



# International Covenant on Civil and Political Rights

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## Human Rights Committee 119th session

### Summary record of the first part (public)\* of the 3352nd meeting

Held at the Palais Wilson, Geneva, on Wednesday, 15 March 2017, at 10 a.m.

Chair: Mr. Iwasawa

## Contents

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

*Third periodic report of Bosnia and Herzegovina (continued)*

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\* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.3352/Add.1.

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

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

*Third periodic report of Bosnia and Herzegovina (continued) (CCPR/C/BIH/3 and CCPR/C/BIH/QPR/3)*

1. *At the invitation of the Chair, the delegation of Bosnia and Herzegovina took places at the Committee table.*
2. **The Chair** invited the delegation to resume replying to the questions posed by Committee members at the previous meeting.
3. **Ms. Durić** (Bosnia and Herzegovina) said that the authorities were developing common core curricula based on learning achievements in a number of subjects, including language, mathematics and science. To facilitate the participation of children from minority ethnic groups, three schools provided education in minority languages, which were taught in 3 per cent of the territory. The education authorities were required to cover the travel expenses for children of returnees living more than 3 kilometres from their school.
4. **Mr. Ristić** (Bosnia and Herzegovina) said that cantonal laws on education were in line with the framework legislation. The common core curricula, which included Serbian, Croatian and Bosnian as mother tongue languages, must account for 50 per cent of the teaching in schools. Religious education was optional and parents were given the opportunity to decide which religion they wished their children to learn about. The Brčko District provided primary school children with free school books in the language of their choice.
5. **Mr. Mauhar** (Bosnia and Herzegovina) said that the benefits granted to civilian victims of war and war veterans were governed by the legislation on social protection. The Government was in the process of drafting a new law relating to protection for persons with disabilities and intended to develop further legislation that would clearly define the categories of persons with disabilities and victims of war.
6. **Ms. Đuderija** (Bosnia and Herzegovina) said that the reform of the social welfare sector was an ongoing process. The Government intended to bring the benefits granted to persons with war-related disabilities into line with those granted to other categories of persons with disabilities.
7. The Government had drafted legislation relating to Ombudsmen, including the manner of their appointment, their financial independence, the participation of civil society in their work and the establishment of a national preventive mechanism. As the bill had not been adopted by the Parliamentary Assembly, the Government intended to review the draft and reintroduce it. Between 2014 and 2017, the Ombudsmen had reported approximately 12 cases of attacks on religious sites. Between 2010 and 2015, the Interreligious Council had reported 186 attacks on religious sites, including 88 involving Islamic sites, 57 involving Catholic sites and 4 involving Orthodox sites, a large proportion of which had resulted in prosecutions. The Council of Ministers had developed an action plan for the period 2016-2019 to counteract the prevalence of incitement to hatred in the media and on the Internet.
8. **Ms. Taraba** (Bosnia and Herzegovina) said that in 2016, the anti-discrimination laws had been amended to cover discrimination on the grounds of age and sex and to provide protection for persons seeking remedies. The amendments had been drafted following consultations with civil society organizations, academia and judges. The Sarajevo Open Centre, an organization working in the area of the rights of lesbian, gay, bisexual and transgender persons, had made substantial contributions to the content of the amendments, which included provision for same-sex marriage and adoption by same-sex couples. A central database had been developed to hold the details of all cases involving discrimination.
9. **Ms. Pazartzis** said that she would appreciate a response to her previous question regarding whether there was a case pending before the Constitutional Court in relation to Mr. Al-Gertani. Recalling the report of the European Committee for the Prevention of

Torture and Inhuman or Degrading Treatment or Punishment on its visit to the State party, which had highlighted a considerable number of credible allegations of mistreatment of persons held in detention, she wished to know whether detainees had access to any external complaints mechanisms. It would be helpful to hear the delegation's comments on allegations of ill-treatment of detainees following the demonstrations that had taken place in 2014 and to receive details of any investigations and prosecutions that had been carried out as a result. She wished to receive further information on the measures taken to improve conditions in cells and access to sanitation for detainees. Had the Government increased the use of non-custodial punishments, including electronic monitoring, parole and community service?

10. **Mr. de Frouville** said that he would appreciate clarification of the responsibility of superior officials in relation to crimes of torture and sexual violence. He wished to hear the delegation's comments on the definition of sexual violence in the Brčko District Criminal Code, which had been instituted by the Government of the former Yugoslavia. He would welcome a response to his previous question regarding the reasons behind the opposition in Republika Srpska to the Transitional Justice Strategy and the Draft Programme for Women Victims of War Rape, Sexual Abuse and Torture and Their Families. He wished to know whether there were any plans to review those provisions regarding hate crimes which dated back to the time of the former Yugoslavia. He would appreciate information on the status of the bill tabled in the Republika Srpska Constitutional Court.

11. While he welcomed the new Law on Foreigners, he wished to learn whether the surveillance measures it provided for were imposed for an indefinite period and whether they could be appealed. He would like to know whether the Government intended to provide redress to Mr. Al Husin following his arbitrary detention. He would appreciate an explanation of the measures in place to assist foreign nationals who had been the victims of human trafficking, including clarification of whether visas were available only to those victims whose traffickers were being prosecuted and whether access to health care and other services was dependent upon the victims' cooperation in criminal prosecutions. He wished to know if all victims of human trafficking received the same level of support irrespective of whether they were children or adults and whether they were Bosnian citizens or foreign nationals. Were any specific measures in place to support male victims of trafficking?

12. The Committee would welcome updated figures on the closure of temporary shelters housing internally displaced persons and returned refugees. He wished to receive information on the measures in place to ensure favourable conditions for the long-term reintegration of returnees, especially those who were returning to locations where ethnic cleansing had occurred. What steps were being taken to protect the returnees from discrimination in accessing employment and health-care services?

13. **Mr. Politi** said that it was unclear whether the 2008 amendments to the Criminal Code, which provided for the use of pretrial detention on the grounds of a potential threat to public order, had addressed the concerns the Committee had expressed in its previous concluding observations regarding the use of pretrial detention on the grounds of public security and security of property. He wished to know how the concepts of public security and disturbance to public order had been interpreted by the courts in the State party. He would appreciate clarification of whether minors in places of deprivation of liberty were detained separately from adults.

14. Further information would be welcome on the criteria used to determine whether asylum seekers should be kept in detention and the percentage of them held in custody annually during the previous five years. He wished to hear about the measures the Government was taking to end the unauthorized detention of persons who had declared that they wished to seek asylum in the State party. It was unclear which State entity was responsible for the provision of basic services and assistance to asylum seekers and how local programmes to integrate asylum seekers were funded. In connection with the independence of the Communications Regulatory Authority, he wished to know the extent to which the process of appointing the head of the Authority remained influenced by political bargaining.

15. **Mr. Shany** said that it would be useful to receive more information on the Gender Equality Agency, including how many people were employed there, the size of its budget and the nature of the complaints it received. The Committee would also appreciate a breakdown of the number of cases involving war crimes that had been initiated in 2015 and 2016 and the convictions that had resulted from those cases.

16. He would welcome clarification of the legal situation regarding the use of corporal punishments in informal education settings such as day-care centres. Given the high prevalence of the use of corporal punishment on children with disabilities reported by the United Nations Children's Fund (UNICEF), he wished to learn about any efforts to raise awareness of the issue in the State party. He also wished to hear about the progress made in adopting legislation to prohibit corporal punishment.

17. The circumstances under which judges could issue permits for early marriage, which particularly affected Roma communities, were unclear. He wished to know whether judges were given training in identifying indicators of human trafficking. He would be grateful for the delegation's comments on whether the link between early marriage and societal perceptions of gender roles was addressed in the Gender Action Plan.

18. He would be interested to receive up-to-date statistics on the number of children with disabilities receiving integrated education in regular schools, the number receiving specialized education and the number not attending any type of school. It was unclear whether schools were obliged to provide support to children with disabilities, whether funds were earmarked for that purpose and whether integration programmes in rural areas were subject to any form of monitoring. Were any legal standards in place governing the level of care that children with severe or multiple disabilities were entitled to receive? Did institutions not meeting the standards of care provided for in law face any form of sanction?

19. **Ms. Seibert-Fohr**, recalling that, pursuant to article 50, the provisions of the Covenant extended to all parts of federal States parties, said that it would be beneficial if future delegations from the State party included representatives from the various entities of the federation.

20. She wished to receive information on the measures taken to tackle intimidation towards journalists. Clarification would be welcome regarding reports that media criticism of the Government was not tolerated and that public broadcasters faced political and financial pressure, resulting in tainted news reporting. It would be interesting to hear about the measures in place to ensure that public broadcasters received independent funding. It was unclear what was meant by the concept of disturbance of public order, which appeared in the new legislation on public peace and order in Republika Srpska, and whether it was intended to cover criticism of public officials. She wished to learn the extent to which the legislative amendments regarding the election and appointment of the head of the Communication Regulatory Agency interfered with the independence of the agency.

21. It would be useful to have a full account of the progress made with regard to changes to the electoral system to allow all citizens to stand for election, including members of the Roma and Jewish communities and persons who declined to declare an affiliation with any of the constituent peoples. Given that the representation of national minorities at all levels of government was calculated based on the most recent census, she wished to know when the census had been carried out and whether it was still adequate for that purpose. Data would be welcome on the number of seats in municipal assemblies and councils held by members of ethnic minorities. Was any central oversight mechanism in place to ensure that election laws were implemented effectively?

22. The Committee would like to hear the delegation's response to reports that only two-thirds of the homes which had been envisaged under the 2008 Action Plan for Roma had been constructed. She wished to know the reasons behind the 95 per cent unemployment rate among the Roma population and the obstacles preventing birth registrations in Roma communities. What measures did the State party intend to implement to address reports that only 20 per cent of Roma children were registered in schools and that many Roma children attended special schools because of alleged social disabilities?

23. **Ms. Cleveland** said that she wished to know how the Government ensured that persons granted subsidiary protection had the same access to services as persons with refugee status, including family reunification and travel documents. She would be grateful for details of whether there were any plans to reconsider the restrictions imposed on Mr. Al Husin. She would appreciate an account of the measures in place to combat impunity among public figures and ensure that corruption did not prevent the full and effective participation of citizens in public life.

*The meeting was suspended at 11.10 a.m. and resumed at 11.30 a.m.*

24. **Ms. Duderija** (Bosnia and Herzegovina) said that efforts were under way to establish a standard approach to protection for victims, namely by bringing into line with federal legislation the laws relating to war victims and victims of torture that were in place in the constituent parts of the country.

25. Mr. Al Husin and Mr. Al-Gertani remained in Bosnia and Herzegovina and enjoyed the same protection and rights as other foreign nationals. While their status had not been finalized, they were subject to the least restrictive form of surveillance that was available. In connection with the issue of missing persons, the authorities intended to establish a mechanism to coordinate cases and implement the recommendations of the Committee.

26. The Ministry of Security provided foreign nationals who were victims of human trafficking with identity documents, housing, health care and psychological support. That support was not conditional upon cooperation with the judicial authorities. A guardian was appointed for child victims and the police and prosecuting authorities provided them with the assistance they required.

27. Roma individuals often became victims of trafficking through arranged marriages or sexual exploitation, sometimes at the hands of family members. A system of training was in place to enable social welfare officers to identify and assist such victims. If the victim was a Roma child, the child would be removed from his or her family and placed in a safe environment. With respect to male victims of trafficking, the Ministry of Security had appropriated funds to enable them to be housed in special houses, where they received the assistance they needed, including medical and psychological support services. Civil society organizations also provided assistance with housing, employment and other services.

28. Corporal punishment of children was prohibited under three laws: the Criminal Code, the Law on Protection from Domestic Violence and the Family Law. In addition, the Law on Social Welfare prohibited neglect of children, which was an indirect form of corporal punishment. The State had a zero tolerance policy for corporal punishment in homes, schools and care facilities, and anyone found to have inflicted corporal punishment would be criminally prosecuted or otherwise sanctioned. Persons who failed to prevent corporal punishment, although they did not directly administer it themselves, could also be prosecuted. Health-care providers were required to report any sign of corporal punishment detected when examining or treating a child. It would be difficult to eradicate corporal punishment fully, however, because most parents hid the fact that they punished their children physically.

29. Judges could authorize early marriages. They might do so because of pregnancy, although that was not the only reason. Social welfare centres played an important role in assessing young people's physical and psychological maturity and readiness for marriage. No official statistics were kept on such marriages, but data from other sources showed that they were more prevalent among Roma young people. The Government sought to inform girls, especially Roma girls, of the risks of early marriage, including by raising awareness of the link between early marriage and human trafficking.

30. All housing provided to members of the Roma community through projects funded by the State and the European Commission was fully compliant with building standards, including with respect to insulation, heating and utilities. Maintaining the supply of electricity was sometimes problematic if Roma residents were unable to pay their bills. However, they received subsidies and other assistance from local communities for that purpose.

31. Negotiations were under way on amendments to the Election Law aimed at ensuring that all citizens could seek election to public office. It was true that the country did not have a proper law on funding for broadcast services, which was a major obstacle to ensuring the independence of those services. The Director General of the Communications Regulatory Agency had been appointed through an open competition; however, the procedure had not been entirely free of political influence. With regard to attacks on journalists, progress had been made through an action plan, the establishment of an SOS line and cooperation with the Press Council and Union of Journalists. The Ministry of Human Rights and Refugees, the Ministry of Justice and the Human Rights Ombudsman had issued reports and recommendations aimed at preventing intimidation of journalists and ensuring freedom of the press.

32. **Ms. Srdanovic** (Bosnia and Herzegovina) said that the process of harmonizing the State party's four criminal codes with international standards was ongoing. The provisions relating to war crimes and genocide-related offences were aligned with those of the Rome Statute of the International Criminal Court. Steps were being taken to enable Bosnia and Herzegovina to ratify the Kampala Amendments to the Statute. The Ministry of Justice was currently working on amendments to article 118 of the Criminal Code of Bosnia and Herzegovina, which related to amnesty, and article 145a, which related to ethnic, racial and religious hatred, conflicts and intolerance; she was unable to provide further detail, however, as that work was still in the early stages.

33. Extensive work had been done in recent years to expand capacity and improve conditions in prisons, including refurbishment of existing prisons and construction of new ones. Sanitation conditions had improved significantly, as had access to health care. The delegation would provide additional information in writing. With regard to alternative criminal sanctions, electronic supervision, community service, payment of fines in lieu of imprisonment and conditional release were currently options only under the criminal legislation of the Federation of Bosnia and Herzegovina. She understood that other criminal codes were being amended to incorporate such alternative sanctions. Mandatory psychiatric treatment and addiction treatment were provided in medical facilities, not prisons. In 2015, 22.5 per cent of all offenders (about 1,600 individuals) had been serving alternative sentences. As the delegation included no representatives of the judiciary, data on pretrial detention rulings would be submitted at a later date.

34. **Ms. Smajević** (Bosnia and Herzegovina), responding to questions regarding complaints of torture and other forms of ill-treatment, said that there had been a number of claims of abuse in 2015, particularly in relation to police detention facilities. From November 2012 to July 2016 a total of 245 citizens had lodged complaints relating to the work of the police in Republika Srpska. Police in both the Federation and Republika Srpska had internal control departments that received such complaints. The State party was endeavouring to implement the recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment following its 2015 visit, including through better training for law enforcement officials and a more active role for prosecutors and judges in investigating allegations of ill-treatment.

35. Major reforms of the juvenile detention system had been launched in 2011. Before that time, there had been no separate detention facilities for minors. They were now held in special juvenile correctional facilities or in separate juvenile units within adult prisons. The reforms had been undertaken in parallel with the adoption of laws on the protection of children and juveniles in criminal proceedings in both Entities and in Brčko District. Those laws were fully compliant with international standards, including those in the Convention on the Rights of the Child and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules). Under the laws, sanctions imposed on juvenile offenders were no longer classified as criminal sanctions, but rather as developmental measures. Sanctions for offences punishable by a fine or imprisonment for fewer than 3 years could be replaced by a police warning.

36. On the recommendation of a prosecutor, a judge could order the placement of a minor in a care facility in order to remove him or her from a detrimental environment. Pretrial detention was imposed only when there was deemed to be no other means of ensuring the minor's presence during the proceedings. Such detention could not exceed 30

days, and the detention order had to be reviewed every 10 days by a panel of judges. Detention decisions could also be appealed to a panel of judges.

37. The new Law on Foreigners had been harmonized with European Parliament and European Council directives concerning the placement of foreign nationals in immigration centres. Foreigners could not be held in a centre for more than 18 months; no extensions were permitted. Foreign nationals who were placed under supervision, with restrictions on their movements, could file a complaint with the Ministry of Security within 50 days. Those placed in an immigration centre could file a complaint within three days. If the Ministry failed to respond within three days, either rescinding or affirming the placement decision, the foreign national could institute an administrative dispute proceeding before the Court of Bosnia and Herzegovina, which must hear the case and rule within three days. The institution of a court proceeding would not, however, defer enforcement of the placement decision.

38. The effort to close collective centres was being coordinated by the Ministry of Human Rights and Refugees. The aim was to close 121 such centres in 45 municipalities and provide alternative public housing; 2,611 housing units were scheduled to be built, and 7,242 former residents of collective centres would be relocated to those units or to other alternative housing. By 2019 it was expected that all centres in Brčko District and Republika Srpska and more than 72 per cent of those in the Federation would be closed. The Ministry was working on plans for the relocation of the few internally displaced persons who would be left in collective centres.

39. **Ms. Taraba** (Bosnia and Herzegovina) said that a new law on asylum seekers, which had entered into force in February 2016, gave the Minister of Security the authority to place restrictions on the movement of asylum seekers for up to 90 days, bearing in mind the circumstances of each case. The period of restriction could be extended for a maximum of 90 additional days, but only if the reasons for its imposition continued. The asylum seeker could file a complaint before the Court of Bosnia and Herzegovina within eight days of the issuance of the restriction order, but enforcement of the order would not be deferred for that reason. The Court was required to rule on the complaint within eight days. Under the law, any foreign national could request asylum, irrespective of how the individual had entered the country. Foreigners who were being held in an immigration centre, prison or institution for victims of human trafficking could also apply for asylum; the local office of the Service for Foreigners' Affairs would send an officer to the institution where the foreigner was being held to receive the application.

40. A certificate issued to foreign nationals entitled them to remain in the country while their applications were being considered. Asylum seekers, persons with recognized refugee status and persons who had been granted subsidiary protection had the right to receive information on the status of their applications in a language they understood or could reasonably be assumed to understand. They also had access to housing, primary health care, education, employment and legal aid. Those who had been granted subsidiary protection enjoyed the right to family unification and were entitled to identity documents and assistance in integrating into the society of Bosnia and Herzegovina.

41. **Ms. Durić** (Bosnia and Herzegovina) said that the State party had an action plan for the inclusion of children with disabilities. The delegation would provide statistics for 2015 and 2016 in writing. Those statistics might not be complete, however, as some children with disabilities were kept at home by their parents and thus were not included in official records. Primary education was compulsory, and sanctions could be imposed on parents who failed to send their children to school. Article 19 of the Framework Law on Primary and Secondary Education stipulated that children with disabilities were to be taught in mainstream schools using individualized curricula suited to their mental and physical abilities. They might also be educated in special institutions, depending on their level of disability. Regulations concerning planning for the education of children with disabilities and training of teachers were established by the Entities, cantons and Brčko District in accordance with the principles and standards set out in the Framework Law. Funding for education was also appropriated at the subnational level. Ensuring adequate funding for education was a challenge to be met in the future.

42. **Ms. Srdanovic** (Bosnia and Herzegovina) said that the Revised Action Plan for Education of Roma included special measures and programmes to encourage Roma parents to send their children to school, including free school meals and support for the purchase of clothing and books. School dropout rates among Roma children had declined; more Roma were entering and completing secondary school and some Roma students were now enrolled in universities in the State party, something that would have been almost unimaginable in earlier years. The delegation would provide statistics in writing.

43. **Ms. Crnčević Čulić** (Bosnia and Herzegovina) said that the Gender Equality Agency, which operated within the Ministry of Human Rights and Refugees, was currently implementing the Gender Action Plan 2013-2017. The Agency was also carrying out activities under a framework strategy for the implementation of the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). Special protections had been incorporated in the new laws on foreigners and asylum seekers for women who were victims of violence. The Agency reviewed all draft legislation to ensure that it met gender equality standards, including those relating to women and girls with disabilities and lesbian, gay, bisexual and transgender persons.

44. **Mr. Shany** asked whether any sanctions were imposed on schools that failed to allocate resources for the integration of children with disabilities.

45. **Mr. Politi** said that the Committee would be grateful if the delegation could provide information within 48 hours on how the concepts of public security and security of property were interpreted by the courts of the State party in relation to pretrial detention.

46. **Ms. Đuderija** (Bosnia and Herzegovina) said that she was unaware of any sanctions that might be imposed on schools. The State was encouraging school authorities in the Entities, cantons and Brčko District to introduce programmes for the integration of children with disabilities and to include those programmes in their budget planning. Many schools in urban areas already had such programmes. There were also programmes to enable Roma children who had been out of school to catch up to their peers. Lack of resources remained a problem, however, and schools were often forced to rely on NGOs for support.

47. Most courts in the State party applied Entity and Brčko District legislation to define the concepts of public security and security of property. In deciding whether to impose pretrial detention, judges and prosecutors took into account the nature and the intent of the offence and whether it had been committed by an individual or by a terrorist group or other organized group. The courts had the discretion to grant bail. The delegation would do its best to provide statistics on the types of offences for which pretrial detention was imposed and on the length of detention.

48. **Ms. Srdanovic** (Bosnia and Herzegovina) said that the Code of Criminal Procedure provided that pretrial detention could be imposed only if the offence in question carried a prison term of 10 years or more. Hence, it was imposed only for the most serious crimes.

49. **Ms. Đuderija** (Bosnia and Herzegovina) said that the authorities in the State party were committed to ensuring that international standards were incorporated into the domestic legal system. The task was a challenging one for a complex and highly decentralized State, which was also striving to implement European Union standards. The delegation hoped to be able to report better results and provide higher quality information in its next periodic report.

50. **The Chair** said that the Committee appreciated the delegation's openness in acknowledging the difficulties that the State party faced in implementing the Covenant. The Committee continued to have concerns in relation to discrimination in the electoral system, investigation of cases involving missing persons and enforced disappearance during the armed conflict, prosecution of war crimes cases and access to justice and reparations for victims, and discrimination against minority ethnic groups, in particular members of Roma communities. He hoped that the Committee's concluding observations would help the State party to address those concerns and implement the Covenant more fully.

*The first part (public) of the meeting rose at 12.45 p.m.*