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HUMAN RIGHTS COMMITTEE

Eighty-eighth session

SUMMARY RECORD OF THE 2403rd MEETING

Held at the Palais Wilson, Geneva, on Thursday, 19 October 2006, at 10 a.m.

Chairperson: Ms. CHANET

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

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

Initial report of Bosnia and Herzegovina (CCPR/C/BIH/1; CCPR/C/BIH/Q/1)
(*continued*)

1. *At the invitation of the Chairperson, the members of the delegation of Bosnia and Herzegovina resumed their places at the Committee table.*
2. The CHAIRPERSON invited members of the Committee to ask any additional questions they might have.
3. Mr. CASTILLERO HOYOS said that it appeared from paragraph 18 of the report that the equality of all citizens, in terms of their rights under article 2 of the Covenant, was subject to the condition of residence in the territory of Bosnia and Herzegovina, and it was not clear how that could be compatible with the Covenant.
4. With respect to the application of article 3 of the Covenant, he noted that the Gender Equality Law afforded protection in various areas related to the public sphere. However, it was important to know what the situation was like in private life, which it appeared, was characterized by discrimination of various kinds.
5. Concerning question 5 on the list of issues (CCPR/C/BIH/Q/1), it would be useful for the delegation to provide details on how the number of women in the legislature had changed over time. They had acknowledged that those numbers had declined but had not provided any indication of the reasons why. Moreover, various studies had shown that a quota system could be effective only where it required a specific number of seats to be reserved for women, rather than specifying that a particular percentage of the various political parties' candidates must be women. Comments from members of the delegation on the matter would be welcome. In addition, it would be of interest to know under what circumstances individuals could be deprived of the right to life. It would also be of interest to know whether families of missing persons lost their entitlement to social benefits once the missing person was identified.
6. Concerning article 7 of the Covenant, the report contained a brief allusion to measures that had been taken against an "Algerian group". According to information available to the Committee, the group in question had comprised six Bosniaks who had been deprived of their nationality under an emergency procedure and extradited to the United States; they were currently reported to be at the Guantanamo base. Further information about the matter, including an account of the sequence of events, would be welcome.
7. With respect to the treatment of persons in detention, the report stated that the most frequent disciplinary measure was solitary confinement, which accounted for 50.7 per cent of all disciplinary actions. Furthermore, solitary confinement could be authorized for up to six months. It would be of interest to hear what members of the delegation had to say on the matter and, in particular, what the most serious disciplinary offences were and how authorities justified such a harsh punishment. Lastly, convicts could be employed by private firms, receiving not less than 20 per cent of the minimum wage paid to regular workers. It was not clear how that situation could be reconciled with the Covenant.
8. Sir Nigel RODLEY said that if he had understood correctly, police could hold a suspect for 24 hours before turning them over to the prosecutor, who in turn had

24 hours to decide what action to take. After that, the suspect must be brought before a judge, who decided whether to continue detention. It would be of interest to know whether the detainee was held in a police station during that entire time, or whether the prosecutor's order prescribed a different place of detention. According to the Committee's information, prosecutors and judges did not always inform persons in custody of their rights, including, in particular, their right to be represented by counsel, and it would be desirable for members of the delegation to state what measures had been taken to correct that situation. Lastly, a report published in 2003 by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had referred to statements about mistreatment at the hands of police officers. It would be of interest to know what action authorities of the State Party had taken in response to that aspect of the report.

9. The CHAIRPERSON invited members of the delegation of Bosnia and Herzegovina to reply to the oral questions asked by members of the Committee.

10. Mr. STANIŠIĆ (Bosnia and Herzegovina) said that he would like to begin by emphasizing the importance of the international assistance that had been provided to Bosnia and Herzegovina during and after the war, which, among other things, had made it possible to save lives, release persons from detention centres and concentration camps, and prevent houses from being destroyed. The initial implementation phase of the Dayton peace agreement had also served to help demolish barriers between ethnic groups, and had constituted a prelude to reconstruction and social reintegration.

11. Authorities of the State Party regarded the Office of the High Representative for Bosnia and Herzegovina as a source of assistance, not an obstacle. Accordingly, it would be important to ensure that adequate preparations were made for the phase during which the High Representative would be progressively withdrawn, taking due account of the country's objective situation, the interests of the national authorities, and the international community's assessment of the situation.

12. One member of the Committee had expressed surprise that the delegation of Bosnia and Herzegovina did not include a representative of Republika Srpska, which might suggest that the Covenant was less fully applied in that Entity than in the rest of the State party. The composition of the delegation reflected the ethnic composition of Bosnia and Herzegovina. Members of the delegation had been selected for their competence, at all levels of the national Government. It was noteworthy, moreover, that two members lived in Republika Srpska.

13. In the matter of constitutional reform, for various reasons it had not been feasible to complete an initial stage in the process but the authorities were fully aware of the importance of finalizing a task that was already far advanced. State institutions, political parties and citizens all regarded constitutional reform as a fundamental issue that was too critical to simply be set aside. The authorities hoped that, with the advent of a new Government and Parliament, debate over constitutional reform would continue and members of the academic community and representatives of non-governmental organizations (NGOs) would be brought into it as well. It was to be hoped that the new Parliament would make constitutional reform one of its main priorities, and that international organizations in Bosnia and Herzegovina and the Office of the High Representative would also foster the advancement of those efforts.

14. Ms. DUDERIJA (Bosnia and Herzegovina), speaking about the role of the Covenant in domestic law, said that that role was clearly defined in the Constitution.

The Covenant had constitutional rank, and consequently legislation had to be harmonized with its provisions. With respect to the protection of human rights, the provisions of the country's law were clear. The Criminal Code provided that any individual could take legal action against State institutions or agencies if he considered that his fundamental rights had been violated. Such cases had occurred, for example, when electoral laws had been disregarded or obstacles placed in the way of the return of refugees. Under the Criminal Code, failure to comply with decisions of the Human Rights Chamber of the Constitutional Court was a punishable offence, but, as members of the delegation had said previously, the enforcement of court decisions was still a difficult matter. However, there had recently been some improvement: over 70 per cent of court rulings were currently executed. Nonetheless, various laws were still in need of amendment, and greater budgetary resources would have to be allocated before the situation could be considered fully satisfactory.

15. The right to non-discrimination was a universal principle, enshrined not only in the Criminal Code but in various other statutes of Bosnia and Herzegovina. Any individual who considered that he was a victim of discrimination could seek redress from the courts or apply to the Ombudsman for Human Rights. There had been a number of court rulings based on the European Convention on Human Rights or the Covenant, and in that area court decisions had come to be more effectively enforced.

16. In answer to a question about gender equality and specific protection for women's rights, to begin with, Bosnia and Herzegovina was a traditional society, and it would be necessary to enhance women's awareness of the importance of participating in public life. The quotas that had been set under the Election Law had brought some improvement, even if they constituted an inadequate measure, as NGOs thought. The small number of women within the executive power was a particular problem. At recent local elections, women candidates had accounted for 34.48 per cent of the total. The authorities were considering whether it might be advisable to reserve by law a specified number of seats for women but there was no consensus on the matter, owing to the extreme complexity of the electoral process, which mirrored that of the structure of the State.

17. National authorities were aware that there was some way to go before local by-laws would fully harmonize with the Gender Equality Law. Accordingly, they had enlisted the help of civil society stakeholders and the United Nations Development Programme (UNDP), among others, in preparing a long-term step-by-step programme. As part of that programme, Gender Centres and a State Gender Agency had been established. Furthermore, expert groups had undertaken the task of scrutinizing the wording of laws in order to identify gaps in legal protection in that area. Labour legislation, for example, had been entirely overhauled. Experts had also looked at the image of women in the media. Gender Centres and the State Gender Agency were authorized to request, and had in fact requested, legislative amendments aimed at harmonization with the Gender Equality Law. In the matter of specific protection for women's rights, those same institutions had submitted draft legislation designed to provide more effective protection for women who had suffered in the war or been rape victims.

18. With respect to domestic violence, the lack of consistency that had characterized the State party's legal provisions in that area was a thing of the past; legislation on domestic violence had been harmonized. To break the law was a criminal offence and arrangements were made for the protection of victims' families. Nonetheless, domestic violence was a complex issue and authorities could

not altogether disregard traditions and stereotypes of a society whose central pillar was the family. Another important factor in that area was that budgetary resources were inadequate to bring about fundamental changes. At all events, the programmes currently under way were expected to provide more effective protection and should lead ultimately to completion of sweeping reform in the field of social welfare that had been undertaken early in 2006.

19. In answer to a question about compulsory medical examinations for victims of domestic violence, police and other officials who were in contact with the victim were required to submit a the findings of a medical examination, along with other information. However, a person could hardly be compelled to submit to an examination and awareness campaigns were being conducted to help women understand that it was important for them to cooperate with the authorities in such cases.

20. On the issue of missing persons, of a total of 21,374 persons officially registered as missing, 6,400 had been found, leaving some 15,000 persons still missing in Bosnia and Herzegovina. Searching for missing persons was a laborious process, in which the State party could not hope to succeed without the assistance of the International Committee of the Red Cross and the International Commission for Missing Persons in the former Yugoslavia. Task forces established by the Entities to address the issue of missing persons were continuing to conduct searches and participate in the exhumation of bodies, and the Institute for Missing Persons that had been established concurrently would eventually input all information about missing persons from the Federation of Bosnia and Herzegovina and the Republika Srpska into a central database. Thanks to funds allocated by the Government and the International Commission for Missing Persons in the former Yugoslavia, it should be feasible to pursue the costly task of performing DNA analyses to identify bodies.

21. With respect to enforcement of Human Rights Commission decisions, the authorities were required to meet their commitments within a specified period of time, but it was also essential to realize that the establishment of the Institute for Missing Persons had been unexpectedly challenging. However, the process of exhuming bodies had not been affected, inasmuch as the law provided for a continuing effort through existing mechanisms until the Institute was fully operational. The activities of the task forces that were currently dealing with missing persons would be terminated in November 2006 and the Institute for Missing Persons would take over.

22. The establishment of a Committee for Truth and Reconciliation had encountered difficulties. A number of proposals had been prepared, and the most recent of them had been submitted to Parliament. However, the concept was different from what war victims' associations and the families of missing persons, in particular, had had in mind. In the view of national authorities, it was essential to find common ground to enable all parties concerned to go forward, and accordingly, Parliament had declined to consider the proposal. Instead, it had asked the Council of Ministers to prepare a new proposal for the establishment of an appropriate Commission and submit it for Parliament's consideration in due course.

23. In the matter of women war victims, including, in particular, assessment of the consequences of rape, a harmonization process was currently under way. Those over 60 per cent incapacitated were recognized as victims, but anyone who had suffered physical or psychological violence during the war could qualify for that status, regardless of the degree of incapacity: individuals were assessed on a case-by-case basis. Applications for compensation sometimes took the form of a request for an apartment or assistance for the victim's family or children, rather than a sum of

money. Physical violence and psychological violence were treated the same and resources had been made available to evaluate victims' needs. For the time being, not all of them received the same compensation, as cases were handled by the Entities, or even at the canton level. That being the case, Bosnia and Herzegovina proposed to enact a single law for victims of torture and civilian war victims. The issue would be regulated at the national level, and compensation would be harmonized. Their situation was hardly comparable to that of military victims or veterans: compensation paid to civilian victims was 70 per cent of that paid to veterans, a realistic rate in view of the country's capacities.

24. Concerning the issue of trafficking in and violence against children, Bosnia and Herzegovina was assessing the results of the recent plan of action for the prevention of human trafficking. At the national level, the Ministry of Human Rights, the Ministry of Security, the Public Prosecutor's Office, the Ministry of Foreign Affairs and the Ministry of Justice had participated in the preparation, monitoring and implementation of a national strategy for combating trafficking in persons. Three working groups had been established. The first of these, whose members had been given special training, was responsible for protecting victims. The second was mandated to initiate prosecution against perpetrators and propose appropriate reforms. The third, working in cooperation with local authorities and social services, was dedicated to prevention and awareness promotion among the public. Human trafficking had been included in primary and secondary education curriculums to ensure that children were fully informed about the problem. The budget earmarked for the programme was modest, 90 per cent of it coming from partners such as "Save the Children", the United Nations Children's Fund (UNICEF), the Organization for Security and Cooperation in Europe (OSCE) and Governments or bilateral donors, most notably the United States Agency for International Development (USAID).

25. Repatriation of victims of trafficking was voluntary, as a rule. Persons who might be victims of trafficking but were in Bosnia and Herzegovina illegally and did not wish to be recognized as victims were expelled from the country. Persons who were prepared to cooperate with authorities were given residence permits and could apply for asylum. Those who refused to cooperate also had rights, including the right to remain in Bosnia and Herzegovina during a three-month period, to recover and obtain identity documents, but as a rule they were then returned to their countries of origin. They could also apply for asylum but there was no assurance that it would be granted.

26. Children forced to engage in begging affected the Roma community first and foremost, owing to that community's economic situation. Begging was the primary means of survival for some families in extreme poverty. There had been approximately 10 cases of organized begging involving children who were systematically subjected to mistreatment. In nine instances, legal action had been taken, and the persons responsible were being prosecuted. The issue of offenders who were mentally disturbed had not yet been resolved because the building in which they were to have been confined had burned to the ground.

27. Mr. STANIŠIĆ (Bosnia and Herzegovina) said that the Government of Bosnia and Herzegovina had allocated 800,000 convertible marks to construction of a State prison. Detention conditions did not yet conform to international standards but Bosnia and Herzegovina was endeavouring to attain that level.

28. Ms. DUDERIJA (Bosnia and Herzegovina) said that Bosnia and Herzegovina had acknowledged that the rights of members of the Algerian group being held in Guantánamo, who had lost their citizenship, had undoubtedly been violated. In

accordance with the ruling of the Constitutional Court, the Government had made financial assistance available to the families of the men concerned and had asked United States authorities to return them to Bosnia and Herzegovina. No agreement had been reached yet but the Government had embarked on a diplomatic initiative to give effect to the resolution that had recently been adopted by the Council of Europe.

29. Mr. MIŠKOVIĆ (Bosnia and Herzegovina) said that the “councils” were groups of three professional judges responsible for deciding whether persons liable to sentences of more than 10 years’ imprisonment should be kept in pre-trial detention. A council of judges of the Supreme Court of the Republic of Bosnia and Herzegovina or the supreme courts of the Entities would meet, depending on whether the case in question was currently before a trial court or a court of appeal.

30. With respect to the various jurisdictions, the courts of the Entities considered primarily breaches of the Constitution, offences involving the right to life, personal liberty, acts of terrorism, marriage and the family, commercial and tax matters, and also offences in the areas of the environment, agriculture, natural resources, the general security of persons and property, or contraventions of the Highway Code. The courts of the Republic of Bosnia and Herzegovina dealt with breaches of international humanitarian law, war crimes, crimes against humanity, serious cases of organized crime, international terrorism and trafficking in persons.

31. Suspects were initially held in custody at a police station and were then sent to quarters designated for accused persons in detention centres. They were kept apart from convicted persons, although problems sometimes arose, due to lack of space.

32. Mr. VUČINIĆ (Bosnia and Herzegovina) added that, under article 13 of the Criminal Code of the Republic of Bosnia and Herzegovina, a national court could consider a case on which a court of an Entity had already ruled if the interests of the country were at stake, as in matters involving violation of the Republic’s territorial integrity or having an adverse impact upon its economic interests. Similarly, a national court could refer certain cases to a court of an Entity. It was thus clear that there was interaction between the country’s courts.

33. With respect to events that had occurred in Srebrenica, the 1995 report listed 847 names, as the High Representative was well aware. Eleven individuals had been indicted on charges of genocide and would shortly appear before a court of the Republic of Bosnia and Herzegovina.

34. Those accused of war crimes could be tried either by courts of the Entities or by a court of the Republic of Bosnia and Herzegovina. The former had begun to hear cases at the end of the war and the latter in the course of it. In accordance with the new law that had entered into force on 1 March 2003, national courts had handed down final judgements in 174 cases of war crimes that they had taken over from courts of the Entities, and 153 cases were still pending. The task was extremely complex and more time would be required before those accused of war crimes had been tried, but the judicial authorities of Bosnia and Herzegovina possessed the necessary competence to deal with the matter adequately.

35. The law of Bosnia and Herzegovina did not provide for capital punishment. The last time a death sentence had been handed down had been during the war, in a case tried by a military tribunal, but the Human Rights Chamber had commuted the sentence to a term of imprisonment of 15 years.

36. Concerning the right to a defence, the provisions of article 14 of the Covenant had been incorporated into the law of the Republic of Bosnia and Herzegovina and

the Entities, and were applied in full: any person arrested had to be informed immediately of the reasons for his arrest, his right to the assistance of a lawyer, and his right to be questioned in the presence of his lawyer if he wished. In certain cases, as, for example, where the offence entailed liability to a heavy sentence, or where the arrested person was deaf, dumb, unable to protect his interests or lacking necessary financial resources, a lawyer was appointed to represent him.

37. Ms. BAŠIĆ (Bosnia and Herzegovina) said that under the Law on Execution of Criminal Sanctions, which had been in force at the national level since 2005, prison inmates who worked received between 25 and 50 per cent of the wages ordinarily paid for comparable work. The Entities, under whose laws inmates must be paid 20 per cent of such wages, were required to bring their legislation into line with the above Law and apply its provisions if they had not completed the statute harmonization process, which was long and complex. The training of prison personnel in the Federation of Bosnia and Herzegovina and Republika Srpska was governed by the Law on Execution of Criminal Sanctions, and each Entity's Ministry of Justice was required to adopt training programmes and organize the necessary examinations. The rights and duties of prison personnel and the terms and conditions for their recruitment were governed by the Civil Service Law in all institutions in Bosnia and Herzegovina. Each Entity had its own law in the matter, which was harmonized with the national law. Prison officers found guilty of misconduct in the performance of their duties were liable to disciplinary measures. Those measures were governed by a code of procedure issued by the Ministers of Justice of the State and the Entities, and varied according to the seriousness of the misconduct.

38. Under the memorandum of agreement between the Ministries of Justice of Bosnia and Herzegovina and each of the Entities, costs associated with imprisonment in penitentiaries in the Entities by persons convicted by a court of Bosnia and Herzegovina were covered by the State budget. Respect for inmates' rights was safeguarded under the Law on Execution of Criminal Sanctions, article 68 of which provided that every inmate had the right to confer in private with his counsel or any other person whom he might wish to inform about a violation of his rights. The Law also safeguarded the confidentiality of complaints or any other correspondence by inmates. In order to guarantee the necessary transparency, access to prisons was open to inspectors from the Ministry of Justice, the Ombudsman for Human Rights, non-governmental organizations and the media.

39. Mr. ČEGAR (Bosnia and Herzegovina) said that the Government was aware of the need to overhaul the institution of the Ombudsman for Human Rights to enhance its effectiveness. New legislation to that end had entered into force in March 2006, and was expected to be fully implemented by 1 January 2007. It made provision for a number of innovations, including the establishment of the Ombudsman's headquarters in Banja Luka, with offices in Sarajevo, Mostar and Brčko, establishment of field units throughout the country to enforce the rights of children, persons with disabilities and members of religious and other minorities, and the gradual elimination of any role for the Entities in exercising the Ombudsman's functions. Under article 3 of the new Law, those functions were entrusted to three citizens of Bosnia and Herzegovina representing the three constituent peoples. However, all citizens were eligible to serve in that capacity, including citizens belonging to minority groups.

40. The Ombudsman's activities were funded from the State budget; resources for that purpose varied, depending on the objectives in view. Each of the three members of the Ombudsman's office was appointed for a renewable six-year term and served in turn as its President for two years. Numerous complaints had been filed with the

Ombudsman: there were approximately 5,000 currently pending, not counting complaints filed with offices in the Entities. Many of complaints originated from refugees or displaced persons, and frequently involved jobs and employment.

41. Mr. VUČINIĆ (Bosnia and Herzegovina) said he would like to emphasize the fact that police were not authorized to hold persons in custody for more than 24 hours, during which time they were required to inform the prosecutor. A person could be held in pre-trial detention only on the basis of a detention order issued by a judge, after the person in question had been informed of the grounds for the order and had been able to exercise his right to counsel, in accordance with article 14 of the Covenant. As soon as the detention order had been issued, the person was transferred to a detention centre.

42. Mr. STANIŠIĆ (Bosnia and Herzegovina) said he would like to comment further on the Venice Commission on election to the Presidency of Bosnia and Herzegovina. As yet the situation remained unchanged, but ongoing negotiations among various political parties on constitutional reform had highlighted the need to amend provisions of the Constitution relating to eligibility for the office of President and for seats in Parliament, as existing provisions were discriminatory. Certainly the International Covenant on Civil and Political Rights had not been published in the *Official Gazette* of Bosnia and Herzegovina, but had been published in the time of the former Republic of Yugoslavia, in the official languages. As to whether the Constitution furthered or hindered implementation of the Covenant, the fact that some provisions would have to be amended did not mean that there was anything in the Constitution to prevent implementation of the Covenant in its entirety.

43. Mr. LALLAH said that he would like to raise the issue of detention again. The provisions of the State party's law appeared to conform to those of the Covenant, but he wondered how far that conformity was reflected in practice. It would seem that there were serious inadequacies in the way detention was viewed and applied in Bosnia and Herzegovina. In the first place, the distinction between prison authorities and police authorities was unclear, which meant that it was impossible to know which authorities were responsible for persons deprived of their liberty. In the second place, nothing had been said about the grounds for placing individuals in detention, apart from the fact that a decision to place a person in detention had to be based on certain factors specified by law, without further details. OSCE had noted with concern in its report that a person could be held in detention on grounds as vague as public safety. In such a context, a person in custody could find himself compelled to prove his innocence instead of being presumed innocent. Further information on the matter would be welcome. In addition, the members of the delegation had stated that in cases of unlawful detention, the officials responsible were liable to severe penalties under the law. It would be of interest to know whether anyone had ever been prosecuted on such charges. A related question was whether release on bail was authorized under certain circumstances, and if so, whether a person who was not in a position to put up bail might be released on his own recognizance.

44. Sir Nigel RODLEY asked if it was true that when an application for a detention order was submitted to a judge, the suspect and his lawyer did not necessarily have access to all items in the file, including, in particular, the grounds on which the application was being submitted. Further information about the nature of the most serious disciplinary offences for which an inmate could be put into solitary confinement (para. 65 of the report) would also be welcome.

45. Mr. WIERUSZWESKI said he would like to know what action had been taken in response to the Constitutional Court's decision of 31 March 2006, by which the

legislation and Constitution of Republika Srpska were incompatible with the Constitution of Bosnia and Herzegovina and international standards prohibiting discrimination based on ethnic origin. It would also be useful to know whether the country's domestic law included provisions relating to implementation of the opinions of the Human Rights Committee and other conventional bodies, such as those authorizing the reopening of a trial after a final judgement had been issued.

46. Concerning domestic violence, the delegation had not made it clear whether there was a standard legal procedure for gathering evidence by medical personnel who examined victims; yet such a procedure was essential to ensure that perpetrators would be prosecuted. Clear guidelines should be drafted, and the persons concerned should receive appropriate training. With respect to publication of the Covenant, the State party had admitted in its report that the Covenant had not been published in the official languages spoken in Bosnia and Herzegovina. Citizens could hardly insist on their rights if they were unaware of their existence.

47. Mr. O'FLAHERTY said that he would like to know why draft legislation on the establishment of a Commission on Truth and Reconciliation had been voted down by Parliament. It would also be of interest to know what the Government proposed to do in response to the opposition from associations and victims' families. On the issue of human trafficking, it was worrying to learn that the budget allocated for that problem depended on international aid. Lastly, it would be useful to have information about the fire that had ravaged a prison where persons with mental disabilities were being held, and about the implementation of the memorandum of understanding with the Entities on the transfer of inmates with mental disorders.

48. Mr. SHEARER said that, while national laws evidently afforded very complete protection for persons in detention, it was unclear whether laws of the Entities and the Brčko district included the same safeguards. Furthermore, the State party had said that complaints were kept confidential, but had not identified the law that ensured such confidentiality. It would be of interest to know whether it applied to the country as a whole or to the federal level only.

49. The CHAIRPERSON suggested a recess to enable members of the delegation to prepare their replies.

The meeting was suspended at 12.05 p.m. and resumed at 12.25 p.m.

50. Mr. STANIŠIĆ (Bosnia and Herzegovina) said that members of the delegation did not know what action had been taken in response to the Constitutional Court's decision of 31 March 2006 but would provide the Committee with the information in due course. The Covenant and the Optional Protocol would be translated into the country's official languages.

51. Mr. VRANJ (Bosnia and Herzegovina) said that an individual could be held in police custody for 24 hours at most. After that, the suspect was turned over to the prosecutor, who in all cases was informed of the arrest as soon as it was made. The Code of Criminal Procedure made no provision for challenging detention in police custody, precisely because it continued for such a short time, but the police were required to submit a report giving the reasons for the arrest. To ensure impartiality, the service responsible for holding persons in custody was separate from the service responsible for conducting investigations, and under the law, every person held in custody unlawfully was entitled to compensation.

52. Particular attention was devoted to ensuring that medical personnel were aware of their obligation to notify the police and the Public Prosecutor's Office when they

had to examine a victim of violence or human trafficking. Where evidence was to be gathered from the examination, it was invariably done by professionals in a hospital setting. The reporting requirement, which was prescribed both by the Code of Criminal Procedure and the Law on Protection from Family Violence, also applied to teachers and all persons who worked with minors.

53. Despite the country's financial difficulties, the Government had been endeavouring for the previous two years to allocate funds to combat human trafficking. Both the Office of the State Coordinator and the special team for the prevention of human trafficking and clandestine immigration in Bosnia and Herzegovina had their own budgets. Furthermore, the Government had recently signed a memorandum of understanding with NGOs agreeing to provide them with funding for the establishment of shelters for victims of trafficking and clandestine migrants. The Committee had commented that sentences given to human traffickers were not heavy but while it was true that most had been sentenced to two and a half years in prison, some had received sentences of five to nine years' imprisonment. Concerning the presumed collusion between the police and organized criminal gangs, the authorities were aware of the importance of tackling the problem and were continuing their efforts in that connection. The United Nations International Police Force had dismissed nine police officers and legal proceedings against two police officers and two customs officials were currently under way.

54. Mr. MIŠKOVIĆ (Bosnia and Herzegovina), reverting to the issue of police custody, said that despite the multiplicity of criminal codes in Bosnia and Herzegovina (promulgated by the Federation and the Entities), their provisions governing detention were identical, and all rooted in the principle of the presumption of innocence. Custody was not a penalty, but a preventive measure of last resort designed to ensure the physical presence of the suspect so that justice could be done. A suspect could be held in custody only for clearly defined reasons. In most cases, it was because there was sufficient reason to think that he had committed an offence or was about to go into hiding, destroy evidence, exert pressure on witnesses or his accomplices, or commit another offence. He would also be held in custody if the offence entailed liability to a sentence of at least 10 years' imprisonment. A final reason for holding an individual in custody might be that he represented a threat to the security of property or persons, but the threat had to be based on objective criteria. Experience had shown that the last-named of those reasons was the least frequently given. If the prosecutor wished to have custody extended, he was required to make a formal application to that effect, stating valid reasons. Only the judge who had presided over the preliminary hearing could order such an extension, and if he did so, he was required to inform the suspect and his lawyer in writing.

55. Mr. VUČINIĆ (Bosnia and Herzegovina) added that every suspect was immediately informed of the reasons for his detention and assisted by a lawyer.

56. Ms. DUDERIJA (Bosnia and Herzegovina) said that a case could not be tried over again, but any person could refer a matter to the Constitutional Court, citing, for example, an opinion expressed by the Committee. On another issue, she said that a building housing persons with mental disabilities had indeed burned down but there had been no casualties. However, the incident had delayed implementation of the memorandum of understanding between the Ministry of Justice and the Entities.

57. The CHAIRPERSON thanked members of the delegation and invited them to continue the dialogue at the next meeting.

The meeting rose at 1 p.m.