

# **OPENING STATEMENT BY THE BOSNIA AND HERZEGOVINA DELEGATION FOR PUBLIC CONSIDERATION OF THE SIXTH PERIODIC REPORT ON UNCAT SUBMITTED BY BOSNIA AND HERZEGOVINA**

**Ladies and Gentlemen, Dear Excellencies, Distinguished representatives of civil society,**

As the Head of the Delegation of Bosnia and Herzegovina, I have the honour and pleasure to inform you about activities which Bosnia and Herzegovina, as a member of the UN, takes for the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

We note that, at the 978th session held on 5 November 2010, the UN Committee against Torture adopted concluding observations after considering the combined periodic report from number 2 to number 5 of Bosnia and Herzegovina, which covers the period from 2005 to 2010.

In concluding observations, CAT presented positive aspects and highlighted the main worrying areas that prevent the implementation of the Convention against Torture, identified major issues of concern and provided suggestions and recommendations to which Bosnia and Herzegovina, as a member of the UN and the UN Committee against Torture is obliged to provide responses in the form of periodic reporting according to the List of questions issues prior to reporting under the new optional reporting procedure.

Bosnia and Herzegovina officially informed the competent authorities and institutions at all levels of governance in Bosnia and Herzegovina about the content of the concluding observations and recommendations adopted by CAT and sent a conclusion of the BiH Council of Ministers that they should be consistently implemented. The non-governmental sector and the general public were informed about the recommendations of the UN body. Based on these recommendations, Bosnia and Herzegovina prepared and submitted to the Committee against Torture a response to its recommendations contained in paragraphs 9, 12, 18 and 24 regarding the harmonization of the definition of sexual violence with international standards, rapid and effective investigations of all war crimes, information about activities on the drafting of the Law on the Rights of Victims of Torture, ensuring full independence of the BiH Missing Persons Institute and a progress in the procedure of ratification of the International Convention for the Protection of All Persons from Enforced Disappearances.

The sixth periodic report of BiH against torture was forwarded to CAT in the form of a response to the list of issues and contains information about activities taken by Bosnia and Herzegovina in order to implement the Convention against Torture, both through the harmonization of legislation and through examples of "good practice".

Regarding the measures taken by Bosnia and Herzegovina in applying the basic principles of the Convention, we note the following:

1.a) With regard to measures taken to harmonize the legal definition of torture in State-level and Entity-level laws and for the inclusion of torture crimes in domestic legislation as defined in Article 1 of the Convention, we highlight the following:

In 2015, the Parliamentary Assembly of Bosnia and Herzegovina adopted the Law on Amendments to the Criminal Code of BiH (Official Gazette of BiH, 40/15), which contains an amendment to Article 190 (Torture and other forms of cruel and inhumane treatment), whereby the definition of this criminal offense was brought in line with the definition of the offense in Article 1 of the Convention.

b) The 2015 amendments to the BiH Criminal Code aligned the definition of the war crime of sexual violence with international standards, too.

2. The Law on Amendments to the Criminal Code of BiH amended the provisions relating to trafficking in human beings and resulted in finding solutions to the problems that had arisen in investigation and prosecution of criminal offenses of trafficking in human beings and related criminal offenses due to inconsistency of criminal codes in BiH.

3. In order to harmonize national legislation with the legislation and standards of the European Union in the field of asylum, Bosnia and Herzegovina adopted the Law on Asylum (Official Gazette of BiH, 11/16 and 16/16), which entered into force on 27 February 2016.

Looking at the latest report to CAT, it is the passage of the Law on Asylum and the Law on Foreigners (Official Gazette of BiH, 88/15), which came into force on 25 November 2015, that is the most important indicator of Bosnia and Herzegovina's readiness to make further efforts towards the harmonization and approximation with the European Union *acquis* by revising the national legislation in the field of migration in Bosnia and Herzegovina.

The Strategy in the area of migration and asylum with the 2016-2020 Action was adopted in the reporting period by the Council of Ministers of Bosnia and Herzegovina at the 50th meeting held on 30 March 2016.

4. At the beginning of 2012, Bosnia and Herzegovina ratified the International Convention for the Protection of All Persons from Enforced Disappearance. By this, bearing in mind all the consequences of the war that ended more than 20 years ago, Bosnia and Herzegovina undoubtedly made it clear that it is strongly committed to paying special attention to the issues of all missing persons in the country, and that the path of truth has no alternative.

However, even before the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, Bosnia and Herzegovina did a lot to find missing persons and, with the support by other international institutions, took important activities focusing on the issue of missing persons. The Law on Missing Persons was passed and the Council of Ministers of BiH, together with the International Commission on Missing Persons (ICMP), signed an agreement on its role of co-founder of the Institute for Missing Persons of Bosnia and Herzegovina.

It is my pleasure to inform you that, in addition to the aforementioned activities, the Council of Ministers of BiH has taken activities related to regional cooperation in searching for and identification of missing persons. Namely, BiH and Serbia signed an interstate Agreement on the Search for Missing Persons and, after being approved, it was ratified by the Presidency of Bosnia and Herzegovina. The same principle is being applied to the agreements on cooperation in the search for missing persons with Croatia and Montenegro, which are being prepared.

5. BiH have continued activities on harmonization of the Law on Ombudsman for Human Rights of BiH with the Paris Principles and Recommendations of the Subcommittee on Accreditation (SCA) for ensuring, first and foremost, financial independence and the mandate of the Ombudsman for Human Rights of BiH for human rights promotion in Bosnia and Herzegovina as it is limited to the field of human rights protection by the valid Law on Ombudsman for Human Rights of BiH, as well as cooperation with the non-governmental sector and the academic community in Bosnia and Herzegovina.

The Amendments to the Law on Ombudsman for Human Rights of BiH include provisions defining the operation of the Ombudsman as a preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Council of Ministers of BiH has agreed on the proposal for the Amendments to the Law on Ombudsman for Human Rights of BiH on 5 September and this law is expected to be deliberated in the Parliament of Bosnia and Herzegovina in the coming period.

6. The Law on the Prohibition of Discrimination of BiH, which was based and designed on European standards, was adopted in 2009 and amended in 2014. The Law protects the citizens of BiH from discrimination in all areas of labour and life, including: employment, social and health care, justice and administration, housing, public information, education, sport, culture, science etc. Under this Law, all public authorities in BiH have a duty to fight discrimination and to refrain from it, removing obstacles that can directly or indirectly result in discrimination.

7. Since all the goals set by the State War Crimes Strategy were not implemented within the deadlines and estimating the number of war crimes cases in the prosecutor's offices in BiH, the need for amending the State War Crimes Strategy was noted. In accordance with the above, on 12 April 2017, the Council of Ministers established a Working Group for drafting amendments to the State War Crimes Strategy.

In accordance with the above-mentioned decision, expert assistance to this working group is provided by the Court of BiH and the Prosecutor's Office of BiH, as well as the Associations of Judges and the Associations of Prosecutors of the RS and FBiH, as well as by the OSCE Mission to BiH.

8. In the 2015-2018 Action Plan for Children of Bosnia and Herzegovina, the issue of violence against children and corporal punishment was covered by an initiative for harmonization of legislation on domestic violence throughout BiH. In accordance with these measures, in October 2016, the BiH Children's Council sent an initiative to the governments of the Federation of BiH, the Republika Srpska and the Brčko District of BiH with the aim of introducing an explicit ban on any physical punishment of children that would be applicable to all environments of children. The initiative concerns amending of family laws, laws on social and child protection, laws on protection against domestic violence, criminal laws as well as laws in the field of health care in the FBiH, RS and BD BiH and the framework law in the field of pre-school or primary education and upbringing and sports laws.

9. In accordance with the Agreement on the Compensation of Costs of the Execution of Security Measures Imposed in Criminal Proceedings and Involuntary Placement in a Medical Institution Imposed in Other Proceedings, the Institute for Forensic Psychiatry of Sokolac for the accommodation of persons who were found to have been mentally incompetent or with

significantly reduced accountability when they committed a crime started operating on 5 December at full capacity to meet the needs of Bosnia and Herzegovina,

10. In the previous period (2014-2016), in cooperation with UNICEF, seminars were organized on the topic of professional development of all stakeholders in charge of the implementation of the Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings.

The Office of the Council of Europe, in cooperation with the Ministry of Justice of BiH and Entity ministries, started the implementation of a new project entitled "Supporting Reintegration of Violent and Extremist Prisoners in BiH". The project started on 1 May 2017 and will last for the next 11 months. The aim of the project is to enable prison staff to work with violent and extremist prisoners and to provide adequate treatment to prisoners falling into that group during and after imprisonment.

The Amendments to the Law on Enforcement of Criminal Sanctions of the Republika Srpska have included provisions on compulsory continuous professional development and training of employees in penitentiaries. In this regard, over a hundred employees in the Republika Srpska penitentiaries participated in the training that resulted from the "Support to the training of prison staff in BiH" Project, which was a joint effort of the Ministry of Justice and the Council of Europe.

Regarding the treatment of juveniles in criminal proceedings, the Republika Srpska Ministry of Justice organized and held training in criminal and legal protection of children and juveniles for 450 police officers, professionals of the guardianship authorities, lawyers and officers employed in penitentiaries to acquire specialised knowledge in this matter.

**Finally, I would like to introduce the delegation of Bosnia and Herzegovina:**

- **Lucija Ljubić, Ambassador in the BiH Permanent Mission to the UN Office in Geneva,**
- **Saliha Đuderija, BiH Ministry of Human Rights and Refugees,**
- **Minka Smajević, BiH Ministry of Human Rights and Refugees,**
- **Fatima Bašić, BiH Ministry of Justice,**
- **Stanislava Tanić, BiH Ministry of Security,**
- **Sadika Fatić, BD BiH Prosecutor's Office,**
- **Elvedina Hodžić, FBiH Ministry of the Interior,**
- **Rijada Halilović, FBiH Ministry of the Interior,**
- **Esma Palić, FBiH Ministry of Labour and Social Policy**
- **Asmir Bačevac, BiH High Judicial and Prosecutorial Council,**
- **Miralem Duranović, FBiH Ministry of Justice,**
- **Nenad Mirkonj, RS Ministry of Justice and**
- **Roksanda Mičić and Aida Kadrić, interpreters.**

**Thank you for your attention.**