

EXECUTIVE SUMMARY

of the

WRITTEN INFORMATION FOR THE ADOPTION OF THE LIST OF ISSUES

BY THE HUMAN RIGHTS COMMITTEE

WITH REGARD TO

BOSNIA AND HERZEGOVINA'S SECOND PERIODIC REPORT

(CCPR/C/BIH/2)

DECEMBER 2011

I. Background

1. On 17 November 2010 Bosnia and Herzegovina (BiH) submitted its second periodic report to the Human Rights Committee (HRC). In its previous concluding observations on BiH (November 2006), the HRC had issued a number of recommendations, including the allocation of sufficient funds and human resources to the district and cantonal courts trying war crimes and the effective application of the State and Entity Laws on Protection of Witnesses (recommendation No. 13). Further, the HRC recommended BiH to take immediate and effective steps to investigate all unresolved cases of missing persons; ensure without delay that the Institute for Missing Persons becomes fully operational; the central database of missing persons is finalised and accurate; and that the Fund for Support to Families of Missing Persons is secured and that payments to families commence as soon as possible (recommendation No. 14). Moreover, the HRC recommended to BiH to ensure that victims of mental torture are granted victim of war status in both Entities and that the personal disability benefits received by civilian victims of war are harmonised among the Entities and cantons and adjusted to the personal disability benefits received by war veterans (recommendation No. 15).
2. TRIAL (Swiss Association against Impunity), seven associations of relatives of missing persons (Association of Families of Killed and Missing Defenders of the Homeland War from Bugojno Municipality; Association of Relatives of Missing Persons from Hadžići Municipality; Association of Relatives of Missing Persons from Ilijaš Municipality; Association of Relatives of Missing Persons from Kalinovik – "Istina-Kalinovik 92"; Association of Relatives of Missing Persons of the Sarajevo-Romanija Region; Association of Relatives of Missing Persons of the Vogošća Municipality; and Association of Women from Prijedor – Izvor); five associations dealing with the subject of victims of rape or other forms of sexual violence during the war (Association of Women-Victims of War; Sumejja Gerc; Viktorija 99; Vive Žene Tuzla; and the Women's Section of the Concentration Camp Torture Survivors Canton Sarajevo); and four associations or federations of associations of former camp-detainees (Association of the Concentration Camp-Detainees – Bosnia and Herzegovina; Croatian Association of War Prisoners of the Homeland War in Canton of Central Bosnia; Regional Association of Concentration Camp-Detainees Višegrad; and Prijedor 92) submit to the HRC written information for the adoption of the list of issues on the occasion of its

session of March 2012. The associations subscribing this written information consider of the utmost importance that the HRC continues monitoring the implementation of the international obligations of BiH towards relatives of missing people, women victims of sexual violence during the war, and former camp-detainees. At the end of the integral version of the written information (paras. 97-98) a set of recommendations is presented, while this executive summary will present only the core problems, together with the items that in the view of the subscribing organisations should be included in the list of issues by the HRC.

3. In general, it is the view of the subscribing organizations that there has not been significant progress in the implementation of the recommendations formulated in November 2006 by the HRC and a number of issues remain a source of deep concern. While relatives of missing persons, women victims of rape or other forms of sexual violence and former camp-detainees continue experiencing isolation and indifference, there seem to be an institutional paralysis and a lack of political will which are causing the non-implementation of the recommendations issued by the HRC in its concluding observations, as well as by other international human rights mechanisms. In this context, relatives of missing persons, former camp-detainees and women victims of rape during the war are left to bear the brunt of violations that have been ongoing over the past 20 years. This situation is causing a climate of deep distrust among victims of gross human rights violations from the war and their relatives towards BiH institutions and, given that not even the recommendations of international mechanisms are proving effective, there is a general feeling of powerlessness and frustration. BiH remains in breach of its international obligations as spelled out, among others, in the International Covenant on Civil and Political Rights. In particular, the present situation corresponds to ongoing violations by BiH of its obligations under Articles 2, 6, 7, 9, 10 and 16 of the International Covenant on Civil and Political Rights.

II. Recommendation No. 13: Witnesses Support and the National War Crimes Prosecution Strategy

4. Notwithstanding the recommendations formulated by the HRC, victims of gross human rights violations from the war and their relatives have been struggling with the lack of comprehensive and adequate witness protection measures as well as the lack of appropriate programmes of psychological support before, during and after testifying in war crimes trials. It appears that since November 2010 the Cantonal Court in Sarajevo, as well as the District Court in Banja Luka and the District Court in Dobož undertook measures to secure witness protection. Furthermore, the Cantonal Court in Livno is allegedly in the process of building a new entrance door to court for the exclusive use of witnesses. With regard to other courts at the district, municipal and cantonal level, protection of witnesses remains highly deficient. Victims of gross human rights violations from the war, their relatives and representative associations express their concerns at repeated instances of open mockery and insults addressed to witnesses in war crimes' trials that cause deep traumatising to the individuals concerned and have not been adequately sanctioned. Episodes where organisations or associations working on the subject of women victims of rape or other forms of sexual violence during the war have been subjected to harassment or attacks to their members or premises have been registered. Also in these cases those responsible have not been duly identified, judged and sanctioned. Moreover, on various occasions

those accused in war crimes trials or their representatives have disclosed the identities of protected witnesses and BiH authorities failed to prevent and adequately repress such instances. Finally, witnesses at war crimes trials feel affected by the impossibility to have access to a system of free legal aid or support, as they often perceive that they cannot have a full understanding of the legal implications of their statements and the overall conduct of the proceedings. At the same time, seeing that accused persons have access to legal aid nourishes a sense of abandonment and discrimination. Psychological support to witnesses in war crimes cases continues being provided in an insufficient and sporadic manner and is not based on any comprehensive programme. This kind of support is not guaranteed before the courts at all different levels and it is never provided in a way that covers before, during and after rendering testimony.

Please refer to paras. 1-12 of the integral version of the report for details

**Proposed items to be included in the List of Issues
(related to arts. 2, 6 and 7 of the ICCPR)**

- ▶ Which concrete measures have been undertaken to strengthen the capacity of the Department for Witness Protection (OZS) within the State Investigation and Protection Agency (SIPA)?
- ▶ Which are the measures adopted to ensure that witnesses at serious risk receive long-term or permanent protection measures? Do such measures include the possibility to change identity or relocation within or outside BiH?
- ▶ Which are the measures undertaken to provide psychological support to witnesses before, during and after war crimes trials, in particular in order to minimize possible re-traumatization of survivors in court proceedings?
- ▶ Under the current legal framework, do witnesses receive appropriate means to travel to and from the court and, if necessary, escorts?
- ▶ In cases where witnesses and their relatives were in fact threatened, which measures have been undertaken to investigate, identify, judge and sanction those responsible?
- ▶ Which concrete measures have been adopted to prosecute and sanction those responsible for disclosing the identity of protected witnesses during war crimes trials?
- ▶ In cases where associations working with victims of war crimes (e.g. relatives of missing persons, former camp-detainees, and women victims of rape or other forms of sexual violence) have been subjected to instances of threats, harassment or attacks, which measures have been put in place to investigate, identify, judge and sanction those responsible?
- ▶ Does BiH count on a system of accessible free legal aid that covers the State, entity and cantonal level?

5. BiH is under an obligation to investigate, judge and sanction those responsible for gross human rights violations committed during the war, including enforced disappearance, torture, and rape or other forms of sexual violence. Even though a number of trials against persons accused of war crimes or crimes against humanity have been conducted, considering that the events concerned occurred almost 20 years ago, the pace of the overall process is far from satisfactory. Often the existence of the National Strategy for War Crimes has been invoked by prosecutors to justify the lack of activity on certain cases that allegedly should be dealt within the next 7 to 15 years. It must be stressed that the implementation of the National Strategy for War Crimes has been judged by various international institutions as extremely flawed and this, coupled with the age of many victims or their relatives, is perceived by the latter as an indication that they will die without seeing justice done. Numerous are

the cases where victims of gross human rights violations during the war, their relatives or representative associations report having submitted to BiH authorities detailed complaints indicating the identity of those responsible for war crimes or crimes against humanity and even having provided indications on where these people can be found. Notwithstanding, little or no progress in the investigation and judgement of those responsible has been registered and often those accused are free or have managed to escape. Notorious instances of flight have been registered also among those already convicted or detained.

Please refer to paras. 13-28 of the integral version of the report for details

6. Although some significant results have been accomplished and there are some investigations ongoing in cases of enforced disappearance, impunity remains a problem. Furthermore, for relatives of missing persons and their associations the contact with prosecutors is poor or non-existent and it is difficult to get information on the investigations. For the majority of relatives of missing people and their associations, the communication with prosecutors remains extremely complicated and they experience serious difficulties in obtaining indications concerning the progresses of the investigation in their cases, if any. Also in those cases where communication is established, relatives of missing persons or their associations have been answered by prosecutors that they were not actively investigating the cases due to lack of formal complaints, while it is a well-established principle that in cases involving gross human rights violations, authorities must act *ex officio*. Further, despite the jurisprudence of the Constitutional Court of BiH and the recommendations of international mechanisms, cantonal prosecutors in particular continue conducting the investigations pursuant to the provisions of the Criminal Code of the Socialist Federal Republic of Yugoslavia (SFRY) instead of those of the 2003 Criminal Code. While this section of the written information focuses especially on enforced disappearance, the majority of the considerations expressed are valid and applicable also to cases of torture, rape or other forms of sexual violence and other war crimes.

Please refer to paras. 29-33 of the integral version of the report for details

**Proposed items to be included in the List of Issues
(related to arts. 2, 6 and 7 of the ICCPR)**

- ▶ Which measures have been concretely adopted to implement the National War Crimes Prosecution Strategy and to reduce the existing backlog?
- ▶ Which measures are BiH authorities planning to adopt to reduce the delay in the implementation of the National War Crimes Prosecution Strategy?
- ▶ Which measures have been adopted to guarantee that cantonal and district courts receive adequate human resources and funding?
- ▶ Which measures have been adopted to ensure a sound increase in the number of trials of persons accused of rape or other forms of sexual violence during the war?
- ▶ Which measures have been undertaken to ensure that persons indicted with or convicted for, crimes against humanity or war crimes do not flee?
- ▶ Which measures have been adopted to ensure that those indicted with or convicted for, crimes against humanity or war crimes that managed to escape are secured to justice within the shortest delay?
- ▶ Which measures have been adopted to ensure the establishment of a regular system of information on the process of investigation of relatives of missing persons?
- ▶ Which measures have been adopted to ensure that all judicial authorities throughout the country apply the principles affirmed by the Constitutional Court of BiH in the Maktouf landmark decision and refrain from applying the the Criminal Code of the Socialist Federal Republic of Yugoslavia (SFRY) instead of the 2003 Criminal Code in cases concerning crimes against humanity and war crimes?
- ▶ Which measures have been adopted to ensure that cases of war time rape are not tried as ordinary crimes?

III. Recommendation No. 14: Investigation of All Unresolved Cases of Missing Persons, the Missing Persons Institute, the Central Database of Missing Persons and the Fund for Support to Families of Missing Persons

7. Notwithstanding the recommendations formulated in 2006 by the HRC, the situation of relatives of missing persons and their representative associations continues causing alarm.

III.a The Functioning of the Missing Persons Institute (MPI)

8. The MPI, established pursuant to Article 7 of the Law on Missing Persons (Official Gazette No. 50/04, into force since 17 November 2004), became fully operational on 1 January 2008. Notwithstanding the recommendations issued by international human rights mechanisms, problems in the appointment of all the members of the management of the MPI remain, as the cofounders of the institute do not seem to find an agreement on this subject. Moreover, some associations of relatives of missing persons, and in particular Izvor from Prijedor, express criticism towards the manner in which the election of new members of the Advisory Board (held between July and August 2011) has been conducted, as they consider that there has been an overall lack of transparency in the process. Further, the approval of the audit reports of the MPI for past years seems also to remain problematic. At present, MPI lacks the regular budget for 2011 and it is operating on the basis of a decision of “temporary financing” approved by the BiH Ministry of Finance. The situation described is certainly not contributing to foster the trust of relatives of missing persons and their associations towards MPI. In fact, some associations remain highly critical towards the institute, alleging that the personnel of the MPI is not specialised for the work and that the presence of people who also have political affiliations undermines the credibility of the institution and the effectiveness of its work.

Please refer to paras. 36-40 of the integral report for details

Proposed items to be included in the List of Issues (related to arts. 2, 6, 7, 9, 10 and 16 of the ICCPR)

- ▶ Which measures have been adopted to ensure that the members of the different managing bodies of the MPI are regularly appointed and there are no vacant seats?
- ▶ Which measures have been adopted to ensure that the MPI is secured the regular budget for 2011? Which measures are envisaged in this sense with regard to the regular budget for 2012?
- ▶ Which measures have been undertaken to avoid political pressures on the work of the MPI?

III.b The Establishment of the Central Record of the Missing Persons (CEN)

9. Article 21 of the Law on Missing Persons provides for the creation of the CEN, intended to include all records that were or are kept at local or entity levels, by associations of families of missing persons and other associations of citizens, Tracing Offices of the organisations of the Red Cross in BiH, as well as international organisations. Pursuant to Article 22.4 of the Law on Missing Persons, the CEN should have been completed by 1 January 2009. At December 2011, the CEN has not been completed or

made public yet. Indeed, the verification of some of the entries into the registry has in fact started, although it is proceeding at an extremely slow pace. Currently, out of 34,965 entries to be verified through cross-references, over 8,000 have been validated. The MPI affirmed that by the end of December 2011 the number of verified entries should reach 10,000. These entries correspond almost completely to missing people whose mortal remains have already been exhumed, identified and returned to the relatives. The adoption of this criterion to commence the filling of the CEN is a source of dissatisfaction among many associations of relatives of missing people, as they feel that the imperative need to deal first with those missing people whose fate and whereabouts have not been determined yet has been ignored. Moreover, given that at present only six employees are working at the completion of the CEN, it is not to be expected that the latter will be finalised very soon.

Please refer to paras. 41-44 of the integral version of the report for details

**Proposed items to be included in the List of Issues
(related to arts. 2, 6, 7, 9, 10 and 16 of the ICCPR)**

- ▶ When will the CEN be finalized and made public?
- ▶ Which measures have been undertaken to ensure the necessary resources (human and financial) for the establishment of the CEN?
- ▶ How are BiH authorities planning to deal with Article 27 of the Law of Missing Persons in order to ensure that enforced disappearance is not treated as a direct death and the continuous nature of the offence is duly taken into account?

III.c The Non-establishment of the Fund for the Support of the Families of Missing Persons (the Fund)

10. Article 15 of the Law on Missing Persons establishes that the Fund must be established within 30 days of the date of the coming into force of the Law (the latter entered into force on 17 November 2004). Notwithstanding the repeated recommendations by different international human rights mechanisms, at December 2011, which is more than seven years after the entry into force of the Law on Missing Persons, the Fund has not been established and there does not seem to be any indication that BiH authorities are going to do so any time soon.

Please refer to paras. 45-47 of the integral version of the report for details

**Proposed items to be included in the List of Issues
(related to arts. 2, 6, 7, 9, 10 and 16 of the ICCPR)**

- ▶ By when could it be expected that the Fund will be established?
- ▶ Which measures have been adopted by BiH authorities to remove the existing obstacles to the establishment of the Fund?

III.d The Lack of Information on the Progresses Made in the Process of Exhumation and Identification of Mortal Remains and the Lack of Psycho-social Assistance during the Process

11. The localisation, exhumation, identification and restitution of mortal remains of missing persons are perceived by relatives of the victims as their very first priority. All the more so when the time is passing and in many cases almost 20 years have elapsed since the victim was seen alive for the last time in life-threatening circumstances. Since 1 January 2011, all exhumations and identifications of mortal remains fall under the jurisdiction of the State Prosecutor's Office. While originally this reform was welcomed with optimism by families of missing persons and their associations, almost nine months later there is a palpable sense of disillusion and frustration and the common position is that, even though some exhumations have in fact been carried out, the pace of the overall process has slowed down even more and certain areas of BiH have completely been kept out of it. While this perception may be exaggerated, it is surely fostered by the fact that communication with the Prosecutor's Office of BiH on this issue has proved to be extremely difficult and relatives of missing persons feel that they cannot find official answers to the various doubts they have on the organization of the process. This situation fosters a sense of isolation and resentment. Despite the recommendations of international mechanisms, there continues to be a lack of any programme of psycho-social assistance and support during and after the process. In this context, often relatives of missing persons are subjected to instances of re-traumatization and amplification of their suffering.

Please refer to paras. 48-51 of the integral version of the report for details

Proposed items to be included in the List of Issues (related to arts. 2, 6, 7, 9, 10 and 16 of the ICCPR)

- ▶ Which measures are envisaged to ensure that the Prosecutor's Office of BiH is secured the necessary resources and funding for 2012 for carrying out the exhumation process?
- ▶ Which measures have been undertaken to secure that relatives of missing persons, their associations and their representatives are regularly kept informed on the process of exhumation and that their right to know the truth is fully guaranteed?
- ▶ Which measures have been undertaken to ensure that relatives of missing persons receive adequate psycho-social support during and after the exhumation process?

III.e The Non-implementation of Constitutional Court's Decisions in cases relating Missing Persons

12. Over the past years a considerable number of the decisions issued by the Constitutional Court of BiH have not been implemented. Although the non-implementation of the mentioned decisions is considered to be a crime under domestic legislation, to date no one has been sanctioned for such an offence. In this sense, numerous international human rights mechanisms and institutions recommended BiH to fully implement the Constitutional Court's judgments without further delay, in particular with regard to cases of enforced disappearances, and prosecute failure to comply with such judgments. TRIAL and some of the associations subscribing the present document, together with Amnesty International, have tried to

start a constructive dialogue with Bosnian authorities involved. Despite some meetings where representatives of the Constitutional Court of BiH and of the Prosecutor's Office of BiH recognised the existence of the problem and exposed their position, no significant improvement can be registered. To the contrary, it results that in some cases the Constitutional Court of BiH has adopted an "information note" whereby it declared some decisions enforced. This note was brought without notifying the applicants or even consulting with them and notwithstanding the fact that some of the measures ordered therein (such as the establishment of the Fund) have evidently not been enforced. Further attempts of dialogue or searching for an alternative solution to this serious problem that is jeopardising the rule of law, have not brought tangible results.

Please refer to paras. 52-63 of the integral version of the report for details

**Proposed items to be included in the List of Issues
(related to arts. 2, 6, 7, 9, 10 and 16 of the ICCPR)**

- ▶ How many decisions delivered by the Constitutional Court of BiH on the issue of missing person have not been implemented?
- ▶ Which measures have been adopted by BiH authorities to ensure the implementation of the decisions delivered by the Constitutional Court of BiH on the issue of missing persons?
- ▶ Which measures have been adopted to sanction those responsible for the non-implementation of the decisions delivered by the Constitutional Court of BiH on the issue of missing persons?
- ▶ If the current legal framework on the enforcement of decisions delivered by the Constitutional Court of BiH is not effective, which measures are envisaged to amend it?
- ▶ In cases where the Constitutional Court of BiH adopted "information" notes on the implementation of its decisions on the issue of missing person, has it first consulted with applicants? Has it notified applicants of the adoption of the said information notes? Do applicants have effective remedies to challenge the adoption of the mentioned information notes by the Constitutional Court of BiH?

IV. Recommendation No. 15: Compensation and Integral Reparation to Victims of Gross Human Rights Violations during the War

13. Victims of gross human rights violations, including enforced disappearance, torture, rape or other forms of sexual violence are entitled to obtain integral reparation, including restitution, rehabilitation, satisfaction, restoration of dignity and reputation, guarantees of non-repetition as well as prompt, fair and adequate compensation. At the time of writing, the measures recommended in this sense by the HRC and other international mechanisms have not been enforced by BiH. Further concerns are related to the particularly vulnerable situation of former camp-detainees, since the existing legal framework fails to duly define them as an autonomous category of civilian victims of war and to specifically regulate their rights. Discrimination in the enjoyment of the right to compensation and reparation between veterans and civilian victims of war remains rampant. Moreover, instances where alleged perpetrators of war crimes hold public offices related to the recognition of the status as civilian victim of war and the issuing of social benefits have been reported. Finally, another alarming problem is that victims of gross

human rights violations, and in particular victims of rape or other forms of sexual violence who were receiving some kind of social assistance due to their status as victims of war, lose their right if they move from one entity to the other and this situation concretely discourages their return to the pre-war place of residence. Markedly, the situation of victims of rape or other forms of sexual violence in Republika Srpska is significantly worse than in the rest of the country.

Please refer to paras. 64-77 of the integral version of the report for details

**Proposed items to be included in the List of Issues
(related to arts. 2, 6 and 7 of the ICCPR)**

- ▶ Which measures have been adopted to eliminate the differences between the benefits received by civilian victims of war and veterans?
- ▶ By when it can be expected that the Law on the Rights of Victims of Torture and Civilian Victims of War will be eventually adopted? In general, what would be the main features of this law? Which measures have been adopted to secure the necessary funding to cover the expenses which would be generated by the implementation of this law?
- ▶ Which measures have been adopted to adopt and enforce the National Strategy on Transitional Justice? By when this strategy can be expected to be operational? Which measures have been adopted to secure the necessary funding to cover the expenses which would be generated by the implementation of the strategy?
- ▶ At what stage is the adoption of the national strategy to improve the status of BiH women victims/survivors of sexual violence in conflict and beyond? By when can it be expected to be operational? Which measures have been adopted to secure the necessary funding to cover the expenses which would be generated by the implementation of the strategy?
- ▶ Which measures have been adopted or are envisaged to eliminate the requirement to prove to have sustained a certain percentage of bodily harm in order to obtain the status of civilian victim of war?
- ▶ Which measures have been adopted concretely to ensure that former camp-detainees obtain compensation and integral reparation for the harm suffered during the war?
- ▶ Under the current legal framework, is there a possibility for civilian victims of war and, in general, victims of gross human rights violations during the war, to obtain an exemption from court fees in case they decide to bring civil claims for damage before ordinary court? Can you provide data concerning the amount of civilian victims of war that obtained exemption from court fees in claims for damage before ordinary courts before district and cantonal courts?
- ▶ Which measures have been adopted to ensure that returnees do not lose their social benefits when transferring from an Entity to the other?
- ▶ Which measures have been adopted or are envisaged to avoid that beneficiaries of social benefits that leave BiH for more than three months do not lose their pensions?
- ▶ Considering the special circumstances under which many civilian victims of the war may have missed the strict deadlines to apply to obtain benefits (either because they were not aware of this or because they were temporarily leaving somewhere else), has any measure been envisaged to create a new deadline to enable those previously excluded to apply for benefits?
- ▶ Considering the particular situation faced by victims of rape or other forms of sexual violence and the stigma they have been and continue being exposed to, has any measure been envisaged to guarantee that these people are not forced to disclose their experience in order to obtain compensation and that, in any case, the filing of claims for compensation is not subjected to any statute of limitations?
- ▶ Considering that in the Republika Srpska there is no specific law regulating the status of victims of torture as a specific group, is there any measure envisaged to fill this gap? With regard to this specific

group, what measures have been designed and implemented in the Federation of Bosnia and Herzegovina?

- ▶ Which measures have been adopted or are envisaged to guarantee that in the Republika Srpska also those victims that do not hold medical records about treatment that dates back to no more than one year from the date of impairment or cessation of the circumstances under which the impairment occurred can obtain the status of civilian victims of war?
- ▶ Apart from the whole system of social benefits, is there any legal framework to guarantee that victims of gross human rights violations during the war and their relatives obtain fair, adequate and prompt compensation for the harm suffered and integral reparation (including restitution, rehabilitation, satisfaction, and guarantees of non-repetition)?
- ▶ Which measures have been adopted to ensure that a thorough programme of vetting is conducted in order to ensure that people accused of crimes against humanity or war crimes cannot hold public offices?

V. Other Matters of Concern

14. Although in its concluding observations of November 2006 the HRC had formulated recommendations to BiH on the specific issues analysed above, the associations subscribing this document are persuaded that there are a number of other matters that generate concern and would like to use this opportunity to update the HRC on the current situation, inviting it to include these matters in the list of issues to be adopted in March 2012.

V.a The Inadequacy of Criminal Legislation on Sexual Violence, Torture and Enforced Disappearance

15. At present, the BiH criminal legal framework both at the national and the entity level does not ensure that sexual violence, torture and enforced disappearance are adequately codified and sanctioned by appropriate penalties that take into account the gravity of the crime. Torture, enforced disappearance, rape or other forms of sexual violence are either not codified at all or, when they are, domestic provisions do not meet international standards, do not encompass all instances of such crimes or the definitions vary significantly from one entity to the other, thus determining occurrences of discrimination. This situation fosters impunity over past crimes and at the same time jeopardises prevention of future violations. Despite the recommendations formulated by various international human rights mechanisms, the Criminal Code Implementation Assessment Team (CCIAT), that is an *ad hoc* body created by the BiH Ministry of Justice for the purpose of legislative reform, has postponed the consideration of the amendment of the codification of sexual violence because another issue has taken priority (special investigative measures). Even if the CCIAT will resume the analysis of the matter as soon as possible, it must be highlighted that it represents only the first step of a much more complicated process that can lead to legislative modification. In the case of torture, although the amendment of criminal legislation was discussed by the CCIAT in the spring of 2011, the Team estimated that existing provisions are sufficient and decided not to continue considering amendments or modifications of the criminal

legislation on this matter. On the other hand, the issue of criminal legislation on enforced disappearance does not seem to have been discussed yet. This is a clear indication that, at present, the recommendations issued by international human rights bodies in this sense are disregarded and certainly not likely to be enforced by BiH within a reasonable time-frame.

Please refer to paras. 79-93 of the integral version of the report for details

**Proposed items to be included in the List of Issues
(related to arts. 2, 6, and 7 of the ICCPR)**

- ▶ Which measures have been adopted or are envisaged to amend the existing criminal legislation on rape or other forms of sexual violence, both at the national and entity level, in order to bring it into accordance with international standards?
- ▶ Which measures have been adopted or are envisaged to amend the existing criminal legislation on torture, both at the national and entity level, in order to bring it into accordance with international standards?
- ▶ Which measures have been adopted or are envisaged to amend the existing criminal legislation on enforced disappearance, both at the national and entity level, in order to bring it into accordance with international standards?

V.b The Non-Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance

16. Notwithstanding the recommendations in this sense formulated by numerous international human rights mechanisms, at the time of writing, BiH has not yet ratified the International Convention for the Protection of All Persons from Enforced Disappearance or recognised the competence of the Committee on Enforced Disappearance to receive and examine individual and inter-State communications.

Please refer to paras. 94-96 of the integral version of the report for details

**Proposed items to be included in the List of Issues
(related to arts. 2, 6, 7, 9, 10 and 16 of the ICCPR)**

- ▶ When is BiH considering to ratify the International Convention on the Protection of All Persons from Enforced Disappearance and to recognize the competence of the Committee on Enforced Disappearance to receive and examine individual and inter-State communications?