



# International Covenant on Civil and Political Rights

Distr.: General  
12 February 2012  
English  
Original: French

---

## Human Rights Committee

106th session

### Summary record of the 2934th meeting

Held at the Palais Wilson, Geneva, on Monday, 22 October 2012, at 3 p.m.

*Chairperson:* Mr. Salvioli (Vice-Chairperson)

## Contents

Consideration of reports submitted by States parties under article 40 of the  
Covenant (*continued*)

*Second periodic report of Bosnia and Herzegovina*

---

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 Unit, 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.

V.12-58199 (E) 110213 120213  
GE.12-46754 (E) 120213

Please recycle The recycling symbol, consisting of three chasing arrows forming a triangle.

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

**Consideration of reports submitted by States parties under article 40 of the Covenant** (*continued*)

*Second periodic report of Bosnia and Herzegovina* (CCPR/C/BIH/2; CCPR/C/BIH/Q/2 and Add.1; CCPR/C/BIH/CO/2)

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) said that the Committee's concluding observations on the initial report of Bosnia and Herzegovina had served as the basis for the preparation of the State party's second periodic report, in which representatives of the relevant ministries of the Entities and Brčko District had taken part, along with representatives of the Parliamentary Assembly and other national institutions. A number of officials and representatives of non-governmental organizations (NGOs) had also made comments and suggestions that had been taken into consideration. The report had been adopted by the Council of Ministers and posted on the website of the Ministry of Human Rights and Refugees in order to make it available to the general public and the non-governmental sector.
3. Members of the delegation would provide detailed answers to the questions in the list of issues during the meeting, but she wished to make some general points. First, despite the efforts made by the authorities, the judgement by the European Court of Human Rights of 22 December 2009 in the *Derovo Sejdić and Jakob Finci v. Bosnia and Herzegovina* case had not always been applied. Secondly, the strategy for transitional justice was still under consideration but should be adopted shortly. Thirdly, important steps had been taken to promote gender equality, one result of which had been a considerable increase in the number of female candidates in local elections. Lastly, significant efforts had been made to combat domestic violence and ensure the protection of the victims.
4. Under the National War Crimes Processing Strategy adopted in December 2008 to deal with the serious backlog of war-related cases, those that had been before the national courts had been transferred to the lower courts of the Entities and Brčko District. No efforts had been spared to prosecute the perpetrators of war crimes and ensure that justice was done to all the victims. Significant progress had been made in dealing with cases of disappearances, although results had been uneven. A comprehensive draft law covering all the victims of acts of torture was currently under consideration and agreement had almost been reached on the questions of reparation and compensation. Action against trafficking, which had the heaviest impact on the most vulnerable people, particularly women and young girls, remained at the core of the Government's concerns, but organized crime continued to pose serious challenges. The State party was currently considering the possibility of setting up a national mechanism for the prevention of torture, which would be attached to the Office of the Ombudsperson.
5. The necessary funds had been raised to implement the 2010 Revised Strategy for the Implementation of Annex VII of the Dayton Peace Agreement and it had been possible to deal with 99 per cent of the cases relating to the provision of housing for refugees or persons displaced following the armed conflict. The Council of Ministers had acceded to the Decade of Roma Inclusion 2005-2015. All the

necessary resources had been mobilized to improve access to housing and health care. Lastly, Bosnia and Herzegovina had ratified the European Charter for Regional or Minority Languages and had recently submitted its first periodic report under that instrument. A follow-up mechanism for the implementation of the Charter had been established.

6. **Ms. Motoc** asked when the training programmes to teach judges about the Covenant would actually take place and requested examples of cases in which judges had directly invoked the provisions of the Covenant. In view of the close cooperation that had just been mentioned between the Government and NGOs with regard to the preparation of the second periodic report, she expressed surprise at the significant differences between the information provided by the State party and that provided by NGOs, particularly with regard to the processing of cases of disappearances. According to the State party, about 70 per cent of those concerned had been found, whereas, according to the NGOs, only 30 per cent of cases had been cleared up. She also wished to know whether there was any intention of improving counselling services for the families and friends of disappeared persons, which were inadequate.

7. With regard to the working group set up to implement the judgement by the European Court of Human Rights in the *Dervo Sejdić and Jakob Finci v. Bosnia and Herzegovina* case, it would be useful to know what practical steps had been taken to put an end to the violation noted by the Court as much as three years earlier. She asked whether measures had been taken to amend the Constitution and ensure that persons not belonging to one of the three constituent peoples of Bosnia and Herzegovina could stand as candidates and participate in elections.

8. She also wished to know more about the practical results of the implementation of the strategy for transitional justice. According to some sources, cases of rape and other crimes of sexual violence committed during the war would go before the courts of the Entities and the cantons. However, those courts continued to apply the previous Criminal Code, which did not provide for penalties proportionate to the gravity of the circumstances of the case, and she wondered whether the delegation could confirm that information. She also asked whether it could confirm reports that persons who had been victims of acts of sexual violence during the war did not receive any psychological help, particularly in Republika Srpska. Generally speaking, would any measures be introduced to encourage women to report cases of sexual violence? Lastly, she asked what measures had been taken to harmonize across the Entities and the cantons the disability pensions paid to civilian victims of the war.

9. **Mr. Bouzid** asked how the Office of the Ombudsperson could carry out its functions in the face of budgetary restrictions, what proportion of complaints submitted to it were considered and settled, to what extent its recommendations were implemented and whether a follow-up mechanism had been established. It would be useful to have the same information with regard to the State Gender Equality Agency. Lastly, according to some reports, hate speech persisted in the country and he wondered whether the bill to prohibit the founding of fascist organizations would be adopted soon.

10. **Mr. Flinterman** welcomed the adoption of the 2009 Anti-Discrimination Law and asked for further details of its scope of application. He also asked whether a

person's sex or sexual orientation were among the grounds for discrimination expressly prohibited by the Law and whether the Law applied to both individuals and corporations and covered indirect discrimination. He would welcome information on how the Law tied in with the Gender Equality Law. In view of the fact that all public bodies and authorities were committed to combating discrimination, he asked whether mechanisms had been put in place to ensure full compliance with that obligation. He also asked what progress had been made with the draft regulations on data relating to cases of discrimination, which provided for the creation by the Ministry of Human Rights and Refugees of a single database, and whether the public authorities of the Entities and the cantons were also required to abide by them. Lastly, he requested the delegation to provide examples of judicial decisions handed down in application of the Anti-Discrimination Law.

11. No significant progress had been observed in the participation of women in political and public life. The delegation should therefore tell the Committee of any additional measures that might be taken to rectify the situation and eliminate the stereotypes that persisted with regard to the role of women in society.

12. He requested information on the legislation that Bosnia and Herzegovina intended to adopt in order to incorporate into domestic law at the level of the State and the Entities the provisions of the Convention on the Rights of Persons with Disabilities and its Optional Protocol, which the country had recently ratified. He also asked whether programmes had been set up to inform disabled persons of their rights and of how to assert them. If so, he asked whether the effectiveness of such programmes had been evaluated.

13. He requested information on the state of progress of the Brčko District draft legislation on domestic violence and whether its provisions were fully in line with national legislation. He also asked the delegation to explain the powers of the State Gender Equality Agency to monitor the implementation of the Law on Protection from Domestic Violence and whether it had adequate financial resources. Lastly, he asked what definition of domestic violence was used by the State party and whether it covered marital rape.

14. **Mr. O'Flaherty** asked what the State party was doing to deal with the considerable backlog of cases relating to war crimes perpetrated during the conflict of 1992 to 1995, to remedy the lack of material and human resources available to the courts and to provide appropriate training for judges and prosecutors on the subject of international humanitarian law. He requested the delegation to comment on reports by civil society organizations that the problems arising out of the implementation of the National War Crimes Processing Strategy were considerably more serious than simple questions of capacity and resources. The delegation should also state whether it was true that some politicians asserted that the country should not revisit the past and reopen old wounds by prosecuting perpetrators. If that was the case, he asked how the State party managed such political resistance to the exercise of criminal justice. He also asked for the figures on prosecutions instituted for sexual crimes perpetrated during the conflict.

15. He asked the delegation to comment on the claims by a group of national NGOs that there was still no comprehensive programme to ensure the protection of victims of flagrant human rights violations or their families or to provide appropriate psychological support before, during and after their testimony in war

crimes trials, that attempts to amend witness protection legislation had failed and that victims and their families did not have access to free legal aid.

16. The Government had indicated in its written replies to the list of issues that some cases of discrimination against lesbian, gay, bisexual and transgender (LGBT) people were directly linked to the fact that the LGBT community lived their lives openly. The State party should therefore give an assurance that it was not in any way suggesting that the community should remain in the shadows. Lastly, he requested the delegation to explain how the general prohibition of adoption by members of the LGBT community could be compatible with the Covenant.

*The meeting was suspended at 4.20 p.m. and resumed at 4.35 p.m.*

17. **Ms. Đuderija** (Bosnia and Herzegovina) said, with regard to the dissemination of the Covenant, that the institution responsible for training officials gave courses on all the human rights instruments and that a body of experts was due to be set up under the authority of a number of ministers to train members of the judiciary, the police and other public officials.

18. NGOs had been involved from the outset in the process of preparing the periodic reports and informed of recommendations made by the Committee. Their comments were duly taken into consideration.

19. Members of ethnic minorities could stand as candidates in local elections and some had gained seats in municipal councils.

20. With regard to disappearances, about 8,500 persons had not been identified, probably because only a part of their bodies had been found. The local authorities attempted to provide assistance, including psychological assistance, to the families of disappeared persons.

21. The treatment of the victims of war crimes in Bosnia and Herzegovina was unsatisfactory, but the experience of other countries showed that compensating victims was a long process and, moreover, the legislation on lodging complaints needed to be amended and harmonized. The Council of Ministers had appointed a working group which would make proposals to that end. Bosnia and Herzegovina endeavoured to support the victims of rape committed during the conflict and ensure their safety during and after trials.

22. **Ms. Smajević** (Bosnia and Herzegovina) said that the Office of the Ombudsperson was a national institution with status A accreditation and was totally independent in both its operations and its financing. In 2011, the impossibility of adopting the national institutions budget had been harmful to its operations and its resources had been limited in 2011 and 2012. A total of 4,700 complaints had been pending at the end of 2011. The majority of complaints related to the slowness of court proceedings, while others concerned cases of discrimination or harassment.

23. **Ms. Taraba** (Bosnia and Herzegovina) said that the Anti-Discrimination Law distinguished between direct and indirect discrimination and prohibited all forms of discrimination, including that based on sex or sexual orientation. The Office of the Ombudsperson was responsible for protecting the rights guaranteed by the Law. Complaints about discrimination could be individual or collective and the burden of proof lay with the presumed perpetrator of the acts. The Law distinguished ordinary

offences from criminal offences, such as sexist violence, sexual harassment and other sex-related assaults causing bodily or mental harm, which were punishable by prison sentences ranging from six months to six years. The legislation of Bosnia and Herzegovina in that area was based on European standards. The Anti-Discrimination Law applied to both corporations and individuals. In 2011, the Ombudsperson had made 26 recommendations to the authorities concerning measures to be taken to put an end to discrimination. Since the adoption of the Law, the number of complaints had risen, which showed that the public was more aware of its rights.

24. The Ministry of Human Rights and Refugees aimed to set up a single database centralizing all information relating to discrimination cases, which could be consulted by all the interested parties. It already had some data that would form part of the database, but budgetary restrictions had prevented it from acquiring the necessary software and hardware. As of 30 September 2012, 87 discrimination cases were pending before the courts, relating to areas as wide-ranging as working conditions, access to housing, social insurance or employment and participation in public affairs.

25. **Ms. Đuderija** (Bosnia and Herzegovina) said that the data on discrimination cases held by the Ministry of Human Rights and Refugees came largely from other ministries, the Office of the Ombudsperson, the courts and the Public Prosecutor's Office, but the Ministry also endeavoured to collect information from other sources, such as civil society organizations that might have knowledge of cases on which official institutions did not necessarily have information.

26. **Mr. Terko** (Bosnia and Herzegovina) said that, over the previous years, significant progress had been made in promoting the rights of persons with disabilities. The Council of Ministers had adopted a policy document on the question of disabilities, setting out the main problems and the measures that should be taken to deal with them. The Entities had adopted harmonized strategies based on the Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006-2015. The strategies had been implemented in consultation with disabled persons. Bosnia and Herzegovina had also ratified the Convention on the Rights of Persons with Disabilities and the Disabled Persons' Council, an inter-ministerial advisory body set up by the Council of Ministers in 2011, was currently engaged in drawing up the initial report of Bosnia and Herzegovina under that Convention.

27. **Ms. Đuderija** (Bosnia and Herzegovina) added that major work on improving access to buildings was due to be completed by the end of 2012.

28. **Mr. Arapović** (Bosnia and Herzegovina) said that, in implementation of the National War Crimes Processing Strategy, pending cases had been divided between the Court of Bosnia and Herzegovina and the courts of the Entities, depending on their complexity and the gravity of the incidents in question. Thus the 653 most serious cases would be taken up by the Court of Bosnia and Herzegovina and the less complex ones — which totalled 663 — by the courts of the Entities. Measures had been taken to increase the number of prosecutors and judges in the courts of the Entities so that such cases could be heard as soon as possible. The Strategy also provided for measures to harmonize case law on war crimes in order to ensure legal certainty and equality of citizens before the law. The Court of Bosnia and

Herzegovina had, to date, issued a final verdict in 29 war crimes cases relating to acts of sexual violence, while two cases in that category were currently under appeal.

29. In 2012, a programme jointly funded with the Government of the United Kingdom had been launched to improve witness protection in war crimes trials. Training workshops with international experts had been organized for all the parties involved in witness protection and supervision, including the judiciary, the police, social work centres and NGOs. Measures had been taken to provide all courts hearing war crimes cases with effective protection for witnesses and specialized staff who could provide the necessary psychological support.

30. **Mr. Povelakić** (Bosnia and Herzegovina) said that the Communications Regulatory Agency of Bosnia and Herzegovina had adopted a code on the content of radio and television broadcasts, which was based, among other national and international instruments, on communications legislation and the European Union “Audio-visual media services without frontiers” Directive. The code guaranteed respect for the right to the freedom of expression, with due account taken of the principle of non-discrimination.

31. **Ms. Đuderija** (Bosnia and Herzegovina) said that the bill prohibiting the founding of fascist organizations was still under debate in Parliament.

32. **Ms. Taraba** (Bosnia and Herzegovina) said that, in 2010, the State Gender Equality Agency had conducted a mass campaign to raise public awareness of the role that women could play in public affairs. Some progress had been noted at the 2011 general election, since the number of female candidates and elected representatives had increased in comparison with 2010, which was a sign that the public’s mindset was changing. Women were fairly well represented in the judicial system and some were highly placed: for example, four of the eight judges of the Constitutional Court were women. Higher courts were generally presided over by men, but there were quite a number of district and cantonal courts that were presided over by women. In addition to the participation by women in various aspects of public life, the State Gender Equality Agency endeavoured to encourage participation by women in the armed forces and the police, where they were still not well represented in responsible posts.

33. **Ms. Đuderija** (Bosnia and Herzegovina) said that she could not quote the relevant articles of the criminal code of Bosnia and Herzegovina offhand, but she believed that marital rape was a criminal offence. Strategies had been put in place to address violence against women. Shelters had been opened for women victims of domestic violence and measures taken to combat the stigmatization to which they were often subjected. As for the implementation of a different Criminal Code in the Entities, the Committee could rest assured that everything had been done to ensure that war crimes were duly prosecuted and punished and that efforts had been made to harmonize the case law of the courts in that regard.

34. The legislation of the Entities did not provide for adoption by LGBT persons but neither did it expressly prohibit it. There was therefore room for possible progress. Public debate on the issue and on the rights of the LGBT community in general should be encouraged.

35. **The Chairperson** thanked the delegation and invited the members of the Committee to put supplementary questions.
36. **Ms. Motoc** asked what the procedure was for the preparation of the State party's replies concerning communications considered by the Committee under the Optional Protocol to the Covenant.
37. **Mr. Iwasawa** wondered whether the Committee's Views concerning communications had been implemented according to a particular procedure or on a case-by-case basis.
38. **Ms. Đuderija** (Bosnia and Herzegovina) said that work was in progress to develop a procedure for the preparation of replies to the Committee in order to facilitate the compilation of information obtained from the various authorities concerned. As for the implementation of the Committee's Views, there was a mechanism whereby they were transmitted to the Government, which set out a plan of action for the implementation of measures recommended by the Committee and the relevant ministries then followed them up. The country had embarked on a process of consolidating human rights questions, jointly with the Organization for Security and Cooperation in Europe (OSCE), with a view to establishing a uniform method of preparing reports for the human rights treaty bodies. The process was due to be completed by the end of 2012 and the new method applied beginning in 2013.
39. **The Chairperson** thanked the delegation and invited it to continue the dialogue with the Committee at the following meeting.

*The meeting rose at 6 p.m.*

---