance. A progressive and dynamic reinterpretation of the Constitution could help to remedy that shortcoming.

33. It would be useful to have up-to-date statistics on the number of returnees living in areas in which they were a minority. Such statistics would help the Committee to judge the extent to which coexistence in those areas was truly harmonious. Although mine clearance was admittedly difficult and expensive, she asked whether there might be other reasons, such as a lack of faith in the possibility of achieving national unity, why progress in clearance had been so slow. The Government should give much greater priority to clearing mines than it had in the past.

34. Mr. CASTILLERO HOYOS asked what measures had been taken by the Government to give effect to legislation that ensured public access to information and to increase public awareness of such legislation. He wished to know what was meant in paragraph 14 of the initial report by the statement that the ethnic affiliation of citizens was a limiting factor for full respect

of political rights. He enquired what steps were being taken to address the reported exclusion of certain members of the Roma population from public life because they did not have birth certificates, identification cards or a registered domicile. He wondered how the Government planned to increase the low level of participation of members of minority groups in the State legislature. What measures had been taken to combat discrimination against ethnic groups other than the three main ones specifically mentioned in the Constitution?

35. The delegation should clarify reports to the effect that prisoners serving sentences could neither register to vote nor vote. He asked whether that restriction applied to all convicted prisoners or only to those convicted of war crimes. Studies had shown that compulsory voting not only led to increased public participation but also strengthened the legitimacy of democracy, and consequently of the State, in people's minds. He wished to know the precise figures for the participation of women in the State legislature. He wondered whether the delegation concurred with the notion that the best way to guarantee the long-term success of a quota system was to establish that a specific number of seats should go to the targeted group. He enquired whether the State sanctioned political parties that failed to meet the 30 per cent gender quota.

36. Mr. WIERUSZEWSKI, Country Rapporteur, asked whether the Government envisaged taking measures to strengthen the witness protection programme and to implement it fully at the lower court level. Such measures were essential in view of the historical background of the State party. He endorsed the comments made by other members concerning deficiencies in implementing article 25 of the Covenant, particularly in terms of the exclusion of the "Ostali/Others" from participation in the legislature and the presidency. He pointed out that the answer given to question 22 of the list of issues failed to address the question asked. He enquired whether the Government planned to devise a system for overseeing the implementation of the Committee's concluding observations, particularly at the entity level.

The meeting was suspended at 4.30 p.m. and resumed at 4.50 p.m.

37. Mr. STANIŠIĆ (Bosnia and Herzegovina) said that, in general, the process of helping returnees to settle back into their pre-war communities was proceeding smoothly. The financing of the return process, involving the allocation of funds at the entity, cantonal and municipal levels, was working well, and no discrimination had been noted. Incentives to return were provided at the State level to ensure equality for all returnees wishing to come back to their pre-war places of residence.

38. The Ministry for Human Rights and Refugees was monitoring the problem of the Roma settlement in Butmir. It had been decided that the Roma population concerned would be resettled in another area only if a permanent and sustainable arrangement could be found. Various international organizations, advisers and NGOs concerned with the Roma were involved in helping families from Butmir to find a solution to their plight. Although such generalized problems as poverty, unemployment and post-war reconstruction diverted attention from the problems of the Roma, there was no discrimination against the Roma at the government level. In addition, the members of the Roma Board who served as advisers to the Council of Ministers represented the interests of the Roma population, and there were some 40 NGOs whose efforts were devoted to helping the Roma.

39. Instances of individual religious extremism were rare, and there were many signs of religious tolerance and the normalization of relations between religious communities. Although domestic legislation provided a definition of what constituted a national minority, it allowed for the possibility that other groups with common characteristics could also be recognized as such. The fact that no census had been conducted since 1999 made it difficult to assess the needs of minorities and to take the measures that States usually took on the basis of information provided by censuses.

40. Mr. ČEGAR (Bosnia and Herzegovina) said that, according to the most recent estimates, some 7,000 persons were living in communal centres in 106 localities and 143 municipalities of both the Federation of Bosnia and Herzegovina and the Republika Srpska. They were among the most vulnerable categories of the population, and included the mentally ill, the disabled and persons living on social welfare whose return could not be assured merely through the reconstruction of their pre-war homes. Efforts to address the problems of such persons were ongoing.

41. Ms. ĐUDERIJA (Bosnia and Herzegovina) said that there was a genuine desire in her country to overcome the events of the past and to achieve peace. When considering the right of returnees to re-employment in jobs in the public administration in their communities of origin, it was important to keep in mind that there were two problems affecting such employment: the privatization of public enterprises, which resulted in the loss of jobs for existing employees and therefore fewer jobs for newcomers; and the professionalization of the civil service, which increased the qualifications required of job applicants.

42. The criminal codes of both entities had identical provisions regarding incitement to religious hatred. Persons who felt that they had been affected by such acts, however, tended to seek recourse in mediation processes, which involved the participation of the religious communities concerned, together with local political representatives. In the past few years, many problems had been resolved through such processes.

43. A number of rules had been adopted concerning the official symbols of Bosnia and Herzegovina, the entities and the cantons. For the most part, those rules were respected; however, there were certain areas in which ethnic feelings were more prominent than in others. Reforms of the education system were aimed at enabling children in Bosnia and Herzegovina to be educated on the basis of principles that respected their ethnic individuality but also allowed them access to information concerning other peoples. Peace and tolerance were processes that would take some time to develop fully.

44. Members of the Roma community were required to have the same identity documents as all other citizens. They were usually offered financial assistance since many Roma could not afford the cost of the identity card.

45. Children who were separated from their parents lived either in one of the country's SOS Children's Villages with their SOS mother, with a foster family, or in an orphanage.

46. NGOs could be registered at the State, entity or local level. Most of them preferred to register at State level in order to be able to operate throughout the national territory. All NGOs registered in Bosnia and Herzegovina worked with specific groups of people such as women,

children or war victims. The Helsinki Committee for Human Rights in Bosnia and Herzegovina, however, was composed of experts who monitored the overall human rights situation in the country.

47. Under the Law on Freedom of Access to Information passed in 2000, citizens had the right to submit a request for information to all institutions. Such requests were usually dealt with in a spirit of openness and transparency.

48. All prisoners had the right to vote, except those who had been found guilty of war crimes. Since the quota system had been introduced into electoral legislation, obliging parties to ensure that 30 per cent of their candidates were women, women's participation in politics had increased. The authorities could not, of course, oblige the electorate to vote for the women candidates.

49. In line with previous practice, a report would be submitted to the Council of Ministers proposing measures to implement the Committee's concluding observations.

50. Mr. VUČINIĆ (Bosnia and Herzegovina) said that judges were not prevented by law from joining trade unions. However, judges tended not to do so because their professional associations dealt with the same issues as those handled by trade unions. The majority of practising judges were members of such associations. Judges who violated their professional code of conduct could be reprimanded, fined or dismissed, depending on the severity of the offence. There were no political consequences, since judges could not be members of political parties.

51. In the wake of the judicial reform following the conflict, all judges' posts had been advertised and the majority of judges reappointed. In 2002, however, about 30 per cent of judges had lost their jobs and been replaced by younger colleagues. The appointment process at that time had also focused on achieving a balance in terms of gender and ethnicity. The number of judges had been reduced in order to bring the judicial system into line with European standards. The judiciary was fully independent.

52. The witness protection legislation at entity level was identical to the State legislation on that issue. Judges were competent to implement all witness protection measures. There were, however, some limitations owing to the lack of technical equipment in courts at entity level.

53. Mr. MIŠKOVIĆ (Bosnia and Herzegovina) said that highly competent officials in the Mostar cantonal prosecutor's office, the cantonal Ministry of Internal Affairs and the State investigation agency were working to find the perpetrators of the attacks on the mosque in Mostar. The erecting of the cross in Stolać had been an isolated incident. There was no reluctance on the part of police or prosecutors to investigate crimes of religious intolerance.

54. The CHAIRPERSON said the Committee appreciated that there were difficulties in the post-conflict situation, particularly given that the international community had imposed some conditions that were not to the liking of the current authorities. Nonetheless, the State party was responsible for implementing the Covenant throughout its territory. It was regrettable that no representatives of the Republika Srpska or NGOs had participated in the dialogue.

55. The State party had made much progress in implementing the provisions of the Covenant. However, the Committee remained concerned on several counts, including witness protection, variations in legislation on gender equality and domestic violence in the entities, the rules of detention, the conditions for the return of displaced persons, the plight of the Roma community and enjoyment of freedom of expression.

56. Mr. STANIŠIĆ (Bosnia and Herzegovina) said that the authorities were aware of the need to implement the provisions of the Covenant more effectively in future. His delegation was grateful to the members of the Committee for their constructive questions and comments.

The meeting rose at 5.45 p.m.