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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

BOSNIA AND HERZEGOVINA *

**Further information received from Bosnia and Herzegovina on the implementation of the
concluding observations of the Human Rights Committee (CCPR/C/BIH/CO/1)**

[10 December 2008]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

Introduction

1. The Human Rights Committee, following its consideration of the initial report of Bosnia and Herzegovina at its thirty-fifth session held on 18 and 19 October 2006, set 1 November 2010 as the date for the submission of the second periodic report. In accordance with rule 71, paragraph 5 of the Committee's rules of procedure, Bosnia and Herzegovina was requested to submit, within one year, information on activities undertaken in the field of human rights pursuant to the recommendations contained in paragraphs 8, 14, 19 and 23. Bosnia and Herzegovina fulfilled this obligation within the deadline. The Committee discussed the received information in July 2008. Moreover, Nigel Rodley, the Special Rapporteur on follow-up to the concluding observations of the Committee requested a meeting with a representative of Bosnia and Herzegovina during the period 13-31 October 2008, when the session of the Committee was scheduled, in order to provide certain clarifications as regards the additional information contained in the above-mentioned paragraphs. It was agreed that the Ministry for Human Rights and Refugees would prepare responses to additional questions by the Special Rapporteur and that a representative of the Permanent Mission of Bosnia and Herzegovina to the United Nations Office at Geneva would attend the meeting and familiarize the Special Rapporteur with the contents of this information.
2. Enclosed are responses to the questions raised by Nigel Rodley, the Special Rapporteur of the Human Rights Committee under paragraphs 8, 14, 19 and 23 of the concluding observations and recommendations on the initial report.

Concerning paragraph 8: Information on the (draft) Law on Amendments to the Election Law, in particular on the exclusion of "Others" from being elected to the House of Peoples and to the tripartite Presidency of the State Union.

3. The Parliamentary Assembly of Bosnia and Herzegovina, in accordance with article IV 4(a) of the Constitution of Bosnia and Herzegovina, at the ninth Joint Session of the House of Representatives and House of Peoples, held on 7 May 2008, adopted the Law on Amendments to the Election Law. Amendments to the Election Law relate first of all to local level elections. Article 61 of Chapter 13.A of the said Law determines the participation of members of national minorities (labelled as "Others" in the Constitution of Bosnia and Herzegovina) in the elections of authorities at the level of municipalities and towns in Bosnia and Herzegovina. For the first time, the Law guarantees that the representation of members of national minorities in Bosnia and Herzegovina in municipal and city councils and assemblies, will reflect their proportion of the total population, according to the last census in Bosnia and Herzegovina, carried out in 1991. This means that national minorities (Others) constituting at least three per cent of the total population of the constituency are ensured the allocation of at least one representative. Essentially, the said Electoral Law guarantees members of national minorities in Bosnia and Herzegovina the right to be represented in municipal legislative power bodies not on the grounds of political affiliation but rather on their affiliation with certain national minorities. Thus in this year's local elections, held on 5 October 2008, besides 3,186 regular mandates for municipal councils/municipal assemblies, 37 mandates for representatives of national minorities were being elected. According to data on participation of national minorities at local elections 2008, 103 candidates participated in 31 municipalities in all separate lists. Results of local elections held on 5 October 2008 will be final upon confirmation by the Central Election Commission, i.e. upon expiration of time for objections and appeals.

4. The said amendments do not contain amendments regarding the inclusion of “Others” into the election of representatives in the House of Representatives and the tripartite Presidency of Bosnia and Herzegovina. Most probably this issue will be addressed in the context of forthcoming constitutional changes.

Concerning paragraph. 14: Information on immediate and effective steps taken by the State party to investigate all unresolved cases of missing persons

5. The missing persons issue is one of the priority issues for the authorities of Bosnia and Herzegovina, since, according to official estimates, over 13,000 persons are unaccounted for. The legal basis has been created to enable the State to address this issue in the most responsible manner. The Law on Missing Persons has been enacted; the Guide for Families of Missing Persons has been prepared; the State-level Missing Persons Institute has been set up and the Fund for Support of Families of Missing Persons has been established.

6. The Missing Persons Institute became operational in full capacity on 1 January 2008. Management bodies of the Institute have been elected: the Steering Board, the Board of Directors and the Supervisory Board. Extensive and responsible tasks have been set out for the Institute, such as: to collect, process and systematize the information on missing persons; to establish a central and unique database on missing persons, individual and mass graves; to keep records and to notify families of missing persons, including issuing certificates on disappearance and identity of victims; to find locations of mass and individual graves; to participate in excavations and exhumations of mass and individual graves; to participate in the collection of visible surface remains; to participate in autopsies and to participate in anthropological and similar examinations.

7. The realization of many of these tasks is underway, and many issues are expected to be solved by the Institute by the end of the current year and by mid 2009, and that the fate of a large number of missing persons in Bosnia and Herzegovina will be resolved. As a result, the suffering of families of missing persons will be reduced, at least from the aspect of the dignified burial of their loved ones.

8. This is confirmed by the fact, that at the beginning of June 2008, representatives of the International Committee of the Red Cross and the Missing Persons Institute of Bosnia and Herzegovina signed the Agreement on Transfer of Ante-Mortem Data, according to which the International Committee of the Red Cross will transfer the Ante-Mortem Database for more than 16,000 missing persons from Bosnia and Herzegovina. This is the first database which international institutions supporting the process of tracing missing persons tracing (such as the ICRC) have transferred to the permanent ownership of the Missing Persons Institute. Data from this database are used to assist DNA identification, particularly in cases of families in which many members were reported missing, which can be identified in more detail by DNA analysis, thanks to ante-mortem data. This represents a step towards closer realization of the main purpose of the Institute – expediting the identification and exhumation of missing persons.

9. According to current data, 111 missing persons were exhumed in the first five months of the current year, which is a slightly smaller number as compared to the same period of the previous year. In the same period 26 re-exhumations were carried out, 315 missing persons were identified. DNA reports have been prepared for the identification of over 6,000 persons. In the

current year, the ICMP has submitted 2,309 reports of 923 missing persons. A total of 1,373 reassociations were carried out for bodies found in several graves or in several bags containing mortal remains from one (the same) grave. Over this period, samples of DNA analysis were submitted from regional offices of the Institute (2,226 from the Federation of Bosnia and Herzegovina and 30 from Republika Srpska).

10. In a nine-months period, the Institute has accomplished enviable results, with the assistance of the ICMP, which are reflected in the tracing and exhumation of almost thousand victims of war, identifying more than a thousand new victims.

11. Acting upon Decisions of the Constitutional Court of Bosnia and Herzegovina, the Institute regularly informs appellants, on a timely basis, on all information at its disposal concerning the fate of their missing relatives.

12. More intensive cooperation is needed between the Missing Persons Institute and judicial and police authorities and agencies, i.e. the Prosecutor's Office, police, intelligence bodies, ministries, etc. to achieve better results. Likewise, there is the need for closer cooperation with international institutions (principally the ICMP and the ICRC), as well as with associations of families of missing persons and all entities which could be useful in data provision.

Information on the financing of the Fund for Support of Families of Missing Persons

13. Article 15 of the Law on Missing Persons (Official Gazette of Bosnia and Herzegovina, No. 50/04) stipulates the establishment of the Fund for Support to the Families of Missing Persons of Bosnia and Herzegovina, with the purpose of providing funds and realizing the rights of family members of the missing persons in Bosnia and Herzegovina. The headquarters, method of funding, governance, and other issues related to the work of the Fund shall be regulated by an Agreement to be signed by the Council of Ministers of Bosnia and Herzegovina, the Government of the Federation of Bosnia and Herzegovina, the Government of Republika Srpska and the Government of Brčko District of Bosnia and Herzegovina. In the framework of activities of the Ministry for Human Rights and Refugees of Bosnia and Herzegovina talks were conducted with representatives of the Entity Governments on the transfer of competence and determining the method of funding the work of the Fund for Support to the Families of Missing Persons. Unfortunately, as per available information, agreement has not been reached yet between the Entity and the Brčko District of Bosnia- and Herzegovina Governments over manner of funding of the Fund.

14. Presently at the initiative of the Council of Ministers, talks aimed at reaching the agreement on the funding of the Fund have been resumed.

15. It is expected that the manner of funding of the Fund for Support to the Families of Missing Persons will soon be agreed by Entity and Brčko District of Bosnia and Herzegovina Governments. This will permit the implementation of articles 16, 17 and 18 of the Law on Missing Persons.

Concerning para. 19: The following information is requested:

- 1. Information on concrete measures taken to improve the material and hygienic conditions in Entity police establishments and prisons;**
- 2. Information on the measures taken to address the lack of space in correctional and detention facilities, in particular at the Entities level;**
- 3. Information on measures taken to increase the number of staff in prisons and detention facilities in both Entities;**
- 4. Information on measures taken to ensure regular exercise and other out-of-cell activities for detainees and prisoners;**
- 5. Information on measures taken to improve the material conditions for "court patients" and to increase the number of staff supervising "court patients" at Sokolac Psychiatric Hospital;**
- 6. Information on measures taken to increase the capacity and to improve the facilities for outdoor activities at Sokolac Psychiatric Hospital;**
- 7. Information on measures taken to remedy the poor material conditions and to train and hire qualified staff attending to the needs of patients at the Zenica Prison Forensic Psychiatric Annex;**
- 8. Information on the new Sokolac Special Hospital for Forensic Psychiatry and on the number of patients transferred to this institution.**

16. Concerning paragraph 19, it is important to emphasize that visible progress has been accomplished in correctional institutions, presented in the text that follows. At the level of correctional institutions in the Federation of Bosnia and Herzegovina, progress has particularly been made in the construction of spatial capacities and procurement of material and technical equipment.

17. In a half-open type Ward in Orašje in the framework of Correctional Institution in Tuzla, final work on a building within the Ward is underway. Its construction will increase spatial capacities for 54 places (standard being 4 sqm per person) with built-in infrastructure. A building was constructed in Kozilovac locality; which will increase capacity for 150 places. Electronic equipment, official vehicles have been procured and a telephone exchange has been installed.

18. In Busovača Ward of a half-open type Correctional Institution Tomislavgrad, a ward has been rehabilitated for the detention of convicted persons. This has increased capacity for 53 places. Video-surveillance has been installed, and cable TV has been put in for inmates.

19. A building has been constructed in a half-open type Correctional Institution Mostar, providing spatial capacity for additional 25 places; moreover, toilets have been refurbished.

20. Premises for convicted persons have been refurbished in a half-open type of Correctional Institution at Bihać. Facilities were constructed for sport, educational and leisure activities; as well as part of sideway wall with garages, workshops and a cooler.

21. In a close-type Correctional Institution in Zenica, for security reasons, a one-cell-type pavilion was constructed and put into operation for 28 persons with a view to separating inmates. A dispensary with an in-patient clinic was constructed and equipped, and a dentist's office equipped. Two prison blockhouses were rehabilitated; facilities in the outer pavilion for lodging

official persons were reconstructed and rehabilitated. Moreover, walking areas were separated, to prevent a large concentration of inmates in the same place.

22. Concerning detention facilities in the Federation of Bosnia and Herzegovina, the premises of the Correctional Institutions Busovača and Bihać were rehabilitated, where detention accommodation was extended for new 8 places for detainees. A special room for persons with disabilities was equipped. There is still need for the extension of spatial capacity for detention in the Correctional Institution of Sarajevo, since two floors of the building are used by the Court of Bosnia and Herzegovina, which significantly complicates normal operations of the Institution by reducing spatial capacity.

23. Concerning the number of staff, in correctional institutions in the Federation of Bosnia and Herzegovina, in the course of 2008, 65 persons were employed as Institution police officers and office workers. This has partially relieved the shortage of staff, although the current job plan identifies needs for additional staff, particularly in the Security Department. It should be emphasized that no medical staff applied for posts of physicians in some Institutions. In addition to a general practitioner, a neuropsychiatrist is permanently employed in the Correctional Institution in Zenica, which was less up-to-date, while outside medical specialists from Zenica Cantonal Hospital regularly render medical services to inmates and persons in the said Ward.

24. All prisoners and detainees in the Federation of Bosnia and Herzegovina are permitted to leave their cells for more than two hours daily to engage in various activities, including sports, entertainment, cultural and educational activities. However, problems arise from the overcrowding of detention facilities, particularly when the competent courts have stipulated that certain detainees should not enter into contact, during walks.

25. No significant improvements have been made in response to the recommendations relating to the Forensic Psychiatry Ward in Zenica. The number of patients has been reduced; at the moment there are 25 persons at the Ward. There are plans to relocate the Forensic Psychiatry Ward to a newly constructed in-patient clinic of the Institute, pending the final decision as to the relocation of all patients at Sokolac Psychiatric Hospital, which is currently the subject of intensive discussion.

26. In Republika Srpska, the budget of correctional institutions was significantly increased in 2008, to cover improved material and hygienic conditions in establishments for the execution of criminal sanctions. The 2008 budget of BAM 17,643,107.00 represents an increase of BAM 2,366,224.00 or 15.48 per cent in relation to budget rebalance in 2007. In 2007, the Ministry of Justice opened a special purposes account, to which funds of the Ministry of Justice of Bosnia and Herzegovina and the Government of Brčko District of Bosnia- and Herzegovina are paid upon invoicing of costs arising from imprisonment sentences and detention measures. In any case, the increase of funds set aside for operation of correctional institutions also serves to create improved living conditions for persons deprived of liberty.

27. As some buildings used for operation of correctional institutions were constructed in 1950s, such as Correctional Institution Foča and Doboј District Prison, it has been necessary to invest significant funds for reconstruction and rehabilitation, in order to improve accommodation conditions. However, there is still the problem with worn out equipment, particularly in kitchens and laundry-rooms.

28. Concerning the lack of space in prison and detention facilities, in the previous period, significant measures and activities were taken to increase the capacity of correctional institutions. Construction is underway of a new building for high-security unit to accommodate 35 persons, within the area of the Correctional Institution at Foča .

29. Moreover, capacities have increased in the Ward for Execution of Imprisonment Sentence, as some buildings of the Institution used previously by the Sarajevo East First Instance Court and the District Court were returned for the use of the Sarajevo East Correctional Institution.

30. The commencement is underway in Doboj District Prison of a planned additional floor on a pavilion for inmates.

31. In the Bijeljina District Court, in the course of the year, reconstruction and rehabilitation of former barracks were carried out for the needs of the prison.

32. The Ministry of Justice of Republika Srpska has earmarked significant funds for all these activities, while a part of smaller costs were born by establishments themselves.

33. Concerning measures taken to recruit more staff in the establishments for execution of criminal sanctions, in 2007 and 2008 the numbers of staff was increased, in accordance with rulebooks on job plans of certain establishments. This increase has been mainly in security services, with a significant increase in reforming services.

34. Concerning activities carried out on the construction of new, and expansion of existing buildings, there are plans for additional increase in staff, which require previous amendments to rulebooks on job plans of some correctional institutions.

35. Concerning measures taken to ensure regular exercise and other out-of-cell activities, correctional institutions conduct regular physical and sport activities, and provide the necessary facilities. All establishments have fitness clubs, and most have grounds for sport activities. The only exception is the Trebinje District Prison which has no sports grounds due to insufficient space in the prison area; therefore, sport activities are carried out outside the prison area.

36. A breakthrough was achieved in Republika Srpska as regards accommodation of juvenile offenders in a specially constructed building. On 1 October 2008, a prison for accommodation of male juvenile offenders was opened in Sarajevo East, The Ministry of Justice of Republika Srpska has earmarked more than BAM 350,000 for the construction of this building. The Juvenile Prison is located in the area of the Kula Prison in Sarajevo East with a capacity of 40 persons, with 3 dormitories, a living room, classrooms, a sports hall, library, in-patient clinic, visiting room and preparatory ward. This is the first such prison in Bosnia and Herzegovina and Republika Srpska. The workshops are expected to be equipped soon.

37. At the moment, three juveniles who were previously placed in the Foča Correctional Institution, are lodged in the said facility. They are separated from seven adult inmates. These juvenile offenders will enjoy the right to education.

38. Moreover, there are plans for construction of a special facility for placement of female juvenile offenders. It is planned that juvenile inmates will be separated from adult inmates in all correctional institutions in the entire territory of Bosnia and Herzegovina.

Sokolac Psychiatric Hospital

39. Measures taken to increase the capacity and to improve material conditions for patients and to increase qualified personnel at the Sokolac Psychiatric Hospital are mentioned below.

40. Twenty-two patients are placed in the at Acute Forensic Ward. The capacity for the of daily stay of patients has been extended, which approximately fits to proscribed standards.

41. In the first nine months the capacity at the Court Rehabilitation Ward was reduced for five patients.

42. Depending on weather conditions, patients spend two hours in the outer room in front of the Court Ward building. This space is inadequate, as patients cannot either exercise regularly or carry out other activities; hence, more significant attention should be paid to this issue in future.

43. Material conditions for the stay of patients have been improved at Court Ward. Video-surveillance has been installed at Closed Court Ward and Rehabilitation Ward, which includes dormitories, dining-hall, living room and corridors, except toilets. A roof was destroyed by fire on 17 May 2008. Wards were partially whitewashed; everyday repairs were carried out (installing security bars on windows and doors, ceramics refurbishing, partial replacement of carpentry (doors), painting of lockers, etc).

44. Nutrition of patients surpasses proscribed standards in comparison to detainees and prisoners. At the Open Court Ward, 14 persons supervise 58 patients, which means that one employee supervises 5.1 patients.

45. At the moment there are 22 patients at the Closed Court Ward and there are 17 medical workers employed, a ratio of 1.3 employees to 1 patient. There are 9 guards, so the overall number of staff serving the Court Ward is 40, while the number of patients is 80. The number of staff is significantly larger and above medical standards for acute and chronic psychiatry.

46. Patients at the Court Rehabilitation Ward are permitted a daily walk in the hospital area, when they are not involved in other daily activities. During the day, they may work in occupational therapy (drawing, literary works, handicrafts, etc, according to their talents). Each day, patients may use daily press and library, while living rooms are equipped with TV sets and radio-cassette players. One-day trips to Trebević Mountain, 30 km away from the Hospital, are organized for the patients, in cooperation with the Sarajevo East Library.

47. An increase of capacity is not possible in the current situation, since the building was destroyed by fire on 17 April 2006 and is no longer functional.

48. As for buildings in the hospital area, other than the Court Ward building, the hospital itself is not able to set aside funds for reconstruction or rehabilitation, The only large investment to be

completed and put into function is the hospital's restaurant, used for meals by patients from all rehabilitation wards.

49. In the previous period, the hospital Management organized work on green areas; trees and flowers which were planted to provide a pleasant setting for the stay of patients.

50. An individual treatment plan was prepared for each patient, in accordance with intellectual capacities and psychopathology. The plan is based on an integrative therapeutic protocol, which includes the application of an adequate pharmacotherapeutic protocol, psychotherapy (group and individual), socio-therapeutic procedures (group sociotherapy, therapeutic group meeting), occupational and sport-recreational treatment.

51. At the Sokolac Psychiatric Hospital, there is a range of socio-therapeutic procedures aimed at preparing persons with mental disorders for return to society. One of such procedures is a socio-therapeutic group with elements of psychotherapy, in which patients and their therapists work towards correcting and adjusting behaviour, in accordance with socially acceptable norms.

52. The new Specialized Forensic Psychiatry Hospital at Sokolac is not yet operational, but its registration is underway. Letters have been addressed to the competent Ministries in Republika Srpska, observing that Entity Governments and other legal entities are competent for implementation of conclusions of the Council of Ministers of Bosnia and Herzegovina.

Concerning paragraph 23:

- Information on the legal remedies available to Roma families to challenge their relocation from the Roma settlement at Butmir;**
- Information on the implementation of the existing plans for the construction of temporary and permanent housing solutions for relocated Roma;**
- Assessment of the adequacy of "container villages" as alternative housing solutions for relocated Roma;**
- Information on compensation provided to relocated Roma.**

53. The authorities of Bosnia and Herzegovina, prompted by the fact that residents of the Roma community at Butmir live in very difficult conditions in improvised buildings without water, electricity and other services essential for normal life and work, have decided to solve this problem through construction of apartments with modern conveniences. This approach to addressing Roma settlement at Butmir will also serve to protect the supply of drinking water to the City of Sarajevo. The relocation of the Roma settlement at Butmir does not reflect any discrimination against the Roma, as is sometimes interpreted by the international institutions, since the settlement was established without a plan and directly endangers the water protection zone of the City of Sarajevo.

54. Based on the Protocol between the Ministry of Housing Policy of Sarajevo Canton and the Roma Association "Our Future", the Project on Relocation and Permanent Housing Solutions of Roma population from Butmir (water protection zone) to a new location was launched in 2007. The Ministry of Housing Policy of Sarajevo Canton as a co-financer, has committed itself to secure funds for this Project within the Sarajevo Canton Budget. Moreover, all nine Sarajevo

Canton Municipalities have committed themselves to secure locations for the construction of buildings and to design and execute projects for equipping locations and for obtaining the necessary approvals.

55. The Spanish NGO, Movement for Peace Sarajevo, and OSCE Sarajevo have been actively involved in the realization of the Project. They follow all activities related to the relocation of Roma population, and offer them legal and any other support.

56. Town planning consent have been secured for six Sarajevo Canton Municipalities namely: Ilijaš Municipality – locality Mrakovo; Hadžići Municipality – locality Osenik u Kazinoj Bravi, Pazarić; Trnovo Municipality – locality Ilovica; Ilidža Municipality – locality Nadosjek; Novi Grad Municipality – locality Reljevo; Vogošća Municipality – locality Semizovac. The humanitarian organization Swiss Caritas, as the executor of funds and activities of the Swedish International Development Cooperation Agency (SIDA), has drawn up the main projects for these locations, and selected contractors for the work. All municipalities which secured locations and town planning consents issued building permits, except Ilidža Municipality. On 15 October 2008, the Swiss Caritas signed a contract with selected contractors for the execution of works on 6 housing units with 25 apartments, under which work would commence on 20 October 2008 and be carried out within 80 calendar days.

57. The original plan was for the construction of a container settlement at Vlakovo. However, this plan was set aside when the Swedish International Development Cooperation Agency (SIDA) joined the Project and guaranteed funds for the construction of eight permanent buildings with 32 housing units for all nine municipalities.

58. Following several proposals and plans to solve this settlement issue, the construction of apartment houses commenced at nine localities. As of December 2008, thirty-two Roma families from Butmir will live in them. Contracts on resettlement were signed by all Roma families. It is estimated that construction of these eight buildings at various Sarajevo Canton locations will be sufficient for accommodation of families from Butmir.

59. However, due to the observed grouping of new Roma families in some localities, particularly in the locality Forestry School – the Bosna Well, Ilidža Municipality, most probably alternative construction of “container villages” will be carried out in the near future, as the most expeditious and only possible solution at this time.

60. In order to avoid any possible violation of human rights resulting from in the resettlement of the Roma from Butmir, each Roma family is provided with legal remedy in accordance with legal provisions in force in Bosnia and Herzegovina. Legal remedies may be used either individually or through the Association “Our Future”, as well as through activities of NGOs. It is unlikely that legal remedies will be required in this case, since Roma families living in poor housing conditions are being provided with housing units with modern conveniences. This also means there will be no need for compensation to Roma families once this problem is solved. Possible requests for compensation will be addressed in accordance with current regulations. To date, there have been no requests filed for compensation arising from the resettlement of Roma families from Butmir.

61. On the whole, through accession to the Decade of Roma Inclusion 2005-2015 in September 2008, Bosnia and Herzegovina committed itself to implement three adopted Action Plans, among which the Action Plan for Solving Roma Housing Issues. The resolution of the issue of the Roma settlement at Butmir issue is a good and worthwhile example for solving other housing issues of Roma . Hopefully, the consistent implementation of adopted Action Plans (on employment, health care, education and housing) will enable the most numerous national minority in Bosnia and Herzegovina to improve its overall position and to enjoy all human rights guaranteed by the Constitution and law, on equal footing with all other citizens of Bosnia and Herzegovina, without discrimination on any grounds.
