

Bosnia-Herzegovina

**NGO Report
on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination
To the United Nations Committee on the Elimination of All Forms of Racial Discrimination
(Containing also replies to the list of themes)**

Contribution to this report is given by:

Human Rights House of Sarajevo;
Helsinki Committee for Human Rights in Bosnia-Herzegovina;
Serbian Civic Council, Movement for Equality – SGV;
Croatian People’s Council – HNV;
Youth Initiative for Human Rights in Bosnia-Herzegovina – YIHR;
European Law Students’ Association – ELSA;
Mr. Dervo Sejdic, Roma activist;
Mr. Boris Kozemjakin, president of Jewish Municipality of Sarajevo

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This report is jointly produced by human rights organisations and civil society activists based in Bosnia-Herzegovina, working on various human rights issues and engaged nationally in an effort to eliminate racial discrimination:

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Around the Human Rights House in Sarajevo, independent NGOs had already worked together to produce a joint report for the Human Rights Council Universal Periodic Review of Bosnia-Herzegovina.

The Human Rights House Foundation (HRHF) supports the international advocacy work of the NGO coalitions towards the United Nations and European human rights mechanisms. HRHF is the international secretariat based in Oslo and Geneva of the Human Rights House Network.

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Introduction

Non-governmental organizations in Bosnia-Herzegovina who have gathered around the Human Rights House of Sarajevo, express their regret that the authorities have failed to effectively monitor implementation of the International Convention on the Elimination of All Forms of Racial Discrimination in Bosnia-Herzegovina regularly, consistently and within the prescribed deadlines, since the concept of racial discrimination also encompasses ethnic and religious discrimination, segregation and intolerance. According to assessments by human rights NGOs, such discrimination has been the main generator of human rights violations in Bosnia-Herzegovina over the past years.

Non-governmental organizations welcome the dialogue with the authorities on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination in Bosnia-Herzegovina. Furthermore, they hope this dialogue will be maintained.

It is with special regret that NGOs note the failure to amend certain parts of the Bosnia-Herzegovina Constitution whereupon certain important rights are conditioned by specific nationality or ethnicity. This applies particularly to the election of members of the Bosnia-Herzegovina Presidency, House of Peoples of the Bosnia-Herzegovina Parliamentary Assembly and Chairs of both Houses of the Bosnia-Herzegovina Parliamentary Assembly, despite the clearly stated position of the Committee on the Elimination of Racial Discrimination as contained within the Concluding Observations of the 68th session.

We welcome reports that violence on grounds of ethnicity and religion has decreased, and we commend efforts by the authorities to guarantee the safety of all citizens of Bosnia-Herzegovina.

Reliable statistics on composition of the population

Point 1

Update on measures taken by the State party to understand its demographic composition and determine progress and trends in the elimination of racial discrimination, such as: identification surveys to assess the situation of all ethnic groups residing in the State party; social surveys and development of measurable indicators and their analysis.¹

Bosnia-Herzegovina still lacks credible statistical information that would enable the effective monitoring of cases of discrimination and violence based on ethnic intolerance. We consider the reluctance to hold a population census totally unacceptable

¹ In its Concluding Observations in 2006, the Committee on the Rights of the Child recommended that “the State party urgently carry out a census of the population and develop a coordinated system for a comprehensive collection of data that should cover all children below the age of 18 years and be disaggregated by those groups of children who are in need of special protection. The State party should also develop indicators to effectively monitor and evaluate progress achieved in the implementation of the Convention and assess the impact of policies that affect children. The State party is encouraged to seek technical cooperation from UNICEF in this regard” (UN Doc.: CRC/C/15/Add.260, paragraph 19).

The Convention in domestic law and human rights framework for its implementation (articles 1, 2, 4, and 6 of the Convention)

Point 2

(a) Progress in the implementation of existing legal, policy, and institutional frameworks to combat racial discrimination.²

Text to be added on point 2, question (a).

(b) Measures taken by the State party towards amending its constitutional laws with a view to abolishing distinctions in law and in practice that favour and grant special privileges and preferences to certain ethnic groups.³

The Constitution of Bosnia-Herzegovina contains certain elements that are controversial, some of which are related to discrimination.

Article 2 of the Constitution guarantees the enjoyment of human rights to all persons without discrimination on any grounds. However, articles 4 and 5 of the Constitution contain discriminatory provisions.

- Namely, article 4 sets out that each of the two chambers of the Parliamentary Assembly of Bosnia-Herzegovina shall select from its members one Serb, one Bosnian, and one Croat to serve as its Chair and Deputy Chair, thereby depriving anyone who does not belong to one of the above-mentioned nationalities the opportunity to serve as Chair or Deputy Chair in both Chambers of the Parliaments.

² At its Universal Periodic Review, Bosnia-Herzegovina has accepted the following recommendation: “To effectively regulate and implement the norms in force regarding the prohibition of discrimination on the basis of race, gender, disability or social condition” (UN Doc.: HRC/WG.6/7/L.15, recommendation 32). However, Bosnia-Herzegovina has refused the following recommendation: “To strictly apply criminal provisions on hate speech and hate crimes, and to conduct awareness-raising campaigns to promote tolerance” (UN Doc.: HRC/WG.6/7/L.15, recommendation 33).

³ At its Universal Periodic Review, Bosnia-Herzegovina has accepted the following recommendation: “To eliminate discriminatory provisions from the Constitution; to adopt comprehensive anti-discrimination legislation including, inter alia, protection against discrimination based on sex or gender; to strengthen the protection of persons against statelessness; and to adopt measures to guarantee universal birth registration under all circumstances, including for Roma children” (UN Doc.: HRC/WG.6/7/L.15, recommendation 31).

- In the same manner, article 5 determines the composition of the Presidency of Bosnia-Herzegovina which shall consist of three members: one Bosnian, one Croat, each directly elected from the territory of the Federation, and one Serb directly elected from the territory of the Republika Srpska. This article not only discriminates against those persons who do not belong to the Serb, Croat and Bosnian people, but also the Croats and Bosnians who do not live in the Federation of Bosnia-Herzegovina, and Serbs who live outside the Republika Srpska.

The European Commission for Democracy through Law (Venice Commission) and the UN Human Rights Committee⁴, among others, concluded that these provisions of the Bosnia-Herzegovina Constitution are in contravention of the European Convention on Human Rights. However, they have still not been amended nor harmonised with the above-mentioned Convention. Furthermore, on 22 December 2009, the European Court of Human Rights ruled that those provisions of the Constitution are *de facto* discriminatory towards certain minorities⁵.

Some laws have discriminatory provisions, too.

This is the case with the Law on the Rights of Veterans and Members of their Families of the Federation of Bosnia-Herzegovina. The Constitutional Court of the Federation of Bosnia-Herzegovina proclaimed this law unconstitutional in 2005 due to the discriminatory provisions affecting the members of the Army of the Autonomous Province of Western Bosnia and members of their families. However, the Federation Prime Minister, who is obliged to implement the decision of the Constitutional Court, has consistently refused to do so.

(c) Detailed information on the content of the Law on Prohibition of Discrimination adopted in July 2009, including its full compliance with article 4 of the Convention and its effective implementation.

We welcome the adoption of the Law on Prohibition of Discrimination and we consider this an encouraging development. Adopted in 2009, this law prohibits discrimination on grounds of race, skin colour, language, faith, ethnicity, national or social background, and affiliation with a

⁴ In its Concluding Observations in 2006, the Human Rights Committee recommended that the “The State party should reopen talks on the constitutional reform in a transparent process and on a wide participatory basis, including all stakeholders, with a view to adopting an electoral system that guarantees equal enjoyment of the rights under article 25 of the Covenant to all citizens irrespective of ethnicity” (UN Doc.: CCPR/C/BIH/CO/1, paragraph 8).

⁵ For more information: <<http://www.humanrightshouse.org/Articles/12891.html>>.

national minority, among other things. We also welcome the law's universal application, across all persons in Bosnia and Herzegovina.

The funding of the Ombudsoffice, who is responsible of the implementation of the Law on Prohibition of Discrimination, comes from the Bosnia-Herzegovina state budget; this arrangement does not guarantee its independence, nor its autonomy from the legislative and executive branches of government and the associated pressures⁶. One type of pressure by legislative and executive branch on the Ombudsoffice is to provide insufficient funding for the full accomplishment of the Ombudsoffice's missions: according to our assessment, the existing Department for Elimination of All Forms of Discrimination is not staffed sufficiently.

(d) Measures taken by the State party to establish adequate mechanisms for monitoring acts of ethnically motivated discrimination and violence among its different ethnic groups.

Advisory bodies for issues of national minorities have been established at the levels of Bosnia-Herzegovina and both entities -- the Republika Srpska and the Federation of Bosnia-Herzegovina. However, the conditions for effective and efficient work of the national minorities' councils have not yet been ensured. Professional support is lacking, as is financial and technical means. Moreover, these bodies, as well as their individual members, tend not to be consulted when issues vital for national minorities are being discussed.

(e) Update on measures taken by the State party to ensure effective judicial recourse and compensation for racial discrimination complaints.⁷

Hate speech is still a commonly used instrument used by political leaders and religious representatives. They have attempted to stigmatize whole ethnic and religious groups in their public statements. Other ethnic and religious groups are still being collectively accused of crimes, while the crimes committed by the accusers own ethnic group are ignored. Whole nations are being labelled as "criminal" or "genocidal", in an attempt to incite hate and distrust between members of

⁶ Among other things, the Bosnia-Herzegovina Law on Salaries has abolished the provision of the Bosnia-Herzegovina Law on Ombudsmen equalizing the salaries of the Ombudspersons with those of Constitutional Court judges, thereby directly affecting the independence of Ombudsmen.

⁷ In its Concluding Observations in 2006, the Human Rights Committee noted that "[it] is concerned about reports on the provocative use of religious and national symbols which has a discriminatory effect on members of certain ethnic groups and about the lack of implementation of the Constitutional Court decision of 31 March 2006 concerning the use of flags, coats of arms and anthems at the Entity level" and recommended that the "the State party should take effective measures to eliminate such discriminatory practices and implement the decision of the Constitutional Court of 31 March 2006 concerning the use of flags, coats of arms and anthems." (UN Doc.: CCPR/C/BIH/CO/1, paragraph 25).

different ethnic groups⁸. Significantly, **the judiciary has not intervened** -- impunity in the field of hate speech is a key problem in Bosnia-Herzegovina.

Regretfully, Bosnia-Herzegovina has so far failed to adopt a law banning fascist organizations and use of fascist symbols. This has encouraged racist rhetoric, particularly evident on the sports fields and exhibited in graffiti calling for ethnically motivated violence or conveying messages of hate. These incidents largely remain unprosecuted and their inspirers and perpetrators unpunished.

⁸ For example:

- Milorad Dodik, Prime Minister of Republika Srpska: “It is unacceptable for us in Republika Srpska to be put on trial by Muslim judges and to have legitimate appeals rejected by them.”;
- Mustafa Cerić, Chief cleric of the Islamic Community in Bosnia-Herzegovina: “We know very well that Mr Gregorian married a Ms Olga in Bosnia and Herzegovina; we wish him a good and happy marriage, but this tells us that Mr. Gregorian does not have the right to give us moral lectures, to call on us, but has the obligation to respond” [alluding to ethnicity of Gregorian’s wife who is, judging by her name, not a Muslim, or a Bosnian Muslim, author’s note];
- Fahrudin Radončić, leader of a newly formed political party the Alliance for a Better Future of Bosnia-Herzegovina: “We have a situation where a lady, who is the editor-in-chief in one of our public broadcasters, is not a ‘Bosniak’ [Bosnian Muslim], and is doing this job.”

Segregation of minorities, especially Roma **(arts. 3 and 5 of the Convention)**

Point 3⁹

(a) Measures taken to strengthen financially and institutionally the Roma Council of Bosnia and Herzegovina.¹⁰

We consider the establishment of the Roma Council a very positive development, since Roma are the most vulnerable category of Bosnia-Herzegovina citizens.

(b) Progress in addressing substantive discrimination experienced by Roma in employment, housing and health care.¹¹

Bosnia-Herzegovina joined the Decade of Roma Inclusion 2005-2015 in September 2008 representing an important expression of political will to tackle discrimination against Roma and improve their economic and social status. Moreover, a programme of activities for reaching certain objectives was endorsed through action plans. The total of 1.5 million Euros was allocated for these purposes from the Bosnia-Herzegovina budget, and the Swedish development agency allocated another million Euros.

Over the past year, a total of 100 Roma have been employed with funds allocated for implementation of the Action Plans. It is expected that as many Roma will be employed this year. However, the fact that not a single Roma is employed within the state administration, at the levels of cantons, entities and Bosnia-Herzegovina, is a matter of concern.

Their position is particularly difficult in regard to the employment, economic position and housing.

⁹ At its Universal Periodic Review, Bosnia-Herzegovina has accepted the following recommendation: “To take concrete measures to ensure that the Law on Protection of National Minorities will be effectively implemented, in order to overcome the social challenges facing the Roma people” (UN Doc.: HRC/WG.6/7/L.15, recommendation 113).

¹⁰ At its Universal Periodic Review, Bosnia-Herzegovina has accepted the following recommendation: “To strengthen the Roma Council, and to ensure that the Council is consulted in connection with any process that has an impact on Roma rights” (UN Doc.: HRC/WG.6/7/L.15, recommendation 112).

¹¹ In its Concluding Observations in 2006, the Human Rights Committee recommended that the “The State party should remove administrative obstacles and fees in order to ensure that all Roma are provided with personal documents, including birth certificates, which are necessary for them to have access to health insurance, social security, education and other basic rights” (UN Doc.: CCPR/C/BIH/CO/1, paragraph 22).

- Only 1.5 % of working age Roma people is employed as compared to about 50% that had worked before the war;
- The only Roma who was working in civil service, Redžo Seferović, has been fired;
- Only six Roma are employed in the area of Zenica–Doboj Canton, in the Federation of Bosnia-Herzegovina;
- In Visoko, one Roma is employed, while in Sarajevo and Tuzla Canton there are two policemen of Roma nationality respectively;
- In the Chemical Complex in Tuzla, there are two engineers of Roma nationality;
- There are municipalities in which not a single Roma is in employment.

Moreover, the victims of discrimination are frequently members of the “vulnerable groups”, such as the Roma people. Discrimination is demonstrated in some vital fields of life, such as employment, education, health and social care, pension rights. One of the consequences of this situation is, for example, the fact that only 0.8% of working age returnees belonging to an ethnic group that is not dominant in a region, is in employment.¹²

A significant number of Roma people have not exercised the right to return to their homes in which they had lived before the war. However, the **living conditions of Roma people are extremely poor and do not meet the minimum standards**. Usually they live in humid houses, without sanitary facilities, running water and electricity. It is estimated that around 10.000 Roma families do not have appropriate accommodation.

An important step forward has been made in resolving Roma housing issues. The construction of 103 housing units is in progress for as many families. It is expected that construction of more housing, designated for Roma, will start this year.

No identifiable results have been registered in the health care field so far.

¹² Report on the status of human rights in Bosnia-Herzegovina in 2008, Helsinki Committee for Human Rights in Bosnia-Herzegovina (see: <http://www.bh-hchr.org>).

The vast proportion of national minorities is not entitled to free health care, since that right belongs to employed persons, members of their families and retired people.

(c) Progress in addressing substantive discrimination experienced by Roma children in schools.

Regarding education, only 15% of Roma children complete compulsory 8-year primary education. For instance, girls tend to cease their studies in the fifth grade of primary school. Illiteracy is very common with Roma people.

Progress has been recorded in terms of education. The number of Roma children in primary and secondary schools as well as at university, has increased.

A number of children, particularly Roma children, are not registered in the birth registry books. Hence, they are not eligible for health insurance, social aid, and cannot enrol in school. There have been cases whereupon Roma children, who have problems with language, are placed in special classes for children considered mentally disabled. Children accommodated in care homes do not enjoy equal protection by the state, and some care homes are outside of the social care system. Thus, the state does not have insight into the situation in these institutions.

Elimination of segregated education **(arts. 3, 5 and 7 of the Convention)**

Point 4

(a) Update on measures carried out to eliminate mono-ethnic schools and schools structured as “two schools under one roof”, and to remove ethnically discriminatory elements from textbooks and school programmes, as a means to forge a multi-ethnic concept of citizenship of Bosnia and Herzegovina.¹³

School syllabi and curricula no longer include the history, culture, tradition or language of national minorities, which could promote a reduction in the prejudice directed against minorities.

The education is divided into three partial nationally coloured curricula. Through them, tendencies of separation and assimilation are expressed. The consequence is the creation of three separated groups of citizens, perpetuating non-integration, mistrust and fear of the “other”.

This particularly dramatic situation is, currently, reflected in 54 divided schools whereupon policies pertaining to classical segregation have been enacted. **The children are divided on national grounds and, in their formative years, are deprived of the opportunity to communicate and/or meet each other.**

Although primary schooling is defined by the state as compulsory and free, the reality is quite different. **Almost 4% of children at the school age are not enrolled and there are multiple reasons that should be addressed. The education system fails to provide for the large distances between some schools and certain inhabited areas, inaccessibility of school to children with special needs, extreme poverty, non-possession of official documentation** (primarily a birth certificate thus particularly affecting Roma children, or due to nationally coloured curricula and text-books thus disproportionately affecting the children of minorities).

Parents are not being sanctioned for preventing children from attending primary schools.

¹³ At its Universal Periodic Review, Bosnia-Herzegovina has accepted the following recommendation: “To develop a multi-ethnic learning environment in schools, aimed at reconciliation among ethnic groups” (UN Doc.: HRC/WG.6/7/L.15, recommendation 22). Bosnia-Herzegovina also accepted the following recommendation: “To continue its efforts to combat racial and ethnic discrimination, in particular through programmes promoting tolerance in public education” (UN Doc.: HRC/WG.6/7/L.15, recommendation 30).

Other issues

Minority Languages

Minority languages are not used in communication with the authorities, including the courts. There have been no instances of minority language teaching in schools. There are no printed media in the Roma language, and only two radio stations occasionally broadcast programmes in this language.

Some printed media highlight ethnicity in cases concerning criminal acts by perpetrators of Roma descent. They do not refrain from publishing full names and surnames of juvenile offenders, victims of human trafficking and sexual abuse, where they are Roma.

Anti-Semitism

Based on the data obtained from the Jewish municipalities, there are about 1'000 Jews in Bosnia-Herzegovina. The European Commission Against Racism and Intolerance (ECRI) is concerned about reports that anti-Semitic books including Adolf Hitler's *Mein Kampf* and Zion Protocols can be bought in the bookshops in Bosnia-Herzegovina, interpreting it as a threat to the Jewish community¹⁴. In mid-January The Islamic Youth Magazine *SAFF* published anti-Semitic text referring, offensively, to Jewish victims of the Holocaust and the six million Jewish deaths in concentration camps during the Second World War.

Furthermore, we have also observed demonstrations of anti-Jewish attitudes in relation to the Middle East events and Israeli policies.

¹⁴ Report on Bosnia-Herzegovina, adopted on 25 June 2004 (see: <http://hudoc.ecri.coe.int/XML/Ecri/ENGLISH/Cycle_03/03_CbC_eng/BIH-CbC-III-2005-2-ENG.pdf>).

Discrimination in the social system

In its Constitution, Bosnia-Herzegovina is not defined as a social state. The different entities of Bosnia-Herzegovina have different social systems; they are not harmonised nationally and the different laws do not comply with international standards. **The existing system of social protection, which is inefficient and discriminatory, does not offer security to most vulnerable citizens** thus creating tension and instability.